

**LAW NO. 04/L-217 ON ASYLUM**

**Assembly of Republic of Kosovo,**

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

Approves

**LAW ON ASYLUM**

**CHAPTER I  
GENERAL PROVISIONS AND BASIC PRINCIPLES**

**Article 1  
Purpose of the Law**

This Law regulates the standards and procedures for granting the status of refugee, subsidiary protection, and temporary protection, as well as the rights and obligations of asylum seekers, the persons with the refugee status and persons who are granted Subsidiary Protection and Temporary Protection.

**Article 2  
Definitions**

1. Terms used in this Law shall have the following meaning:

- 1.1. **Ministry** - the Ministry of Internal Affairs;
- 1.2. **DCAM** - the Department for Citizenship, Asylum and Migration within the MIA;
- 1.3. **DMF** –the Directorate for Migration and Foreigners in the Kosovo Police;
- 1.4. **UNHCR** - the office of the United Nations High Commissioner for refugees;
- 1.5. **Asylum seeker** –every foreign national or stateless person who submits an application for asylum and for whom a final decision has not yet been taken;
- 1.6. **Asylum application** –the application made by a foreign national or a stateless persons, which means a request for international protection. Every request for international protection presumes a request for asylum, unless the foreign national or stateless persons expressly requests another form of protection;
- 1.7. **Foreigner** - any person who is not a citizen of the Republic of Kosovo;
- 1.8. **Foreign national** –each person who is not a citizen of the Republic of Kosovo and who has a foreign citizenship;
- 1.9. **Stateless person (apatrid)** - a person who is not considered as a national by any state under the operation of its law;
- 1.10. **Refugee status** –the recognition by the Republic of Kosovo of a foreigner or a stateless person as a refugee;

1.11. **Refugee** –a person who owing to the well founded fear of persecution for reason of race, religion, nationality, political conviction or belonging to a particular social group, is outside their country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to that country.

1.11.1. the concept of race shall, in particular, include considerations of colour, descent, or membership of a particular ethnic group;

1.11.2. the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

1.11.3. the concept of nationality shall not be confined to citizenship or lack thereof but shall, in particular, include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;

1.11.4. a group shall be considered to form a particular social group where in particular:

1.11.4.1 members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and

1.11.4.2 that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society. Depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the Republic of Kosovo. Gender related aspects, including gender identity, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;

1.11.5. the concept of political opinion shall, in particular, include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in subparagraph 1.26 of this Article and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the asylum seeker;

1.11.6. when assessing if an asylum seeker has a well-founded fear of being persecuted it is immaterial whether the asylum seeker actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the asylum seeker by the actor of persecution.

1.12. **Subsidiary protection** – protection provided to foreign nationals or stateless persons who do not qualify for refugee status, but in respect of whom substantial grounds have been shown for believing that should they return to their country of origin, or in the case of a stateless person, to his/her country of former habitual residence, they will face a real risk of suffering serious harm and is unable, or owing to such risk, unwilling to avail himself or herself of the protection of that country. Serious harm consists of:

1.12.1. death penalty or execution; or  
1.12.2. torture or inhuman or degrading treatment or imprisonment of the asylum seeker in their country of origin; or

1.12.3. serious and individual threat to the life of a civilian or person because of indiscriminate violence in armed international or internal conflicts.

**1.13. Temporary protection** – special procedures providing immediate and temporary protection to persons displaced from third countries in immediate and massive influxes and which cannot return to the country of origin, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection;

**1.14. Geneva Convention** – the convention Relating to the Status of Refugees of 28 July 1951 and the 1967 Protocol, on the Status of Refugees;

**1.15. Country of origin** – the country of nationality of a foreign person or the country in which a stateless person was formerly habitually resident;

**1.16. Country of first asylum** – a country can be considered to be a first country of asylum for a particular asylum seeker if:

1.16.1. he/she has been recognized in that country as a refugee and he/she can still avail himself/herself of that protection,

1.16.2. he/she otherwise enjoys sufficient protection in that country, including benefiting from principle of non-refoulement provided that he/she will be readmitted to that country.

**1.17. Safe third country-** the concept of safe third country may be applied only where the competent authority is satisfied that the asylum seeker will be treated in accordance with the following principles in the third country concerned:

1.17.1. life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;

1.17.2. the principle of non-refoulement in accordance with the Geneva Convention is respected;

1.17.3. the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and

1.17.4. the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

1.17.5. The application of the safe third country concept shall be subject to rules laid down in national legislation, including:

1.17.5.1. rules requiring a connection between the asylum seeker and the third country concerned on the basis of which it would be reasonable for that person to go to that country;

1.17.5.2. rules on the methodology by which the competent authority satisfies itself that the safe third country concept may be applied to a particular country or to a particular asylum seeker. Such methodology shall include case-by-case consideration of the safety of the country for a particular asylum seeker and/or national designation of countries considered to be generally safe;

1.17.5.3. rules in accordance with international law, allowing an individual examination of whether the third country concerned is safe for a particular asylum seekers which, as a minimum, shall permit the asylum seeker to challenge the application of the safe third country concept on the grounds that he/she would be subjected to torture, cruel, inhuman or degrading treatment or punishment.

1.17.6. When implementing a decision solely based on this Article, Republic of Kosovo shall:

1.17.6.1. inform the asylum seeker accordingly; and

1.17.6.2. provide him/her with a document informing the authorities of the third country, in the language of that country, that the asylum application has not been examined in substance.

1.17.7. Where the third country does not permit the asylum seeker to enter its territory, Republic of Kosovo shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in this Law.

**1.18. Safe country of origin** – a country is considered as safe country of origin where, on the basis of the legal situation, the application of the law within democratic system and the general political circumstances, it can be shown that there is a generally and consistently no persecution as defined in Article 1A of Geneva Convention, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situation of international or internal arms conflict.

1.18.1. in making this assessment, account shall be taken, inter alia, of the extent to which protection is provided against prosecution or mistreatment by:

1.18.1.1. the relevant laws and regulations of the country and the manner in which they are applied;

1.18.1.2. observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Convention for Civil and Political Rights and/or the Convention Against Torture in particular the right from which the derogation cannot be made under Article 15(2) of the said European Convention;

1.18.1.3. respect of the non-refoulement principle according to the Geneva Convention;

1.18.1.4. provision for a system of effective remedies against violation of this right and freedom.

**1.19. Family members** – in so far as the family already existed in the country of origin, the following members of the family of the beneficiary of international protection who are present in the Republic of Kosovo in relation to the application for International Protection:

1.19.1. the spouse of the beneficiary of international protection or his/her unmarried partner in a stable relationship, where the law or practice of the Republic of Kosovo treats unmarried couples in a way comparable to married couples under its law relating to foreign national;

1.19.2. the children of the couples referred to in paragraph 1.19.1. of the beneficiary of international protection, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law;

1.19.3. the father, mother or another adult responsible for the beneficiary of international protection whether by law or by the practice of the Republic of Kosovo concerned, when that beneficiary is a child and unmarried.

1.20. **Child** – for the purpose of this law means a foreign nationals or stateless person less than eighteen (18) years of age.

1.21. **Unaccompanied child** - foreign nationals or stateless persons under the age of eighteen (18), who enter the territory of the Republic of Kosovo without being accompanied by an adult who is responsible for them according to the law or customary tradition and for as long as they are not effectively taken into the care of such a person. An unaccompanied child includes a child left alone after entry in the territory of Kosovo.

1.22. **Residence permit** – shall mean any authorisation issued by the authorities of the Republic of Kosovo allowing a foreigner to stay legally on its territory, with the exception of:

1.22.1. visas;

1.22.2. permits issued pending examination of an application for a residence permit or for asylum.

1.23. **Representative** – a person who acts on behalf of an organization which represents an unaccompanied child as a legal guardian, a person who acts on behalf of a state organization which is responsible for the care and welfare of the child, or another representative ensuring the child's best interest.

1.24. **Competent Authority** – DCAM, the National Committee for Refugees and the competent court, in accordance with the Law on the Courts.

1.25. **Acts of persecution** – means:

1.25.1. Acts which are considered persecution among the reasons referred to in sub sub-paragraph 1.10 of this Article, besides others mean:

1.25.1.1. Acts sufficiently serious by their nature or repetition to constitute a severe violation of basic human rights and in particular the rights from which derogation cannot be made under Article 15, paragraph 2. of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

1.25.1.2. or an accumulation of various measures including violations of human rights, which are sufficiently severe as to affect an individual in a similar manner as mentioned in subparagraph 1.25.1.1. of this Article.

1.25.2. Acts of persecution in subparagraph 1.25.1 of this paragraph can, inter alia, take the form of:

1.25.2.1. physical or mental violence, including sexual violence,

1.25.2.2. legal, administrative, police and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner,

1.25.2.3. prosecution, or punishments, that are disproportional or discriminatory,

1.25.2.4. denial of judicial redress resulting in a disproportionate or discriminatory punishment;

1.25.2.5. prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling within the scope of the grounds for exclusion as set out in Article 7 of this law;

1.25.2.6. Actions which by their nature are gender or child specific.

**1.26. Actors of persecution or serious harm- means:**

1.26.1. The actors of persecution or harm outlined in Article 2, subparagraph 1.10 of this Law include:

1.26.1.1. the state;

1.26.1.2. the parties or organizations which control the state or a considerable part of the state's territory;

1.26.1.3. non-state actors if it can be demonstrated that actors referred to in paragraphs 1.26.1.1. and 1.26.1.2 including international organizations are unable or unwilling to provide protection against persecution or serious harm.

**1.27. Actors of protection – means:**

1.27.1. Protection from the persecution outlined in subparagraph 1.10 of this Article can be secured by:

1.27.1.1. the state;

1.27.1.2. the parties or organizations which control the state or a considerable part of the state's territory;

1.27.1.3 protection against persecution or serious harm must be effective and of a non-temporary nature. Such protection is generally provided when the actors mentioned under sub-points 1.27.1.1. and 1.27.1.2. of this Article take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and when the asylum seeker has access to such protection.

1.28. **Detention** - confinement of an asylum seeker by a Republic of Kosovo within a particular place, where the asylum seeker is deprived of his or her freedom of movement.

**Article 3**  
**Protecting family integrity**

1. In accordance with this law, during the procedure and after the end of the examination of the application for asylum or subsidiary protection, the competent authorities must undertake all measures aimed at protecting the unity of the family.

2. The competent authorities must ensure that, in cases when family members of the beneficiary of protection do not qualify individually for such protection, they benefit from the derivative refugee status in accordance with the Law on Foreigner.

3. The exceptions to paragraph 1. and 2. of this Article are family members whose refugee status has been revoked, ended or refused or when circumstances exist excluding them from refugee status in accordance with this Law.

4. The benefits of paragraphs 1. and 2. of this Article can be refused or limited or removed for reasons

relating to national security or public order.

**Article 4**  
**Prohibition of expulsion or return (“refoulement”)**

1. The Republic of Kosovo shall not expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit from the paragraph 1. of this Article may not, however, be claimed by a refugee for whom there are reasonable grounds for regarding as a danger to the security of the Republic of Kosovo, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the Republic of Kosovo.
3. In cases in paragraph 2. of this Article, the residence permit will be revoked or refused.

**Article 5**  
**International protection needs arising *sur place***

1. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on events which have taken place since the asylum seekers left the country of origin.
2. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on activities which have been engaged in by the asylum seeker since he left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin.
3. Without prejudice to the Geneva Convention, Republic of Kosovo may determine that an asylum seekers who files a subsequent asylum seekers shall normally not be granted refugee status, if the risk of persecution is based on circumstances which the asylum seeker has created by his own decision since leaving the country of origin.

**Article 6**  
**Granting of asylum**

1. The Republic of Kosovo grants asylum to a foreign national or stateless person, at their request, who fulfils the criteria laid down in Article 2, paragraph 1.10 of this Law.
2. Persons granted asylum in accordance with paragraph 1. of this Article shall be issued residence in accordance with the Law of Foreigners.

**Article 7**  
**Exclusion from Asylum**

1. The right to asylum will not be granted to a person, about whom there are serious reasons for considering that he/she has:
  - 1.1. committed a crime against peace, war crimes or crimes against humanity as defined in the international instruments drawn up to make provision in respect of such crimes;
  - 1.2. committed a serious non-political crime outside the Republic of Kosovo prior to his or her admission as a refugee, to that country as a refugee;
  - 1.3. been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1. and 2. of the Charter of the United Nations.

2. Paragraph 1. of this Article will be applied to persons who incite or in other ways participate in committing the crimes or acts mentioned therein.

3. Asylum will not be granted to persons who at present receiving the assistance or protection of United Nations bodies and agencies, other than the protection or assistance of the High Commissioner of the United Nations for refugees. When such protection or assistance has ceased for any reason, without the position of these persons being definitively settled in accordance with the relevant resolutions adopted by the United Nations General Assembly, these persons according to the facts (ipso facto) shall be entitled to benefit from this law.

4. Asylum is not allowed to persons whose rights and duties as Kosovo citizens are recognized by the state of Kosovo.

### **Article 8 Granting subsidiary protection**

1. The Republic of Kosovo grants subsidiary protection to foreign nationals or stateless persons who do not qualify for refugee status, but do meet specified criteria defining subsidiary protection, as set out in Article 2, paragraph 1.12 of this Law.

2. As soon as possible after the status has been granted, Ministry shall issue to beneficiaries of subsidiary protection status a residence permit which must be valid for at least one (1) year and renewable, unless compelling reasons of national security or public order otherwise require.

### **Article 9 Exclusion from subsidiary protection**

1. The right to subsidiary protection will not be granted to a person, about whom there are serious reasons for considering that he/she:

1.1. has committed crimes against peace, war crimes or crimes against humanity according to the international provisions that define these crimes;

1.2. has committed serious and punishable crimes;

1.3. guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;

1.4. constitutes a danger to the community or to the security of the Republic of Kosovo.

2. Paragraph 1. of this Article is applied to persons who incite or in another manner participate in committing crimes or acts mentioned therein.

3. Subsidiary protection shall not be granted to a person if he or she, prior to his or her admission to the Republic of Kosovo, has committed one or more crimes outside the scope of paragraph 1. of this Article which would be punishable by imprisonment, had they been committed in the Republic of Kosovo, and if he or she left his or her country of origin solely in order to avoid sanctions resulting from those crimes.

### **Article 10 Entry into the Republic of Kosovo**

Foreign nationals or stateless persons who declare their intention to apply for asylum in the Republic of Kosovo will be treated as asylum seekers in accordance with this Law, and thus will be allowed to enter into the territory of the Republic of Kosovo.



**Article 11**  
**Assistance for Asylum seekers**

1. The asylum seeker shall be able to apply for asylum in a language which he or she understands.
2. Within a period of fifteen (15) days from the submission of their application for asylum, the asylum seeker will be informed in a language that they understand, about the procedure of asylum, the rights and duties of such a procedure, as well as the right to contact UNHCR and any Non-Governmental Organization which offers assistance to asylum seekers.
3. The asylum seeker shall have the right to choose a representative who will assist them and represent them during the process of deciding on asylum, at the expense of the asylum seeker.
4. The representative of the asylum seeker and the representative of the UNHCR office have the right to contact the asylum seeker at all times and in each phase of the procedure deciding on asylum.
5. The Asylum seeker has the right to talk with their representative, or with the UNHCR representative at any time and to be informed of this right.
6. The representative shall enjoy access to such information in the asylum seeker's file as is liable to be examined by the authorities responsible for examination of request for asylum insofar as the information is relevant to the examination of the application
7. As an exception, the representative shall not enjoy access in the applicant's file where disclosure of information or sources would jeopardise national security, the security of the organisations or person(s) providing the information or the security of the person(s) to whom the information relates or where the investigative interests relating to the examination of applications of asylum by the competent authority or the international relations of Republic of Kosovo would be compromised. In these cases, access to the information or sources in question shall be available to the competent authority, except where such access is precluded in cases of national security.

**Article 12**  
**Language of the procedure and the right to a translator**

1. In cases where the asylum seeker does not understand the language in which procedures are done, the Competent Authority will provide translation services to ensure that the process occurs in a language he or she is considered to understand. The translator will be bound by professional confidentiality.
2. In special cases, if it is possible the asylum seeker will be provided with a translator of the same gender.
3. The asylum seeker has the right to engage a translator as long as the latter is not also an asylum seeker.

**Article 13**  
**Women asylum seekers**

Where possible, women asylum seekers have the right to their asylum claim being processed by a woman official.

**Article 14**  
**Unaccompanied child**

1. Unaccompanied child asylum seekers will be assigned an official for social services appointed from the Center for Social Affairs as soon as is it possible as a representative of the unaccompanied child in order

to represent and/or assist the unaccompanied child with respect to the examination of the application. In no circumstances an unaccompanied child cannot be interrogated without being accompanied from the Official for the Social Affairs.

2. The best interests of the child shall be a primary consideration for competent Authority when implementing this Article.

3. The opportunity shall be ensured to the official for social affairs to inform the unaccompanied child about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself/herself for the personal interview. The official for social affairs shall be allowed to be present at that interview and to ask questions or make comments, within the framework set by the person who conducts the interview.

4. If an unaccompanied child has a personal interview on his/her application for asylum, that interview is conducted by a person who has the necessary knowledge of the special needs of child the determining authority on the application of an unaccompanied child.

5. After the recognition of the refugee status, subsidiary protection and the temporary protection, a legal custodian from the Center for Social Affairs for child is appointed to the unaccompanied child.

6. Ministry is obliged to start tracing parents or close relatives of unaccompanied child asylum seeker in cooperation in relevant organizations.

7. The ministry shall ensure that unaccompanied minors are placed either:

7.1. with adult relatives; or

7.2. with a foster family; or

7.3. in centres specialized in accommodation for children; or

7.4. in other accommodation suitable for children.

8. In this context, the views of the child shall be taken into account in accordance with his or her age and degree of maturity.

9. Those working with unaccompanied child shall have had or receive appropriate training concerning their specific needs, and shall be bound by the confidentiality principle in relation to any information they obtain in the course of their work.

#### **Article 15** **Asylum seekers with limited mental capacities**

Asylum seekers with limited mental capacities will be assigned a representative before the process begins.

#### **Article 16** **Persons with special needs**

1. The Government will pay special attention to the treatment and care of persons with special needs, particularly children, unaccompanied children, the elderly people, disabled people, pregnant women, single parents with just one child minor, and persons who have been victims of torture, rape or another serious form of psychological, physical and sexual violence.

2. According to this law, special needs will be defined on the basis of an individual assessment of each asylum seeker, refugee or person under subsidiary protection or persons under temporary protection.

3. Asylum seekers, refugees, persons under subsidiary protection or persons under temporary protection with special needs will be given special treatment in accordance to their specific needs in the event of accommodation, provision of special standards for admission, necessary medical treatment, and required psycho-social counsel.

**Article 17**  
**Residence and freedom of movement**

1. Asylum seekers may move freely within the territory of the Republic of Kosovo.
2. Republic of Kosovo may decide on the asylum seekers residence for reasons of public interest, public order or, when necessary, for the swift processing and effective monitoring of his or her application.
3. When it proves necessary, for example for legal reasons for reasons of public order, Republic of Kosovo may confine an asylum seeker to a particular place in accordance national law.
4. Asylum seekers shall not require permission to keep appointments with authorities and courts if his or her appearance is necessary.

**Article 18**  
**The role of the UNHCR**

1. State authorities will allow UNHCR:
  - 1.1. to have access to asylum seekers, including those in detention and in airport;
  - 1.2 to have access to information on individual applications for asylum, on the course of the procedure and on the decisions taken, provided that the asylum seeker agrees thereto;
  - 1.3. to present its views, in the exercise of its supervisory responsibilities under Article 35 of the Geneva Convention, to any competent authorities regarding individual applications for asylum at any stage of the procedure.
2. Paragraph 1. of this Article shall also apply to an organisation which is working in the territory of the Republic of Kosovo on behalf of the UNHCR pursuant to an agreement with the Government of Kosovo.

**CHAPTER II**  
**THE RIGHTS AND DUTIES OF ASYLUM SEEKERS, THE PERSONS WITH THE REFUGEE STATUS**  
**AND PERSONS UNDER SUBSIDIARY PROTECTION**

**Article 19**  
**The rights of asylum seekers**

1. The asylum seeker has the right:
  - 1.1. to reside in the Republic of Kosovo;
  - 1.2. to basic living conditions;
  - 1.3. to basic health care;
  - 1.4. to basic social assistance;
  - 1.5. to free legal assistance;

- 1.6. to education for children asylum seekers;
- 1.7. to freedom of thought and religious belief;
- 1.8. to employment and professional training.

**Article 20**  
**The right to residence of the asylum seeker**

1. The asylum seeker has the right to reside in the Republic of Kosovo until a final decision is taken.
2. Members of the family which have arrived in the Republic of Kosovo together with the asylum seeker have the right to residence, in accordance with paragraph 1. of this Article.
3. The competent authority shall take appropriate measures to maintain as far as possible family unity as present within the territory of the Republic of Kosovo, if asylum seekers are provided within housing.

**Article 21**  
**The right to basic living and social conditions**

Asylum seekers have the right to financial help that include housing, food and clothing, provided in kind, or as financial allowances or in vouchers, and a daily expenses allowance. Asylum seekers with special needs will be provided the living standards in accordance with their specific needs.

**Article 22**  
**Health care**

1. Asylum seekers have the right to health care, which includes emergency health care and the treatment of illnesses
2. Asylum seekers who have been raped or tortured or who have suffered other serious forms of violence, and asylum seekers with special needs, will be provided with the necessary medical treatment according to specific requirements and the effects caused.

**Article 23**  
**Free legal assistance**

1. Asylum seekers are provided the following free legal assistance:
  - 1.1. information regarding the rights and duties of asylum seekers;
  - 1.2. assistance in drafting appeals;
  - 1.3. representation in procedures before competent authorities.
2. Assistance according to paragraph 1. of this Article will be provided to the Asylum seeker who does not have sufficient means or valuable assets to cover the respective costs.
3. Assistance according to paragraph 1. of this Article can be provided by: lawyers or organizations assisting refugees.

**Article 24**  
**The right to education of asylum seeker minors**

Asylum seeker minors have the right to elementary and secondary education according to the same conditions as citizens of the Republic of Kosovo.

**Article 25**  
**The right to freedom of thought and religious belief**

The Kosovo Government will guarantee to asylum seekers the right to freely exercise religion according to their convictions

**Article 26**  
**The right to employment and professional training**

1. Asylum seekers have the right to engage in profit-making activities six (6) months after the day on which they submitted their application and up to a final decision.
2. Asylum seekers have the right to professional training regardless of whether they have access to employment.

**Article 27**  
**Duties of the asylum seeker**

1. Asylum seekers are obliged to:
  - 1.1. to act in accordance at all times with the laws and other sub-legal acts of the Republic of Kosovo and measures undertaken by state authorities;
  - 1.2. to cooperate with the DCAM and other relevant government authorities;
  - 1.3. to respond to invitations from the Competent Authority and other government offices and to cooperate in every phase of the asylum procedure;
  - 1.4. to submit travel and identity documents and other evidence at their disposal.
  - 1.5. to inform DCAM and other respective asylum authorities of any change of address within three (3) days;
  - 1.6. to act in accordance with instructions issued by the Competent Authority and all other government instructions regarding restriction of movement.
  - 1.7. to not leave the territory of Kosovo without the permission of the Competent Authority while the asylum process is ongoing.
  - 1.8. to cooperate with competent authority relating to the finger prints and photography registration,
2. Competent authorities might check and control the asylum seekers and things he possession,
3. Competent authority may record the asylum seekers oral statements, provided he/she has previously been informed thereof.

**Article 28**  
**The rights of the persons with the refugee status and persons under subsidiary protection**

1. The persons with the refugee status and persons under subsidiary protection have the following rights:
  - 1.1. the right to reside in the Republic of Kosovo for as long as Asylum or Subsidiary Protection lasts;
  - 1.2. elementary social assistance;

- 1.3. elementary shelter;
- 1.4. health care;
- 1.5. education;
- 1.6. assistance for integration into society;
- 1.7. the right to freedom of thought and religious belief;
- 1.8. the right to employment and the right to professional training;
- 1.9. maintaining family unity, as required by the law.
- 1.10. the right to access a court and legal assistance.
- 1.11. the right to possess immovable and moveable property;

2. The persons with the refugee status and persons under subsidiary protection enjoy the rights in paragraph 1. of this Article up to the level of protection enjoyed by citizens of the Republic of Kosovo.

3. The competent authority will inform the person with the refugee status or person under subsidiary protection within a fifteen (15) day period starting from the day of granting of asylum or subsidiary protection, in a language which he or she understands, about the rights and duties which derive from recognition of this status.

#### **Article 29** **The right to residence**

The persons with the refugee status or persons under subsidiary protection have the right to reside in the Republic of Kosovo for as long as they have been given asylum or subsidiary protection.

#### **Article 30** **Social Welfare**

The persons with the refugee status and persons under subsidiary protection have the right to necessary social help under the same conditions as the citizens of the Republic of Kosovo.

#### **Article 31** **Elementary shelter**

1. The persons with the refugee status or persons under subsidiary protection will be provided shelter for up to two (2) years from the day of receiving a decision granting asylum or subsidiary protection.

2. The persons with the refugee status or persons under subsidiary protection will lose the right to accommodation if they refuse the offer of elementary shelter made according to paragraph 1. of this Article.

3. The persons with the refugee status or persons under subsidiary protection who have their own means to cover the costs related to shelter do not have the right to benefit from paragraph 1. of this Article.

#### **Article 32** **Health Care**

A person with the refugee status or the person under subsidiary protection has the right for health care under the same conditions as the citizens of Kosovo.

**Article 33**  
**Education**

The persons with the refugee status or persons under subsidiary protection have the right to elementary, secondary and higher education under the same conditions as citizens of the Republic of Kosovo.

**Article 34**  
**Integration in society**

For the purpose of integrating them into Kosovar society, the study of Kosovar history, languages and culture will be facilitated for the persons with the refugee status or persons under subsidiary protection.

**Article 35**  
**Freedom of thought and of religious belief**

The Kosovo Government will guarantee the persons with the refugee status or persons under subsidiary protection the right to exercise freely his or her religion and his or her opinion according to their convictions.

**Article 36**  
**The right to employment and professional training**

1. The persons with the refugee status or persons under subsidiary protection have the right to work in the Republic of Kosovo without a work permit for foreigners.
2. The persons with the refugee status or persons under subsidiary protection have the right to professional training, and work experience under the same conditions as Kosovar citizens.

**Article 37**

The persons with the refugee status or persons under subsidiary protection have the right to family unity as set out in Article 2 paragraph 1.19. of this Law.

**Article 38**  
**Free legal assistance**

1. The persons with the refugee status or persons under subsidiary protection are provided free legal assistance as follows:
  - 1.1. information regarding the rights and duties deriving from recognition of asylum status or subsidiary protection;
  - 1.2. assistance in drafting appeals and representation before competent authorities in the event of the cessation, annulment or revoking of the status refugee or subsidiary protection.
2. Assistance according to paragraph 1. of this Article will be provided to the persons with the refugee status or persons who do not have sufficient funds or valuable assets to cover the respective costs.
3. Assistance according to paragraph 1. of this Article can be provided by: lawyers or organizations for the assistance of refugees.

**Article 39**  
**The right to possess immovable and moveable property**

The persons with the refugee status or persons under subsidiary protection have the right to possess immovable and moveable property under the same conditions as foreigners.

**Article 40**  
**Naturalization**

The person with the refugee status has the right for the naturalization in accordance with the Law on Citizenships.

**Article 41**  
**The duties of the persons with the refugee status and persons under subsidiary protection**

1. The persons with the refugee status or persons under subsidiary protection are obliged:
  - 1.1. to respect the Constitution, the laws and sub-legal acts of the Republic of Kosovo;
  - 1.2. to inform the Competent Authority of any change of address within seven (7) days.

**CHAPTER III**  
**ASYLUM PROCEDURE**

**Article 42**  
**Decision-making competent authorities**

1. DCAM is responsible for decision-making at the first instance about asylum;
2. The National Committee for Refugees is responsible for examining appeals lodged against decisions taken at the first instance;
3. The competent court in accordance with the Law on Courts is responsible for examining administrative decisions.

**Article 43**  
**Principles of the Asylum procedure**

1. The asylum procedure starts when the foreign national or stateless person applies for asylum.
2. The Competent Authority enables the asylum seeker to present, explain and prove all facts and circumstances relating to his/her request for asylum.
3. The asylum seeker must fully and actively cooperate with the Competent Authority during the procedure. The asylum seeker will present and explain all facts and circumstances of which they are aware in order to assist the Competent Authority in its examination of all the evidence which the asylum seeker has at their disposal. He/she will present all respective documents in his/her possession that could be relevant to ascertaining asylum.
4. The Competent Authority examines the context of the information relating to the current situation in the country from which the person has departed and tries to verify the facts and circumstances relating to the asylum seeker with regard to all evidence provided by him/her. The Competent Authority can take into consideration additional evidence available in order to decide about the asylum application.
5. The decision of the Competent Authority to recognize or refuse asylum is not taken only on the basis of formal documents and other similar proof. The decision is taken based on an assessment of all evidence available, including the declarations of the asylum seeker.
6. During the asylum procedure, the Competent Authority will do everything possible to ensure that the procedure is not adversarial and as far as is possible and when necessary, will assist the asylum seeker in presenting his/her application. The officials responsible for interviewing the asylum seeker are



responsible for preventing the asylum seeker's lack of knowledge and experience damaging his or her rights.

**Article 44**  
**Implementing the Law on Administrative Procedure**

If it is not otherwise provided for in this law, the asylum procedure will be in accordance with the Law on Administrative Procedure.

**Article 45**  
**Submitting the application**

1. The asylum application is submitted at the moment of entry into Kosovo, at a border crossing point, in a police station or at DCAM.
2. The authorities in paragraph 1. of this Article are obliged to help the asylum seeker to submit an application for asylum as soon as possible. Asylum request are neither rejected nor excluded from examination on the sole ground that they not been made as soon as possible.
3. The Authority which receives the asylum request according to this Article should in the event of receiving the application fill out an initial form, as well as taking the finger prints, photographs, and other proof relating to the asylum request and travel documents.
4. After filling out the initial form the Authority receiving the request must immediately contact the competent asylum official in the DCAM and transport the asylum seeker to the Center for Asylum Seekers.

**Article 46**  
**Center for Asylum Seekers**

1. Center for Asylum Seekers (in the following text the Center) will administered by DCAM.
2. The functioning and procedures of the centers will be regulated by special procedures approved by the Ministry of Internal Affairs.

**Article 47**  
**Receiving an Asylum Seeker at the Center**

1. After receiving an Asylum Seeker in the Center, the official of the asylum center must inform the asylum seeker about their rights and duties and the asylum procedure including the possibility of benefiting from free legal assistance and of contacting UNHCR representatives or other organizations dealing with the protection of the rights of refugees in his or her language or in a language which they understand.
2. After informing the asylum seeker about their rights and duties and asylum procedure, the asylum seeker is given a medical examination.

**Article 48**  
**Accommodation of the asylum seeker**

1. The asylum seeker can be accommodated in the Center for Asylum Seekers, in another location assigned by the DCAM or somewhere else, as they wish.
2. In the event of the accommodation of the asylum seeker in a location which they have chosen, they will cover the expenses themselves.

**Article 49**  
**Participation of third parties in the asylum procedure**

1. Asylum procedures are not open to the public.
2. The following individuals below can be present at asylum procedures:
  - 2.1. authorized representative;
  - 2.2. legal guardian for unaccompanied minors;
  - 2.3. guardian for persons with limited mental capacities.
  - 2.4. UNHCR representative;
  - 2.5. translator.

**Article 50**  
**Interview with asylum seeker**

1. The asylum seeker will interview personally without the presence of family members unless the determining authority consider it necessary for an appropriate examination to have other family members present.
2. DCAM will interview the asylum seeker as soon as possible. If necessary, the asylum seeker will be interviewed various times.
3. The asylum seeker is obliged to declare all the facts and circumstances supporting his or her request for asylum, to declare the truth in all responses, to present all evidence available and to give a convincing and trustworthy explanation.
4. Interviews with the asylum seeker must occur in conditions which guarantee confidentiality.
5. A record of the interviews with the asylum seeker must be kept and it must be signed by the asylum seeker to confirm its authenticity after it is communicated in a language that he or she understands.
6. Where an asylum seeker refuses to approve the contents of the report, the reasons for this refusal shall be entered into the asylum seekers file. Refusal to approve the content of the report shall not stop the competent authority to decide on the request for asylum.
7. Asylum seekers shall be interviewed by the person who is sufficiently competent to take account of the personal or general circumstances surrounding asylum request, including the asylum seeker's cultural origin or vulnerability, insofar as it is possible to do so.

**Article 51**  
**Verification of the facts**

1. According to its official duty, DCAM verifies all the relevant facts when making a decision. The Competent Authority, if it considers it necessary, will hold supplementary interviews with the asylum seeker, it will examine the evidence found and if necessary, it will request other evidence.
2. In cases where DCAM needs an expert to verify the facts set out in order to take a decision about an asylum application, the Competent Authority is authorized to consult an expert of that field. The expert will be instructed about the confidentiality of the procedure and will agree to be bound by confidentiality, as required by the law.

3. DCAM is authorized to be advised by an expert on issues relating to the evidence for ascertaining asylum according to the request of the asylum seeker, his or her representative or the UNHCR office representative if they conclude that such an opinion might be important with regard to deciding on asylum.

4. The competent Authority, during the examination of the requests, should ensure that the decisions are taken individually, objectively and impartially, and the precise and up-to-date information is obtained from various sources, such as the United Nations High Commissioner for Refugees (UNHCR), as to the general situation prevailing in the countries of origin of asylum-seekers for asylum and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining requests and taking decisions;

### **Article 52 Accelerated procedures**

1. DCAM may take a decision under accelerated procedure in accordance with the basic principles and guarantees of the first instance procedure, relating to cases when:

1.1. a positive decision is based on the evidence available;

1.2. a negative decision is taken pursuant to Article 54 of this Law.

2. The asylum seeker has the right to lodge an appeal at the National Committee for Refugees within seven (7) days against a decision taken under accelerated procedures.

3. Subparagraphs 1.2. of this Article are not valid for requests submitted by an unaccompanied child or person with limited mental capacities.

### **Article 53 First Instance Decision**

1. DCAM takes, but is not limited the decisions as following:

1.1. recognizes asylum;

1.2. rejection of the request for asylum, and recognizes subsidiary protection;

1.3. rejection of the request for asylum;

1.4. stops the asylum procedure.

2. DCAM will take a decision in written, and in cases when the asylum request is refused, the factual and legal reasons have to be shown in the respective decision as well as information relating to the possibility of the submission of the appeal.

### **Article 54 Rejection of the request for asylum and subsidiary protection**

1. DCAM will reject the request for asylum in cases when:

1.1. the asylum seeker does not meet the criteria for a refugee as set out in the definition of a refugee or for subsidiary protection, as set out in the definition of subsidiary protection;

1.2. in cases where it is considered that the asylum seeker does not have the right to protection according to Articles 7 and 9 of this law;

1.3. in cases when the request for asylum is unfounded, according to Article 55 of this law.

**Article 55**  
**Asylum request which is unfounded**

1. DCAM will reject the request for asylum which is considered unfounded under accelerated procedure in accordance with procedural guarantees which are foreseen by this law in cases when:

1.1. the asylum seeker in submitting his/her application and presenting the facts, has only raised issues that are not relevant or of minimal relevance to the examination of whether he/she qualifies as a refugee by virtue of this law;

1.2. the asylum seeker comes from a safe country of origin;

1.3. the asylum seeker comes from a safe third country on the condition that the respective country re-admits the asylum seeker;

1.4. the asylum seeker when submitting the request for asylum, has not, without any justified reasons, stated the data on his/her identity, age, family relationships, former residence, travelling directions, identification documents, reasons for seeking asylum;

1.5. the asylum seeker has filed another asylum request stating other personal data;

1.6. the asylum seeker has not produced information establishing with a reasonable degree of certainty his/her identity or nationality, or it is likely that, in bad faith, he/she has destroyed or disposed of an identity or travel document that would have helped establish his/her identity or nationality;

1.7. the asylum seeker was the subject of an asylum request in the Republic of Kosovo which received a negative decision and the circumstances of that decision have not altered.

1.8. the asylum seeker has failed without reasonable cause to make his/her asylum request earlier, having had opportunity to do so.

1.9. the asylum seeker uses the asylum process merely to obstruct or delay deportation.

1.10. false information is given about identity or false documents are presented which are intentionally declared to be original.

1.11. the asylum seeker refuses to cooperate regarding the taking of finger prints.

**Article 56**  
**Suspension of the procedure**

1. DCAM will suspend procedure in cases where one of the following conditions is met:

1.1. the asylum seeker withdraws the asylum application;

1.2. when the asylum seeker departs from the last place of residence for over three (3) days without informing the competent authority, except cases when the asylum seeker proves within a reasonable time that announcement of the asylum seeker and non-announcement has happened from the circumstances out of his or her control;

1.3. the asylum seeker leaves the Republic of Kosovo during the procedure.

2. The asylum seeker can request to reopen the asylum process only if strong reasons are presented. The request to reopen the asylum procedure will stop the expulsion of a foreigner from Kosovo.

#### **Article 57** **Presenting a new asylum request**

1. The asylum seeker, whose request has been refused and a final decision has been taken, can present a new asylum request for asylum.

2. The new asylum request according to the paragraph 1. of this Article will be preliminary examined if he or she presents new evidence related to the ascertainment if he or she has good chances to be qualified as a refugee. If during the preliminary examination according to this paragraph, new facts are ascertained on basis of which the asylum seeker can be qualified as a refugee, than the new request will be examined through a regular scrutiny.

3. Asylum request which is subject to preliminary examination according to paragraph 2. of this Article shall be examined in accordance with procedural guarantees foreseen in this law.

#### **Article 58** **Return of the asylum seeker**

If the request for asylum is rejected by a final decision or stopped, DCAM decides, as a general rule, on return from Kosovo and orders the decision to be executed. DCAM takes into consideration the principle of family unity

#### **Article 59** **Cessation of asylum**

1. A foreign national or a stateless person shall cease to be a refugee, if he or she:

1.1. has voluntarily re-availed himself or herself of the protection of the country of nationality; or

1.2. having lost his or her nationality, has voluntarily reacquired it; or

1.3. has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or

1.4. has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution; or

1.5. can no longer, because the circumstances in connection with which he or she has been recognized as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality;

1.6. being a stateless person with no nationality, he or she is able, because the circumstances in connection with which he or she has been recognized as a refugee have ceased to exist, able to return to the country of former habitual residence.

2. In considering subparagraphs 1.5 and 1.6 of paragraph 1. of this Article, the Republic of Kosovo shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded.

3. Subparagraphs 1.5 and 1.6 of paragraph 1. of this Article shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

**Article 60**  
**Revocation of, cancel of or refusal to renew refugee Status**

1. The competent authority will revoke, or refuse to renew the refugee status in cases when:
  - 1.1. he or she has ceased to be a refugee in accordance with Article 59 of this law;
  - 1.2. he or she should have been or is excluded from being a refugee in accordance with Article 7 of this law.
2. The competent authority will cancel, or refuse to renew the refugee status in cases when:
  - 2.1 his or her misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of refugee status;
  - 2.2. there are reasonable grounds for regarding him or her as a danger to the security of the Republic of Kosovo;
  - 2.3. he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the society .
3. Before revoking, cancel or reuse to renew, the refugees status the Competent Authority shall inform the refugee in writing about the reasons for re-examining asylum status and shall offer him/her an opportunity to present verbally or in writing reasons why the status should not be revoked.
4. A person whose refugees status is revoked according to subparagraph 1.2 of this Article and who is present in the Republic of Kosovo will be guaranteed the following rights: the right to non-discrimination, the right to religious freedom, access to a court, education, no punishment for illegal entry or stay, and respect for the principle of non-return (non-refoulement).

**Article 61**  
**Cessation of subsidiary protection**

1. Persons with subsidiary protection are not considered as such from the moment when the circumstances justifying the granting of this protection no longer exist or when these circumstances have changed in such a manner that this protection is no longer necessary.
2. In applying paragraph 1. of this Article, the competent authority shall have regard to whether the change in circumstances is of such a significant and non-temporary nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.
3. Subsidiary protection terminates if:
  - 3.1. the person withdraws from subsidiary protection.

**Article 62**  
**Revocation of, ending of or refusal to renew subsidiary protection status**

1. The competent authority will revoke, end or refuse to renew the subsidiary protection status in cases when:
  - 1.1 he or she has ceased to be a beneficiary of subsidiary protection in accordance with Article 61 of this Law;
  - 1.2 he or she should have been or is excluded from having the subsidiary protection status in accordance with Article 9 of this law; or

1.3. the foreign national or stateless person has been granted subsidiary protection by giving false declarations or by withholding key facts.

2. Before revoking subsidiary protection the Competent Authority will inform the persons under subsidiary protection in writing about the reasons for the re-examination of the status of subsidiary protection and offer him/her the opportunity to explain the reasons verbally or in writing why this status should not be revoked.

### **Article 63**

#### **Deadlines for first instance procedures**

1. The asylum procedure in the first instance as a general rule has a duration of six (6) months from the day when the request is submitted.

2. The decisions taken in accordance with Article 52 of this law shall, as a general rule is taken within thirty (30) days from the day of the submission of the request.

## **CHAPTER IV**

### **APPEALS PROCEDURE**

#### **Article 64**

##### **Appeal**

1. The asylum seeker, the person with the refugee status, person under subsidiary protection or person under temporary protection has the right to lodge an appeal at the National Committee for Refugees against a DCAM decision.

2. Appeals against a first instance decision are regulated by the Law on Administrative Procedure, except in cases when the Law on Asylum provides otherwise.

3. Appeals against second instance decisions are lodged at the competent court. Appeals against first and second instance decisions suspend the execution of a decision.

#### **Article 65**

##### **Deadline for lodging appeal**

1. The deadline for lodging an appeal against a first instance decision is fifteen (15) days from the day of the notification of the decision, except in cases determined otherwise by this law.

2. A complaint which is transmitted by fax is considered valid if it is sent within the deadline and the original is sent later.

#### **Article 66**

##### **National Committee for Refugees**

1. The Kosovo Government shall establish a National Committee for Refugees and its members shall serve for a three (3) year mandate:

1.1. the committee is comprised of a President, Vice President and five regular members;

1.2. the President, Vice President and Committee members are appointed from the ranks of graduated lawyers, employed in state administrative authorities and with at least five (5) years of professional work experience;

1.3. the first instance authority is excluded from participation in the National Council for Refugees;

- 1.4. the UNHCR representative participates as an observer and has the right to provide comments in the context of final decision.
2. The Committee is independent in its work.
3. In principle, the Committee decides about cases in a three (3) member council, chaired by the President or Vice President. The council takes decisions based on a majority vote.
4. The Government issues sub-legal acts to regulate the procedures of the National Committee for Refugees.

**Article 67**  
**Grounds for appeal**

1. The grounds for appeal are as follows:
  - 1.1. violation of the provisions of procedural law;
  - 1.2. violation of the provisions of material law;
  - 1.3. inaccurate or incomplete ascertaining of the factual situation;
  - 1.4. new substantial facts in support of the request.

**Article 68**  
**Re-instatement by the deadline**

1. If the asylum seeker for good cause cannot submit an appeal within the legal deadline, they may request reinstatement in time to appeal
2. The application for re-instatement is presented within ten (10) days of the day of becoming aware of the filing of a decision taken on his behalf.
3. The application for reinstatement by the deadline suspends the execution of the decision on the expulsion of the asylum seeker from Kosovo.

**Article 69**  
**Procedures at the second instance**

1. The national committee for refugee shall decide on the basis of evidence gathered during the asylum procedure in the first instance and on the basis of other evidence presented by the asylum seeker.
2. At the conclusion of the review of an appeal, the Committee decides as follows:
  - 2.1. it approves the first instance decision;
  - 2.2. it annuls the first instance decision and returns it for examination at the first instance;
  - 2.3. it remedies noted shortcomings by taking appropriate decision;
  - 2.4. it changes the first instance decision on the basis of the same evidence.

**Article 70**  
**Deadline for the examination of the appeal**

1. As a general rule the Committee decides within thirty (30) days on the examination of the appeal,



except in cases of appeals presented against decisions taken pursuant to Article 55 of this law.

2. In cases when the appeal is lodged against decisions taken pursuant to Article 55 of this Law then the deadline to decide about the appeal is fifteen (15) days from the day of submitting the application.

## **CHAPTER V GRANTING TEMPORARY PROTECTION AND STATUS OF PERSONS WITH TEMPORARY PROTECTION**

### **Article 71 Decision of the Government**

1. The Republic of Kosovo can provide temporary protection to foreign nationals or stateless persons who come in large numbers from countries where, because of war or similar situations, general violence or internal conflict, fundamental human rights are violated as the country of origin is unable or unwilling to protect them.
2. The decision about the need of granting temporary protection and the decision relating to the termination of the reasons for granting protection will be taken by the Kosovo Government.
3. The decision about the need for granting temporary protection will define the group of persons to which temporary protection will apply and the date for which this protection will be in effect
4. The decision about the necessity of giving temporary protection under this Article should be taken while considering the economic capacities, national security, maintenance of public law and order and relevant information provided by UNHCR and other organizations assisting refugees.
5. Temporary protection shall not prejudice recognition of refugee status under Geneva Convention.
6. Republic of Kosovo shall apply temporary protection with due respect for human right and fundamental freedoms and their obligations regarding non-refoulement.

### **Article 72 The Competent Authority for granting temporary protection**

1. The Ministry is the competent authority for granting temporary protection.
2. Temporary protection expires within one (1) years.
3. Temporary protection may be extended for an additional six (6) months if the conditions remain in the country of origin of the protected person that formed the basis of the decision to grant the protection. Temporary protection may be extended for a maximum period of two (2) years.

### **Article 73 Grounds for exclusion**

Temporary protection is not given to foreign nationals or stateless persons in the cases where it is found that they do not have the right to protection, as set out in Articles 7 and 9 of this law.

### **Article 74 Submitting application for asylum**

1. Persons under temporary protection have the right to submit an asylum request at any time.
2. Asylum request according to paragraph 1. of this Article will be examined after the end of temporary

protection.

**Article 75**  
**End of temporary protection**

1. Temporary protection will end in these cases:

- 1.1. after the end of the period during which temporary protection was granted;
- 1.2. after the Government's decision regarding the termination of the reasons for granting temporary protection.

**Article 76**  
**Return**

1. The Republic of Kosovo shall take the measures necessary to make possible the voluntary return of persons enjoying temporary protection or whose temporary protection has ended. Kosovo shall ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. The Republic of Kosovo shall ensure that the decision of those persons to return is taken in full knowledge of the facts.

2. The Republic of Kosovo will undertake all necessary measures to ensure that the forced return of persons, whose period of temporary protection has expired or has been terminated, occurs in accordance with respect for human dignity.

**Article 77**  
**The rights and duties of persons under Temporary Protection**

1. Persons under Temporary Protection have the right:

- 1.1. to stay temporarily in the Republic of Kosovo in accordance with the period of temporary protection;
- 1.2. to have basic conditions for shelter and living;
- 1.3. health care
- 1.4. the right to family unity according to this Law
- 1.5. the right to education
- 1.6. to access legal advice and defense;
- 1.7. the right to freedom of thought and religious belief;
- 1.8. the right to engage in profit-making activity;
- 1.9. essential assistance in the sense of social welfare.

2. The duties defined in Article 41 of this Law are valid also for persons who have been granted Temporary Protection.

**Article 78**  
**The right to health care**

1. Persons under temporary protection have the right to health care which includes emergency health

care and the treatment of illnesses.

2. Persons under temporary protection who have been subjected to rape, torture or other serious forms of violence and asylum seekers with special needs will be offered medical assistance according to specific needs and the effects caused.

**Article 79**  
**The right to basic living conditions**

1. Persons under temporary protection have the right to basic living conditions which include but are not limited to: shelter, food, clothing and hygiene packs. Persons under temporary protection with special needs will be provided the living standards in accordance with their specific needs.

2. Asylum seekers have the right to benefit from social assistance in accordance with the Law on Social Schemes.

**Article 80**  
**The right to education**

Persons under temporary protection have the right to elementary and secondary education under the same conditions as citizens of the Republic of Kosovo.

**Article 81**  
**The right to family reunification**

The reuniting of the family with dependent members is allowed for persons who have been given Temporary Protection, for family members, as set out in Article 2 of subparagraph 1.19 of this Law.

**Article 82**  
**The right to employment**

1. Persons under temporary protection have the right to employment in the Republic of Kosovo without a work permit for foreign nationals.

2. Persons under temporary protection have the right to professional training and work experience under the same conditions as Kosovar citizens.

**Article 83**  
**The right to freedom of thought and religious belief**

The Kosovo Government guarantees persons under temporary protection the right to freely exercise religion according to their convictions.

**Article 84**  
**Accommodation of foreigners granted Temporary Protection**

Persons under Temporary Protection will be secured accommodation in accordance with the economic capacities of the Republic of Kosovo.

## **CHAPTER VI**

### **Article 85 Issuing documents**

1. The Ministry issues asylum seekers the following documents:
  - 1.1. certification of the submission of an application for asylum;
  - 1.2. identity card for asylum seeker.
2. The person with the refugee status will be issued the following documents:
  - 2.1. resident permits for refugee; and
  - 2.2. travel document for refugees.
3. Persons under subsidiary protection and persons under temporary protection will be issued the following documents:
  - 3.1. residence permit; and
  - 3.2. travel document for foreigners.
4. The documents pursuant to paragraph 2. and 3. of this Article will be issued in accordance with the Law on Foreigners.

### **Article 86 Identity card for asylum seeker**

1. The identity card for an asylum seeker also serves as a temporary residence permit in the Republic of Kosovo.
2. The identity card is issued to all family members of the asylum seeker's family.
3. The identity card of the asylum seeker is valid up to the end of the asylum process.

### **Article 87 Residence permit of the person with the refugee status, person under subsidiary protection and person under Temporary Protection**

1. The persons with the refugee status, persons under subsidiary protection and persons under Temporary Protection will be issued a residence permit.
2. According to paragraph 1. of this Article, residence permits will be issued also to beneficiaries of family unification.

### **Article 88 Travel documents for the persons with the refugee status**

- 1 A travel document is issued to the person with the refugee status in accordance with the Schedule of the Geneva Convention and International Civil Aviation Organisation standards.
2. An application for travel documents must be personally submitted by the person with the refugee status if he or she is eighteen (18) years old and has the capacity to act, or through his/her representative.

3. When the person with the refugee status is younger than eighteen (18) years, the application must be made by his or her legal representative or guardian.
4. DCAM will confirm the status of asylum for the purpose listed in this Article.
5. In the event of the withdraw of the status of refugee the person will be required to return the travel document to DCAM.

#### **Article 89**

#### **Travel documents for persons under subsidiary protection and temporary protection**

Ministry shall issue to beneficiaries of subsidiary protection status who are unable to obtain a national passport, documents which enable them to travel outside the territory, unless compelling reasons of national security or public order otherwise require.

#### **Article 90**

#### **Return of documents**

The documents listed in Article 85 subparagraph 1.2, 2.1, 2.2 and 3.1 of this Law are to be returned to DCAM after the end of the procedure, revoking of status or in cases of replacement due to damage.

### **CHAPTER VII**

### **HANDLING OF PERSONAL DATA**

#### **Article 91**

#### **Handling of personal data**

In accordance with the fulfillment of their legal function, the DCAM, the authorities handling appeals and other organizations charged with duties pursuant to this law, can handle or provide for the handling of the personal data of an asylum seeker, a person to be protected and their relatives, including sensitive data, as defined in the Law on Data Protection.

#### **Article 92**

#### **Communication of personal data of the country of origin or descent**

1. Personal data of asylum seekers shall be protected by the Law on Data Protection.
2. The competent authorities when examining individual requests shall not:
  - 2.1. directly disclose information regarding individual request for asylum, or the fact that an request has been made, to the alleged actor(s) of persecution of the asylum seeker;
  - 2.2. obtain any information from the alleged actor(s) of persecution in a manner what would result in such actor(s) being directly informed of the fact than an request for asylum has been made by the asylum seeker in question, would jeopardize the physical integrity of the asylum seeker and his/her dependants, or the liberty and security of his/her family members still living in the country of origin.
3. DCAM in case of organizing the return of asylum seekers can get in touch with the country of origin or descent in order to find the travel documents necessary for the execution of the decision, provided that refugee status is not granted by a final decision.
4. For the purpose of executing the decision to return to the country of DCAM in case of organizing the return, may communicate the following information to foreign authorities:

4.1. personal data (name, surname, date and place of birth, gender, nationality, last known address in the country of origin or descent) of the person concerned, and if necessary the personal details of his relatives

4.2. data on the passport or other identity document;

4.3. fingerprints, photographs and perhaps biometric data;

4.4. information about other documents that enable the identification of the person;

4.5. data regarding the health condition of the person provided that this is consistent with their interests;

4.6. any other information necessary to ensure the person's entry into the country of destination and to maintain the security of associated persons;

4.7. data relating to open criminal proceedings to the extent that it is important for the return procedure of the person concerned, the maintenance of order and public safety in the country of origin or descent, and as long as the person concerned is not threatened.

#### **Article 93**

#### **Cooperation with criminal prosecution authorities**

DCAM transmits to criminal prosecution authorities all data and evidence for an asylum seeker suspected of breaking public international law, especially if they have committed a crime against peace, a war crime or a crime against humanity, by participating in genocide or practicing torture.

#### **Article 94**

#### **Biometric data**

1. The competent authorities can handle biometric data of an asylum seeker or a person to be protected for the purpose of ascertaining their identity.

2. The type of biometric data that must be gathered and the right of access is regulated by the Law on the Protection of Data.

#### **Article 95**

#### **Finger prints and photographs**

1. The finger prints and photographs of each asylum seeker and person to be protected will be taken. The Government defines as exceptions to this rule children who are under twelve (12) years.

2. The finger prints and photographs will be registered in a database held by DCAM

3. The finger prints taken by DCAM will be compared to the fingerprints registered by the police.

4. If the police ascertain that the new fingerprints are the same as those previously registered, they inform DCAM, noting the personal data of the person (name, surname, date of birth, gender, reference number, personal number, citizenship and country in which they are located). If this concerns data gathered by the police it is necessary to indicate (with a code) the date, location and reason of taking the finger prints.

#### **Article 96**

#### **Use of this data**

1. DCAM uses this data for the purposes of:

- 1.1. verifying the identity of the person in question;
- 1.2. verifying whether the person has submitted an asylum application;
- 1.3. verifying if there is data which confirms or contradicts the person's declarations;
- 1.4. verifying if the data exists which puts in doubt the ability of the person to win asylum status;
- 1.5. facilitating cooperation between the DCAM and the police.

2. Communicating personal data outside the country gathered in accordance with paragraph 4. of Article 96 of this law without the approval of DCAM is prohibited. Article 6 of the Law on the Protection of Data applies correspondingly.

#### **Article 97 Destruction of data**

1. Data will be destroyed:

- 1.1. if asylum status is given to the person;
- 1.2. ten (10) years after receipt of a final decision refusing an asylum request, after voluntarily withdrawing an asylum request, or after the cessation of the asylum procedure;
- 1.3. ten (10) years after removing subsidiary protection for a person to be protected.

#### **Article 98 Keeping statistics**

1. DCAM administers a database which allows the registering of asylum applications and appeals and manages dossiers.
2. This database can hold sensitive personal data as long as necessary to complete duties defined by law.
3. Inaccurate data should be corrected.

### **CHAPTER VIII FINAL PROVISIONS**

#### **Article 99 Time limits for issuing sub-legal acts**

1. After the entrance into force of this law, within six (6) months, the Ministry of Internal Affairs will issue necessary sub-legal acts.
2. The Ministry in cooperation with other Institutions may also issue other sub-legal acts for the implementation of this law.

#### **Article 100 Repeal**

The Law on Asylum No. 04/L-073 and all other acts that are contrary to the provisions of this Law shall be repealed.

**Article 101**  
**Transitional provisions**

Applications ongoing before the entrance into force of this Law shall be regulated by this Law.

**Article 102**  
**Entry into force**

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

**Law No. 04/L-217**  
**31 July 2013**

**Promulgated by Decree No.DL-039-2013, dated 19.08.2013, President of the Republic of Kosovo**  
**Atifete Jahjaga**