



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

Law No. 03/L-063

ON THE KOSOVO INTELLIGENCE AGENCY

The Assembly of Republic of Kosovo,

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

Recognizing that the need for timely and accurate information about intelligence, counterintelligence, domestic and foreign threats, international or domestic terrorism, narcotics production and trafficking, organized crime, economic crime, sabotage and all other intelligence issues related to Kosovo security is essential to the people of Kosovo.

Recognizing that all reasonable and lawful means must be used to ensure that Kosovo will receive the best intelligence available.

For that purpose, the Kosovo Intelligence Agency shall be established to collect, analyze and disseminate this intelligence in a vigorous and responsible manner. The principles set forth in this Law are designed to achieve a proper balance between the acquisition of essential information and the protection of individual interests;

Hereby adopts:

THE LAW ON THE KOSOVO INTELLIGENCE AGENCY

CHAPTER I

GENERAL PROVISIONS

Article 1

Establishment of the Kosovo Intelligence Agency

1.1 The Kosovo Intelligence Agency (hereafter KIA) is hereby established as the security and intelligence agency in Kosovo.

1.2 The KIA shall be governed by this Law in accordance with the Constitution and all other applicable laws in Kosovo.

1.3 The KIA shall have a legal personality.

1.4 The KIA shall have a mandate to operate throughout the territory of Kosovo.

1.5 Any use of covert techniques in Kosovo without a specific authorization by law are prohibited.

1.6 Financial means for the operation of the KIA shall be provided from the Kosovo Consolidated Budget in accordance the Law applicable thereto.

1.7 Depending on the specific operational needs of the KIA, the KIA may also establish field presences within Kosovo for carrying out tasks within the KIA's mandate.

Article 2

Scope of Operation

2.1 The KIA shall gather information concerning threats to the security of Kosovo. As a threat to the security of Kosovo shall in any event be considered a threat against the territorial integrity, integrity of the institutions, the constitutional order, the economic stability and development, as well as threats against global security detrimental to Kosovo, including:

- (i) terrorism;
- (ii) the incitement to, aiding and abetting or advocating of terrorism;
- (iii) espionage against Kosovo or detrimental to the security of Kosovo;
- (iv) sabotage directed against Kosovo's vital infrastructure;
- (v) organized crime against Kosovo or detrimental to the security of Kosovo in any other way, including money laundering;
- (vi) inciting the disaffection of security personnel;
- (vii) trafficking of illegal substances, weapons or human beings;
- (viii) illegal manufacturing or transport of weapons of mass destruction, or their components, as well as materials and devices necessary for their manufacture;
- (ix) illegal trafficking of products and technologies under International Control;
- (x) activities that contravene international humanitarian law;
- (xi) acts of organized violence or intimidation against ethnic or religious groups in Kosovo; and
- (xii) matters relating to severe threats to public health or safety.

2.2 In furtherance of the activities of the KIA detailed in Article 2.1 above, and in compliance with Articles 28 and 30 of this Law, the KIA shall have its own information collection capabilities, which shall include:

- (i) mobile and static surveillance;
- (ii) covert human intelligence sources;
- (iii) technical surveillance, such as listening devices, interception and tracking;
- (iv) undercover agents;
- (v) gathering of confidential data, such as from banks, ports and telephone.

2.3 The strategic priorities for the KIA shall be set forth in an Annual Intelligence-Security Policy Platform (hereafter AISPP) which will contain general guidelines for the work of the KIA. The KIA Director shall propose a draft of the Annual Intelligence-Security Policy Platform to the Kosovo Security Council (hereafter KSC) for their review. Upon consultation with the President of the Republic of Kosovo, the AISPP shall then pass to the Government for its approval. Upon such approval, the AISPP shall be delivered to the Parliamentary Oversight Body for information, and the KIA Director for action.

2.4 The KIA shall not act against rights and interests of any communities nor will discriminate against any person on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

2.5 The KIA shall respect the principles and carry out its activities in accordance with the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and other relevant principles reflected in internationally recognized legal instruments.

Article 3 **Prohibited KIA Functions**

3.1 The KIA shall have no executive functions. Accordingly, the KIA shall not have:

- (i) the right to use direct or indirect force;
- (ii) any power of arrest;
- (iii) be able to initiate criminal proceedings; and
- (iv) power to compel persons or companies to cooperate with their activities, though persons or companies may cooperate with the KIA on a voluntary basis.

3.2 The KIA shall not collect intelligence using covert mechanisms and methods regarding third parties enjoying diplomatic immunities and privileges consistent with those under the Kosovo Law on the Status, Immunities and Privileges of Diplomatic and Consular Missions and Personnel in the Republic of Kosovo and of the Military Presence

and its Personnel, and the Vienna Convention on Diplomatic Relations, except for the purpose of preventing threats to such organizations and bodies. The KIA Director shall be obliged to inform the heads of these organizations and bodies of all such threats.

3.3 All actions and inactions of the KIA and its employees shall be in accordance with applicable law, including international instruments for the protection of human rights described *inter alia* in Article 2.5, above.

3.4 The Government of Kosovo shall be held liable for damage inflicted upon legal or natural persons as a result of acts of employees of the KIA committed in the performance, or in relation to the performance, of tasks of the KIA, in accordance with this Law.

3.5 The Government of Kosovo shall be entitled to recover by judicial means any amount paid as reimbursement by it to a third party from an employee of the KIA if such employee is found to be responsible for damages referred to in Article 3.4 above, and if the damage results from the gross negligence, or intentional or unauthorized act of the employee.

Article 4 **Vetting and Other Securing Activities**

4.1 The KIA will protect the security of its activities, information, employees and property by appropriate means, including through vetting of applicants, employees, and contractors as necessary.

4.2 All actions taken in connection with the vetting procedures described above, and in Article 14 below, will be carried out confidentially and on the exclusive purpose to protect the security of Kosovo and its people.

4.3 No applicant, employee or contractor will be discriminated against on the basis of their membership in a Community or otherwise in violation of Article 2.4 of the present Law.

CHAPTER II

ORGANIZATION AND ADMINISTRATION OF KIA

Article 5 **Director of the KIA**

5.1 The Director of the KIA shall, in accordance with this Law, the Book of Rules on Internal Organization and all other laws applicable thereto, be responsible for all aspects of management of the KIA. The KIA Director shall be accountable directly to the Prime Minister.

5.2 In the execution of his or her responsibilities, the KIA Director shall be assisted by a Deputy Director, Heads of organizational units, Advisors, and such suitably qualified

staff as may be necessary, in accordance with the rules and procedures set forth in this Law and in the Rules on Internal Organization.

5.3 The President of the Republic of Kosovo and the Prime Minister shall jointly appoint the KIA Director within twenty (20) working days from the day the position becomes vacant.

5.4 The Director of the KIA shall be dismissed through the same process by which he or she was appointed.

5.5 The KIA Director shall be appointed for a term of (5) years, which may be renewed once.

5.6 The KIA Director must have a university degree and must be appointed on the basis of demonstrated professionalism and experience.

5.7 The KIA Director shall:

(i) be used as adviser to the President and prime Minister of Republic of Kosovo for intelligence matters related to the security of Kosovo;

(ii) brief the President and the Prime Minister of the Republic of Kosovo on the activities of the KIA;

(iii) provide intelligence related to security to the President and the Prime Minister of the Republic of Kosovo;

(iv) be responsible for the collection, analysis, production and dissemination of intelligence and ensure that its shall be done in a timely and objective manner, independent of political considerations;

(v) protect intelligence sources and methods of operation and other classified information from unauthorized disclosure;

(vi) have exclusive authority to appoint employees to the KIA, which shall be done in accordance with the principles set forth in Chapter IV of the present Law, and in the Rules of Internal Organization;

(vii) enter into and coordinate relationships with intelligence and security agencies of foreign governments on matters involving intelligence;

(viii) ensure that no action is carried out by the KIA that could give rise to any reasonable suspicion that the KIA is concerned in furthering, protecting, or undermining the interests of any Community, or any political party or organization;

(ix) ensure that no action is carried out by the KIA which is intended to influence Kosovo political processes, public opinion, policies or media;

(x) propose an annual budget based on the guidelines in the Intelligence-Security Policy Platform and submit the proposal together with the opinion of the Minister of Finance and Economy for incorporation into the Kosovo annual budget;

- (xi) prepare reports and propose plans and programs of the KIA, including *inter alia*, the Annual Activity Program and Annual Activity Report;
- (xii) prepare a draft of the Annual Intelligence-Security Policy Platform;
- (xiii) initiate and conclude Memoranda of Understanding and Cooperation with other institutions and bodies;
- (xiv) report to the parliamentary oversight committee upon request; *and*
- (xv) respond to the complaints made by individuals who believe their rights have been violated by the KIA.

Article 6

Deputy Director of KIA

6.1 The Deputy Director of KIA shall assist the KIA Director and direct the operational activities of organizational units of the KIA under the supervision of the KIA Director.

6.2 The Deputy Director of KIA must have a university degree and shall be appointed on the basis of demonstrated professionalism and experience and without regard to political affiliation for a five (5) year renewable term which shall run independently of the term of the KIA Director.

6.3 The President of the Republic of Kosovo and the Prime Minister shall jointly appoint the Deputy Director of KIA within twenty (20) working days from the day the position becomes vacant.

6.4 The Deputy Director of the KIA shall be dismissed through the same process by which he or she was appointed.

6.6 The Deputy Director of KIA shall temporarily act for and exercise the powers of the KIA Director during the Director's absence or incapacity. In the event of permanent incapacity, the Deputy Director of KIA shall act for and exercise the powers of the KIA Director until such time as a replacement for the KIA Director is formally appointed.

Article 7

Book of Rules and Internal Organization

7.1 The internal organization of the KIA shall be determined by the Rules on Internal Organization.

7.2 The Rules on Internal Organization shall be submitted to the Prime Minister for approval.

7.3 In accordance with this Law and other applicable legislation, The KIA Director shall be responsible for issuing, *inter alia*, the following rules, regulations and instructions:

- (i) code of Ethics;
- (ii) data Security Plan;

- (iii) rules on Classification and Declassification of Data;
- (iv) rules on the Security Clearance Procedure;
- (v) rules on the Safeguarding of Secret Data and Data Storage;
- (vi) regulations on Dissemination of Data;
- (vii) rules on the Recruitment, Handling and Payment of Informants;
- (viii) rules on the Application, Use and Engagement of Special and Technical Operational Means;
- (ix) rules on Carrying and Use of Weapons;
- (x) rules on Work;
- (xi) rules on Salaries;
- (xii) rules on Internal Security;
- (xiii) rules on Disciplinary Procedure;
- (xiv) rules on Basic and General Vocations of Employees of the KIA;
- (xv) rules on Cooperation with Bodies and Institutions;
- (xvi) rules on the Conclusion of Memoranda of Understanding with Bodies and Institutions Kosovo;
- (xvii) rules on Cooperation with International Bodies and Intelligence Exchange;
- (xviii) rules on Identification Cards;
- (xix) rules on Complaints Mechanism, to be developed in consultation with the Ombudsperson Institution in Kosovo and placed in the public domain.

7.4 The Rule Books, regulations and instructions set forth under Article 7.3 of the present Law, will be classified, as appropriate in the interest of Kosovo security.

7.5 The KIA Director shall ensure that KIA employees are familiar with the Rule Books, regulations and instructions issued pursuant to this Law and under Article 7.3 of the present Law.

Article 8

Intra-Governmental Cooperation

8.1 Cooperation between the KIA and the Kosovo Police, the Ministry of Internal Affairs, and other Security and Public Safety Institutions shall be of paramount importance. The KIA shall cooperate with other Kosovo government institutions for the purpose of protecting the officers, facilities and information of the KIA.

8.2 A memorandum on cooperation, assistance and mutual coordination of the activities between the KIA and the Kosovo Police, the Ministry of Internal Affairs, and other

relevant governmental institutions shall be signed after the appointment of a KIA Director. The government shall define general principles for coordination and assistance between and among the KIA and bodies and institutions in Kosovo.

8.3 The KIA and other bodies and institutions in Kosovo shall be obliged to mutually cooperate and assist one another in performing their duties and shall coordinate activities within their competence, consistent with the applicable laws and regulations regarding the protection of sources, methods and other classified information.

8.4 The Director of KIA, with the approval of the Prime Minister, makes agreements with institutions in Kosovo for the provision of undercover intelligence support.

CHAPTER III

INSPECTOR GENERAL

Article 9

Appointment and Mandate of the Inspector General

9.1 The President of the Republic of Kosovo and the Prime Minister shall jointly appoint the Inspector General of KIA within twenty (20) working days from the day the position becomes vacant.

9.2 The Inspector General shall serve for a term of four (4) years and may be renewed for a further term of four (4) years.

9.3 The Inspector General shall be dismissed by the same process by which he or she was appointed.

9.4 The appointment of the Inspector General shall be made on the basis of integrity, compliance with the security standards of the KIA and experience in the field of Kosovo security or governmental administration.

9.5 The Inspector General shall report directly to the Prime Minister.

9.6 The Inspector General shall report to the parliamentary oversight body at least every six (6) months and upon specific written request of the Parliamentary Oversight Committee.

Article 10

Responsibility of the Inspector General

10.1 The Inspector General shall conduct inspections of KIA activities.

10.2 It is the responsibility of the Inspector General to assist the Director in being kept fully and currently informed about potential problems in the activities of the KIA, with a goal of helping promote economy, efficiency and effectiveness, and avoiding any violation of law.

10.3 The Inspector General will recommend to the KIA Director corrective actions and monitor the progress of any corrective actions ordered by the KIA Director.

10.4 The responsibility of the Inspector General will include financial audits of the activities of the KIA. The results of these audits will be made available to the Prime Minister in addition to the KIA Director.

10.5 Upon notification of the KIA Director, the Inspector General shall have the authority to question KIA employees and shall have access to the premises and data of the KIA where necessary for the purpose of an internal investigation, inspection, or audit.

10.6 The KIA Director may prohibit the Inspector General from initiating, carrying out, or completing any inspection or audit if the Director determines that it is necessary to protect vital security interests of Kosovo. If the Director exercises this power, he or she will report this action to the Prime Minister and the President of the Republic of Kosovo within seven (7) calendar days.

10.7 The Inspector General shall be responsible for providing an internal control function with the KIA by reviewing the activities of the KIA, initiating inspections, audits and investigations, investigating complaints regarding the activities of the KIA or made by persons of Kosovo.

10.8 The Inspector General shall be responsible for supporting inquiries of the Ombudsperson of Kosovo.

Article 11 Assistance to the Inspector General

Subject to approval of the Director of the KIA, the Inspector General will select individuals to help him carry out his or her functions, including individuals qualified to conduct financial audits.

CHAPTER IV KOSOVO INTELLIGENCE AGENCY EMPLOYEES

Article 12 Applicability of Employment Legislation to KIA Employees

12.1 KIA employees shall not be civil servants. However, legislation governing civil service issues shall apply to KIA, unless otherwise regulated by this law.

12.2 Vacancy announcements for positions in the KIA shall be subject to open competition and shall be published in multiple daily newspapers distributed in Kosovo with a description of the general requirements for the positions in accordance with the applicable law.

12.3 The internal selection process for KIA employees shall be classified.

Article 13
Conditions Specific to KIA Employees

13.1 In addition to the general requirements for employment that apply to other government employees, the KIA Director may establish special conditions for KIA employees regarding expertise, health, work assignments, and security requirements that are consistent with the interests of Kosovo security.

13.2 The Rules on Internal Organization, drafted by the KIA Director, shall define the requirements for each position in the KIA, as well as set forth specific requirements for employment within the KIA.

13.3 Where so required KIA may contract third parties for support services, subject to KIA internal rules.

Article 14
Security Clearance

14.1 People selected for employment with the KIA must meet strict security standards which shall be determined in accordance with applicable law and in line with procedures specified in regulations issued by the Director of the KIA and approved by the Government. The candidate must be judged stable, trustworthy, and reliable, of excellent character, judgment and discretion. Any doubt as to any of the preceding factors will be resolved in favor of Kosovo security and security clearance will be denied.

14.2 Candidates shall not be employed by the KIA if they do not submit to the security clearance procedure or fail to meet the requirements set forth under Article 15.

14.3 Candidates who intentionally submit false information shall be automatically dismissed.

14.4 If the person is not employed with the KIA because he or she fails to meet the requirements above, or there are impediments to such employment, the KIA shall explain the reasons for which the employee was not employed, unless the disclosure of such information would result in the compromise of classified information.

Article 15
Qualifications for Employment in KIA

Candidates may not be recruited by the KIA unless they meet the following personal requirements:

- (i) be citizens of Kosovo;
- (ii) be over 18 years of age;
- (iii) hold appropriate educational and professional qualifications, as determined by the Rules on Internal Organization;
- (iv) satisfy medical examination required for the position;

(v) be free of military obligations if applicable; and

(vi) be capable of meeting the security requirements that shall be determined by a security clearance procedure.

Article 16 **KIA Employee Rights**

16.1 KIA Employees shall have the right to:

(i) a permanent tenure of office until such time as the requirements for a pension are met with the exception of those individuals who are employed under a contract of service for a fixed period, and those that are dismissed for cause in accordance with applicable legislation;

(ii) take leaves of absence in accordance with applicable legislation and the ability to continue in the same or similar job when the leave ends;

(iii) be rewarded for duties and performance as established by this law;

(iv) receive salary and remuneration in accordance with applicable legislation;

(v) advance their career and professional development through training and other means;

(vi) be protected in their physical and moral integrity while fulfilling their official duties.

16.2 When a KIA employee believes that the disclosure in court of information he became aware of because of his employment in the KIA might be of prejudice to the security of Kosovo, he shall refer the matter to the presiding judge. The presiding judge shall consult the Inspector General and shall have final authority over its use in court and whether an *in camera* procedure is necessary for the proceeding.

16.3 If judicial proceedings are initiated against a KIA employee due to acts committed in the performance of the tasks of the KIA, the KIA shall provide a lawyer or other legal aid to the employee, unless the employee acted outside the scope of his or her authority or misused his or her authority.

16.4 Under the same conditions as listed in Article 16.3, above, the KIA shall also ensure legal aid for an employee after termination of his or her employment, unless the employee is otherwise entitled to equivalent legal aid.

Article 17 **Prohibited Employee Conduct**

17.1 KIA employees shall not be members of political parties or take instruction from political parties, organizations or movements, or individuals outside KIA, nor perform any remunerative activity or other public or professional duties incompatible with the work of the KIA. KIA employees shall seek the prior approval of the KIA Director before joining any organization or group; failure to report may be grounds for suspension or dismissal of the KIA employee.

17.2 KIA employees shall not hold any other employment during their tenure as an employee of the KIA.

17.3 KIA employees shall not have the right to industrial action or any other form of collective work stoppage

17.4 KIA employees shall not, without the prior agreement of the KIA Director, give public statements or otherwise comment on the work of the KIA, or provide information to unauthorized persons on data, documents, contacts, intentions, knowledge or personnel of the KIA.

17.5 KIA employees shall not pursue or accept any gain, benefit, monetary advantage, or service for themselves or others, other than those provided by this Law.

17.6 A violation of any of the provisions of the present Article or of this Law otherwise shall be considered grounds for suspension and/or termination of employment pursuant to this Law.

Article 18

Personal Obligation of Employee Legality

18.1 Each employee of the KIA shall perform the tasks assigned to such employee consistent with this and other relevant laws and shall be personally responsible for the lawful execution of the tasks of the KIA as set forth in this Law. that fall within the scope of such employee's assigned tasks.

18.2 Should an employee believe that he or she has received an illegal order, he or she shall inform the issuer of the order of his or her concerns.

18.3 In cases where the issuer of the order repeats the order, the employee shall seek a written confirmation of such order. If the employee continues to have reservations, he or she shall forward the order to the immediate superior of the issuer of the order and report the matter to the Inspector General.

18.4 The employee must refuse to perform an order that he or she reasonably believes to be in violation of the applicable law of Kosovo.

18.5 If an employee otherwise believes that the KIA or a KIA employee may have violated or may be in violation of a relevant law, regulation or policy, he or she must report this to the Inspector General.

18.6 An employee shall not be subject to disciplinary proceedings relating to taking action as foreseen in Articles 18.2, 18.3, 18.4 or 18.5 of the present Law, unless the Inspector General decides otherwise.

Article 19

Salaries and Compensation for KIA Employees

19.1 The development of a compensation package for KIA employees shall recognize the special conditions under which they perform their duties. The basic salary of KIA

employees shall vary based on factors including, but not limited to, rank and length of service.

19.2 In addition to basic salary, KIA employees may lawfully receive various types of salary supplements, allowances and benefits. Such supplemental payments may be based on factors including, but not limited to, hazardous duty, overtime, shift differential, working during holidays or other days that would normally be days off, special assignments, and special skills.

19.3 Supplemental payments may include, but are not limited to, risk allowance, shift allowance, holiday pay, overtime pay, and special assignment pay. Benefits may include, but are not limited to, medical and health expenses, professional and technical training expenses, living expenses for temporary transfer or special assignment, paid leave, death benefits and pension benefits.

19.4 The basic salaries and any authorized supplemental payments shall be determined and paid in accordance with procedures defined in relevant applicable law and subsidiary legal acts of the Government. The KIA Director may include in the annual budget proposal for KIA employees, subject to the approval of the Prime Minister, amounts to be used for the payment of any supplemental payments authorized by law.

19.5 A record shall be kept of all salary increases pursuant to the present Article and be periodically reviewed by the Inspector General of the KIA.

Article 20

Disciplinary Provisions and Termination of Employment

20.1 Employees may be held accountable for violations of official duty as set forth in this Law.

20.2 Procedures determining disciplinary responsibility within the KIA shall be governed by internal procedures.

20.3 The employment of KIA employees shall be terminated in the following cases:

- (i) voluntary resignation from the KIA;
- (ii) end of contract;
- (iii) reaching of retirement age;
- (iv) permanent inability to fulfill official duties due to health conditions, provided that the employee is not eligible to be transferred to other suitable position within the KIA;
- (v) loss of citizenship of Kosovo;
- (vi) voluntary acquisition of the citizenship of another country after obtaining employment within the KIA;
- (vii) redundancy;
- (viii) conviction of a criminal offense which carries a prison sentence; and

(ix) dismissal from the service as a result of a disciplinary procedure.

Article 21 Identification Cards

KIA employees shall be issued identification cards. The type, form and contents of the KIA employee identification card shall be determined by a regulation issued by the KIA Director after consultation with the Prime Minister.

Article 22 Right to Carry Weapons

22.1 KIA employees shall not routinely carry weapons.

22.2 KIA employees shall only be authorized to carry a weapon if the KIA Director reasonably believes that it is necessary for the personal protection of KIA personnel.

22.3 Weapons authorizations shall be:

- (i) memorialized in writing;
- (ii) granted for a limited duration of time; and
- (iii) subject to review of the Inspector General.

22.4 The KIA Director shall draw up clear guidelines for the carriage and use of weapons that will include the training and testing necessary to qualify for authority to carry a weapon. All employees authorized to carry a weapon must first have qualified in the use of that weapon.

CHAPTER V

INFORMATION COLLECTION SHARING AND PROTECTION

Article 23 Information Collection

23.1 The KIA is authorized to collect, retain and disseminate for lawful government purposes, information pursuant to Article 2 of the present Law. These activities will be regulated by strict procedures in accordance with the principles of legality, proportionality, and necessity, and only in furtherance of national security. All information so collected shall be classified in a manner deemed appropriate by the KIA Director and in accordance with the respective applicable legislation for the protection and classification of information.

23.2 The procedures specified above shall permit the collection of information that includes, but is not limited to, information obtained in the course of a lawful intelligence activity; information arising out of a lawful personnel or physical security investigation;

or information concerning persons who are reasonably believed to be potential sources or contacts for the sole purpose of determining their suitability or credibility.

Article 24 **Sources of Information**

In carrying out its duties and responsibilities, the KIA may:

- (i) gather information concealing the reasons for their gathering due to the secret nature thereof;
- (ii) establish clandestine contacts with private individuals;
- (iii) establish and use information systems promoting the gathering of intelligence;
- (iv) use forms of operative deception which do not cause physical injury or impair health;
- (v) prepare and use cover documents for the protection of KIA employees and natural persons cooperating with them, as well as for the concealment of the security purpose thereof;
- (vi) establish and maintain temporary organizations for the purpose of covert data gathering; and
- (vii) assign KIA employees to work undercover in institutions or bodies of Kosovo “in compliance with this law”..

Article 25 **Dissemination of Information**

25.1 The KIA Director or his/her designee will approve the dissemination, as appropriate, to other governmental institutions of the results of its analysis on a timely basis and consistent with the protection of classified information.

25.2 If in the performance of its functions, the KIA establishes that grounds exist for suspicion that a certain person or entity has committed or is committing a criminal offense, or is preparing or organizing a criminal offense subject to public prosecution, it is bound to notify the General Director of the Kosovo Police and the competent public prosecutor.

25.3 If a case deriving from Article 25.2, above, involves the suspicion of a criminal offense against the security of the Government of Kosovo and its constitutional order, the KIA Director may submit a demand to the competent public prosecutor that the Police temporarily suspends the execution of its acts and measures in pre-criminal proceedings when this is in the interest of national security and the lives and health of third persons are not thereby put at risk.

Article 26
Support from Other Government Institutions

Government institutions shall cooperate with and assist the KIA, unless precluded by law, under the oversight of the Prime Minister.

Article 27
Support to Other Government Institutions

The KIA may provide intelligence support, including expert assistance, to other government institutions as necessary for Kosovo security.

Article 28
Judicial Order for Surveillance or Entry into Premises

28.1 Surveillance in non-public places, or where the parties might reasonably expect to have privacy, the surveillance of telecommunications, and all other forms of electronic surveillance, as well as the entry into property without consent of the owner or temporary occupant, may only be used in cases where there has been advance authorization by a Supreme Court Judge which shall only be granted upon the review of a written application made under oath and approved by the KIA Director or Deputy KIA Director.

28.2 The Supreme Court Judge shall be bound by an obligation of secrecy with respect to information gained pursuant to the provisions of the present Law.

28.3 The KIA Director shall make a written application to the Supreme Court Judge where he or she believes on reasonable grounds that surveillance or entry is required to enable the KIA to investigate matters within its scope of operations.

28.4 The application and order for covert surveillance will provide:

- (i) the name and address or a precise physical description of the target or targets;
- (ii) the type of communication proposed to be intercepted, the type of information, records, documents or things proposed to be obtained; and the means to be exercised for that purpose;
- (iii) a general description of the place or places where the surveillance or search is proposed to be executed, if a general description of that place can be given;
- (iv) provide justification for the assertion that the technique to be used is required to enable the KIA to collect intelligence regarding a threat to the security of Kosovo;
- (v) information to justify that the surveillance or search is required, on reasonable grounds, to enable the KIA to investigate a threat to the security of Kosovo;
- (vi) a declaration that the required information cannot be reasonably obtained through a less intrusive technique within the necessary time;
- (vii) the period, not exceeding sixty (60) days, for which the warrant is requested to be in force; and

(viii) information on any previous application made in relation to the person or place subject to the surveillance or search, the date on which such application was made, the name of the judge to whom such application was made; and the decision of the judge thereon.

28.5 The techniques of surveillance will be used in accordance with standards designed to minimize acquisition, retention and dissemination of information not relevant to the stated purpose of the surveillance order.

28.6 The judge shall make a decision within forty-eight (48) hours of the submission of the application.

28.7 The judge's order for surveillance will specify the period of time during which the technique is approved, which shall not exceed sixty (60) days. Extensions of an order may be granted upon an application for an extension made in the same manner as that described in Article 28.2 stating the justification for the proposed extension.

28.8 The use of a surveillance technique shall be immediately terminated if the objectives set forth in the judge's order are achieved or if no further results can be expected from its continued use.

Article 29

Emergency Surveillance Order

In an emergency situation, when time does not permit the preparation of a written application by the KIA Director or Deputy KIA Director or the granting of a written order by a Supreme Court Judge, the application may be made and the order for covert surveillance granted orally, to be confirmed in writing within forty-eight (48) hours.

Article 30

Access to personal data held by a third party

30.1 Subject to this Article, the KIA may obtain personal data held by a third-party.

30.2 Upon application by a member of the KIA, the Director may grant authority to requests that a third-party provide such information as described on the prescribed notice if satisfied that it is reasonably necessary in order to further the responsibilities of the KIA described in article 2.1.

30.3 The third-party may comply with the requirements of the prescribed notice but is under no obligation to do so. Where a third-party cannot or is not willing to comply with all of the prescribed notice, they may comply with a partial response.

30.4 A third-party may require appropriate compensation for complying with the requirements of a prescribed notice. Compliance with the requirements of a prescribed notice may not be delayed in order to obtain the appropriate compensation.

30.5 The application referred to in Article 30.2 should include:

- (i) the name and address or a precise physical description of the target or targets;

- (ii) the information that is requested;
- (iii) the time when the information is requested;
- (iv) the format in which the information is requested;
- (v) the name and address of the third-party who holds the information that is requested;
- (vi) information to justify that the information is requested, on reasonable grounds, to enable the KIA to investigate a threat to the security of Kosovo;
- (vii) a declaration that the requested information cannot be reasonably obtained through a less intrusive technique within the necessary time; *and*
- (viii) information on any previous application made in relation to the target subject to the prescribed notice, the date on which such application was made, and the decision thereon.

30.6 The prescribed notice in 30.2 shall be in an agreed format and shall contain the following information:

- (i) the fact that it is a prescribed notice under Article 30 of this law;
- (ii) the fact that the third-party is entitled to be paid appropriate compensation;
- (iii) how the third-party can claim payment of appropriate compensation;
- (iv) the fact that compliance with the prescribed notice is voluntary.

30.7 The authority shall not require the third-party to gather information that they would not otherwise have gathered in the course of their normal and legal activities.

30.8 The third-party shall not disclose the existence of the prescribed notice, or any information that may reveal the existence of the prescribed authority, to any unauthorized person, other than persons that are required to fulfill the requirements of the prescribed notice.

Article 31

Treatment of Collected and Stored Data

31.1 Personal data that is collected by the KIA must be stored for specified and legitimate purposes and not used in any way incompatible with those purposes, and must be held by the KIA only as long as necessary for the performance of its tasks. Once personal data are unnecessary to be kept by KIA, KIA shall destroy such data as provided by its internal rules.

31.2 Appropriate security measures shall be taken for the protection of this information stored in automated data files against accidental or unauthorized destruction or accidental loss, as well as accidental access, alteration or dissemination.

CHAPTER VI

SECRECY

Article 32 Reporting Exemption

In furtherance of the KIA Director's authority and responsibility to protect intelligence sources and methods and other classified information, the KIA shall be exempt from the provision of any laws which require the disclosure of the organization, functions, names, official titles.

Article 33 Employees' Secrecy Obligation

The KIA employees must protect classified information, and will sign a secrecy agreement as a condition of employment. The obligation to protect these secrets does not cease when the employee is no longer employed by the KIA.

Article 34 Criminal Prosecution of unauthorized disclosure of the classified information

To disclose classified information of the KIA to any individual not authorized to receive it shall be a violation of the Criminal Code of Kosovo, subjecting the offender to the punishment specified in relevant provision therein.

CHAPTER VII

PARLIAMENTARY OVERSIGHT

Article 35 Parliamentary Oversight

The oversight of the KIA shall be conducted by the parliamentary oversight body, whose mandate is determined by this law. Its composition shall be described by the Rules of Procedure of the Assembly of Kosovo.

Article 36 Operation and Responsibilities of the Parliamentary Oversight Body

36.1 The parliamentary oversight body shall hold sessions at least bi-annually.

36.2 The chairperson of the parliamentary oversight body shall not be a member of a governing political party or coalition.

36.3 The chairperson of the parliamentary oversight body shall convene sessions at his or her initiative.

36.4 The chairperson of the parliamentary oversight body shall be obliged to convene a session of the parliamentary oversight body upon the signed written request of one third of the members of the parliamentary oversight body pursuant to the applicable rules of procedure of the Assembly.

36.5 Interactions between the KIA and the parliamentary oversight body shall be closed to the public unless otherwise specified by the Chairperson of the parliamentary oversight body, at his or her discretion or following the recommendation and vote of a simple majority of the members of the parliamentary oversight body.

36.6 The parliamentary oversight body shall be responsible for:

- (i) overseeing the legality of the work of the KIA;
- (ii) reviewing reports from the Prime Minister regarding matters within competence, which shall include actions taken to correct any problems in the KIA made evident by an inspection, audit, or investigation;
- (iii) reviewing reports from the KIA Director regarding the operations and expenditures of the KIA;
- (iv) reviewing reports from the Inspector General;
- (v) providing an opinion on the detailed budget proposal for the KIA; and
- (vi) conducting inquiries regarding the work of the KIA.

Article 37 **Parliamentary Inquiries**

37.1 If the parliamentary oversight body has grounds to believe that the KIA is performing its duties in an unlawful, inappropriate or unprofessional manner, it may conduct an inquiry during the course of which the parliamentary oversight body may question KIA employees and have access to relevant KIA documents.

37.2 Parliamentary inquiries shall be closed to the public unless otherwise specified by the Chairperson of the parliamentary oversight body, at his or her discretion or following the recommendation and vote of a simple majority of the members of the parliamentary oversight body.

37.3 If the parliamentary oversight body finds that the operation of the KIA is unlawful, it may call the Prime Minister to take necessary measures and to initiate an examination of liability.

37.4 The Prime Minister shall be obliged to inform the parliamentary oversight body about the findings of any examination conducted pursuant to the provisions of this Article.

37.5 In the exercise of its function, the parliamentary oversight body may request information from the Prime Minister, KIA Director, or any KIA employee. In furtherance of this function the parliamentary oversight body may order the KIA Director appear to before it so that the KIA Director may give an oral report regarding the activities of the KIA.

37.6 In the course of parliamentary oversight exercised by the parliamentary oversight body, classified information shall be made available unless its disclosure would threaten vital national security interests linked to the protection of sources or methods in a specific case.

37.7 If Prime Minister or the KIA Director chooses to withhold information from the parliamentary oversight body on the basis of Article 36.5 above, he shall immediately inform the parliamentary oversight body in writing with an explanation for withholding such information.

Article 38

Secrecy Obligation of the Parliamentary Oversight Body

38.1 The members of the parliamentary oversight body shall be bound by an obligation of secrecy with respect to information concerning official secrets to which they have had access in their capacity as such, which shall remain in effect after the termination of their membership to the Parliamentary oversight body. Any violation of the secrecy obligation shall be subject to punishment as referred to in Article 34 of this Law.

38.2 The Parliamentary oversight body shall establish written procedures to protect from unauthorized disclosure all classified information that is furnished to the Parliamentary oversight body.

CHAPTER VIII

COMPLAINTS MECHANISMS

Article 39

39.1 Individuals, institutions and third parties shall have the right of complaint against the KIA.

39.2 Complaints may be addressed to the Ombudsperson Institution in Kosovo (OIK).

39.3 Any complaint submitted to the OIK shall not prejudice the right of an individual, institution or third party to seek adjudication from a court.

CHAPTER VIII

FUNDING

Article 40 Preparation and Provision of Budget

40.1 The KIA Director shall develop and submit to the Prime Minister, for approval and transmission to the Parliamentary oversight body a proposed annual budget for the KIA, the details of which shall be considered as a classified information.

40.2 The Kosovo Assembly shall make available to the KIA an annual budget sufficient to carry out its duties and responsibilities to protect Kosovo security.

Article 41 Expenditures Responsibility

41.1 The KIA Director shall be responsible for the lawful expenditure of funds granted to the KIA.

41.2 Sums made available to the KIA shall be expended in accordance with the laws of Kosovo by the KIA Director, or those to whom the KIA Director has delegated this responsibility, for any purpose necessary to carry out KIA duties and responsibilities.

Article 42 Emergency Expenditures

42.1 In extraordinary circumstances relevant to the work of the KIA, the KIA Director may expend funds without regard to the provision of laws relating to the expenditure of government funds, unless otherwise specifically barred by law.

42.2 If the KIA Director exercises the authority to make an emergency expenditure as foreseen above, he or she shall immediately orally report the expenditure to the Prime Minister and justified in writing within forty-eight (48) hours of the expenditure.

CHAPTER IX

TRANSITIONAL AND FINAL PROVISIONS

Article 43 Transitional Resource Allocation

43.1 Notwithstanding the provisions of Article 1.6 and Chapter VII of the Present Law, the Government shall make special provision to provide appropriate premises and

financial resources to the KIA upon its formation until such time as the funding of the KIA may be completed under normal procedures.

43.2 The Government shall make available such funds necessary for the appointment and initial operation of the KIA Director and the Deputy KIA Director until such funds are specifically allocated for by the Kosovo Consolidated Budget.

Article 44 **Transitional Operation**

44.1 With the prior approval of the Prime Minister, the KIA Director may apply laws and regulations applicable to governmental institutions to such extent as such application of law is not inconsistent with the provisions of the present Law. Such application shall not be made for a period greater than six (6) months following the establishment of the KIA.

44.2 Pending the approval and implementation of the relevant legislation on the protection of classified information, the KIA Director shall issue a regulation provisionally establishing a system of classification of information, the measures of protecting this information, and the responsibilities of employees for the protection of this security information.

44.3 The creation of the vacancies following from this law shall be rendered from the date of entry into force of this Law, pursuant to Article 45.

44.4 Pending the establishment of a security clearance procedure, an employee of the of the KIA may be issued with a provisional security clearance, valid up to 6 months, provided that such employee has submitted a completed security clearance questionnaire, the contents of which do not reveal obvious grounds for denial of a security clearance. The provisional security clearance may be renewed once, for a period that shall not exceed an additional six months.

44.5 Article 44.4 of this Law only applies to individuals joining the KIA prior to the implementation of the security clearance procedure.

Article 45 **Entry into Force**

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

Law No. 03/L-063
21 May 2008

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI