



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

Law No. 04/L-198

ON THE TRADE OF STRATEGIC GOODS

Assembly of Republic of Kosovo,

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

Approves:

LAW ON THE TRADE OF STRATEGIC GOODS

Article 1

Aim

1. This Law regulates the export, import, transit, transshipment, re-export, and re-transfer of strategic goods, the provision of related services, and the control, supervision, rights, and obligations of parties taking part in the business activities of this field.

2. The purpose of this Law is to further the state security and foreign policy interests of the Republic of Kosovo, to fulfill international commitments and agreements with regard to the nonproliferation of weapons of mass destruction and other strategic goods used for military purposes, and to contribute the international and regional efforts to regulate the trade of strategic goods.

Article 2

Scope

1. This Law shall regulate the restriction or prohibition, export, import, transit, transshipment, and re-export of strategic goods that enter, exit or pass through the territory of the Republic of Kosovo, including the extra-territorial re-export, re-transfer, and provision of related services related to any of the goods that is subject to this Law.

2. This Law shall apply to:

2.1. any natural or legal person in the territory of the Republic of Kosovo, including all free trade zones, bonded areas, and airspace;

2.2. any citizen of the Republic of Kosovo, in the Republic of Kosovo and abroad;

2.3. any legal person that has in the Republic of Kosovo its registered office, central headquarters, or a permanent business establishment, as well as the person's foreign subsidiaries and representative offices;

2.4. any foreign person, located outside the Republic of Kosovo, operating on behalf of or under control of a person from the Republic of Kosovo.

Article 3 Definitions

1. Terms used in this Law shall have the following meaning:

1.1. **Government** – the Government of the Republic of Kosovo.

1.2. **The Ministry** – the respective Ministry for Trade and Industry.

1.3. **The Minister** – the respective Minister for Trade and Industry.

1.4. **The Department** – the specific department for strategic trade within the respective Ministry for Trade and Industry.

1.5. **Commission** – the Commission for Trade of Strategic Goods.

1.6. **Strategic goods** – any military or dual-use good, including goods on the National List of Controlled Strategic Goods; goods that, in whole or in part, can be used in the development, production, use, maintenance, stockpiling, detection, identification, or dissemination of chemical, biological, or nuclear weapons or other devices or for the development, maintenance, or storage of means of their delivery; or any other goods due to their end-use or end-user.

1.7. **Military goods** – goods that are mostly but not exclusively designed, developed, configured, adapted, assembled, manufactured, or modified for military use, including technologies and software related to such goods.

1.8. **Military end use** – means:

1.8.1. incorporation in the “military goods” listed in the National List of Controlled Strategic Goods;

1.8.2. use of production, testing or analytical equipment, as well as their components, for development, production or maintenance of “military goods” listed in the National List of Controlled Strategic Goods;

1.8.3. use of any incomplete product in the factory for the production of “military goods” listed in the National List of Controlled Strategic Goods.

1.9. **Dual-use goods** – goods, including software and technology, which could be used for both civil and military purposes, which shall include all goods which could be used for non-explosive purposes or to assist in any way, in whole or in part, in the development, production, use, maintenance, stockpiling, detection, identification, or dissemination of chemical, biological, or nuclear weapons or other atomic devices or the development, maintenance, or storage of means of their delivery.

1.10. **Technology** – specific information necessary for the development, production, or use of strategic goods. This information takes the form of “technical data” or “technical assistance.”

1.11. **Technical data** – blueprints, plans, diagrams, models, formulae, engineering designs and specifications, manuals and instructions (written or recorded – including software), and any other media or devices such as disks, tapes, and read-only memory.

1.12. **Related services** – brokering, transport, financial services, and provision of technical assistance.

1.13. **Brokering** – means:

1.13.1. negotiations or arrangements of transactions for the purchase, sale, or supply with strategic goods from the Republic of Kosovo to a foreign country or from one foreign country to another;

1.13.2. the selling or buying of strategic goods located in a foreign country for their transfer to another foreign country.

1.13.3. for the purposes of this Law, “brokering” is considered a “related service.”

1.14. **Broker** – a person subject to this Law who offers brokering services.

1.15. **Transport** – the act of moving strategic goods, agreement to move them, arranging or facilitating their movement, providing supporting services to a transport provider, and any act calculated to promote their supply or delivery, if this contributes to chemical, biological or nuclear weapons or other atomic devices or means for their delivery or military goods, if destined for an embargoed or sanctioned destination or to a restricted party. For the purposes of this Law, “transport” is considered a “related service.”

1.16. **Financial services** – making available or providing funds to facilitate the movement of strategic goods and/or related services, if this contributes to chemical, biological, or nuclear weapons or other atomic devices or means of their delivery or military goods, if destined for an embargoed or sanctioned destination or to a restricted party. For the purposes of this Law, “financial services” are considered “related services.”

1.17. **Technical assistance** – any technical support related to repair, development, production, assembly, testing, or maintenance of strategic goods, as well as any other technical service in the form of textual or verbal instructions, training and transfer of business knowledge or skills or other consulting services, including the transfer of technical data. For the purposes of this Law, technical assistance is considered a “related service.” Controls on technical assistance do not apply to information in the public domain, to basic scientific research, or to the minimum necessary information for patent applications.

1.18. **Export** – delivery or shipment outside the territory of the Republic of Kosovo, including re-export of strategic goods and transmission of software or technology or through electronic media, including fax, phone, email, or any other electronic device, or in person, with the destination outside the Republic of Kosovo. For the purposes of this Law, the disclosure or transfer of technical data, whether in person or by fax, phone, email or any other electronic device, to a foreign person, whether in the Republic of Kosovo or abroad, is deemed to be an “export.”

1.19. **Exporter** – natural or legal person on whose name the export statement is made and who has a contract with the recipient of delivery in the foreign country and has the authority to send the goods outside the territory of the Republic of Kosovo, to transmit or make available the software or technology in person or through electronic media, including fax, phone, email, or any other electronic device to a foreign person, whether in the Republic of Kosovo or abroad, is deemed to be an “exporter.”

1.20. **Re-export** – the export from Kosovo of strategic goods that were previously imported into Kosovo.

1.21. **Import** – entry of strategic goods or temporary and permanent transfer of technology in the territory of the Republic of Kosovo, including re-import.

1.22. **Importer** – natural or legal person who deals with the import of strategic goods to the Republic of Kosovo.

1.23. **Transit** – the shipment into and subsequent shipment from the territory of the Republic of Kosovo of a strategic good, with an ultimate destination outside the Republic of Kosovo, in such a manner that the strategic good remains at all times in the same conveyance.

1.24. **Transit person** – natural or legal person who has the authority or responsibility for the transit of strategic goods through Kosovo.

1.25. **Transshipment** – mode of shipping a strategic good on a conveyance that enters the territory of the Republic of Kosovo, wherein the strategic good is unloaded from the conveyance and loaded onto the same or another conveyance, which is bound for an ultimate destination outside the Republic of Kosovo.

1.26. **Transshipment person** – natural or legal person who has the authority or responsibility for the transshipment of strategic goods in Kosovo.

1.27. **Extra-territorial re-export** – the shipment or transmission from one foreign country to another foreign country of licensed strategic goods previously imported from the Republic of Kosovo.

1.28. **Extra-territorial re-transfer** – the shipment or transmission from one legal or natural person to another legal or natural person of licensed strategic goods previously imported from the Republic of Kosovo.

1.29. **Individual license** – the authorization for one specific exporter, importer, re-exporter, re-transferor, transit person, transshipment person or provider of related services to perform the activities specified in this Law with respect to one end-user, consignee, or seller in a foreign country and covering one or more strategic goods.

1.30. **Global license** – the authorization given to a certain exporter regarding one type or category of strategic goods which may be valid for the exports to one or more designated end users and/or to one or more foreign countries.

1.31. **General license** – the authorization to import, export, transit, or transship of certain stipulated strategic goods or to provide certain stipulated related services under the conditions and in destination countries specified in the general license.

1.32. **International import certificate** – the document that contains the confirmation by the Commission that the importer of goods has undertaken to import goods with specified value and quantity into Kosovo and not to re-export or re-transfer goods without the necessary license.

1.33. **Certificate of end-use** – the document that contains the confirmation by the Commission that the end user has undertaken to import strategic goods with specified value and quantity for the purpose specified in the certificate and not to re-export or re-transfer goods without the necessary license.

1.34. **Delivery verification certificate** – means:

1.34.1. the document that contains confirmation by the Commission that the recipient of goods in the Republic of Kosovo has received the goods in the specified value and amount;

1.34.2. the document that contains confirmation by the competent authority of a foreign government that the recipient of Kosovo strategic goods has received the goods, in the specified value and amount in the destination country.

1.35. **Denied party** – natural or legal person in a foreign country to whom a person from the Republic of Kosovo may not sell or export, to which it may not provide related services, or with which it may not otherwise conduct business in strategic goods.

1.36. **Authorized State Security Institutions** – the state institutions that are, in accordance with relevant laws, allowed to possess and carry weapons.

1.37. **ICP-** Internal Compliance Program for transporters- provision of compliance with all regulations and standards of the community of global export control by traders of strategic goods.

Article 4

Commission for the Control of Trade of Strategic Goods

1. The Commission for the control of trade with strategic goods shall be established by the decision of the Government of the Republic of Kosovo.

2. The Commission consists of five (5) members and deputy members, which are representatives of:

2.1. Ministry for Trade and Industry;

2.2. Ministry for Foreign Affairs;

2.3. Ministry for Kosovo Security Force;

2.4. Ministry for Internal Affairs;

2.5. Kosovo Customs.

3. Each member or deputy-member of the Commission is responsible for the matters that pertain to the competencies of the Ministry he or she represents.

4. The Commission shall approve, annul, modify and revoke the licenses for export, import, transit, transshipment, extra-territorial re-export, re-transfer, and provision of related services, and shall carry out any other tasks as provided in this law or with sub-legal acts.

5. The Commission shall determine the National Control Lists of Strategic Goods.

6. Members and deputies of the Commission are appointed and dismissed by the Government of the Republic of Kosovo based on the proposals of the respective Ministries.

7. The Commission is headed by the representative of the respective Ministry for Trade and Industry.

8. Approval for the export, import, transit, transshipment, extra-territorial re-export, re-transfer and provision of related services is given by the Commission with the consensus of all members of the Commission. In case of the absence of one (1) of the members of the Commission, the right to vote is transferred to his deputy. If the members of the Commission are unable to reach consensus, then the Commission shall determine whether to escalate the application in question to the Ministerial level. The escalation procedure shall be described in sub-legal act, which will be issued by the Government upon the proposal of the Ministry.

9. The Commission, in performance of its functions, may seek the assistance, advice, and other actions from ministries, institutions and subject-matter experts. The procedure for seeking the assistance of other ministries, institutions and subject-matter experts shall be

described in sub-legal act, which shall be issued by the Government upon the proposal of the Ministry.

10. The Commission may request assistance, advices and other actions from the Kosovo Intelligence Agency and the Agency for Radiation Protection and Nuclear Safety with respect to the export, transit, transshipment, and extra-territorial re-export or re-transfer of strategic goods as well as the provision of related services.

11. If one of the representatives of the Commission is not able to give an attitude within fifteen (15) days, then the Ministry shall request written reasoning from the respective minister regarding the respective subject.

12. The Government, upon the proposal of the Ministry, shall adopt the sub-legal act related to the funding of the Commission.

Article 5 **Responsibility for Control of Trade in Strategic Goods**

1. The Ministry is the responsible institution that performs control of trade in strategic goods, and performs administrative work for the Commission.

2. In order to implement paragraph 1. of this Article, the Ministry establishes the specific Department for Control of Trade with Strategic Goods.

3. The department's organizational structure, field of action and implementation shall be regulated through sub-legal acts related to the structure of the MTI and approved by the Government.

Article 6 **Lists of Goods Subject to Licensing**

The Government, with a proposal by the Ministry, through a Decision, adopts and updates the National List of Controlled Strategic Goods subject to this Law. The National Control List shall comprise the European Union Dual-Use List and Common Military List as well as goods that are placed under control for national security, foreign policy, public safety, or human rights reasons.

Article 7 **Scope of Control**

1. A license shall be required for the export, import, transit, transshipment, extra-territorial re-export and re-transfer of the goods on the National List of Controlled Strategic Goods, as well as the provision of related services.

2. The Ministry, through a sub-legal act, shall define the form and content of the license from paragraph 1 of this Article.

3. Export, import, transit, transshipment, extra-territorial re-export and re-transfer of the goods listed on the National List of Controlled Strategic Goods, as well as the provision of related services, is done based on the license issued by the Ministry, with the approval by the Commission.

4. The license for export, transit, transshipment or provision of related services is required even when there is export, transit, transshipment, or provision of related services involving goods that are not contained in the National List of Controlled Strategic Goods, when:

4.1. the exporter, transit person, transshipment person, or provider of related services has been informed by the Ministry that the goods in question are or may be intended, fully or partially, for use in connection with development, production, handling, operation, maintenance, storage, identification, detection or dissemination of chemical, biological, or nuclear weapons or other atomic devices or the development, production, maintenance, or storage of the means for their delivery;

4.2. the purchasing country or country of destination is subject to an embargo of arms adopted by the United Nations Security Council, actions based on the decision of the Organization for Security and Cooperation in Europe or of the European Union, and if the exporter, transit person, transshipment person, or provider of related services has been informed by the Ministry that the goods in question are or may be intended, entirely or partially, for a military end-use;

4.3. the exporter, transit person, transshipment person or provider of related services has been informed by the Ministry that the goods are or may be intended, entirely or partially, for use as parts or components of the goods for military use from the National List of Controlled Strategic Goods;

5. If the exporter, transit person, transshipment person, or provider of related services is aware that the goods which it intends to export, transit, or transship, or the goods for which it intends to provide a related service, are not contained in the National List of Controlled Strategic Goods, and are dedicated entirely or partially for any of the purposes specified in sub-paragraphs 4.1 to 4.3 paragraph 4 of this Article, then the exporter, transit person, transshipment person, or provider of related services should inform the Ministry about this. The Ministry will decide whether a license is needed for the export or for provision of related services.

6. The license is issued by the Ministry with the approval of the Commission, except the cases when:

6.1. authorization for import of strategic goods dedicated for the Kosovo Security Force or Authorized State Security Institutions will be issued by the Ministry for the Kosovo Security Force or the Ministry for Internal Affairs;

6.2. authorization for temporary export of strategic goods for the Ministry of the Kosovo Security Force or the Authorized State Security Institutions will be issued by the Ministry for the Kosovo Security Force or the Ministry for Internal Affairs;

6.3. authorization for import of strategic goods received as donations by the Kosovo Government will be issued by the Ministry for the Kosovo Security Force or the

Ministry for Internal Affairs, if such goods are defined to become part of their competencies or the competencies of the Authorized State Security Institutions;

6.4. authorization for export of strategic goods based on the agreements signed by the Government of the Republic of Kosovo will be issued by Ministry for the Kosovo Security Force;

6.5. authorization for export, transit and transshipment of strategic goods which operate as part of a military, peacekeeping or humanitarian mission will be issued by the Ministry for the Kosovo Security Force;

6.6. authorization for export, import, transit and transshipment of strategic goods which will be used for research activities, in connection with investigative enforcement activities, which aim at implementation of this Law will be issued by the relevant Government offices.

Article 8

Certificate of End-Use Issued on Behalf of the Republic of Kosovo

1. Upon request by the end-user, the Ministry shall issue a certificate of end-use to the end-user for the import and the end-use of strategic goods and the provision of related services.
2. The Ministry, through a sub-legal act, shall define the form and content of the certificate based on paragraph 1 of this Article.
3. Control document for the certificate of an end-user issued by the Ministry can be revoked only to the extent that the goods covered have not been imported into the Republic of Kosovo.
4. Control over end-use of the imported strategic goods is exercised by the relevant institutions on the basis of end-use control documents. If enforcement institutions discover any violations relating to strategic goods, they shall notify the Ministry immediately.

Article 9

Registration in the Registry of Traders of Strategic Goods

1. Before starting the export, import, or provision of related services, the persons performing these actions are obliged to register within the registry of traders of strategic goods. Registry will be a precondition for an application for a license for export, import, or provision of related services.
2. The Department shall create and maintain the registry of traders of strategic goods.
3. The Department shall determine if an exporter, importer or provider of related services shall be admitted to the registry of traders of strategic goods. The Ministry may request an advisory opinion from the members of the Commission or other competent authorities on an application for registration in the registry.

4. The Chairperson, members, and alternative members of the Commission shall have the right to informative access to the registry of traders of strategic goods.
5. Third parties shall have access to the registry of traders of strategic goods in case the parties have a justified interest in it, as determined by the Department, in accordance with the applicable law. The Department may refuse to provide the information if the applicant does not have adequate justification, or if the access or delivery could damage the interests of the registrant who is the subject of the application for information.
6. The application form, deadlines, and procedures for application and registration in the registry of traders of strategic goods, deletion from the registry, and the information that must be presented with the request for registration in the registry shall be defined in a sub-legal act issued by the Ministry.
7. The Department shall refuse registration in the registry of traders of strategic goods if:
 - 7.1. the applicant falsely represents or conceals any material fact or submits misleading information, including the submission of forged documents in connection with the application for entry to the registry;
 - 7.2. in the past five (5) years, the applicant has been held responsible for violating this Law, its sub-legal acts, or other legal provisions related to national security;
 - 7.3. in the past five (5) years, the applicant has been held responsible for violating an international embargo or sanction;
 - 7.4. a criminal charge has started against the applicant related to a violation of this Law or its sub-legal acts or civil or criminal proceedings related to national security have commenced concerning the applicant;
 - 7.5. the Department determines that any other national security concerns exist.
8. If the Department refuses registration in the registry of traders of strategic goods, then the applicant may appeal against the decision to the Commission. The appeals procedure shall be described in sub-legal act, which shall be issued by the Ministry.
9. To change the registration in the registry, the applicant must submit to the Department a written request for the specific change. The Department may demand additional documents, if necessary.
10. The Department may refuse to change an entry in the registry of traders of strategic goods.
11. The Department may delete a legal or natural person from the registry of traders of strategic goods. The deletion procedure shall be described in sub-legal act, which shall be issued by the Ministry.

Article 10
Licenses for Export, Import, Transit, Transshipment, Extra-Territorial Re-Export, Re-Transfer, and Provision of Related Services

1. The following types of licenses are available in the Republic of Kosovo:

1.1. individual license:

1.1.1. the Ministry may issue an individual license for export, import, transit, transshipment, extra-territorial re-export, or re-transfer or the provision of related services based on the approval of the Commission;

1.1.2. an individual license for export, import, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services may be subject to additional terms and conditions, as stipulated by the Ministry in the license.

1.2. global license:

1.2.1. the Ministry may issue a global license based on the approval of the Commission;

1.2.2. a global license may be subject to additional terms and conditions, as stipulated by the Ministry in the license.

1.3. general license:

1.3.1. the Ministry may issue a general license that enables the export, import, transit, or transshipment of certain stipulated strategic goods or the provision of certain stipulated related services, under the conditions or to the destination countries identified in the general license. The Ministry must publish the general license;

1.3.2. a general license may be used by all persons registered as general license users, in accordance with the requirements and conditions established in this Law and relevant sub-legal acts;

1.3.3. a general license may not be used if the Ministry has informed an exporter, importer, transit person, transshipment person or provider of related services that the goods in question are or may be intended for, in their entirety or partially, for any of the purposes identified in Article 7, paragraphs 4. and 5. of this Law, or when the exporter, importer, transit person, transshipment person, or provider of related services is aware that the goods are intended for such a purpose.

2. The Ministry shall define the application procedure in a sub-legal act.

3. The Ministry shall define the form and content of the licenses in a sub-legal act.

Article 11
Dismissal of a License Application without Action

1. If an application is incomplete or inaccurate, the Ministry shall, within five (5) working days, inform the applicant and ask for submission of complete or correct information within a deadline defined by the Ministry.
2. If the applicant fails to complete the application even after this additional deadline, the application will be rejected without undertaking any action.
3. If the applicant submits an application for a transaction that is not subject to a licensing requirement, the Ministry shall dismiss the application without action.

Article 12
Deadline for Review of a License Application by the Commission

1. The Commission shall decide on a license application within twenty (20) working days from the day of application, or within forty (40) working days if, within the procedures, it is necessary to undertake additional verification.
2. The Ministry shall inform the applicant immediately after the Commission determines that the procedures will take up to forty (40) days.

Article 13
Deadline for Issuance of a License

1. The Ministry shall issue the requested license within five (5) working days from the date of approval by the Commission.
2. If the Commission refuses to give its approval for the requested export, import, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services, the Ministry is obliged to inform the applicant within five (5) working days of the negative decision of the Commission.
3. The Ministry shall inform the applicant about the legitimate reasons for denial by the Commission, in compliance with the law on protection of personal data or the law on classification of information and security clearances and other relevant laws.
4. In cases when the Commission denies a license application, the applicant shall request administrative review by the Commission within thirty (30) days of receiving the notification of denial, prior to initiating an administrative dispute with the competent court.
5. The Commission shall review applicant's request within twenty (20) working days of receiving the request. In cases when the Commission denies the request, the applicant may initiate an administrative dispute with the competent court.
6. The procedure for administrative review shall be determined in sub-legislation issued by the Ministry.

Article 14
Impossibility of Transferability of Licenses, Certificates, and Other Documents

1. Licenses, certificates, and other documents which are issued based on this Law cannot be transferred to other persons.
2. In case of behavior contradictory to paragraph 1 of this Article, the person to whom the licenses, certificates, and other documents have been issued loses all the rights which are foreseen by this Law.

Article 15
Consideration and Rejection of a License Application

1. When reviewing an application for export, import, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services, the Commission will reject the application if following circumstances are ascertained:
 - 1.1. that the issuance of the requested license is in contradiction with the foreign policy or economic interests of the Republic of Kosovo;
 - 1.2. that the issuance of the license may endanger respect for the international obligations and responsibilities of the Republic of Kosovo, particularly the sanctions adopted by the United Nations Security Council or the European Union, agreements on non-proliferation and other matters, and other international obligations;
 - 1.3. that the issuance of the license may endanger the defense and security interests of the Republic of Kosovo;
 - 1.4. that the transaction is in contradiction with the national security strategy of the Republic of Kosovo;
 - 1.5. that the issuance of the license shall endanger the respect for human rights in the destination country or respect for international humanitarian law in the destination country;
 - 1.6. that the issuance of the license might contribute in the raise of tensions or armed conflict in the destination country;
 - 1.7. that the issuance of a license shall enable strategic goods to come into the possession of a denied party;
 - 1.8. that the attitudes of the destination country towards terrorism, the nature of its alliances, and the respect of international law by that state are not consistent with those of the Republic of Kosovo;
 - 1.9. that there is a risk that the goods may be diverted, re-transferred, or re-exported under undesirable conditions;

1.10. that the goods are incompatible with the technical and economic capacity of the recipient country, taking into account the desirability that states meet their legitimate security and defense needs with the least diversion of human and economic resources for armament;

1.11. that the goods for which the license is requested are under a police investigation procedure or court proceedings;

1.12. within the past five (5) years, the applicant has been held responsible for violating this Law, its sub-legal acts, or other legal provisions related to national security;

1.13. within the past five (5) years, the applicant has been held responsible for violating an international embargo or sanction;

1.14. there has been initiated a criminal proceeding against the applicant regarding the violation of this Law or its sub-legal acts or there has been initiated a civil or criminal proceeding against the applicant regarding the national security;

1.15. as well as other relevant national security or foreign policy considerations.

Article 16

Trustworthiness and Legal Validity of the Documentation

In case of reasonable suspicion of the trustworthiness and legal validity of the submitted documentation, the Ministry, with a proposal by the Commission, shall present the documents to the competent authorities for further proceedings.

Article 17

Re-Transfer and Re-Export of Previously Imported Strategic Goods

1. If a person who previously imported strategic goods to the Republic of Kosovo wishes to re-transfer those goods to another end-user, then the Ministry may request that the person submit the approval of the competent authorities of the state from which the goods were imported to the Republic of Kosovo.

2. In the case of export of previously imported strategic goods, the Ministry may request from the applicant the application for the approval of the export and the submission of the changes of the end-user of goods, issued by the competent authorities of the state from which the goods were imported.

Article 18

License Issuance for Transactions Involving Countries under Prohibitive or Restrictive Measures

1. In case of submission of a license application for export, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services involving a country, entity, or

legal or natural person which is on the list of countries, entities, and legal or natural persons against which prohibitive or restrictive measures have been applied by the United Nations, European Union, Organization for Security and Cooperation in Europe, or other international organizations, and member of which is the Republic of Kosovo, the only licenses that can be issued are for humanitarian purposes or for the needs of peacekeeping.

2. Based on the foreign policy and national security interests of the Republic of Kosovo, the Ministry, through a sub-legal act, may establish a list of countries, entities, and legal or natural persons that are subject to prohibitive or restrictive measures on exports, imports, transits, transshipments, extra-territorial re-exports, re-transfers, or the provision of related services.

Article 19

Notification to Entities Prior to Signing a Contract for the Purchase or Sale of Strategic Goods or Services

Prior to the signing of a contract for purchase or sale of strategic goods or provision of related services, upon the request of the persons, the Ministry may notify the person that the activity of the negotiator, buyer, seller, importer, exporter, end-user, or other party to the transaction is in contradiction with Article 18 of this Law.

Article 20

Issuance of an International Import Certificate or Delivery Verification Certificate for Strategic Goods

1. If the exporting country of strategic goods requests a certificate for the import of those goods from the competent bodies of the Republic of Kosovo, the Ministry shall issue an international import certificate or delivery verification certificate for the strategic goods.

2. The procedure, format, and content of the application for issuance of such certificates shall be defined by the Ministry through a sub-legal act.

Article 21

Database, Cooperation and Reporting

1. The Ministry shall be obliged to keep a database containing the requested, issued, and utilized licenses and certificates as well as modified, suspended, revoked, and annulled licenses and denials of license applications and post-license enforcement activities for exports, imports, transits, transshipments, extra-territorial re-exports, re-transfers, and provision of related services based on this Law.

2. For the needs of fulfilling the duties foreseen by this Law, the Ministry, within its own competencies, may cooperate with other competent authorities of the Government of Kosovo, share information with them, and request information from them, in a manner consistent with the laws on protection of confidential information of the Republic of Kosovo.

3. For the needs of fulfilling the duties foreseen by this Law, the Ministry, within its own competencies, may cooperate with international organizations and competent bodies of other states, and offer to them the respective information in compliance with the obligations which have been undertaken by the Republic of Kosovo.

4. The Ministry shall participate in the exchange of information concerning the export, import, transit, transshipment, extra-territorial re-export, re-transfer, and provision of related services involving strategic goods with those countries which are members of the European Union.

5. The Ministry shall, prior to 30 April of the calendar year, prepare the confidential version of an annual report for the previous year on the trade in strategic goods and the activities of the Commission and to submit it to the Government of Kosovo.

6. The Ministry shall, prior to 30 May of the calendar year, prepare a public version of the report and publish it on the Ministry website.

Article 22

Obligations of Persons Which Deal with Export, Import, Transit, Transshipment, Extra-Territorial Re-Export, and Re-Transfer of Strategic Goods, as Well as the Provision of Related Services

1. Persons which deal with export, import, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services involving strategic goods are obliged to:

1.1. archive the following documentation in duration for at least thirty (30) years after finalization of the export, import, transit, transshipment, extra-territorial re-export or re-transfer of strategic goods:

1.1.1. technical description of the goods that enables the classification of the goods on the National List of Controlled Strategic Goods, based on the provisions of this Law, the nomenclature of the customs tariff, and the United Nations Organization classification for dangerous goods, if appropriate;

1.1.2. the quantity of the goods in measuring unit and the net weight of the goods;

1.1.3. the full name and address of the exporter, importer, transit person, transshipment person, extra-territorial re-exporter, re-transferor, or provider of related services, and the respective information from the registry of traders of strategic goods, if applicable;

1.1.4. the full name and address of the seller or recipient of the goods;

1.1.5. the full name and address of the end-user of the goods;

1.1.6. the description of related services, full name and address of the receiver(s) and other parties to the related services (if applicable);

1.1.7. any business correspondence, e-mails, and audio-video recordings related to exports, imports, transits, transshipments, extra-territorial re-exports, re-transfers, and the provision of related services involving strategic goods;

1.1.8. orders, bills, contracts, ordering notes, delivery notes, embarkation lists, and other documentation related to export, import, transit, transshipment, extra-territorial re-export, re-transfer, and the provision of related services involving strategic goods;

1.1.9. any other documentation stipulated by the Ministry, which the Ministry shall identify on a case-by-case basis;

1.2. to provide any such documentation to an official of the Ministry or other supervisory body, upon the request of the Ministry or other supervisory body;

1.3. to respect the conditions upon which the license was issued and to inform the Ministry immediately of any change that occurred in an export, import, transit, transshipment, extra-territorial re-export, or re-transfer of the strategic goods as well as provision of the related services;

1.4. to inform the Ministry in writing of any change concerning the end-user or another party to an export, import, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services, within ten (10) days from the date of change;

1.5. within seven (7) days after the finalization of the export, import, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services, to inform the Ministry in writing of the finalized export, import, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services, and to submit the documentation based on which the export, import, transit, transshipment, extra-territorial re-export, re-transfer, or provision of related services was finalized;

1.6. at the request of the Ministry, to secure confirmation of the delivery and receipt of goods;

1.7. to indicate clearly in relevant commercial documents relating to domestic transfers of strategic goods manufactured in Kosovo that those goods are subject to controls if exported from Kosovo; relevant commercial documents include, in particular, any sales contract, order confirmation, invoice, or dispatch note;

1.8. to return any used license to the Ministry within seven (7) days of the finalization of the respective transaction;

1.9. to return any unused license or certificate to the Ministry within seven (7) days of the expiration of the license or certificate;

1.10. to respect other obligations, terms, and conditions which are part of licenses or certificates issued by the Ministry based on this Law.

Article 23
Internal Compliance Program

1. The Ministry may require the applicants for global licenses and users of general licenses, on a case-by-case basis, to establish a mandatory internal compliance program (hereafter ICP). In such cases, the ICP is subject to the certification by the Ministry.

2. Applicants for global licenses and users of general licenses for which the Ministry has determined an ICP to be mandatory must apply to the Ministry for certification of the ICP. The Ministry shall consider the following in determining whether to certify an ICP:

2.1. the number of employees of the applicant, the volume of trade, the nature of transactions, the profile of consignees, and the declared end-use of strategic goods and related services; proven experience in handling and managing trade in strategic goods and related services; the record of compliance with strategic trade control; any relevant court decisions; licenses to produce or trading with strategic goods and/or related services, and experienced management staff;

2.2. the appointment of a senior legal officer by the applicant as a responsible officer for the management of control over the trade with strategic goods and related services;

2.3. a written commitment by the applicant, signed by the senior legal executive referred to in sub-paragraph 2.2 of this Article, to take all necessary steps to observe and enforce all specific conditions related to the end-use and strategic trade controls of any specific component or product received or exported.

2.4. a written commitment by the applicant, signed by the senior legal executive referred to in sub-paragraph 2.2 of this Article, to provide to the Ministry detailed information on actions taken concerning the applicant's procedures for performing background checks of end-users and verifying the legality of the end-use of all strategic goods to be exported, imported, transited, transshipped, extra-territorially re-exported, or re-transferred or in respect of which related services are to be provided;

2.5. conformity of the ICP implemented by the applicant with the guidelines established by the Ministry.

3. The Ministry, in cooperation with the Commission, shall assist legal and natural persons in the development of ICPs and provide them with the necessary information and guidance.

4. The authorized representatives of the Ministry and/or relevant members of the Commission may audit ICPs.

5. If an audit finds that an ICP does not satisfy the criteria identified in paragraph 2 of this Article or the guidelines established by the Ministry, the Ministry shall take appropriate measures based on the approval of the Commission. Such measures may include suspending or revoking the global license or the use of general licenses.

6. The names of the companies with audited ICPs shall be published by the Ministry.

7. The Ministry shall establish and publish the guidelines for an ICP.

Article 24
Raising Awareness for the Provisions of This Law

The Ministry, in cooperation with the Commission, shall be responsible for providing information and conducting programs to raise the awareness of all stakeholders to enable more effectively their compliance with the provisions of this Law and its sub-legal acts.

Article 25
Supervision of the Implementation of the Licensing System

1. The Ministry is responsible for verifying compliance of exporters, importers, transit persons, transshipment persons, extra-territorial re-exporters, re-transferors, and providers of related services with the obligations, terms, and conditions of such licenses and the provisions of this Law, in cooperation with other bodies involved in the process of issuing licenses and other state bodies, in fulfillment of their responsibilities.

2. Supervision of implementation consists of supervision before, during, and after issuance of a license.

3. During the supervision of implementation, the Ministry, in cooperation with other relevant institutions, may:

3.1. request necessary information from the applicant or license holder for implementation of the supervision;

3.2. inspect applicant or license holder documents and/or business premises, including offices, production facilities, warehouses, and distribution centers, related to licensed strategic goods or strategic goods for which an applicant has applied for a license, as well as the goods themselves;

3.3. request information from other governmental institutions and other necessary services necessary for implementation of the supervision;

3.4. request assistance from competent authorities of other countries in order to collect additional information necessary for fulfillment of the supervision;

3.5. monitor license holder compliance with the obligations, terms, and conditions of the issued license;

3.6. monitor the end-users of the goods.

4. The Ministry and any other supervising bodies are obliged to keep confidential the official secrets, trading and production secrets, and the identities of the persons that are the subject of supervision.

5. Competent state body shall deliver to the Ministry the results of the supervision in the form of a written report.

6. In case of irregularities, the Ministry shall inform the other competent state bodies for further proceedings.

Article 26

Customs Supervision and Clearance of Strategic Goods

1. The Ministry must provide Kosovo Customs with a copy of issued licenses for export, import, transit, transshipment, and provision of related services involving strategic goods.

2. Kosovo Customs is responsible for supervising the actual export, import, transit, transshipment, or any other customs procedures related to strategic goods, and evaluating the conformity of the goods with the issued license.

3. An exporter, importer, transit person, or transshipment person of licensed strategic goods is obliged to include the following information in the customs declaration for the goods:

3.1. the full name and address of the license holder;

3.2. the number of the license for the export, import, transit, or transshipment for which the customs procedure is initiated;

3.3. the description of the goods in compliance with the issued license;

3.4. the quantity of the goods expressed in measuring unit, marked on the license;

3.5. The value of the goods expressed in currency defined in the license;

3.6. the proper tariff nomenclature of the goods;

3.7. the commodity classification of the strategic goods identified in the license, based on the commodity classification system utilized in the National List of Controlled Strategic Goods;

3.8. the dangerous goods classification, if applicable.

4. In performing the duties identified in paragraph 2 of this Article, Customs may request the assistance of the Ministry in identifying strategic goods to be exported, imported, transited, or transshipped and determining if they are in conformity with an issued license.

5. If Kosovo Customs proves that the provisions of this Law have been violated, it may issue an order concerning the timeframe in which the irregularities must be resolved.

6. Kosovo Customs must inform the Ministry in writing of its findings with respect to the supervision of exports, imports, transits, transshipments, and transportation of strategic goods every six (6) months.

Article 27

Annulment, Revocation, Limitation, Suspension, and Modification of a License

1. A license may be annulled by the Ministry based on the decision of the Commission, if it was obtained under false pretenses, misleading representation, or concealment of material facts. In such a case, the license is null and void and any activity thereunder is deemed illegal.
2. A license may be revoked by the Ministry based on the decision of the Commission, if:
 - 2.1. requested by the license holder;
 - 2.2. new facts emerge which, had they been known or existed at the time of the application, would have resulted in a denial;
 - 2.3. a substantive change to the information in the license occurs;
 - 2.4. the license holder fails to comply with the obligations, terms, or conditions of the license;
 - 2.5. the license holder violates this Law or its sub-legal acts or other state security-related legal provisions;
 - 2.6. the license holder fails to comply with request of the Ministry for additional information about the license;
 - 2.7. the license is destroyed or lost;
 - 2.8. the natural person who is the license holder dies;
 - 2.9. the legal person who is the license holder is dissolved or otherwise is no longer in existence;
 - 2.10. the Commission shall be notified of any other national security-related reasons.
3. A license may be limited by the Ministry based on a decision of the Commission, pursuant to sub-paragraphs 2.1 to 2.6 and 2.10 of this Article.
4. The Ministry shall suspend the validity of a license until the facts specified in sub-paragraphs 2.2 to 2.6 and 2.10 of this Article are ascertained.
5. The Ministry shall immediately notify Customs and other relevant government institutions of the annulment, revocation, limitation, or suspension of a license.
6. A person may not appeal the Commission's decision to annul or revoke a license, but administrative contest can be initiated with the competent court.
7. A license may be modified by the Ministry, based on the decision of the Commission, in the case of extension of the validity period, a change in the destination or end-user, or for other reasons.

Article 28

Violations

1. Any natural or legal person, or the responsible person of a legal person, may be held administratively and/or criminally liable for the following violations:

1.1. engaging in any of the regulated activities prohibited by or contrary to this Law or sub-legal acts or refraining from engaging in an act required by this Law or sub-legal acts, including but not limited to: failure to register; acting without an authorization; or acting in breach of obligations, terms, or conditions of a license or end-use documentation issued by the Ministry;

1.2. making false or misleading representations or concealing any material fact, including in the submission of any documents, to the Ministry;

1.3. failing to act in accordance with any orders issued by the Ministry or any government agency under this Law or its sub-legal acts or engaging in activity prohibited by any orders issued under this Law or sub-legal acts;

1.4. failing to report to or notify the Ministry, as required by this Law and its sub-legal acts;

1.5. failing to comply with recordkeeping requirements, as provided in this Law and its sub-legal acts;

1.6. inducing a violation of this Law, its sub-legal acts, or any order or license issued thereunder;

1.7. causing, aiding or abetting a violation of this Law, its sub-legal acts, or any order or license issued thereunder;

1.8. attempting to violate this Law, its sub-legal acts, or any order or license issued thereunder;

1.9. conspiring or acting in concert with one or more persons in any manner or for any purpose to bring about or to perform any act that constitutes a violation of this Law, its sub-legal acts, or any order or license issued thereunder;

1.10. engaging in any activity with intent to evade the provisions of this Law, its sub-legal acts, or any order or license issued thereunder;

1.11. obstructing or hindering the Ministry or any government agency in the execution of its powers conferred under this Law or its sub-legal acts;

1.12. forging or altering any registration, license, end-use control document, certificate, or any other document issued under the provisions of this Law, its sub-legal acts, or any order or license issued thereunder.

Article 29
Criminal Sanctions

1. Anyone who violates the provisions of this law and the violation has caused damage or serious consequences for the security of the state, foreign policy or public security shall be punished with imprisonment of one (1) to eight (8) years or a fine from ten thousand (10,000) up to thirty thousand (30,000) €.
2. Notwithstanding paragraph 1 of this Article, in exceptional cases, a person may be punished even quadruple the value of goods.
3. Court orders for the seizure of goods that are part of the offense.
4. Natural or legal person that commits a violation of the provisions of this Law or the relevant legislation may be subject to the prohibition of the exercise of business activities in accordance with applicable legislation.

Article 30
Administrative Penalties

1. In addition to or instead of criminal penalties that may be imposed pursuant to this Law, the Ministry may impose the following administrative penalties:
 - 1.1. limitation, revocation, or annulment of any license and/or registration, in accordance with Articles 10 and 27, paragraphs 2.4; 2.5; and 2.6 of this Law;
 - 1.2. imposition of fines from one thousand (1.000) up to five thousand (5.000) € or twice the value of the strategic good or related service under the contract or as assessed by the Ministry, whichever is greater;

Article 31
Implementation of Legal Provisions for Issuance of Licenses

Unless otherwise regulated by this Law, for the procedures of issuance of licenses for export, import, transit, transshipment, extra-territorial re-export, and re-transfer of strategic goods, as well as for the provision of related services, the other Laws in force are implemented.

Article 32
Mandate to Adopt Sub-Legal Acts and Guidelines to Implement This Law

For the purposes of implementing this Law, the Ministry shall issue sub-legal acts within three (3) months of the day of entry into force of the present Law.

Article 33
Repealing Provisions

Upon entry into force of this Law, the Law No. 03/L-232 on trade with strategic goods will be repealed.

Article 34
Entry into Force

This Law shall enter into force three (3) months after its publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-198
29 July 2013

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI