

**ON THE JURISDICTION, CASE SELECTION AND CASE ALLOCATION OF EULEX JUDGES AND  
PROSECUTORS IN KOSOVO**

Based on Chapter IV article 65 item 1 of the Constitution of Republic of Kosova, for the purpose of determination of competencies, selection of subjects and determination of subjects of judges and eulex prosecutors in Kosovo.

The Assembly of the Republic of Kosovo,

Hereby adopts

**LAW ON THE JURISDICTION, CASE SELECTION AND CASE ALLOCATION OF EULEX JUDGES AND  
PROSECUTORS IN KOSOVO**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Objective**

This law regulates the integration and jurisdiction of the Eulex judges and prosecutors in the judicial and prosecutorial system of the Republic of Kosovo.

**Definitions**

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 EULEX KOSOVO”**- 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;

- **“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 judge”**- 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;

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

-**“EULEX police officer”**- 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;

-**“EULEX correctional officer”**- 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;

-**“Kosovo police officer”**- means a member of the staff of the Kosovo Police Service, as defined by the applicable law;

-**“Kosovo correctional officer”**- means a member of the staff of the Kosovo Correctional Service, as defined by the applicable law;

-**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 by the applicable law;

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

-**“Kosovo public prosecutor”**- means a resident of Kosovo appointed as prosecutor according to the applicable law;

-**“Kosovo judge”**- means a resident of Kosovo appointed as judge according to the applicable law;

-**“Special Prosecution Office of Republic of Kosovo” or “SPRK”**- means the permanent and specialized prosecutorial office operating within the Office of the Public Prosecutor of Kosovo;

-**“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 the present 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.

## CHAPTER II

## **COMPETENCES OF EULEX JUDGES**

### **Article 2**

#### **General authority of EULEX judges**

2.1 An EULEX judge will have the authority and responsibility to perform the functions for cases falling within the jurisdiction of the courts to which he or she is assigned to by the President of the Assembly of EULEX judges, and according to the modalities as established by the present law and by the EULEX KOSOVO.

2.2 EULEX judges will cooperate with the Kosovo Judges working at the different courts to which he or she is assigned to, in accordance with the modalities as established by the present law and by the EULEX KOSOVO.

2.3 Where required, the relevant aspects of the activity and cooperation of EULEX judges with the Kosovo judges working in the local courts will be further outlined, to the necessary extent, in a separate Arrangement between the Head of the EULEX KOSOVO, the Kosovo Judicial Council and the President of the Supreme Court of Kosovo.

2.4 Besides exercising their judicial functions pursuant to the provisions of Articles 3, 4 and 5 of this law, EULEX judges will monitor, mentor and advise the Kosovo Judges, in the respect of the principle of independence of the judiciary and according to the modalities as established by the present law and by the EULEX KOSOVO.

2.5 EULEX judges will be independent in the discharge of their functions.

2.6 Upon consultation with the Head of the Justice Component, the President of the Assembly of the EULEX Judges and the Chief EULEX Prosecutor will propose, respectively, to the Assembly of the EULEX Judges and to the Assembly of the EULEX Prosecutors, modalities on case selection and case allocation based on pre-determined objective criteria and procedural safeguards that will be consistent with the applicable law. These modalities that will be endorsed by the Assembly of the EULEX Judges and of the EULEX Prosecutors will ensure the respect of the independence and the impartiality of the EULEX judges and the autonomy of the EULEX Prosecutors in the discharge of their functions.

### **Article 3**

#### **Jurisdiction and competences of EULEX judges for criminal proceedings**

3.1 EULEX judges assigned to criminal proceedings will have the jurisdiction and competence over any case investigated or prosecuted by the SPRK.

3.2 The President of the Assembly of EULEX Judges will assign any EULEX judge to the respective stage of the criminal proceeding investigated or prosecuted by the SPRK, according to the modalities on case selection and case allocation developed by the Assembly of the EULEX Judges and in compliance with this law. The President of the Assembly of EULEX Judges can decide for grounded reasons that an EULEX judge is not assigned to the respective stage of the criminal proceeding.

3.3 Before the commencement of the relevant stage of the proceeding, upon petition of the EULEX Prosecutor assigned to the case or working in the mixed team identified in Articles 9 and 10 of this law, or upon petition of any of the parties to the proceeding, or upon a written request of the President of the competent court or of the General Session of the Supreme Court of Kosovo where the provisions related to the disqualification of a judge or lay judge foreseen by the PCPCK (Article 40-44 of the PCPCK) are not applicable, the President of the Assembly of EULEX Judges will have the authority, for any reason when this is considered necessary to ensure the proper administration of justice, to assign EULEX judges to the respective stage of a criminal proceeding, according to the modalities on case selection and case allocation developed by the Assembly of the EULEX Judges and in compliance with this law, for the following crimes, when the investigation or prosecution is not conducted by the SPRK:

- a) assault on legal order of Kosovo (Art.108, PCCK);
- b) b)inciting National, Racial, Religious or Ethnic Hatred, Discord or Intolerance (Art. 115, PCCK);
- c) hijacking Aircraft (Art. 132, PCCK), 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);
- d) piracy (Art. 136, PCCK);
- e) smuggling of Migrants (Art. 138, PCCK), Trafficking in persons (Art. 139, PCCK);
- f) endangering United Nations and Associated Personnel (Art. 142, PCCK);
- g) murder (Art. 146, PCCK), Aggravated Murder (Art. 147, PCCK); Hostage Taking (Art. 143, PCCK), Kidnapping (Art. 159, PCCK);
- h) violating equal status of residents of Kosovo (Art. 158, PCCK)
- i) torture (Article 165, PCCK);
- j) all 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;
- k) 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);
- l) causing Bankruptcy (Art. 234, PCCK), Damaging Creditors (Art. 235 PCCK), Misuse of Economic Authorization (Art. 236, PCCK), Entering into Harmful Contracts (Art. 237, PCCK), Tax Evasion (Art. 249, PCCK), Organizing Pyramid Schemes and Unlawful Gambling (Art. 243, PCCK), Counterfeit Money (Art. 244, PCCK), Unjustified Acceptance of Gifts (Art. 250, PCCK), Unjustified Giving of Gifts (Art. 251, PCCK);
- m) grave Cases of Theft in the Nature of Robbery or Robbery (Art. 256, PCCK), Fraud (Art. 261, PCCK), Extortion (Art. 267, PCCK);
- n) participating in a crowd committing a criminal offence (Art. 320, PCCK);
- o) unauthorized Supply, Transport, Production, Exchange or Sale of Weapons (Art. 327, PCCK);
- p) abusing Official Position or Authority (Art. 339, PCCK), Misappropriation in Office (Art. 340, PCCK), Fraud in Office (Art. 341, PCCK), Accepting Bribes (Art. 343, PCCK), Giving Bribes (Art. 344, PCCK);
- q) the crimes listed in Articles 30, 31, 32, 33, 34, 138, 141, 149, 215, 219, 222 and 223 of the CCK;
- r) 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;
- s) the crimes listed in Articles 134, 240, 241, 245 of the CCFRY;
- t) /\*--wëç\\al

to National, Racial, Religious or Ethnic Hatred, Discord or Intolerance (Article 1, UNMIK Regulation No. 2000/4);

u) trafficking in persons (Article 2, UNMIK Regulation No. 2001/4 On The Prohibition of Trafficking in Persons in Kosovo).

3.4 Before the commencement of the relevant stage of the proceeding, upon a petition of the EULEX Prosecutor assigned to the case or working in the mixed team identified in Articles 9 and 10 of this law, or upon petition of any of the parties to the proceeding, or upon a written submission of the President of the superior court who is requested to take a decision pursuant to paragraph 1 of Article 35 of the PCCK, the President of the Assembly of EULEX Judges will have the authority to assign EULEX judges to the respective stage of a criminal proceeding according to the modalities on case selection and case allocation developed by the Assembly of the EULEX Judges and in compliance with the law, for any criminal offence, including offences against persons or property, where the victim, premises, or target of the offence appear to be selected because of their real or perceived connection, attachment, affiliation, support, or membership of a real or perceived group identified according to its race, national, ethnic or social origin, association with a national minority or with a political group, language, color, religion, sex, age, mental or physical disability, sexual orientation, or other similar factor.

3.5 For the purposes of the provisions set forth in paragraph 3 of Article 3, there is a need to ensure the proper administration of justice:

- a) if there have been threats to the Kosovo Judge, to the witnesses or to the parties to the proceeding in connection with the case, and this can reasonably lead to a belief that there would be a serious miscarriage of justice if the case is kept under the exclusive responsibility of Kosovo Judges; or
- b) if it is reasonable to believe that the activity of the EULEX judge, due to the particular complexity or nature of the case, is necessary to avoid a miscarriage of justice.

3.6 In the cases foreseen in paragraphs 3 and 4 of this Article, the Kosovo judge who would otherwise be assigned to the case, the president of the competent or of the superior court and the parties to the proceeding will have the right to be heard by the President of the Assembly of the EULEX Judges. The President of the Assembly of EULEX Judges will provide the president of the territorial competent court and the parties to the proceeding with the grounded ruling accepting or denying the request to assign an EULEX judge to the particular proceeding. No appeal will be permitted against this ruling that will bind all authorities of Kosovo.

3.7 Panels in which EULEX judges exercise their jurisdiction in criminal proceedings will be composed of a majority of EULEX judges, and presided by one EULEX judge.. However, the President of the Assembly of EULEX Judges will have the authority, in derogation to this rule and for grounded reasons, to decide that a panel is composed with a majority or a total composition of Kosovo judges, or can decide that particular stages of the proceeding are not assigned to EULEX judges.

3.8 When criminal proceedings are joined to those referred to in paragraph 3 and 4 of this Article, the EULEX judges will also have the authority to exercise their functions over these other proceedings, irrespective of the legal qualification of the offence and irrespective of the nature of the crime.

3.9 In the performance of their function to monitor, mentor and advise, EULEX judges will have the authority to have access to any stage of the proceeding, to receive free copies of documents and to request in written form information in regards of any ongoing or closed criminal case falling under the jurisdiction or competence of any court of Kosovo. This will include the request of information related to the execution of final judgments or court decisions.

3.10 The Head of the Justice Component will have the authority to request and obtain from the Presidents of the various courts of Kosovo non-confidential information related to cases that could fall under the competence of the EULEX judges.

#### **Article 4**

##### **Authority of the President of the Assembly of EULEX Judges and of the Chief EULEX Prosecutor in cases of existence of procedures for disqualification**

4.1 Irrespective of the crimes listed in paragraph 3, Article 3 of this law, if a request of disqualification against a Kosovo judge is filed pursuant to the provisions of paragraph 3 of Articles 40 and 42 of the PCPCK, the President of the Assembly of the EULEX Judges will have the authority to assign EULEX judges to any stage of the relevant criminal proceeding, according to the modalities on case selection and case allocation developed by the Assembly of the EULEX Judges, anytime the request of disqualification contains sufficient elements that reasonably lead to a belief that the assignment of another Kosovo judge to the proceeding according to the PCPCK does not remove the circumstances that render the impartiality of the Kosovo judge doubtful.

4.2 In the case envisaged in paragraph 1 of this Article, a copy of the request for disqualification filed according to the PCPCK will be sent by the relevant party to the proceeding to the President of the Assembly of the EULEX Judges without delay.

4.3 The rejection of the request for disqualification mentioned in paragraph 1 of this Article by the President of the court identified in the provisions of Article 43 of the PCPCK, will not bar the President of the Assembly of the EULEX Judges from exercising the authority to assign any EULEX judge to the relevant stage of the

proceeding, before its commencement, anytime he or she consider that the circumstances that render the impartiality of the Kosovo judge doubtful are not removed from that particular proceeding. In such case, paragraph 4 of Article 42 of the PCPCK will not apply.

4.4 If the President of the court or the general session of the Supreme Court of Kosovo identified in the provisions of Article 43 of the PCPCK believe that the request for disqualification mentioned in paragraph 1 of this Article is grounded, a written request will be sent to the President of the Assembly of the EULEX Judges and the provisions of the following paragraph 5 of this Article will apply. In such case, paragraph 4 of Article 42 of the PCPCK will not apply.

4.5 The President of the Assembly of EULEX Judges will also have the authority, upon a written request of the President of the court identified in Articles 41 and 43 of the PCPCK, or of the general session of the Supreme Court of Kosovo identified in paragraph 3 of Article 43 of the PCPCK, to assign EULEX judges to the respective stage of any criminal proceeding, according to the modalities on case selection and case allocation developed by the Assembly of the EULEX Judges, anytime a Kosovo Judge has been disqualified according to the provisions of the PCPCK and it is not possible, for legal or factual grounds, including those referred to in paragraph 1 of this Article, to assign another Kosovo Judge to the proceeding. In such case, paragraph 4 of Article 42 of the PCPCK will not apply.

4.6 No appeal will be permitted against the decisions taken by the President of the Assembly of the EULEX judges pursuant to paragraphs 1, 3 and 5 of this Article.

4.7 Panels in which EULEX judges exercise their jurisdiction in those criminal proceeding to which they are assigned to pursuant to the provisions of paragraphs 1-5 of this Articles will always be composed of three judges, of which at least two being EULEX judges and of which one EULEX judge will be the presiding judge. However, the President of the Assembly of EULEX Judges will have the authority, in derogation to this rule and for grounded reasons, to decide that a panel is composed with a majority or a total composition of Kosovo judges or can decide that particular stages of the proceeding are not assigned to EULEX judges.

4.8 If, according to the applicable law, an EULEX judge is subject to a procedure for disqualification, or if there is a petition for disqualification of an EULEX judge, the President of the Assembly of EULEX judges will have the authority to decide over the disqualification, in derogation to the provisions of the PCPCK. If the request of disqualification is addressed against the President of the Assembly of EULEX judges, the Assembly of the EULEX Judges will decide on the matter.

4.9 If, according to the applicable law, an EULEX prosecutor is subject to a procedure for disqualification, the Chief EULEX Prosecutor will have the authority to decide over the disqualification, in derogation to the provisions of the PCPCK. If the request of disqualification is addressed against the Chief EULEX Prosecutor, the Assembly of the EULEX Prosecutors will decide on the matter.

4.10 EULEX KOSOVO will establish an Assembly of the EULEX Judges and an Assembly of the EULEX Prosecutors that will be responsible, respectively, to manage all issues related to the administration and the work of the EULEX Judges and of the EULEX Prosecutors, according to the modalities established by the EULEX KOSOVO. The Assembly of the EULEX judges and the Assembly of the EULEX prosecutors will be also responsible to decide over, respectively, the request of disqualification against the President of the Assembly of the EULEX judge and the Chief EULEX Prosecutor.

## **Article 5**

### **Jurisdiction of EULEX judges for civil cases**

5.1 EULEX judges assigned to civil proceedings will have the authority to select and take responsibility, in agreement with the President of the Assembly of the EULEX Judges and according to the modalities on case selection and allocation developed by the Assembly of the EULEX Judges, over:

- a) cases falling within the jurisdiction of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related matters, including cases that have been referred to another court pursuant to the applicable law;
- b) cases falling within the jurisdiction of any court of Kosovo regarding appeals on decisions of the Kosovo Property Claims Commission according to the applicable law;
- c) any new or pending property related civil cases, including the execution procedures, falling within the jurisdiction of any court in Kosovo, if:
  - (i) there is a grounded suspicion of attempts to influence the impartiality or independence of the local judiciary; or
  - (ii) there is a grounded suspicion that the local judiciary is not willing or unable to properly deal with the case; or
  - (iii) there is a grounded suspicion of a serious violation of the fairness of the proceeding.

5.2 The President of the Assembly of EULEX Judges will assign the EULEX judges to panels at courts other than the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related matters. The panels will be composed of three judges, two of whom will be EULEX judges. When the need arises to move an EULEX judge to a different court, the President of the Assembly of the EULEX Judges will be entitled to do so only for the sake of a better organization of justice, and based on pre-determined objective criteria as defined in the modalities on case selection and case allocation endorsed by the Assembly of the EULEX Judges.

5.3 The President of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related matters will assign the EULEX judges to panels of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related matters. The panels will be composed of three judges, two of whom will be EULEX judges. The appeals panel will be composed of five judges, three of whom will be EULEX judges.

5.4 The presiding judge in the panels referred to above will be, as a rule, an EULEX judge.

5.5 The President of the Assembly of EULEX Judges will have the authority, in derogation to paragraphs 2, 3 and 4 of this Article for grounded reasons, to determine the composition of the panels resulting in a full composition of EULEX judges or in a majority or full composition of Kosovo judges. This includes the authority to decide that EULEX judges may not be assigned to particular stages of the proceeding.

5.6 In the performance of their function to monitor, mentor and advise, EULEX judges will have the authority to request in written form information about the status of any ongoing or closed civil case falling under the jurisdiction or competence of any court of Kosovo. EULEX judges will be entitled to receive free copies of the documents pertaining to any dispute or civil proceeding falling under the jurisdiction or competence of any of the courts of Kosovo.

5.7 In the case envisaged in item c), paragraph 1 of this Article, the Kosovo judge who would otherwise be assigned to the case, the President of the competent court and the parties to the proceeding will have the right to be heard by the President of the Assembly of the EULEX Judges. The President of the Assembly of EULEX Judges will provide the President of the territorial competent court and the parties to the proceeding with the grounded ruling related to the assignment of the EULEX judge to the particular proceeding. No appeal will be permitted against this ruling that will bind all authorities of Kosovo.

## **Article 6**

### **Provisions concerning the EULEX Property Rights Coordinator in Kosovo**

6.1 The EULEX Property Rights Coordinator in Kosovo will assist in coordinating property rights issues, including claims resolution, between different actors involved in this subject matter including, but not limited to the Kosovo Property Agency, the Kosovo Property Claims Commission, the Kosovo Trust Agency, the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related matters, ordinary courts, or the Kosovo Police Service.

6.2 All actors dealing with property rights issues, including claims resolution in Kosovo will be obliged to supply the EULEX Property Rights Coordinator free of charge with any information requested of them. The

EULEX Property Rights Coordinator will have access to all the elements required for implementation of its mandate.

### **CHAPTER III COMPETENCES OF EULEX PROSECUTORS**

#### **Article 7 General authority of EULEX prosecutors**

7.1 EULEX prosecutors will have the authority and responsibility to perform the functions of his or her office, including the authority to conduct criminal investigations and take responsibility for new and pending criminal investigations or proceedings, within the SPRK or within the prosecution offices to which he or she is assigned to by the Chief EULEX Prosecutor and according to the modalities as established by the present Law and by the Assembly of the EULEX Prosecutors.

7.2 EULEX prosecutors will cooperate with the Kosovo Public Prosecutors working within the different prosecution offices to which he or she is assigned to, in accordance with the modalities as established by the present law and by the Assembly of the EULEX Prosecutors.

7.3 Besides exercising their investigating and prosecutorial functions pursuant to the provisions of Article 8 of this law, the EULEX prosecutors will monitor, mentor and advise the Kosovo Public Prosecutors in the respect of the principle of autonomy of prosecutors and in accordance with the modalities as established by the present law and by the Assembly of the EULEX Prosecutors. Their role as monitors, mentors and advisors will not be limited to the cases for which the EULEX prosecutors can exercise their competences.

7.4 EULEX prosecutors will discharge their functions in compliance with the applicable law. They will be under the exclusive authority of the Chief EULEX Prosecutor and will not be subject to the authority of any Kosovan institution.

#### **Article 8 Competences of EULEX prosecutors in Kosovo**

8.1 The EULEX prosecutors will be competent to investigate and prosecute the crimes, that fall under the exclusive competence of the SPRK in accordance with the law that establishes the SPRK, and the crimes, including the attempt and the various form of collaboration to the crimes, listed in all items of paragraph 3 of Article 3 of this law.

8.2 The EULEX prosecutors will have also the authority to investigate and to prosecute crimes whose proceedings have been joined, according to the applicable law, to those referred to in paragraph 1 of this Article, and the other crimes according to the modalities established in the following Articles of this law.

#### **Article 9 Exercise of the competence of EULEX prosecutors assigned to the prosecution offices in Kosovo**

9.1 EULEX prosecutors will work, where possible, in mixed teams with the Kosovo Public Prosecutors to investigate or prosecute any of the crimes listed in paragraph 3, Article 3 of this law.

9.2 Where required, the relevant aspects of the activity and cooperation of EULEX prosecutors with the Kosovo Public Prosecutors working in the local prosecution offices will be further outlined, to the necessary extent, in a separate Arrangement between the Head of the EULEX KOSOVO, the Ministry of Justice, the



Kosovo Judicial Council, the Office of the Public Prosecutor of Kosovo and the Offices of the District Prosecutor.

9.3 When the Municipal Court is the first instance competent court for any of the crimes listed in paragraph 3 of Article of this law, the municipal Kosovo Public Prosecutor assigned to the case may seek the advice of any of the EULEX prosecutors anytime he or she may consider appropriate.

9.4 In any case, the municipal Kosovo Public Prosecutor identified in Article 9(3) will inform, within seventy-two hours, any of the EULEX prosecutors assigned to his or her region about the content of any announcement of the first instance judgment (art. 392 or 473(2) of the PCPCK) for any of the crimes listed in paragraph 3 of Article 3 of this law that fall under the jurisdiction of the Municipal Court as first instance court.

9.5 The Chief Municipal Prosecutors will inform the Chief District Prosecutors working in the office competent for the territory within which they exercise their activity of any ongoing investigation or prosecution regarding the crimes listed in paragraph 3 of Article 3 that fall under the competence of the Municipal Court as first instance court. The Chief Municipal Prosecutors will be obliged to provide the EULEX prosecutors with the same information and to disclose any relevant information pertaining to the case upon their request.

9.6 The Chief District Prosecutors will inform the EULEX prosecutors assigned to their prosecution office and before the case is assigned to a Kosovo Public Prosecutor belonging to the same Office, of any case that might fall under paragraph 3 of Article 3 of this law or for which the EULEX prosecutors could exercise their functions.

9.7 In performing their functions as monitors, mentors and advisors, the EULEX prosecutors will have the authority to examine any ongoing or closed case, to receive free copies of them and to request information regarding the execution of any final judgment.

## **Article 10**

### **Joint responsibility of the mixed teams and disputes resolution mechanism**

10.1 Any procedural or investigative activity linked to the investigation or prosecution of an alleged criminal conduct that might fall under the competence of the mixed teams composed by EULEX prosecutors and Kosovo Public Prosecutors will be agreed between the EULEX prosecutor and the Kosovo Public Prosecutor working on the same case.

10.2 In case of disagreements between the EULEX prosecutor and the Kosovo Public Prosecutor working on the same case with regard to the content or the performance of a particular act of the proceeding, they will refer the matter to the Chief District Prosecutor who will decide on it within twenty-four hours. In case of disagreements within the mixed teams of the SPRK, the Head of the SPRK will decide on the matter.

10.3 Within twenty-four hours after being informed about the decision taken by the Chief District Prosecutor or Head of the SPRK over the disagreement, the EULEX prosecutor will be entitled to request a review of the decision to the Chief EULEX Prosecutor and to the Chief Public Prosecutor of Kosovo. The Chief EULEX Prosecutor and the Chief Public Prosecutor of Kosovo will find together a solution as soon as possible.

10.4 In urgent situations, or when the delay might affect the conduct or the result of the investigation, prosecution or the fairness of the proceeding, the Chief EULEX Prosecutor will be entitled to undertake any urgent procedural activity or to assign any EULEX prosecutor or Kosovo Public Prosecutor for such purpose.

## **Article 11**

### **Authority of EULEX prosecutors for Hate-Motivated crimes**

11.1 At any time during the proceeding and upon agreement with the Chief EULEX Prosecutor, the EULEX prosecutors can take the responsibility over any investigation or prosecution of any criminal offence, including

offences against persons or property, where the victim, premises, or target of the offence appear to be selected because of their real or perceived connection, attachment, affiliation, support, or membership of a real or perceived group identified according to its race, national or ethnic or social origin, association with a national minority or with a political group, language, color, religion, sex, age, mental or physical disability, sexual orientation, or other similar factor.

11.2 For the purpose of paragraph 1 of this Article, the EULEX prosecutor will file a request to the Chief Prosecutor of the office that would be competent to investigate or prosecute the case.

11.3 The relevant Chief Prosecutor will transfer the case to the EULEX prosecutor assigned to by the Chief EULEX Prosecutor within twenty-four hours.

## **Article 12**

### **Authority of EULEX prosecutors in case of unwillingness or inability of Kosovo Public Prosecutors**

12.1 At any stage of any criminal proceeding, if a Kosovo Public Prosecutor is unwilling or unable to perform his or her duties and this unwillingness or inability might endanger the proper investigation or prosecution of a criminal offence, or whenever there is a grounded suspicion of attempts made to influence the investigation or prosecution of a criminal offence, the Chief EULEX Prosecutor will have the authority to request the Chief Prosecutor of the competent office to assign the case

- a) to another Kosovo Public Prosecutor working within the same prosecution office,
- b) or to any EULEX prosecutor who will take the responsibility over the relevant investigation or prosecution.

12.2 If the Chief Prosecutor of the competent office rejects the request of the Chief EULEX Prosecutor, the Chief EULEX Prosecutor will inform the Chief Public Prosecutor of Kosovo and they will find a joint decision which will be respected by the Chief Prosecutor of the competent office.

12.3 In urgent situations, or when the delay might affect the conduct or the result of the investigation, prosecution or the fairness of the proceeding, the Chief EULEX prosecutor will be entitled to undertake any urgent procedural activity or to assign any EULEX prosecutor or Kosovo Public Prosecutor to the case for such purpose.

## **Article 13**

### **Change of venue for criminal and civil proceedings**

13.1 If reasons of security so require, the Head of the Justice Component, upon proposal of the Chief EULEX Prosecutor or of the President of the Assembly of EULEX Judges, will have the authority to change the venue of a trial or of a particular stage of a criminal or civil proceeding whenever an EULEX judge or an EULEX prosecutor is involved. The Head of the Justice Component will ground his or her decision and will send it to the President of the court that would be entitled to exercise its territorial jurisdiction in the case.

13.2 Criminal offences allegedly committed by members of the local judiciary or by employees of the various courts in Kosovo will be investigated, prosecuted and adjudicated by a prosecution office and by a court that exercise competence and jurisdiction over a different region than the region where the judge, prosecutor or employee normally perform his or her functions. A rotation system will designate the prosecution office and the territorial competent court according to the following criteria:

- a) if the alleged crime occurred in the region of Pejë/Pec or Mitrovicë/Mitrovica, the competent prosecution office and court will be identified in either the district or municipal prosecution office and in either the district or municipal court of Prishtinë/Priština;
- b) if the alleged crime occurred in the region of Prishtinë/Priština or Gnjilane/Gjilan, the competent prosecution office and court will be identified in either the district or municipal prosecution office and in either the district or municipal court of Prizren;

- c) if the alleged crime occurred in the region of Prizren, the competent prosecution office and court will be identified in the either the district or municipal prosecution office and in either the district or municipal court of Gnjilane/Gjilan.

13.3 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 Head of the Justice Component, or the Kosovo Judicial Council upon request of the Head of the Justice Component, or the Kosovo Judicial Council without any request but after the termination of the mandate of the EULEX KOSOVO, will have the authority to establish a new rotation system for cases described in paragraph 2 of this Article.

13.4 Anytime an alleged criminal conduct has been committed by a judge, prosecutor or employee of a particular court, Law Enforcement Agencies and public authorities will be obliged to submit the relevant criminal report, notice of crime and information related to the developments of the investigations to the prosecutor's office identified according to the aforementioned rotation system.

13.5 At any stage of the proceeding, the Chief EULEX Prosecutor or the President of the Assembly of EULEX Judges will have the authority to transfer the case, respectively, to the competent prosecution office or court according to the aforementioned rotation system, in case of its violation.

13.6 The authority mentioned in paragraph 5 of this Article will be exercised in a way to avoid unnecessary delays of the proceeding and the disruption of the judicial process.

## **CHAPTER IV FINAL AND TRANSITIONAL PROVISIONS**

### **Article 14**

14.1 This Law can be repealed or modified in accordance with the procedures established by the applicable law but only upon consultation with the Head of the EULEX KOSOVO who will seek the advice of the Head of the Justice Component.

14.2 For the purposes of paragraph 1 of this Article, Kosovo authorities will establish consultations with the Head of the EULEX KOSOVO to assess the necessity of repealing, amending or changing the present law.

### **Article 15**

15.1 Upon the entry into force of this Law, the United Nations Mission in Kosovo (UNMIK) Department of Justice will handover to the Chief EULEX Prosecutor and to the President of the Assembly of EULEX Judges, pursuant to the modalities and procedures established between UNMIK and the European Union, all files, information, archives and data, in electronic and hard copies related to cases currently investigated, prosecuted or dismissed by UNMIK International prosecutors and the SPRK, and cases that are or have been under the authority of UNMIK International Judges.

15.2 The Chief EULEX Prosecutor and the President of the Assembly of EULEX Judges will decide in accordance with this law which of the cases handed over pursuant to paragraph 1 of this Article fall within the jurisdiction and competence of the EULEX judges or prosecutors, respectively, and which other cases, for grounded reasons, will have to remain under the authority of EULEX judges and prosecutors after having been under the authority of UNMIK International Judges or UNMIK International Prosecutors.

15.3 In cases which were handed over pursuant to paragraph 1 of this Article and which are at the stage of a main trial at the date of the entry into force of this law, the composition of the panels for criminal proceedings may remain unchanged for further proceedings if the same panel members continue their functions as EULEX

judges after the entry into force of the present law. In such event the President of the Assembly of the EULEX Judges will designate the respective previous UNMIK International judge as an EULEX judge to the same proceeding.

15.4 In the event of a need to restart the main trial for procedural or other reasons the President of the Assembly of the EULEX Judges will designate EULEX judges to the new panel in accordance with the present law.

15.5 In cases which were handed over pursuant to paragraph 1 of this Article and which fall within the jurisdiction of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related matters, the composition of the panel may remain unchanged for further proceedings if the same panel members continue their functions as EULEX judges after the entry into force of the present law. The respective previous UNMIK International judge will be assigned as an EULEX judge to the same proceeding pursuant to the applicable law.

15.6 The President of Assembly of the EULEX Judges in consultation with the President of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency related matters may assign an EULEX judge to the particular stage of the proceedings previously assigned to an UNMIK International Judge, or assign an EULEX judge to a particular panel pursuant to the provisions of the present law, provided the commencement of a new proceeding with the new panel members is not mandatory pursuant to the applicable law.

15.7 If a provision in the applicable law in place prior to the Transition day foresees that the President of the Supreme Court of Kosovo or the President of another court is entitled to designate an International Judge in a proceeding, this authority will be transferred to the President of the Assembly of the EULEX judges as of the Transition day.

## **Article 16**

For the duration of the EULEX KOSOVO in Kosovo, the official languages of the Kosovo courts will be, other than the Albanian, Serbian and, in addition, Turkish in areas in which the Turkish community is located, also the English in those proceedings in which the EULEX judges and prosecutors are involved.

## **Article 17**

17.1 For the duration of the EULEX KOSOVO in Kosovo, the EULEX police will have the authority to exercise the powers as recognized by the applicable law to the Kosovo Police and according to the modalities as established by the Head of the EULEX KOSOVO.

17.2 For the duration of the EULEX KOSOVO in Kosovo, the EULEX police will have the authority to exercise the functions of the judicial police according to the applicable law and to the modalities established by the Head of the EULEX KOSOVO.

17.3 For the duration of the EULEX KOSOVO in Kosovo, the EULEX correctional officers will have the authority to exercise the powers and the functions of the staff of the Kosovo correctional Service, including those recognized to the Kosovo correctional officers, according to the applicable law and to the modalities as established by the Head of the EULEX KOSOVO.

17.4 Where required, the relevant aspects of the activities and cooperation of the EULEX police with the Kosovo Police and of the EULEX correctional officers with the staff of the Kosovo Correctional Service may be further outlined, to the necessary extent, in separate Arrangements between the Head of the EULEX KOSOVO and the competent authorities. These arrangements will reflect the content of the modalities established by the Head of the EULEX KOSOVO.

### **Article 18**

18.1 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.

18.2 Similarly, all references made in the present law to municipal or district prosecution offices, municipal or district courts, municipal Kosovo Public Prosecutor or district Kosovo Public Prosecutor, will be interpreted in accordance with the new structure of the court system or prosecution offices.

18.3 The competent authorities will be under the obligation to amend the present law in compliance with the new structure of the courts or of the prosecution offices to allow the EULEX KOSOVO to properly exercise their authorities and functions.

### **Article 19**

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

**Adopted by the Assembly of the Republic of Kosova**

**Date: 13.03. 2008**