



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

Law No. 03/L-052

ON THE SPECIAL PROSECUTION OFFICE OF THE REPUBLIC OF KOSOVO

The Assembly of the Republic of Kosovo,

On the basis Article 65(1) of the Constitution of the Republic of Kosovo,

Hereby adopts

**LAW ON THE SPECIAL PROSECUTION OFFICE OF THE REPUBLIC OF
KOSOVO**

CHAPTER I
GENERAL PROVISIONS

Article 1
Establishment of the SPRK

1.1 Special Prosecution Office of Republic of Kosovo (hereinafter “SPRK”) is hereby established as a permanent and specialized prosecutorial office operating within the Office of the State Prosecutor of Kosovo.

1.2 The residence of the SPRK will be in Prishtinë/ Priština.

Article 2
Definitions

2.1 For the purpose of this law:

-**“EULEX KOSOVO”**- means the European Security and Defense Policy Mission established in Kosovo by the European Union;

-**“Head of the Justice Component”**- means an individual, belonging to the EULEX KOSOVO, who has been selected and appointed by the competent authority to work in Kosovo in this specific position;

-**“President of the Assembly of EULEX Judges”**- means a judge, belonging to the EULEX KOSOVO, who has been selected and appointed by the competent authority to work in Kosovo in this specific position;

-**“Chief EULEX Prosecutor”**- means a prosecutor, belonging to the EULEX KOSOVO, who has been selected and appointed by the competent authority to work in Kosovo in this specific position;

-**“EULEX prosecutor”**- means a prosecutor, belonging to the EULEX KOSOVO, who has been selected and appointed by the competent authority to work in Kosovo in this specific position;

-**“The Office of the Public Prosecutor of Kosovo”**- means an independent public body with responsibilities for the investigation of criminal offences, the discovery and collection of evidence and information for the initiation and conduct of criminal proceedings, the prosecution of persons suspected of criminal offenses, and the performance of other functions as provided for by the applicable law;

-**“Chief Public Prosecutor of Kosovo”**- means the public prosecutor who leads the Office of the Public Prosecutor of Kosovo;

-**“Chief Prosecutor of the Office”**- means the public prosecutor who leads either a municipal or a district prosecution office to investigate or prosecute crimes according to the applicable law;

-**“Kosovo Public Prosecutor”**- means a citizen of Kosovo appointed as prosecutor according to the applicable law;

-**“Special Prosecutor”**- means an EULEX prosecutor or a Kosovo public prosecutor who is working within the SPRK;

-**“Law Enforcement Agency”**- means the Kosovo Police and any other authority or agency established in Kosovo that can legitimately exercise comparable powers and typical functions of the Kosovo Police according to the applicable law; this definition includes the EULEX police;

-**“Applicable Law”**- means the law applicable in Kosovo pursuant to UNMIK Regulation No. 1999/24 On the Law Applicable in Kosovo, as amended, and any other future normative act, adopted in Kosovo by the competent authority after the enactment of this law;

-**“PCCK”**- means the Provisional Criminal Code of Kosovo, promulgated by UNMIK Regulation No. 2003/25, as amended;

-**“PCPCK”**- means the Provisional Criminal Procedure Code of Kosovo, promulgated by UNMIK Regulation No. 2003/26, as amended;

-**“CCFRY”**- means the Criminal Code of the Socialist Federal Republic of Yugoslavia, published in the Official Gazette of the Socialist Federal Republic of Yugoslavia No. 44/76, as amended;

-**“CCK”**- means the Criminal Law of the Socialist Autonomous Province of Kosovo, published in the Official Gazette of the Socialist Autonomous Province of Kosovo No. 25/77, as amended;

-**“Transition day”**- means the day on which the EULEX KOSOVO starts its mandate in Kosovo.

Article 3 **Composition and powers of the SPRK**

3.1 The SPRK will be composed of ten Kosovo Public Prosecutors.

3.2 Kosovo Public Prosecutors who will work as Special Prosecutors will be those who, at the date of the entry into force of the present law, have been selected and appointed, according to the procedures established by the applicable law, to work for the Kosovo Special Prosecutors Office as previously defined by UNMIK Administrative Direction No. 2006/15.

3.3 Notwithstanding the provisions set forth in paragraph 2 of this Article, additional Kosovo Public Prosecutors will be eligible to work as Special Prosecutors. They will be selected and appointed according to the procedures established by the applicable law.

3.4 The composition of the SPRK can be modified according to the needs and the workload of the office and pursuant to the procedures established by the applicable law.

3.5 Special Prosecutors will have the authority and responsibility to perform the functions of their office, including the authority and responsibility to conduct criminal investigations and prosecute crimes falling under the exclusive and subsidiary competence of the SPRK, throughout all the offices of the prosecutors and throughout all courts operating in Kosovo.

3.6 Anytime the SPRK assumes responsibility for a case falling under its exclusive or subsidiary competence, all Law Enforcement Agencies and prosecutors working in Kosovo will give all the required assistance to the SPRK for the correct performance of its functions and mandate.

3.7 The SPRK can coordinate and direct the investigation and prosecution of cases falling under its exclusive or subsidiary competence through the offices of the various prosecutors working in Kosovo. Special Prosecutors will seek and obtain the assistance of the Chief Prosecutors working in Kosovo anytime they act to coordinate and direct the investigation and prosecution of cases for which the SPRK has assumed responsibility.

3.8 Special Prosecutors can delegate, with the authorization of the Head of the SPRK, the undertaking of specific activities and actions of the criminal proceeding or the

undertaking of specific investigation or prosecution of cases for which the SPRK has assumed responsibility to any prosecutor working in Kosovo.

3.9 The Head of the SPRK will inform, within a general deadline that will be established by the Chief Public Prosecutor of Kosovo, the Chief Prosecutor of the office having jurisdiction over the case, regarding the authorization given pursuant to paragraph 8 of this Article. The Chief Prosecutor of the office can request the Head of the SPRK to reconsider the decision related to the delegation of specific activities of the proceedings or of the specific investigation or prosecution.

3.10 The prosecutor identified pursuant to paragraph 8 of this Article will report immediately to the Head of the SPRK after the activity or action has been undertaken and will transmit to the Special Prosecutor in charge of the investigation or prosecution, all relevant information, documents and files gathered from the delegated activity or action.

3.11 In case of delegation of a specific investigation or prosecution of a case, the prosecutor identified pursuant to paragraph 8 of this Article will inform the Special Prosecutor in charge of the investigation or prosecution about the relevant developments related to the proceeding. At any time during the proceeding the Head of the SPRK will have the authority to withdraw, for valid reasons, the delegated investigation or prosecution.

Article 4 **The Head of the SPRK**

4.1 The Head of the SPRK will be selected from amongst the Special Prosecutors according to the procedures established by the applicable law.

4.2 The Head of the SPRK will direct the activities of the SPRK and of its staff under the general supervision of the Chief Public Prosecutor of Kosovo.

4.3 The Head of the SPRK will be responsible for the management of the SPRK and will issue internal directives governing the activities of its office that will be consistent with the applicable law. The Head of the SPRK can seek advice from the Special Prosecutors in regards to the specific content of internal directives anytime this might be appropriate for the better functioning of the office.

4.4 The Head of the SPRK will represent the SPRK before the other national, international, public and private institutions and persons. The Head of the SPRK can designate another Special Prosecutor to represent the SPRK before the other national, international, public and private institutions and persons in accordance with the needs and the workload of the office.

4.5 The Head of the SPRK or another Special Prosecutor designated by him or her will be responsible for providing information to the media regarding the activity of the SPRK. In performing this task, the Head of the SPRK or his or her designate will be bound by the principle of confidentiality and will not disclose to the public and to unauthorized persons sensitive information.

4.6 In circumstances wherein the SPRK is cooperating with other national, international organizations and institutions, the Chief Public Prosecutor of Kosovo will be responsible

for all decisions related to the release of data and information according to the applicable law and to the modalities as set forth in relevant agreements with the same organizations and institutions.

4.7 The Head of the SPRK will designate a Special Prosecutor to exercise the functions of the Head of the SPRK in the case of his or her absence. The Head of the SPRK can delegate, partially or totally, for a determined period of time, his or her functions to a designated Special Prosecutor.

CHAPTER II EXCLUSIVE COMPETENCE OF THE SPRK

Article 5 Exclusive competence of the SPRK

5.1 The SPRK will have exclusive competence to investigate and prosecute the following crimes, also in the forms of attempt, and the various forms of collaboration to the crimes of:

- a) commission of Terrorism (Art. 110, PCCK);
- b) failure to Report Preparation of Criminal Offences (Art. 303, PCCK), Failure to Report Criminal Offences or Perpetrators (Art. 304, PCCK) and Providing Assistance to Perpetrators (Art. 305, PCCK) when these offences are committed in relation to Terrorism (Assistance in the Commission of Terrorism - Art. 111, PCCK);
- c) facilitation of the Commission of Terrorism (Art. 112, PCCK), Organization, Support and Participation in Terrorist Groups (Art. 113, PCCK)
- d) genocide (Art. 116, PCCK);
- e) crimes Against Humanity (Art. 117, PCCK);
- f) war Crimes in Grave Breach of the Geneva Conventions (Art. 118, PCCK), War Crimes in Serious Violation of Laws and Customs Applicable in International Armed Conflict (Art. 119, PCCK), War Crimes in Serious Violation of Article 3 Common to the Geneva Conventions (Art. 120, PCCK), War Crimes in Serious Violation of Laws and Customs Applicable in Armed Conflict not of an International Character (Art. 121, PCCK);
- g) attacks in Armed Conflict not of an International Character Against Installations containing dangerous forces (Art. 122, PCCK);
- h) conscription or Enlisting of Persons between the Age of Fifteen and Eighteen years in Armed Conflict (Art. 123, PCCK);
- i) employment of Prohibited means or methods of Warfare (Art. 124, PCCK);
- j) organization of Groups to Commit Genocide, Crimes Against Humanity and War Crimes (Art. 128, PCCK);
- k) endangering Internationally Protected Persons (Art. 141, PCCK);
- l) unlawful Appropriation, use, transfer and disposal of nuclear material (Art. 144, PCCK);
- m) threats to use or commit theft or robbery of nuclear material (Art. 145, PCCK);

- n) organized Crime (Art. 274, PCCK), Intimidation during Criminal Proceedings for Organized Crime (Art. 310, PCCK);
- o) Criminal Offences listed in Article 10 of UNMIK Regulation No. 2004/2 On the Deterrence of Money Laundering and Related Criminal Offences as amended.

5.2 The SPRK will also have exclusive competence in the investigation and prosecution, in accordance with the applicable law in force prior to the entry into force of the PCCK, of the following crimes, also in the form of attempt, and of the various forms of collaboration to the crimes of:

- a) terrorism (Art. 125, CCFRY), the crimes set forth in Articles 2, 3, 4, 5, of UNMIK Regulation No. 2001/12 On the Prohibition of Terrorism and related Offences according to the definitions as set forth in Article 1 of UNMIK Regulation No. 2001/12 and taking into account the provisions of Article 6 of UNMIK Regulation No. 2001/12;
- b) all crimes listed in Articles 141-155 of the CCFRY.

5.3 Prior to the commencement of the main trial, the SPRK will have the authority to take over cases falling under its exclusive competence that are investigated or prosecuted by the competent authorities according to the applicable law.

Article 6

Exercise of exclusive competence by the SPRK

6.1 All prosecutors working in Kosovo will inform the Chief Prosecutor of their Office of any verbal or written criminal report, or about any case currently under investigation or prosecution, from which it is reasonable to believe that a crime listed in paragraph 1 or 2 of Article 5 of this Law may have been committed.

6.2 The information envisaged in paragraph 1 of this Article will be transmitted to the relevant Chief Prosecutor as soon as possible and in any case within a general deadline that will be established by the Chief Public Prosecutor of Kosovo. In urgent situations, the prosecutors will transmit the information to the Chief Prosecutor within a shorter deadline determined also by the Chief Public Prosecutor of Kosovo.

6.3 The Chief Prosecutor of the Office will inform the Head of the SPRK and the Chief Public Prosecutor of Kosovo as soon as possible and in any case within a general deadline that will be established by the Chief Public Prosecutor of Kosovo, of any verbal or written criminal report or case of which he or she is aware pursuant to the provisions set forth in paragraph 2 of this Article.

6.4 If the Head of the SPRK agrees that the criminal report or the case referred to in paragraph 3 of this Article might reasonably fall under the exclusive competence of the SPRK, the Chief Prosecutor will send the criminal report or the case with all the relevant documents and files to the Head of the SPRK.

6.5 The Chief Prosecutor will ensure that sensitive data and information is not disclosed to unauthorized persons during the handover of the criminal reports, the case file and of all other relevant documents and files. The handover will occur within a general deadline that will be established by the Chief Public Prosecutor of Kosovo from the moment that

the Head of the SPRK has communicated his or her agreement to the Chief Prosecutor in accordance with paragraph 4 of this Article.

6.6 The prosecutor in charge of the investigation who transmitted the information pursuant to paragraph 1 of this Article will be responsible for any procedural activity necessary for the expeditiously handling of the investigation or prosecution until the SPRK assumes responsibility for the investigation or the prosecution.

6.7 All decisions taken by the judicial authorities that would be competent to conduct the proceeding until the SPRK assumes responsibility for the investigation or prosecution will remain valid and in force.

6.8 The Regional Commanders of the Kosovo Police will transmit to the Head of the SPRK, as soon as possible and in any case within a general deadline that will be established by Ministry of Internal Affairs, a copy of the first report or notice of crime that law enforcement agencies operating under their responsibility may have produced in regards to alleged criminal conducts that occurred in the territory of their competence, that were communicated to the relevant prosecutors and that might fall under the exclusive competence of the SPRK. Regional Commanders can add observations to their communication and may delegate their obligations as established by the present Article to the various Station Commanders of Kosovo under their authority.

Article 7

Referral of cases by the SPRK

7.1 Once the SPRK has assumed responsibility for an investigation or prosecution in accordance with the provisions set forth in paragraph 3 of Article 5 or paragraph 4 of Article 6 of this Law, and the Head of the SPRK believes that there are no, or no more grounds for the SPRK to exercise its exclusive competence, the provisions set forth in paragraphs 1-11 of Article 14 of this law will apply *mutatis mutandis*.

Article 8

Exclusive competence of the SPRK for cases referred by international tribunals

8.1 The SPRK will have exclusive competence to investigate and prosecute crimes, including the various forms of attempt and of collaboration to the crimes, that competent organs of international tribunals, such as the International Criminal Tribunal for the former Yugoslavia established by Resolution No. 827 of the Security Council of the United Nations, may refer to the authorities of Kosovo for investigation and/or prosecution, according to the procedures set forth by the applicable law and by agreements among the competent authorities.

CHAPTER III SUBSIDIARY COMPETENCE OF THE SPRK

Article 9
Subsidiary competence of the SPRK

9.1 The SPRK will have subsidiary competence, according to the modalities set forth in Article 10 of this Law, to investigate and prosecute the following crimes, also in the form of attempt, and the various forms of collaboration to the crimes of:

- a) assault on legal order of Kosovo (Art.108, PCCK);
- b) inciting National, Racial, Religious or Ethnic Hatred, Discord or Intolerance (Art. 115, PCCK);
- c) hijacking Aircraft (Art. 132, PCCK);
- d) endangering Civil Aviation Safety (Art. 133, PCCK), Endangering Maritime Navigation Safety (Art. 134, PCCK), Endangering the Safety of Fixed Platforms located on the Continental Shelf (Art. 135, PCCK), Piracy (Art. 136, PCCK);
- e) smuggling of Migrants (Art. 138, PCCK);
- f) trafficking in persons (Art. 139, PCCK);
- g) endangering United Nations and Associated Personnel (Art. 142, PCCK);
- h) murder (Art. 146, PCCK), Aggravated Murder (Art. 147, PCCK);
- i) hostage Taking (Art. 143, PCCK);
- j) violating equal status of residents of Kosovo (Art. 158, PCCK);
- k) kidnapping (Art. 159, PCCK);
- l) torture (Art. 165, PCCK);
- m) criminal offences against sexual integrity listed in Articles 193-204 of the PCCK anytime they are punishable by five or more years of imprisonment by taking into account the maximum of the possible sanction foreseen by the law;
- n) unauthorized Purchase, Possession, Distribution and Sale of Dangerous Narcotic Drugs and Psychotropic Substance (Art. 229, PCCK), Unauthorized Production and Processing of Dangerous Narcotic Drugs and Psychotropic Substances (Art. 230, PCCK);
- o) causing Bankruptcy (Art. 234, PCCK), Damaging Creditors (Art. 235 PCCK), Misuse of Economic Authorization (Art. 236, PCCK), Entering into Harmful Contracts (Art. 237, PCCK);
- p) counterfeit Money (Art. 244, PCCK);
- q) organizing Pyramid Schemes and Unlawful Gambling (Art. 243, PCCK), Tax Evasion (Art. 249, PCCK);
- r) unjustified Acceptance of Gifts (Art. 250, PCCK), Unjustified Giving of Gifts (Art. 251, PCCK);
- s) grave Cases of Theft in the Nature of Robbery or Robbery (Art. 256, PCCK), Fraud (Art. 261);
- t) extortion (Art. 267, PCCK);
- u) unauthorized Supply, Transport, Production, Exchange or Sale of Weapons (Art. 327, PCCK);
- v) participating in a crowd committing a criminal offence (Art. 320, PCCK);
- x) abusing Official Position or Authority (Art. 339, PCCK), Accepting Bribes (Art. 343, PCCK), Giving Bribes (Art. 344, PCCK);
- z) misappropriation in Office (Art. 340, PCCK), Fraud in Office (Art. 341, PCCK).

9.2 The SPRK will also have subsidiary competence, according to the modalities set forth in Article 10 of the present law, in the investigation and prosecution, in accordance with the applicable law in force prior to the entry into force of the PCCK, of the following crimes, also in the form of attempt, and of the various forms of collaboration to the crimes of:

- a) murder (Art. 30, CCK) and the other crimes listed in Articles 31-34 of the CCK;
- b) trafficking in persons (Article 2, UNMIK Regulation No. 2001/4 On The Prohibition of Trafficking in Persons in Kosovo);
- c) the crimes listed in Articles 74-82 of the CCK (Criminal Acts Against Personal Dignity and Morality) as amended by UNMIK Regulation No. 2003/1 Amending The Applicable Law on Criminal Offences Involving Sexual Violence anytime they are punishable by five or more years of imprisonment by taking into account the maximum of the possible sanction foreseen by the law;
- d) unauthorized production and sale of narcotics (Art. 245, CCFRY);
- e) inciting National, Racial or Religious Hatred, Discord or Hostility (Art. 134, CCFRY) and inciting to National, Racial, Religious or Ethnic Hatred, Discord or Intolerance (Article 1, UNMIK Regulation No. 2000/4);
- f) hijack of an aircraft (Art. 240, CCFRY);
- g) jeopardizing the safety of an aircraft's flight (Art. 241, CCFRY).
- h) grave cases of burglary and robbery (Art. 138, CCK), Plunder (Art. 141, CCK);
- i) extortion (Art. 149, CCK);
- j) receiving Bribe (Art. 222, CCK), Giving Bribe (Art. 223, CCK);
- k) fraud at Service (Art. 215, CCK), Embezzlement (Art. 219, CCK).

9.3 All prosecutors working in Kosovo will inform, by telephone and by any other means, the Head of the SPRK as soon as possible and no later than twenty-four hours from the moment they are aware of any verbal or written criminal report or any case currently under investigation or prosecution that falls within the categories of the crimes listed in sub e), f), n), p), t) and u) of paragraph 1 of this Article and in sub b), d) and i) of paragraph 2 of this Article. The Head of the SPRK will determine whether an *indicia* or *prima facie* case of Organized Crime exists and, if a reasonable belief that the verbal or written criminal report, case or prosecution contains *indicia* or *prima facie* case of Organized Crime, the Head of the SPRK can exercise jurisdiction over the case or prosecution pursuant to sub n) of paragraph 1 of Article 5 and paragraph 3 of Article 5 of this Law.

9.4 All prosecutors working in Kosovo will be under the obligation to inform through a proper reporting procedure, within a general deadline that will be established by the Chief Public Prosecutor of Kosovo, the Chief Prosecutor of their Office of any criminal report or cases currently under investigation or prosecution that can reasonably lead to a belief that a crime listed in paragraph 1 and 2 of this Article may have been committed. The relevant Chief Prosecutor will report to the Chief Public Prosecutor of Kosovo and to the Head of the SPRK, by a general deadline that will be established by the Chief Public Prosecutor of Kosovo, of all cases previously notified to their office pursuant to this Article.

9.5 The Chief Prosecutor of the Office will submit to the Chief Public Prosecutor of Kosovo and to the Head of the SPRK, upon their request, all relevant information pertaining to the cases referred to in paragraph 4 of this Article, including information capable of identifying the individual case.

9.6 Within a general deadline that will be established by the Chief Public Prosecutor of Kosovo, the Chief Prosecutors of the various Offices of Kosovo will submit, to the Chief Public Prosecutor of Kosovo and to the Head of the SPRK, a report describing the current status of the cases previously reported according to in paragraph 4 of this Article, and will perform all the necessary steps to ensure the non disclosure of sensitive data or information to unauthorized persons.

9.7 Upon request of the Head of the SPRK, the Regional Commanders of the Kosovo Police will transmit to the Head of the SPRK, by the end of each month, a copy of the first report or notice of crime that law enforcement agencies operating under their responsibility have produced in regards to alleged criminal conducts that occurred in the territory of their competence, that were communicated to the prosecutors during the previous month and that might fall under the categories foreseen in paragraph 1 and 2 of this Article. Regional Commanders can add observations to their communication and may delegate their obligations as established by the present Article to the various Station Commanders of Kosovo under their authority.

9.8 When the first report or notice of crime mentioned in paragraph 7 of this Article, refers to the crimes listed in sub e), f), p), t), and u) of paragraph 1 of this Article and sub b), d) and i) of paragraph 2 of this Article, the Regional Commander will transmit a copy of the relevant documents to the Head of the SPRK as soon as possible and in any case within twenty four hours. The Head of the SPRK will determine whether an *indicia* or *prima facie case* of Organized Crime exists and, if a reasonable belief that the first report or notice of crime contains an *indicia* or *prima facie case* of Organized Crime, the Head of the SPRK can exercise jurisdiction over the case or prosecution pursuant to sub n), paragraph 1 of this Article 5 and paragraph 3 of Article 5 of this Law.

Article 10

Exercise of the subsidiary competence by the SPRK

10.1 The SPRK will exercise its subsidiary competence in regards to the criminal offences listed in paragraph 1 and 2 of Article 9 of this Law, when to do so is in the interest of a proper investigation or prosecution of the crimes.

10.2 For the purpose of the present law it is in the interest of a proper investigation or prosecution of the crimes listed in paragraph 1 and 2 of Article 9 of this Law anytime one of the following criteria is met:

a) it is reasonable to believe that the alleged criminal conduct is part of a serious criminal phenomenon that is occurring or occurred in different areas of Kosovo and that might fall under the territorial competence of different courts according to the applicable law, so that an unique coordination of the investigation or prosecution is warranted;

- b) it is reasonable to believe that the alleged criminal conduct is part of a broader trans-national criminal activity that makes international cooperation necessary to achieve a complete investigation and prosecution of the crime;
- c) there is a strong suspicion of undue attempts made to influence the investigation or prosecution of the alleged criminal conduct;
- d) the alleged criminal conduct is endangering or has endangered the functioning or stability of the State or its organs, or the functioning or stability of public institutions or of their organs operating in Kosovo;
- e) it is reasonable to believe that the SPRK, due to the particular circumstances, or complexity, or nature of the alleged criminal conduct, is the only office that could achieve a complete investigation or prosecution of the crime.

10.3 Before the indictment becomes final, the Chief Prosecutor of the Office will propose, in writing, the transfer to the SPRK of the investigation or prosecution of any of the crimes listed in paragraph 1 and 2 of Article 9 of this Law, if there are grounds to believe that at least one of the criteria set forth in paragraph 2 of this Article is met in the relevant case. The proposal concerning the transfer of the case will be directed to the Head of the SPRK.

10.4 The Chief Prosecutor identified in paragraph 3 of this Article will inform the Chief Public Prosecutor of Kosovo of his or her proposal. Upon request of the Head of the SPRK, the Chief Prosecutor will take care to send a confidential copy of all the documents and information relevant to the case to the Head of the SPRK, together with a report outlining the basis for the request and clearly identifying at least one of the criteria set forth in paragraph 2 of this Article.

10.5 The original of the documents will be retained by the prosecutor that would otherwise be competent to investigate and prosecute the crime according to the applicable law. Only if the SPRK decides to assume responsibility for the case, the original of the files and documents will be sent to the SPRK pursuant to paragraph 7 of this Article.

10.6 The Head of the SPRK will issue a decision with respect to the proposal of the relevant Chief Prosecutor referred to in paragraph 3 of this Article within a general deadline that will be established by the Chief Public Prosecutor of Kosovo and that will run from the time of the receipt of the proposal. Until such time as the Head of the SPRK assumes responsibility for the case, the prosecutor already in charge of the investigation will exercise all of the duties related to the prosecution and investigation of the alleged criminal conduct.

10.7 If the Head of the SPRK decides to assume responsibility for the case, he or she will inform the Chief Prosecutor identified in paragraph 3 of this Article of that decision. The relevant Chief Prosecutor will hand over all files and material to the SPRK and will be responsible for ensuring that sensitive data and information will not be disclosed to unauthorized persons during the handover phase.

Article 11

Rejection of the proposal to assume responsibility for the case by the SPRK and review procedure

11.1 The Head of the SPRK will reject the proposal of the Chief Prosecutor identified in paragraph 3 of Article 10 of this law concerning the transfer of the case anytime he or she believes that the criminal offence is not one of those listed in paragraph 1 or 2 of Article 9 of this law or none of the criteria set forth in paragraph 2 of Article 10 of this law is met.

11.2 The Head of the SPRK will inform the relevant Chief Prosecutor and the Chief Public Prosecutor of Kosovo of his or her decision to reject the proposal of transfer. The Head of the SPRK will send a written decision to the relevant Chief Prosecutor within a general deadline that will be established by the Chief Public Prosecutor of Kosovo and that will run from the moment that the proposal was rejected. The written decision will include the reasons for refusal.

11.3 Within a general deadline that will be established by the Chief Public Prosecutor of Kosovo and that will run from the moment of being served with the written decision rejecting the proposal of transfer, the Chief Prosecutor identified in paragraph 3 Article 10 of this law can request the review of the decision taken by the Head of the SPRK to the Chief Public Prosecutor of Kosovo. The Chief Prosecutor identified in paragraph 3 Article 10 of this law will include a copy of the decision of the Head of the SPRK to the documents sent in the request for review.

11.4 If the Chief Prosecutor files a request for review, he or she will send a copy of the criminal reports or of the case with all the relevant documents and files to the Chief Public Prosecutor of Kosovo. The same day the request for review is filed, the Chief Prosecutor will send a copy of the request to the Head of the SPRK.

11.5 Within a general deadline that will be established by the Chief Public Prosecutor of Kosovo and that will run from the moment of being served with the copy of the request for review, the Head of the SPRK can send observations to the Chief Public Prosecutor of Kosovo or can decide not to send any observation. A copy of the observations to the request for review or of the communication of the non exercise of this right will be sent to the Chief Public Prosecutor of Kosovo and to the Chief Prosecutor identified in paragraph 3 Article 10 of this law.

11.6 The Chief Public Prosecutor of Kosovo will, after the examination of the request for review and of the eventual observations, either confirm the decision of the Head of the SPRK or override it. The request for review will be decided within a general deadline that will be established by the Chief Public Prosecutor of Kosovo and that will run from the time of being served with the observations, or from the time of the decision of not sending observations envisaged in paragraph 5 of this Article. The decision over the request for review will be final.

11.7 The Chief Public Prosecutor of Kosovo will send a copy of his or her decision on the review to the relevant Chief Prosecutor and to the Head of the SPRK.

11.8 If the Chief Public Prosecutor of Kosovo overrides the decision of the Head of the SPRK, the SPRK will be in charge to conduct the investigation or prosecution of the

case. The provisions set forth in paragraph 7 Article 10 of this law for the handover of the case will also apply *mutatis mutandis*.

11.9 All duties related to the investigation and eventual prosecution of the alleged criminal offences remains with the competent prosecutor until such time as the SPRK assumes responsibility for the case or the Chief Public Prosecutor of Kosovo confirms or rejects the decision of the Head of the SPRK. If the Chief Public Prosecutor of Kosovo confirms the decision of the Head of the SPRK that rejected the proposal of transfer, the competent prosecutor will continue to be responsible for the case.

11.10 All procedural activities undertaken by the prosecutor pursuant to paragraph 9 of this Article prior to the decision of the Chief Public Prosecutor of Kosovo on the request for review will remain valid and in force.

11.11 All decisions taken by the judicial authorities that would be competent to adjudicate the case prior to the decision of the Chief Public Prosecutor of Kosovo on the request for review will remain valid and in force.

11.12 At any time during the proceeding but before the indictment becomes final, the Chief Prosecutor of the competent office can renew the proposal of transfer for the same case to the Head of the SPRK. In this event, the proposal of transfer should be based on the existence of new facts or grounds not known at the time that the previous proposal was submitted to the Head of the SPRK and, then, rejected. Failure to respect the provision set forth in this Article will lead to the dismissal of the new proposal.

Article 12

Competence of the SPRK for cases connected to those under its jurisdiction

12.1 Anytime the SPRK assumes responsibility for a case falling under its exclusive or subsidiary competence, the Head of the SPRK can take over investigations or prosecutions of alleged criminal offences currently conducted by other prosecutors working in Kosovo if the acts appear to be directly connected and the evidence is common.

12.2 Anytime the SPRK exercise its subsidiary competence for a case pursuant to sub a), paragraph 2 of Article 10 of this law, the Head of the SPRK can take over any investigation or prosecution for alleged criminal offences currently conducted by other prosecutors working in Kosovo, if the Head of the SPRK believes that the alleged offence might be a part of a serious criminal phenomenon, including one that is occurring or has occurred in different areas of Kosovo that might fall under the territorial competence of different courts according to the applicable law.

12.3 The SPRK can take over other cases pursuant to the provisions set forth in paragraph 1 and 2 of this Article at any time during the proceeding. In exercising this right, the SPRK will not be bound by the limits foreseen in paragraph 1 and 2 of Article 5, in paragraph 1 and 2 of Article 9 and paragraph 3 of Article 10 of this law.

12.4 Anytime the SPRK takes over investigations or prosecutions in accordance with the provisions set forth in paragraph 1, 2 and 3 of this Article, the Head of the SPRK will

communicate the grounds for his or her decisions to the relevant Chief Prosecutor of the Office that has jurisdiction over the case, and to the Chief Public Prosecutor of Kosovo.

CHAPTER IV

JURISDICTION FOR CASES INVESTIGATED OR PROSECUTED BY THE SPRK AND GENERAL REFERRAL OF CASES

Article 13

Jurisdiction for cases taken over by the SPRK

13.1 As soon as the SPRK assumes responsibility for a case and for all the stages of the proceeding after the filing of the indictment if the SPRK is in charge of the investigation or prosecution, the competent court will be identified according to the applicable law.

13.2 After the SPRK has assumed responsibility for the case, all procedural activities and all decisions already undertaken by prosecutors or judges competent for the case will remain valid and in force.

13.3 If reasons of security so require, the competent court identified pursuant to paragraph 1 of this Article can sit in a different venue within the territory of Kosovo, pursuant to an authorization of the President of the immediately higher court following the request of the pre-trial judge, of the three-judge panel or of the President of the panel. The new venue will be communicated to the parties of the proceedings without delay.

Article 14

Referral of cases by the SPRK during the proceeding and review procedure

14.1 If the Head of the SPRK believes that there are no grounds for the SPRK to exercise its exclusive or subsidiary competence, at any time during the proceeding but before the indictment becomes final, the Head of the SPRK will return the criminal reports or the case with all the relevant documents and files received pursuant to paragraph 4 of Article 6 Article or paragraph 7 of Article 10 of this Law, or taken according to paragraph 3 of Article 5 or paragraph 1 and 2 of Article 12 of this law, to the Chief Prosecutor of the office that has competence over the case. The Head of the SPRK will also include the other documents collected in the course of the eventual further investigation carried out by Special Prosecutors.

14.2 The Head of the SPRK will include a written decision to the documents subject to the referral along with all the material and evidence collected in the course of the investigation that justify his or her decision.

14.3 All procedural activities and decisions undertaken by Special Prosecutors and by the competent court prior to the referral of the case pursuant to paragraph 1 of this Article will remain valid and in force.

14.4 In the case envisaged in paragraph 1 of this Article, the relevant Chief Prosecutor will return the criminal reports or the case with all the documents and files to the competent prosecutor according to the applicable law, as soon as possible, and in any case within a general deadline that will be established by the Chief Public Prosecutor of Kosovo.

14.5 Within a general deadline that will be established by the Chief Public Prosecutor of Kosovo and that will run from the moment of being served with the criminal reports or the case with all the relevant documents and files pursuant to paragraph 4 of this Article, the relevant Chief Prosecutor can request a review of the decision taken by the Head of the SPRK to the Chief Public Prosecutor of Kosovo.

14.6 If the relevant Chief Prosecutor files a request for review, he or she will send a copy of the criminal reports or the case with all the relevant documents and files to the Chief Public Prosecutor of Kosovo. The Chief Prosecutor who requested the review will include a copy of the decision of the Head of the SPRK with the documents sent for purpose of review. The same day the request for review is filed, the relevant Chief Prosecutor will send a copy of the request for review to the Head of the SPRK. Paragraph 5 and 6 of Article 11 of this Law will apply *mutatis mutandis*.

14.7 The Chief Public Prosecutor of Kosovo will send a copy of the decision on the review to the relevant Chief Prosecutor and to the Head of the SPRK. In case the Chief Public Prosecutor of Kosovo overrides the decision of the Head of the SPRK, the SPRK will be responsible for the conduct of the investigation or prosecution.

14.8 The competent prosecutor identified by the relevant Chief Prosecutor according to paragraph 4 of this Article will be responsible for the investigation and prosecution of the crimes until the Chief Public Prosecutor of Kosovo decides on the request for review of the Chief Prosecutor. The same prosecutor will be responsible for conducting the criminal proceeding if the Chief Public Prosecutor of Kosovo confirms the decision of the Head of the SPRK taken according to paragraph 1 of this Article.

14.9 All decisions taken by the judicial authorities that would be competent to adjudicate the case prior to the decision of the Chief Public Prosecutor of Kosovo over the request for review will remain valid and in force.

14.10 At any time during the proceeding but before the indictment becomes final, the case or investigation that the SPRK has already returned pursuant to paragraph 1 of this Article will be referred back to the SPRK pursuant to the provisions set forth in the present law if new elements or newly discovered facts reasonably lead to believe that the SPRK should exercise its exclusive or subsidiary competence.

14.11 The Head of the SPRK will refer back to the Chief Prosecutor of the Office that will have competence over the case, the same case previously referred according to the provisions set forth in paragraph 1 of this Article, if new elements or newly discovered facts reasonably lead to believe that there are no grounds for the SPRK to exercise its exclusive or subsidiary competence. In this situation, paragraphs 1-11 of this Article apply *mutatis mutandis*.

CHAPTER VI FINAL PROVISIONS

Article 15 Entry into force

15.1 This Law will enter into force after the publication in the Official Gazette of the Republic of Kosovo.

15.2 The Kosovo Special Prosecutor's Office as established by Administrative Direction No. 2006/15 implementing UNMIK Regulation No. 2000/15 will cease to exist on the Transition day.

Article 16 Transitional provisions

16.1 The SPRK will also be composed, in addition to what has been envisaged by the provision of paragraph 1 of Article 3 of this law, of five EULEX prosecutors for the duration of the EULEX KOSOVO in Kosovo. The EULEX prosecutors will be assigned to the SPRK according to the procedures established by the EULEX KOSOVO. Until such time as the procedure for the designation of the EULEX prosecutors to the SPRK is not set, the Chief EULEX Prosecutor will designate the EULEX prosecutors to the SPRK.

16.2 The number of the EULEX prosecutors assigned to the SPRK envisaged in paragraph 1 of this Article can be modified upon decision of the competent authorities within the EULEX KOSOVO.

16.3 For the duration of the EULEX KOSOVO in Kosovo the Head of the SPRK will be an EULEX prosecutor, unless a different decision is taken by the competent authorities within the EULEX KOSOVO. The competent authorities within the EULEX KOSOVO will establish the procedures for the designation of the Head of the SPRK from amongst the EULEX prosecutors. Until such time as the procedure for the designation of the Head of the SPRK is not set, the Chief EULEX Prosecutor will designate the Head of the SPRK.

16.4 Until such time as the Head of the SPRK is an EULEX prosecutor, a Deputy Head of the SPRK will be selected from amongst the Special Prosecutors. Until such time as the Head of the SPRK is an EULEX prosecutor, the Head of the SPRK will be under the general supervision of the Chief EULEX Prosecutor, in derogation of the provision of paragraph 2 of Article 4 of this law. Until such time as the Head of the SPRK is an EULEX prosecutor, the Chief EULEX Prosecutor will be responsible to determine the deadlines mentioned in paragraph 9 of Articles 3, paragraphs 2, 3, 5 and 8 of Article 6, paragraphs 4, 6 and 8 of Article 9, paragraph 6 of Article 10, paragraph 2, 3, 5 and 6 of Article 11 and paragraphs 4 and 5 of Article 14 of this law.

16.5 For the duration of the EULEX KOSOVO in Kosovo, all information that the Chief of the relevant prosecution offices should transmit to the Head of the SPRK pursuant to all the provisions set forth in Article 6 of this law, will be transmitted to the Head of the

SPRK through the Office of the Chief District Prosecutors also for those crimes falling under the jurisdiction of the Municipal Court.

16.6 For the duration of the EULEX KOSOVO in Kosovo, the Head of the SPRK will inform the Chief EULEX Prosecutor about any information, decision, request, report or data received in accordance with paragraphs 3 and 8 of Article 6, paragraphs 3, 4, 5, 6, 7, 8 of Article 9, paragraph 4 of Article 10, paragraphs 4 and 7 of Article 11 and paragraph 7 of Article 14 of this law.

16.7 For the duration of the EULEX KOSOVO in Kosovo, all information and documents that should be transmitted to the Head of the SPRK pursuant to paragraphs 4, 5, 6 of Article 9 and paragraphs 4 and 7 of Article 10 of this law, will be transmitted to the Head of the SPRK through the Office of the Chief District Prosecutors and with the assistance of the EULEX prosecutors assigned to the various regions of Kosovo also for those cases falling under the jurisdiction of the Municipal Court.

16.8 For the duration of the EULEX KOSOVO in Kosovo, the proposal and the activities related to the proposal for transferring a case to the SPRK envisaged in paragraph 3 Article 10 of this law, the request for reviewing the decision of rejecting the transfer of a case pursuant to paragraph 3 Article 11 of this law, the renewal of the proposal of transferring the case pursuant to paragraph 12 Article 11 of this law and the request for reviewing the decision of transferring back a case according to paragraph 5 of Article 14 of this law, will always be under the responsibility of the Chief District Prosecutor of the territory where the court competent to adjudicate the case is located. If the competent court to adjudicate the case is the Municipal Court, the aforementioned activities will be also under the responsibility of the Chief District Prosecutor who will act upon request of the relevant Chief Municipal Prosecutor but only upon consultation and assessment with the EULEX prosecutor assigned to the region.

16.9 For the duration of the EULEX prosecutors participation in the composition of the SPRK, the communication that the Head of the SPRK will be obliged to give pursuant to paragraph 2 Article 11 of this law the observations referred to in paragraph 5 Article 11 of this law, or the communication referred to in paragraph 4 Article 12 of this law, will also be sent to the Chief EULEX Prosecutor within the same deadlines established by the relevant Articles of this law.

16.10 Upon the entry into force of this law, all files, information, archives and data, in electronic and hard copies related to cases currently investigated, prosecuted or dismissed by UNMIK International prosecutors and held by the United Nations Mission in Kosovo (UNMIK) Department of Justice will be handed over to the Chief EULEX Prosecutor, pursuant to the modalities as established in Arrangements between UNMIK and the EULEX Kosovo.

16.11 Upon the entry into force of this law, the Chief EULEX Prosecutor will also receive from the competent authorities all files, information, archives and data, in electronic and hard copies related to cases currently investigated, prosecuted or dismissed by UNMIK International prosecutors and by the SPOK previously established pursuant to Administrative Direction No. 2006/15.

16.12 The Chief EULEX Prosecutor will have the authority to decide which cases handed over in accordance with paragraph 10 and 11 of this Article will be investigated or

prosecuted by the SPRK established according to the present law, irrespective of the crimes object of investigation or prosecution, and which cases will be referred to the relevant Kosovo prosecutors' office.

16.13 If the Chief EULEX Prosecutor decides that the crimes under investigation or prosecution and that have been handed over according to paragraph 10 and 11 of this Article will continue to be investigated or prosecuted by the SPRK, the SPRK will not be bound by the limits foreseen in paragraph 1, 2 and 3 of Article 5, paragraph 1 and 2 of Article 9 and paragraph 1 of Article 10 of this law regulating the exercise of the exclusive and subsidiary competence of the SPRK.

16.14 For cases already investigated or prosecuted or currently under investigation or prosecution that can be handed over to the SPRK in accordance with paragraph 12 of this Article, the competent court and the composition of the panel will be identified in accordance with the applicable law in force prior to the entry into force of the present law. Panels designated in application of UNMIK Regulation No. 2000/64, as amended, will continue to exercise their functions until the end of the trial or of the relevant stage of the proceeding that is still ongoing at the date of the entry into force of this law, unless otherwise determined by the law on the Jurisdiction, Case Selection and Case Allocation for EULEX judges and prosecutors.

16.15 The Head of the SPRK will decide which internal directives issued pursuant to paragraph 6 of Article 1 of UNMIK Administrative Direction No. 2006/15 will remain valid and applicable in the government of the SPRK as established by the present law.

16.16 For the duration of the EULEX prosecutors participation in the composition of the SPRK, a panel composed by the Chief EULEX Prosecutor, the Chief Public Prosecutor of Kosovo and another member designated by the Chief EULEX Prosecutor will be in charge of the selection of other Kosovo Public Prosecutors who are eligible to work as Special Prosecutors, unless the competent authorities within the EULEX KOSOVO establish that a different panel will be in charge of the selection or that a different procedure will be followed.

16.17 Once the EULEX prosecutors do not participate any longer in the composition of the SPRK, a panel composed by the Chief Public Prosecutor of Kosovo and two other members designated by him or her, of which one will be a Chief District Prosecutor identified on rotation basis, will be in charge of the selection of other Kosovo Public Prosecutors who should work as Special Prosecutors, unless a different provision is established by the applicable law.

16.18 For the duration of the EULEX prosecutors participation in the composition of the SPRK, reports and information related to alleged criminal activities committed in Kosovo and produced by the Organized Crime Executive Unit established by the EULEX KOSOVO will be also directed to the Head of the SPRK in addition to the other authorities identified by the EULEX KOSOVO.

16.19 For the duration of the EULEX KOSOVO in Kosovo, the authorization related to the change of venue mentioned in paragraph 3 of Article 13 of this law will be under the responsibility of the Head of the Justice Component, upon proposal of the Chief EULEX Prosecutor or of the President of the Assembly of EULEX KOSOVO Judges.

16.20 In case of a substantial reorganization of the court system or of the prosecution offices after the entry into force of the present law, the Chief Prosecutor of the Office having competence over the case according to the new legislation will be the competent authority to exercise all duties and responsibilities assigned to the Chief District or Chief Municipal Prosecutor by the present law.

Law No. 03/L-052
13 March 2008

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI

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