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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

KOSOVO

DRAFT LAW *

ON PUBLIC GATHERINGS

() Provided by the Authorities*



Republika e Kosovës
Republika Kosova - Republic of Kosovo
Qeveria - Vlada - Government
Ministria e Punëve të Brendshme - Ministarstvo Unutrašnjih Poslova - Ministry of
Internal Affairs

DRAFT LAW ON PUBLIC GATHERINGS

The Assembly of the Republic of Kosovo,

Pursuant to Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves:

DRAFT LAW ON PUBLIC GATHERINGS

Article 1

Purpose

1. The purpose of this law is to guarantee the exercise of the right to peaceful public gatherings and the freedom of speech at peaceful public gatherings and public events.
2. This right may only be restricted if it is necessary to safeguard public order, public health, national security or the protection of the rights of others.
3. This law also regulates the time and manner of announcing public gatherings and public events, as well as the duties and responsibilities of the organizers.

Article 2

Scope of action

The scope of action of this law is extended to the competent security bodies as well as to all other bodies and participants in public gatherings during the exercise of the demands and responsibilities that they have.

Article 3

Definitions

1. Expressions used in this law have the following meaning:
 - 1.1. **Peaceful Public gatherings** - Means a temporary and peaceful presence of two or more individuals, in public places or spaces open to the public, for the purpose of expressing common opinion on issues of public interest.
 - 1.2. **Protest** - means a resolute opposition for an injustice or an illegal action, expression of dissatisfaction with something in a firm manner.
 - 1.3. **Demonstration** - means manifestation of popular masses organized in the streets and squares to express openly a political, economic or social demand, to oppose something.
 - 1.4. **Peaceful commemorations** - means gatherings with the aim to commemorate a historic event or to honor a distinguished historical figure or contributor to issues of national interest.
 - 1.5. **Marching** - means organized walking, usually in rows, of citizens and of various vehicles, in front of a stage in the case of state celebrations or other arrangements;

1.6. **Public events** - means events that focus on sporting, cultural and entertainment activities, with a competitive or non-competitive character, and events that have commercial or non-commercial character.

1.7. **Restriction of the public gathering** – means a written decision in which the forms and reasons for restrictions of a gathering are outlined;

1.8. **Forbiddance of public gathering** - A written decision in which reasons of forbiddance of the peaceful public gathering are outlined;

1.9. **Public spaces** are considered squares, boulevards, streets and any other space that is used freely for the movement of citizens and vehicles.

1.10. **Spaces open to the public** - are considered spaces which are available to citizens who under certain conditions must acquire permission to enter.

1.11. **Competent body** - for the purpose of this law is Kosovo Police and other bodies in the scope of this law.

1.12. **Organiser** - any legal or natural person that organizes a gathering.

1.13. **Steward** - is a person appointed by the organizer of the public gathering for maintaining order and peace over the course of the duration of the public gathering and that have distinctive marks.

1.14. **Violence** - is an action that is carried out by an individual or group, through the use of physical force, psycho-physical coercion, by compelling means or methods, against citizens or public and private property.

Article 4

The right to and types of public gatherings

1. Any person regardless of gender, race, color, language, religion, nationality, economic, financial, educational, and social status, political conviction, or any other personal circumstance, has the right to organize and participate in public gatherings, according to rules set out by this law.

2. Types of public gatherings, according to this law are considered all peaceful gatherings as follows:

- 2.1. gatherings;
- 2.2. marches;
- 2.3. protests;
- 2.4. public celebrations;
- 2.5. peaceful commemorations;
- 2.6. demonstrations;
- 2.7. public events

Article 5
Peaceful public gatherings

1. Peaceful public gatherings are considered all organized gatherings with the aims of public expression of political, social, national or racial concerns which is not accompanied by unlawful actions.
2. All public gatherings shall be notified by the organizer or their representative, in line with the time-limits and conditions foreseen by this law.
3. The organizer is responsible for organizing and maintaining order on the occasion of citizens' participation in the public gathering. They shall support the police in maintaining order, decide on the continuation, stopping or concluding of the gathering, allow the right of speech, interrupt the speakers in their speech, and declare the conclusion of the speeches and the gathering;
4. In case the orders of the organizer of the gathering are not followed by the participants and the holding of gathering is endangered, the organizer in coordination with the police shall stop the gathering.
5. The organizer of a public gathering is responsible for taking all measures related to organizing the public gathering, in compliance with this law.

Article 6
Location of public gatherings

1. Public gatherings may be held at any suitable location.
2. Gatherings held in the following locations may be subject to proportionate restrictions on their time, place and manner, if it is necessary to ensure that they do not cause undue disruption:
 - 2.1. Near hospitals and locations where first aid vehicles might be obstructed and the peace of hospitalized persons might be disturbed.
 - 2.2. Near nursery schools and primary schools during school hours.
 - 2.3. At major highways in order not to obstruct the movement of vehicles.
 - 2.4. In other locations where, taking into account the time, the number of participants and the purpose of the gathering might seriously disturb a large number of citizens.
3. If more than one gathering is notified to take place at the same place and time, or at an approximate time, the competent bodies shall aim to facilitate all gatherings.
4. If a gathering is notified to protest against another gathering (counter-gathering), the competent bodies shall facilitate both the gathering and the counter-gathering, unless there is an imminent danger of clash between their participants.

Article 7
The notification for peaceful public gatherings

1. The notification for organization of the peaceful public gathering, purpose of the gathering, time and place of organization shall be made in writing or email to the Competent Bodies.
2. Kosovo Police, on their official website will publish a standard form for notification of the peaceful public gatherings.
3. The notification shall be made at the latest seventy two (72) hours before the public gathering is held.
4. The notification for public gathering shall include:
 - 4.1. The purpose, place, the day and time of holding the public gathering and the end of the gathering as well as the itinerary (if available);
 - 4.2. Information on the organizer or representative of the gathering (if available);
 - 4.3. The number of stewards, and
 - 4.4. The approximate number of participants

Article 8
Gatherings that do not need to provide advance notice

1. Religious rites, weddings, funerals and similar gatherings do not need to provide advance notification.
2. Gatherings that may be held without notification are those which take place in indoor premises or premises foreseen for purposes such as: meetings, tribunals, roundtables of various subjects.
3. No notification is required for gatherings if they are held in: stadiums, cinema halls, theatres and which do not require additional security measures.
4. Public gatherings may be held in private properties and areas without notifying the police.
5. The police shall not enter private areas where public gatherings take place, without the consent of the organizer of the gathering or of the property owner, except in flagrant cases in order to prevent a threat to life and health of the participants in the gathering.

Article 9
Urgent gatherings

1. In urgent circumstances the gathering may be held without respecting the time-limit of seventy two (72) hours foreseen by this law. However, also in such occasions a notification in writing shall be submitted, containing the details defined under paragraph 4 of Article 7 of this law, as well as the reason for the urgency.
2. The notification shall be made immediately, but no later than three (3) hours before the gathering takes place.
3. Competent bodies act in accordance with this law also in case of a peaceful spontaneous gathering, having no known organizer.

Article 10
Prohibition of public gathering

1. Competent bodies may prohibit holding of a peaceful public gathering based on one or more of the following reasons:
 - 1.1. The aims of the gathering incite or call for ethnic, racial, national or religious hatred or violence, or other incitements forbidden by legislation in force.
 - 1.2. Poses a real risk to public safety, crime prevention, protection of public health, and of human rights and freedoms;
 - 1.3. There are considerable reasons that the gathering might be used for violence.
2. Regarding the prohibition based on paragraph 1 of this Article, competent bodies issue a written decision, no later than forty eight (48) hours prior to start of the gathering. If the decision on prohibiting the public gathering is not issued within the foreseen time, then such gathering shall be considered as permitted
3. A complaint may be made against this decision within forty eight (48) hours to the highest police bodies.
4. These bodies are obliged to decide within forty eight (48) hours on the complaint and to inform the organizer.
5. The organizer or the representative of the public gathering, who is not satisfied with the decision of the authority to prohibit the public gathering, may appeal within three (3) days at the competent court to review the case.
6. On this occasion the court shall decide on a fast track procedure.

Article 11
Responsibilities of the organizer for organizing a peaceful public gathering

1. The organizer is responsible for organizing and leading the peaceful public gathering. The organizer may appoint another person to be in charge of the gathering.
2. The organizer shall take necessary measures for maintaining peace and order at the public gathering.
3. The organizer shall ensure a sufficient number of stewards at the public gathering, who shall wear a colored ribbon on their arms
4. The organizer may entrust maintaining order to private security companies licensed in compliance with the relevant legislation in Kosovo.
5. Upon request of the organizer, Kosovo police may cooperate in maintaining order and take measures for detaining persons acting in contradiction with the law.
6. The organizer during the time of the gathering, shall create space for the movement of Kosovo police, first aid, and fire rescue vehicles.

Article 12
Maintaining order at the public gathering

1. The police will maintain the public order and peace around the space where the public gathering takes place.
2. Competent bodies for maintaining public peace and order and safety are responsible to ensure the freedom of organization, participation and free speech of citizens at peaceful public gatherings.
3. Competent bodies for maintaining public peace and order and safety may take measures to use violence only when the public gathering, respectively the protest, threatens to destroy the general good.
4. Competent bodies may intervene in a public gathering for maintaining peace and order in cases when:
 - 4.1. The manner of the holding of the gathering is such that it may concretely damage public peace and order, general safety, including participants at the gathering;
 - 4.2. Unlawful actions are carried out during the holding of the gathering;
 - 4.3. There is an emergency situation related to public safety when the space used by the gathering is required by emergency services.
 - 4.4. The competent bodies responsible for maintaining order, peace and safety may order the removal of a group of people from the gathering that obstruct the normal conduct of the gathering. Otherwise, this body orders the organizers to stop the gathering and leave the space.
5. During public gatherings, the competent bodies may record voices, film, photograph and initiate minor offense procedures against participants if there is reason to believe there is a risk for disruption of public peace and order.
6. The police may take action to prevent a risk, when it is believed that the filmed person may carry out criminal offenses related to gatherings.
7. During a public gathering, the police may, at the request of the organizer of the gathering, expel participants or groups of participants from gatherings being conducted for reasons of unlawful behaviour. In these cases, the police can identify these persons, conduct a search for weapons and order them to leave the place where the gathering takes place;
8. Recordings, filming and photographs are disposed of immediately after the gathering, in case they are not needed;
9. The police may take additional actions for general safety by establishing strong barriers and creating safety corridors at places or near the places where the public gathering is held.

Article 13
Restriction and prohibition of public gatherings

1. During a public gathering, restrictions may be imposed on public gatherings, if there is reason that the holding of a gathering poses a real risk to national security or public safety, for the prevention of disorder or crime, for the protection of health or for the protection of the rights and freedoms of others.

2. When this risk cannot be prevented by less restrictive measures, the Police of the Republic of Kosovo may prohibit the holding of the gathering or decide on the time and place of the holding of the gathering.
3. Restrictions of public gatherings must be proportionate, lawful and reasonable.
4. The right to participation and speech in public gatherings is forbidden in cases when public gatherings are used to call for and incite ethnic, racial, national or religious hatred or violence, or other incitements forbidden by legislation in force.

Article 14
Prohibited actions and items during a peaceful public gathering

1. Participants in a peaceful public gathering are forbidden to carry weapons or banned items and also to carry or sell alcohol.
2. The organizer, stewards and participants at public gatherings are prohibited from carrying tools or instruments, which during their use may cause harm to themselves and the life and health of others.
3. Flags and banners are allowed, but it is forbidden to burn or use them as a means of attack on official persons, citizens or even themselves. Sirens with noise are also allowed, as long as they are in compliance with the Law on Noise Protection.
4. Public gathering participants are forbidden to carry signs, inscriptions or other distinctive items that are offending, inciting or calling for ethnic, racial, national or religious hatred or violence, or other incitements forbidden by legislation in force.

Article 15
Measures for dispersing a gathering

1. In all cases foreseen in this law, when a gathering has to be dispersed, the police, orders the organizers, stewards and participants to end the gathering and to immediately disperse from the place where the gathering is being held;
2. In case the participants do not disperse after the call by the police to disperse, the dispersal of the gathering will be made by force;
3. In any occasion, the use of force by the police shall be proportionate, reasonable and in accordance with the legal provisions.

Article 16
Postponing and ending a gathering

1. The competent bodies may postpone or end the gathering, if:
 - 1.1. The gathering is held at a location not foreseen in the notification;
 - 1.2. There are armed participants in the gathering;

1.3. The participants call for or incite ethnic, racial, national or religious hatred or violence, or other incitements forbidden by legislation in force.

1.4. The stewards are not able to maintain peace and order; and

1.5. Public order, public health, national security or the protection of the rights of others are seriously jeopardized by the gathering.

2. The competent body who decides that the public gathering shall be ended shall request from the leader of the gathering to ask the participants to disperse peacefully.

3. If the organizer or the participants do not act according to paragraph 2 of this Article, the competent bodies shall take appropriate measures to disperse the participants from the gathering through the use of legitimate and reasonable force, if this is necessary.

Article 17 Stewards

1. Stewards are adult persons assigned by the organizer of the public gathering to maintain the order and peace at the public gathering.

2. The steward may identify the participant or other person circulating close to the place of the public gathering if they disturb peace and order, carry weapons or dangerous items or banned signs and shall inform the police for legal actions.

3. During the public gathering, the stewards shall wear a distinctive colored ribbon and shall follow the instructions of the organizer of the gathering.

4. The stewards shall not carry weapons, items, symbols or signs prohibited under Article 14 of this law.

Article 18 Public Events

1. Cultural, humanitarian, sports, religious and amusement performances are all considered to be public events.

2. Public events may be held at open spaces or indoor premises suitable or destined for such events.

3. The organizer of the public event may be a natural or legal person according to the rules provided under this law.

4. A public event shall be notified at least seven (7) days prior to holding.

5. The notification for the public events shall be made to competent bodies where the event is going to be held.

6. The notification for the public event shall include:

6.1. The name, surname, personal ID number, place of birth and residence as well as other information of the organizer;

6.2. Arrangements for maintaining order, peace and safety including the number of stewards;

6.3. The contract with the private security company (if available);

6.4. Nature of the event;

6.5. Date, time and place where it will be held;

6.6. The approximate number of participants.

7. The organizer of the public event in open spaces is responsible to submit the information foreseen in paragraph 6 of this Article, to provide as well the measures taken in compliance with traffic safety provisions, in cases when the event might obstruct traffic safety.

8. Based on the notification, the competent bodies, from a safety aspect, assess whether the conditions exist for holding the public event;

9. In accordance with paragraph 7 of this Article, the police may ask the organizer to increase safety measures for maintaining order, respectively to increase the number of stewards.

10. Competent Bodies by means of a written decision, at least seventy two (72) hours before the event starts, may forbid a public event based on one or more of the following reasons:

10.1. The event was not notified according to the foreseen rules;

10.2. The requirements under paragraph 9 of this Article were not considered;

10.3. The public event is foreseen to be held in spaces that are forbidden, or not suitable or destined for holding public events;

10.4. There are reasons to believe that public event will jeopardize the general safety, peace and order, general health or may pollute the environment.

11. A complaint may be made against the police body's decision within forty eight (48) hours to the highest police bodies.

12. The highest police bodies shall make the final decision within forty eight (48) hours and shall inform the organizer

13. In case the complainant is not satisfied with the decision from paragraph 12 of this article, they can address the court. In this case the court shall decide on fast track procedure.

Article 19
Compensation for police expenses

1. On the occasion of engaging the police with additional safety measures during a public event, the organizer is responsible for the compensation of expenses caused by that engagement.
2. The organizer shall conclude an agreement with the police for the compensation of police expenses forty eight (48) hours prior to the public event.

Article 20
Punitive measures

1. The sanctions and fines imposed after the gathering are more appropriate measures than imposing restrictions before or during public gathering
2. For violating the provisions of this law, the competent body will impose a fine as follows:
 - 2.1. The organizer of the public gathering that has not notified the gathering in compliance with Article 7 this law, shall be punished with a fine of:
 - 2.1.1. One hundred (100) EUR for natural persons
 - 2.1.2. Two hundred (200) EUR for legal persons
 - 2.2. The organizer that holds the public gathering despite prohibition in compliance with Article 10 of this law, shall be punished with a fine of:
 - 2.2.1. Two hundred (200) EUR for natural persons
 - 2.2.2. Three hundred (300) EUR for legal persons
 - 2.3. The organizer who has not undertaken additional safety measures in compliance with paragraph 9 of Article 18 of this law, shall be punished with a fine of:
 - 2.3.1. Two hundred (200) EUR for natural persons
 - 2.3.2. Three hundred (300) EUR for legal persons
 - 2.4 a participant who carries or sells alcohol at a public gathering shall be punished with a fine of two hundred (200) eur.
 - 2.5. The organizer that does not end the public gathering in compliance with paragraph 2 of Article 16 of this law shall be punished with a fine of:
 - 2.5.1. Three hundred (300) EUR for natural persons
 - 2.5.2. Four hundred (400) EUR for legal persons

3. A fine in the amount of seven hundred (700) to one thousand (1000) EUR shall be imposed to a person at the peaceful public gathering that holds or carries inscriptions or other items that incite or call for ethnic, racial, national or religious hatred or violence, or other incitements forbidden by legislation in force in compliance with Article 14 of this law.

4. The person that carries a weapon at the place of the gathering shall be punished with a fine of five hundred (500) eur.

Article 21
Repeal

Upon the entry into force of this law, the Law No. 03/L-118 on Public Gatherings Shall be Repealed.

Article 22
Entry into force

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

Vojisa Osmani

President of the Assembly of the Republic of Kosovo