

Law No. 04/L-115

**ON AMENDING AND SUPPLEMENTING THE LAWS RELATED TO THE ENDING OF
INTERNATIONAL SUPERVISION OF INDEPENDENCE OF KOSOVO**

Assembly of Republic of Kosovo;

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

Approves

**LAW ON AMENDING AND SUPPLEMENTING THE LAWS RELATED TO THE ENDING OF
INTERNATIONAL SUPERVISION OF INDEPENDENCE OF KOSOVO**

**Article 1
Purpose**

1. The purpose of this Law is to amend and supplement the following laws on ending the International Supervision of Independence of Kosovo:

- 1.1. Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo;
- 1.2. Law No. 03/L-075 on the Establishment of the Office of the Auditor General of Kosovo and the Audit Office of Kosovo;
- 1.3. Law No.04/L-034 on the Privatization Agency of Kosovo;
- 1.4. Law No. 03/L-079 on Amending UNMIK Regulation 2006/50 on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property;
- 1.5. Law No. 04/L-033 on the Special Chamber of the Supreme Court of Kosovo on Privatization Agency Related Matters;
- 1.6. Law on amending and supplementing Law No. 04/L-101 on Pension Funds of Kosovo;
- 1.7. Customs and Excise Code of Kosovo No. 03/L-109;
- 1.8. Law No. 03/L-222 on Tax Administration and Procedures;
- 1.9. Law No. 03/L-199 on Courts;
- 1.10. Law No.03/ L –223 on Kosovo Judicial Council;
- 1.11. Law No.03/ L –224 on Kosovo Prosecutorial Council;
- 1.12. Law No. 02/ L -31 on Freedom of Religion in Kosovo;
- 1.13. Law No. 03/ L -139 on Expropriation of Immovable Property;
- 1.14. Law No. 03/ L -047 on the Protection and Promotion of the Rights of Communities and their Members in Kosovo;
- 1.15. Law No. 03/ L -041 on Administrative Municipal Boundaries;
- 1.16. Law No. 03/ L -068 on Education in the Municipalities of the Republic of Kosovo;

- 1.17. Law No. 03/ L -034 on Citizenship of Kosovo;
- 1.18. Law No.03/ L –237 on Population and Housing Census;
- 1.19. Law No. 03/ L -046 on Kosovo Security Force;
- 1.20. Law No. 03/L-082 on Service in the Kosovo Security Force;
- 1.21 Law No. 03/L-033 on Status, Immunities and Privileges of Diplomatic and Consular Missions and Personnel in Kosovo and the International Military Presence and its Personnel.

Article 2
Amending and Supplementing the Law No. 03/L-121 on the Constitutional Court of the Republic of Kosovo (the Law)

1. Article 15 of the basic Law, after paragraph 1 there is added a new paragraph 2 with the following text:

2. International judges appointed in accordance with the Constitution and this Law shall continue to receive the salary specified in their appointment decision. The Government of Kosovo shall participate in providing funding for international judges for the determined period equivalent to the salary of national judges.

2. Article 55 of the basic Law, paragraph 1 and 2 shall be deleted from the text of the Law and there shall be added a new paragraph as following:

Mandate of international judges appointed in accordance with the Constitution shall continue under the terms and conditions specified in the appointment decision.

Article 3
Amending and Supplementing the Law No. 03/L-075 on the Establishment of the Office of the Auditor General of Kosovo and the Audit Office of Kosovo (the Law)

1. Article 8 of the basic Law shall be reworded with the following text:

Article 8

The Auditor General appointed in accordance with the Constitution and this Law shall continue in his position until the termination of his mandate with the compensation specified in the specific terms of his appointment. The Government of Kosovo shall provide funding in the amount determined in the agreement between the Government of Kosovo and the Office of the Auditor General.

Article 4
Amending and Supplementing the Law No. 04/L-034 on the Privatization Agency of Kosovo (the Law)

1. Article 3 of the basic Law, paragraph 1.12 which defines the International Civilian Representative shall be deleted from the text of the Law.

2. Article 12 of the basic Law, paragraph 3 shall be reworded with the following text:

3. The Assembly, upon nomination by the Government, shall appoint three (3) international members as Directors of the Board. The Board shall also appoint a citizen of Kosovo as Director of the Executive Secretariat of the Board who shall not be a member of the Board. The Board shall also appoint one of its members, other than the Chairman, to serve as Vice Chairman. The appointment, removal or change in the terms of reference of the Director of the Executive Secretariat shall require the affirmative vote of a majority of the Board Directors. The term of appointment of the international members shall be until 31 August 2014.

3. Article 14 of the basic Law, paragraphs 7 and 9 shall be applicable till the end of mandate of international members of the Board.

4. Article 31 of the basic Law, after paragraph 5 there is added a new paragraph 6 with the following text:

6. If an international board member appointed in accordance with Article 31(5) resigns from the Board, and, if such resignation or removal takes place before 31 August 2014 he/she shall be substituted by another international.

Article 5

Amending and Supplementing the Law No. 03/L-079 on Amending UNMIK Regulation 2006/50 on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property (the Law)

1. Article 4 of the basic Law amending Article 5.2 of the Regulation shall be reworded as following:

5.2. The Supervisory Board shall be composed of five (5) members, appointed by the Assembly upon nomination by the Prime Minister.

2. Article 8 of the basic Law amending Article 6.1 of the Regulation shall be reworded with the following text:

6.1 The Executive Secretariat shall have a Director and a Deputy Director who shall be appointed by the Assembly upon the nomination by the Prime Minister.

3. Article 10 of the basic Law amending Article 7.1 of the Regulation shall be reworded with the following text:

7.1. The Commission shall be composed of three (3) members that shall be appointed by the Assembly upon nomination by the President of the Supreme Court of the Republic of Kosovo.

4. Article 13 of the basic Law shall be reworded with the following text:

Article 13

The Assembly, in consultation with the Commission, may establish additional panels of the Commission, members of which shall be appointed based on Articles 7.1 and 7.2.

5. Article 16 of the basic Law amending Article 12.8 of the Regulation shall be reworded as following:

12.8. The Supreme Court of Kosovo shall decide on appeals in a panel of three (3) judges who shall be appointed by the President of the Supreme Court of Kosovo.

6. After Article 27 of the basic Law, there is added a new Article 27A with the following text:

Article 27A

1. The mandate of the three (3) international members of the supervisory Board (including the Chairman), the Director of the Executive Secretariat, two (2) international members of the Committee (including the Chairman) and two (2) international judges in the appeals panels of the Supreme Court appointed in accordance with the Constitution, shall continue under the terms and conditions specified in the appointment decision.

2. International members and judges appointed in accordance with the Constitution and this Law shall continue to receive the salary specified in their terms of their appointment.

3. The Government of Kosovo shall provide funding for the Director of the Executive Secretariat equivalent to the salary of a national member of the Supervisory Board.

4. If an international board member appointed in accordance with the Constitution resigns from his/her position, and, if such resignation or removal takes place before 31 August 2014 he/she shall be substituted by another international nominated by the Prime Minister for the positions of members of the Supervisory Board of the Property Agency and Director of the Executive Secretariat as well as nominated by the President of the Supreme Court for the positions of members of Property Claims Commission and members of the Appeals Panel of the Supreme Court, after consultations with the EUSR.

Article 6

Amending and Supplementing the Law No. 04/L-033 on the Special Chamber of the Supreme Court of Kosovo on Privatization Agency Related Matters (the Law)

1. Article 2 of the basic Law, paragraph 1.3 shall be deleted from the text of the Law.

2. Article 2 of the basic Law, paragraph 1.7 shall be reworded with the following text:

1.7. International judge - every judge of the European Mission for Security and Defense Policies that has been appointed in accordance with this Law.

3. Article 11 of the basic Law, paragraph 2 of the Law shall be reworded with the following text:

2. Upon entry into force of this law, the Special Chamber shall continue to implement and comply with the principle of compensation instead of physical restitution. When determining the remedy to be awarded in any particular case, the Special Chamber shall also take due account of the applicable provisions of the Law No.04/L-034 on Privatization Agency of Kosovo, including the public purposes as set out in the preamble of that Law.

Article 7

Amending and Supplementing Law No. 04/L-101 on Pension Funds of Kosovo

1. Article 4 of the basic Law, paragraph 4.6 shall be reworded with the following text:

4.6. Selection Committee shall propose candidates to the Assembly for vacancies for the membership or re-appointment of members of the Governing Board. The Selection Committee shall consist of the Governor of CBK-Chairperson, the Auditor General and the Minister of Finance. The term of each appointed Governing Board member shall be three (3) years, with the possibility of reappointment. If the Board Members term has expired and no new member has been appointed, then the existing Board Members will continue their mandate for ninety (90) days.

Article 8

Amending and Supplementing the Customs and Excise Code of Kosovo No. 03/L-109 (the Code)

1. Article 309 of the basic Law which regulates the appointment of General Director of Customs upon consent by the ICR shall be deleted from the text of the Law.

2. Article 1 of Annex D of the Code shall be deleted and reworded with the following text:

Article 1

This Annex provides for special exemptions as defined in this Annex to be granted to religious communities as defined by applicable legislation, including legislation on religious freedoms, in accordance with the Constitution of the Republic of Kosovo.

Article 9

Amending and Supplementing the Law No. 03/L-222 on Tax Administration and Procedures (the Law)

1. Article 1 of the basic Law, paragraph 1.32 which defines the ICR shall be deleted from the text of the Law.
2. Article 8 of the basic Law, paragraph 2 in the third line the word “and ICR” shall be deleted.
3. Article 88 of the basic Law shall be deleted from the text of Law.

Article 10
Amending and Supplementing the Law No. 03/L-199 on Courts (the Law)

1. Article 10 of the basic Law, paragraph 11 shall be reworded with the following text:

11. If there is no basic court in one of the new municipalities established according to the Law on Administrative Boundaries of Municipalities, the Municipality, with a decision of the Municipal Assembly, may submit a request to Kosovo Judicial Council (KJC) to decide for the establishment of a basic court in its territory, or for one of existing basic courts in the territory of another municipality to have jurisdiction over the territory of the new municipality. The same right applies for the existing municipality, where majority of population belongs to non-majority community in Kosovo, and where there is no basic court.

11.1. KJC shall approve such requests, unless it is considered that caseload for that jurisdiction is insufficient to justify the existence of a separate court.

11.2. When KJC approves a request for establishing a new basic court, the competent authorities shall undertake all necessary measures to ensure that such new court is established and is operational within a period of six (6) months from the date decision is taken.

11.3. If KJC does not approve the request for establishment of a new basic court, or when municipality requests an existing court to have jurisdiction over its territory, the competent authorities shall undertake all necessary measures to improve access of local communities to justice, which is difficult due to geographic isolation, lack of security, or for other relevant factors. These measures may include establishment in the territory of new municipality of a department of existing basic court which was requested by the new municipality to have a jurisdiction over its territory, or that the basic court enables sessions to be held in the territory of new municipality.

2. Article 17 of the basic Law, paragraph 3 shall be reworded with the following text:

3. The composition of the Court of Appeals shall reflect the ethnic diversity of the Republic of Kosovo and principles of gender equality. In accordance with the Constitution of the Republic of Kosovo and respective applicable legislation and in order to ensure community participation in the judiciary, fifteen percent (15%) of the total seats on the Court of Appeals, but in no case fewer than ten (10) seats, shall be guaranteed to judges from communities that are not in the majority in Kosovo.

Article 11
Amending and Supplementing the Law No. 03/L-223 on the Kosovo Judicial Council (the Law)

1. Article 2 of the basic Law, paragraph 1.2 shall be deleted from the text of the Law.
2. Article 4 of the basic Law, paragraph 1.3 shall be reworded with the following text:

1.3. In order to ensure that courts reflect the ethnic composition of their area of jurisdiction in accordance with Article 104 (3) of the Constitution and the relevant applicable legislation, the Council shall consider filling vacancies or reserving seats for members of the Communities that are not majority in Kosovo.

3. Article 7 of the basic Law shall be reworded with the following text:

Article 7
Mandate of Council members

Council members are elected for a term of five (5) years, as provided in Article 108(6) of the Constitution and this Law. A member may be elected for one additional non-consecutive mandate of five (5) years.

4. Article 16 of the basic Law, paragraph 3 shall be reworded with the following text:

3. In accordance with Article 104(3) of the Constitution, the Council shall implement targeted recruitment actions and other measures that it considers necessary and appropriate to ensure that a court or a court branch reflects the ethnic composition of their area of jurisdiction.

5. Article 17 of the basic Law, paragraph 1 shall be reworded as following:

1. The Kosovo Judicial Council shall take necessary measures to increase the number of judges from communities that are not in the majority in Kosovo among judges serving in Kosovo. To fulfill its responsibilities, the Council shall, inter alia, give preference, among equally qualified applicants to serve as judges, to members of Communities that are not in the majority in Kosovo as provided for in Article 108 of the Constitution.

6. Article 17 of the basic Law, after paragraph 5, there shall be added three new paragraphs 6, 7 and 8 with the following text:

6. The Kosovo Judicial Council shall develop a special regulation to outline the process of appointment and reappointment of judges from communities that are underrepresented among judges serving in Kosovo.

7. Preference given to equally qualified applicants from under-represented communities shall be applicable for as long as the percentage of judges of non-majority communities in Kosovo is under fifteen percent (15%) and/or far as long as percentage of judges who are members of Serbian community in Kosovo is under eight percent (8%).

8. The mandate of two (2) international members of the Council appointed in accordance with the Constitution shall continue under the terms and conditions specified in the appointment decision. International members appointed in accordance with the Constitution and this Law shall continue to receive their salaries.

9. Article 52 of the basic Law shall be deleted from the text of the Law.

Article 12
Amending and Supplementing the Law No. 03/L-224 on the Kosovo Prosecutorial Council (the Law)

1. Article 2 of the basic Law, paragraph .1.7 shall be deleted from the text of the Law.

2. Article 4 of the basic Law, paragraph 1.3 shall be reworded with the following text:

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.

3. Article 17 of the basic Law, paragraph 3 shall be reworded with the following text:

3. The Council shall implement recruitment actions and other measures that it considers necessary to ensure that a prosecution office reflects the ethnic composition of its area of respective jurisdiction.

4. Article 17 of the basic Law, after paragraph 3 there is added a new paragraph 4 with the following text:

4. The Council shall develop a special regulation to outline the process of appointment and reappointment of prosecutors from Kosovo communities that are currently underrepresented among prosecutors serving in Kosovo.

5. Article 18 of the basic Law, paragraph 1 shall be reworded with the following text:

1. The Council shall take necessary measures in order to increase the number of prosecutors from non-communities in Kosovo. The Council shall give preference, among equally qualified applicants to serve as prosecutors to members of Communities that are underrepresented in Kosovo as provided in Articles 109(4) and 110(3) of the Constitution.

6. Article 18 of the basic Law, after paragraph 5, there is added a new paragraph 6 with the following text:

6. Preference given to equally qualified applicants from under-represented communities shall be applicable for as long as the percentage of prosecutors of non-majority communities in Kosovo is under fifteen percent (15%) and/or for as long as percentage of prosecutors who are members of Serb community in Kosovo is under eight percent (8%).

Article 13

Amending and Supplementing the Law No. 02/L-31 on Freedom of Religion in Kosovo (the Law)

1. First part of preamble of the Law shall be reworded with the following text:

Based on Article 65 (1) and in compliance with transitional and final provisions of Chapter XIII and XIV of the Constitution of Republic of Kosovo.

2. After Article 7 of the basic Law, a new Article 7A shall be added with the following text:

Article 7A

Status of the Serbian Orthodox Church

1. The Serbian Orthodox Church in Kosovo shall be considered as an integral part of the Serbian Orthodox Church (SOC).

2. The name and the internal organization of the Serbian Orthodox Church, including its hierarchy and activities shall be respected.

3. There will be no arbitrary prohibition of entry in Kosovo, or residence within Kosovo for priests, candidates for priesthood, monks, nuns and visitors.

4. Article 7 of the basic Law paragraph 7.3 words "**establish and**", shall be deleted from the text of the Law.

5. Article 8 of the basic Law, paragraph 1 shall be reworded with the following text:

1. Buildings and premises belonging to religious communities dedicated to the performance of religious ceremonies are considered inviolable with regard to governmental authorities' intervention and they shall be entered only upon consent of the respective religious institution, unless a judicial order is issued due to illegal activities or in the case of imminent danger to life or health.

6. Article 12 of the basic Law, after paragraph 12.4, a new paragraph 12.5 shall be added with the following text:

12.5. In addition to the aforementioned exemptions, religious communities enjoy customs duty and tax privileges for economic activities, specific to their financial self-sustainability, as will be defined in the sub-legal law to be issued by the Minister of Finance. Such privileges shall cover import and purchase of relevant products, materials, tools and livestock; and export of products resulting from the above mentioned activities.

Article 14

Amending and Supplementing the Law No. 03/L-139 on Expropriation of Immovable Property (the Law)

1. Article 2 of the basic Law paragraph 1. definition “**the Comprehensive Status Proposal**” shall be deleted from the text o the law.

2. Article 3 of the basic Law, paragraph 3 shall be reworded with the following text:

3. The object of an expropriation within the scope of this law may be private ownership and other private rights in or to immovable property, with the exception of rights in or to immovable property that falls with a class of property that the Constitution specifically provides, shall not be subject to expropriation.

3. Article 3 of the basic Law, paragraph 3, a new sub-paragraph 3.1. shall be added with the following text:

3.1. Movable and immovable property and other asset of the Serbian Orthodox Church shall be indefensible and shall not be subject to expropriation.

Article 15

Amending and Supplementing the Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and their Members in Republic of Kosovo (the Law)

1. After Article 3 of the basic Law, a new Article 3.A shall be added with the following text:

Article 3A

Rights of Refugees and Internally Displaced Persons

1. All refugees from Kosovo and internally displaced persons shall have the right to return and claim their property and personal possessions in accordance with national and international laws. Each individual shall have the right to make a free decision and to be informed about his/her place of return.

2. Institutions of the Republic of Kosovo shall take all necessary measures to facilitate and to create favourable atmosphere conducive to the safe and dignified return of refugees and displaced persons, based upon 'their free and informed decisions, including efforts to promote and protect their freedom of movement and protection from intimidation.

3. Conditions for return of displaced persons and mechanisms of cooperation with relevant international institutions shall be defined by the institutions of Republic of Kosovo in accordance with the Constitution and applicable laws.

Article 16

Amending and Supplementing the Law No. 03/L-041 on Administrative Municipal Boundaries (the Law)

1. Article 7 of the basic Law, paragraph 3 shall be reworded with the following text:

3. The Board shall consist of eleven (11) members, with five (5) representatives selected by each municipality, and one (1) representative selected by the Prime Minister.

2. Article 7 of the basic Law paragraph 4 shall be reworded with the following text:

4. The Chairman of Board shall be appointed by the Prime Minister.

3. Article 14 of the basic Law the term “**the ICR will undertake**” shall be deleted and replaced by the term: “**undertakes**”.

4. In Annex 1 (Cadastral Zone) of the Law, denomination of municipality Hani i Elezit in Serbian and English language shall change as follows: Elez Han.

Article 17
Amending and Supplementing the Law No. 03/L-068 on Education in the Municipalities of the Republic of Kosovo (the Law)

1. Article 13 of the basic Law, paragraph 1, sub-paragraph (c) shall be reworded with the following text:

(c) One (1) member, selected by Prime Minister.

2. Article 14 of the basic Law, paragraph (b), sub-paragraph (iv) shall be reworded with the following text:

(iv) One (1) member, selected by Prime Minister.

Article 18
Amending and Supplementing the Law No. 03/L-034 on Citizenship of Kosovo (the Law)

1. The title of Article 29 of the basic Law shall be reworded with the following text:

Article 29
Registration and Determination of Citizenship

Article 19
Amending and Supplementing the Law No. 03/L-237 on Population and Housing Census (the Law)

1. Article 12 of the basic law, paragraph 4.12. shall be reworded with the following text:

4.12. One (1) representative from Public Universities, member;

Article 20
Amending and Supplementing the Law No. 03/L-046 on the Kosovo Security Force (the Law)

1. Article 9 of the basic Law paragraph 3 shall be reworded with the following text:

3. The Kosovo Security Force is structured and prepared to fulfill security functions not appropriate for the police or other law enforcement organizations.

2. Article 10 of the basic Law, paragraph 2 shall be reworded with the following text:

2. The Kosovo Security Force shall be lightly armed and shall not have heavy weapons, such as tanks, heavy artillery or offensive air capability. A full review of these limits shall be conducted not earlier than five (5) years from the date this Law No.03/L-046 on Kosovo Security Force enters into force. The initial tasks of the Kosovo Security Force shall be:

3. Article 4 of the basic Law, paragraph 2, item (e) shall be deleted from the text of the Law.

Article 21
Amending and Supplementing the Law No. 03/L-082 on Service in the Kosovo Security Force (the Law)

1. Article 5 of the basic Law shall be deleted from the text of the Law.

Article 22

Amending and supplementing the Law No. 03/L-033 on the Status, Immunities, and Privileges of Diplomatic and Consular Missions and Personnel in Kosovo and of the International Military Presence and its Personnel

1. Article 3 of the basic Law, paragraph 2, item (a) shall be reworded with the following text:
(a) International Civilian Office and Special Representative of the European Union.

2. Article 3 of the basic Law paragraph 3 shall be reworded with the following text:

3.3. Individuals appointed by the International Civilian Representative, pursuant to the Comprehensive Proposal on Kosovo Status Settlements, dated 26 March 2007, whose mandate has not been terminated before the ending of supervised independence shall enjoy the status, privileges and immunities as defined under the basic Law.

3. Article 4 of the basic Law paragraph 6 shall be reworded with the following text:

4.6. Minister of Foreign Affairs may not declare the EUSR or a member of his personnel, members of the ICO personnel, including individuals defined under Article 3.3 of the basic Law or members of EULEX mission, persona non grata.

4. Article 4 of the basic Law, paragraph 7 shall be deleted from the text of the Law.

Article 23

1. All international members appointed by the International Civilian Representative, in compliance with the Constitution of Republic of Kosovo, with the exception of Privatization Agency of Kosovo, Kosovo Property Agency, international judges of the Appeals Panel of the Supreme Court and two judges of the Property Claims Commission, if for any reason they leave their positions before 31 August 2014, they shall be replaced by a local member.

2. If any of the applicable laws in the Republic of Kosovo uses terms ICO or ICR, the same shall be abrogated and replaced with respective local institutions.

II. FINAL PROVISIONS

Article 24 Entry into force

This Law shall enter into force upon entry into force of Constitutional amendments on ending international supervision of independence.

**Law No. 04/L-115
31 August 2012**

Promulgated by Decree No.DL-036-2012, dated 04.09.2012, President of the Republic of Kosovo Atifete Jahjaga.