



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

Law No. 03/L-123

ON THE TEMPORARY COMPOSITION OF THE KOSOVO JUDICIAL COUNCIL

Assembly of Republic of Kosovo,

Based on article 65.point (1) of the Constitution of the Republic of Kosovo,

Hereby adopts

**THE LAW ON THE TEMPORARY COMPOSITION OF THE KOSOVO JUDICIAL
COUNCIL**

CHAPTER I

GENERAL PROVISIONS

Article 1
Purpose of the Law

This Law further regulates the temporary composition and the workings of the Kosovo Judicial Council of the Republic of Kosovo (“the Council”) for the duration of the comprehensive, Kosovo-wide review of the suitability of all applicants for permanent appointments, until the retirement age determined by law, as judges and public prosecutors in Kosovo (“the Appointment Process”), thereby amending UNMIK Regulation 2005/52 on the Establishment of the Kosovo Judicial Council and also further regulates the said Appointment Process in accordance with the provisions of Article 151 of the Constitution of the Republic of Kosovo.

Article 2
Status of the Council

The Council shall be a fully independent institution in the performance of its responsibilities. Its responsibilities shall be those set forth by the Constitution of the Republic of Kosovo.

Article 3
Responsibilities of the Council

1. In accordance with Article 108 (5) of the Constitution of the Republic of Kosovo the Council shall be responsible for conducting judicial inspections, judicial administration, developing court rules in accordance with the law, hiring and supervising court administrators, developing and overseeing the budget of the judiciary, determining the number of judges in each jurisdiction and making recommendations for the establishment of new courts.

2. The responsibilities of the Council shall be carried out in accordance with Article 11, paragraph 2 of this Law.

CHAPTER II

MEMBERSHIP AND ORGANISATION OF THE WORK OF THE COUNCIL

Article 4
Membership of the Council

1. In accordance with Article 151 of the Constitution of the Republic of Kosovo, the Council shall be composed, as follows:

1.1. five (5) members shall consist of the Kosovan members of the Independent Judicial and Prosecutorial Commission (the IJPC) who have been vetted by the IJPC as part of Phases 1 and 2 of the Appointment Process;

1.2. two (2) members elected by the deputies of the Assembly holding seats attributed during the general distribution of seats, one of whom shall be a judge and one of whom shall be a member of the Kosovo Chamber of Advocates;

1.3. two (2) members elected by the deputies of the Assembly holding reserved or guaranteed seats for the Kosovo Serb Community, at least one of whom shall be a judge;

1.4. two (2) members elected by deputies of the Assembly holding reserved or guaranteed seats for other Communities, at least one of whom shall be a judge;

- 1.5. two members selected by the International Civilian Representative on the proposal of the European Security and Defense Policy Mission, one of whom shall be a judge.
2. The five members referred to at sub-paragraph 1.1. of paragraph 1 of Article 4 of this Law shall be two (2) judges appointed to the Supreme Court of Kosovo, one (1) prosecutor appointed to the Office of the Public Prosecutor of Kosovo, one (1) judge appointed to the District Court and one (1) prosecutor appointed to the Office of the District Public Prosecutor.
3. It shall be incompatible with membership on the Council, within the meaning of section 5 of paragraph 6 of Article 108 of the Constitution of the Republic of Kosovo, to be:
 - 3.1. A judge or a prosecutor who has not been vetted and appointed as part of the Appointment Process;
 - 3.2. A member of the Assembly of the Republic Kosovo;
 - 3.3. A member of the Government of the Republic of Kosovo;
 - 3.4. A person who holds office or perform any duties in a political party, or in associations or foundations connected to political parties;
 - 3.5. A person who works for the administration, including persons performing duties in the Government of the Republic of Kosovo and or in administrative or sub-administrative bodies established by the Constitution and/or by legislation.
4. Members of the Council, who are not judges or prosecutors, shall be outstanding jurists, university professors or well respected professionals with a minimum of ten (10) years relevant experience who have an understanding of the judicial system in Kosovo and who are capable of making a contribution to the management and functioning of the judiciary in Kosovo. Well respected professionals may be drawn from outside the legal field from areas, such as, management, finance, information technology and social sciences.

Article 5

Composition of the Council during the Appointment Process

1. During Phase 1 of the Appointment Process and until such time as two (2) judges appointed to the Supreme Court and one (1) prosecutor appointed to the Office of the Public Prosecutor's Office of Kosovo as a result of the Appointment Process are appointed as members of the Council, the Council shall be comprised of five (5) members (Stage 1). The said five (5) members shall be the three (3) non-judge members referred to at sub-paragraphs 1.2, 1.3 and 1.4 of paragraph 1 of Article 4 of the this Law and the two (2) members referred to at sub paragraph 1.5. of paragraph 1 of Article 4 of this Law.
2. During Phase 2 of the Appointment Process and until such time as one (1) judge appointed to the District Court and one (1) prosecutor appointed to the Office of the District Public Prosecutor

as a result of the Appointment Process are appointed as members of the Council, the Council shall be comprised of eight (8) members (Stage 2). The said eight (8) members shall be the three (3) non-judge members referred to at sub-paragraphs 1.2, 1.3 and 1.4 of paragraph 1 of Article 4 of the this Law, the two (2) members referred to at sub paragraph 1.5. of paragraph 1 of Article 4 of this Law, two (2) judges appointed to the Supreme Court and subsequently appointed as members of the Council and one (1) prosecutor appointed to the Office of the Public Prosecutor of Kosovo and subsequently appointed as a member of the Council.

3. During Phase 3 of the Appointment Process and until such time as the deputies of the Assembly have elected three (3) judges, appointed to courts as a result of the Appointment Process, for membership of the Council in accordance with the provisions of Article 151 of the Constitution of the Republic of Kosovo, the Council shall be comprised of ten (10) members (Stage 3). The said ten (10) members shall be the three (3) non-judge members referred to at sub paragraphs 1.2. 1.3 and 1.4 of paragraph 1 of Article 4 of the this Law, the two (2) members referred to at sub paragraph 1.5. of paragraph 1 of Article 4 of this Law and the five (5) members referred to at sub paragraph 1.1 of paragraph 1 of Article 4 of this Law.

Article 6

Quorum and Voting

1. During Stage 1 referred to at paragraph 1 of Article 5 of this Law decisions of the Council shall be taken by a simple majority of the members which shall include the vote of the judge member referred to at sub paragraph 1.5.of paragraph 1 of Article 4 of this Law.

2. During Stage 2 referred to at paragraph 2 of Article 5 of this Law the quorum for meetings of the Council shall be five (5) members and shall require the presence of at least one (1) of the members referred to at sub paragraph 1.5, paragraph 1 of Article 4 of this Law. Voting shall be by simple majority of the members present and voting. The casting vote shall be held by the Chairperson of the Council.

3. During Stage 3 referred to at paragraph 3 of Article 5 of this Law the quorum for meetings of the Council shall be seven (7) members and shall require the presence of at least one of the members referred to at sub paragraph 1.5, paragraph 1 of Article 4 of this Law. Voting shall be by simple majority of the members present and voting. The casting vote shall be held by the Chairperson of the Council.

Article 7

Mandate of the members of the Council

1. The mandate of the first member appointed to the Council in accordance with Article 4 of this Law shall be five years. The mandate of all other members of the Council shall commence on their respective appointment dates and shall expire on the date of expiry of the mandate of the first member appointed to the Council.

2. Two (2) judges and one (1) prosecutor from among the five (5) Kosovo members of the Council referred to at sub paragraph 1.1 of Paragraph 1 of Article 4 of this Law, shall serve on the Council for an additional one (1) year term after the expiration of their mandates in accordance with paragraph 1 of Article 151 of the Constitution of the Republic of Kosovo.

Article 8 **Chairperson and Vice Chairperson of the Council**

1. Once the thirteen (13) members of the Council have been appointed, the members of the Council shall appoint from amongst its members a Chairperson and Vice-Chairperson of the Council.
2. The Chairperson and Vice-Chairperson shall serve in these positions until the expiration of their respective mandates as members of the Council but in no case shall they serve in these positions for a period longer than three (3) years.
3. The Chairperson and Vice-Chairperson of the Council shall be judges although the Vice Chairperson may be a prosecutor in the event that the Kosovo Prosecutorial Council has not been established in accordance with Article 110 of the Constitution of the Republic of Kosovo.
4. Prior to the election in accordance with paragraph 1 of this Article, a judge of the Supreme Court of Kosovo who has been vetted as part of Phase 1 of the Appointment Process and who has subsequently been appointed as a member of the Council shall serve as Chairperson of the Council. He/she shall be appointed by a majority of the members of Council within three (3) months of having been appointed to the Council.

Article 9 **Appointment of Members of the Council, the IJPC, the IJPC Review Panel and the Director of the IJPC Secretariat**

1. The appointment of the members of the Council shall be carried out by the authorities foreseen in Article 151 of the Constitution of the Republic of Kosovo.
2. The competent successor official or institution referred to at Section 2.15 of Administrative Direction 2008/2 implementing UNMIK Regulation 2006/25 on a Regulatory Framework for the Justice System in Kosovo shall be the President of the Republic of Kosovo and, accordingly, he/she shall make all appointments to the Council other than those referred to at paragraph 1 of this Article.
3. Consistent with paragraph 2 of Article 9 of this Law, the President of the Republic of Kosovo shall appoint all members of the IJPC including the international members, the IJPC Review Panel including the international members and the Director of the IJPC Secretariat.

4. In accordance with paragraph 3 of Article 150 of the Constitution of the Republic of Kosovo and consistent with paragraph 2 of Article 9 of this Law, the President of the Republic of Kosovo shall have the competence to appoint all judges and prosecutors who have been vetted in the Appointment Process and who have been proposed for appointment by the Council.

5. The Republic of Kosovo shall accord to the international members of the IJPC, the international members of the IJPC Review Panel, the international Director of the IJPC Secretariat and to their families the same privileges and immunities as are enjoyed by diplomatic agents under the Vienna Convention on Diplomatic Relations.

Article 10
Complaints against candidates in the Appointment Process

The IJPC shall enter into the necessary arrangements with third parties so as to ensure that complaints against candidates are processed and that the necessary background checks on candidates in the Appointment Process are completed.

CHAPTER III

FINAL PROVISIONS

Article 11
Repeal

1. As of the entry into force of this Law any normative act contrary to its provisions shall be repealed.

2. Any aspect of the work of the Council not regulated by this Law shall continue to be regulated by prior legislation to the extent that such legislation is in accordance with the Constitution of the Republic of Kosovo.

Article 12
Entry into force

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

Law No. 03/L-123
16 December 2008

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI