LAW No. 06/L-015

ON CUSTOMS MEASURES FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

The Assembly of the Republic of Kosovo,

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

Approves:

LAW ON CUSTOMS MEASURES FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

CHAPTER I
GENERAL PROVISIONS

Article 1
Purpose

1. This Law sets out the rights, responsibilities, principles and customs measures undertaken by the Kosovo Customs with regard to goods that are suspected to infringe the intellectual property rights.

2. This Law approximates the EU Regulation No 608/2013 of the European Parliament and Council, date of 12th of June 2013, in regard to customs measures for protection of intellectual property rights.

Article 2
Scope

1. The provisions of this Law shall apply to goods suspected of infringing an intellectual property right, goods which shall be subject to customs supervision or control, and in particular goods in the following situations:

   1.1. when goods are declared for free circulation, export or re-import;

   1.2. when goods enter or leave the customs territory of the Republic of Kosovo; and

   1.3. when goods are placed under the transit procedure, customs warehouse procedure, inward processing procedures, processing under customs control, temporary import, placed in a free zone, or free customs warehouse in accordance to provisions of the legislation in force.

2. The provisions of this Law shall not apply to:
2.1. goods which are released to free circulation under the end use regime;

2.2. goods of non-commercial nature contained in travellers’ personal luggage; and

2.3. goods which are manufactured by a person with the consent of the right holder or to goods, which are manufactured by a person legally authorized by the right holder to manufacture a certain quantity of goods, in excess of quantities on which the person and the right holder have agreed.

3. This Law shall not affect national laws on intellectual property in relation to criminal procedures.

Article 3
Definitions

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

1.1. Person – the natural person, legal person and other persons;

1.2. Natural person – any person who has the citizenship of the Republic of Kosovo, the citizenship of a foreign country or a person with no citizenship;

1.3. Legal person – a public or private entity, association or other business organization that has the status of a legal person according to the legislation in force on business organization and any other applicable legislation in the Republic of Kosovo or of another country;

1.4. Other persons – business organizations established under the applicable legislation in Kosovo or of a foreign country that do not have the status of a legal person;

1.5. Intellectual property right:

1.5.1. a trade mark;

1.5.2. an industrial design;

1.5.3. a copyright or any related right;

1.5.4. a geographical indication;

1.5.5. a designation of origin;

1.5.6. a patent;

1.5.7. a supplementary protection certificate for medical products as per the legislation in force;

1.5.8. a supplementary protection certificate for plant products as per the legislation in force;
1.5.9. a plant variety right;

1.5.10. a topography of semi-conductor production;

1.5.11. a utility model in so far as it is protected as an intellectual property right by the legislation in force; and

1.5.12. a trade name in so far as it is protected as the intellectual property by the legislation in force.

1.6. **Trade mark** – the registered trade mark in the Republic of Kosovo or the trade mark registered according to the international agreements where the Republic of Kosovo is a member;

1.7. **Industrial design** – the industrial design registered in the Republic of Kosovo or the industrial design registered according to the international agreements where the Republic of Kosovo is a member;

1.8. **Geographical indication** – the geographical indication protected as provided for in the legislation in force, geographical indications for wines, for the aromatized drinks based on wine products, for alcoholic drinks and geographical indications according to determinations in the agreements between Republic of Kosovo and other countries;

1.9. **Counterfeited goods** – means:

1.9.1. goods which are the subject of an act infringing a trade mark registered in the Republic of Kosovo and bear without authorization a sign which is identical to the trade mark validly registered in respect of the same goods or bear a sign which cannot be distinguished in its essential aspect from the registered trade mark;

1.9.2. goods which are the subject of an act infringing a geographical indication and bear or are described by, a name or term protected in respect of that geographical indication; and

1.9.3. any packaging, label, sticker, brochure, operating instruction, warranty document or other similar item, even if presented separately, which is the subject of an act infringing a trade mark or a geographical indication, which includes a sign, name or term which is identical to a validly registered trade mark or protected geographical indication, or which cannot be distinguished in its essential aspects from such a trade mark or geographical indication and which can be used for the same type of goods, as that for which the trade mark or geographical indication has been registered.

1.10. **Pirated goods** – goods which are the subject of an act infringing a copyright or related right or industrial design and which are, or contain copies, made without the consent of the holder of a copyright, related right or industrial design, or of a person authorized by the right holder in the country of production;

1.11. **Goods suspected of infringing an intellectual property right** – goods identified in the Republic of Kosovo with regards to which there are reasonable indications that, they are prima facie:
1.11.1. for being subject of an act infringing an intellectual property right in the Republic of Kosovo;

1.11.2. devices, products or components projected, manufactured or adapted mainly for the purpose of enabling or facilitating the circumvention of any technology, device or component that, in the normal course of its operation, prevents or restricts acts in respect of works which are not authorized by the holder of any copyright or any right related to copyright and which relate to an act infringing those rights in Republic of Kosovo; or

1.11.3. any mould or matrix which is specifically designed or adapted for the manufacture of goods infringing an intellectual property right, if such moulds or matrixes relate to an act infringing an intellectual property right;

1.12. **Right holder** – the holder of any intellectual property right;

1.13. **Application** – the application submitted to the Kosovo Customs to take action with respect to goods suspected of infringing an intellectual property right;

1.14. **Applicant** – a person, as referred to in sub-paragraphs 1.1., 1.2., 1.3. or 1.4. of this Article in whose name an application is submitted;

1.15. **Holder of the decision** – the holder of the decision granting an application;

1.16. **Holder of the goods** – the person who is the owner of the goods suspected of infringing an intellectual property right or who has similar rights of alienation/disposal or physical control over such goods;

1.17. **Declarant** – the declarant as determined in the applicable customs legislation;

1.18. **Destruction** – the physical destruction, recycling or disposal of such goods outside commercial channels, in such a way as to preclude damage to the holder of the decision;

1.19. **Release of goods** – the release of the goods as determined in the applicable customs legislation;

1.20. **Small consignment** – a postal or express courier consignment, which:

1.20.1. contains three units or less; or

1.20.2. has a gross weight of less than two (2) kilograms.

1.21. **Unit** – the packaged or unpackaged goods, classified according to the Combined Nomenclature in force, which are intended for retail sale to the ultimate consumer. For the purposes of this definition, separate goods falling in the same Combined Nomenclature code shall be considered as different units and goods presented as sets classified in one Combined Nomenclature code shall be considered as one unit.

1.22. **Perishable goods** – goods which are considered by the Kosovo Customs of being perishable if kept up to twenty (20) days from the date of their suspension of release or detention; and
1.23. **Exclusive licence** – a licence, whether general or limited, authorizing the licensee to use the intellectual property right in such way as authorized by the licence to the exclusion of all other persons, including the person granting the licence.

**CHAPTER II**

**APPLICATION FOR CUSTOMS ACTION**

**Article 4**

**Entitlement to submit an application**

1. The right to submit an application to the Kosovo Customs, in order to determine whether an intellectual property right has been infringe, have the following persons or entities:

1.1. right-holders;

1.2. intellectual property collective rights management bodies as referred in the legislation in force for copyright or related rights;

1.3. groups of manufacturers administering geographical indications, which represent the manufacturers of products with geographical indications or designation of origin; representatives of these groups and business entities being entitled to use a geographical indication; or competent authorities for such geographical indications according to the legislation in force;

1.4. persons authorised to use intellectual property rights, which have been authorized formally by the right holder to initiate the procedure, with the purpose of determining whether an intellectual property right has been infringed.

**Article 5**

**Submission of applications**

1. Applications are submitted to the Kosovo Customs, using the prescribed form that contains the information stipulated in Article 6 of this Law.

2. Where the application is submitted after notification by the Kosovo Customs for suspension of the release or detention of the goods, in accordance with paragraph 3. of Article 18 of this Law, the application:

2.1. should be submitted to the Kosovo Customs within four (4) working days from the date of notification on suspension of the release or detention of the goods;

2.2. should be according to the prescribed form and contain information determined in Article 6 of this Law;

2.3. with the exception from sub-paragraph 2.1. of this Article, the application may not include the information referred to in sub-paragraphs 1.6., 1.7. and 1.8. of Article 6 of this Law; and

2.4. should be submitted using the electronic data processing techniques, when available.
Article 6
Application form

1. The application contains the following information:

1.1. details regarding the applicant;

1.2. the applicant’s status according to Article 4 of this Law;

1.3. documents providing evidence that the applicant is entitled to submit the application;

1.4. details of the person representing and evidence that the person has the power to act as representative in accordance with the legislation in force, where the applicant submits the application by means of a representative;

1.5. the intellectual property right or rights to be enforced;

1.6. specific and technical data on the authentic goods, including signs such as bar-coding and images, where appropriate;

1.7. information needed by the Kosovo Customs to readily identify these goods;

1.8. information needed by the Kosovo Customs to analyse and assess the risk of infringement of an intellectual property right or rights, such as information for the authorized distributors;

1.9. details of each representative appointed by the applicant to take charge of legal and technical matters;

1.10. information confidentiality note, if information referred to in sub-paragraphs 1.6., 1.7. and 1.8. of this Article are to be provided;

1.11. declaration from the applicant to notify the Kosovo Customs of any of the situations mentioned in Article 15 of this Law;

1.12. declaration from the applicant to forward or update any relevant information for analysis and assessment of the risk of infringement of intellectual property rights;

1.13. declaration from the applicant to assume liability under the conditions referred to in Article 28 of this Law;

1.14. declaration from the applicant to bear the costs referred to in Article 29 of this Law under the conditions laid down in that Article;

1.15. agreement by the applicant that the data provided by him may be processed by the Kosovo Customs; and

1.16. whether the applicant requests the use of the procedure referred to in Article 26 of this Law and, where requested by the Kosovo Customs, agrees to cover the costs related to destruction of goods under that procedure.
2. The Kosovo Customs shall establish an application form by means of sub-laws.

Article 7
Incomplete applications

1. Where the Kosovo Customs considers that the application does not contain all the information required by Article 6 of this Law, the Kosovo Customs shall request from the applicant that within ten (10) working days after receiving the notification to supply the missing information. In such cases, the time-limit referred to in paragraph 1. of Article 9 of this Law, shall be suspended until the relevant information is received.

2. If the applicant fails to supply the missing information within the deadline determined in paragraph 1. of this Article, the Kosovo Customs shall reject the application.

Article 8
Release from payment

The applicant shall not be charged with a fee to cover the administrative costs resulting from the processing of the application.

Article 9
Notification regarding the decision

1. The Kosovo Customs shall notify the applicant of its decision granting or rejecting the application within thirty (30) working days of the receipt of the application. In the event of rejection, the Kosovo Customs shall notify the applicant on the reasons for rejection and shall inform him over the appeal procedure.

2. If the applicant is notified on the suspension of the release or detention of the goods by the Kosovo Customs prior to submitting the application, the Kosovo Customs shall notify the applicant of its decision granting or rejecting the application within two (2) working days of the receipt of the application.

Article 10
Decision for application

1. A decision granting an application and any decision revoking or amending this decision, shall enter in force one (1) day after the approval.

2. A decision extending the period during which the Kosovo Customs are to take action, shall enter into force on the day following the expiry of the period to be extended.

Article 11
Deadline of the customs action

1. When an application is granted, the Kosovo Customs shall determine the term during which they are to take actions. This period shall begin on the day the decision granting the application takes effect as referred to in Article 9 of this Law and shall not be longer than one (1) year from the date of adopting the decision.

2. Where the application is submitted to the Kosovo Customs after the notification of the suspension of release or detention of the goods in accordance to paragraph 3. of Article 18 of
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this Law and does not contain information referred to in sub-paragraphs 1.6., 1.7. and 1.8. of Article 6 of this Law, the application is granted only for the suspension of release or detention of such goods, unless the information is provided within ten (10) working days after the notification of the suspension of the release or detention of the goods.

3. Where an intellectual property right ceases to have effect or where the applicant due to other reasons ceases to be entitled to submit an application, the Kosovo Customs shall not take any action. The decision granting the application shall be revoked or amended by Kosovo Customs.

Article 12

Extension of the period of time during which customs are to take action

1. On expiry of the period during which the Kosovo Customs are to take actions, the Kosovo Customs may extend the period at the request of the holder of the decision and provided that he discharged any debt toward the Kosovo Customs according to the previous decision.

2. Where the request for extension of the period during which the Kosovo Customs are to take action is received by the Kosovo Customs less than thirty (30) working days before the expiry of the period to be extended, the request may be refused.

3. The Kosovo Customs shall notify the holder of decision of its decision on the extension, within thirty (30) working days from the receipt of the application and shall specify the period during which the Kosovo Customs are to take action.

4. The extended period during which the Kosovo Customs are to take action shall run from the day following the date of expiry of the previous period and shall not exceed one (1) year.

5. Where an intellectual property right ceases to have effect or where the applicant due to other reasons ceases to be entitled to submit an application, the Kosovo Customs shall not undertake any action. The decision granting the application shall be revoked or amended by the Kosovo Customs.

6. The holder of decision shall not be charged a fee to cover the administrative costs resulting from the processing of the request for extension.

7. The Kosovo Customs shall establish an extension request form by means of sub-legal act.

Article 13

Amending the decision with regard to intellectual property rights

1. At the request of the holder of the decision, the Kosovo Customs may modify the list of intellectual property rights approved by that decision.

2. When a new intellectual property right is added to the list, the request shall contain the information referred to in sub-paragraphs 1.3., 1.5., 1.6., 1.7. and 1.8. of Article 6 of this Law.

Article 14

Notification obligations of the Kosovo Customs

1. The responsible office of the Kosovo Customs to which an application has been submitted shall forward the following decisions to the customs offices, immediately after their approval:
1.1. decisions granting the application;

1.2. decisions revoking decisions granting the application;

1.3. decisions amending decisions granting the application;

1.4. decisions extending the period during which the Kosovo Customs are to take action; and

1.5. decisions suspending the customs actions as referred to in paragraph 2. of Article 16 of this Law.

**Article 15**

**Notification obligations of the holder of the decision**

1. The holder of decision within one (1) working day shall notify the Kosovo Customs of any of the following:

1.1. an intellectual property right covered by the application ceases having an effect;

1.2. the holder of decision ceases to be entitled to submit an application due to other reasons; and

1.3. when information as referred to in Article 6 of this Law are amended.

**Article 16**

**Failure of the holder of the decision to fulfil his obligations**

1. Where the holder of the decision uses the information provided by the Kosovo Customs for purposes other than those referred to in Article 21 of this Law, the Kosovo Customs may revoke the decision granting the application to that holder of the decision and shall refuse the extension of period for customs action.

2. The Kosovo Customs may decide to suspend the customs actions until the expiry of period during which are to take action, where the holder of decision:

2.1. does not fulfil his obligation for notification as referred to in Article 15 of this Law;

2.2. does not fulfil his obligations to return the samples as referred to in paragraph 3. of Article 19 of this Law;

2.3. does not fulfil his obligations on costs as referred to in paragraphs 1. and 4. of Article 29 of this Law; and

2.4. without valid reason, does not initiate the procedures as referred to in paragraph 5. of Article 23 or paragraph 9. of Article 26 of this Law.
CHAPTER III
ACTION BY THE KOSOVO CUSTOMS

Article 17
Suspension of the release or detention of the goods following the grant of an application

1. Where the Kosovo Customs identifies goods suspected of infringing an intellectual property right, for which the decision for application has been granted, they shall suspend the release of goods or detain them.

2. Before suspending the release of or detaining the goods, the Kosovo Customs may ask from the holder of the decision to provide them with any relevant information regarding the goods. The Kosovo Customs may provide to the holder of the decision information about the actual or estimated quantity of goods, their actual or presumed nature and images thereof, as appropriate.

3. The Kosovo Customs shall notify the declarant or the holder of the goods about the suspension of release or detention of the goods within one (1) working day of the suspension or detention.

4. Where the Kosovo Customs decides to notify the holder of the goods/declarant and when two or more persons are considered to be holder of goods, the Kosovo Customs shall not be obliged to notify more than one of those persons.

5. The Kosovo Customs shall notify the holder of the decision about the suspension of release or detention of the goods on the same day as, or immediately after notifying the declarant or the holder of the goods. The notification shall include information on the procedure as referred to in Article 23 of this Law.

6. The Kosovo Customs shall notify the holder of the decision and the declarant or the holder of the goods about the actual or presumed quantity and nature of the goods, including images thereof, as appropriate, whose release has been suspended or which have been detained. The Kosovo Customs shall, upon request from the holder of the decision and where available to them, notify the holder of the decision about the names and addresses of the consignee, the consignor and the declarant or the holder of the goods, of the customs procedure and of the origin, provenance and destination of the goods, whose release has been suspended or which have been detained.

Article 18
Suspension of the release or detention of the goods before the grant of an application

1. Where the Kosovo Customs identifies goods suspected of infringing an intellectual property right, which are not covered by a decision granting an application, they may, except for in the case of perishable goods, suspend the release of those goods or detain them.

2. Before suspending the release of or detaining the goods suspected of infringing an intellectual property right, the Kosovo Customs may, without disclosing any information other than the actual or estimated quantity of goods, their actual or presumed nature and images thereof, as appropriate, request any person potentially entitled to submit an application concerning the alleged infringement of the intellectual property rights to provide them with any relevant information.

3. The Kosovo Customs shall notify the declarant or holder of the goods of the suspension of
the release of the goods or their detention within one (1) working day of that suspension or detention.

4. Where the Kosovo Customs opt to notify the holder of goods and two or more persons are considered to be the holder of goods, the Kosovo Customs shall not be obliged to notify more than one of those persons.

5. The Kosovo Customs shall notify persons entitled to submit an application concerning the alleged infringement of the intellectual property right, of the suspension of the release of the goods or their detention on the same day as, or promptly after, the declarant or the holder of the goods is notified.

6. The Kosovo Customs may consult the competent public authorities in order to identify persons that are entitled to submit an application. The notification shall include information on the procedure set out in Article 23 of this Law.

7. The Kosovo Customs shall notify persons entitled to submit an application concerning the alleged infringement of the intellectual property rights within one (1) working day from the suspension of the release or the detention of goods; and

8. Where an application has been granted, the Kosovo Customs, upon request and where available to them, inform the holder of the decision of the names and addresses of the consignee, the consigner and the declarant or the holder of goods, of the customs procedure and of the origin, provenance and destination of the goods, whose release has been suspended or which have been detained.

Article 19

Inspection and sampling of goods whose release has been suspended or which have been detained

1. The Kosovo Customs shall give the holder of the decision and the declarant or the holder of the goods the opportunity to inspect the goods whose release has been suspended or which have been detained.

2. The Kosovo Customs may take samples that are representative of the goods. They may provide and send samples to the holder of the decision, at the holder’s request and strictly for the purposes of analysis and to facilitate the subsequent procedure in relation to counterfeit or pirated goods. Any analysis of those samples shall be carried out under the sole responsibility and at the expense of the holder of the decision.

3. The holder of the decision shall, unless circumstances do not allow, return the samples referred to in paragraph 2. of this Article on completion of the analysis. The samples shall be returned before the release of the goods or before their detention is ended.
Article 20
Conditions for storage

The conditions of storage of goods during a period of suspension of release or detention shall be determined by the Kosovo Customs, in compliance with customs legislation in force.

Article 21
Permitted use of certain information by the holder of the decision

1. Where the holder of decision has received the information referred to in paragraph 6. of Article 17, paragraph 5. of Article 18, Article 19 or paragraph 8. of Article 26 of this Law, he may disclose or use that information only for the following purposes:

1.1. to initiate court proceedings, to determine whether an intellectual property right has been infringed and in the course of such proceedings;

1.2. in connection with criminal investigations related to the infringement of an intellectual property right and undertaken by competent authorities of Republic of Kosovo.

1.3. to initiate criminal proceedings and in the course of such proceedings;

1.4. to seek compensation from the infringer or other persons;

1.5. to agree with the declarant or the holder of the goods that the goods be destroyed as referred to in paragraph 1. of Article 23 of this Law; and

1.6. to agree with the declarant or the holder of the goods of the amount of guarantee referred to in sub-paragraph 2.1. of Article 24 of this Law.

Article 22
Sharing of information and data between customs authorities

1. Without prejudice to legal provisions in force on protection of personal data in the Republic of Kosovo and for the purpose of contributing to eliminating international trade of goods infringing intellectual property rights, the Kosovo Customs may share information and data available to them with the relevant authorities in other countries according to arrangements for cooperation.

2. The information and data referred in paragraph 1. of this Article shall be exchanged to enable effective enforcement of certain legislation against shipments of goods infringing an intellectual property right. Such information and data may relate to seizures, trends and general risk, including on goods which are in transit through the customs territory of the Republic of Kosovo and which have originated in or are destined, for another country outside of the customs territory of the Republic of Kosovo. Such data and information may include, where appropriate, the following:

2.1. nature and quantity of goods;

2.2. the intellectual property right suspected to have been infringed;

2.3. origin, provenance and destination of the goods;
2.4. information on movements of means of transport, in particular:

2.4.1. registration of means of transport;
2.4.2. reference numbers of freight bill or other transport document;
2.4.3. number of containers;
2.4.4. weight of load;
2.4.5. description and/or coding of goods;
2.4.6. reservation number;
2.4.7. seal number;
2.4.8. place of first loading;
2.4.9. place of final unloading;
2.4.10. places of transhipment;
2.4.11. expected date of arrival at place of final unloading.

2.5. information on movements of containers, in particular:

2.5.1. container number;
2.5.2. container loading status;
2.5.3. date of movement;
2.5.4. type of movement (loaded, unloaded, transhipped, entered, left and similar);
2.5.5. registration of means of transport;
2.5.6. number of journeys;
2.5.7. place;
2.5.8. freight bill or other transport document.

**Article 23**

**Destruction of goods and initiation of proceedings**

1. Goods suspected of infringing an intellectual property right may be destroyed under customs supervision, without there being any need to determine whether an intellectual property right has been infringed, where all of the following conditions are fulfilled:
1.1. within ten (10) working days or three (3) working days in case of perishable goods from the date of notification of the suspension of the release or the detention of the goods, the holder of the decision has confirmed in writing to the Kosovo Customs that in his conviction, an intellectual property right has been infringed.

1.2. within ten (10) working days or three (3) working days in case of perishable goods from the date of notification of the suspension of the release or the detention of the goods, the holder of the decision has confirmed in writing to the Kosovo Customs that in his conviction, an intellectual property right has been infringed. Moreover, the holder of the decision has confirmed in writing to the Kosovo Customs about his agreement to the destruction of the goods; and

1.3. within ten (10) working days or three (3) working days in case of perishable goods, from the date of notification of the suspension of the release or the detention of the goods, the declarant or the holder of the goods has confirmed in writing to the Kosovo Customs his agreement to the destruction of the goods. Where the declarant or the holder of the goods has not confirmed his agreement for destruction of the goods nor notified his opposition thereto in writing within the deadlines prescribed in this paragraph, the Kosovo Customs may deem the declarant or the holder of the goods to have received his tacit confirmation to the destruction of those goods.

2. When the Kosovo Customs considers necessary, it shall request from the holder of the decision to provide an explanation with regards to the decision that an intellectual property right has been infringed as per sub-paragraph 1.1. of this Article, by giving the specifics of the infringement.

3. The Kosovo Customs shall grant the release of the goods or put an end to their detention immediately after completion of all customs formalities, where within the periods referred to in sub-paragraph 1.1. and 1.2. of this Article, they have not received both the written confirmation from the holder of the decision that, on his conviction and intellectual property right has been infringed and his agreement to destruction of the goods. Unless the Kosovo Customs has been duly informed for the initiation of court proceedings, by submitting a copy of the lawsuit as filed with the competent court to determine whether an intellectual property right has been infringed, goods will not be released and the detention is not ended until the court takes a decision concerning those goods.

4. The destruction of the goods shall be carried out under customs supervision and under the responsibility of the holder of the decision. The Kosovo Customs may take samples prior to destruction of the goods, which may be used for educational purposes.

5. Where the declarant or the holder of the goods has not confirmed his agreement to the destruction in writing and where the Kosovo Customs does not deem to have received his tacit confirmation to the destruction, within the period referred to in sub-paragraph 1.3. of this Article, the Kosovo Customs shall notify the holder of decision within one (1) working day. In this case, within ten (10) working days or three (3) working days in case of perishable goods, from the date of notification of the suspension of the release or the detention of the goods, the holder of decision shall initiate court proceedings to determine whether an intellectual property right has been infringed.

6. Except in case of perishable goods, the Kosovo Customs may extend the period referred to in paragraph 5. of this Article by a maximum of ten (10) working days upon a duly justified request by the holder of the decision in appropriate cases.

7. The Kosovo Customs shall grant the release of the goods or put an end to their detention immediately after completion of all the customs procedures, where, within the periods referred to in paragraphs 5. and 6. of this Article, they have not been duly informed about the initiation of court proceedings by submission of a copy of the lawsuit as filed to the competent court to determine whether an intellectual property right has been infringed.
8. The Kosovo Customs shall determine the term and the procedure on destruction of the goods by means of sub-legal act.

**Article 24**

*Early release of goods*

1. Where the Kosovo Customs have been notified about the initiation of court proceedings to determine whether an industrial design, patent, utility model, topography of a semiconductor product or a plant variety has been infringed, the declarant or holder of goods may request from the Kosovo Customs for an early release of the goods before the completion of the procedures.

2. The Kosovo Customs shall grant the release of the goods or put an end to their detention only when all the following conditions are fulfilled:

   2.1. the declarant or the holder of the goods has provided a bank guarantee that is of an amount sufficient to protect the interests of the holder of the decision;
   
   2.2. the competent court which determines whether an intellectual property right has been infringed, has not authorized precautionary measures; and
   
   2.3. all customs procedures have been completed.

3. The provision of the bank guarantee referred to in sub-paragraph 2.1. of this Article shall not affect the other legal remedies available to the holder of the decision.

**Article 25**

*Goods for destruction*

1. Goods to be destroyed under Article 23 or Article 26 of this Law shall not be:

   1.1. released for free circulation;
   
   1.2. brought out of the customs territory of the Republic of Kosovo;
   
   1.3. exported;
   
   1.4. re-exported;
   
   1.5. placed under a suspensive procedure;
   
   1.6. placed in a free zone or free warehouse.

2. Without prejudice to paragraph 1. of this Article, where the Kosovo Customs with the agreement of the holder of the decision, decides that in certain cases the goods are to be recycled or disposed outside commercial channels, including for awareness-raising, training and educational purposes, they shall grant the release for free circulation. The terms under which the goods may be released for free circulation shall be determined with sub-legal act by the Kosovo Customs.

3. The Kosovo Customs may allow the goods referred to in paragraph 1. of this Article to be moved under the customs supervision within the customs territory of the Republic of Kosovo,
with the purpose to their destruction under the customs supervision.

Article 26
Procedure for the destruction of goods in small consignments

1. Goods in small consignments may be destroyed if all of the following conditions are fulfilled:

   1.1. goods are suspected of being counterfeit or pirated goods;
   1.2. goods are not perishable goods;
   1.3. goods are covered by the decision granting and application;
   1.4. the holder of the decision has requested the use of the procedure set out in this Article in the application; and
   1.5. goods are transported in small consignments.

2. When the procedure set out in this Article is applied, paragraphs 3., 4., 5. and 6. of Article 17, as well as paragraphs 2. and 3. of Article 19 of this Law shall not apply.

3. The Kosovo Customs shall notify the declarant or the holder of the goods of the suspension of the release of the goods or their detention within one (1) working day of the suspension of the release or detention of the goods. The notification of the suspension of release or detention of the goods shall include the following:

   3.1. the notification that the Kosovo Customs intends to destroy the goods; and
   3.2. the rights of the declarant or the holder of the goods as referred to in paragraphs 4., 5. and 6. of this Article.

4. The declarant or the holder of the goods shall be given the opportunity to express his point of view within ten (10) working days of notification of the suspension of release or detention of the goods.

5. The goods concerned may be destroyed where, within ten (10) working days of notification of the suspension of release or detention of the goods, the declarant or the holder of goods has confirmed to the Kosovo Customs his agreement to the destruction of goods.

6. Where the declarant or the holder of the goods has not confirmed his agreement to the destruction of the goods nor notified his opposition to the Kosovo Customs, within the period referred to in paragraph 5. of this Article, the Kosovo Customs may deem the declarant or the holder of the goods to have confirmed his agreement to the destruction of the goods.

7. The destruction shall be carried out under Customs supervision. The Kosovo Customs shall, upon request and as appropriate, provide the holder of the decision with information about the actual or estimated quantity of destroyed goods and their nature.

8. Where the declarant or the holder of the goods has not confirmed his agreement in writing and where the declarant has not been deemed to have confirmed his agreement to the destruction of the goods as referred to in paragraph 6. of this Article, the Kosovo Customs shall immediately notify the holder of the decision thereof and of the quantity and nature of goods. The Kosovo
Customs shall, upon request inform the holder of the decision of the names and addresses of the consignee, the consignor and the declarant or the holder of the goods, of the customs procedure and of the origin, provenance and destination of the goods, whose release has been suspended or detained.

9. The Kosovo Customs shall grant the release of goods or put an end to their detention immediately after completion of all the customs procedures, where they have not received information from the holder of the decision on the initiation of the court proceedings, by submission of a copy of the lawsuit as filed to the competent court to determine whether an intellectual property right has been infringed, within ten (10) working days of the notification referred to in paragraph 8. of this Article.

CHAPTER IV
LIABILITY AND COSTS

Article 27
Liability of the Kosovo Customs

1. The decision granting an application shall not entitle the holder of that decision to compensation in the event that goods suspected of infringing an intellectual property right are not detected by the Kosovo Customs and as a consequence, are released or no action is taken to detain them.

2. Fulfilment of competencies and actions undertaken by the Kosovo Customs in accordance to this Law shall not render them liable for compensation to persons involved in situations referred to in paragraph 1. of Article 2, or persons referred to in Article 18 of this Law.

Article 28
Liability of the holder of the decision

1. Pursuant to the legislation in force, the holder of the decision is liable to any holder of the goods or declarant, who has suffered damages from the following situations:

   1.1. when court proceeding initiated under this Law is discontinued or terminated due to an act or omission by the holder of the decision;

   1.2. where samples taken under paragraph 2. of Article 19 of this Law are not returned or are damaged and are out of use due to an act or omission by the holder of the decision; or

   1.3. when it is established that goods do not infringe an intellectual property right.

2. If the holder of the decision fails to comply with paragraph 1. of Article 23 of this Law, the Kosovo Customs may decide not to act as per the decision granting the application. In this event, the holder of the decision shall have no right to file a new application for the same intellectual property right within one (1) year.

Article 29
Costs

1. Where requested by the Kosovo Customs, the holder of the decision shall reimburse the costs
incurred by the Kosovo Customs or by third parties acting on behalf of the Kosovo Customs, from the moment of the suspension of the release of the goods or their detention, including storage and handling of the goods as referred to in paragraph 1. of Article 17, paragraph 1. of Article 18 and paragraphs 2. and 3. of Article 19, and when using corrective measures, such as destruction of goods in accordance to Articles 23 and 26 of this Law.

2. The holder of the decision to whom the suspension of release or detention of goods has been notified shall, upon request, be informed by the Kosovo Customs about the place and the manner of storage of those goods and the estimated storage costs, referred to in paragraph 1. of this Article. The information on estimated costs may be expressed in terms of time, products, volume, weight or service depending on circumstances of storage and the nature of the goods.

3. This Article shall not affect the right of the holder of the decision to seek compensation from the infringer or other persons in accordance to the legislation in force.

4. The holder of the decision shall pay the costs for any translation required by the Kosovo Customs with regard to goods which are suspected of infringing an intellectual property right.

CHAPTER V
EXCHANGE OF INFORMATION AND DATA RELATING TO APPLICATIONS FOR CUSTOMS ACTIONS

Article 30
Establishment of a central database

For the purposes of exchanging information referred in paragraph 1. of Article 6 and Article 14 of this Law, the Kosovo Customs shall establish and administer a central database.

Article 31
Protection of data

1. The processing of personal data by the Kosovo Customs shall be carried out in accordance to provisions of the legislation in force for protection of data in the Republic of Kosovo.

2. Personal data shall be collected and used solely for the purposes of this Law and those data shall be accurate and updated.

3. The Kosovo Customs shall introduce the personal data into the database and shall control their processing.

4. A data subject shall have a right to access his personal data that are processed through the database. If necessary, the data subject has the right to rectify, erase or block the personal data, in accordance with the legislation in force for protection of personal data.

5. Requests to exercise the right of access, rectification or blocking of the data shall be submitted to the Kosovo Customs General Directorate, which is the competent body for reviewing them.

6. Personal data shall not be kept longer than six (6) months from the date the relevant decision granting the application has been revoked or the relevant period, during which Kosovo Customs are to take actions to protect an intellectual property right, has expired.
7. Where the holder of decision initiated a court proceeding, as referred to in paragraph 5. of Article 23 and paragraph 9. of Article 26 of this Law and has notified the Kosovo Customs of the initiation of such proceedings, personal data shall be kept for six (6) months after a final court decision which determines whether an intellectual property right has been infringed, is rendered.

CHAPTER VI
PUNITIVE PROVISIONS

Article 32
Misdemeanour provisions

1. Any person who acts in contravention of Article 15 of this Law shall be fined as follows:

   1.1. for legal entities, a fine ranging from five hundred (500€) Euros to five thousand (5000€) Euros shall be imposed;

   1.2. for natural persons, a fine ranging from two hundred and fifty (250€) Euros to two thousand and five hundred (2500€) Euros shall be imposed;

   1.3. for the authorised persons of the legal entities, a fine ranging from one hundred (100€) Euros to five hundred (500€) Euros shall be imposed;

   1.4. for other persons, a fine ranging from one thousand (1000€) Euros to ten thousand (10000€) Euros shall be imposed.

2. Any person who acts in contravention of Article 21 of this Law and/or uses the information provided by the Kosovo Customs contrary to this Article, to paragraph 6. of Article 17, paragraph 8. of Article 18, Article 19 and/or paragraph 8. of Article 26, shall be fined as follows:

   2.1. for natural persons and authorized persons, a fine ranging from five hundred (500€) Euros to five thousand (5000€) Euros shall be imposed; and

   2.2. for legal entities and other persons, a fine ranging from one thousand (1000€) Euros to ten thousand (10000€) Euros shall be imposed.

3. Any person who moves in or out, or attempts to move in or out goods suspicious of infringing an intellectual property right from the customs territory of Republic of Kosovo, who once had goods seized and destroyed, or where those goods are placed or were attempted to be placed under a customs procedure with economic impact or moved in or out of a free zone or free warehouse as referred to in legal provisions in force, shall be fined as follows:

   3.1. for natural persons, authorized persons or declarants, a fine ranging from five hundred (500€) Euros to five thousand (5000€) Euros shall be imposed; and

   3.2. for legal entities and other persons, a fine ranging from one thousand (1000€) Euros to ten thousand (10000€) Euros shall be imposed;

4. Without prejudice to paragraph 2. and 3. of this Article, if the value of the goods subject to the offence does not exceed the value of five hundred (500€) Euros, a fine in the amount of fifty
(50€) euro is imposed on the natural person and a fine in the amount of two hundred (200€) euro is imposed on the legal entity, provided that the offender pays the fine imposed within one (1) working day.

5. If the offender refuses to pay the fine as referred to in paragraph 4. of this Article, then a regular offence procedure will be initiated against him, as provided for in the Customs and Excise Code and other applicable legislation.

CHAPTER VII
FINAL PROVISIONS

Article 33
Repeal

This Law shall repeal the Law No.03/L-170 on Customs Measures for Protection of Intellectual Property Rights.

Article 34
Transitional provisions

Decisions issued in accordance to the Law No.03/L-170 on Customs Measures for Protection of Intellectual Property Rights will remain valid for that period mentioned in the approved application. The Kosovo Customs shall undertake actions within the periods specified in the accepted application.

Article 35
By-laws

By-laws for the implementation of this Law shall be approved within six (6) months from the date of entry into force of this Law.

Article 36
Entry into force

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

Law No. 06/L-015
30 March 2018