

LAW No.03/L –224

ON THE KOSOVO PROSECUTORIAL COUNCIL

Assembly of Republic of Kosovo,

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

Adopts:

LAW ON THE KOSOVO PROSECUTORIAL COUNCIL

**CHAPTER I
GENERAL PROVISIONS**

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

1. This law regulates the Kosovo Prosecutorial Council (The Council -KPC), a fully independent institution, in the performance of its function.
2. The Council shall ensure that all persons have equal access to justice and that prosecutors exercise their function in an independent, professional and impartial manner.
3. The Council shall ensure that the State Prosecutor reflects the multi-ethnic nature of Kosovo and the principle of gender equality.
4. The Council shall be responsible for recruiting and proposing for appointment and reappointment candidates for prosecutorial office and shall assess, promote, discipline, dismiss, transfer, and provide for the training of prosecutors.
5. Together with the Chief State Prosecutor, the Council shall be responsible for submitting and managing the budget of the Council and the State Prosecutor.

**Article 2
Definitions**

1. Terms used in this law shall have the following meanings:
 - 1.1. **Days** - calendar days.
 - 1.2. **Council** - the Kosovo Prosecutorial Council, a fully independent institution exercising the duties and responsibilities provided in the Constitution and this Law.
 - 1.3. **Disciplinary Committee** - the Prosecutorial Disciplinary Committee.
 - 1.4. **Chief Prosecutor** - a person who is the head of a prosecution office other than the Chief State Prosecutor or Head of the Special Prosecution Office.
 - 1.5. **Constitution** - the Constitution of the Republic of Kosovo.

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

1.7. **Comprehensive Settlement Proposal** - the Comprehensive Proposal for the Kosovo Status Settlement, 26 March 2007.

CHAPTER II COMPETENCIES, RESPONSIBILITIES AND COMPOSITION OF THE COUNCIL

Article 3 Council Independence

The Council is an institution fully independent in exercising its functions with the purpose of ensuring an independent, professional and impartial prosecution system, reflecting the multiethnic nature of the Republic of Kosovo as well as the internationally recognized principles of gender equality.

Article 4 Duties, Competencies and Limitations of the Council

1. The duties and competencies of the Council include but are not limited to the following:
 - 1.1. ensuring that prosecutors act in an independent, professional and impartial manner in the performance of all prosecutorial functions;
 - 1.2. recruiting and proposing, to the President, candidates for appointment and reappointment to prosecutorial office, including candidates from Communities that are not in the majority in Kosovo;
 - 1.3. ensuring that prosecution offices reflect the ethnic composition of their area of jurisdiction in accordance with Articles 109. 4. and 110. 3. of the Constitution and Comprehensive Settlement Proposal, Annex IV, Article 2.2;
 - 1.4. proposing candidates to the President for appointment as Chief State Prosecutor;
 - 1.5. in cooperation with the Kosovo Judicial Institute, establishing the standards for recruiting, organizing and advertising the preparatory examination for the qualification of prosecutors;
 - 1.6. announcing the public competition for prosecutors;
 - 1.7. determining the number of prosecutors in each prosecution office;
 - 1.8. appointing the Chief Prosecutors for the Basic Prosecution Offices and Appellate Prosecution Office in compliance with the Law on State Prosecutor;
 - 1.9. developing, in coordination with the Office of the Chief State Prosecutor, prosecutorial policies and strategies for effectively combating criminality;
 - 1.10. proposing to the Government and the Assembly measures related to the prosecutorial system and to combat criminality;
 - 1.11. reporting to the Kosovo Assembly, the President, and the public on the work of the Council and the State Prosecution Office;
 - 1.12. preparing an annual report on the activities of the State Prosecutor and the expenditures of the Council;
 - 1.13. providing and publishing information and statistical data on the prosecution system;

- 1.14. overseeing the administration of the prosecution offices and its personnel;
- 1.15. overseeing the Prosecution Performance Review Unit and issuing rules and regulations in accordance with its competencies;
- 1.16. providing the support for the regular periodic assessment of the caseloads of the prosecution offices and implementing a case allocation system to ensure the efficient functioning of the prosecution offices;
- 1.17. preparing, submitting and overseeing the budget of the prosecutorial system to ensure efficient and effective functioning of prosecution offices and accounting for the use of fiscal resources;
- 1.18. promulgating the Code of Professional Ethics for the Council's members, the violation of which provides grounds for sanctions, including dismissal from the Council;
- 1.19. promulgating the Code of Professional Ethics for prosecutors, the violation of which provides grounds for sanctions, including dismissal from office;
- 1.20. promulgating a Code of Ethics for support employees, the violation of which constitutes grounds for sanctions, including dismissal from employment;
- 1.21. establishing the procedures for and conducting disciplinary proceedings;
- 1.22. when warranted, recommending to the President the removal of the Chief State Prosecutor;
- 1.23. determining policies, standards and instructions related to the training of prosecutors and other personnel and overseeing the implementation of professional training and development of prosecutors by the Institute or other training associations or organizations;
- 1.24. cooperating with individuals and organizations responsible for independently monitoring the prosecutorial system;
- 1.25. promulgating rules and regulations consistent with public information laws related to the management and disclosure of information retained by the State Prosecutor;
- 1.26. establishing such committees as the Council deems necessary; and
- 1.27. approving the rules of procedure for the functioning of the Council and its committees, and for the election of those Council members selected by their peers, which rules shall be publicly available.

2. In exercising its duties and competencies, the Council shall act in a manner that respects and preserves the independence of prosecutors in carrying out their prosecution functions. The Council shall not direct or influence, attempt to direct or influence, or otherwise undertake any act or make any statement that could reasonably be seen as interfering with or attempting to interfere with the independence of the prosecution function in relation to any person, investigation, or case.

Article 5 Composition and Selection of Members of the Council

1. The Council shall be composed of nine (9) members who are citizens of the Republic of Kosovo, five (5) of whom shall be prosecutors.
2. The five (5) prosecutors serving as members of the Council shall include:
 - 2.1. the Chief State Prosecutor;
 - 2.2. one (1) prosecutor from the Special Prosecution Office elected by the prosecutors serving in that Office;

- 2.3. one (1) prosecutor from Appellate Prosecution Office elected by the prosecutors serving in that Office, and
 - 2.4. two (2) prosecutors from Basic Prosecution Office elected by the prosecutors serving in that Office.
3. The non-prosecutor members of the Council shall be appointed by the Council based on a list of at least five (5) candidates for each position submitted by the relevant bodies and shall include:
- 3.1. one (1) member from the Chamber of Advocates who has specialized in criminal law, upon the proposal of the Executive Council of the Chamber of Advocates;
 - 3.2. one (1) professor from the law faculties of Republic of Kosovo upon the proposal of the Higher Education Department or other relevant authority related to higher education;
 - 3.3. one (1) representative of civil society with senior professional preparation and with knowledge from the field of human rights.
4. The Minister of Justice is a member of the Council, ex officio.
5. The Council shall elect its Vice-Chairperson from amongst its prosecutor members for a three (3) year term. The elected into this position does not extend the term of a Council member.
6. The Council membership shall reflect the multi-ethnic composition of the Republic of Kosovo and internationally recognized principles of gender equality. At least one member of the Council selected under paragraph 2 of this Article shall be from Communities that are not in the majority in Kosovo.
7. The Chief State Prosecutor shall serve ex officio as the Chairperson for so long as he or she holds the Chief State Prosecution office.

Article 6 Incompatibility with Membership

1. It shall be incompatible with membership on the Council when a member is:
- 1.1. a judge;
 - 1.2. a prosecutor who has not been appointed to serve as a State Prosecutor;
 - 1.3. a member of the Assembly of the Republic of Kosovo or any municipal assembly;
 - 1.4. a member of the Government of the Republic of Kosovo, with the exception of the Minister of Justice;
 - 1.5. a person who holds office or performs any duties in any political party or in any associations or foundations connected to any political party, with the exception of the Minister of Justice;
 - 1.6. a person who works for the administration, including persons performing duties in the Government of the Republic of Kosovo or in administrative or sub-administrative bodies established by the Constitution or created by legislation; or
 - 1.7. a person who has been convicted of a criminal offence, with the exception of minor offenses as defined by law.

Article 7 Terms of the Council Members

Except for ex officio members, Council members are elected or appointed for a five (5) year term. A member may be elected to one additional non-consecutive term of five (5) years.

Article 8
Termination of the Term

1. The term of the Council members terminates:
 - 1.1. when deceased;
 - 1.2. upon loss of ability to act for more than three (3) months due to certified medical reasons;
 - 1.3. upon consistent failure to attend to Council activities for more than three (3) months;
 - 1.4. if appointed on the basis of a particular status, upon cessation of the status upon which the appointment is based;
 - 1.5. upon resignation by providing the Council with advance notice of thirty (30) days; or
 - 1.6. when convicted of a criminal offence, with the exception of a minor offense as defined by law.
2. If a vacancy occurs on the Council prior to the expiration of the mandate of a member, the vacant position shall be filled in the same manner as the member whose mandate has expired. A person, other than the Chief State Prosecutor or Minister of Justice, selected to fill a vacancy on the Council shall be appointed or elected for a full five (5) year term.

Article 9
Independence of Council Members

The Council members shall exercise their official duties in an independent and impartial manner.

Article 10
Immunity

1. Council members shall enjoy immunity from prosecution, civil lawsuit and dismissal for actions taken, decisions made, or opinions expressed that are within the scope of their responsibilities as Council members.
2. Council members shall not enjoy immunity under paragraph 1 above and may be removed from office if they have committed an intentional violation of the law.
3. When a Council member is indicted or arrested, he or she shall give notice to the Chairperson of the Council without delay.

Article 11
Disciplinary Procedures for Council Members

1. The Council shall determine and publish the disciplinary rules and procedures applicable to its members, including those procedures governing the investigation, suspension, or recommendation of dismissal of any Council member.
2. A Committee composed of three (3) members, established by the Chairperson, shall decide on the grounds for discipline and sanction, including the suspension and dismissal, of any Council member.
3. A member who is suspended by the Committee is entitled to an appeal to the full Council within fifteen (15) days of a suspension decision.
4. Upon recommendation of the committee, a Council member may be dismissed by a two-thirds (2/3) vote of the Council members.

5. A Council member who is dismissed is entitled to appeal the decision directly to the Supreme Court within fifteen (15) days from the day of a dismissal decision.

Article 12
Residency of the Council, Quorum, and Public Nature of Meetings

1. The seat of the Council shall be located in Pristina.

2. The quorum for Council meetings shall be six (6) members, and Council's decisions shall be made by simple majority vote of the members present, unless otherwise provided by law.

3. All meetings of the Council are open to the public. The agenda for each Council meeting shall be publicly disclosed at least forty-eight (48) hours in advance of the meeting. The Council may close a meeting upon majority vote of the members where the following will be discussed:

3.1. an official state secret the disclosure of which would be a violation of law;

3.2. personnel matters concerning a prosecutor or employee, except that a meeting of the Council at which a final disciplinary decision is taken against a prosecutor;

3.3. performance assessment of prosecutors and other employees;

3.4. proprietary information the disclosure of which may prejudice the interests of any party competing for a government tender;

3.5. information or data, the disclosure of which would endanger the life or safety of any person;

3.6. an on-going investigation into misconduct or criminal activity the disclosure of which would reasonably endanger the objectivity and efficiency of the investigation;

3.7. proprietary business information, data, processes or computer code which is confidential under a contractual agreement or nondisclosure agreement between a vendor and the Council; or

3.8. any other information the disclosure of which would constitute a violation of law.

4. For every meeting closed by the Council, the Chairperson shall state on the official records the general reason or reasons for closing the meeting and shall record the vote of the present members of the Council. Once the Council has closed a meeting, no member of the Council or any person attending the meeting shall discuss or otherwise disclose the nature, content or outcome of the meeting until a majority of the Council members vote to disclose such information unless disclosure is otherwise prohibited by applicable law. The Chairperson of the Council shall dismiss from any closed meeting all personnel not otherwise necessary for the conduct of Council business during a closed session.

5. An emergency meeting of the Council may be called to address issues related to the safety and security of facilities or personnel, or where exceptional circumstances require immediate action. The Council may convene an emergency session upon the call of the Chairperson or Vice-Chairperson, in the absence of the Chairperson. The forty-eight (48) hour announcement requirement of paragraph 1 of this article is waived as to emergency sessions of the Council. The Chairperson shall within twenty-four (24) hours of the end of an emergency session disclose to the public the nature of the emergency and the items discussed at the meeting, unless exempt from disclosure by paragraph 1 of this Article.

Article 13
Annual Budget

1. The Council shall, in consultation with the Office of the Chief State Prosecutor and Chief Prosecutors prepare the annual operating budget of the Council and the Prosecution Offices. The Council shall directly submit the budget to the Government as provided by law. If the Minister of Finance and Economy submits a budget for the Council and the Prosecution Offices that differs from that proposed by the

Council, the Minister of Finance and Economy shall also submit to the Kosovo Assembly for its consideration the Council's originally recommended budget and any comments thereon.

2. The Council and the Office of the Chief State Prosecutor shall manage the annual budget for the Council and the Prosecution Offices independently and bears responsibility for overseeing expenditures, allocating funds, maintaining accurate and current accounts, and conducting financial audits.

Article 14 Administrative Support to the Council

1. The Office of the Chief State Prosecutor shall provide such administrative support to the Council through a secretariat with certain staff to enable the Council to perform its duties in an effective and expeditious manner.

2. In providing this support and in fulfilling this administrative function, the Office of the Chief State Prosecutor shall act in a manner that respects and preserves the authority and competencies of the Council as directed in the Constitution or this law. Among the duties of the Office of the Chief State Prosecutor in its administrative support capacity are:

2.1. assisting the Council in the administration of Prosecution Offices and to implement the rules, regulations and policies regarding personnel, budget, and administration of the Prosecution Offices and the Council.

2.2. proposing administrative rules necessary to implement the directives of the Council. All such rules shall be submitted to the Council for its approval.

2.3. proposing new rules and regulations whenever necessary for the efficient and effective administration of the Council and the Prosecution Offices;

2.4. reporting regularly to the Council on the activities of the Prosecution Offices and making recommendations for improvement.

2.5. in accordance with the directions of the Council, preparing and administering a consolidated budget for the Council and the Prosecution Offices.

2.6. subject to the directions of the Council, overseeing all administrative and support personnel including allocating such personnel to the Prosecution Offices based on workload, maintaining personnel records, establishing a performance appraisal system, ensuring the proper disciplining of administrative employees, and protecting employment rights.

2.7. subject to budgetary limitations and the direction of the Council, ensuring that the Prosecution Offices are properly supplied with the materials necessary for the efficient and effective performance of prosecutorial functions.

2.8. undertaking such other duties and authorities as the Council may direct and which are within its competency to direct.

3. The Council and the Office of the Chief State Prosecutor shall jointly develop and adopt regulations relating to the organizational structure and the functioning of the supporting administrative function.

Article 15 Prosecution Performance Review Unit

1. Under the direction of the Council, a Prosecution 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 Performance Review Unit.

3. The Prosecution Performance Review Unit shall have a separate budget within the Council's consolidated budget and shall independently report to the Council on its expenditures. The Office of the

Chief State Prosecutor through a secretariat with certain staff shall provide such administrative support to the Prosecution Performance Review Unit as the Council may direct.

Article 16
Director of the Prosecution Performance Review Unit

1. A Director of the Prosecution Performance Review Unit shall be selected and appointed by the Council in accordance with procedures, criteria, and qualifications to be developed and adopted by the Council through regulations which shall be consistent with Constitutional requirements and the requirements of applicable personnel regulations. A vacancy shall be filled based on a competitive, merit-based, and open process after public announcement of the position.
2. The Director shall be responsible to the Council for the efficient and effective administration of the Prosecution Performance Review Unit. The Director shall report directly to the Chairperson of the Council and shall respond to all Council requests for information.
3. The Council shall fix the salary of the Director of the Prosecution Performance Review Unit. The Director shall not accept additional compensation, other than reimbursement for reasonable and necessary expenses, for other duties or employment from any other source.

CHAPTER III
RECRUITMENT, NOMINATION AND APPOINTMENT OF PROSECUTORS

Article 17
Recruitment and Selection of Candidates

1. The Council shall by public advertisement invite all qualified legal professionals to apply to be candidates for prosecutorial nominations.
2. The Council shall develop and implement procedures for recruiting and nominating candidates for appointment as prosecutors that comply with the Constitution and applicable law.
3. In accordance with the Constitution and the Comprehensive Settlement Proposal, the Council shall implement targeted recruitment campaigns and other measures that it considers necessary and appropriate to ensure that a prosecution office reflects the ethnic composition of its area of jurisdiction.

Article 18
Appointment and Reappointment Proposal

1. The Council shall take such measures as are necessary with a view to increasing the number of prosecutors from Kosovo Communities that are not in the majority among prosecutors serving in Kosovo or in any part thereof. The Council shall, give preference, among equally qualified applicants for service as prosecutors to members of Communities that are not in the majority as provided in Articles 109. 4. and 110.3. of the Constitution and the Comprehensive Settlement Proposal, Annex IV, Article 2.2.
2. Upon completion of each census and at least every five (5) years, the Council shall study the ethnic composition of the prosecution office and shall request additional funding as is necessary to increase the number of prosecutors from Communities that are not in the majority in Kosovo to ensure that prosecution offices reflect the ethnic composition of the area of their jurisdiction.
3. Before submitting a nomination for appointment or reappointment, the Council shall seek the opinion of the respective prosecution office for which the candidate is proposed to be appointed or reappointed.
4. The Council shall submit written nominations of candidates for prosecutors to the President proposals for appointment or reappointment of candidates in compliance with the Constitution and the law. In nominating a candidate for appointment or reappointment, the Council shall take into account the following criteria:

- 4.1. professional knowledge, work experience and performance, including an understanding of, and respect for human rights;
 - 4.2. capacity for legal reasoning as proven through professional activities in the legal field, including as a judge, prosecutor or lawyer, academic works, and other professional activities;
 - 4.3. professional ability based on previous career results, including participation in organized forms of training in which performance has been assessed;
 - 4.4. capability and capacity for analyzing legal problems;
 - 4.5. ability to perform impartially, conscientiously, diligently, decisively and responsibly the duties of the office;
 - 4.6. communication abilities;
 - 4.7. conduct outside of office; and
 - 4.8. personal integrity.
5. All nominations for appointment and reappointment of prosecutors shall be justified in writing.

Article 19
Appointment and Reappointment of Prosecutors

1. The President shall appoint and reappoint prosecutors upon the nominations of the Council and in compliance with the Constitution and the law.
2. If the President of Kosovo refuses to appoint or reappoint any candidate, the President shall within sixty (60) days provide written reasons for his or her refusal to the Council. The Council may present the refused candidate to the President one additional time together with its written justification, or the Council may propose another candidate.
3. The term of appointment shall be as provided in Article 109.5. of the Constitution.

Article 20
Appointment of Chief State Prosecutor and Chief Prosecutors

1. The Chief State Prosecutor shall be nominated by the Council from among prosecutors and shall be appointed by the President for a seven (7) year term, with no possibility for reappointment.
2. The Council shall appoint Chief Prosecutors for all other units of the State Prosecutor. Subject to the qualifications set forth in the Law on State Prosecutors, any prosecutor is eligible to be appointed to the post of the Chief Prosecutor.
3. A Chief Prosecutor shall be appointed by the Council for a four (4) year term, with the possibility for one additional term.
4. In order to ensure that the State Prosecutor reflects the multiethnic nature of Kosovo, the Council shall endeavor to ensure that members of Communities that are not in the majority in Kosovo shall be appointed to management roles.
5. If a candidate proposed as a Chief Prosecutor is a member of the Council, he or she cannot participate in deliberations or voting for the appointment of the Chief Prosecutor.
6. The Council shall be authorized to remove a Chief Prosecutor from that position, pursuant to a performance assessment conducted in accordance with applicable law, or upon a finding of criminal conduct, mismanagement, incompetence, or failure to fulfill the duties of the position.

**CHAPTER IV
ASSESSMENT AND TRANSFER OF PROSECUTORS**

**Article 21
Performance Assessment of Prosecutors**

1. The manner and procedure for performance assessments of prosecutors shall be established by regulations and rules developed and issued by the Council.
2. The Council shall establish criteria for assessing and promoting prosecutors that include but are not limited to the following:
 - 2.1. professional knowledge, work experience and performance, including an understanding of, and respect for 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 analyzing legal problems;
 - 2.5. ability to perform impartially, conscientiously, diligently, decisively and responsibly the duties of the office;
 - 2.6. communication abilities;
 - 2.7. conduct out of office, and
 - 2.8. personal integrity.
3. Every prosecutor who is assessed shall receive the assessment results and may add written objections to any conclusions or findings.

**Article 22
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 six (6) months at any one time.
2. The transfer as per 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. The Chief State Prosecutor, for extraordinary circumstances, may temporarily transfer a prosecutor to another prosecution office. A transfer under this provision shall not exceed thirty (30) days unless approved for a longer period by the Council.
4. Prosecutors may not be transferred into any other prosecution office against their will except as otherwise provided in this law.
5. Upon application to the Council, a prosecutor may be permanently transferred to another prosecution office.
6. The Council shall promulgate rules and regulations establishing the standards and procedures governing the appeals.

7. Where a permanent relocation or a permanent transfer that exceeds six (6) months, the Council shall strive to ensure that the relocation or transfer will not change the ethnic composition of the prosecution office which are affected by the relocation or transfer.

CHAPTER V DISCIPLINARY PROCEDURES

Article 23 Council's Disciplinary Committee

The Disciplinary Committee shall consist of three (3) members of the Council, two (2) of whom must be prosecutors. The Chairperson of the Committee shall be a prosecutor.

Article 24 Misconduct

1. For purposes of this law, misconduct by a prosecutor shall consist of:
 - 1.1. the final decision for a criminal offense, with the exception of a minor offense as defined by law.
 - 1.2. negligence in performing, a failure to perform, or abuse of prosecutorial functions.
 - 1.3. a failure to perform prosecutorial functions independently and impartially.
 - 1.4. a violation of the applicable code of ethics.
2. The Disciplinary Committee may suspend a prosecutor without pay during any period of investigation or during the disciplinary proceedings.

Article 25 Initiation of Disciplinary Proceedings

1. The Office of Disciplinary Prosecutor shall recommend to the Disciplinary Committee of the Council the initiation of disciplinary proceedings against a prosecutor on the basis of a conducted investigation.
2. Upon the recommendation of initiation of disciplinary proceedings, the Office of Disciplinary Prosecutor shall notify in writing the Committee, the Council, and the prosecutor who is under investigation.

Article 26 Disciplinary Sessions

1. Upon initiation of a disciplinary proceeding, the prosecutor under investigation shall be notified of the basis of the disciplinary proceeding and invited by the Disciplinary Committee to appear in person at a closed session, which shall be held within thirty (30) days from the notification date.
2. A member of the Office of Disciplinary Prosecutor or the Director of the Office of Disciplinary Prosecutor shall present to the Disciplinary Committee the recommendation for disciplinary action and the evidence obtained in the investigation supporting a finding of misconduct and disciplinary sanctions.
3. Prosecutors have the right to self-representation or to assign an attorney for their defense and shall have access to all evidence obtained in the investigation and all case writings of the case.
4. The decision of the Committee whether misconduct occurred and whether to impose a sanction shall be made in accordance with procedures and rules to be promulgated by the Council to govern the conduct of disciplinary proceedings. The decision shall be in writing and shall contain the justification.

5. A copy of the decision shall be provided to the prosecutor and to the Office of Disciplinary Prosecutor.

Article 27 Disciplinary Measures

1. The Disciplinary Committee may impose disciplinary measures as follows:
 - 1.1. reprimand;
 - 1.2. reprimand with a directive to take corrective actions;
 - 1.3. temporary reduction of salary by up to fifty percent (50%) taking into account the nature of misconduct;
 - 1.4. demote to a lower position within the prosecutorial system; or
 - 1.5. propose the removal of a State Prosecutor from office.
2. The Disciplinary Committee shall impose a sanction that is consistent with the circumstances, level of responsibility, and consequences of the misconduct.
3. If the prosecutor is released from the charges at the completion of the disciplinary procedure, he or she shall return to his or her previous prosecution office upon the decision of the Council.

Article 28 Dismissal of Prosecutors

1. The Council shall determine, based on disciplinary proceedings, whether the misconduct of a prosecutor justifies dismissal from office. Every recommendation from the Council for the dismissal of a prosecutor shall include the written reasons for such recommendation and the basic conclusions of the Committee.
2. The recommendation of the Council for dismissal, as foreseen in paragraph 1 of this article shall, within fifteen (15) days, be submitted to the President and the prosecutor concerned.
3. The President, in accordance with the Constitution and this law, shall decide on the recommendation of the Council for dismissal.
4. A prosecutor shall formally be notified by the Council regarding the decision of the President for the approval or disapproval of dismissal from office before such a decision is enforced.

Article 29 Appeals towards Disciplinary Decisions

1. Appeals against Disciplinary Committee decisions may be submitted to the Council through the Chairperson. A Council member who attended the Disciplinary Committee proceedings shall not participate in the appeal process.
2. The prosecutor who is the subject of the proceeding as well as the Office of Disciplinary Prosecutor may exercise an appeal to the Council against the Committee decision within fifteen (15) days from the receipt of the final decision.
3. The deadline for an appeal under this section may be extended provided that the request for extension of time is filed with the Council within the fifteen (15) days provided. No extension of time for appeal filed after the fifteen (15) days shall be granted by the Council absent a showing of extraordinary or catastrophic circumstances.

4. An appeal exercised within these time limitations shall suspend the execution of the disciplinary decision set forth in Article 27 of this law.

Article 30 Reasons for Appeal

1. An appeal may be exercised because of:
 - 1.1. violation of the law or sub-legal acts that are applicable for prosecutors;
 - 1.2. mistaken or incomplete evidence or confirmation of the factual situation;
 - 1.3. violation of the disciplinary procedure.
2. The appeal shall be submitted in writing to the Council within the time limits provided in this law.
3. The Appeal shall contain:
 - 3.1. the identification of the appellant;
 - 3.2. the decision to be appealed;
 - 3.3. the decision receipt date; and
 - 3.4. the specific basis of the appeal.

Article 31 Deadline for Hearing Appeal

The Council shall hear and dispose of any appeal from the actions of the Disciplinary Committee within three (3) months from the date of the filing of the appeal.

Article 32 Appeal Refusal

1. The Council may refuse an appeal, without holding a hearing session, if within five (5) days, it is determined that:
 - 1.1. the appellant is not one of the parties entitled to appeal against the decision;
 - 1.2. the appeal does not contain one or more reasons that require filing of the appeal;
 - 1.3. the appeal was not conducted in a timely manner.

CHAPTER VI OFFICE OF DISCIPLINARY PROSECUTOR

Article 33 Office of Disciplinary Prosecutor

The Office of Disciplinary Prosecutor shall be established as a separate and independent body that serves both the Kosovo Judicial Council and the Kosovo Prosecutorial Council. With respect to the prosecutorial system, the Disciplinary Prosecutor shall be responsible for investigating alleged misconduct of prosecutors and presenting the evidence and the case supporting disciplinary action for misconduct to the Disciplinary Committee.

Article 34
Independence and Impartiality of the Office of Disciplinary Prosecutor

1. The Office of Disciplinary Prosecutor shall act independently and impartially.
2. Subject to the provisions of paragraph 3 Article 26 of this law, no person shall have the right to exercise direct or indirect influence, or attempt to exercise influence, on the Disciplinary Prosecutor's functions pertaining to any investigation, recommendation, or presentation of a case to the Disciplinary Committee.

Article 35
Responsibilities of the Office of Disciplinary Prosecutor

1. The Office of Disciplinary Prosecutor is responsible for investigating prosecutors when there is a reasonable basis to believe that misconduct may have occurred, and for making recommendations and presenting the evidence supporting disciplinary action to the Disciplinary Committee.
2. The Office of Disciplinary Counsel shall initiate investigations in cases when:
 - 2.1. there is a complaint filed at the Office of Disciplinary Prosecutor by any natural or legal person;
 - 2.2. on its own initiative, when there is a reasonable basis to believe that a prosecutor may have engaged in misconduct.
3. All complaints, regardless of their origin, shall be submitted to the Office of Disciplinary Prosecutor for investigation.
4. The Office of Disciplinary Prosecutor shall investigate thoroughly all matters referred to it, shall determine whether recommendations of disciplinary action should be presented to the Disciplinary Committee, and shall notify in writing the Disciplinary Committee and the suspected prosecutor regarding the results of the investigation.
5. The Office of Disciplinary Prosecutor shall have the right to summon witnesses and collect documents as necessary to investigate and determine whether recommendations of disciplinary action should be presented to the Disciplinary Committee.
6. The Office of Disciplinary Prosecutor shall present recommendations of disciplinary action and the evidence supporting disciplinary action for misconduct to the Disciplinary Committee.

Article 36
Director of Office of Disciplinary Prosecutor

1. A Director of the Office of Disciplinary Prosecutor shall be selected by two-thirds (2/3) of the joint membership of both the Kosovo Judicial Council and the Kosovo Prosecutorial Council in accordance with personnel regulations. A vacancy shall be filled based on a competitive, merit-based, and open process after public announcement of the position.
2. The Director of the Office of Disciplinary Prosecutor shall be responsible to both the Kosovo Judicial Council and the Kosovo Prosecutorial Council for the efficient and effective administration of the Office of Disciplinary Prosecutor and shall exercise his or her responsibilities pursuant to rules and regulations promulgated by both Councils.
3. The Director of the Office of Disciplinary Prosecutor shall receive a salary equivalent to a judge of the Court of Appeals. The Director shall not accept additional compensation, other than reimbursement for reasonable and necessary expenses, for other duties or employment from any other source.

Article 37
Qualifications of Director of Office of Disciplinary Prosecutor

1. The Director of the Office of Disciplinary Prosecutor must meet the following qualifications:
 - 1.1. be a citizen and resident of Kosovo;
 - 1.2. have a valid university degree in law, criminal justice, police administration or a related field according to the laws of Kosovo;
 - 1.3. have at least five (5) years of relevant experience as a lawyer, judge, police officer, prosecutor or a related field of law enforcement or criminal justice administration;
 - 1.4. have a positive professional reputation and moral integrity;
 - 1.5. have successfully completed any training required for the position jointly mandated by the Kosovo Judicial Council and the Kosovo Prosecutorial Council; and
 - 1.6. not have been convicted for criminal offenses, with the exception of a minor offense as defined by law.

Article 38
Selection and Qualifications of Personnel of the Office of Disciplinary Prosecutor

1. The Director of the Office of Disciplinary Prosecutor, in consultation with the Council, and subject to the qualification criteria provided in this article, shall be authorized to select, appoint and dismiss Disciplinary Prosecutors. The Office shall assist in presenting recommendations for disciplinary action against prosecutors and the evidence supporting disciplinary action to the Disciplinary Committee. All vacancies shall be filled based on a competitive, merit-based, and open process after public announcement of a position.
2. Employees of the Office of the Disciplinary Prosecutor must meet the following qualifications:
 - 2.1. be a citizen and resident of Kosovo;
 - 2.2. have a valid university degree in law, criminal justice, police administration or a related field according to the laws of Kosovo;
 - 2.3. have a least three (3) years of relevant working experience as a lawyer, judge, police officer, prosecutor, or in a related field of law enforcement or criminal justice administration;
 - 2.4. have a positive professional reputation and moral integrity;
 - 2.5. have successfully completed any training required for the position jointly mandated by the Kosovo Judicial Council and the Kosovo Prosecutorial Council;
 - 2.6. have not been convicted for criminal offenses, with the exception of minor offenses as defined by law.
3. The Director of the Office of Disciplinary Prosecutor shall be authorized, subject to the qualification criteria provided in this article, to select, appoint and dismiss Inspectors. Inspectors shall assist in the conduct of the investigations for which the Disciplinary Prosecutor is responsible. All vacancies shall be filled based on a competitive, merit-based, and open process after public announcement of a position.
4. An Inspector of the Disciplinary Prosecutor must meet the following qualifications:

- 4.1. be a citizen and resident of Kosovo;
- 4.2. have at least three (3) years of relevant experience in the field of law enforcement, police work, criminal justice administration, or a related field;
- 4.3. have a positive reputation in society;
- 4.4. have successfully completed any training required for the position jointly mandated by the Kosovo Judicial Council and the Kosovo Prosecutorial Council;
- 4.5. have not been convicted for criminal offenses, with the exception of minor offenses.

2. The Director of the Office of Disciplinary Prosecutor shall also be authorized to select, appoint and dismiss, consistent with Constitutional requirements and the requirements of applicable personnel regulations, administrative and support personnel as needed to provide administrative support for the functions of the Director, the Disciplinary prosecutors, and the Inspectors of the Office of Disciplinary Prosecutor.

Article 39 Budget for the Office of Disciplinary Prosecutor

The Director of the Office of Disciplinary Prosecutor shall submit annually directly to the Ministry of Finance and Economy a separate budget for the funding of the salaries of the personnel of the Office of Disciplinary Prosecutor, including the Director, the Disciplinary prosecutors, the Inspectors, and the administrative and support personnel, and the other expenses of operating the Office of Disciplinary Prosecutor. The budget for the Office of Disciplinary Prosecutor shall be administered by the Secretariat of the Kosovo Judicial Council upon the direction and certification of the Director of the Office of Disciplinary Prosecutor. The Kosovo Prosecutorial Council shall have no authority to limit or otherwise direct the expenditures of the Office of Disciplinary Prosecutor nor shall the Kosovo Prosecutorial Council have the authority to reallocate the budget of the Office of Disciplinary Prosecutor or utilize funds appropriated to the Office of Disciplinary Prosecutor for any other purpose. The Director of the Office of Disciplinary Prosecutor shall report annually to a joint session of the Kosovo Judicial Council and the Kosovo Prosecutorial Council on the activities and expenditures of the Office of Disciplinary Prosecutor.

CHAPTER VII THE TRAINING OF PROSECUTORS

Article 40 Training policies, Standards and Instructions

1. The Council, in coordination with the Kosovo Judicial Institute, shall determine policies, standards and directives by which the training for prosecutors, candidates for prosecutors and the other prosecutorial staff are regulated.
2. The Council may create associations or other organizations for the implementation of further professional training of prosecutors.
3. The Council may cooperate with associations or other organizations for the professional training of prosecutors and the other prosecutorial staff.

CHAPTER VIII FINAL PROVISIONS

Article 41 Validity of Prior Actions of the Council established under UNMIK Administrative Regulation 2005/52 and the Law on the Temporary Composition of the Kosovo Judicial Council

1. All administrative actions of the Council taken under the authority of UNMIK Administrative Regulation 2005/52 or pursuant to the Council established by the Law on the Temporary Composition of the Kosovo Judicial Council and which were taken prior to the establishment of this Council and transfer of competencies, including the promulgation of any rule, regulation, fee schedule, directive, or other official action, shall remain valid and in effect unless abrogated by this law or until such time as the Council modifies, repeals or clarifies such actions.

2. All prior actions regarding the appointment, transfer or discipline of prosecutors shall remain valid and in effect unless abrogated by this law or subsequent legal act.

3. All prior personnel actions of the Council regarding the appointment, promotion, transfer or termination of administrative employees shall remain valid and in effect unless abrogated by this law or subsequent Council action.

Article 42 Initial Composition of the Council

1. Notwithstanding Article 5 of this law the initial composition of the Council shall be as follows:

1.1. The Chief State Prosecutor;

1.2. The prosecutor then currently serving as a member of the Kosovo Judicial Council;

1.3. The Special Prosecutor serving on the Kosovo Judicial Council;

1.4. The Minister of Justice;

1.5. One District Prosecutor and one Municipal Prosecutor selected by the members above, one of whom must be from a Community that is not in the majority in Kosovo; and

1.6. The three (3) other members selected by the Council as provided in paragraph 3 Article 5 of this law, not later than three (3) months from entry into force of this law.

Article 43 Transfer of Competencies

1. Upon the establishment of the Kosovo Prosecutorial Council as provided in this law, the duties and competencies then being exercised by the Kosovo Judicial Council shall be transferred to the Council.

2. The prosecutors who, at the time the Council is established as provided in this law, are members of the Kosovo Judicial Council shall be transferred to the Council and remain there until the natural expiration of the their term.

3. Not later than three (3) months from the entry in force of this law, the Kosovo Judicial Council and the Ministry of Justice shall transfer to the Council all files pertaining to the prosecutors.

Article 44 Abrogation

This law shall abrogate and replace the UNMIK Regulation No. 2005/52, as well as all other legal provisions that conflict with this law.

Article 45 Entry into Force

This law shall enter into force on January 1, 2011 consistent with Articles 80 (6) of the Constitution.

**Law No. 03/L-224
30 September 2010**

Promulgated by Decree No. DL-051-2010, dated 18.10.2010, Acting President of the Republic of Kosovo, Dr. Jakup Krasniqi.