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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

KOSOVO

THE LAW ON THE PROSECUTORIAL COUNCIL
WITH DRAFT AMENDMENTS
(CONSOLIDATED VERSION)

LAW NO: _____

ON KOSOVO PROSECUTORIAL COUNCIL

Assembly of the Republic of Kosovo,

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

Adopts

LAW ON KOSOVO PROSECUTORIAL COUNCIL

CHAPTER I GENERAL PROVISIONS

Article 1 Purpose

This Law defines the duties, responsibilities, organization and functioning of the Kosovo Prosecutorial Council.

Article 2 Definitions

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

- 1.1. **Constitution** – the Constitution of the Republic of Kosovo;
- 1.2. **President** – the President of the Republic of Kosovo;
- 1.3. **Assembly** – the Assembly of the Republic of Kosovo;
- 1.4. **Council** - Kosovo Prosecutorial Council (KPC) – a constitutional institution established by Article 110 of the Constitution;
- 1.5. **Chair** – the Chair elected by the membership of the Council;
- 1.6. **Member of the Council** – if not otherwise defined, means the Chair, the Vice-Chair and the member of the Council;
- 1.7. **Day** – the calendar days;
- 1.8. **Secretariat** - the unit established within the Council for the purpose of providing administrative support to the Council and the Prosecution Offices;
- 1.9. **Director** – the General Director of the Secretariat;
- 1.10. **Academy** – the Academy of Justice, a legal institution competent for the training of judges and prosecutors, and the training of judicial and prosecutorial administrative staff;
- 1.11. **Chief State Prosecutor** – the head of the State Prosecutor's Office;
- 1.12. **State Prosecutor** - an independent institution authorized and responsible for the prosecution of persons charged for committing criminal offences and other acts as specified by law, including the following: Basic Prosecution Offices, Appellate

Prosecution Office, Special Prosecution Office, Office of the Chief State Prosecutor and any other organizational unit that may be established to perform prosecutorial functions.

2. Words of a gender shall include the other gender as well.

CHAPTER II DUTIES, RESPONSIBILITIES AND COMPOSITION OF THE COUNCIL

Article 3 Basic principles of the activities of the Council

1. The Council:

1.1. is a fully independent institution in the exercise of its functions in order to provide an independent, professional and impartial prosecutorial system as defined by the Constitution and by law;

1.2. ensures that the Prosecution Offices reflect the multi-ethnic nature of the Republic of Kosovo and takes the necessary measures in increasing the number of prosecutors from non-majority communities in Kosovo, in accordance with internationally accepted gender equality principles;

1.3. ensures that all the persons have equal access to justice;

1.4. ensures that the Prosecution Offices respect the principles of non-discrimination and proportionality, as well as human rights and gender equality, guaranteed by the Constitution and international agreements and instruments applied in the Republic of Kosovo;

1.5. in exercising duties and competencies, the Council acts in a manner that respects and preserves the independence of prosecutors while they perform their prosecution functions. The Council shall not order or influence, attempt to influence or otherwise undertake any action or make any statement which could reasonably be considered as an interference or attempt to interfere with the independence of the prosecution function in relation to any person, investigation or subject.

Article 4 Independence and impartiality of Council members

The Chair, the Vice-Chair and the Council member exercise their duties independently, professionally and impartially.

Article 5 Personal liability of Council members

Members of the Prosecutorial Council shall not hold criminal or civil liability for the opinions expressed within their scope, as members of the Council.

Article 6 Status, seat and emblem

1. The Council is a legal person.

2. The seat of the Council is in Prishtina.

3. The Council and the State Prosecutor use the emblem of the Republic of Kosovo, in accordance with the Law on Use of State Symbols of Kosovo.
4. The Council has its own unique symbol defined by an internal act.

Article 7 **Duties and responsibilities of the Council**

1. The Council exercises the following duties and responsibilities:
 - 1.1. decides on the organization, management, administration and oversight of the functioning of the Prosecution Offices according to the Law;
 - 1.2. proposes to the President the appointment, reappointment and dismissal of prosecutors, and ensures that all proposed candidates meet the requirements established by law, according to relevant legal procedures;
 - 1.3. proposes to the President the appointment and dismissal of the Chief State Prosecutor, and ensures that the proposed candidate meets the requirements established by law and that the respective procedures have been carried out;
 - 1.4. decides on the appointment of Chief Prosecutors of Basic Prosecution Offices, Special Prosecution Office and Appellate Prosecution Office, **Deputy Chief Prosecutors and Heads of Departments**, in accordance with the Law on State Prosecutor and Law on Special Prosecution Office of the Republic of Kosovo;
 - 1.5. ensures the implementation and oversees the requirements for admission to the prosecution office, which should be made in accordance with the principles of merit, equal opportunities, gender equality, non-discrimination and equal representation, on the basis of public vacancy and after verifying candidates' capacity to act;
 - 1.6. announces public vacancies for prosecutors;
 - 1.7. decides on organizing the exam for candidates for prosecutors according to the regulation approved by the Council determines the number of prosecutors for each prosecution office;
 - 1.8. establishes and oversees the implementation of the criteria for the ethnic composition of the territorial jurisdiction of the respective prosecution office and for the filling of vacancies guaranteed for members of non-majority communities in Kosovo;
 - 1.9. decides on the number of prosecutors in each prosecution office;
 - 1.10. prepares, submits and supervises the budget of the State Prosecutor and Prosecutorial Council;
 - 1.11. decides on the promotion, transfer and discipline of prosecutors;
 - 1.12. sets the criteria for the evaluation of prosecutors, for the prosecution offices workload and for efficient functioning of prosecution offices, as well as controls and guarantees the assessment process and reviews prosecutors' appeals regarding assessment;
 - 1.13. sets and oversees the criteria for defining policies, standards and guidelines regarding the training of prosecutors and other staff and overseeing the implementation of training and professional development of prosecutors by the Academy or other associations or training organizations;

- 1.14. approves the Code of Professional Ethics for members of the Council, whose violation constitutes a basis for sanctions, including dismissal from the Council;
- 1.15. approves the Code of Professional Ethics for Prosecutors, the violation of which constitutes a basis for sanctions, including dismissal from office;
- 1.16. approves the Code of Professional Ethics for administrative staff, imposing of disciplinary measures determined by the respective Law on Civil Service of the Republic of Kosovo, the violation of which is the basis for sanctions;
- 1.17. ensures that prosecutors act independently, professionally and impartially during the performance of all prosecutorial functions;
- 1.18. cooperates with the Office of the Chief State Prosecutor in developing prosecutorial policies and strategies for the effective fight against criminality;
- 1.19. prepares annual reports on activities and expenditures of the State Prosecutor and Council;
- 1.20. oversees and administers prosecution offices and their staff;
- 1.21. supervises the secretariat, the Prosecution Performance Review Unit and issues rules and regulations in accordance with its competences;
- 1.22. determines procedures for hearings and the conduct of disciplinary hearings;
- 1.23. cooperates with the prosecutorial councils of other states and relevant local and international organizations, provided that it does not affect the independence of its work;
- 1.24. promulgates rules and regulations in accordance with the laws on public information regarding the management and disclosure of information available to the State Prosecutor;
- 1.25. establishes committees which the Council deems as necessary;
- 1.26. adopts work rules for the functioning of the Council and its committees and for the election of Council members elected by their colleagues, rules that are available to the public;
- 1.27. issues a regulation on the procedure for electing the Chief State Prosecutor and appointing Chief Prosecutors of Prosecution Offices, Deputy Chief Prosecutors and Heads of Departments;
- 1.28. issues a regulation on the internal organization of the State Prosecutor;
- 1.29. guarantees an open and responsible system of administering its decisions and the decisions of the State Prosecutor;
- 1.30. reports to the public on the implementation of its objectives set out specifically and based on measurable indicators;
- 1.31. adopt sub-legal acts in the function of the implementation of its duties and responsibilities in accordance with the legislation in force;
- 1.32. performs other duties as defined in the law.

Article 8

Ineligibility of being a Council member **Criteria for becoming a member of the Council**

1. Membership in the Council is ineligible when the

~~person: 1.1. is a judge;~~

~~1.2. is a prosecutor with an initial mandate;~~

~~1.3. is a Member of the Assembly, member of the Government, mayor or member of the Municipal Assembly;~~

~~1.4. is a person exercising a function in any political entity, association or foundation associated with a political entity;~~

~~1.5. is a person working for the administration, including persons performing duties in the Government or administrative bodies, institutions established by the Constitution or created through legislation;~~

~~1.6. has not been convicted for a criminal offense, with the exception of criminal offences committed by negligence.~~

~~2. The elected Council member shall be dismissed by the Council if he/she does not resign from an incompatible position before the appointment as member of the Council.~~

1. The candidate for appointment as a prosecutor member in the Council must meet the following minimum conditions:

1.1. To be a prosecutor with a permanent mandate;

1.2. Have high moral integrity;

1.3. Not to have a filed indictment;

1.4. Have a distinguished or good performance appraisal in the last three (3) years;

1.5. Not to hold a position of a chief prosecutor for the last two (2) years;

1.6. To have no imposed disciplinary measure, with the exception of admonition or non-public reprimands in the last three (3) years;

1.7. Additional qualitative criteria that demonstrate the candidate's managerial skills, i.e training.

2. The candidate for appointment as a non-prosecutor member of the Council must meet the following minimum requirements:

2.1. To be a citizen of the Republic of Kosovo;

2.2. To have high moral integrity;

2.3. To not have a filed indictment;

2.4. Have university training in the areas of responsibility of the Council;

2.5. To have at least 5 (five) years of professional experience in legal matters, human rights area or other relevant areas of responsibility of the Council;

2.6. Not to exercise a function in any political entity, association or foundation affiliated with any political entity in the last three (3) years;

2.7. Not to be a member of the Assembly, a member of the Government, a mayor or a member of the Municipal Assembly;

2.8. Not to be an employee of the administration, including persons performing duties in the Government or in administrative bodies, institutions established by the Constitution or established through legislation;

2.9. Not to have been convicted of a criminal offense, with the exception of criminal offenses committed through negligence;

2. The elected member of the Council is dismissed if he does not resign from a position that is in disagreement, before being appointed as a member of the Council.

Article 9 Composition of Council members

1. ~~The Council shall consist of thirteen (13) members in the following composition:~~

~~1.1. ten (10) members from among the prosecutors as~~

~~follows: 1.1.1. Chief State Prosecutor;~~

~~1.1.2. seven (7) members, prosecutors from basic prosecution offices, represented by one (1) member each, elected by prosecutors of that prosecution office;~~

~~1.1.3. one (1) member, prosecutor of the Appellate Prosecution, elected by prosecutors of that prosecution office;~~

~~1.1.4. one (1) member, a prosecutor from the Special Prosecution Office, selected by the prosecutors of that prosecution office;~~

~~1.2. one (1) member, lawyer from the Kosovo Bar Association;~~

~~1.3. one (1) member, university professor of law;~~

~~1.4. one (1) member representative of civil society;~~

1. The Council consists of seven (7) members as follows:

1.1. Four (4) prosecutor members, of which one (1) is selected by the Assembly and three (3) others by the prosecutorial system; and

1.2. Three (3) non-prosecutor members who are selected by the Assembly.

2. Members of the Council from paragraph 1.1 of this Article, ~~except the Chief State Prosecutor~~, cannot simultaneously exercise the duty of the chief prosecutor of any prosecution office.

~~3. Three (3) non-prosecutor Council members, elected by the Assembly, pursuant to Article 65 (10) of the Constitution, shall be elected by secret voting, by a majority votes of the members of the Assembly who are present and vote, based on a list of two (2) candidates for each position proposed by the relevant bodies, which shall include:~~

~~3.1. one (1) member from the Kosovo Bar Association;~~

~~3.2. one (1) professor from the law faculties of the Republic of Kosovo;~~

~~3.3. one (1) representative from civil society. The civil society representative is selected through a public vacancy announcement by the Assembly, who must have a high professional background, evidenced knowledge in the area of law, knowledge in the field of human rights, work experience in legal issues of five (5) years and the support of at least five (5) civil society organizations in the field of justice.~~

4. Members of the Council reflect the multi-ethnic nature and principles of gender equality in the Republic of Kosovo.

5. During the exercise of the function of a member of the Council **and two years after the end of the mandate**, the same cannot be promoted to the prosecutorial system.

6. ~~Full-time~~ Council members cannot exercise the duty of a prosecutor in any of the prosecution offices.

7. The Council shall adopt a special regulation for the implementation of this Article.

Article 10

Procedure of proposal, election and dismissal of members elected by the Assembly

~~1. The procedure for the election of members of the Council by the Assembly begins six (6) months before the expiry of the mandate of the member.~~

~~2. Notwithstanding paragraph 1 of this Article, when the mandate expires prematurely, as determined by this law, the procedure for the election of the member begins within thirty (30) days from the day the position is vacated.~~

~~3. The Assembly opens the vacancy announcement for the election of Council members in written and electronic media and in the official languages.~~

~~4. The relevant Assembly Committee (hereinafter: the Committee) shall set out the vacancy announcement requirements for the election of members. The vacancy announcement cannot be shorter than fifteen (15) days or longer than twenty (20) days.~~

~~5. After the expiration of the vacancy announcement provided for in paragraph 4 of this Article, the Committee shall, within a period of fifteen (15) days, assess whether candidates meet the requirements to be elected members of the Council, and shall reject candidatures that do not meet the requirements defined in the vacancy notice.~~

~~6. The Committee conducts an interview with each candidate who meets the requirements for being elected member of the Council, on the basis of the received information and the results of the interview, prepares a shortlist of candidates.~~

~~7. The Assembly elects the Council members through a secret voting.~~

~~8. The list for the Assembly session consists of two (2) candidates for one (1) position.~~

~~9. If in the first round the candidates proposed by the respective Committee of the Assembly do not receive the majority of votes of all members of the Assembly that are present and vote, then in the second round the candidate with the highest number of votes shall be considered as elected.~~

~~Dismissal of non-prosecutor members of the Council shall be done by the Assembly with the majority of votes of all members of the Assembly, upon the proposal of the respective Committee or Council.~~

1. The procedure for the election of the members of the Council starts six (6) months before the expiration of the mandate.
2. Exceptionally from paragraph 1 of this Article, when the mandate ends beforehand as defined by this law, the procedure for electing the member begins within thirty (30) days from the day of remaining vacant.
3. The selection of four candidates for members of the Council is conducted by the special Commission of the Assembly (hereinafter: "Commission").
4. The commission from paragraph 3 of this Article has the following composition:
 - 4.1. The Chair of the Assembly of the Republic of Kosovo or a member of the Assembly representing him/her;
 - 4.2. Leaders of each parliamentary group of the Assembly of the Republic of Kosovo or members of the Assembly their delegated representatives;
 - 4.3. Chair of the Kosovo Judicial Council of the Republic of Kosovo;
 - 4.4. Ombudsperson;
 - 4.5. President of the Supreme Court;
 - 4.6. Representative of the Community Consultative Council;
 - 4.7. The President of the Chamber of Advocates or a representative delegated by him / her a member of the Chamber;
 - 4.8. Director of the Anti-corruption Agency.
5. The Commission is convened and chaired by the President of the Assembly of the Republic of Kosovo or his / her delegated representative. The commission has two deputy chairmen who are elected from among its members, where one of them will be from the rank of deputies of the other community from the community of the chairman.
6. The Assembly announces the vacancy for the election of the members of the Council, in print and electronic media and in the official languages, as well as on the official website of the Assembly and the Council. The duration of the vacancy cannot be shorter than fifteen (15), nor longer than twenty (20) days.
7. After the expiration of the term provided in paragraph 6 of this Article, the Commission within fifteen (15) days, evaluates whether the candidates meet the conditions to be elected members of the Council, and rejects the candidacies that do not meet the conditions set out in law.
8. The Commission conducts an interview with each candidate who meets the conditions to be elected a member of the Council and based on the submitted data and the results of the interview, prepares a short list of qualified candidates for members of the Council.
9. The Commission decides by a simple majority of votes. In case of an equal vote, the vote of the President of the Assembly of the Republic of Kosovo or his / her delegated representative is decisive.
10. The shortlist contains two (2) candidates for each position, unless within number two (2), there are more candidates with equal evaluation points.

11. The Commission submits the short list of candidates who meet the conditions to be elected member of the Council to the Assembly of the Republic of Kosovo.

12. The Commission proposal contains the reasoning why it has given priority to some candidates over other candidates.

13. The members of the Council are elected by secret ballot by the Assembly of the Republic of Kosovo, with the majority vote of all its deputies.

14. The members of the Council must be elected within thirty (30) days from the day of proposing the candidates.

15. In the first round, the candidates proposed by the relevant Commission of the Assembly are voted on. If in the first round neither of the two candidates proposed for a position wins the majority of votes of all members of the Assembly, the candidate who receives the most votes is subject to the second round of voting.

16. If the member of the Council is not elected even in the second round. The Assembly will again announce a vacancy for members of the Council.

17. The dismissal of the members elected by the Assembly is conducted by the Assembly with the majority of votes of all the deputies of the Assembly, upon the proposal of the respective Commission or the Council.

Article 10/A

Selection of prosecutor members from the prosecutorial system

1. The process of selecting prosecutor members from the prosecutorial system is based on the principles of competition, transparency, integrity and objectivity.

2. Elections for Council members from the prosecutorial system are announced by the Council at least 6 months before the end of the mandate of the Council member from the prosecutorial system.

3. In cases when the mandate of any of the members of the Council elected by the prosecutorial system ends before the end of the regular mandate, the Council will take a decision and will announce the vacancy immediately.

4. For the administration of the electoral process, the Council establishes the Electoral Commission with the following composition.

4.1 One (1) non-prosecutor member from the Prosecutorial Council-presiding;

4.2. One member from the Office of the Chief State Prosecutor;

4.3. One-member official from the KPC Secretariat.

5. The members of the Election Commission can be replaced by the persons of the institution they represent in case of objective impossibility or conflict of interest, to be part of the Commission.

6. The mandate of the members from paragraph 4 of this Article lasts until the end of the process of electing the members from the prosecutorial system of the Council.

7. The Council announces the call for application of candidates for member from the prosecutorial system. The duration of the vacancy cannot be shorter than fifteen (15) days.

8. After the expiration of the term provided in paragraph 7 of this Article, the Commission within seven (7) days, evaluates whether the candidates meet the conditions to be elected members of the Council, and rejects the candidacies that do not meet the conditions defined by law. Prosecutors who are not confirmed in the candidacy have the right to appeal to the Council within 24 hours. The Council reviews the appeals and decides within three (3) days.

9. Voting is organized in each Prosecution Office, where each prosecutor has the right to one vote for each announced position. Voting is confidential.

10. The prosecutor who receives the majority of votes wins the right to be elected.

11. After the completion of the election process, the Election Commission submits a report to the Council regarding the candidates and the number of votes for each candidate, and informs the candidates about the election result and the right to appeal. Candidates have the right to file a complaint within 72 hours to the Council.

12. After reviewing the appeals, the Council announces and certifies the final results of the election process.

13. Exceptionally from paragraph 12, the Council may take a decision on the repetition of the electoral process, in case of finding legal violations.

14. Dismissal of prosecutor members elected by the prosecutorial system is done by the Council according to the procedure and circumstances defined by this law, by a majority of all members of the Council.

Article 10/B

Monitoring the selection process of the Council members

1. The procedure for selecting members of the Council may be monitored by interested parties, including but not limited to: civil society organizations in the field of justice, the media, and natural persons.

2. For the monitoring from paragraph 1 of this Article, the parties must notify the Chairman of the Assembly Commission for the members who are elected by the Assembly and the Chairman of the Election Commission for the members elected by the Council, not later than eight (8) days from the date of closing the of the vacancy.

Article 11

Chair and Vice-Chair of the Council

1. The Council, from among its prosecutor members, elects the Chair and the Vice-Chair for a three (3) year mandate. Election in these functions shall not extend the mandate of a member of the Council.

2. The Chair shall have the following authorizations:

2.1. chairs all meetings of the Council;

2.2. approves the agenda and points to be submitted to the Council for review and decision;

2.3. represents the Council;

2.4. supervises and manages the work of the Council and its committees;

2.5. proceeds the budget drafted by the Council for the expenses of actions and staff of the Council and State Prosecutor;

2.6. submits a report in writing, at least once a year, to the Assembly on the performance, actions, expenditures and needs of the State Prosecutor;

2.7. upon the approval of the Council, assigns permanent committee members as referred to in this Law, and undertakes other duties as required by the Council.

3. The Chair of the Council shall, at least once a year, submit annual public reports on the performance, actions, costs and budgetary needs of the prosecutorial system.

4. The Chair of the Council shall organize the procedure for selecting the members of standing committees under this Law, enabling the Council a transparent and accountable process of proposals and their appointment.

5. The Vice-Chair has full authority to act on behalf of the Council in case of the absence or incapability of the Chair.

Article 12
Mandate of the members of the Council

1. The Council members shall remain in office for a five (5) year mandate, without the right of re-election **in the next mandate.**
2. ~~The Chair, Vice Chair, Chairman of the Normative Committee, Chairman of the Performance Evaluation Committee and Chairman for Administering Prosecution Offices shall serve in the Council on a full-time basis, thus suspending the duty of a prosecutor.~~ **Members of the Council serve on the Council full time.**
3. The Council prosecutor members **suspend the duty of the prosecutor.** ~~shall not lose their status as prosecutors, and upon the termination of their term shall have the right to return to their duty as prosecutors in the prosecution office where they were appointed.~~
4. During the exercise of the function of Council member **and 2 years after the end of the mandate of the Council member,** the same cannot get promoted as well as cannot be appointed Chief Prosecutor of the respective Prosecution Office.
5. The term of office of the elected members of the Council commences from the date of their election as members of the Council.

Article 13
Termination of the term

1. The mandate of a member of the Council ends upon:
 - 1.1. his/her death;
 - 1.2. loss of capacity to act;
 - 1.3. repeated failure to attend the activities of the Council for more than three (3) months, without an certified justification;
 - 1.4. termination of the status on which the appointment is based;
 - 1.5. expiration of the mandate;
 - 1.6. resignation, by submitting to the Council a notice of thirty (30) days in advance;
 - 1.7. reaching the retirement age;
 - 1.8. the conviction for a criminal offense, with the exception of criminal offences committed by negligence.
2. Members of the Council shall be dismissed from office before the expiry of the mandate they have been elected for, if:
 - 2.1. he/she fails to perform the function of the Council member in accordance with the Constitution and the law;
 - 2.2. he/she exercises the function contrary to the duties and responsibilities.
3. If a seat in the Council is vacated before the expiration of a member's mandate, the vacancy shall be filled in the same way as for the member whose mandate has expired. The person, ~~other than the Chief State Prosecutor,~~ who is selected to fill a vacancy in the Council is appointed or elected for a full term of five (5) years.
4. ~~The procedure for election of members of the Council among the prosecutors begins three (3) months before the expiration of the regular mandate.~~

Article 14
The public nature of Council meetings

1. Council meetings are open to the public.
2. The agenda of the Council will become public at least twenty-four (24) hours before the meeting.
3. The Council may decide to hold a closed meeting with the majority of members' votes on the following matters:

- 3.1. an official state secret whose disclosure would be a violation of the law;
 - 3.2. staff issues concerning prosecutors or prosecution offices' employees, except the Council meeting where a final disciplinary decision is taken against a prosecutor;
 - 3.3. non-public information or data disclosure that would endanger the life or safety of any person;
 - 3.4. an ongoing investigation on misconduct or criminal activity whose disclosure would reasonably prejudice the objectivity and efficiency of the investigation;
 - 3.5. performance assessments of prosecutors and administrative officers;
 - 3.6. asset information whose disclosure could prejudice the interests of any party competing for a governmental tender;
 - 3.7. business asset information, data, processes or computer codes that are confidential under a contractual agreement or a non-disclosure agreement between the trader and the Council; and
 - 3.8. any other information whose disclosure would constitute a violation of the law.
4. Once the Council has closed the meeting, no member of the Council or any other person attending the meeting shall discuss the nature, content or outcome of the meeting unless otherwise provided by law.
 5. An urgent meeting of the Council may be called to address issues related to the safety and security of facilities or prosecution office staff, or where exceptional circumstances require immediate action. The Council may convene an urgent session upon the call of the Chair or Vice-chair, in the absence of the Chair. The Chair shall, within twenty-four (24) hours from the end of an emergency session, disclose to the public the nature of the emergency and the issues discussed at the meeting, unless exempt from disclosure by this Article.

Article 15
Quorum and decision-making

1. ~~The quorum of the Council shall be composed of nine (9) members.~~ **The quorum of the Council is formed with five (5) members.**
2. The decisions of the Council shall be taken by a simple majority vote of the members present, unless otherwise provided by law.
3. The Chair, or Vice Chair, when chairing the Council meeting, shall be the last to vote.

Article 16
Council Committees

1. The Council shall have its standing committees as follows:
 - 1.1. Committee for Normative Issues;
 - 1.2. Committee for Budget, Finance and Personnel;
 - 1.3. Committee for Administering Prosecution Offices;
 - 1.4. Committee on the performance evaluation of prosecutors
 - 1.5. **The commission for the ethics of prosecutors.**
2. The Council may also establish, as appropriate, other temporary or permanent committees.
3. The Council shall issue regulations on the duties and responsibilities of the Committees set out in this Article.

Article 17
Annual budget

1. The Council shall draft the annual budget in compliance with the Law on Public Financial Management and Accountabilities.
2. The Council manages the annual budget for the Council and the prosecution offices independently and is responsible for overseeing expenditure, allocating funds, maintaining accurate and current accounts, and carrying out financial audits.

Article 18
The salary of the Chair and the Council members

1. ~~Excluding the Chief State Prosecutor, during their term of office, the Chair, Vice Chair and other members engaged full time within the Council, shall receive their salaries as follows:~~
 - 1.1. ~~the Chair receives a salary equivalent to the salary of the President of the Supreme Court.~~
 - 1.2. ~~the prosecutor members who serve on full time basis receive a salary equivalent to the salary of the judge of the Supreme Court.~~

1. During their mandate, members of the Council will receive the following salary:

- 1.1. **The Chairman of the Council receives a salary equivalent to the salary of the Chief State Prosecutor.**
- 1.2. **The members of the Council receive a salary equivalent to the prosecutors in the Office of the Chief State Prosecutor."**

~~2. Part time members of the Council are entitled to compensation for their work as members of the Council. The Council will adopt the compensation scheme, namely the salary for the part time members.~~

3. During their term of office, the Chair, as well as ~~full time~~ prosecutor members, shall only accept the salary set out by the Law, except for reimbursement of reasonable and necessary expenditures related to the exercise of their duties, as defined in paragraph 5 of this Article.

~~4. The Chair and the Vice Chair, upon the end of their mandate, will receive the compensation for the initial position where they will return.~~

5. The Chair, the Vice-Chair and the prosecutor members of the Council shall not be entitled to exercise any other public or professional duty for which they are rewarded with payment, except for teaching in higher education institutions, Academy of Justice or cases provided by Law.

6. The Chair, the Vice-Chair and the prosecutor members of the Council may engage in scientific, cultural, academic and other activities which do not contradict their functions and legislation in force.

Article 19 **Disciplinary procedures for Council members**

1. The Council shall determine and publish the rules and disciplinary procedures applicable to its members, including the procedures governing the investigation, suspension or recommendation for dismissal of any Council member.

2. A committee established by the Council composed of three (3) members, one of whom shall be a prosecutor member of the Council, and two other prosecutors, shall decide on disciplinary measures and sanctions, including suspension and dismissal of any member of the Council.

3. On the recommendation of the Committee, a member of the Council may be dismissed by two-thirds (2/3) of the votes of the members of the Council.

4. One (1) member of the Council who has been dismissed has the right to appeal against the Council's decision directly to the Supreme Court within fifteen (15) days from the decision to dismissal.

CHAPTER III **RECRUITMENT, PROPOSAL AND APPOINTMENT OF PROSECUTORS**

Article 20 **Recruitment and selection of candidates**

1. For the recruitment of the candidates for prosecutors, the Council, through a public announcement, invites all qualified legal professionals to apply.

2. When recruiting a candidate, the Council shall, inter alia, consider the following requirements:

2.1. professional knowledge, work experience and performance, including knowledge and respect for human rights;

2.2. capacity for legal justifications as evidenced by professional activities in the field of justice, including in the capacity of a judge, prosecutor or lawyer, academic or other professional activity;

2.3. the professional ability based on the result of the previous career, including participation in organized training forms where performance is assessed;

2.4. ability and capacity to analyse legal problems;

- 2.5. the ability to perform office tasks in an impartial, honourable, careful and accountable manner;
 - 2.6. communication skills;
 - 2.7. personal integrity.
3. In accordance with the Constitution and the applicable law, the Council shall develop and implement procedures for recruitment and proposal of candidates for appointment as prosecutors.
 4. The Council implements recruitment measures and actions as well as other measures it deems necessary to ensure that a prosecution office reflects the ethnic composition of the area of jurisdiction concerned.
 5. The procedure for assessment of the compatibility of the candidate in order to become part of the prosecution office shall be done through the verification of the data submitted by the candidate, data from the relevant public registries for assessment, including the standard verification of registries for the criminal past.
 6. Giving priority to candidates with equal qualifications from under-represented communities will be implemented while the percentage of non-majority community prosecutors in Kosovo is below fifteen per cent (15%) and/or while the percentage of prosecutors who are members of the Kosovo Serb community is below eight percent (8%).
 7. The Council drafts a special regulation to define the process of appointing and re-appointing prosecutors from under-represented communities among prosecutors serving in Kosovo.

Article 21

Proposal for appointment and re-appointment

1. The Council, through a public announcement, invites all qualified legal persons to apply as candidates for appointments in the State Prosecution Office.
2. The Council develops and implements procedures for recruiting candidates to be appointed as prosecutors that are in accordance with the Constitution and the requirements for admission to the prosecution offices approved by the Council by a sub-legal act.

Article 22

~~Appointment of the Chief State Prosecutor and the Chief Prosecutors~~ Appointment of the Chief State Prosecutor and Chief Prosecutors, Deputy Chief Prosecutors and Heads of Departments

1. The Council shall nominate the Chief State Prosecutor among the prosecutors and he/she shall be appointed by the President for one mandate, in the duration of seven (7) years without the possibility of reappointment.

1/A. The Council appoints the Deputy Chief State Prosecutor, upon the recommendation of the Chief State Prosecutor”.

2. The Council appoints Chief Prosecutors, **Deputy Chief Prosecutors and Heads of Departments** for all other units of the State Prosecutor. Every prosecutor that fulfils the criteria under the Law on State Prosecutor, is entitled to be proposed for the ~~post of the Chief State Prosecutor~~. **these positions.**

3. Chief Prosecutor shall be appointed by the Council for a period of four (4) years, with a possibility of extension for one additional mandate.

4. In order to secure that the State Prosecutor reflects a multi-ethnic nature of Kosovo, the Council shall try to secure that the members of the non-majority communities in Kosovo are appointed in managerial positions.

5. The Council is authorized to remove a Chief Prosecutor, Deputy Chief Prosecutor, head of the department from his or her position, in accordance with the performance evaluation conducted under the provisions of the applicable law, or in case of determination of the criminal behaviour, inadequate management, non-competence or failure in acting in accordance with the obligations deriving from the position

Article 23

Appointment and re-appointment of prosecutors

1. The President appoints and reappoints prosecutors based on the Council's proposals.
2. Within 60 days after the receipt of the proposal, the President shall issue a decree on the appointment as prosecutor of the candidate proposed by the Council. If within this deadline the President does not appoint the prosecutor, the Council may re-submit the proposed candidate together with the supplementary reasoning in writing. Thereafter the President appoints the prosecutor upon the proposal of the Council.

Article 23/A

The right to appeal

Against the decision for appointment and reappointment, the dissatisfied party has the right to file an appeal to the Supreme Court within fifteen (15) days from the decision.

The Supreme Court decides on the appeal within thirty (30) days

Article 24

Oath of prosecutors

1. A newly appointed prosecutor with a three (3) year initial term of office takes office after taking oath before the President.
2. The oath is as follows:

"I solemnly swear that during the performance of the duty I shall always remain loyal to the Constitution of the Republic of Kosovo, the laws in force and will respect the rules of professional ethics".
3. The oath of newly appointed prosecutors is made in a public ceremony before the President, unless the President decides otherwise.
4. The Office of the President approves the Regulation on the oath ceremony of prosecutors.

Article 25

Dismissal of prosecutors

1. Prosecutors may be dismissed from office due to:
 - 1.1. the conviction for a criminal offense, with the exception of criminal offences committed by negligence; and
 - 1.2. serious neglect of duties.
2. Prosecutors have the right to appeal the decision on dismissal directly to the Supreme Court of Kosovo.
3. Before submitting a proposal for dismissal of a prosecutor, the Council shall ensure that all relevant procedures under the legislation in force are completed.
4. The Council, after ensuring that all relevant procedures have been completed, shall submit to the President the proposals for dismissal of the prosecutor.

5. The proposal should include a written report on the process and the prosecutor.
6. The President, within thirty (30) days after the receipt of the proposal, issues a decree on the dismissal of the prosecutor proposed by the Council. If within this period the President does not dismiss the prosecutor, the Council re-submits the proposal for the dismissal of the prosecutor together with the supplementary reasoning in writing. Thereafter, the President dismisses the prosecutor on the proposal of the Council.
7. Prior to the implementation of such a decision, the prosecutor shall be officially informed by the Council on the decision of the President on approving or refusing the dismissal.

Article 26
Discharge of prosecutors

1. In cases of resignation or retirement of prosecutors, the Council shall send the proposal to the President for discharge from office.
2. Within 30 days after receipt of the proposal, the President shall issue a decree on the discharge of the prosecutor.

CHAPTER IV
ASSESSMENT, PROMOTION, AND TRANSFER OF PROSECUTORS

Article 27
Performance assessment of prosecutors

1. The manner and procedure for performance assessment of prosecutors shall be established by regulations and rules developed and issued by the Council.
2. The Council shall establish requirements for assessing and promoting prosecutors that include but are not limited to the following:
 - 2.1. professional knowledge, work experience and performance, including the recognition and respecting of the human rights;
 - 2.2. capacity for legal reasoning;
 - 2.3. professional ability, including participation in organized forms of training in which performance has been assessed;
 - 2.4. capability and capacity for analysing legal problems;
 - 2.5. ability to perform impartially, conscientiously, diligently, decisively and responsibly the duties of the office;
 - 2.6. communication skills;
 - 2.7. conduct out of office, and
 - 2.8. personal integrity.
3. Every prosecutor who has been subject to assessment shall receive the assessment results and may submit written objections to the Council against any conclusions or findings.
4. The performance assessment of prosecutors with an initial mandate shall be done at least twice during this mandate by the Prosecutors Performance Evaluation Committee, once after the initial training and once at the end of the initial mandate. The assessment criteria during the initial mandate shall be specified in a regulation issued by the Council.
5. The performance assessment of prosecutors with a permanent mandate shall be made every three (3) years, in such a way that, after the entry into force of this law, the Council shall allocate by lot one third (1/3) of the prosecutors, within each prosecution office, as the first group to undergo performance assessment for a period of three (3) months. The same lot

shall be held one (1) year later to allocate prosecutors of the second group and two (2) years later to allocate prosecutors of the third group.

Article 28 Transfer of prosecutors

1. Upon the submission of the request by the Chief Prosecutor, the Council may transfer a prosecutor into another prosecution office for a time period not longer than one (1) year.

2. The transfer under paragraph 1 of this Article may be made in cases where a prosecution office has insufficient prosecutors for effectively prosecuting cases under its competency.

3. Prosecutors may not be transferred into any other prosecution office against their will except as otherwise provided in this law.

4. Upon application to the Council, a prosecutor may be permanently transferred to another prosecution office.

5. The Council shall promulgate rules and regulations establishing the standards and procedures governing the appeals.

~~6. Notwithstanding the provisions of this Article, in extraordinary circumstances, the Chief State Prosecutor shall appoint a prosecutor from a certain prosecution office to the other prosecution office, in accordance with the relevant legislation in force.~~

6. In exceptional cases, the Chief State Prosecutor, after a written authorization by the Council, may transfer a prosecutor to another prosecutor's office, in accordance with the relevant legislation in force.

Article 29 Prosecutors Performance Evaluation Committee

1. Prosecutors Performance Evaluation Committee shall be composed of experienced prosecutors with high professional and personal integrity.

2. Prosecutors Performance Evaluation Committee shall be chaired by a member of the Council from the ranks of prosecutors.

3. Prosecutors Performance Evaluation Committee shall assess the performance of prosecutors pursuant to Article 27 of this Law. The Committee's evaluation shall be the basis for promoting, demoting or dismissing a state prosecutor of his duty.

4. The committee for its work reports to the Council.

5. Composition, mandate, criteria, manner and other issues related to prosecutors performance evaluation shall be regulated by this Law and regulations adopted by the Council.

Article 30
Prosecution Office Performance Review Unit

1. Under the instructions of the Council, the Prosecution Office Performance Review Unit shall report on the work of the prosecution offices.
2. The Council shall develop and adopt regulations relating to the organizational structure and the functioning of the Prosecution Office Performance Review Unit.

Article 31
Council Secretariat

1. The Secretariat shall exercise the following duties and responsibilities:
 - 1.1. assists the Council in implementing the rules, regulations, and policies regarding management, budget, and administration of State Prosecutor;
 - 1.2. based on the Council instructions or on its own initiative proposes policies and sub-legal acts, necessary to exercise the function of the Council and implement this Law. All such proposals and initiatives of the Secretariat, upon the approval of the Council, shall be drafted and submitted to the Council for approval;
 - 1.3. in accordance with the instructions of the Council, prepares a consolidated budget proposal for the Council and State Prosecution;
 - 1.4. administers the approved budget;
 - 1.5. manages the administrative and support staff of the State Prosecutor offices based on the workload, maintain staff records, establish a performance assessment system, ensure the proper disciplining of administrative employees of state prosecution offices, and protect employment rights;
 - 1.6. ensures that the State Prosecutor is properly supplied with the materials necessary for the efficient and effective performance of prosecutorial functions;
 - 1.7. provides administrative support to the Council and Council committees and undertakes other duties and authorities as instructed by the Council.
2. The Council shall adopt regulations related to the organizational structure and the functioning of the Secretariat.

Article 32
General Director of Secretariat

1. General Director of Secretariat shall:
 - 1.1. be selected, appointed and dismissed by the Council after the public announcement of the position and shall be based on a competitive process, in accordance with the procedures, requirements, and qualifications developed and approved by the Council;
 - 1.2. be the main administrative officer;
 - 1.3. be accountable to the Council for the efficient and effective administration and the Council and State Prosecutor;
 - 1.4. report to the Council and the Chair of the Council;
 - 1.5. participate in the Council meetings and shall respond to all Council requests for information.

2. The Council shall determine the salary of the Director of Secretariat in accordance with the legislation in force.

Article 33

Director of the Prosecution Performance Review Unit

1. The Director of the Prosecution Performance Review Unit shall be elected and appointed by the Council in accordance with procedures, requirements, and qualifications to be developed and adopted by the Council through regulations which shall be in line with Constitutional requirements and the requirements of applicable staff regulations. The vacancy shall be filled based on a competitive, merit-based, and open process after public announcement of the position.

2. The Director shall report to the Council for the efficient and effective administration of the Prosecution Performance Review Unit. The Director shall report directly to the Chair of the Council and shall respond to all Council requests for information.

3. The Council shall determine the salary of the Director of the Prosecution Office Performance Review Unit.

CHAPTER V

DISCIPLINARY LIABILITY AND JUDICIAL TRAINING

Article 34

Disciplinary liability

The disciplinary liability of prosecutors shall be carried out in accordance with the relevant procedures established by the relevant Law on Disciplinary Liability for Prosecutors and relevant acts issued by the Council.

Article 35

Training policies, standards, and instructions

1. The Council, in co-ordination with the Academy of Justice, shall determine the policies, standards, and instructions for arranging the training of prosecutors and other staff of prosecution offices.

2. The Council may cooperate with other associations or organizations for the purpose of professional development of prosecutors.

3. The Council may request the revision of any training program in order to ensure the implementation of policies and standards for professional training of prosecutors.

CHAPTER VI

TRANSITIONAL AND FINAL PROVISIONS

Article 36

Continuance of duty

~~1. Elected Council members who, at the time of entry into force of this Law, are exercising their function, may remain in office until the end of their current mandate.~~ 1. Members of the Council, who exercise this function at the time of entry into force of this law, remain in this position until the appointment of new members of the Council by the Assembly.

~~2. The mandate of the Chair and the Vice-Chair of the Council, set forth in paragraph 1 of Article 41 of this Law, shall also apply to the Chair and the Vice-Chair who are currently exercising such functions.~~

3. Council members shall continue to perform their duties in accordance with the provisions set out in this Law.

4. Elected Council shall have the right to resign within thirty (30) days and must continue the elected position until the election of new members in accordance with the provisions set forth in this Law.

Article 36/A

Public announcement for the selection of Council members

The Assembly of the Republic of Kosovo, not later than 30 days from the entry into force of this law, makes a public announcement for the application of candidates for members of the Council".

Article 36/B

1. The process of selecting the members of the Council from the prosecutorial system commences after the selection of the members of the Council by the Assembly.
2. Until the selection of the members of the Council by the prosecutorial system, the Council selects the interim chairman.

Article 36/C

1. Except for the provisions of this Law, until the selection of the prosecutor members from the prosecutorial system of the Council, the quorum is formed with four (4) members.
2. In disciplinary cases, the quorum for disciplinary proceedings shall consist of five (5) members of the Council, and decisions of the Council shall be taken by a simple majority of the votes of the present members.

Article 37

Issuance of sub-legal acts

1. Sub-legal acts set forth in this Law shall be issued within six (6) months after the entry into force of this Law.
2. During the drafting process of the sub-legal acts set forth in this Law, the Council shall carry out public consultations with relevant institutions.

~~3. Until the adoption of sub-legal acts set forth by this Law, all sub-legal acts issued by the Council shall continue to apply provided they are not in violation of the provisions of this Law.~~

3. The bylaws provided by the Basic Law, continue to be implemented until the issuance of new bylaws, to the extent that they are not in conflict with this law.

Article 38

Abrogation

1. Upon the entry into force of this Law, the following laws shall be repealed:

1.1. Law No. 03/L-224 on the Kosovo Prosecutorial Council (Official Gazette/ no. 83/29 October 2010);

1.2. Law No. 04/L-115 on Amending and Supplementing the laws related to the Ending of International Supervision of Independence of Kosovo, Article 12 – Law on Amending and Supplementing the Law No. 03/L-224 on Kosovo Prosecutorial Council (Official Gazette/ no. 25 / 07 September 2012);

1.3. Law no. 05/L-035 on Amending and Supplementing the Law no. 03/L-224 on Kosovo Prosecutorial Council (Official Gazette/ no. 17/30 June 2015)

Article 39

Entry into force

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

Glauk Konjufca

Chairman of the Assembly of the Republic of Kosovo