

LAW No.03/L –225

ON STATE PROSECUTOR

Assembly of Republic of Kosovo,

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

Approves

LAW ON STATE PROSECUTOR

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose and Scope of the Law**

This law establishes and regulates the organization, jurisdiction, functioning, competencies, and duties of the State Prosecutor.

**Article 2
Definitions**

1. The terms used in this law shall have the following meaning:

1.1. **State Prosecutor** - the independent institution with authority and responsibility for the prosecution of persons charged with committing criminal acts and other acts specified by law and includes the following: the Basic Prosecution Offices; the Appellate Prosecution Office; the Special Prosecution Office; the Office of the Chief State Prosecutor; and any other organizational unit that may be created to carry out prosecutorial functions.

1.2. **Chief State Prosecutor** - the Chief State Prosecutor of the Republic of Kosovo and the management and supervisory head of the State Prosecutor.

1.3. **Chief Prosecutor** - a person who is the head of a prosecution office other than the Chief State Prosecutor or Head of the Special Prosecution Office.

1.4. **Constitution** - the Constitution of the Republic of Kosovo.

1.5. **Special Prosecutor** - a prosecutor serving in the Special Prosecution Office as provided for by the Law on the Special Prosecution Office, No. 2008/03-L052.

1.6. **Council** - the Kosovo Prosecutorial Council, as provided for in the Law on the Kosovo Prosecutorial Council.

**CHAPTER II
FUNDAMENTAL PRINCIPLES**

**Article 3
Independence and Impartiality of State Prosecutor**

1. The State Prosecutor is an independent institution that exercises its functions in an impartial manner.
2. The State Prosecutor and each prosecutor ensures equal, objective and unbiased treatment for all persons before the law, regardless of gender, race, national or social origin, political associations or connections, religious beliefs, state of health or handicap, or societal position.
3. It shall be unlawful and in contradiction with the Constitution for any natural or legal person to interfere with, obstruct, influence or attempt to interfere with, obstruct or influence the State Prosecutor in the performance of its prosecutorial functions related to any individual investigation, proceeding, or case.

**Article 4
Exercise of Prosecutorial Functions**

1. In the Republic of Kosovo, prosecutorial functions are exercised only by competent and duly authorized state prosecutors, the Special Prosecutors provided for by the separate Law on the Special Prosecution Office of the Republic of Kosovo, No. 2008/03-L052.
2. A duly appointed state prosecutor is authorized to initiate a criminal investigation, file an indictment or summary indictment, conduct a prosecution, or perform other duties and function that are in accordance with the Constitution and applicable laws.

**Article 5
Ethnic Diversity of the State Prosecutor**

The State Prosecutor shall reflect the ethnic diversity in the Republic of Kosovo, in accordance with Articles 109(4) and 110(3) of the Constitution and internationally recognized principles of human rights and gender equality.

**Article 6
Efficiency of the State Prosecutor**

The State Prosecutor shall exercise its functions in an efficient and effective manner and in accordance with the Constitution, the applicable law, and internationally recognized principles of non-discrimination, human rights, and fundamental freedoms.

**CHAPTER III
DUTIES AND COMPETENCIES OF STATE PROSECUTOR**

**Article 7
Duties and Competencies of the Prosecutors**

1. The duties and competencies of the prosecutors shall include:
 - 1.1. to exercise prosecutorial functions in an independent, fair, objective and impartial manner and to ensure that all persons are treated equally before the law;
 - 1.2. to exercise the highest standards of care during the performance of official functions;

- 1.3. to conduct himself or herself honorably and professionally in personal and professional life and pursuant to applicable law and the code of professional ethics;
- 1.4. to maintain the honor and dignity of the State Prosecutor;
- 1.5. to protect the legal rights of victims, witnesses, suspects, accused and convicted persons;
- 1.6. to undertake the necessary legal actions for the detection of criminal offences and discovery of perpetrators, and the investigation and prosecution of criminal offences in a timely manner;
- 1.7. to make decisions on the initiation, continuation or termination of criminal proceedings against persons suspected or accused of committing criminal offences;
- 1.8. to file indictments and represent them before the court;
- 1.9. to exercise regular and extraordinary legal remedies against court decisions;
- 1.10. to cooperate with police, courts, and other institutions;
- 1.11. to undertake all other actions specified by law.

Article 8 Prevention Activities

The State Prosecutor shall cooperate with state institutions and other public and private organizations in activities directed at the education of society to increase the knowledge for the law and to prevent crime.

Article 9 International Cooperation

1. The Chief State Prosecutor, in cooperation with the Ministry of Justice, shall stipulate the protocols and procedures to promote cooperation with the authorities of other countries relating to the prosecution of crimes through exchange of information and other means, in accordance with the applicable law and international agreements between Kosovo and other countries.

2. The Chief State Prosecutor shall cooperate with international authorities and entities established in the Republic of Kosovo.

Article 10 Public Relations

1. The State Prosecutor shall regularly provide information about its activities to the public.
2. Notwithstanding paragraph 1 of this Article, the State Prosecutor shall not provide any information directly or indirectly which would disclose official secrets, would jeopardize a pending investigation or criminal proceeding, be harmful to the integrity, dignity, security, and rights to privacy of any persons, or violate the rights of minors.

CHAPTER IV ORGANIZATIONAL STRUCTURE AND JURISDICTION OF THE STATE PROSECUTOR

Article 11 Chief State Prosecutor

1. The Chief State Prosecutor shall have jurisdiction for the entire territory of the Republic of Kosovo.
2. The Chief State Prosecutor shall have exclusive jurisdiction over third instances cases before the Supreme Court.
3. The Chief State Prosecutor shall have exclusive jurisdiction over all cases involving extraordinary legal remedies.

4. The Chief State Prosecutor may assume jurisdiction over any case upon the request of or with the consent of the Chief Prosecutor of the Special Prosecution Office of the Republic of Kosovo.
5. The Chief State Prosecutor may assume jurisdiction over any case in any prosecution office of Republic of Kosovo as provided by law.
6. The Chief State Prosecutor shall be the head of the State Prosecutor and shall have overall responsibility for the management of the State Prosecutor and the supervision of all prosecutors. The Chief State Prosecutor may make appropriate delegations of authority.
7. The Chief State Prosecutor shall issue rules, instructions, guidelines, and decisions for the internal regulation of the State Prosecutor.
8. The residence of the Office of the Chief State Prosecutor is in Pristina.

Article 12
Administrative Role of the Office of Chief State Prosecutor

1. The Office of Chief State Prosecutor shall provide administrative support to the Kosovo Prosecutorial Council and to prosecution offices as provided in the Law on the Kosovo Prosecutorial Council.
2. The Office of Chief State Prosecutor shall ensure that all prosecution offices have sufficient administrative staff and are provided with all necessary materials subject to the budget approved by the Kosovo Assembly.
3. The Chief State Prosecutor, or any prosecutor to whom the Chief State Prosecutor may delegate the authority, may require a subordinate prosecutor to provide reports or other information in writing related to the progress, status or settlement of cases for which the subordinate prosecutor is responsible.

Article 13
Authority of the Chief Prosecutor

1. Each Chief Prosecutor shall be responsible to the Chief State Prosecutor and the Prosecutorial Council for the effective, efficient and fair operations of the state prosecutorial functions of the prosecution office and prosecutors within the office.
2. Each Chief Prosecutor shall be the administrative head of the office to which he/she is appointed. The Chief Prosecutor may make appropriate delegations of authority, subject to the consent of the Chief State Prosecutor.
3. Each Chief Prosecutor may undertake the functions of criminal prosecution that are assigned to a subordinate prosecutor in that prosecution office and may take over the direct management of investigations or criminal proceedings from him or her, with prior consent of the Chief State Prosecutor.
4. Each Chief Prosecutor shall assign cases to prosecutors within the prosecution office, taking into account the nature of the case, the experience and specialization of the prosecutors.

Article 14
Organization of the Prosecution Offices

1. The State Prosecutor in the Republic of Kosovo shall be organized and function in accordance with this law and the Law on Special Prosecution Office, where applicable.
2. The State Prosecutor in the Republic of Kosovo shall be organized into the following prosecution offices:
 - 2.1. Basic Prosecution Offices comprised of a General Department, Department for Minors and the Serious Crimes Prosecution Department;

- 2.2. Appellate Prosecution Office comprised of a General Department and a Serious Crimes Prosecution Department;
 - 2.3. Special Prosecution Office; and the
 - 2.4. Office of Chief State Prosecutor.
3. Any case falling within the jurisdiction of the Commercial Matters Department or the Administrative Matters Department of the Basic Court shall be assigned to prosecutors within the General Prosecution Department of the Basic Prosecution Office.

Article 15 Basic Prosecution Office

1. The Basic Prosecution Offices shall have jurisdiction over all first instances cases, unless otherwise provided by law.
 - 1.1. The Basic Prosecution Offices shall be established under this law with the territorial jurisdictions provided below:
 - 1.2. Basic Prosecution Office in Prishtina, for the territory of the Basic Court of Pristina as provided in the Law on Courts;
 - 1.3. Basic Prosecution Office in Ferizaj, for the territory of the Basic Court in Ferizaj as provided in the Law on Courts;
 - 1.4. Basic Prosecution Office in Gjakova, for the territory of the Basic Court in Gjakova as provided in the Law on Courts;
 - 1.5. Basic Prosecution Office in Gjilan, for the territory of the Basic Court in Gjilan as provided in the Law on Courts;
 - 1.6. Basic Prosecution Office in Mitrovica, for the territory of the Basic Court in Mitrovica as provided in the Law on Courts;
 - 1.7. Basic Prosecution Office in Peja, for the territory of the Basic Court in Peja as provided in the Law on Courts; and the
 - 1.8. Basic Prosecution Office in Prizren, for the territory of the Basic Court in Prizren as provided in the Law on Courts.

Article 16 Appellate Prosecution Office

1. An Appellate Prosecution Office is established to act for the Court of Appeals.
2. The Appellate Prosecution Office shall be headed by a Chief Prosecutor of the Prosecution Office appointed as provided for by the Law on the Kosovo Prosecutorial Council.
3. The Appellate Prosecution Office shall have jurisdiction of the entire territory of the Republic of Kosovo.
4. The residence of the Appellate Prosecution Office is in Prishtina.
5. Prosecutors appointed to the Appellate Prosecution Office will specialize in presenting prosecution cases in the Court of Appeals. When a prosecution case is heard by the Court of Appeals, the prosecutor who initiated or prosecuted the case may, with the approval of the Chief State Prosecutor, accompany and assist the prosecutor of the Appellate Prosecution Office in presenting or defending against the appeal.

Article 17 Special Prosecution Office

1. The territorial jurisdiction, scope, and powers of the Special Prosecution Office are governed exclusively by the Law on the Special Prosecution Office of the Republic of Kosovo, No. 2008/03-L052.

2. The composition of the Special Prosecution Office and the appointment of the Chief Prosecutor of the Special Prosecution Office shall be as provided in the Law on the Special Prosecution Office of the Republic of Kosovo, No. 2008/03-L052.

Article 18 Establishment of Other Offices

1. The Chief State Prosecutor may submit to the Council a request to establish other offices within the prosecutorial system when necessary.

2. If the Council approves the establishment of another office, it shall present to the Kosovo Assembly a proposal for budgetary supplement.

CHAPTER V QUALIFICATIONS, CRITERIA AND THE RIGHTS FOR APPOINTMENT OF STATE PROSECUTORS

Article 19 Minimum Qualifications and Criteria for Appointment

1. Candidates for appointment as a prosecutor must meet the following minimum qualifications and criteria, and shall:

- 1.1. be a citizen and resident of Kosovo;
- 1.2. possess a valid university degree in law recognized by the laws of Kosovo;
- 1.3. have passed the bar examination;
- 1.4. have passed the preparatory examination for prosecutors and judges;
- 1.5. have positive high professional reputation and moral integrity;
- 1.6. have no final convictions for criminal offenses, with the exception of minor offenses as defined by the law;
- 1.7. have passed the legal education exam, except the persons, that have at least seven (7) years of legal experience and lawyers that have exercised the lawyer's profession at least five (5) years.
- 1.8. candidates who have exercised the judge's or prosecutor's job at least three (3) years, as well as candidates who have at least seven (7) years of legal experience and have passed the preparation exam during the process of appointment and re-appointment for judges and prosecutors, shall not enter the preparation exam.

Article 20 Special Criteria for Certain State Prosecutors

1. In addition to the minimum qualifications, all candidates for appointment as state prosecutors, in certain prosecution offices, must have the following qualifications:

- 1.1. to exercise prosecutor's function for the Serious Crimes Department of a Basic Prosecution Office, the candidate must have at least three (3) years of legal experience as a prosecutor or a judge.

1.2. to exercise the function of a prosecutor at the Appellate Prosecution Office, the candidate must have at least four (4) years of legal experience as a prosecutor or a judge;

1.3. to exercise the function of a prosecutor in the Special Prosecution Office, the candidate must have at least five (5) years of legal experience in criminal law, including at least three (3) years of experience as a prosecutor;

1.4. to exercise the function of a prosecutor for the Office of Chief State Prosecutor, the candidate must have at least six (6) years of legal experience in criminal law, including at least four (4) years of experience as a prosecutor;

1.5. to exercise the function as the Chief State Prosecutor, the candidate must have at least eight (8) years of legal experience in criminal law, including at least six (6) years of experience as a State Prosecutor.

Article 21 Compensation of State Prosecutors

1. During the period of service, state prosecutors will be entitled to the following basic salaries:

1.1. The Chief State Prosecutor shall receive a salary equivalent to that of the President of the Supreme Court.

1.2. Prosecutors permanently appointed to the Office of the Chief State Prosecutor shall receive a salary equivalent to ninety percent (90%) of the salary of the Chief State Prosecutor.

1.3. The Chief Prosecutor of the Special Prosecution Office shall receive a salary equivalent to ninety-five percent (95%) of the salary of the Chief State Prosecutor.

1.4. Prosecutors permanently appointed to the Special Prosecution Office shall receive a salary equivalent to the salary of the prosecutors in the Office of Chief State Prosecutor.

1.5. The Chief Prosecutor of the Appellate Prosecution Office shall receive a salary equivalent to that of the president of the Court of Appeals.

1.6. Prosecutors permanently appointed to the Appellate Prosecution Office shall receive a salary equivalent to ninety percent (90%) of the salary of the Chief Prosecutor of the Appellate Prosecution Office.

1.7. The Chief Prosecutors of Basic Prosecution Offices shall receive a salary equivalent to the salary of presidents of the Basic Courts.

1.8. Each prosecutor permanently appointed to the Basic Prosecution Office shall receive a base salary of not less than seventy percent (70%) of the salary of the Chief Prosecutor of a Basic Prosecution Office. The Council shall promulgate a schedule for additional compensation that recognizes the unique responsibilities of prosecutors appearing before the Serious Crimes Department of the Basic Court; but in no case shall the sum of the base salary and the additional compensation exceed ninety percent (90%) of the salary of the Chief Prosecutor of a Basic Prosecution Office.

1.9. In addition to their basic remuneration, every prosecutor will be entitled to additional compensation for other services as provided for by law or the rules issued by Kosovo Prosecutorial Council.

1.10. Regardless of any other provision of the law, the salary of prosecutors will not be reduced during their term of service unless it is imposed as sanction by the Council or the Council's Disciplinary Committee upon a determination that the prosecutor has engaged in misconduct or has committed a criminal offence.

1.11. State Prosecutors are entitled to annual leave in an amount equal to civil servants, but in no case fewer than twenty (20) days of paid annual leave per year.

**Article 22
Protection**

Prosecutors have the right to request from the Kosovo Prosecutorial Council special protection measures for themselves and their families where a threat to life, or to the life of a family member, derives from or is the result of exercising their prosecution function.

**Article 23
Immunity**

1. Prosecutors shall be immune from prosecution, civil lawsuit and dismissal for actions taken, decisions made, or opinions expressed that are within the scope of their responsibilities.
2. Prosecutors shall not enjoy immunity and may be removed from office if they have committed an intentional violation of the law.
3. When a prosecutor is indicted or arrested, he or she shall immediately give notice to the Chief State Prosecutor without delay.

**Article 24
Training of State Prosecutors**

1. Prosecutors shall be entitled and required to receive professional training appropriate to enabling the effective performance of their state prosecutorial functions, as determined by the Council.
2. The Chief State Prosecutor, in conjunction with the Council, shall review training programs for prosecutors and make necessary adjustments to ensure their appropriateness, effectiveness and benefit.

**Article 25
Professional Activities**

1. Prosecutors have the right to take part in professional organizations which promote independence and the protection of professional interests of prosecutors.
2. Prosecutors may engage in activities which are in accordance with the Code of Ethics and Professional Conduct of Prosecutors, such as attending professional or scientific meetings, lectures or trainings and taking part in the preparation of different legal projects. Subject to the approval of the Chief State Prosecutor, prosecutors may be remunerated for such activities in accordance with the Code of Ethics and Professional Conduct of Prosecutors provided there is no conflict of interest and there is no violation of law, code of ethics, or other sub-legal acts.
3. Consistent with the provisions of the Code of Ethics and Professional Conduct of Prosecutors, Prosecutors may engage in professional and scientific writings but may not publish the relevant content of prosecutorial files during the exercise of or after completion of prosecutorial duty, unless it is expressly permitted by law or sub-legal act issued by the Council.

**Article 26
Conduct of Prosecutors**

1. Prosecutors shall not use the status as a prosecutor or the reputation of the State Prosecutor to advance their personal rights or interests.
2. Prosecutors shall not perform any other duty or service that may interfere with their independence and impartiality or may otherwise be incompatible with the performance of the duties of a prosecutor.

3. Prosecutors shall not engage in any political functions or activities, including membership in political parties, or running for or holding political office. Prosecutors are encouraged to vote but otherwise may not participate in elections or political activities. Seeking or maintaining political office is incompatible with the performance of the duties of a prosecutor.

4. The conduct of Prosecutors shall be consistent with the provision set forth in the Code of Ethics and Professional Conduct of Prosecutors.

CHAPTER VI TRANSITIONAL PROVISIONS

Article 27 Transition of Prosecution Offices

1. This law shall be implemented according the following schedule:

1.1. Planning Phase: from January 1, 2011 to December 31, 2011 the Council shall prepare the implementation plan to facilitate the transition from the current prosecution system to the prosecution system established by this law. The Council shall post on its website the implementation plan by December 1, 2011.

1.2. Implementation Phase: from January 1, 2012 to December 31, 2012, the Council shall carry out its implementation plan.

Article 28 Responsibilities of the Council during the Planning Phase and Implementation Phase

1. During the Planning Phase, the Council shall promulgate regulations referring to both transitional and operational issues necessitated by this Law.

2. During the Planning Phase, the Council shall also develop a detailed implementation plan including but not limited to the following:

2.1. assignment, reassignment and transfer of cases to the appropriate prosecution offices having jurisdiction over the territory or subject matter of the case;

2.2. allocation of personnel;

2.3. transfer of physical assets amongst prosecution offices;

2.4. assignment and transfer of prosecutors to appropriate offices and positions as foreseen by this law taking into account and giving due deference to assignments and decisions made during the one-time Appointment Process and workload requirements of each prosecution office; and

2.5. all other matters affecting the transition of the prosecution system to the structure established by this law and for the efficient future functioning of the prosecution offices.

3. The Council shall take all necessary steps to organize, plan and fully implement the provisions of this law and to ensure smooth transition to the new court structure.

Article 29 Completion of pending cases

1. All cases that on 31 December 2012 are third instance cases in any prosecution office and that have not been concluded with final decisions by the court shall, on 1 January 2013, be treated as cases of the Office of the Chief State Prosecutor.

2. All cases that on 31 December 2012 are second instance cases in any prosecution office and that have not been concluded with final decisions by the court, shall on 1 January 2013, be treated as cases of the Appellate Prosecution Office.

3. All cases that on 31 December 2012 are first instance cases in any prosecution office and that have not been concluded with final decision by the court, shall on 1 January 2013, be treated as cases of the appropriate Basic Prosecution Office having jurisdiction over the respective territory.

Article 30 Validity of Prior Acts

All prior acts of prosecution authorities relative to cases then under their valid authority and taken prior to the transfer of competencies as provided in this law shall remain in full force and effect unless negated by subsequent court decision or direction from the Chief State Prosecutor or the Council under this law.

Article 31 Budget

The Government of Kosovo shall provide adequate funds from the Budget of the Republic of Kosovo for the full implementation of this Law.

CHAPTER VII FINAL PROVISIONS

Article 32 Abrogation of Other Laws

1. Upon the entry into force of this law, the following laws are repealed:

1.1. The Law on the Public Prosecution Office of the Autonomous Province of Kosovo

1.2. UNMIK Reg. 1999/05, on the Establishment of an Ad Hoc Court of Final Appeal and an Ad Hoc Office of the Public Prosecutor.

1.3. Any other law to the extent that it is inconsistent with the provisions of this law.

2. Upon the entry into force of this law any reference in any law, regulation, directive, rule or other legal act to "Prosecution Services" or "Public Prosecutor" shall be construed to mean the "State Prosecutor".

3. Nothing in this law shall be construed or applied to alter, restrict, expand or otherwise change the authorities, jurisdiction, powers, or duties granted the Special Prosecution Office as provided in the Law on Special Prosecution Office of the Republic of Kosovo, No. 2008/03-L052.

Article 33 Entry into Force

Articles 21, 28 and 29 shall enter into force as provided in Article 80(6) of the Constitution. The remaining part of this law shall enter into force on January 1, 2013.

**Law No. 03/L-225
30 September 2010**

Promulgated by Decree No. DL-049-2010, dated 18.10.2010, Acting President of the Republic of Kosovo, Dr. Jakup Krasniqi.