

Annexes:

Summary of checks performed by relevant authorities on the steps for which funding is requested, including weaknesses identified and any corrective actions taken.

N/A

1) Fiche to be used for each step:

The step under review	Ensure effective integrity checks in line with European standards through the regular full verification of the assets declarations of judges and prosecutors by the Agency for the Prevention of Corruption, including by crosschecking the information with relevant institutions; amend the Law on disciplinary liability of judges and prosecutors to address the findings of the TAIEX peer review mission, including by introducing a specialized investigation body; improve the recruitment system by strengthening the current mechanisms for background verification of candidates, including by clarifying its scope and procedures. Ensure that the legislative reforms implementing the Joint Commitment Statement are aligned with European Standards; and allowing sufficient time for their consultation and review to this end.
Baseline	1. At least (1/3) of judges and prosecutor's asset declaration fully verified every 3 years; 2. The Law on disciplinary liability of judges and prosecutors foresees randomly assigned investigation panels from a pool containing 30 judges/prosecutors; 3. Unit for judicial inspection/ Office for verification and assessment (background investigation) of candidates for judges in KJC in place and Unit for background verification of candidates for prosecutors in KPC in place.
Deadline of the step	June 2025
Actual results	At least (1/3) of judges and prosecutor's asset declaration fully verified every 3 years All judges and prosecutor are obliged to declare their assets in accordance with the Law on Declaration, Origin and Control of Assets and Gifts.¹ This occurs 1) when they take office, 2) annually as a regular declaration, and 3) in case of the termination or dismissal from the public office, in accordance with Article 7 of the Law No. 08/L-108 on Declaration, Origin and Control of Assets and Gifts (Official Gazette of the Republic of Kosovo No. 21/10 august 2022, Pristina). Regular annual declaration is made from March 1 to March 31 of each calendar year for the previous year for the January 1 to December 31 period, as per Article 9 of the Law. Declarations are made through the electronic system.² Full verification of assets for the 1) Chair of the Kosovo Judicial Council (KJC) and all Presidents of the Courts, and 2) Chair of the Kosovo Prosecutorial Council (KPC), Chief State Prosecutor and all other Chief Prosecutors, is conducted annually by the Agency for the Prevention of Corruption (APC).³ Each year, at least 1/3 of senior officials, including all judges and prosecutors in Kosovo, are subjected to full control. According to Article 18 paragraph 7 and 8 of the Law, a lot is drawn in the first year to select the initial 1/3 of subjects for full control. In the second year, another lot is drawn from the remaining subjects to select the next 1/3 for full control. The final 1/3 of subjects, who were not controlled in the previous two years, will undergo full control in the third year. This ensures that each judge and prosecutor assets declarations are regularly controlled once every three years. The entire process is conducted again at the conclusion of the third year.

¹ Law no. 08/L-108 on Declaration, Origin and Control of Assets and Gifts.

² Article 11 of the Law.

³ Article 4 paragraph 1. 6, 1.7 and 1.21 of the Law.

With the Law coming into effect in February 2023, the initial annual declaration of assets under the new Law was made for the year 2022 during the period ending on March 31, 2023. Consequently, the APC proceeded to verify 1/3 of subjects from the mentioned list, based on the lot undertaken on 23/10/2023. This verification included declarations of assets of 131 judges and 54 prosecutors for 2022. A second verification covered the second set of 1/3 of the listed subjects, resulting in the review of 2023 declarations of assets of 142 judges and 60 prosecutors, based on the lot undertaken on 12/09/2024. The third verification of the branch's declaration of assets for the year 2024, encompassing the remaining 1/3 from the list, included 146 judges and 67 prosecutors, occurred during the period 27/06 /2025 to 31/12 /2025.

Additionally, throughout 2023 and 2024, the APC has consistently undertaken the verification of asset declarations for key judicial and prosecutorial figures in Kosovo. This includes, as mentioned above, the Chair of the KJC, all Presidents of the Courts, the Chair of the Kosovo Prosecutorial Council, the Chief State Prosecutor, and all other Chief Prosecutors, encompassing declarations from previous years. The 2024 declaration verifications were also conducted in 2025.

The APC collects the data regarding the declared assets from central and local bodies, public sector institutions, holders of public authorizations and other public or private legal entities.⁴

Asset verification is carried out by the APC based on the Methodology approved on 10/02/2025. The Methodology includes the cross-checking of information provided by declaration subjects (page 5-7) between institutions, which was implemented during the last three verifications conducted in 2023 (for declarations in 2022), 2024 (for declarations in 2023) and 2025 (for declarations in 2024). The development of the Methodology was supported by the EU-funded PECK 3 Project implemented by CoE.

Apart from the legal reform, there was an increase of budget of the APC for particularly conducting the verification of assets process. The budget was increased to 656,407.18€ in 2023, 965,660.00 € budget in 2024 and 1,099,235 budget appropriation in 2025, compared to 545,778.00 € in 2022. The electronic system for asset declaration, which is crucial for effective verification, has also seen improvements over the past two years in the following areas: interconnection of systems for the use of Civil Registration Agency data and improvement of the electronic data management system. Furthermore, over the past two years, the skills of APC verification officials have been significantly improved through participation in a variety of training programs, including:

- Drafting documents related to the declaration of gifts and reviewing new declaration positions under the new law, 06-07.04.2023, organizer APC SAEK III UNDP
- Virtual asset investigation, including the practice of tracking and analysing crimes related to cryptocurrency transactions, 07-08.05.2024, organizer OSCE
- Drafting of the Regulation on the Procedure for Verification and Control of Asset Declarations, 13-16.12.2024, organizer APC.

The two verification processes (2023 and 2024) led the APC to implement the following measure concerning asset declarations by judges and prosecutors: 1 fine imposed to judge for late reporting, 5 information have been initiated before the Prosecutor's Office against five judges. Of these, 2 have been dismissed, while 3 remain under review. In addition, one information was initiated against a prosecutor and was subsequently dismissed. This milestone has been achieved.

Amendment of the Law on disciplinary liability of judges and prosecutors

The amendments to the Law on disciplinary liability are part of the legal reforms outlined in the Joint Commitment Statement (JCS) signed by the Ministry of Justice, KJC, and KPC. Developed in 2024 alongside other reform draft laws, these amendments underwent initial consultation from 15/05/2024 to 05/06/2024 and public consultation from 10/06/2024 to 02/07/2024. The draft Law was primarily based on the findings from the TAIEX Report of the case-based Peer Review Mission on disciplinary proceedings against judges and

⁴ Article 19 of the Law

prosecutors, dated April 2023.

The draft Law covered all the relevant aspects related to primary legislation on disciplinary liability in the following manner:

TAIEX Report findings	Draft amendments to the Law on Disciplinary Liability of Judges and Prosecutors
As per the suitability/ eligibility assessment of judges and prosecutors, the LDL and the LDOCAG should be harmonized since it would be more appropriate to provide for omissions or irregularities in the declaration of assets of judges or prosecutors as a typical disciplinary offence by giving the Council the power to apply disciplinary measures, upon complaint by the anti-corruption agency. (4.2.3)	This measure was not implemented specifically in the current draft, because the Agency for the Prevention of Corruption (formerly the Anti-Corruption Agency) has the authority to impose its own sanctions on judges and prosecutors in cases where asset declarations contain omissions or irregularities. Additionally, failure to report or the false reporting of assets constitutes a criminal offence under the Criminal Code of Kosovo. When a judge or prosecutor commits such a criminal offence, it is also automatically considered a disciplinary violation.
<i>Since article 9 of the LDL doesn't determine before which authority complaints against Supreme Court's judges should be filed, Art 9, § 1 point 2 should be modified as following: "The President of the Supreme Court concerning alleged disciplinary offences of the Presidents of the Basic Courts, the President of the Court of Appeals and the judges of the Supreme Court" (4.2.4)</i>	This recommendation has been addressed in Article 9, paragraph 1.2., which stipulates as follows: "the President of the Supreme Court concerning alleged disciplinary violations of judges of the Supreme Court, presidents of the Basic Courts, the President of the Commercial Court, the President of the Court of Appeals and the presidents of other courts established by law."
LDA should include the provision that the exercise of judicial authority is not subject to disciplinary liability except in the case of decisions that are abnormal or the result of gross and inexcusable negligence. (4.2.5)	This recommendation has not been followed specifically in the current draft, considering that Article 3 of the LDL in force includes the respect for judicial independence as one of the principles to conduct in exercising disciplinary procedure.
LDL should be amended regarding article 12 related to panel investigation that shall be a permanent investigation body composed of nominated judges/prosecutors (4.2.7)	This recommendation has been addressed in Article 12. The Judicial Council appoints 9 judges to serve in Investigation Panels, from which 3 judges are appointed for every disciplinary case. The same logic is followed for the Kosovo Prosecutorial Council Article 12, paragraph 1, 2, 3, 4: "1. The Judicial Council appoints nine (9) judges to serve on investigation panels for five (5) year terms, without the possibility of re-election.

		2. For disciplinary cases, the Judicial Council establishes an investigation panel composed of three (3) judge members to conduct the investigations and appoints the chair of the panel. 3. The Prosecutorial Council appoints nine (9) prosecutors to serve on investigation panels for five (5) year terms, without the possibility of re-election. 4. For disciplinary cases, the Prosecutorial Council establishes an Investigation Panel composed of three (3) member prosecutors to conduct the investigations and appoints the chair of the panel.”
	Related to the voluntary settlement, LDL should be amended, removing art. 13 and modifying art 14 accordingly in a view to repealing the voluntary settlement (4.2.8)	Recommendation 4.2.8, which calls for the removal of the voluntary settlement process in disciplinary proceedings, has been fully implemented by removing Article 13 and reformulating paragraph 1 of Article 14 (Article 12 and 13 of the draft Law).
	The sentence “and the Code of Ethics and Professional Conduct of Judges” in article 5 § 2.11 LDL should be suppressed. (4.2.9)	This recommendation has been fully implemented. Specifically, Article 4 of the Draft Law amends the former paragraph 2.11, which referred explicitly to the Code of Ethics, and introduces a newly reformulated provision under paragraph 2.11 that removes any reference to the Code. The revised paragraph now states: “Performs any function, duty or service, assumes any responsibility or engages in any activity, runs for or is elected to any position or duty that conflicts with the duties of a judge according to the Constitution or applicable legislation.” This formulation aligns disciplinary liability solely with violations of binding legal instruments, such as the Constitution and statutory laws, thereby complying with the recommendation to avoid disciplinary action based on ethical or advisory standards.
	Art. 9, § 7 and art 14 § 2 LDL should be amended adding, before “defence counsel”, “a person of trust, included a judge or prosecutor, or by a” (4.2.11)	This recommendation has been partially implemented, as the new revised Article allows judges/prosecutors, whom is subject to disciplinary procedures to defend him/herself during these procedures, or hire a defence counsel. Article 14, paragraph 3, now states: “The judge or

		the prosecutor against whom the disciplinary procedure has been initiated, shall be entitled to defend him/herself or hire a defence counsel. The relevant Council shall be obliged to provide access to all the evidence collected and all case files.“
	Article 7 LDL should be amended by adding after paragraph 2 the provision of minimum sentences for the most serious offences and an exemption for cases of insignificance of the fact (4.2.13) Suggested modification: “ As per the conduct of person submitted to disciplinary proceeding, the dictate of arts. 5 and 6 LDL should be clarified in relation to the applicability of the rules of the Code of Criminal Procedures since the LDL foresees as an offense failure to participate in disciplinary procedures and to provide false or misleading information in matters related to disciplinary proceeding. And in the CPC, article 152 provides the right of the accused to remain silent (4.2.14).	This recommendation has not been implemented in the current draft.
	A remedy in favor of the complainant shouldn't be introduced (4.2.16)	This recommendation has been fully implemented in the current draft Law. The draft law does not establish any specific legal remedy in favour of the complainant (natural or legal person) who files a disciplinary complaint against a judge or prosecutor. While the complainant is entitled to be informed of the outcome of the complaint, there is no provision granting the complainant the right to appeal or challenge decisions taken by the Competent Authority or the respective Councils (KJC/KPC). Article 15, paragraph 1: “The subject of the investigation shall be entitled to appeal directly to the Supreme Court of Kosovo against the disciplinary decision of the Council, within fifteen (15) days from the date of receipt of the decision.” Nevertheless, this aspect will be revised considering the respective Venice Commission Opinion recommendation on the possibility of appealing decisions by competent authority on not requesting initiation of disciplinary investigations (paragraph 70 of the Opinion)
	Since the rules attribute to the OI powers that may create the conditions for a conflict between organs	This recommendation has been addressed in the new draft law, respectively the provisions

	and that do not appear to be in line with the constitutional provision, according to which disciplinary power is exercised by the KJC and KPC. The provision of the LDL on the role of OI should be revised in compliance with the Constitution and the Law on Ombudsperson (4.2.17)	referring to the OI power to receive complaints against a judge/prosecutor have been deleted. The newly revised Article 9 of the basic law clearly establishes the competent authorities that receive the complaints.
	Article 12 of the draft Law on disciplinary liability of judges and prosecutors foresees randomly assigned investigation panels from a pool containing 9 judges for disciplinary procedures against judges and 9 prosecutors for disciplinary procedures against prosecutors. In order to ensure the full compliance with European standards, the draft amendments were also reviewed by the Venice Commission on 18/03/2024, which issued Opinion No. 1220/2024 on the Draft Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors and on the Draft Law Amending the Law on the Disciplinary Liability of Judges and Prosecutors, with the following recommendations: 1. Disciplinary offences should be categorised according to their gravity and should be linked to potential proportionate sanctions. 2. The provision concerning temporary suspension of a judge or prosecutor based on “reliable information” should be amended, as this term lacks clarity and foreseeability. 3. The draft law should be amended so that authorities other than the KJC and KPC only have the competence to inform the councils about potential disciplinary offences. It is also recommended that the draft law be complemented by provisions containing clear procedural rules concerning the councils’ decision-making process at this initial stage of disciplinary proceedings. 4. The membership and the method of election of the investigation panels of the councils should be clarified, and it should be explicitly provided that the burden of proof in the context of disciplinary proceedings, including investigations, rests on the authorities that initiate and carry out the relevant proceedings. Improvement of the recruitment system for judges and prosecutors The recruitment of new judges is governed by the KJC Regulation 03/2021 on the Recruitment, Promotion, Appointment, and Reappointment of Judges adapted on 04/11/2021⁵ Pursuant to Article 23 of the Regulation, the supporting Unit of the Recruitment Committee is responsible for collecting the necessary data to evaluate the personal and professional integrity of judicial candidates. This process, according to the Regulation, adheres to international standards and regulations pertaining to the protection of human rights and fundamental freedoms, as well as applicable legislation. Candidates are notified of the collected documents within the prescribed timeline, prior to their oral interview with the Committee. During the interview, the Committee assesses the candidates' integrity, posing questions related to specific aspects of integrity. Candidates are given the opportunity to confirm, elaborate on, or contest any assessments made based on the collected documents and information. On the other hand, the recruitment of new prosecutors, is governed by the KPC Regulation No. 02/2022 on recruitment, exam, appointment and reappointment of State prosecutors⁶. Article 25 of the Regulation mandates that the Recruitment Committee's supporting staff gather relevant information and documents pertaining to judge candidates and present these materials to the candidates. This information can then be further evaluated and	

⁵ https://www.gjyqesori-rks.org/wp-content/uploads/lgs/18637_Rregullore_Nr_03_2021_per_rekrutimin_provimin_emerimin_dhe_riemerimin_gjyqtareve.pdf.

⁶ <https://prokuroria-rks.org/wp-content/uploads/2025/04/Rregullore-Nr.02.2022-per-Rekrutimin-Provimin-Emerimin-dhe-Riemerimin-e-Prokuroreve-te-Shtetit-Nr.1102.2022.pdf>

discussed during the interview process.

In the JCS it was agreed to reform the recruitment system, focusing on background checks for judges and prosecutors. The draft Law on recruitment and evaluation aims to improve verification by specifying information sources, party rights, creation of separate verification units within the councils, and clarifying roles of the Recruitment Committees. These topics are detailed in Article 6, paragraph 4 and Article 28 of the draft Law.

The Venice Commission, in its Opinion, has explicitly recommended several enhancements to the draft Law concerning the recruitment and background screening of candidates for judicial and prosecutorial positions, as follows:

1. The authorities should consider introducing in the draft law the right to an effective judicial remedy against council decisions concerning recruitment and appointment.
2. The terms “continuous failure” and “continuous tasks” should be clarified.
3. The possibility of dismissals (under draft Articles 24 and 35) in case of two consecutive “poor” performance evaluations should be removed. In case the authorities retain this possibility, it is recommended that the draft law specify that as a result of these two consecutive evaluations, it is inevitably concluded that the assessed judge or prosecutor is incapable or unwilling to perform their functions to an objectively assessed minimum acceptable standard.
4. Providing also for a judicial remedy for the event of dispute arising from the result of a performance evaluation should be considered.
5. The procedures of integrity controls should be limited to the review of asset declarations, and should be clearly defined, as the consequences of these controls and the legal rights and obligations of the judges and prosecutors subject to these control procedures. Introducing effective judicial remedies against decisions concerning integrity controls of judges and prosecutors should be considered.
6. The grounds for compulsory transfer should be clarified. The right to appeal against compulsory transfer decisions and more detailed indications of the criteria to be taken into account when such a decision is adopted should be explicitly mentioned in the Law.

Alignment of legislative reforms from the JCS with the European Standards

After the analysis conducted in the past year, the JCS resulted with the development of the following legal acts:

1. Draft Law on amending and supplementing the Law No. 06/L-055 on Kosovo Judicial Council;
2. Draft Law on amending and supplementing the Law No. 06/L-055 on Kosovo Prosecutorial Council;
3. Draft Law on amending and supplementing the Law No. 05/L-095 on Academy of Justice;
4. Draft Law on amending and supplementing the Law No. 06/L-057 on Disciplinary Liability of Judges and Prosecutors;
5. Draft Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges; and
6. Draft Law on the Administration of the judicial system and prosecutorial system.

Generally, the objective of these laws is to ensure alignment with European standards. In this context, the Ministry of Justice requested a review from the Venice Commission in December 2024. This request led to the approval of three opinions covering specifically the legislative reform on KJC, the Academy of Justice, the Disciplinary Liability of Judges and Prosecutors, and the Recruitment, Performance Evaluation, Integrity Control, and Status of Judges.

Below are the summarized recommendations provided by the Venice Commission:

The draft Law on KJC:

1. The six members of the KJC appointed by the Assembly should be genuinely lay members. Pending a reform of the Constitution on this point, the law should provide that at least three lay members should be chosen from the ‘users’ of the judicial system, e.g., attorneys, prosecutors, notaries, academics, or members of civil society. Furthermore, the Law should establish specific eligibility criteria for these appointments.
2. The procedures for the selection of the members to the KJC should be enshrined in the law, with clear

criteria for the selection of the candidates, and prescribing sufficient expert input.

3. The procedures for the election of judiciary members by their peers should ensure that they act in the interest of the judiciary as a whole and be detailed in the law.
4. Lay members by the Assembly should always be elected based on qualified majorities, providing for an anti-deadlock mechanism that does not discourage broader political negotiations, such as drawing lots.
5. A mechanism to guarantee a balanced gender composition of the KJC should be introduced in the Law, for both the judge members elected by their peers as well as for the lay members elected by the Assembly.
6. Disciplinary procedures should be clearly outlined in the Law on the KJC, specifying limited grounds for disciplinary actions and dismissal. To mitigate the risk of corporatism, the disciplinary committee should mirror the composition of the KJC, and broad majorities including by the judicial and the lay members should be ensured in all disciplinary decisions. The substantive grounds for termination of office should be explicitly defined, with adequate procedural safeguards in dismissal proceedings.
7. In the absence of a constitutional reform enhancing balance and pluralism among the members of the KJC, the Chair or the Vice-Chair of the KJC should preferably be a lay member, or the Chair could be selected through a rotational system between judicial and non-judicial members. A “special majority” preventing either judicial or lay members to govern alone should be envisaged, at least for the most important decisions, combined with an anti-deadlock mechanism. A provision granting the Chair a decisive vote should be considered to resolve tie votes.
8. Article 36 of the Law on the KJC should introduce explicit appointment criteria and professional requirements for the members of the Inspection and Verification Unit and provide clearer principles governing their verification procedures.

The draft Law on the Academy of Justice:

1. The Law on the Academy of Justice should set out clear criteria and procedures for the appointment and removal of members of the Academy bodies, trainers and mentors; it should regulate the criteria and procedure for evaluation of trainers and mentors as well as the complaints procedure against trainers and mentors, including applicable remedial measures;
2. The composition of the Governing Board of the Academy should be expanded to include a greater number of judges and prosecutors elected by the Judicial and Prosecutorial Councils, while the participation of the Minister of Justice in the Governing Board should be removed;
3. The composition of the Programme Council should include more judges and prosecutors, and the Judicial and Prosecutorial Councils should be more involved in the appointment and removal of members of the Programme Council;
4. The Programme Council should be granted more autonomy in exercising its expert role vis-à-vis the Governing Board;
5. The authorities are encouraged to carefully consider – in consultation with all relevant stakeholders – the choice between the pre- and post-appointment models of initial training, including the advantages of the pre-appointment training;
6. The Law should set out in greater detail the procedure for completing initial training, including the assessment criteria, evaluation process, consequences of unsuccessful completion, and the possibility of appeal;
7. The Law should provide a comprehensive description of mandatory training and specify the circumstances and conditions under which training is made mandatory.

The draft Law on Disciplinary Liability of Judges and Prosecutors:

1. Disciplinary offences should be categorised according to their gravity and should be linked to potential proportionate sanctions.
2. The provision concerning temporary suspension of a judge or prosecutor based on “reliable information” should be amended, as this term lacks clarity and foreseeability.
3. The draft law should be amended so that authorities other than the KJC and KPC only have the competence to inform the councils about potential disciplinary offences. It is also recommended that the

draft law be complemented by provisions containing clear procedural rules concerning the councils' decision-making process at this initial stage of disciplinary proceedings.

4. The membership and the method of election of the investigation panels of the councils should be clarified, and it should be explicitly provided that the burden of proof in the context of disciplinary proceedings, including investigations, rests on the authorities that initiate and carry out the relevant proceedings.

The draft Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges:

1. The authorities should consider introducing in the draft law the right to an effective judicial remedy against council decisions concerning recruitment and appointment.
2. The terms "continuous failure" and "continuous tasks" should be clarified.
3. The possibility of dismissals (under draft Articles 24 and 35) in case of two consecutive "poor" performance evaluations should be removed. In case the authorities retain this possibility, it is recommended that the draft law specify that as a result of these two consecutive evaluations, it is inevitably concluded that the assessed judge or prosecutor is incapable or unwilling to perform their functions to an objectively assessed minimum acceptable standard.
4. Providing also for a judicial remedy for the event of dispute arising from the result of a performance evaluation should be considered.
5. The procedures of integrity controls should be limited to the review of asset declarations, and should be clearly defined, as the consequences of these controls and the legal rights and obligations of the judges and prosecutors subject to these control procedures. Introducing effective judicial remedies against decisions concerning integrity controls of judges and prosecutors should be considered.
6. The grounds for compulsory transfer should be clarified. The right to appeal against compulsory transfer decisions and more detailed indications of the criteria to be taken into account when such a decision is adopted should be explicitly mentioned in the Law.

The follow-up Opinion on the draft Law on KPC was approved in the October 2025 plenary session of the Venice Commission, while the matters regulated in **the draft Law on the administration of the judicial system and prosecutorial system** were treated in the other respective opinions.

The key conclusions from **the follow Opinion on the draft Law on KPC** include:

1. Additional safeguards should be introduced to prevent the risk of politicisation in the selection and election of lay members of the KPC. In view of the fact that constitutional amendments to require qualified majorities for their election appear to be currently unfeasible, the authorities should ensure greater involvement of independent experts and bodies in the Assembly Committee's selection process.
2. More detailed regulation should be provided with regard to the Performance Evaluation Committee. In particular, the Law on the KPC should set out the modalities for the appointment of its members, as well as the procedures for carrying out the evaluations, the criteria on which they are based, and the accountability of the PEC itself and its members.
3. Similarly, with regard to the Independent Verification Unit (IVU), the Law on the KPC should set out the modalities for the appointment of its members, as well as the procedures for carrying out the evaluations, the criteria on which they are based, and the accountability of the IVU itself and of its members.
4. The allowance in the Law on the KPC for regulation by secondary legislation and bylaws should be limited. Such matters as the rules and disciplinary procedures applicable to KPC members, the procedures for the performance evaluation of the Chief Prosecutors, the main employment conditions for the IVU member positions, and the control procedure of the first Performance Evaluation Committee, should be provided for at the level of primary legislation, and preferably within the Law on the KPC itself.

Since the last reporting, the following progress has been achieved:

The preparation of the legislative package followed an extensive consultation process through the electronic platform for public consultations, meetings with stakeholders, civil society organisations, justice institutions and

	experts. In particular, The Ministry of Justice has sought to ensure sufficient time for consultation and review and to align the reforms with European standards and Venice Commission recommendations. On 17 March 2026, the Ministry of Justice issued a new Decision on the drafting and finalisation of the legislation deriving from the Joint Commitment Statement. In this context, from 24 to 26 March 2026, a three-day workshop was organised specifically for the finalisation of these legislative drafts. The workshop brought together key stakeholders of the justice system, including representatives from the Kosovo Judicial Council, the Kosovo Prosecutorial Council and the Academy of Justice. An important contribution was also made by civil society participants, representatives of the European Union Office in Kosovo, OSCE and foreign missions, thereby ensuring an inclusive process in line with the best standards. Following the review and adjustment of the provisions in accordance with the Venice Commission recommendations, the draft laws were submitted to the online platform for public consultations on 2 April 2026 and remained open for comments until 28 April 2026.⁷ During this phase, on 8 April 2026, the Ministry of Justice organised a meeting for the KJC, KPC and the Academy of Justice with the EU TAIEX mission, during which these draft acts were discussed, while the meeting between TAIEX experts and NGOs on the same day was organised by the EU Office. On 10 April 2026, the Ministry of Justice held an online meeting with TAIEX experts regarding the draft laws. During the meeting, the opinions of the Venice Commission were discussed, with the Ministry presenting its views by analysing the current legal framework and the possibilities for implementing the reforms in practice. This meeting served to clarify our positions before the experts, ensuring that they were fully informed prior to the submission of the final reports. Later on 16 April, a coordination meeting was held between the Ministry of Justice, the Kosovo Judicial Council (KJC) and the Kosovo Prosecutorial Council (KPC) in order to harmonise positions regarding the reform. On April 17, 2026, the Ministry of Justice received the first draft of the TAIEX Expert Mission Report on 'European standards of judicial independence, accountability, and professional efficiency' (TAIEX Case ID 93029). Following an internal review, the Ministry submitted its official comments regarding the draft report to the TAIEX experts on April 27, 2026. Subsequently, the final version of the report, incorporating the feedback, was officially received by the Ministry on May 18, 2026.⁸ The Ministry of Justice has received numerous comments from international organizations, NGOs and other stakeholders included in the reform process. Comments have been addressed.
Evidence provided	Full verification of declaration of assets: 1. Law No. 08/L-108 on Declaration, Origin and Control of Assets and Gifts, https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=61304; 2. APC Regulation Ref. No. 162/25, dated 10/02/2025, on the Procedure or Verification and Control by APC of Declaration of Assets; 3. APC Decision with Ref. No. 1912/23, dated 23/10/2023, on the lot for verification of assets of senior public officials; 4. APC Decision with Ref. No. 1218/24, dated 12/09/2024, on the lot for verification of assets of senior public officials; 5. APC Decision with Ref. No. 1055/25, dated 27/06/2025, on the lot for verification of assets of senior public officials;

⁷ Please refer to evidence Nos. 31–35, for links to the public consultation process.

⁸ Please refer to evidence No. 30, Final Report of the TAIEX Expert Mission on European standards of judicial independence, accountability, and professional efficiency (TAIEX Case ID 93029), drafted by experts T. Groppi, G. Pratola, D. Quintavalle, and K. Witteman, received by the Ministry of Justice on 18/05/2026;

6. Annual declaration of assets for 2023,2024, 2025, 2026, <https://apk-rks.net/regjistrat-e-deklarimit/>; https://apk-rks.net/regjistrat/?date_year=2023, https://apk-rks.net/regjistrat/?date_year=2022
 7. APC Decision with Ref. No. 445/23, dated 17/03/2023, on the Approval of the Electronic System for Declaration of Assets;
 8. *Reports regarding the functioning/improvement of electronic declaration system*, https://apk-rks.net/wp-content/uploads/2024/05/Raporti-Vjetor-2023-Agjencia-per-Parandalimin-e-Korrupsionit_compressed.pdf (pp. 15, 23-26); <https://apk-rks.net/wp-content/uploads/2025/04/2025-03-28-Raporti-vjetor-i-punes-se-APK-per-vitin-2024.pdf> (pp. 14, 24-28);
 9. *Training reports for verification officials*, https://apk-rks.net/wp-content/uploads/2024/05/Raporti-Vjetor-2023-Agjencia-per-Parandalimin-e-Korrupsionit_compressed.pdf (pp. 50-52); <https://apk-rks.net/wp-content/uploads/2025/04/2025-03-28-Raporti-vjetor-i-punes-se-APK-per-vitin-2024.pdf> (pp. 54-55);
- Amendment of the Law on disciplinary liability of judges and prosecutors:
10. Draft Law on amending and supplementing the Law on Disciplinary Liability of Judges and Prosecutors, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2025\)007-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2025)007-e);
 11. Preliminary consultation on the draft law (outlook/email);
 12. Draft-law – for public consultation, <https://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=42480>;
 13. Opinion of the Venice Commission of the Venice Commission on Draft Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors and on the Draft Law Amending the Law on the Disciplinary Liability of Judges and Prosecutors, with the following recommendations, dated 18/03/2025, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)010-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)010-e);
 14. TAIEX Report of the case-based Peer Review Mission on disciplinary proceedings against judges and prosecutors, dated April 2023.
- Improvement of the recruitment system for judges and prosecutors:
15. Regulation 03/2021 on the Recruitment, Promotion, Appointment, and Reappointment of Judges adapted on 04/11/2021, https://www.gjyqesori-rks.org/wp-content/uploads/lgs/18637_Rregullore_Nr_03_2021_per_rekrutimin_provimin_emerimin_dhe_riemerimin_gjyqtareve.pdf;
 16. Regulation No. 02/2022 on recruitment, exam, appointment and reappointment of State prosecutors, <https://prokuroria-rks.org/wp-content/uploads/2025/04/Rregullore-Nr.02.2022-per-Rekrutimin-Provimin-Emerimin-dhe-Riemerimin-e-Prokurore-te-Shtetit-Nr.1102.2022.pdf>;
 17. Draft Law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors (<https://www.coe.int/en/web/venice-commission/-/cdl-ref-2025-006-e>).
 18. Opinion of the Venice Commission on the Draft Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors and on the Draft Law Amending the Law on the Disciplinary Liability of Judges and Prosecutors, with the following recommendations, dated 18/03/2025 – [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2025\)010-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)010-e).
- Alignment of legislative reforms from the JCS with the European Standards:
19. MoJ Decision with Ref, No. 01/2024, dated 04/01/2024 on the Appointment of the Working Group for the drafting of legislation deriving from the Joint Statement of Commitment;
 20. Draft Law on amending and supplementing the Law No. 06/L-055 on Kosovo Judicial Council, <https://www.coe.int/en/web/venice-commission/-/cdl-ref-2024-048-e>;
 21. Draft Law on amending and supplementing the Law No. 06/L-055 on Kosovo Prosecutorial Council, [https://venice.coe.int/webforms/documents/?pdf=CDL-REF\(2025\)004-e](https://venice.coe.int/webforms/documents/?pdf=CDL-REF(2025)004-e);
 22. Draft Law on amending and supplementing the Law No. 05/L-095 on Academy of Justice (<https://www.coe.int/en/web/venice-commission/-/cdl-ref-2024-049-e>).
 23. Draft Law on amending and supplementing the Law No. 06/L-057 on Disciplinary Liability of Judges and Prosecutors (<https://www.coe.int/en/web/venice-commission/-/cdl-ref-2025-007-e>).

	24. Draft Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges (https://www.coe.int/en/web/venice-commission/-/cdl-ref-2025-006-e); 25. Opinion of the Venice Commission on Draft Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors and on the Draft Law Amending the Law on the Disciplinary Liability of Judges and Prosecutors, with the following recommendations, dated 18/03/2025, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)010-e; 26. Opinion of the Venice Commission on the Draft Amendments to the Law on the Academy of Justice, dated 18/03/2025, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)011-e; 27. Opinion of the Venice Commission on the Law on the Judicial Council and the Draft Law Amending and Supplementing it, dated 18/03/2025, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)015-e. 28. Follow-up Opinion to the Previous Opinions concerning amendments to the Law on the Prosecutorial Council, dated 14/10/2025, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)039-e New evidence provided since the last reporting: 29. Decision No. 29/2026 on the Establishment of the Working Group for drafting and finalizing the legislation stemming from the Joint Statement of Commitment, dated 17/03/2026.⁹ 30. Final Report of the TAIEX Expert Mission on European standards of judicial independence, accountability, and professional efficiency (TAIEX Case ID 93029), drafted by experts T. Groppi, G. Pratola, D. Quintavalle, and K. Witteman, received by the Ministry of Justice on 18/05/2026; 31. Link to the public consultation platform for the Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors: DRAFT LAW ON RECRUITMENT, PERFORMANCE EVALUATION, INTEGRITY CONTROL, AND STATUS OF JUDGES AND PROSECUTORS 32. Link to the public consultation platform for the Law on Disciplinary Responsibility of Judges and Prosecutors: DRAFT LAW ON DISCIPLINARY LIABILITY OF JUDGES AND PROSECUTORS 33. Link to the public consultation platform for the Law on Amending and Supplementing Law No. 05/L-095 on the Academy of Justice: DRAFT LAW ON AMENDING AND SUPPLEMENTING LAW NO. 05/L-095 ON ACADEMY OF JUSTICE 34. Link to the public consultation platform for the Law on Amending and Supplementing Law No. 06/L-056 for Kosovo Prosecutorial Council, amended and Supplemented by Law No. 08/L-249 DRAFT LAW ON AMENDING AND SUPPLEMENTING LAW NO. 06/L-056 ON KOSOVO PROSECUTORIAL COUNCIL, AMENDED AND SUPPLEMENTED BY LAW NO. 08/L-249 35. Link to the public consultation platform for the Law on Amending and Supplementing Law No. 06/L-055 on the Judicial Council of Kosovo: LAW ON AMENDING AND SUPPLEMENTING LAW NO. 06/L-055 ON KOSOVO JUDICIAL COUNCIL
Checks performed in the verification	On the implementation of the Joint Commitment Statement: During verification of the step, all available and possible evidence has been collected and reviewed. The evidence has been listed down in the checklist on the conducted verification, and all documents supporting

of the step and related findings	the verification have been properly stored (in order to ensure audit trail). The following checks were conducted: 1. All available documentation in line with the level of the achievement (as attached to this report) has been reviewed to verify the current stage of the reform step; 2. Compliance with the descriptive part of the reform step from the Commission Implementing Decision has been verified to the maximum possible extent and scope (as evidenced by the documentation available); 3. The attached documentation can confirm non-fulfilment of the reform step, as presented in this report; The results of the checks indicate that the reform step has not been fulfilled by the end of the reporting period (30 June 2026).
Compliance with general principles and DNSH principle	The implementation of the steps does not contravene the general principles outlined in Article 4 and 11(4) of Regulation (EU) 2024/1449 and Article 3 of the Facility Agreement. The implementation of the steps does not contravene the ‘Do No Significant Harm’ principle (DNSH).
Double funding	Regarding the step of full verification of the assets declarations of judges and prosecutors by the Agency for the Prevention of Corruption, in 2024, APC received support from the EU-funded <i>PECK III Project</i>, implemented by CoE, for developing the methodology for the verification of asset declarations of all public officials who are obliged to declare their assets (including for judges and prosecutors). This support was delivered through advice and recommendations by the expert to the APC on how to draft this methodology, as well as a workshop organised for this purpose. This support has contributed indirectly to the development of the asset verification methodology. With regard to step related to legislative reforms to implement the Joint Commitment Statement, in 2024 the Ministry of Justice received support from UNDP Kosovo (Democratic Governance and Peace Building Department, UNDP funding). This support was delivered through advice to the working groups that prepared legislative reforms implementing the Joint Commitment Statement. This support has contributed indirectly to these legislative reforms.
Clear conclusion on the achievement of the step	This reform step has not been fulfilled by June 2026 deadline.

[Emblem of Kosovo]

Republic of Kosovo
Government

Ministry of Justice

Office of the Minister of Justice

Nr. 29/2026
Date: 17/03/2026

Pursuant to Articles 9, 10 (paragraphs 1 and 2) and 11 of Law No. 06/L-113 on the Organization and Functioning of the State Administration and Independent Agencies, based on Article 11 (paragraph 1, sub-paragraph 5) of Law No. 08/L-117 on the Government of the Republic of Kosovo and in accordance with Article 6 of the Regulation (GRK) - NT. 04/2026 on the Areas of Administrative Responsibility of Ministries, the Deputy Prime Minister and the Minister of Justice, hereby issues the following:

DECISION

1. It is hereby appointed the Working Group for drafting and finalizing the legislation stemming from the Joint Statement of Commitment (March 14, 2023) based on the initial reports developed by the working groups for the assessment and conceptualization of legal initiatives and approved by the Justice Reform Coordination Group.
2. The Working Group under item I of decision is consists of:
 - 2.1. Genc Nimoni, Ministry of Justice, Chairperson;
 - 2.2. Representative from Presidency of the Republic of Kosovo, member;
 - 2.3. Besnik Bislimaj, Kosovo Judicial Council, member;
 - 2.4. Ahmet Imami, Kosovo Judicial Council, member;
 - 2.5. Albert Zogaj, Kosovo Judicial Council, member;
 - 2.6. Ngadhnjim Arrni, Kosovo Judicial Council, member;
 - 2.7. Argzon Muçaj, Kosovo Judicial Council, member;
 - 2.8. Visar Krasniqi, Kosovo Prosecutorial Council, member;
 - 2.9. Dardan Vuniqi, Kosovo Prosecutorial Council, member;
 - 2.10. Bahri Hyseni, Kosovo Prosecutorial Council, member;
 - 2.11. Petrit Kiyeziu, Kosovo Prosecutorial Council, member;
 - 2.12. Valdrin Krasniqi, Kosovo Prosecutorial Council, member;
 - 2.13. Enver Fejzullahu, Academy of Justice, member;
 - 2.14. Frashër Murtezaj, Agency for Prevention of Corruption, member;
 - 2.15. Riza Shillova, Kosovo Police, member;
 - 2.16. Lulzim Beqiri, Ministry of Justice, member;
 - 2.17. Feride Podvorica, Ministry of Justice, member;
 - 2.18. Selviqe Elezaj, Ministry of Justice, member;
 - 2.19. Arlinda Alshiqi, Ministry of Justice, member;
 - 2.20. Lirike Kamberi, Ministry of Justice, member;
 - 2.21. Rinor Gjergji, Ministry of Justice, member;
 - 2.22. Valmira Uka, Ministry of Justice, member;
 - 2.23. Venera Maksuti, Ministry of Justice, member;

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- 2.24. Representative from Lëvizja Fol, member;
 - 2.25. Representative from Kosovo Democratic Institute, member;
 - 2.26. Representative from Kosovo Institute for Justice, member;
 - 2.27. Representative from Balkan Investigation Reporting Network (BIRIV Kosova), member;
 - 2.28. Representative from Group for Legal and Political Studies, member.

3. When drafting the Draft Laws, the Working Group must adhere to the rules and procedures provided for in the Regulation (GRK) - No. 17/2024 of the Work of the Government of the Republic of Kosovo on the relevant legislation in force for the drafting of legislation.

4. For the needs of the Working Group to implement obligations set out in this decision, the Working Group Chairperson may also invite other representatives from public institutions, civil society and experts in the field.

5. Upon the entry into force of this Decision, Decision No. 01/2004 dated 04.01.2024 shall be repealed.

6. The decision enters into force on the day of signing.

Donika Gërvalla – Schwarz

Deputy Prime Minister and Minister of Justice

- The decision is sent to:
- Members of the Working Group;
- The Chairperson of the Kosovo Judicial Council; The Chairperson of the Kosovo Prosecutorial Council; The President of the Supreme Court, the Acting Chief State Prosecutor;
- The Cabinet (and the Deputy Prime Minister of the Ministry of Justice; The General Secretariat;
- The Archives of the Ministry of Justice.



Në mbështetje të Nenit 12, paragrafi 1, nën-paragrafi 1.9, të Ligjit Nr. 08/L-017 për Agjencinë për parandalimin e korrupsionit (*Gazeta Zyrtare nr. 19, datë 21.07.2022*), të Ligjit Nr. 08/L-108 për Deklarimin, Prejardhjen dhe Kontrollin e Pasurisë dhe Dhuratave, si dhe dispozitave të Ligjit Nr. 06/L-011 për Parandalimin e Konfliktit të Interesit në Ushtrimin e Funkcionit Publik, Drejtori i Agjencisë për Parandalimin e Korrupsionit, me datë 10.02.2025, nxjerr:

RREGULLORE 01/2025

PËR PROCEDURËN E VERIFIKIMIT DHE KONTROLLIT TË DEKLARIMIT TË PASURISË NGA AGJENCIA PËR PARANDALIMIN E KORRUPSIONIT

Neni 1

Objekti

1. Rregullorja për procedurën e verifikimit dhe kontrollit të pasurisë (në tekstin e mëtejme: Rregullorja), përcakton rregulla dhe procedura lidhur me verifikimin dhe kontrollin e pasurisë të subjekteve deklaruese, sa i përket vërtetësisë dhe saktësisë së të dhënave të deklaruara sipas Ligjit Nr. 08/L-108 për Deklarimin, Prejardhjen dhe Kontrollin e Pasurisë dhe Dhuratave, si dhe papajtueshmëritë e funksioneve sipas Ligjit Nr. 06/L-011 për Parandalimin e Konfliktit të Interesit në Ushtrimin e Funkcionit Publik.
2. Të gjithë termat e përdorur në këtë rregullore janë në harmoni me Ligjin Nr. 08/L-108 për Deklarimin, Prejardhjen dhe Kontrollin e Pasurisë dhe Dhuratave.

Neni 2

Fushëveprimi

Dispozitat e kësaj rregulloreje zbatohen nga Departamenti për Kontrollin e Pasurisë dhe Dhuratave, si dhe njësitë tjera përgjegjëse të Agjencisë, të cilat përfshihen në procesin e verifikimit dhe kontrollit të deklarimeve të pasurisë të subjekteve deklaruese.

Neni 2

Formulari i deklarimit të pasurisë

1. Formulari elektronik për deklarimin e pasurisë, përmban të dhënat si në vijim:
 - 1.1. të dhënat personale për subjektin deklarues: emri dhe mbiemri (emri i prindit), numri personal, gjinia, data e lindjes, vendi i lindjes, adresa e përkohshme e banimit, adresa e përhershme e banimit, statusi i gjendjes civile, e-mail adresa,

numri i telefonit të kontaktit fiks/mobil, si dhe numri fiskal kurdo që është e mundur.

- 1.2. të dhënat për funksionin deklarues dhe funksionet ose angazhimet tjera të subjektit deklarues, si në vijim: emri i institucionit, lloji i institucionit, adresa e institucionit, komuna, njësia organizative, funksioni, niveli i funksionit (pozitës), data e emërimi/fillimit, data e përfundimit/largimit.
- 1.3. të dhënat personale për anëtarët e tjerë të familjes me të cilët subjekti deklarues jeton në bashkësi familjare, bashkëshorti ose bashkëshorti jashtëmartesor, prindërit dhe fëmijët, si në vijim: emri dhe mbiemri, data e lindjes, numri personal, gjinia, statusi dhe lidhja me subjektin deklarues.
- 1.4. të dhëna për pasuritë e paluajtshme si: lloji i pasurisë, sipërfaqja, adresa, komuna, prejardhja, origjina/përfitimi, numri i parcelës/njësisë identifikuese, viti i përfitimit, vlera/çmimi, pronësia, dhe pronari paraprak.
- 1.5. të dhëna për pasuritë e luajtshme si: pasuri mbi vlerën mbi tremijë (3000) euro, lloji i pasurisë, modeli, prejardhja, origjina/përfitimi, përcaktimi i pjesëve të veçanta, viti i përfitimit, vlera/çmimi, pronësia, dhe pronari paraprak.
- 1.6. të dhëna për aksionet në shoqëri tregtare si: lloji, emri, numri i biznesit, shteti, përqindja e aksioneve, kapitali në euro, data e regjistrimit, data e përfitimit, dhe poseduesi/pronësia e aksioneve.
- 1.7. të dhëna për letrat me vlerë si: sasia, vlera në euro, prejardhja, data e pranimit, dhe zotëruesi i letrave me vlerë.
- 1.8. të dhëna për kriptovalutat/kriptoasetet si: emri i valutës/asetit, vlera e tanishme në euro, vlera e blerjes, sasia, prejardhja, data e përfitimit, poseduesi.
- 1.9. të dhëna për para të gatshme në llogari rrjedhëse, depozita dhe huadhënie si: lloji, emri i institucionit financiar ose personit fizik, vendi, shuma në euro ose në valutë tjetër, prejardhja, lloji i llogarisë, dhe zotëruesi.
- 1.10. të dhëna për të drejtat dhe detyrimet financiare ndaj personave juridike dhe fizik si: kreditori/debitori, qëllimi i detyrimit, data e fillimit, data e mbarimit, kohëzgjatja, vlera fillestare, vlera aktuale, shuma totale, dhe detyruesi ndaj këtyre obligimeve.
- 1.11. të dhëna për donacionet në parti politike si: lloji, partia politike, shuma e donacionit, emërtimi, qëllimi, data, si dhe dhuruesi (Deklaruesi, Bashkëshorti ose fëmija).
- 1.12. të dhëna për donacionet dhe shpenzimet si: lloji i donacionit/shpenzimit, shuma në euro, emërtimi, qëllimi, data, dhënë si/shpenzuesi.

- 1.13. të dhëna për të ardhurat personale nga paga, pjesë marrja në borde, komisione ose çdo veprimtari tjetër që sjellë të ardhura, si: lloji i të hyrës, prejardhja, vendi, institucioni financiar, dhe shuma.
- 1.14. të dhëna për të ardhurat e familjarëve të subjektit deklarues si: lloji i të hyrës, prejardhja, vendi, institucioni financiar, dhe shuma.
- 1.15. të dhëna tjera të cilat përfshijnë çdo të dhënë tjetër që subjekti deklarues nuk mund të përfshijë në pikat 1.1 deri në 1.14 të këtij Neni.
2. Formularët e deklarimit të pasurisë deri në vitin 2023, që janë pranuar nga Agjencia në formë fizike, dhe përmbajtja e tyre është përcaktuar sipas legjislacionit në fuqi në kohën e dorëzimit të tyre.
3. Formularët si në paragrafin 2 të këtij Neni mirëmbahen nga Agjencia dhe përdoren për qëllime verifikimi.

Neni 4

Llojet e deklarimit të pasurisë dhe afatet

1. Deklarimi i pasurisë nga subjektet deklaruese bëhet sipas llojeve si në vijim:
 - 1.1. deklarimi me marrje të detyrës, i cili përmban të dhënat e gjendjes aktuale në momentin e marrjes së detyrës zyrtare;
 - 1.2. deklarimi i rregullt vjetor, i cili përmban të dhënat për vitin paraprak 01 janar deri me 31 dhjetor;
 - 1.3. deklarimi me përfundimin e funksionit publik, i cili përmban të dhënat për periudhën e mbetur nga deklarimi i fundit;
2. Për qëllime të kontrollit sipas llojeve të deklarimit, kontrolli zhvillohet për periudhat si në vijim:
 - 2.1. vërtetësia ose saktësia e të dhënave të gjendjes aktuale në rastin e llojit të deklarimit sipas par.1, pika 1.1 të këtij Neni.
 - 2.2. vërtetësia ose saktësia e të dhënave për periudhën e përcaktuar në rastin e llojit të deklarimit sipas par.1, pika 1.2 të këtij Neni; si dhe
 - 2.3. vërtetësia ose saktësia e të dhënave të fundit në rastin e llojit të deklarimit sipas par.1, pika 1.3 të këtij Neni;

Neni 5

Përzgjedhja e subjekteve deklaruese për kontroll të plotë

1. Pas përfundimit të afatit kohor për korrigjim të deklarimit të pasurisë, Departamenti për Kontrollin e Pasurisë dhe Dhuratave, fillon procesin e kontrollit të plotë.
2. Drejtori i Departamentit për Kontrollin e Pasurisë dhe Dhuratave, në koordinim me Divizionin për E-shërbime dhe Sisteme, ndërmerr veprimet e nevojshme për përcaktimin e subjekteve deklaruese për kontroll të plotë si në vijim:
 - 2.1. subjektet deklaruese për kontroll të plotë sipas Ligjit nr. 08/L-108, Nenit 4, nën-paragrafi 1.1 deri 1.18 të ligjit, do t'i nënshtrohen kontrollit të plotë çdo vit. Në vitet vijuese kjo kategori e subjekteve do t'i nënshtrohet kontrollit të plotë vetëm nëse ndryshimi në ndonjërin nga llojet e pasurisë së deklaruar është 25000 Eurosh e më shumë.
 - 2.2. përjashtimisht vlera e përcaktuar si në pikën 2.1 të këtij Neni, për subjektet deklaruese të kategorisë së lartcekur, Agjencia mund të vlerësojë dhe mund të mos merret për bazë vlera e theksuar, duke marrë parasysh rrethanat tjera të cilat mund të jenë potencial për vlerësim të rrezikut.
 - 2.3. subjektet deklaruese sipas Nenit 4, nën-paragrafi 1.19 deri 1.38 të ligjit, 1/3 e tyre përzgjidhen në mënyrë të rastësishme nga vet sistemi për kontroll të plotë. Në vitin vijues përzgjidhen 1/3 e pjesës së mbetur të subjekteve deklaruese në mënyrë të rastësishme nga vet sistemi për kontroll të plotë. Si dhe 1/3 e pjesës së mbetur nga kjo kategori e subjekteve deklaruese i nënshtrohen kontrollit të plotë.
 - 2.4. subjektet deklaruese sipas Nenit 5 të Ligjit nr. 08/L-108 i nënshtrohen kontrollit të plotë çdo vit, deri në 500 subjekte. Përzgjedhja bëhet në mënyrë të rastësishme nga vet sistemi, ndërsa numrin për kontroll të plotë nga kjo kategori e përcakton Drejtori i Departamentit për Kontrollin e Pasurisë dhe Dhuratave.
3. Kontrollit të plotë mund t'i nënshtrohen edhe subjektet deklaruese të cilët nuk janë pjesë e listave përzgjedhëse, bazuar në informacionet e pranuar pas vlerësimit nga Departamenti përkatës.
4. Pas pranimit të kërkesës për korrigjim nga ana e subjektit deklarues, Agjencia për Parandalimin e Korrupsionit aprovon kërkesën për qasje në sistem vetëm njëherë brenda këtij afati.

Neni 6

Procedimi i rasteve për kontroll të plotë

1. Pas përzgjedhjes së subjekteve deklaruese për kontroll të plotë, lista e përgjithshme protokollohet, dhe shërben vetëm për nevoja të brendshme të Agjencisë.

2. Drejtori i Departamentit për Kontrollin e Pasurisë dhe Dhuratave, merr Vendim për ndarjen proporcionale të rasteve për zyrtarët përgjegjës brenda Departamentit, për zhvillimin e procedurës së kontrollit të plotë.
3. Caktimi i rasteve për secilin zyrtar përgjegjës bëhet nga Drejtori i Departamentit në bashkëpunim me Udhëheqësin e Divizionit, përmes sistemit elektronik DMSA-CMS.
4. Në rast të konfliktit të mundshëm të interesit lidhur me rastin, zyrtari përgjegjës është i obliguar të bëjë refuzimin e rastit në sistem me arsyetim, dhe njofton mbikëqyrësin e drejtpërdrejtë dhe Drejtorin e Departamentit. Në të gjitha rastet tjera, konfirmon pranimin e rasteve.
5. Në rastet kur një subjekt deklarues, është pjesë e kontrollit të plotë si rezultat i informacioneve të pranuara, dhe në të njëjtën kohë është përzgjedh nga sistemi në kuadër të listës së përgjithshme, i njëjti bartet tek zyrtari përgjegjës i cili paraprakisht ka filluar shqyrtimin dhe trajtimin e rastit.
6. Në raste të caktuara, Drejtori i Departamentit varësisht nga specifikat e rastit mund të vendos ndryshe për ndarjen e rastit tek zyrtari përgjegjës.
7. Në rastet kur zyrtarët e Agjencisë janë pjesë e kontrollit të plotë sipas listës së përgjithshme, të njëjtat barten për shqyrtim në Komisionin përkatës në Kuvend për mbikëqyrjen e Agjencisë.
8. Zyrtari përgjegjës gjatë zhvillimit të procedurës do të bashkëpunojë me udhëheqësin e drejtpërdrejtë, pa e cenuar pavarësinë profesionale në epilogun e rastit.
9. Pas përfundimit të procedurës së rastit, zyrtari përgjegjës e përmbyll rastin me raport përfundimtar, i cili dërgohet përmes sistemit DMSA-CMS tek udhëheqësi i drejtpërdrejtë për aprovim.
10. Rastet e përfunduara nga zyrtarët, udhëheqësi i drejtpërdrejtë i aprovon ose i refuzon. Për rastet e refuzimit përmes DMSA-CMS, njoftohet Drejtori i Departamentit.
11. Drejtori Departamentit i aprovon ose i refuzon rastet e pranuar nga udhëheqësi i drejtpërdrejtë.
12. Në rastet kur udhëheqësi i divizionit është zyrtar përgjegjës i lëndës, rasti aprovohet nga Drejtori i Departamentit.
13. Për rastet e raportuara nga jashtë me dyshime për pasaktësi në deklarin e pasurisë, Agjencia trajton vetëm pretendimin e raportuesit, ndërsa në të gjitha rastet tjera zbaton verifikimin dhe kontrollin e plotë të pasurisë.

Neni 7

Fillimi i procedurës së kontrollit të plotë

1. Zyrtari përgjegjës pas pranimit të rastit, analizon, vlerëson dhe krahason të dhënat e formularit aktual të subjektit deklarues me të dhënat e deklaruara në formularin e vitit paraprak, nëse ka qenë subjekt deklarues.
2. Zyrtari përgjegjës fillon kontrollin e plotë duke kërkuar nga institucionet kompetente publike dhe private, vendore dhe ndërkombëtare, të dhëna elektronike, raporte, dokumente, dëshmi apo çdo informacion tjetër që i shërben procedurës rreth saktësisë dhe vërtetësisë së pasurisë së deklaruar të subjektit deklarues dhe anëtarëve të familjes, si në vijim:
 - 2.1. të dhëna për funksionin deklarues dhe funksionet ose angazhimet tjera, nga institucioni ku subjekti deklarues ushtron funksionin apo angazhimin tjetër, si dhe institucionet tjera p.sh. Administrata Tatimore e Kosovës, Trusti Pensional i Kosovës, Komisioni Qendror i Zgjedhjeve; etj;
 - 2.2. të dhëna personale për subjektin deklarues dhe anëtarët e tjerë të familjes, nga Agjencia për Regjistrimin Civil;
 - 2.3. të dhëna për pasuritë e paluajtshme nga Agjencia Kadastrale e Pronës, Departamenti për Tatim në Pronë në Ministrinë e Financave, si dhe institucionet tjera;
 - 2.4. të dhëna për pasuritë e luajtshme, nga Agjencia për Regjistrim Civil-Regjistri i veturave si dhe institucionet tjera publike dhe private;
 - 2.5. të dhëna për aksionet në shoqëri tregtare, nga Agjencia e Regjistrimit të Biznesit, Administrata Tatimore e Kosovës, si dhe Departamenti për regjistrimin e organizatave joqeveritare në ministrinë përkatëse;
 - 2.6. të dhëna për letrat me vlerë, nga Thesari i Kosovës, si dhe institucionet tjera publike dhe private, vendore dhe ndërkombëtare;
 - 2.7. të dhëna për verifikim për kriptovalutat/kriptoasetet nga subjekti deklarues;
 - 2.8. të dhëna për para të gatshme në llogari rrjedhëse, depozita dhe huadhënie, nga Ministria e Financave, Administrata Tatimore e Kosovës, Trusti Pensional i Kosovës, Njësia e Inteligjencës Financiare, institucionet financiare, si dhe institucionet tjera publike dhe private, vendore dhe ndërkombëtare;
 - 2.9. të dhëna për të drejtat dhe detyrimet financiare ndaj personave juridike dhe fizikë, nga institucionet financiare-bankat si dhe institucionet mikrofinanciare;
 - 2.10. të dhëna për donacione në parti politike, nga Komisioni Qendror i Zgjedhjeve si dhe subjekteve politike;
 - 2.11. të dhëna për donacione dhe shpenzime, nga institucionet publike dhe private;

- 2.12. të dhëna për të ardhurat personale, nga paga, pjesëmarrja në borde, komisione ose çdo veprimtari tjetër që sjellë të ardhura për subjektin deklarues dhe anëtarëve të familjes, nga Ministria e Financave, Trusti Pensional i Kosovës, Administrata Tatimore e Kosovës, si dhe institucionet tjera publike dhe private;
3. Verifikimi në pikat 1.1 deri në 1.12 bëhet përmes të dhënave të pranura në mënyrë elektronike apo fizike, ose përmes lidhjes së sistemit DMSA-CMS, me sistemet elektronike të institucioneve përkatëse;
4. Përveç verifikimit standard sipas paragrafit 1 dhe 2 të këtij Neni, Agjencia sipas vlerësimit të rrezikut potencial të rrezikut, kryen kontrollin e stilit të jetesës, për qëllim të konsistencës midis informacionit të deklaruar dhe standardit të jetesës së deklaruesit (nëpërmjet vizitave në terren në shtëpinë e tyre, kontrollimit të platformave të mediave sociale si Facebook, Instagram etj. ose ekzaminime të tjera).

Neni 8

Rezultati nga kontrolli i plotë

1. Si rezultat i procedurës nga kontrolli i plotë, kur ka indikacione apo dyshime për pasaktësi apo mospërputhje të deklarimit të pasurisë nga subjekti deklarues, në të dhënat sipas Nenit 2 të kësaj Rregulloreje, zyrtari përgjegjës i kërkon sqarim subjektit deklarues për pasaktësitë e evidentuara nga procesi i verifikimit dhe kontrollit të plotë të pasurisë së tij të padeklaruar.
2. Pas pranimit të sqarimit nga subjekti deklarues, zyrtari përgjegjës vlerëson dhe rekomandon nëse rasti:
- 2.1. të mbyllet me raport kur subjekti deklarues arrin të ofrojë prova bindëse që arsyeton pasaktësinë e evidentuar në deklarimin e tij të pasurisë;
- 2.2. të procedohet me informatë në Prokurorinë e Shtetit ose Policinë e Kosovës, në rastet kur Agjencia ka dyshime për vepër penale, në pamundësi për të siguruar provat e mjaftueshme, ndërsa në Administratën Tatimore të Kosovës, për dyshime për shmangie nga tatimi;
- 2.3. të procedohet me kallëzim penal në Prokurorinë e Shtetit, kur ka prova të mjaftueshme dhe dyshime të arsyeshme për vepër penale të parashikuar me Kodin Penal të Kosovës;
3. Në rastet e parashikuara në pikën 2.1 të paragrafit 2 të këtij Neni, Agjencia mbyll rastet kur vërtetohet se:
- 3.1. funksioni i pa deklaruar nuk gjeneron të hyra (rasti mbyllet me vërejtje);
- 3.2. nuk jeton në bashkësi familjare me subjektin deklarues;
- 3.3. pasuritë e paluajtshme të pa deklaruar janë nën vlerën 3000 euro;

- 3.4. pasuritë e luajtshme të pa deklaruar janë nën vlerën 3000 euro;
- 3.5. vlera e fitimit/dividendës ose e kapitalit të biznesit ose e aksioneve tregtare, të pa deklaruar është nën vlerën 3000 euro;
- 3.6. vlera e letrave me vlerë në posedim e të pa deklaruar, është nën 3000 euro;
- 3.7. kriptovalutat/kriptoasetet në posedim e të pa deklaruar, janë nën vlerën 3000 euro;
- 3.8. vlera e përgjithshme e parave të gatshme është nën 3000 euro;
- 3.9. të drejtat ose detyrimet financiare pa deklaruar janë nën vlerën 3000 euro;
- 3.10. donacionet e pa deklaruar në partitë politike janë nën vlerën 3000 euro (rasti mbyllet me vërejtje);
- 3.11. donacionet ose shpenzimet e padeklaruar janë nën vlerën 3000 euro;
- 3.12. të hyrat e pa deklaruar për subjektin deklarues, ose për anëtarin e familjes nuk tejkalojnë shumën 3000 euro;
- 3.13. Janë deklaruar njësi matëse të sipërfaqes ose njësi monetare me gabime teknike si permutacion. (Kjo nënkupton që janë deklaruar njësitë duke ruajtur të njëjtën përmbajtje të shifrave, por duke ndryshuar vetëm rendin
4. Në rastet kur një subjekt deklarues ka bërë gabime dhe si pasojë ka mospërputhje në deklarim, i shqiptohet vërejtje nga Agjencia.

4.1 Kur në rastin si në paragrafin 4 i shqiptohet vërejtje dhe e njëjta çështje përsëritet sërish nga subjekti deklarues, i njëjti procedohet në pajtim me paragrafin 2, nën paragrafin 2.3 të këtij neni.

Neni 9

Përfundimi i kontrollit të plotë

1. Pas përfundimit të kontrollit të plotë, Departamenti për Kontrollin e Pasurisë dhe Dhuratave, përkatësisht Divizioni për Verifikimin dhe Kontrollin e Pasurisë, përgatit raport përmbledhës për përmbylljen e procesit të kontrollit të plotë.
2. Drejtori i Agjencisë pas pranimit të raportit përmbledhës për kontrollin e plotë aprovon dhe vendos për vendimin final.

Neni 10

Papajtueshmëritë e funksioneve nga procesi i kontrollit të plotë

1. Si rezultat i procesit të kontrollit të plotë, shqyrtimi i konfliktit të interesit të interesave të deklaruar nga subjekti deklarues, në aspekt të papajtueshmërive të funksioneve, bëhet nga Departamenti i Parandalimit të Konfliktit të Interesit, në përputhje me ushtrimin e funksioneve sipas Ligjit Nr. 06/L-011 për Parandalimin e Konfliktit të Interesit në Ushtrimin e Funkcionit Publik.
2. Lista me subjekte deklaruese nga deklarimi i rregullt vjetor, për subjektet deklaruese të cilat ushtrojnë dy ose më shumë funksione/angazhime, përcillet nga Divizioni për E-shërbime dhe Sisteme, në Departamentin për Parandalimin e Konfliktit të Interesit.

3. Lista e kontrollit të plotë për subjektet deklaruese, e cila përfshin të paktën funksionet, të hyrat, pronësinë në biznese apo interesa tjerë, përcillet nga Departamenti për Kontrollin e Pasurisë dhe Dhuratave dhe Divizioni për E-Sherbime dhe Sisteme, në Departamentin për Parandalimin e Konfliktit të Interesit për vlerësim dhe shqyrtim të mëtutjeshëm.
4. Departamenti për Kontrollin e Pasurisë dhe Dhuratave përcjell edhe përgjigjet nga institucionet tjera ATK, DOJQ dhe ARBK etj, në Departamentin për Parandalimin e Konfliktit të Interesit nëse identifikohen të hyra apo angazhime që nuk janë raportuar fillimisht.
5. Në rastet sipas paragrafit 2 dhe 3 të këtij Neni, ekzistojnë tregues të një konflikti të mundshëm ose aktual interesi, ose të shkeljeve aktuale ose të mundshme të rregullave që rregullojnë papajtueshmëritë, e funksioneve sipas ligjit, Departamenti për Parandalimin e Konfliktit të Interesit i trajton sipas procedurave të rregullta të veta.

Neni 11

Mënyra e mbajtjes së dosjeve të kontrollit të plotë

Të dhënat nga procesi i kontrollit të plotë, duke përfshirë formularin elektronik të deklarimit të pasurisë, raporte, dëshmi, dokumente dhe çdo informacion tjetër në kuadër të procedurës së kontrollit të plotë, ruhen në sistemin elektronik DMSA-CMS.

Neni 12

Dispozitat përfundimtare

1. Për çdo çështje e cila nuk është e rregulluar me këtë rregullore, vlejnë dispozitat e Ligjit Nr. 08/L-108 për Deklarimin, Prejardhjen dhe Kontrollin e Pasurisë dhe Dhuratave, si dhe dispozitat e Rregullores Nr. 03/2023 për Procedurat për Hetimet Administrative nga Agjencia për Parandalimin e Korrupsionit.
2. Kjo Rregullore mund të rishikohet, të plotësohet apo ndryshohet, varësisht nevojave dhe rrethanave që mund të paraqiten për ndryshim/plotësimin e saj.

Neni 13

Hyrja në fuqi

Kjo rregullore hyn në fuqi në ditën e nënshkrimit dhe publikimit në faqen zyrtare të Agjencisë.

YIL BULESHKAI

Drejtor i Agjencisë për Parandalimin e Korrupsionit





Në mbështetje të Nenit 12, paragrafi 1, nën-paragrafi 1.5, të Ligjit Nr. 08/L-017 për Agjencinë për parandalimin e korrupsionit (*Gazeta Zyrtare nr. 19, datë 21.07.2022*), si dhe në kuptim të zbatimit të dispozitave ligjore të Ligjit Nr. 08/L-108 për Deklarimin, Prejardhjen dhe Kontrollin e Pasurisë dhe të Dhuratave (*Gazeta Zyrtare nr. 21, datë 10.08.2022*) Nenit 11 dhe Nenit 34 paragrafi 3, Drejtori i Agjencisë për Parandalimin e Korrupsionit, me datë 01.03.2023, nxjerr:

V E N D I M

Për miratimin e Sistemit Elektronik të Deklarimit të Pasurisë

1. Miratohet Sistemi Elektronik për Deklarimin e Pasurisë nga Subjektet Deklaruese (DMSA).
2. Obligohet Njësia përgjegjëse për Teknologji Informativ dhe Departamenti për Parandalimin e Korrupsionit, për ndërmarrjen e të gjitha veprimeve për vënien në funksion të DMSA.
3. Për zbatimin e këtij në raport me subjektet deklaruese obligohet Departamenti për Parandalimin e Korrupsionit.
4. Vendimi hyn në fuqi datën e nënshkrimit.

A r s y e t i m

Bazuar në Ligjin Nr. 08/L-108 për Deklarimin, Prejardhjen dhe Kontrollin e Pasurisë dhe të Dhuratave, Agjencia për Parandalimin e Korrupsionit ka miratuar Sistemin Elektronik të Deklarimit të Pasurisë sipas pikës 1 të dispozitivit të këtij Vendimi. Njësitë përkatëse të theksuara si në pikën 2 të dispozitivit të këtij Vendimi janë të obliguara për vënien në funksion dhe mbarëvajtjen e sistemit elektronik të deklarimit të pasurisë.

Nga ajo çfarë u theksua në arsyetim, u vendos si në dispozitiv të këtij Vendimi.

Yll BULESHKAJ

Drejtor i Agjencisë për Parandalimin e Korrupsionit

Vendimi i dërgohet:

- Departamentit për Parandalimin e Korrupsionit;
- Administratorit të Lartë të TI-së për sisteme
- Zyrës së Drejtorit;
- Arkivit;

[Kosovo coat of arms]

Republic of Kosovo

Government

Ministry of Justice

Cabinet of the Minister of Justice

No 01/2024

Date: 04/01/2024

Pursuant to Articles 9, 10 (paragraphs 1 and 2) and Article II of Law No. 06/L-113 on the Organization and Functioning of the State Administration and Independent Agencies, based on Article 11 (paragraph 1, subparagraph 1.5) of Law No. 08/L-117 on the Government of the Republic of Kosovo and in accordance with the Regulation (GRK) - No. 14/2023 on the Areas of Administrative Responsibility of the Office of the Prime Minister and the Ministries (Annex 1, item 3), the Minister of Justice issues the following:

DECISION

Whereby

I. The Working Group for the drafting and finalization of the legislation stemming from the Joint Declaration of Commitment (14 March 2023) is hereby appointed on the basis of the initial reports prepared by the working groups for the assessment and conceptualization of legal initiatives, and approved by the Justice Reform Coordination Group.

2. The Working Group referred to under paragraph 1 of the decision includes:

2.1 Lulzim Beqiri, Ministry of Justice, Chair;

2.2. Feride Podvorica, Ministry of Justice, Deputy Chair;

2.3 Genc Nimoni, Ministry of Justice, member;

2.4. Albana Krasniqi, Presidency of the Republic of Kosovo, member;

2.5. Representatives of the Kosovo Judicial Council:

2.5.1. five members;

2.6. Representatives of the Kosovo Prosecutorial Council:

2.6.1. five members;

2.7. Frasher Murtezaj, Anti-Corruption Agency, member;

2.8. Luljeta Hetemi, Academy of Justice, member;

2.9. Kosovo Police, member;

2.10. Albulena Uka, Ministry of Justice, member;

2.11. Selviqe Elezaj, Ministry of Justice, member;

2.12. Diellza Mujaj, Ministry of Justice, member;

2.13. Albana Hasani, Lëvizja Fol, member;

2.14. Violeta Haxholli, KDI, member;

2.15. Gëzim Shala, IKL, member;

2.16. Labinot Leposhtica, BIRN, member.

3. When preparing the draft laws, the Working Group must follow rules and procedures as provided for in Regulation no. 09/2011 of the Government of Kosovo and applicable legislation for legislative drafting.

4. If needed by the Working Group to fulfill the obligations set out in the decision, the Working Group Chairperson may also invite representatives from public institutions and civil society.

5. The decision shall enter into force on the day of signing.

Albulena Haxhiu
Minister of Justice
signed

CC:

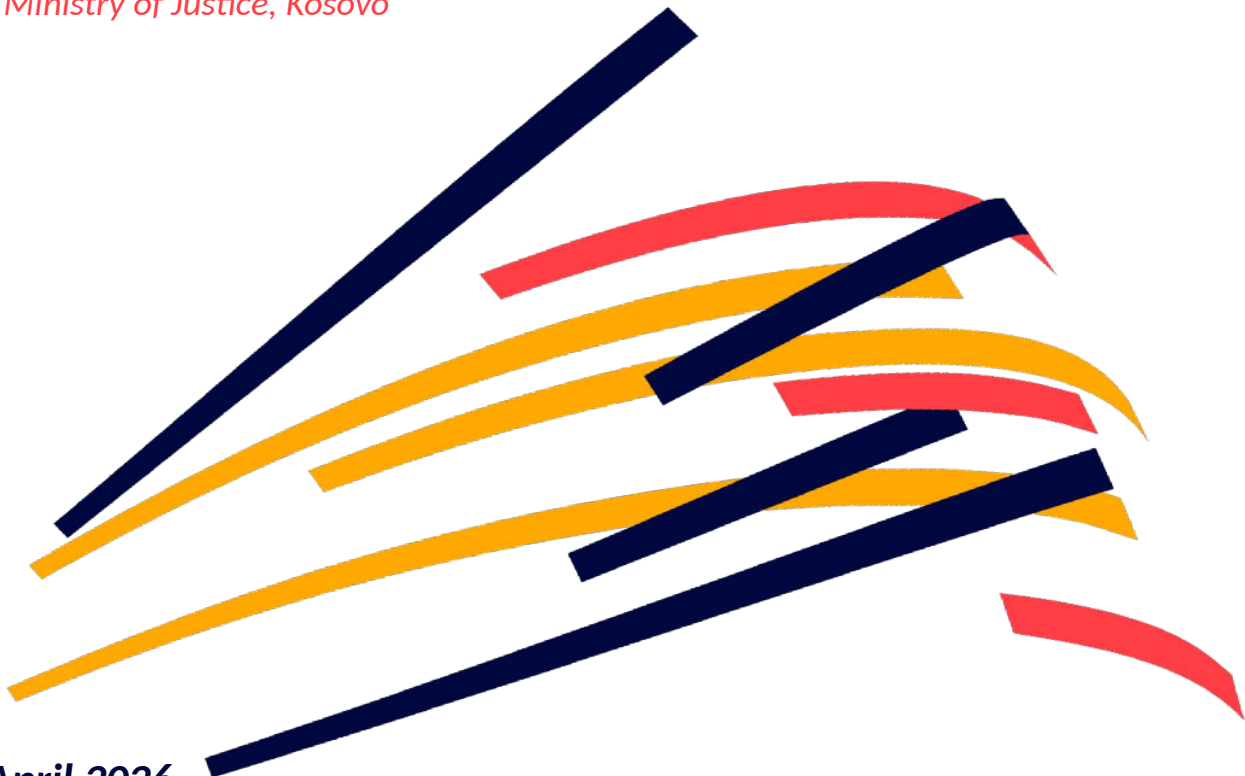
- *Members of the Working Group;*
- *President of the Judicial Council;*
- *President of the Prosecutorial Council;*
- *Cabinet [of the Minister of Justice;*
- *Secretary General of the Ministry of Justice;*
- *Archives of the Ministry of Justice.*



TAIEX Expert Mission on European standards of judicial independence, accountability, and professional efficiency

Organised in co-operation with

Ministry of Justice, Kosovo



April 2026

TAIEX Case ID 93029

A report by:

Tania Groppi

Gianluigi Pratola

Dario Quintavalle

Katrien Witteman



Summary

1. The Mission	4
1.1. Introduction	4
1.2. Background	4
1.3. Mission's Objective	5
1.4. The TAIEX Experts Panel	5
1.5. Experts' assignment	5
1.6. Assessment Methodology	6
1.7. Executive Summary	6
1.8. Disclaimer	7
1.9. Table of Acronyms	7
1.10. Closing	7
2. Law on the Judicial Council (Tania Groppi)	8
2.1. Introduction	8
2.2. Findings	9
2.3. Recommendations	22
3. Law on the Prosecutorial Council (Tania Groppi)	24
3.1. Introduction	24
3.2. Findings	25
3.3. Recommendations	31
4. Law on the Academy of Justice (Gianluigi Pratola)	32
4.1. Introduction	32
4.2. Findings	33
4.3. Recommendations	45
5. Law on the Disciplinary Liability of Judges and Prosecutors (Dario Quintavalle)	46
5.1. Introduction	46
5.2. Assessment Methodology	46
5.3. Reading the original text of the Law number 06/L-057	46
5.4. The draft law 2025	48
5.5. The Assessment by the Venice Commission (2025)	49
5.6. The Draft Law 2026 against the Venice Commission (VC) Recommendations	51
5.7. Final remarks and recommendations	54
6. Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors (Katrien Witteman)	56
6.1. Introduction	56
6.2. Methodology	56
6.3. Findings	56
6.4. Recommendations	74

1. The Mission

1.1. Introduction

The harmonization of Kosovo's legal framework with European standards remains a strategic priority for the Ministry of Justice, particularly concerning judicial independence and institutional accountability. This technical exchange focuses on the practical transposition of Venice Commission recommendations into five core legislative initiatives: the draft Law on the Judicial Council, the draft Law on the Prosecutorial Council, the draft Law on the Academy of Justice, the draft Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors, and the draft Law Amending the Law on the Disciplinary Liability of Judges and Prosecutors. By facilitating a review with Member State experts, the mission seeks to bridge legal gaps in institutional autonomy and integrity frameworks, converting complex legal opinions into clear statutory provisions.

The primary objective is the finalization of these laws, which stem directly from the Joint Commitment Declaration. As these initiatives are integral parts of the current Legislative Program, they are subject to strict timelines for completion.

The mission ensures that the resulting drafts are fully in line with the EU acquis and fulfill the benchmarks required under Chapter 23, while adhering to international best practices. This expert support is vital to ensure that the drafts reach the required international standards within these tight deadlines before their submission for government approval and parliamentary vote.

1.2. Background

In March 2023, the Ministry of Justice (MoJ), Kosovo Judicial Council (KJC), Prosecutorial Council (KPC), the Supreme Court (SC), and the Chief State Prosecutor (CSP) signed a Joint Declaration of Commitment to cooperate more intensively to advance and strengthen the rule of law in Kosovo. The areas of reform include recruitment, appointment and reappointment, performance evaluation, disciplinary system, professional development and status of prosecutors and judges, the mechanisms and procedures for declaring their assets, and the system of verifying the profile of candidates for prosecutors and judges. The Department for European Integration and Policy Coordination within the Ministry of Justice is the primary body responsible for coordinating these justice reforms and ensuring their alignment with European standards and values.

Currently, Kosovo is undergoing a fundamental justice reform to lead the approximation of national legislation with the EU acquis and to ensure that all policy initiatives are harmonized with international best practices. Five key draft laws were developed: the Law on the Prosecutorial Council, the Law on the Judicial Council, the Law on the Academy of Justice, the Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors, and the Law on Disciplinary Liability of Judges and Prosecutors. These laws are a key part of the Reform Agenda and are a priority for Kosovo's integration process.

While the drafts are prepared, the primary challenge lies in the complex technicality of incorporating the latest opinions from the Venice Commission. These opinions address sensitive issues such as institutional autonomy, the pre-appointment training model, and the balance between integrity checks and judicial independence. TAIEX support was requested as the reform reached a crucial finalization stage.

Member State experts who have direct experience with similar judicial models were asked to provide clear guidance on full compliance with Venice Commission recommendations. This assistance is needed to ensure that the final versions of the laws respect European standards before they are sent for government approval and parliamentary vote.

1.3. Mission's Objective

The primary aim of this Expert Mission is to support the Ministry of Justice and relevant judicial institutions in harmonizing the national legal framework with European standards of judicial independence, accountability, and professional efficiency.

Specifically, the mission seeks to verify the incorporation of the Venice Commission's recommendations (issued in March and October 2025) into the following five key legislative initiatives:

- Law on the Judicial Council,
- Law on the Prosecutorial Council,
- Law on the Academy of Justice
- Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors
- Law amending the Law on the Disciplinary Liability of Judges and Prosecutors

1.4. The TAIEX Experts Panel

Tania Groppi – Full Professor of Constitutional and Public Law, University of Siena (IT)

Gianluigi Pratola – Deputy General Prosecutor to the Court of Cassation, Rome (IT)

Dario Quintavalle – Head of Unit, MoJ Italy, Senior Court Administrator at Tivoli Court (IT)

Katrien Witteman – Judge, Maastricht (NL)

1.5. Experts' assignment

The assignment consisted in an online work-from-home assessment consisting of a desk review of the alignment of 5 draft laws with corresponding Venice Commission opinions.

1.6. Assessment Methodology

Under this framework, the assessment is based on desk research and on the online meetings with the stakeholders held on April 8 and 10, 2026.

For each key recommendation, the report presents: (1) the relevant provisions of the draft law; (2) an expert assessment of compliance with the recommendations; and (3) expert recommendations. The expert recommendations are also presented collectively in the final paragraph of this report.

1.7. Executive Summary

The draft law amending and supplementing Law No. 06/L-055 on the Kosovo Judicial Council (KJC) integrates many recommendations of Venice Commission, introducing clearer eligibility criteria for Council members, more detailed provisions on disciplinary procedures, and revised rules for the election of judicial members. It also introduces some measures aimed at improving gender balance and strengthening the internal functioning of the Council.

However, a number of Venice Commission recommendations have only been partially implemented or remain unaddressed, especially those requiring constitutional amendments. In particular, the draft law does not sufficiently ensure that lay members appointed by the Assembly are genuinely drawn from the “users” of the judicial system, nor does it introduce expert input in the selection process. The rules governing the majority required for the election of lay members and the absence of an anti-deadlock mechanism also remain unchanged.

Regarding the draft law on the Kosovo Prosecutorial Council (KPC) the report finds that the draft law makes significant progress in regulating technical bodies such as the Performance Evaluation Committee and the Inspection Verification Unit, where most recommendations have been substantially implemented, including clearer rules on appointment, accountability, and procedures. However, further improvements could be made by strengthening the involvement of independent experts and professional bodies in the selection process, in order to enhance its independence and pluralism. The draft law also continues to rely to some extent on secondary legislation and does not fully regulate certain key issues, such as the dismissal procedures for KPC members, at the level of primary law.

As for the Draft Law on the Academy of Justice (KJA) the report takes in consideration the progress of the draft law, according the suggestions of the Venice Commission, but there are still some criticisms, like the composition of the Governing Board and, in particular, the presence of the Minister of Justice as ex officio member, the procedure for completing initial trainings and the mandatory trainings, where the Law should be more clear and specific.

Regarding the 2026 Draft Law on Disciplinary proceedings, it is a highly responsive document that integrates almost all of the technical “fine-tuning” requested by the Venice Commission. Most of the main recommendations, have been addressed, and new regulations partially or fully match VC prescriptions.

The second Draft Law on Recruitment, Performance evaluation, Integrity control, and Status of

judges and prosecutors closely aligns with the Opinion and recommendations of the Venice Commission. While the majority of these recommendations have been integrated into the updated draft, a number of outstanding issues remain that require further attention from the Kosovo authorities.

1.8. Disclaimer

The views articulated and expressed in this report are purely those of the author and may not in any circumstances be regarded as stating an official position of the European Commission.

1.9. Table of Acronyms

KJA	Kosovo Judicial Academy
LKJA	Law on Kosovo Judicial Academy
VC	Venice Commission
CCJE	Consultative Council of European Judges
KPC	Kosovo Prosecutorial Council
LKPC	Law on Kosovo Prosecutorial Council
MoJ	Minister of Justice
KJC	Kosovo Judicial Council
LKJC	Law on Kosovo Judicial Council

1.10. Closing

The present report was written and submitted by the Experts to the EU Commission on April 17th, 2026. After a careful revision of EU Office comments, the report was finally delivered on April 26th, 2026. In parallel, revisions occurred following comments from the Ministry of Justice of Kosovo. The final version of the report was produced on May 18th, 2026.

2. Law on the Judicial Council (Tania Groppi)

2.1. Introduction

On March 18, 2025, the Venice Commission published the “Opinion on the Law on the Judicial Council and the draft law amending and supplementing it”, CDL-AD(2025)015, adopted at its 142nd Plenary Session (Venice, 14-15 March 2025), following a request of the Minister of Justice of Kosovo to assess a package of six laws on justice reform.

According to Article 108 of the Constitution, the Kosovo Judicial Council (hereafter KJC) « shall ensure the independence and impartiality of the judicial system.» Following a 2016 constitutional amendment, it «shall be composed of thirteen (13) members, all of whom shall possess relevant professional qualifications and expertise. Members shall be elected for a term of five (5) years and shall be chosen in the following manner: Seven (7) members shall be judges elected by the members of the judiciary. Two (2) members shall be elected by the deputies of the Assembly, holding seats attributed during the general distribution of seats and at least one of these two must be a judge. Two (2) members shall be elected by the deputies of the Assembly holding reserved or guaranteed seats for the Kosovo Serb community and at least one of the two must be a judge. Two (2) members shall be elected by the deputies of the Assembly holding reserved or guaranteed seats for other Communities and at least one of the two must be a judge.» It is regulated by Law No. 06/L-055, adopted on 23 November 2018.

In the opinion the Venice Commission considered that, «to assess the role of the KJC on the matters requested by the Minister of Justice in her letter, it is necessary to assess the overall composition as well as the working methods of the KJC. The Venice Commission has, moreover, not previously assessed the Law on the KJC. Therefore, the Opinion provides an overall assessment of the Law on the KJC, as proposed to be amended, and, specifically, its mandate, composition and the election of its members, as well as its structure and working methods. »

The Venice Commission emphasized the importance of ensuring legal certainty and predictability by establishing a clear legislative basis for these key rules in the Law on the KJC, while noting that some of its recommendations would require a constitutional amendment to be fully implemented. It made the following recommendations:

- 1) The six members of the KJC appointed by the Assembly should be genuinely lay members. Pending a reform of the Constitution on this point, the Law should provide that at least three lay members should be chosen from the ‘users’ of the judicial system, e.g., attorneys, prosecutors, notaries, academics, or members of civil society. Furthermore, the Law should establish specific eligibility criteria for these appointments.
- 2) The procedures for the selection of the members to the KJC should be enshrined in the Law, with clear criteria for the selection of the candidates, and prescribing sufficient expert input.
- 3) The procedures for the election of judiciary members by their peers should ensure that they act in the interest of the judiciary as a whole and be detailed in the Law.
- 4) Lay members by the Assembly should always be elected based on qualified majorities, providing for an anti-deadlock mechanism that does not discourage broader political

negotiations, such as drawing lots.

5) A mechanism to guarantee a balanced gender composition of the KJC should be introduced in the Law, for both the judge members elected by their peers as well as for the lay members elected by the Assembly.

6) Disciplinary procedures should be clearly outlined in the Law on the KJC, specifying limited grounds for disciplinary actions and dismissal. To mitigate the risk of corporatism, the disciplinary committee should mirror the composition of the KJC, and broad majorities including by the judicial and the lay members should be ensured in all disciplinary decisions. The substantive grounds for termination of office should be explicitly defined, with adequate procedural safeguards in dismissal proceedings.

7) In the absence of a constitutional reform enhancing balance and pluralism among the members of the KJC, the Chair or the Vice-Chair of the KJC should preferably be a lay member, or the Chair could be selected through a rotational system between judicial and non-judicial members. A “special majority” preventing either judicial or lay members to govern alone should be envisaged, at least for the most important decisions, combined with an anti-deadlock mechanism. A provision granting the Chair a decisive vote should be considered to resolve tie votes.

8) Article 36 of the Law on the KJC should introduce explicit appointment criteria and professional requirements for the members of the Inspection and Verification Unit and provide clearer principles governing their verification procedures.

2.2. Findings

2.2.1. Lay members of the KJC appointed by the Assembly

The six members of the KJC appointed by the Assembly should be genuinely lay members. Pending a reform of the Constitution on this point, the Law should provide that at least three lay members should be chosen from the ‘users’ of the judicial system, e.g. attorneys, prosecutors, notaries, academics, or members of civil society. Furthermore, the Law should establish specific eligibility criteria for these appointments.

Draft Law

Article 2, para. 2, introducing a new paragraph in Article 8, after paragraph 1: 1.a. The three (3) non-judicial members of the Council elected by the Assembly shall be appointed from among the users of the judicial system such as lawyers, prosecutors, notaries, academics, members of civil society organizations or other professionals, in accordance with the criteria of this law.

Article 2, para. 4, deleting Article 8, para. 5, according to which «Respected professionals may be appointed outside the legal field and may include persons with expertise in management, finance, information technology or social sciences» shall be deleted.»

Article 3 reformulating Article 9 (Conditions for appointment as a member of the Council).

[...]

2. A candidate for appointment as a non-judge member of the Council shall meet the following conditions:
- 2.1. be a citizen of the Republic of Kosovo; have a university degree in the field of law, economics, management or public administration;
 - 2.2. have at least five (5) years of professional experience in legal matters, the field of human rights, economics or management, or in public administration;
 - 2.3. demonstrate and prove high integrity and managerial skills;
 - 2.4. not to be a member or to exercise a function in any political entity, association or foundation affiliated with any political entity, or not to have been directly elected by elections or not to be a member of the Government, or not to have been a political appointee, in the last five (5) years;
 - 2.5. not be in a marital relationship, or not be related by blood in a direct line, or in an indirect line up to the second degree, or according to the gender of the spouse up to the second degree, to prosecutors, judges, deputies of the Assembly of Kosovo, members of the Government or the President of Kosovo;
 - 2.6. not have exercised the function of a judge in the last five (5) years;
 - 2.7. not have an indictment filed;
 - 2.8. not be convicted of a criminal offence, with the exception of criminal offences committed from negligence.
3. In order to prove the non-existence of the circumstances from subparagraph 1.6, respectively 2.6 of this article, the candidate for member of the Council signs a declaration under oath upon candidacy.

Assessment

The Venice Commission considered that the composition of the KJC does not fully comply with international standards, since, according to Article 108 of the Constitution, as amended in 2016, 10 out of 13 members are judges (7 elected by their peers and 3 by the Assembly), resulting in a disproportionately small number of lay members. Pending a reform of the Constitution, the law should at least establish that the three members must be non-judges. It recommended that they are chosen among the 'users' of the judicial system, and that the law should establish specific eligibility criteria for these appointments [para. 18].

At this regard, the draft law establishes in the new paragraph 1.a. of Article 8, that they «must be appointed from among the users of the judicial system such as lawyers, -prosecutors, notaries, academics, members of civil society organizations or other professionals, in accordance with the criteria of this law.» While the new paragraph reproduces mostly the Venice Commission recommendation, the reference to "other professionals" undermines the significance of explicitly listing specific categories of legal professions.

The eligibility criteria in the reformulated Article 9 do not provide requirements suitable to ensure that the non-judge members are chosen from the "users" of the judicial system, e.g., attorneys, prosecutors, notaries, academics, or members of civil society.

The provision according to which they must have « have at least five (5) years of professional experience in legal matters, the field of human rights, economics or management, or in public administration», although in compliance with the Venice Commission remark about minimum period of professional service [para. 23] is not sufficient to determine that they are 'users'.

The Venice Commission suggested that one member should be from the Bar Association, one a

law professor, and one a representative of civil society [para.19]. This recommendation is not complied with by the draft law. However, the experience of the Kosovo Prosecutorial Council in its composition of 13 members, according to the Law n° 06/L -056, suggests a degree of caution. As stated by the Venice Commission itself in its Opinion CDL-AD(2023)043, «For the last several years, the KPC functioned with eleven (11) members since the Assembly failed to secure the election of two lay members due to the lack of nominations for one lay member from the Kosovo Bar Association and lack of interests from representatives of civil society organisations to apply for the other vacant position of one lay member» [para. 12].

The provision establishing that non-judge members must “not have exercised the function of a judge in the last five (5) years,” in the new Article 9, para. 2.7, although it addresses the essence of the recommendation, is somewhat ambiguous, since it could include individuals who were judges, as well as those who are still judges but have not performed judicial functions during that period. Therefore, it is suggested to amend it, to provide that the candidates for appointment as non-judges must never have held the position of a judge.

In conclusion, the conditions established by the Law only partially follow the recommendation.

Recommendation

It is recommended to amend the draft law by:

- Deleting the reference to “other professionals” from the new Art. 8, para. 1.a.
- Establishing a provision to make effective the provision that non-judge members are appointed «from among the users of the judicial system, such as lawyers, prosecutors, notaries, academics, members of civil society organizations.»
- Establishing that candidates for appointment as non-judges must never have previously served as judges.
- Repealing the reference in Article 10, para. 4, stating that “the Assembly Committee shall set out the requirements,” since these requirements are now established by law.

2.2.2. Procedures for the selection of the KJC members

The procedures for the selection of the members to the KJC should be enshrined in the Law, with clear criteria for the selection of the candidates, and prescribing sufficient expert input.

Draft Law

Article 3, reformulating Article 9 (Conditions for appointment as a member of the Council)

Article 5, reformulating some paragraphs of Article 10 (Procedure for nomination, election and dismissal of the Council members by the Assembly)

Assessment

The Venice Commission pointed out that members of judicial councils «must be selected in a transparent procedure that supports the independent and effective functioning of the Council and the judiciary and avoids any perception of political influence, self-interest or cronyism.» Therefore, the Venice Commission recommended the Law on the KJC to be amended to include detailed procedures, rather than leaving this to the internal regulations of the KJC and

the Assembly [para. 22].

The procedures for the selection of the members of the KJC to be elected by the Assembly are regulated in Article 10 of the Law. This Article entrusts an important role to the “relevant” Assembly Committee. According to the current Law (Art. 10 para. 4), this Committee also determines the eligibility criteria. The Venice Commission pointed out [para. 39] that « This lack of clarity grants the Committee significant discretion in setting requirements, thus potentially influencing the selection of KJC members. Such broad discretion raises concerns about the independence of the KJC and, ultimately, the judiciary as such. To address these, the Law on the KJC should explicitly define eligibility requirements to ensure the shortlisting of the best, merit-based, candidates and their political neutrality» [para. 39]. In the draft law, the eligibility criteria are determined by the new Article 9, in compliance with Venice Commission recommendation.

The Venice Commission also noted [para. 40] that «the current procedures do not envisage any expert input during the selection process from professional associations of lawyers, law schools, or civil society organisations. During the meetings in Pristina, the professional and civil society organisations informed that they had not been consulted during the selection process at the Committee. To address these issues, provisions on expert input should be enshrined in the Law. Alternatively, legislative amendments could be introduced providing that bodies such as the Bar association, universities, and civil society organisations are involved in the nomination of candidates to be elected by the Committee and, subsequently, the National Assembly». No provision on expert input has been introduced in the draft law.

As for the number of candidates shortlisted, which are two in the current Law (Article 10, paragraph 7), the Venice Commission recommended [para. 43] not to limit the pool of candidates to two per position but to give the Assembly more names to choose from. The draft law amends Article 10, para. 7, by introducing the provision according to which the shortlist

«shall contain more candidates than the number of non-judges members to be elected, but not more than five (5) candidates for one vacant position.» While this provision satisfies the Venice Commission recommendation, the reference to the 'non-judges' remains unclear, as the Assembly elects 3 judges and 3 non-judges, therefore Article 10 applies to both categories (pending a constitutional reform).

In addition to the procedures, the opinion of the Venice Commission also examines the ineligibility criteria, which were previously regulated in Article 9 of the Law. The draft law now regulates the conditions for appointment, including the ineligibility criteria, in a revised Article 9.

It introduces separate conditions for judges and non-judges, whereas the current Law does not make such a distinction.

The Commission considered that the former Article 9 para. 1.5, establishing that the incompatibility provision applies also to «persons performing duties in the Government of administrative bodies, institutions established by the Constitution or created through legislation», was excessively vague [para. 24]. The new Article 9, para. 2.5, follows this recommendation, by establishing that a candidate for appointment as non-judge member shall meet the conditions of «not to be a member or to exercise a function in any political entity, association or foundation affiliated with any political entity, or not to have been directly elected by elections or not to be a member of the Government, or not to have been a political

appointee, in the last five (5) years». The Venice Commission also recommended introducing a cooling off period, thus requiring that candidates should not have significant political affiliations for some years prior to their election to the KJC (e.g., five years) [para. 25]. This recommendation has been complied with by the new Article 9, para. 2.5.

The Venice Commission also recommended amending the Law on the KJC to ensure that the ineligibility due to criminal conviction in Article 9, para.1.2 is limited to criminal offences of a certain gravity [para. 26]. This recommendation has not been complied with, as the previous provision is reproduced in the new Article 9, paragraph 2.9: «not be convicted of a criminal offence, with the exception of criminal offences committed from negligence.»

The Venice Commission also recommended [para. 33] that there should be no ethnic quotas on the KJC. However, those quotas derive directly from Article 108 of the Constitution; therefore, the draft law cannot intervene in this regard.

Recommendation

It is recommended to amend the draft law by:

- introducing expert input during the selection process (Article 10) from professional associations of lawyers, law schools, or civil society organisations; alternatively, providing that bodies such as the Bar Association, universities, and civil society organisations are involved in the nomination of candidates to be elected by the Assembly;
- deleting the words “non-judges” in the new Article 10, paragraph 7;
- amending the new Article 9, paragraph 2.9 to ensure that ineligibility due to criminal conviction is limited to offences of a certain gravity.

2.2.3. Election of judiciary members

The procedures for the election of judiciary members by their peers should ensure that they act in the interest of the judiciary as a whole and be detailed in the law.

Draft Law

Article 2, amending Article 8, paragraph 1, subparagraph 1.1. : «1.1. seven (7) members shall be judges elected by members of the judiciary, as follows:

- 1.1.1. two (2) judges of the Supreme Court;
- 1.1.2. two (2) judges of the Court of Appeal or the second instance of specialized courts;
- 1.1.3. three (3) judges of Basic Courts or the first instance of specialized courts.»

Article 3, reformulating Article 9 (Conditions for appointment as a member of the Council)

Article 4, adding a new article 9/A (Election of judge members from the members of the judiciary)

Assessment

The Venice Commission, while welcoming the provision of the draft law amending Art. 8,

paragraph 1, subparagraph 1.1., as aimed at ensuring a wide representation of the judiciary as required by European standards, pointed out that « the current distribution seems to be particularly imbalanced in favour of the Supreme Court, the Court of Appeals, and the second instance of specialized courts. The Venice Commission therefore recommended considering rebalancing the representation of lower and higher courts » [para. 28]. In the current text of the draft law, this provision has not been amended, therefore this recommendation has not been complied with.

The Venice Commission also expressed concern as, according to the regulation, each of the judges from the three instances are elected only by the judges in their ranks, limiting the election of each member to the judges from their own ranks [para. 29]. It recalled that the members of a judicial council should act in the interest of the judiciary and the justice system as such, and not in the interest of a group of judges of a certain type of court [para. 30]. It recommended that « the method for electing the judges of the KJC ensure that they do not represent the interests of their respective judicial tiers, but the judiciary as a whole. One way to achieve this is to require that at least some of the judges at the KJC be elected by the entire judiciary, rather than solely by their peers within the same rank.» This recommendation has been complied with, as the draft law establishes, in the new Article 9/A, paragraph 11, that

«Voting shall be conducted at the general conference of all judges, which shall be held on an annual basis or as per case. Each judge shall vote for up to three (3) candidates for one (1) announced position of judge member of the Council.»

The Venice Commission also recommended all eligibility criteria be listed at the level of the Law on the KJC [para. 31]. This recommendation has been complied with by Article 3 of the draft law, which reformulated Article 9 of the Law.

As for the management of the elections, the Venice Commission considered that «decisions made by the Ad hoc Committee seem to be final, as neither the Law on the KJC nor the Regulation foresee any judicial review neither by the Council itself nor by the Courts. The Venice Commission considers that such a review should be foreseen in the Law on the KJC» [para. 34]. This recommendation has been complied with, in the light of the provisions of Article 9/A paragraphs 9, 13 and 14 as introduced by the draft law, according to which the candidates have the right to appeal to the Council. There is not a special provision establishing judicial review by courts, but we can consider that all the acts of the Council can be submitted to the courts as part of the general principle enshrined in Article 32 of the Constitution of Kosovo (Every person has the right to pursue legal remedies against judicial and administrative decisions which infringe on his/her rights or interests, in the manner provided by law.)

The Venice Commission expressed concern on the provision that candidates are required to nominate themselves, recommending « incorporating alternative mechanisms for the nomination of judicial candidates to the KJC, including the possibility of proposals being submitted by judicial associations or endorsed by a sufficiently representative number of judges» [para. 35]. This recommendation has been complied with by the new Article 9/A paragraph 4 of the draft law, according to which « Candidates for membership of the Council may self-nominate or be proposed by the respective associations of judges.»

In conclusion, the recommendation has, in general, been followed. The only remaining issue is the need to rebalance the representation of lower and higher courts in the selection of members elected by the judiciary.

Recommendation

The following amendment to the draft law is recommended:

- rebalancing the representation of lower and higher courts in the selection of the seven members elected by the judiciary, as provided in Article 8, paragraph 1, subparagraph 1.1.

2.2.4. Election of lay members by the Assembly

Lay members by the Assembly should always be elected based on qualified majorities, providing for an anti-deadlock mechanism that does not discourage broader political negotiations, such as drawing lots.

Draft Law

The majorities for the election of lay members by the Assembly are enshrined in Article 10, paragraph 9, of the Law on KJC. No provisions amending art. 10, paragraph 9, have been found in the draft law.

Assessment

The Venice Commission pointed out that, «To avoid the risk of politicisation in the election of lay members by the parliament, a properly organised selection procedure should be conducted. Such a procedure should meet three cumulative conditions: true pluralism in the selection body; broad support for nominated candidates across the political spectrum; and preventing the majority in the Assembly from circumventing or sabotaging the selection procedure. However, the Venice Commission finds that the current procedures as described in the Law on the KJC and the Rules do not fully meet these requirements.» [para.37]

Art. 10, para. 8, of the Law provides that: «The Assembly elects the Council members through a secret voting. » Paragraph 9 provides that: «If in the first round, the candidates proposed by the respective Assembly Committee do not receive the majority of votes of all the present and voting deputies, then in the second round the candidate with the highest number of votes shall be considered as elected.»

The Venice Commission pointed out that « In the Kosovo system, however, the absolute majority mechanism in the Law on the KJC for the first round is rendered ineffective if those candidates supported only by the ruling party can be elected by a simple majority in the second round. Since this creates a risk of politicisation, the Venice Commission would therefore recommend that the lay members of the KJC are always elected by an absolute majority of the votes in the Assembly» [para. 44]. The Venice Commission also recommended to introduce an anti-deadlock mechanism to be invoked should the Assembly fail to elect new members [para.45].

The issue of the majorities required to elect the lay members of the KJC is particularly delicate. The Venice Commission referred to the majority required in the first round as an “absolute majority”, whereas it appears closer to a “simple majority”. Regardless of the terminology, the issue of the required majority should be carefully examined, also in light of Article 80 of the Constitution – which establishes that «Laws, decisions and other acts are adopted by the

Assembly by a majority vote of deputies present and voting, except when otherwise provided by the Constitution» – as interpreted by the Constitutional Court of Kosovo in its Judgment in cases KO100/22 and KO101/22, 24 March 2023 [paras. 278-281].

A reasonable solution could be to amend Article 10, para. 8, by introducing an explicit reference to the required majority: “The Assembly elects the Council members by secret ballot with a majority of the votes of the deputies present and voting”. At the same time, paragraph 9 of Article 10 could introduce an anti-deadlock mechanism. The Opinion [para. 45] suggests several mechanisms, expressing a preference for the selection to be determined by the drawing of lots among the candidates proposed by the Committee. Should this process extend beyond the expiry of the mandate of the lay member to be replaced, the outgoing member could remain in the KJC in an acting capacity until a new lay member is elected.

In conclusion, greater attention should be given to ensuring that lay members are appointed by consensus rather than by the ruling majority, in order to avoid the risk of excessive political influence.

Recommendation

It is recommended that the draft law be amended by:

- amending Article 10, para. 8, by introducing an explicit reference to the majority required: « The Assembly elects the Council members through a secret voting by the majority of votes of all the present and voting deputies»,
- establishing an anti-deadlock mechanism to be triggered should the Assembly fail to elect new members.

2.2.5. Gender Balance

A mechanism to guarantee a balanced gender composition of the KJC should be introduced in the law, for both the judge members elected by their peers as well as for the lay members elected by the Assembly.

Draft Law

Article 2, paragraph 3, establishes that« In Article 8, after paragraph 2 of the Law, a new paragraph 2.a shall be added with the following text:

2.a. In application of paragraph 2, the Council and the Assembly, respectively, shall give priority to the election of members from the gender underrepresented in the Council.”»

[Article 8, paragraph 2, not amended, establishes «The Council members reflect the multiethnic nature and principles of gender equality in the Republic of Kosovo.»]

Assessment

The Venice Commission considered that «Article 8(2) of the Law on the KJC further prescribes that the Council members should reflect the principles of gender equality in the Republic of Kosovo. In this regard, Article 6(5) of the Regulation stipulates that “[i]f the Council finds that there is gender [...] under-representation in the composition of members from the judiciary, then the announcement of vacancies shall be made for candidate judges from the under-

represented gender.” The Venice Commission welcomes that the provisions on gender equality in the Law on the KJC are translated into the Regulation, as it has often stressed that councils should have a balanced representation of gender. However, the provisions of the Law on the KJC are excessively broad and do not establish specific criteria to ensure that gender balance is achieved. The Venice Commission therefore recommends that the regulatory provisions aimed at guaranteeing a gender-balanced composition of the KJC be incorporated into the Law itself » [para. 32].

There is no indication that the provisions of the Regulation mentioned by Venice Commission (specifically Article 6, para. 4 of the Regulation on the Procedure for the Selection of Members of the Kosovo Judicial Council from among the Judiciary, n° 09/2019) have been incorporated into the draft law.

As for the members elected by the Assembly, the Venice Commission observed that there were no provisions aimed at ensuring a balanced gender representation among the members of the KJC elected by the Assembly [para. 41].

In the draft law, the only new provision on gender equality is the new Article 8, paragraph 2.a., according to which « In application of paragraph 2, the Council and the Assembly, respectively, shall give priority to the election of members from the gender underrepresented in the Council. »

This paragraph, by merely referring to “given priority,” remains overly broad and is insufficient to comply with the recommendations of the Venice Commission.

Recommendation

A provision should be introduced in Article 8, to establish, for both judicial members and lay members, that «if the Council or the Assembly finds that there is gender under-representation, then the announcement of vacancies shall be made for candidates from the underrepresented gender.»

2.2.6. Disciplinary Framework

Disciplinary procedures should be clearly outlined in the Law on the KJC, specifying limited grounds for disciplinary actions and dismissal. To mitigate the risk of corporatism, the disciplinary committee should mirror the composition of the KJC, and broad majorities including by the judicial and the lay members should be ensured in all disciplinary decisions. The substantive grounds for termination of office should be explicitly defined, with adequate procedural safeguards in dismissal proceedings.

Draft Law

Article 7, reformulating Article 13 of the Law (Termination of the term)

Article 8, reformulating Article 19, paragraphs 2 and 3 of the Law (Disciplinary procedures for the Council members)

Article 5, paragraph 4, repealing the words “respective committee or” from Article 10, paragraph 10, of the Law

Assessment

The Venice Commission expressed its concern about the lack of clear provisions on disciplinary offences and procedures, as Article 19 of the Law delegates this matter to internal Council rules. It recommended «for the legal framework to at least outline the general principles on disciplinary procedures. Furthermore, judges appointed to the KJC should be protected with the same guarantees as those granted to judges exercising jurisdictional functions and non-judicial members should have equivalent protection» [para. 48]. Article 7 of the draft law reformulates Article 13, introducing a detailed regulation on disciplinary violations applicable to all the members of the Council. Therefore, the draft law complies with this recommendation.

The Venice Commission also recommended [para. 47] « amending the Law to introduce a gradation of disciplinary offences, distinguishing between varying degrees of severity and their corresponding consequences, and that the dismissal be foreseen only for those of considerable gravity.» This recommendation has not been followed, as the new Article 13, paragraph 3.3, establishes that a member can be dismissed if he/she« exercises the function in contradiction with his duties and responsibilities, committing a disciplinary violation defined in paragraph 4 of this Article», without any distinction according to the gravity of the offences.

The Venice Commission also pointed out that «the disciplinary committee in Article 19.2 consists solely of judges, which could raise a risk of corporatism. To mitigate this, and once the KJC ensures a balanced composition of its members between those elected by the judiciary and the genuine lay members elected by the Assembly, it may be advisable that the committee mirrors the overall composition of the KJC» [para. 49]. The new Article 19, paragraph 2, as reformulated by Article 8, states that «A commission composed of three (3) members, one (1) of whom must be a judicial member of the Council, one (1) other a non-judicial member of the Council, and one (1) member from the ranks of judges, established by the Council, shall decide on disciplinary measures and sanctions, including the suspension and dismissal of any member of the Council.» Therefore, the recommendation is complied with by the draft law.

The Venice Commission also considered that «As regards the voting majority of two thirds of the plenary, given the KJC's judge-dominated composition and for the sake of effective participation of both judicial and lay members, it should be ensured that disciplinary decisions should not be adopted exclusively by the votes of one of those groups. The Venice Commission therefore recommends enhancing the provisions on the Law on the KJC with clear disciplinary procedures and criteria, enshrining a pluralist composition of the disciplinary committee, and requiring broad majorities» [para. 49]. The draft law introduces, as for investigative procedures, a reference to the investigative procedures in force for members of the judiciary (new Article 19.3 a): therefore, it fulfils the need for a more detailed procedure. While the issue of the required majority remains unchanged, the more balanced composition of the Disciplinary Commission follows the recommendation to ensure the effective participation of both judicial and lay members.

The Venice Commission also recommended amending Article 13, para. 1.3, of the Law, according to which the mandate of a member is terminated due to repeated failure to attend to the activities of the KJC for more than three months. According to the Venice Commission, this provision does not appear to account for cases where the absence may be justified. At the same time, three months seem a very lengthy period during which it may be permissible not to attend the activities of the Council, especially for those members serving on a full-time basis.

The Venice Commission thus recommends reviewing the period in which a member's failure to

attend the activities of the KJC may end up in the termination of their mandate, foreseeing flexible periods for those members who are not serving on a full-time basis and for justified absences, which should be clearly outlined in the law» [para. 50].

Article 13 of the Law has been amended, and the new Article 13, paragraph 3.1, as introduced by the draft law, establishes that a member of the Council shall be dismissed from function before the expiration of the mandate if he/she «does not participate continuously, for two consecutive times, in the meetings of the Council, without a proven reason for health reasons or professional engagement that was previously planned.» Therefore, the recommendation has been complied with, as justified absences have been introduced for all the members.

As for the dismissal of the members elected by the Assembly, the Venice Commission pointed out that according to Article 10, para. 10, of the Law, it is decided on by the Assembly with the majority of votes of all the deputies, while members elected by the judiciary are dismissed by a vote of the KJC itself. The Venice Commission referred to international standards, according to which «non-judicial members should have the same protection as judicial members especially as concerns security of tenure and the right to a fair hearing in the case of discipline, suspension, and removal, as a crucial precondition for the independence of the Council. Furthermore, any difference in treatment between judicial and non-judicial members should be duly justified» [para 51]. Therefore, the Venice Commission recommended « that it should be the responsibility of the KJC to ascertain and substantiate the existence of circumstances that may justify the loss of mandate of a member appointed by the Assembly under Articles 13(1.3) and 19, but that the authority to decide on the dismissal of such a member should remain exclusively with the latter.» This recommendation has been complied with, as Article 5 of the draft law amended Article 10, paragraph 10, of the Law, by deleting the words « the respective committee or. » Consequently, a proposal of the KJC is always necessary for the Assembly to dismiss one of the members of the Council elected by the Assembly. Therefore, this recommendation has been complied with.

Recommendation

It is recommended to amend the draft law, by distinguishing between varying degrees of severity of disciplinary offences and their corresponding consequences, and by establishing that the dismissal be foreseen only for those of considerable gravity.

2.2.7. Internal governance of the KJC

7) In the absence of a constitutional reform enhancing balance and pluralism among the members of the KJC, the Chair or the Vice-Chair of the KJC should preferably be a lay member, or the Chair could be selected through a rotational system between judicial and non-judicial members. A “special majority” preventing either judicial or lay members to govern alone should be envisaged, at least for the most important decisions, combined with an anti-deadlock mechanism. A provision granting the Chair a decisive vote should be considered to resolve tie votes.

Draft Law

Article 6, reformulating Article 11, paragraph 1

Assessment

The Venice Commission recommended that « In view of the current composition of the KJC, and in the absence of a constitutional reform ensuring that all the members elected by the Assembly are non-judge members, the Venice Commission recommends entrusting either the Chair or the Vice-Chair of the KJC to a lay member to increase democratic legitimacy and credibility before the public or, alternatively, to introduce a rotational system between judge and non-judge members for the position of Chair » [para. 62].

Article 11, paragraph 1, as reformulated by Article 6 of the draft law establishes that « The Council, from among its members who are judges, elects the Chairperson, and from among its members who are not judges, elects the Deputy Chairperson, with three (3) year mandates. Election to these positions does not extend the mandate of the member of the Council. » Therefore, the recommendation of Venice Commission has been followed.

The Venice Commission also considered that the provision of Article 16 of the Law, maintaining several committees, would benefit from clearer wording or the establishment of minimum eligibility requirements [para. 63]. No provisions amending Article 16 have been found in the draft law.

The Venice Commission considered that the requirement of Article 15 of the Law on quorum and decision-making appears «inadequate in view of the Council's unbalanced composition, and it is suggested to implement a qualified majority decision-making procedure for significant decisions so as to ensure a more pluralistic approach. » According to the Venice Commission,

«A “special majority” preventing either judicial or lay members to govern alone could be envisaged, at least for the most important decisions, combined with an anti-deadlock mechanism» [para. 59]. This recommendation has not been complied with.

The Venice Commission also considered [para. 60] that the absence of provisions addressing deadlocks in scenarios where the quorum is not reached poses a concern. It pointed out that Article 15 lacks a mechanism to resolve tie votes, and it would be prudent to introduce a provision granting the president a casting vote in such instances. The Venice Commission recommended the Law on the KJC be amended to include provisions addressing deadlocks or tie votes. This recommendation has not been complied with.

Recommendation

It is recommended that the draft law be amended by:

- establishing minimum eligibility requirements for the composition of the Council committees in Article 16 of the Law;
- introducing in Article 15 a “special majority” to prevent either judicial or lay members from governing alone, at least for the most important decisions, combined with an anti-deadlock mechanism;
- introducing provisions addressing deadlocks or tie votes, for example by granting the president a casting vote in such instances.

2.2.8. Inspection and Verification Unit

Article 36 of the Law on the KJC should introduce explicit appointment criteria and

professional requirements for the members of the Inspection and Verification Unit and provide clearer principles governing their verification procedures.

Draft Law

Article 9, reformulating Chapter IV of the Law (Performance assessment, integrity control, transfer and promotion of judges)

Assessment

As for the Composition of the Inspection and Verification Unit, the Venice Commission recommended to introduce «minimum professional requirements for the members of the Inspection and Verification Unit, particularly given its mandate over judicial independence, recruitment, performance, and disciplinary matters. Similarly, paragraph 4 would benefit from adding clearer principles governing verification procedures» [para. 64].

Article 12 of the Draft Law amends Article 36, introducing the requested minimum professional requirements (see the new Article 36, paragraph 6), therefore fulfilling the Venice Commission recommendation.

As for the verification procedures, the new Article 36, paragraph 7, establishes that «The integrity control procedure for candidates for judges is applied accordingly to the integrity control procedure for verification officers.» Therefore, it does not introduce the detailed procedures recommended by Venice Commission.

The Venice Commission also considered that «given the current imbalance in the KJC's composition, ... the Performance Evaluation Committee be given a mixed and pluralistic composition to mitigate the risk of corporatism, including with lay members from the KJC or other qualified professionals, who should be appointed based on clear criteria» [para. 55]. This recommendation has partially been fulfilled, as the new Article 27/A establishes the criteria for the appointment. However, the new Article 27, paragraph 3, does not introduce a mixed and pluralistic composition of the Committee. It establishes that « The Performance Evaluation Committee referred to in the paragraph 1 shall consist of seven (7) judges, appointed by the Council, comprised as follows:

3.1. Four (4) judges shall be from among the judges of the Supreme Court, of whom one shall be a Council member and shall serve as a Chairperson of the Committee; 3.2. Three (3) judges shall be from among the judges of the Court of Appeals, or equivalent levels of specialized courts.

The composition of the Performance Evaluation Commission for court presidents is in line with Venice Commission recommendation [para. 56], expressly guaranteeing a pluralistic composition. The new Article 27/C paragraph 1, establishes that « The Council shall appoint from among its members a Commission of five (5) members for the performance evaluation of Court Presidents, in which at least one (1) non-judge member of the Council is included.»

Recommendation

It is recommended that the draft law be amended to :

- add clearer principles governing verification procedures in Article 36;
- provide the Performance Evaluation Committee with a mixed and pluralistic composition, in order to mitigate the risk of corporatism, including the participation of lay members from the KJC or other qualified professionals.

2.3. Recommendations

In light of the assessment above, the following amendments to the draft law are recommended:

1. Composition of lay members

- Delete the reference to “other professionals” from the new Article 8, paragraph 1.a.
- Establish clearer legal provisions to ensure that non-judge members are effectively appointed from among the users of the judicial system, such as lawyers, prosecutors, notaries, academics, or members of civil society organisations.
- Establish that candidates for appointment as non-judges must never have previously served as judges.

2. Selection procedures for members appointed by the Assembly

Introduce expert input during the selection process under Article 10, including consultation with professional associations of lawyers, law schools, or civil society organisations, or provide that such bodies participate in the nomination of candidates to be elected by the Assembly.

- Repeal the reference in Article 10, paragraph 4 stating that the Assembly Committee shall set out the requirements, since these are now established directly by law.
- Delete the words “non-judges” in the new Article 10, paragraph 7.
- Amend Article 9, paragraph 2.9, to ensure that ineligibility due to criminal conviction is limited to offences of a certain gravity.

3. Representation of the judiciary

- Rebalance the representation of lower and higher courts in the selection of the seven members elected by the judiciary, as provided in Article 8, paragraph 1, subparagraph 1.1.

4. Election of lay members by the Assembly

- Amend Article 10, paragraph 8, by introducing an explicit reference to the majority required for the election of Council members.
- Introduce an anti-deadlock mechanism to be triggered if the Assembly fails to elect new members.

5. Gender balance

- Introduce clearer provisions ensuring gender-balanced representation within the KJC for both judicial and lay members.

- Provide that where gender under-representation exists, the announcement of vacancies should target candidates from the under-represented gender.

6. Disciplinary framework

- Amend the disciplinary framework by distinguishing between varying degrees of severity of disciplinary offences and their corresponding consequences, ensuring that dismissal is foreseen only for offences of considerable gravity.

7. Internal governance of the KJC

- Establish minimum eligibility requirements for the composition of Council committees in Article 16 of the Law.
- Introduce in Article 15 a “special majority” requirement for important decisions in order to prevent either judicial or lay members from governing alone.
- Introduce mechanisms to resolve decision-making deadlocks, for example by granting the Chair a casting vote in the event of a tie.

8. Inspection and Verification Unit and Performance Evaluation Committee

- Amend the draft law to add clearer principles governing verification procedures.
- Amend the draft law to provide the Performance Evaluation Committee with a mixed and pluralistic composition, including the participation of lay members of the KJC or other qualified professionals, in order to mitigate the risk of corporatism.

3. Law on the Prosecutorial Council (Tania Groppi)

3.1. Introduction

The Venice Commission adopted at its 144th Plenary Session (Venice, 9-10 October 2025) the Follow-Up Opinion to the Previous Opinions Concerning Amendments to the Law on the Prosecutorial Council of Kosovo.

According to Article 110, paragraph 4, of the Constitution of Kosovo, «The composition of Kosovo Prosecutorial Council, as well as provisions regarding appointment, removal, term of office, organizational structure and rules of procedure, shall be determined by law. » Based on Article 65, paragraph 10, the Assembly «elects members of the Kosovo Judicial Council and the Kosovo Prosecutorial Council in accordance with this Constitution. » Therefore, at least some of the members of the KPC shall be elected by the Assembly.

The Law N° 06-L-56 on Kosovo Prosecutorial Council (KPC), of 7 March 2019, and the draft laws proposed to amend it, have been the subject of several opinions of the Venice Commission, which were adopted in 2021, in 2022, and in 2023. The background of these opinions is the reform process that the Kosovo judicial system has been undergoing in recent years. With regard to the KPC, the main reforms addressed by the Opinions are the composition of the KPC; the procedures for electing prosecutor members and lay members; the status of the prosecutor members and the lay members; the composition and functioning of the committees responsible for performance evaluation; integrity control. During this process, Law No. 08/L-136 on Amending and Supplementing Law No. 06/L-056 on the Kosovo Prosecutorial Council was approved by the Assembly on 23 June 2022, but it never entered into force, as it was declared invalid in its entirety by the Constitutional Court (Judgment in cases KO100/22 and KO101/22, 24 March 2023). Subsequently, Law No. 08/L-249 on Amending and Supplementing Law No. 06/L-056 on the Kosovo Prosecutorial Council was adopted on 11 July 2024. Its constitutionality was confirmed by the Constitutional Court of Kosovo (Judgment in cases KO153/24 and KO156/24, 13 May 2025). After the judgment, the Law N° 08/L-249 entered into force

By letter of 3 December 2024, the Minister of Justice of Kosovo requested opinions of the Venice Commission on six draft laws related to the Joint Commitment Statement on Justice Reform, including draft amendments to the Law on the Kosovo Prosecutorial Council. Both the amendments introduced by the Law n° 06/L-056 and a new set of amendments pending before the Assembly were submitted to the Venice Commission for examination. The proposed and adopted amendments were interrelated, and the Venice Commission agreed with the Ministry of Justice that both sets of amendments would be assessed conjointly, in the light of previous recommendations of the Commission as a Follow-up Opinion.

The Follow-up Opinion pointed out that a significant part of the key recommendations made in the 2023 Opinion have been followed by Law No. 06/L-056 or by the proposed draft amendments. At the same time, it is observed that several recommendations have not, or only partially, been assessed. Therefore, it made the following key recommendations:

1. Additional safeguards should be introduced to prevent the risk of politicisation in the selection and election of lay members of the KPC. In view of the fact that constitutional amendments to require qualified majorities for their election appear to be currently unfeasible,

the authorities should ensure greater involvement of independent experts and bodies in the Assembly Committee's selection process.

2. More detailed regulation should be provided with regard to the Performance Evaluation Committee (PEC). In particular, the Law on the KPC should set out the modalities for the appointment of its members, as well as the procedures for carrying out the evaluations, the criteria on which they are based, and the accountability of the PEC itself and its members.

3. Similarly, with regard to the Inspection Verification Unit (IVU), the Law on the KPC should set out the modalities for the appointment of its members, as well as the procedures for carrying out the evaluations, the criteria on which they are based, and the accountability of the IVU itself and its members.

4. The allowance in the Law on the KPC for regulation by secondary legislation and bylaws should be limited. Such matters as the rules and disciplinary procedures applicable to KPC members, the procedures for the performance evaluation of the Chief Prosecutors, the main employment conditions for the IVU member positions, and the control procedure should be provided for at the level of primary legislation, and preferably within the Law on the KPC itself.

The Opinion also noted that some previous recommendations have not been addressed.

3.2. Findings

3.2.1. *Selection and election of lay members*

Additional safeguards should be introduced to prevent the risk of politicisation in the selection and election of lay members of the KPC. In view of the fact that constitutional amendments to require qualified majorities for their election appear to be currently unfeasible, the authorities should ensure greater involvement of independent experts and bodies in the Assembly Committee's selection process.

Draft Law

No provisions on the election of lay members are included in the draft law.

Article 3 of the draft law reformulates Article 10/A para. 12 of the law on the election of prosecutor members.

Assessment

The selection and election of lay members (3 out of 7 members of the KPC) is a delicate and controversial issue. The Venice Commission in a long series of opinions always pointed out that lay members constitute a balancing element in the body's composition, aimed at reducing the risks of corporatism. In the Follow-up Opinion, the Commission noted that, although significant improvements have been made to the nomination process, the first key recommendation of the 2023 Opinion has been followed only partially [para. 18]. In particular, the Venice Commission reiterated its concerns regarding the risks of political influence to which the three lay members elected by the Assembly may be exposed due to the election by simple majority. It considered insufficient the provision contained in Article 10, paragraph 3 of the Law,

establishing a special Committee in charge of the selection process [para. 20], as its composition does not offer sufficient guarantee of independence. Out of the 5 members, 2 judges and prosecutors appointed by the Kosovo Judicial Council and the KPC respectively; two other members are the President of the Assembly and the Director of the Agency for Prevention of Corruption, who is selected directly with a simple majority by the Assembly; the fifth member is from the Consultative Council for Communities, which also consists of representatives of the Government. Therefore, the Venice Commission recommended that the composition of the special Committee should be revised, to achieve greater pluralism and independence, for example, by replacing one of the non-experts by a member of the bar association, law faculties, or civil society. [para. 24].

The draft law does not address this recommendation.

The Venice Commission also dealt with the election of the prosecutor members. While welcoming Article 10/A of the law, it invited «the authorities to consider increasing the number of votes to be cast from two to three, that is, one for each available position. If fewer than three seats are vacant, the number of available votes can be lowered accordingly. By voting for three candidates, each prosecutor would be called upon to express a preference regarding the overall configuration of the seats allocated to prosecutors. By applying a proportional electoral formula, the outcome of the vote would ensure the most pluralistic configuration possible» [para. 27]. Article 3 of the draft law reformulates Article 10/A para. 12 by establishing that « Each prosecutor shall vote for up to three (3) candidates for one (1) announced position of prosecutor member in the Council. In cases where the number of candidates is less than the number of possible votes, the voting shall be adjusted proportionally. The voting shall be conducted by secret ballot.» This provision fulfills the recommendation, as prosecutors do not vote solely for a single candidate, but instead cast votes for three candidates. This approach can ensure that the elected candidate has cross-bloc supporting.

Recommendations

It is recommended that the composition of the special Committee in charge of the selection process for non-prosecutor members of the KPC, as provided for in Article 10 of the Law, be revised in order to ensure greater pluralism and independence, for example by replacing one of the non-expert members with a representative of the Bar Association, law faculties, or civil society.

3.2.2. Performance Evaluation Committee (PEC)

More detailed regulation should be provided with regard to the Performance Evaluation Committee (PEC). In particular, the Law on the KPC should set out the modalities for the appointment of its members, as -well as the procedures for carrying out the evaluations, the criteria on which they are based, and the accountability of the PEC itself and its members.

Draft Law

Article 5, amending Chapter IV of the Law.

Assessment

The Venice Commission examined the draft amendments to the Law establishing the Performance Evaluation Committee (PEC). In its Follow-up Opinion, it pointed out that, according to those amendments, no rules have been included in the Law to govern the selection of members, the qualifications required for selection, or the grounds for dismissal. The Venice Commission therefore recommended providing the procedure and criteria for selecting the members of the PEC [para. 31].

The draft law introduces a detailed regulation of the PEC, establishing in the new Article 27, para. 1, that it «shall be a permanent body of the Prosecutorial Council.» The new Article 27/A establishes the procedure and the criteria for the appointment of its members, while Art27/B regulates the grounds for dismissal. Therefore, the Venice Commission recommendation is complied with.

According to the Commission, the uncertainty surrounding the appointment and dismissal procedures affects the understanding of the relationship between the PEC and the KPC and, more importantly, whether the PEC is accountable or subordinate to the KPC. The Venice Commission considered it essential that more clarity be offered in this respect [para. 34]. The draft clarifies in paragraph 2 of the new Article 27 that « The Committee for the Evaluation of the Performance shall report to and be accountable to the Prosecutorial Council.» The Chairperson of the Commission shall be appointed from among the members of the Council (Art. 27 para. 4), while « The dismissal of a member of the Committee shall be carried out by the Council in cases of imposition of a disciplinary measure pursuant to paragraph 1, subparagraph 1.4 of this Article» (Art. 27/B para. 2). According to the new Art. 27, para. 9, « The Council shall exercise the function of the complaints mechanism against the evaluations conducted by the Committee for prosecutors.» Therefore, the relationships between the Committee and the KPC have been clarified.

The Commission also noted that draft Article 27, para. 3, contains a cooling off period of one term for PEC members – who serve a five-year term – before they may stand for reappointment for a subsequent term. To clarify this provision the Venice Commission recommends replacing the reference to “the subsequent term” with “the subsequent five years” [para. 33]. This recommendation has been complied with by the new Article 27, paragraph 6, as reformulated by Article 6 of the draft law.

The Venice Commission pointed out that Article 27 provides that the PEC shall conduct performance evaluations and monitor the implementation of the findings from individual performance evaluations and shall report on this matter to the Council. However, the Law does not provide any modalities and criteria for assessing the performance of prosecutors and it does not refer expressly to the criteria set out in the Law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors. Although that Law does contain a provision frequency of evaluation and performance criteria (Article 22), the Venice Commission has already recommended in an earlier opinion that these be clarified and reviewed [para .35]. The draft law introduces a new paragraph 8 in the new Article 27, establishing that «The qualitative and quantitative criteria, procedure and four scales of performance evaluation of prosecutors shall be implemented in accordance with the relevant applicable law on the evaluation of the performance of prosecutors.» More precise criteria are established by the «Draft law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors.» Overall, the Venice Commission recommendation has been followed.

Recommendations

No recommendations. The recommendations of the Venice Commission have been followed by the draft law.

3.2.3. Inspection Verification Unit (IVU)

With regard to the Inspection Verification Unit (IVU), the Law on the KPC should set out the modalities for the appointment of its members, as well as the procedures for carrying out the evaluations, the criteria on which they are based, and the accountability of the IVU itself and of its members.

Draft Law

Article 10, introducing a new Article 31/A

Assessment

The Inspection and Verification Unit (IVU) already has been the subject of other Opinions of the Venice Commission. The Follow-up Opinion deals with the draft Article 31/A on the IVU. The Venice Commission pointed out that the main aspects of the IVU are regulated through provisions drafted in an insufficiently detailed manner. The Commission recommended that law should define more clearly the position of the IVU within the KPC's structure and specify how its activities are coordinated with those of the standing committees provided by Article 16, paragraph 1 [para. 40]. Paragraphs 3 and 4 of Article 31/A establish the basic rules on the relationships between the IVU and the Council. According to para. 3, «The IVU exercises its duties and responsibilities independently, based on the requests of the Council committees according to the procedures set out in the legislation in force, and reports to the committees on their implementation.» According to Article 4, «The IVU shall be fully accountable to the Kosovo Prosecutorial Council.» Therefore, the essence of the recommendation has been followed.

The Venice Commission recommended introducing a provision that clearly sets out the procedure for selecting the members of the IVU, as well as other related aspects, such as the required qualifications [para. 42]. The new Article 31/A, paragraph 5, establishes the basic rules for the appointment, while paragraph 6 establishes the qualifications. Therefore, the essence of the recommendation has been followed.

Uncertainties regarding the selection procedures for IVU members also affect the relationship between this body and the KPC. Considering the involvement of the IVU in particularly sensitive matters, the Venice Commission found that draft Article 31/A lacked specific mechanisms capable of ensuring that the evaluation process entrusted to the IVU is carried out transparently and independently. The Venice Commission recommended providing a more precise indication of the IVU's composition, its assigned functions, the procedure and criteria governing its operation, and its accountability framework [para. 44]. As mentioned above, the draft law sets out the basic provisions on these aspects. Therefore, this recommendation has been followed.

Recommendations

No recommendations. The recommendations of the Venice Commission have been followed

by the draft law.

3.2.4. Normative power of the KPC

The allowance in the Law on the KPC for regulation by secondary legislation and bylaws should be limited. Such matters as the rules and disciplinary procedures applicable to KPC members, the procedures for the performance evaluation of the Chief Prosecutors, the main employment conditions for the IVU member positions, and the control procedure should be provided for at the level of primary legislation, and preferably within the Law on the KPC itself.

Draft Law

Article 2, deleting the words “the relevant committee or” in Article 10, paragraph 10, of the Law.

Article 5, introducing Article 27/C.

Assessment

The Venice Commission expressed concern that many aspects are left to bylaws or Council regulations [para 47].

Among those aspects, disciplinary procedures for KPC members. The Commission pointed out that « is necessary to define more detailed criteria for the termination of a member’s mandate before its expiry and to ensure that any decision based on these criteria is duly reasoned » [para 50]. It pointed out that as regards the procedure for dismissal of lay members, the dismissal shall be carried out by the Assembly with the majority of votes of all its members, upon the proposal of the respective Committee or Council [para. 51], while the Commission considered that the KPC itself should be tasked with initiating the procedure and submitting the dismissal of the lay members to a vote of the Assembly [para 52]. Therefore, the Commission recommended «that the procedure for the dismissal of members be expressly and precisely laid down within the same Law on the KPC. In particular, with regard to lay members, it recommends establishing that the assessment of the members’ conduct should be carried out within the KPC, which should also be responsible for submitting the dismissal proposal to the Assembly vote.» The draft law addresses the issue of the dismissal of lay members in Article 2, which deletes the words “the relevant commission or” in Article 10, para. 10. However, the draft law did not lay down “expressly and precisely” the procedure for the dismissal of members (unlike, for example, the Law on the KJC, Article 19, as amended by the draft law on the KJC).

As for the performance evaluation of the Chief Prosecutors, the Venice Commission pointed out that « Draft Article 27/A solely establishes that “the performance evaluation of the Chief Prosecutors shall be conducted by the Chief State Prosecutor in accordance with the applicable law and relevant bylaw adopted by the Council”. This provision is lacking in detail regarding the legal conditions for such evaluation.» [para. 37] The Commission therefore

«recommends reviewing the text of draft Article 27/A so as to include the most important elements of the methods and criteria of the evaluation in the law as such» [para 39]. The draft law introduces a new Article 27/C on performance evaluation of Chief Prosecutors, establishing in para. 2 the basic aspects, referring to the law on performance evaluation of prosecutors for

the details. Therefore, the Venice Commission recommendation has been followed in its essence.

Recommendations

It is recommended to lay down expressly and precisely the procedure for the dismissal of members of KPC.

3.2.5. Other recommendations

The Follow-up Opinion also points out that several previous recommendations have not been followed (paras. 55–59). These concern: the provision of different ineligibility criteria for lay and prosecutor members (Article 8, paras. 1 and 2); the educational qualifications for lay members under Article 8, para. 2, which are considered overly restrictive; the definition of ‘political entity’ in Article 8, para. 2.5; Article 9, para. 2, which provides that chief prosecutors of any prosecution office cannot simultaneously serve as members of the KPC; and Article 9, para. 4, concerning ethnic and gender representation, which sets out only a general principle without realistic prospects for implementation. The draft law does not address any of these issues.

As for the provision of different ineligibility criteria for lay and prosecutor members (Article 8, paras. 1 and 2), and the lack of clarity of the requirement of having no indictments [para. 55], Article 8 has not been amended by the draft law. Therefore, it is recommended to amend Article 8, to establish uniform ineligibility criteria for lay and prosecutor members, while clarifying whether paras. 1.4 and 2.8 refer to pending or past indictment.

As for the educational qualifications for lay members under Article 8, para. 2, – limited to criminology, law, economics, management, or public administration – which are considered overly restrictive by Venice Commission [para. 56], excluding qualified individuals from other relevant disciplines, it can be considered that the actual formulation, as aimed at focusing on non-prosecutor members with an expertise in social sciences, is aimed at assuring that lay members are selected among the ‘users’ of the system.

As for the definition of ‘political entity’ in Article 8, para. 2.5, the Venice Commission pointed out that it is unclear whether this notion includes NGOs, political foundations, think tanks, or informal party affiliates, including advisers [para. 57]. A more precise formulation of this provision is required.

As for Article 9, para. 2, which provides that Chief Prosecutors of any prosecution office cannot simultaneously serve as members of the KPC, the Venice Commission pointed out that this provision could have the unintended consequence of excluding some of the most senior prosecutors from the governance of the prosecution system [para. 58]. Therefore, it is recommended to amend this provision in order not to exclude senior prosecutors from the KPC.

As for Article 9, para. 4, concerning ethnic and gender representation, which sets out only a general principle without realistic prospects for implementation, the Venice Commission recommended «introducing a more detailed and concrete provision aimed at ensuring gender balance and pluralistic ethnic representation. More specifically, concerning gender representation, the Venice Commission recommends that the regulatory provisions aimed at guaranteeing a gender-balanced composition of the KPC be incorporated into the Law itself»

[para. 59]. Also in the light of the Supreme Court judgment, it is recommended to introduce in the Law a provision clearly establishing that that «if the Council or the Assembly finds that there is gender under-representation, then the announcement of vacancies shall be made for candidates from the under-represented gender.»

With regard to ethnic representation, «the Venice Commission has previously considered it “sufficient that ethnic criteria, alongside linguistic, religious or other criteria, are part of the general considerations of each electing body with a view to achieving a pluralistic and balanced composition” of the KPC, “without imposing further obligations on the appointment bodies”» [para 59]. Therefore, the recommendation can be considered complied with for this aspect.

3.3. Recommendations

In light of the assessment above, the following amendments to the draft law are recommended:

1. **Selection and election of lay members**
 - o Revise the composition of the Selection Committee under Article 10 to ensure greater independence and pluralism.
 - o Introduce stronger involvement of independent experts and professional bodies (e.g. Bar associations, academia, civil society) in the selection process.
2. **Dismissal of KPC members**
 - o Establish explicitly and comprehensively in the Law on the KPC the procedure for the dismissal of members.
 - o Ensure clear criteria, procedural safeguards, and a defined role for the KPC in initiating dismissal procedures, including for lay members.
3. **Eligibility and ineligibility criteria**
 - o Amend Article 8 to introduce uniform eligibility and ineligibility criteria for both lay and prosecutor members.
 - o Clarify whether references to indictments concern pending or past cases.
4. **Definition of “political entity”**
 - o Clarify the definition in Article 8, paragraph 2.5, to avoid ambiguity and ensure consistent interpretation.
5. **Membership of Chief Prosecutors**
 - o Reconsider Article 9, paragraph 2, in order to avoid excluding Chief Prosecutors from membership in the KPC and to preserve senior expertise within the Council.
6. **Gender balance and representation**
 - o Introduce more detailed and binding provisions to ensure gender balance within the KPC.
 - o Provide for corrective mechanisms, such as targeted vacancy announcements, in cases of under-representation.
7. **Use of secondary legislation**
 - o Reduce reliance on bylaws and secondary legislation.
 - o Ensure that key aspects – such as disciplinary procedures, evaluation frameworks and core employment conditions – are regulated at the level of primary legislation.

4. Law on the Academy of Justice (Gianluigi Pratola)

4.1. Introduction

The Kosovo Constitution does not contain explicit provisions on the Academy of Justice. However, it does regulate the status of independent agencies, such as the Academy, which are institutions created by Parliament and governed by specific laws that define their establishment, operation, and competencies (Article 142, para.1). Independent agencies have their own budgets, which must be administered independently in accordance with the law (Article 142, para.2). Additionally, all organs and institutions are required to cooperate with and respond to requests from independent agencies in the exercise of their legal competencies, as provided by law (Article 142, para. 3)."

The legal framework on judicial training in Kosovo was modified through the adoption of the Law on Judicial Academy, dated 19 January 2017. The Academy replaced the "Kosovo Judicial Institute" which was introduced by law n. 02/L-25 dated 23 February 2006.

The status of KJA was also provided by the Law on consolidation of Agencies from September 2022¹, completely in line with European standards and good practices, and has been considered as something accomplished and stable.

The LKJA is well articulated, and it covers all aspects related to the functioning of such institution. Considering the previous law "On Judicial Institute", it can be stated that the current law regulates judicial trainings in a more detailed way.

It must be considered positively the choice made by the legislator in adopting an "ad hoc" law in judicial training, establishing an independent and autonomous institution with its own functions and budget.

In the LKJA, specific provisions have been set regarding:

- a) the competences of the Academy (Article 6);
- b) the bodies of the Academy: 1) the Academy Governing Board (Articles 8-13); 2) the Program Council (Articles 14-16); 3) the executive Director of the Academy (Articles 17-18);
- c) the training activities (Articles 19-22);
- d) the employees of the Academy, trainers and mentors (Articles 23-25).

The competences of the Academy are listed in art. 6 of the LKJA². In this regard, it can be stated that

¹ Law No. 08/L-063 on Amending and Supplementing the Laws Related to the Rationalization and Establishment of Accountability Lines of the Independent Agencies, published in the Official Gazette No 30 on 05 September 2022

² The Academy performs the following functions: 1.1. compiles training programs and organizes trainings for judges and state prosecutors in accordance with applicable law; 1.2. develops training needs assessment process through mechanisms set up by the Academy and based on the requests of the Kosovo Judicial Council and Kosovo Prosecutorial Council; 1.3. organizes trainings for the court and prosecutorial administrative staff, after prior coordination on training needs with the KJC and KPC, in accordance with the legislation in force; 1.4. may organize continuous professional trainings for the State Advocates, lawyers, notaries, private enforcement agents, mediators, bankruptcy administrators and other professions based on the Academy assessment, pursuant to the requests of competent institutions; 1.5. develops and implements training programs in cooperation with KJC and KPC, and in cooperation with respective chambers of open professions or respective institutions; 1.6. retains data on the trainings and programs conducted in the Academy in accordance with the legislation in force; 1.7. establishes and maintains cooperation with similar local and international institutions regarding the work which it performs, including professional practice and exchange programs; 1.8. performs analysis, researches and

the role played by the Academy in judicial training is in line with the main relevant EU Recommendations³, which have required high autonomy and independence for bodies dealing with judicial training.

Taking into account the specific functions attributed to the Academy, according to the STEs, it cannot be considered as a mere “services provider” in favor of other bodies, but as an institution with specific competences in: elaborating and developing programs and strategies in judicial training; performing analysis and research in the judicial sector as emerged during training activities; cooperating with national and international institutions.

Moreover, the Academy also plays a relevant role in the area of professional evaluation of judges and prosecutors, considering that the by-laws on evaluation of Judges and Prosecutors list, among the evaluation requisites, the participation to training activities⁴.

4.2. Findings

The draft amendments proposed by the Ministry of Justice introduce several changes to the status and operation of the Academy of Justice. The Academy’s functions are expanded to include the power to issue by-laws within the scope of its competencies, particularly concerning training and internal organization matters not regulated by legislation.

The draft Law include amendments to the provisions on the Governing Board, updated rules on the compensation of its members, and modifications to the Programme Council, particularly its composition and responsibilities. The Programme Council is granted additional competence to review complaints against trainers and assess their performance. Further changes relate to the appointment and examination and specifying that the Executive Director’s appointment and dismissal procedure shall be determined by secondary legislation. Additionally, the provisions concerning trainers and mentors, as well as the Academy’s reporting obligations, have been revised.

The draft amendments also redefine the framework for training, specifying various types of training, including initial training and additional sessions for judges, prosecutors, and professional associates. A new provision establishes dedicated training programmes for court and prosecutorial administration.

One of the key issues discussed during consultation phase was the choice of the initial training model – whether it should follow a pre-appointment or post-appointment approach. The final draft amendments retain the existing post-appointment model, which has been in place for several years. Under this system, newly appointed judges and prosecutors are required to undergo twelve months of initial training, which runs concurrently with the first year of their three-year initial mandate.

The second draft law largely reflects the opinion and the recommendations of the Venice Commission.

However, a few elements still need the attention of the Kosovo authorities.

cooperates with scientific institutions;1.9. conducts publishing activities for fulfilling the mandate for the needs of judicial and prosecution system and open professions;1.10. performs other duties determined by the law and other acts of the Academy”

³ CCEJ Opinion No 4 (2003), Par. 17 and 18.

⁴ Art. 16 KJC/Reg. and art. 6.1.11 KPC/Reg.).

The Venice Commission - emphasizing the importance of ensuring legal certainty and predictability by establishing a clear legislative basis for these key rules in the Law on the Academy of Justice - made the following recommendations:

- 1) The Law on the Academy of Justice should set out clear criteria and procedures for the appointment and removal of members of the Academy bodies, trainers and mentors; it should regulate the criteria and procedure for evaluation of trainers and mentors as well as the complaints procedure against trainers and mentors, including applicable remedial measures;
- 2) The composition of the Governing Board of the Academy should be expanded to include a greater number of judges and prosecutors elected by the Judicial and Prosecutorial Councils, while the participation of the Minister of Justice in the Governing Board should be removed;
- 3) The composition of the Programme Council should include more judges and prosecutors, and the Judicial and Prosecutorial Councils should be more involved in the appointment and removal of members of the Programme Council;
- 4) The Programme Council should be granted more autonomy in exercising its expert role vis-à-vis the Governing Board;
- 5) The authorities are encouraged to carefully consider – in consultation with all relevant stakeholders – the choice between the pre- and post-appointment models of initial training, including the advantages of the pre-appointment training;
- 6) The Law should set out in greater detail the procedure for completing initial training, including the assessment criteria, evaluation process, consequences of unsuccessful completion, and the possibility of appeal;
- 7) The Law should provide a comprehensive description of mandatory training and specify the circumstances and conditions under which training is made mandatory.

In the following paragraphs, the implementation of each recommendation will be examined.

4.2.1. Criteria for appointment, dismissal and evaluation

The Law on the Academy of Justice should set out clear criteria and procedures for the appointment and removal of members of the Academy bodies, trainers and mentors; it should regulate the criteria

and procedure for evaluation of trainers and mentors as well as the complaints procedure against trainers and mentors, including applicable remedial measures.

Art. 17 of the draft Law has redrafted Article 24 of the LKJA, and Article 18 of the draft Law has added a new Article 24A of the LKJA.

Article 24 introduces new rules for the selection of the trainers and mentors, for the evaluation of their activities and for the dismissal.

The new formulation of Article 24 is the following one:

Article 24. "Trainers and mentors":

- 1. The Academy shall engage temporary trainers and mentors for training purposes*
- 2. Trainers and mentors shall be appointed and selected mainly by judges and state prosecutors, but may also include experts in relevant fields.*
- 3. Trainers and mentors shall be selected for certain periods of time, based on the approved plan of the Academy and based on an open public call.*
- 4. The Governing Council shall appoint, from among its members, a Commission for the selection of trainers and mentors of the Academy, which shall develop the selection procedure for the selection of trainers and mentors.*
- 5. Trainers and mentors shall be engaged in providing trainings as needed for the implementation of the program.*
- 6. Trainers and mentors are obliged to participate in the training programs of the Academy's trainers.*
- 7. Trainers and mentors shall be terminated from their engagement in the Academy by decision of the Governing Council based on the proposal of the Program Council, in cases of continuous refusal to provide training or proven poor quality in providing training or mentoring based on a methodology that takes into account the views of the participants.*
- 8. For any evaluation of the training or mentoring provided, the trainer or mentor has the right to appeal to the Governing Council of the Academy.*
- 9. Termination of engagement as a trainer or mentor by the Academy's Governing Council does not cause consequences in the trainer's or mentor's primary work as a judge or prosecutor.*
- 10. Other specifics regarding the selection and engagement of trainers and mentors, as well as their rights and duties, shall be determined by means of a sub-legal act approved by the Governing Council.*

Article 18 of the draft law provides, in the new Article 24A, the "Criteria for selection of trainers and mentors", as follows:

- 1. Trainers and mentors engaged by the Academy of Justice must meet the following criteria:*
 - 1.1 have at least five (5) years of professional experience in the justice system;*
 - 1.2 not be subject to disciplinary measures in the exercise of their profession;*
 - 1.3. not have been convicted by a final court decision of any criminal offence;*
 - 1.4. possess in-depth knowledge in specific areas of law as required by the Academy, as well as the ability to analyze and interpret judicial practice; and*
 - 1.5. have proven skills in teaching, training, or mentoring, or previous experience in similar academic or professional activities.*

2. *In addition to the criteria set out in paragraph 1, trainers and mentors engaged from among experts must have completed at least higher education.*
3. *The criteria set out in this Article shall not apply to trainers and mentors from international organizations and projects engaged in training on the basis of cooperation established with the Academy of Justice.*

The draft law follows only partially the recommendations of the Venice Commission. It introduces the rules for selection of mentors and trainers, (but the provision of art. 24A, para. 2., is superfluous, considering the expertise required for the training activities). It provides only general rules on the procedure for their selection, introducing a “Commission for the selection of trainers and mentors of the Academy, which shall develop the selection procedure for the selection of trainers and mentors”, without specifying the concrete procedure for the selection of the members of the Commission and specific rules for the activity of the Commission. It does not introduce concrete mechanisms for their evaluations and remedial measures for in case of complaints against their performance, apart from the termination of engagement, to be applied only in severe cases.

Recommendations

- 1) ***Article 17 of the draft law, amending Article 24 of the LKJA, should provide specific rules for the appointment of the Commission for the selection of trainers and mentors of the Academy and for the procedure of selection of mentors and trainers.***
- 2) ***Article 17 of the draft Law, amending Article 24 of the LKJA, should provide concrete mechanisms for the evaluation of the mentors and trainers and concrete remedial measures, in addition to termination of engagement, applied only in severe cases.***
- 3) ***Article 24A, para. 2, of the LKJA, introduced by Article 18 of the draft Law, should be deleted.***

4.2.2. Composition of the Governing Board

The composition of the Governing Board of the Academy should be expanded to include a greater number of judges and prosecutors elected by the Judicial and Prosecutorial Councils, while the participation of the Minister of Justice in the Governing Board should be removed.

Article 3 of the draft Law introduces a new formulation of Article 8 of the LKJA, regarding the composition of the Academy Governing Board. The current Board is composed of the President of the Supreme Court and the Chief State he Governing Board is currently composed of nine members: two *ex officio* members (the President of the Supreme Court and the Chief State Prosecutor), one member appointed by the Minister of Justice, three members appointed by the Judicial Council (two judges and one representative of the Council’s Secretariat), and three members appointed by the Prosecutorial Council (two prosecutors and one representative of the Council’s Secretariat).

The amendments of the first draft law (draft Article 8) reduce the number of members of the Governing Board from nine to seven by limiting the number of judges appointed by the Judicial Council to one (instead of two) and the number of prosecutors appointed by the Prosecutorial Council to one (instead of two).

Additionally, the amendments replace the member appointed by the Minister of Justice with the Minister in person, Prosecutor (*ex officio* members), three members appointed by the KJC, three by the KPC and one member appointed by the MoJ.

With the last version of the draft Law the Governing Board should be composed by the Minister of Justice, the President of the Supreme Court and the Chief State Prosecutor (*ex officio* members), the Director of the Kosovo Judicial Council Secretariat, the Director of the Kosovo Prosecutorial Council Secretariat, two members appointed by the KJC, and two members appointed by the KPC.

Article 3 of the draft Law, introducing a new formulation of Article 8 of the LKJA, reads as follows:

“The Academy Governing Council (hereinafter: The Governing Council) shall oversee the Academy and shall be comprised of nine (S) following members:

- 1.1. five ex officio members of the Governing Council are:*
 - 1.1.1. Minister of Justice*
 - 1.1.2. The President of the Supreme Court,*
 - 1.1.3. The Chief State Prosecutor;*
 - 1.1.4. Director of the Kosovo Judicial Council Secretariat, and*
 - 1.1.5. Director of the Kosovo Prosecutorial Council Secretariat (in the further text).*
- 1.2. two (2) members appointed from among judges by the Kosovo Judicial Council (in the further text: KJC), and*
- 1.3. two (2) members appointed Kosovo Prosecutorial Council (hereinafter: KPC) from among prosecutors.*

According the Venice Opinion, *“The composition of the Board, despite the reduction in the number of members appointed by the Judicial and Prosecutorial Councils, continues to ensure a majority of judges and prosecutors while preserving the substantive involvement of the Councils in the appointment process. This remains an important feature, as it maintains the institutional link between the training authority and the Judicial and Prosecutorial Councils, which have a constitutional mandate to safeguard the independence of the judiciary and the State Prosecution service. The composition of the Board, despite the reduction in the number of members appointed by the Judicial and Prosecutorial Councils, continues to ensure a majority of judges and prosecutors while preserving the substantive involvement of the Councils in the appointment process. This remains an important feature, as it maintains the institutional link between the training authority and the Judicial and Prosecutorial Councils, which have a constitutional mandate to safeguard the independence of the judiciary and the State Prosecution service. The presence of the Minister of Justice on the Governing Board can also be linked to the fact that the Academy provides training programmes for other independent legal professions, such as lawyers, notaries, private bailiffs, mediators, and bankruptcy administrators (Article 22 of the Law). While this may be a relevant consideration, the information available does not sufficiently demonstrate the necessity of ministerial participation in the Board. First, the Venice Commission delegation was informed that the scope of such training programmes within the Academy remains, relatively limited. Second, if deemed*

necessary, the draft amendments could instead provide for the inclusion of representatives of these legal professions on the Board. In light of the above considerations, the Venice Commission recommends increasing the size of the Governing Board to allow for greater participation of judges and prosecutors appointed by the Judicial and Prosecutorial Councils while removing the Minister of Justice from the Board”.

The new draft Law increases the number of the members of the Governing Board providing five ex officio members, increases from members appointed among judges and prosecutors by, respectively, the KJC and KPC, leaving the presence of the Minister as ex officio member.

The new composition is **partially** in line with the Venice recommendation, due to the fact that increasing the ex officio members, and in particular leaving the presence of the Minister as ex officio member could affect the functionality of the Institution. It would be advisable to remove the presence of the Minister as ex officio member leaving the presence of one member appointed by the Minister or at least to add, in par. 1.1.1., after Minister of Justice”, “or an official of the Ministry delegated”.

Recommendation

- 4) Article 3 of the draft Law, amending Article 8 of the LKJA, should non provide the presence of the Minister in the Governing Board as “ex officio” member, leaving the presence of one member appointed by the Minister or at least adding, in par. 1.1.1., after Minister of Justice”, the words “or an official of the Ministry delegated”.**

4.2.3. Composition of the Programme Council

The composition of the Programme Council should include more judges and prosecutors, and the Judicial and Prosecutorial Councils should be more involved in the appointment and removal of members of the Programme Council.

Amendments provided by the draft Law in Article 9, consist in a new formulation of Article 15 of the LKJA, on “Composition Programming Council”, as follows.

1. The Programme Council shall consist of eleven (11) members including the Executive Director of the Academy and the following members Council:
 - 1.1. four (4) judges;
 - 1.2. three (3) prosecutors;
 - 1.3. two (2) justice university professors;
 - 1.4 two (2) expert from among the trainers or mentors previously engaged by the Academy
2. The Executive Director of the Justice Academy shall preside over the Programme Council.
3. The judge members of the Program Council shall be appointed by the KJC, while the prosecutor members of the Program Council shall be appointed by the KPC. Council.
4. Other members of the Program Council from paragraph 1, subparagraphs 1.3 and 1.4 of this Article shall be selected through an open and public competition conducted by the Academy. Their appointment shall be made by the Academy's Governing Council.
5. The mandate of the members of the Program Council, with the exception of the Executive Director of the Academy who serves ex officio, shall be three (3) years with the right to re-election for only one (1) additional consecutive term.

6. *Members of the Programme Council may not be engaged as trainers or mentors at the Academy.*
7. *Members of the Programme Council, other than the Executive Director, shall be compensated in accordance with the Law on Salaries in the Public Sector.*
8. *The Program Council has the right to engage trainers and mentors from the Academy of Justice for an appropriate fee, to assist the Council, as the case may be, when dealing with specialized issues, and the trainers and mentors are obligated to provide this support.*
9. *A member of the Program Council, with the exception of the Executive Director of the Academy who serves ex officio, may be dismissed before the end of mandate if he/she commits any of the following action*
 - 9.1 *fails to perform the function of the member in accordance with the Constitution and the law;*
 - 9.2 *fails to participate, without reason, in three (3) consecutive meetings of the Program Council*
 - 9.3 *exercises the function in conflict with his duties and responsibilities; and*
 - 9.4 *has been convicted of a criminal offence;*
10. *For judges and prosecutors serving on the Program Council, the request for dismissal shall be made by the Governing Council of the Academy. The request by the Governing Council for dismissal of the member shall be presented in a reasoned form, specifying precisely the violation committed by the member. The KJC, respectively the KPC, as the institution that appointed the member, shall decide on the approval or rejection of the request of the Governing Council, within a period of thirty (30) days, during which procedure it has the right to review the issue for which dismissal is proposed.*
11. *The KJC and the KPC shall have the right to dismiss the member appointed to the Program Council by them, even ex officio, in case of an identified violation.*
12. *Dismissal from the position of a member of the Academy's Program Council shall not have any consequences on the primary work of the dismissed member as a judge or prosecutor.*
13. *Other members of the Program Council referred to paragraph 1, subparagraphs 1.3 and 1.4 shall be dismissed by decision of the Governing Council after the procedure for identifying the violation from paragraph C of this Article has been conducted".*

According to Article 16 of the LKJA, the Program Council represents the technical and scientific core body of the Academy. In fact the PC: a) drafts the program-proposal for training of the Academy in cooperation with KJC and KPC; b) monitors the implementation of the program and its success; c) provides guidance for advancing training methods and other suggestions to the bodies of the Academy for improvements of training; d) provides opinions with regard the proposed trainers and mentors. Therefore, the Program Council should have a high professional profile.

The increase of the number of the Programme Council among judges and prosecutors is in line with the Venice Commission recommendations on the first draft law: "Given that the Programme Council is the main expert body responsible for advising on the nature, scope, and duration of training programmes, its current composition appears too limited to adequately fulfil its role. Increasing the number of judges and prosecutors would be advisable along with ensuring a division of labour whereby judicial training matters are primarily handled judges, while prosecutorial training matters are primarily handled by prosecutors. In addition, the draft amendments could explicitly provide for the Programme Council's right to assign trainers and mentors to assist the Council on an ad hoc basis when addressing specialised issues, as well as the corresponding duty of trainers and mentors to contribute to such cases".

The new formulation of Article 9 gives full application to the recommendation of Venice Commission regarding the role of the KJC and KPC in the procedure of removal and appointment of the members of the Programme Council.

4.2.4. Autonomy of the Programme Council

The Programme Council should be granted more autonomy in exercising its expert role vis-à-vis the Governing Board.

Amendments provided by the draft Law in Article 11, consists in adding a new Article 16A in the LKJA on “Professional and programmatic autonomy of the Programme Council”. The new Article better defines role and the competencies of the Council, emphasizing the autonomy in the exercise of duties and responsibilities under Article 16. Very important is para. 4 of the Article, that provides: *“In every case of rejection of the Program Council’s proposal, the Governing Council shall be obliged to justify in writing the deficiencies found and return the proposals for completion within a reasonable time frame, ensuring that the process does not violate the autonomy of the Program Council and the uninterrupted functioning of the Academy of Justice.”*

The new Articles represents an important step, according the recommendations of the Venice Commission on the role of the Programme Council, but needs to be improved and further explored, in order to better emphasize and precise the autonomy of the Programme Council .

Amendments provided by the draft Law in Article 10, consists in adding two new para. (1.4.a. and 1.4.b.) to Article 16 of the LKJA, on “Duties and Responsibilities of the programming Council”. In particular, the amendments add the following competences: *“1.4.a. reviews complaints filed against trainers and mentors engaged in the Academy regarding the manner and methodology of training namely mentoring; 1.4.b. evaluates the trainers and mentors engaged in the Academy. In accordance with the sub-legal act adopted by the Governing Council of the Academy”*. According the recommendations of Venice commission *“these provisions should be further elaborated to include procedural details and to specify the consequences of trainer revaluations, as well as the complaints procedure, including the applicable remedial measures. Similar mechanisms and procedures should be provided for by law in respect of the mentors. As many of the trainers and mentors will be judges, it is important that any measures imposed do not affect their judicial status”*.

Recommendation

- 5) Article 10 of the draft Law, amending Article 1C of the LKJA, and adding para. 1.4.a. and 1.4.b., should provide the introduction of procedural details and to specify the consequences of trainer revaluations, as well as the complaints procedure, including the applicable remedial measures remove and to extend similar procedures to mentors.”.**

4.2.5. Models of Initial Training

The authorities are encouraged to carefully consider – in consultation with all relevant stakeholders – the choice between the pre- and post-appointment models of initial training, including the advantages of the pre-appointment training.

According to the Venice Commission opinion it is advisable that *“the drafters once again carefully consider – in consultation with all relevant stakeholders – the choice between the pre- and post-appointment models of initial training, including the advantages of the pre-appointment training model indicated above. Another separate issue concerns the fixed duration of initial training, which is set at twelve months without flexibility to accommodate different trainees’ backgrounds. The Venice Commission has previously endorsed more flexible systems that allow for adjustable training periods. The draft amendments could introduce varying durations of initial training depending on the professional experience of the trainees, ensuring that training requirements are tailored to different levels of prior expertise. In that context, it would be appropriate to elaborate the nature and extent of the training programmes and their possible modalities in view of the varying durations”*.

Amendments provided by the draft Law in Article 14, consists in adding a new Article 19A in the LKJA on “Initial trainings for judges and state prosecutors”, as follows:

1. *The Academy shall organize initial trainings for training of newly appointed judges and state prosecutors.*
2. *Initial training shall last twelve (12) months and shall be composed of the theoretical and practical part. Theoretical training shall be performed with the support of trainers while the practical training with the support of the mentor.*
3. *During the training, the Academy keeps records and produces the results of the participants in the initial training, based on which it will be decided on the successful completion of the initial training.*
4. *Upon completion of the initial training, judges and prosecutors will be subject to assessment by the Academy and the mentor for the relevant parts, in accordance with the relevant provisions of the legislation in force.*
5. *The manner of implementation of training and assessment shall be determined by means of a sub legal act approved by the Governing Council, which shall be drafted in consultation with the KJC and the KPC”.*

The solution adopted is the post-appointment training, that is was considered more suitable in the context as it strengthens the recruitment role of the Judicial and Prosecutorial Councils, it ensures more efficient use of resources, and it mitigates the risk of trainees spending a significant period without a guarantee of future appointment.

This solution, as emphasized by Venice Commission opinion, is in line with EU standards, as the solution of pre-appointed training, and is used in several EU countries.

According to the Venice Commission *“Another separate issue concerns the fixed duration of initial training, which is set at twelve months without flexibility to accommodate different trainees’ backgrounds. The Venice Commission has previously endorsed more flexible systems that allow for adjustable training periods. The draft amendments could introduce varying durations of initial training depending on the professional experience of the trainees, ensuring that training requirements are tailored to different levels of prior expertise. In that context, it would be appropriate to elaborate the nature and extent of the training programmes and their possible modalities in view of the vary in durations”*.

TAIEX expert suggest to introduce this flexibility, also in order to render the post-appointment system more adequate to the needs of trainings of the new appointed judges and prosecutors.

Recommendation

- 6) Article 14 of the draft Law, introducing Article 19A of the LKJA, should provide the possibility of varying durations of initial training depending on the professional experience of the trainees, and to elaborate the nature and extent of the training programmes and their possible modalities in view of the varying durations.**

4.2.6. Completion of the Initial Training

The Law should set out in greater detail the procedure for completing initial training, including the assessment criteria, evaluation process, consequences of unsuccessful completion, and the possibility of appeal.

Article 19/A of the LKJA, introduced by Article 14 of the draft Law, does not contain detailed rule on the procedure for completing initial training, including the assessment criteria, evaluation process, consequences of unsuccessful completion, and the possibility of appeal. The current law foresees some specific trainings organized upon specific request of the KJC and KPC in case of “unsatisfactory performances of judges and prosecutors”⁵.

As for training implementation method, the Law demands it to a specific regulation to be approved by the Governing Board of the Academy. Therefore, according to the mentioned law, the organization of the initial training as well as the method of its implementation, is under the full responsibility of the Academy, whereas professional evaluations of judges and prosecutor are carried out following the current professional evaluation systems adopted by the KJC and KPC.

In terms of initial training a proper coordination among the KJC, KPC and the Academy is required, considering the need to establish specific criteria, such as: the period of training implementation, the number of trainees, trainers and mentors, the financial resources, a training program tailored on the basis of a specific TNA, the work plan, training material, organization, etc. In this regard, all involved institutions should approve proper regulations containing a timetable for the whole process of the initial training.

Results and assessments of the initial training shall be taken in high consideration by the KJC and KPC as integral part of the system of professional evaluation of judges (art 19 LKJC) and prosecutors (art. 21 LKPC). Even though the current law does not provide for specific provision on this issue (the mentioned art. 19.4 of the LKJA has stipulated only that the results of participants at initial training and the assessment must be performed at the end of that period) initial training shall be perceived not only in its technical aspects, but as an important part of the career of judges and prosecutors as prescribed by the Laws on the Councils. In fact, according to Regulations on professional evaluation of judges and prosecutors (art. 10 KPC/Reg. and art 6

⁵ Art. 19.5 of the LKJA.

of KJC/Reg.) issued in accordance to the mentioned Laws⁶, reports drafted by trainers and mentors at the end of the initial training constitute a fundamental source for their professional evaluation. Moreover, those Reports are the only data at disposal of the Councils for evaluating the new appointed judges and prosecutors.

Recommendations

- 7) Article 14 of the draft Law, introducing Article 19A of the LKJA, should provide detailed rules on the procedure for completing initial training, including the assessment criteria, evaluation process, consequences of unsuccessful completion, and the possibility of appeal.**
- 8) Article 14 of the draft Law, introducing Article 19A of the LKJA, should introduce proper mechanisms of coordination with KJC, KPC on training activities, the work plan, training materials, organization, etc.**

4.2.7. Mandatory Training

The Law should provide a comprehensive description of mandatory training and specify the circumstances and conditions under which training is made mandatory.

Article 20.2 of the LKJA establishes that training courses are not mandatory for judges and prosecutors. This provision is in line with the main European standard on continuous training, as for instance the CCJE Opinion No 4/2003 according to which continuous training is voluntary⁷⁷. Training courses could be made mandatory, essentially in case of change of jurisdiction, change of specialization (from criminal to civil or administrative law) or appointment to managerial position (Court President or Chief Prosecutor), as well as in case of fundamental changes in legislation (new Code of Civil or Criminal Procedure).

In line with those principles the LKJA has established that “*exceptionally on request of the KJC, KPC, Court Presidents, Chief Prosecutors, some training may be obligatory for judges, prosecutors or administrative staff, depending on their performance at works*”⁸⁸.

Therefore, as already mentioned for additional training (art. 19.5 LKJA) training on particular topics could be imposed or recommended to individual judges and prosecutors by the respective evaluation authority as a result of their professional evaluation procedures. It would be advisable that those requests are submitted to the Academy through the KJC and KPC.

A positive opinion by the STEs on internal regulations of the KJC and KPC (art. 13.1.4 KJC/Reg. according to which attendance to training constitutes an indicator for the evaluation criteria and art. 6.1.11 KPC/Reg. according to which “any other document – among them participation in training - that contains objective and relevant information” can be used for professional evaluations) was expressed.

⁶ See Art 19.5 of the LKJC “The performance assessment of judges with initial term is conducted at least twice by the Judges Performance Assessment Committee, once after the initial training and once at the end of the initial term. The requirements for these evaluations during the initial term shall be specified through Regulation issued by the Council” and Art 21.4 of the LKPC “The performance assessment of Prosecutors with initial mandate is performed at least twice during this mandate by Prosecutors Performance Assessment Committee, once after the initial training and once at the end of the initial mandate. The criteria for assessment during the initial mandate shall be specified in a Regulation issued by the Council.”

⁷ Par.37 “The CCJE therefore recommends that the in-service training should normally be based on the voluntary participation of judges”.

⁸ Art. 20.2 of the LKJA.

Moreover, according to the STEs, attendance to specific training should be considered as a requirement for being appointed to managerial position. In this regard, a positive assessment can be expressed with reference to art. 11 of the KPC/Reg. according to which *“Certificates of participation in trainings constitute supporting documents for transfer and promotion of prosecutors”*.

As to “training for promotion” art. 21 of the LKJA, stipulates that the Academy organizes training for all judges and prosecutors who are advanced in office, adding that “advanced judges and prosecutors *should* participate in these trainings”. According to the STEs, that provision, on the basis of an interpretation which is in line with the mentioned CCJE principles, should be read as follows: training for promotion are not mandatory. However, the attendance at those training courses should be taken into consideration by KJC and KPC during the procedure for professional evaluation.

Moreover, as already mentioned, the attendance or request to attendance to trainings related to managerial functions should be considered as a requirement for being appointed in an advanced position.

According to the Venice Commission opinion *“Draft Article 1S, which defines the types of training, provides a narrow description o mandatory training, limiting it to training ordered by the performance evaluation commissions of the Judicial and Prosecutorial Councils. However, this definition does not encompass all types of training that should be considered mandatory. First, the proposed regulation of initial training suggests that it is also mandatory, even though it is not ordered by an evaluation commission. Second, draft Article 20 § 2 also allows for mandatory training in exceptional cases at the request of the Judicial or Prosecutorial Council, which is not reflected in the definition provided in draft Article 1S. The classification of certain training programmes as mandatory is relevant not only for the Law on the Academy of Justice but also for other legislative acts. For example, Article 5 § 2.14 and Article C § 2.5 of the Law on Disciplinary Liability of Judges and Prosecutors (CDL- REF(2025)007) define "continuous failure in mandatory training programmes" as a disciplinary offence. A narrow definition of mandatory training in draft Article 1S may create inconsistencies when applying disciplinary provisions in other legislation. The Venice Commission therefore recommends amending the definition of mandatory training in draft Article 1S to ensure that it covers all cases where training is not voluntary. Furthermore, draft Article 20 § 2 should be elaborated to clarify the circumstances and conditions under which training may be mandatory at the request of the Judicial or Prosecutorial Council”*.

Amendments provided by the draft Law in Article 13, consists in a new formulation of Article 19 “Types of training” providing, in para. 1.4 “Mandatory trainings for judges and prosecutors, which include initial training, training determined by the relevant performance evaluation commission and other trainings determined by the relevant councils when new laws are adopted or, in implementation of the international obligations of the Republic of Kosovo that include the justice system.”.

Amendments provided by the draft Law in Article 15, consist in a new formulation of Article 20 of the LKJA, on *“Other trainings for judges, state prosecutors and professional associates”*. Para. 2 of the Article, establishes that trainings are voluntary, except in cases where the applicable legislation defines them as mandatory” (Par. 2) and guarantees the role of KJC and KPC in defining and organizing the mandatory trainings (Par. 3, 4 and 5).

The draft law implements the Venice recommendation on classification of mandatory trainings.

4.3 Recommendations

1. Article 17 of the draft Law, amending Article 24 of the LKJA, should provide specific rules for the appointment of the Commission for the selection of trainers and mentors of the Academy and for the procedure of selection of mentors and trainers.
2. Article 17 of the draft Law, amending Article 24 of the LKJA, should provide concrete mechanisms for the evaluation of the mentors and trainers and concrete remedial measures, in addition to termination of engagement, applied only in severe cases.
3. Article 24A, para 2., of the LKJA, introduced by Article 18 of the draft Law, should be deleted.
4. Article 3 of the draft Law, amending Article 8 of the LKJA, should non provide the presence of the Minister in the Governing Board as ex officio member, leaving the presence of one member appointed by the Minister or at least adding, in par. 1.1.1., after Minister of Justice”, the words “or an official of the Ministry delegated”.
5. Article 10 of the draft law, amending Article 1C of the basic law, and adding Para. 1.4.a. and 1.4.b., should provide the introduction of procedural details and to specify the consequences of trainer revaluations, as well as the complaints procedure, including the applicable remedial measures remove and to extend similar procedures to mentors.
6. Article 14 of the draft Law, introducing Article 19A of the LKJA, should provide the possibility of varying durations of initial training depending on the professional experience of the trainees, and to elaborate the nature and extent of the training programmes and their possible modalities in view of the varying durations.
7. Article 14 of the draft Law, introducing Article 19A of the LKJA, should provide detailed rules on the procedure for completing initial training, including the assessment criteria, evaluation process, consequences of unsuccessful completion, and the possibility of appeal.
8. Article 14 of the draft Law, introducing Article 19A of the LKJA, should introduce proper mechanisms of coordination with KJC, KPC on training activities, the work plan, training materials, organization, etc..

5. Law on the Disciplinary Liability of Judges and Prosecutors (Dario Quintavalle)

5.1. Introduction

The Constitution of Kosovo (Chapter VII) ensures the basic principles of judicial independence including procedures and criteria for judicial appointments. As for the tenure, discipline and removal, these principles are enshrined in the Law No. 06/L-057 on Disciplinary Liability of Judges and Prosecutors

This law describes the procedures for investigating allegations of misconduct or violations of professional ethics by judges and prosecutors. The law defines the disciplinary process, including the rights of the accused and the responsibilities of the disciplinary bodies involved. Its provisions are designed to uphold the integrity, independence and accountability of judges and prosecutors by ensuring fair and transparent disciplinary proceedings.

5.2. Assessment Methodology

To better understand the whole rationale for the evolution of the disciplinary procedure, the expert first investigated the original text of the Law number 06/L-057 (2018, amended 2021), then the draft reform law of 2025, in the consolidated version provided, then the Venice Commission comments, then the draft law 2026, which is the ultimate object of this assessment. Also, in some cases, the two draft laws were confronted to each other. As the texts were provided with no reference, we refer to them simply as draft law 2025 and draft law 2026. The first contains amendments to the previous Law number 06/L-057, while draft law 2026 is a whole new law, where the order of articles was completely changed. The text into consideration were provided in Albanian, Serbian and English languages. Having no knowledge of the first two languages, the English translation provided formed the object of this evaluation, although sometimes, for purpose of better clarification, AI tools like Google Translate were used to verify the correspondence of certain provisions directly on the original text.

5.3. Reading the original text of the Law number 06/L-057

The law was enacted to establish a rigorous system of accountability for judicial and prosecutorial officers. Its primary rationale is to balance the independence of the judiciary with the necessity for transparency and accountability. It aims to provide a clear legal path for

investigating alleged misconduct while protecting magistrates from arbitrary interference by ensuring all proceedings follow the principles of legality and fair trial.

According to this law, complaints against judges are first examined by the President of the respective court, while those against prosecutors are first examined by Chief Prosecutors. Approved complaints then go to investigative panels established by the KPC and the KJC until the final verdict is given by these two councils. The parties have the right to appeal these decisions with the Supreme Court of the Republic of Kosovo

Law No. 06/L-057 centralizes the disciplinary process within the Kosovo Judicial Council and the Kosovo Prosecutorial Council, as provided in the Constitution.

It is divided in the following chapters:

Chapter I sets the scope of the law, covering the definition of offenses, investigation procedures, the disciplinary bodies, sanctions, and the appellate process. Then establishes of terms used in the Law. Finally mandates that all disciplinary actions must adhere to legality, fair trial, proportionality, transparency, accountability, and respect for judicial independence.

Chapter II focuses on disciplinary offenses definition which are distinguished from judges (art. 5) and prosecutors (art. 6); it enumerates disciplinary sanctions and provides for the dismissal of a judge or a prosecutor.

Article 5 and Article 6 are fundamentally similar in their structure and the types of conduct they prohibit, but they are distinguished by the specific judicial or prosecutorial roles they govern. The key differences lie in the specific duties and professional expectations unique to each office. While both articles include general offenses—such as criminal convictions, violations of the law, or behaviour that harms public confidence—they diverge on role-specific duties: Article 5 (Judges) emphasizes the failure to respect judicial independence and impartiality, specifically prohibiting prejudice or bias during proceedings. It also prohibits judges from engaging in ex-parte communications concerning cases. Article 6 (Prosecutors) focuses on the failure to take required prosecutorial actions or meet legal deadlines. It also highlights the failure to comply with the lawful instructions of a Chief Prosecutor. Regarding treatment of evidence and rights Article 5 (Judges) focuses on the judge's duty to accord proper legal treatment to all parties, representatives, and witnesses in court, while article 6 (Prosecutors) explicitly cites the failure to consider both inculpatory and exculpatory evidence and facts during an investigation. It also mandates that prosecutors ensure the rights of the defendant, witnesses, and injured parties are respected, including measures for their security and privacy.

Chapter III disciplines the whole procedure, from the introduction of complaints, the investigation, and the proceeding. Art. 9 Allows any natural or legal person to file a complaint and details the competent authority to receive it. It establishes a mandatory 30-day window for the Competent Authority to review the complaint's validity. Failure to review a complaint is itself a disciplinary offense. Once a request is accepted, a three-member investigation panel is formed. The panel has 3 months to collect evidence and must provide the accused magistrate with an opportunity to be heard and access to all evidence. Plea bargaining is provided, otherwise the case is discussed in front of the respective council. Decisions can be appealed directly to the Supreme Court within 15 days. The appeal suspends the implementation of the sanction.

The law was subsequently amended by Law No. 08/L-003 4 October 2021⁹.

5.4. The draft law 2025

A “Draft Law on Amending and Supplementing Law No. 06/L-057 on the Disciplinary Liability of Judges and Prosecutors Amended and Supplemented by Law No. 08/L -003” was submitted for comments to the Venice Commission. The document is registered as CDL-REF (2025)007, Strasbourg, 15 January 2025.

The provided draft law contains several significant changes from the original 2018 text, aimed at tightening the rules for judicial and prosecutorial conduct and increasing transparency in disciplinary proceedings.

Below is a detailed analysis - based on the consolidated version¹⁰ - of the main differences between the original text and the new text:

1. Definitions and Institutional Scope (Article 2)

The scope of “Competent authority” to receive complaints was expanded to include newer court structures. The original text defined “Court President” to include only Basic, Appeals, and Supreme Court presidents. The new text explicitly adds the President of the Commercial Court and presidents of any other courts established by law. The new draft provides a more detailed list of Chief Prosecutors, specifically including the Chief Prosecutor of the Special Prosecution Office and the Chief Appellate Prosecutor.

2. New Disciplinary Offenses (Articles 5 & 6)

A major addition to the grounds for disciplinary action involves the financial transparency of magistrates.

- **Unjustified Assets:** Both judges (Art. 5) and prosecutors (Art. 6) now face disciplinary offenses if a first-instance court establishes by a final decision that they possess unjustified assets.
- **Refined Conduct Rules:** The new text simplifies the language regarding incompatible functions. While the old text listed specific documents (Constitution, Law on Courts, etc.), the new text broadly prohibits any position that conflicts with the Constitution or applicable legislation.

3. Changes to Sanctions (Article 7)

Art. 7 was totally rewritten. The sanctions regime has been modified to be more specific regarding financial penalties and career impacts.

- **Reprimands:** The distinction between “non-public” and “public” written reprimands was removed in the new Article 7, replacing them with a single “written reprimand” category.
- **Wage Reductions:** The original law allowed a reduction “up to 50%”. The new text sets a minimum floor, establishing the reduction between 20% and 50% for up to one year.
- **Demotion Specifics:** The new draft clarifies that a demotion can occur within the same court or office if the magistrate is moved to a department or division of a lower instance.

⁹ <https://gzk.rks-gov.net/ActDetail.aspx?ActID=49994Clangid=2>

¹⁰ CDL-REF(2025)007-e Kosovo - Draft law amending the Law on the disciplinary liability of judges and prosecutors (consolidated version) [https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF\(2025\)007-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2025)007-e)

- Promotion Freeze: A new provision (Paragraph 7) explicitly bars promotion for three years if a wage reduction was imposed.

4. Procedural Transparency and Accountability (Article 9)

The process for handling complaints has become more stringent for the authorities themselves.

- Publication of Decisions: While the original text focused on publishing final sanctions, the new text mandates that all decisions of the Competent Authority must be in writing, include reasons, and be published on official websites within 15 days.
- Consequences for Inaction: The new draft reinforces that if an authority fails to decide on a complaint in a timely manner, they are considered to have committed a disciplinary violation themselves. Furthermore, the authority that initiates the procedure against them will then take over the original, unprocessed complaint.

5. Criminal Offenses (Article 11)

- Statute of Limitations: The new text changes the terminology from "interrupt" to "terminate" the statute of limitations when a case is referred to the State Prosecutor.
- Role of the Ombudsperson: References to notifying the Ombudsperson in criminal referrals and complaint copies have been removed in several sections of the new draft.

5.5. The Assessment by the Venice Commission (2025)

The Venice Commission expressed its opinion through this document:

CDL-AD(2025)010-e *Kosovo - Opinion on the draft law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors and on the draft law amending the Law on the disciplinary liability of judges and prosecutors, adopted by the Venice Commission at its 142nd Plenary Session (Venice, 14-15 March 2025)*¹¹

The comment starts at page 22 under section C. We hereby summarize, paragraph-by-paragraph, the prescriptions from the Venice Commission regarding the draft law:

Paragraph 62: Specificity of Disciplinary Offenses

The draft Law includes a detailed list specific disciplinary offenses for judges and prosecutor. The Venice Commission - while noting that international practices vary between using general terms and exhaustive lists - praises the specific and detailed approach taken in Articles 5 and 6, as it provides clearer grounds for liability.

Paragraph 63: Gradation and Proportionality

Although the draft Law references the principle of proportionality and mentions "serious disciplinary violations," it fails to categorize the listed offenses by their gravity. The Commission recommends that the law be amended to categorize offenses (e.g., minor, serious, grave) and explicitly link these categories to specific sanctions. This is necessary to ensure legal foreseeability and to satisfy the fundamental principle that the punishment must fit the severity of the offense.

¹¹ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2025\)010-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2025)010-e)

Paragraph 64: Standards for Sanctions and Salary Reductions

The Commission outlines that sanctions must be exhaustive, accessible, and clearly defined. Regarding the specific proposal to reduce salaries by 20% to 50% for up to a year, the Commission highlights a conflict with international standards (CCJE), which generally argue against salary reductions because judges should receive equal pay for equal work. If the authorities choose to keep this sanction, the Commission prescribes that it must be strictly proportionate, limited in duration, and clarify whether the sanctioned magistrate is expected to maintain a full workload despite the significant reduction in pay.

Paragraph 65: Publication of Disciplinary Decisions

The draft Law (Articles 7, 9, and 14) mandates that all council decisions on disciplinary measures be published on their official websites. The Venice Commission supports this move toward transparency but provides that decisions should be anonymized to protect privacy. A sanctioned judge or prosecutor should only be named publicly after the decision is final.

Paragraph 66: Temporary Suspension of a Judge or Prosecutor

Article 12/B allows a council to temporarily suspend a magistrate for up to 30 days if they possess "reliable information" regarding an alleged violation. The Commission recommends amending this provision to establish clearer, more objective criteria for what justifies a temporary suspension to prevent arbitrary use of this power.

Paragraphs 67-6G: Competent Authorities and the Initiation Process

Under the draft law, "competent authorities" (such as Court Presidents or Chief Prosecutors) receive complaints and determine if they warrant an investigation. If they do, they request the respective Council (KJC or KPC) to initiate a disciplinary investigation, which then triggers the formation of a three-member investigation panel. The Venice Commission argues that allowing multiple authorities to effectively trigger an investigation risks judicial independence, and recommends that, the sole authority to initiate or dismiss disciplinary proceedings should lie with the Councils. Other "competent authorities" should only have the power to inform the Councils of potential misconduct, rather than mandating an investigation.

Paragraph 70: Lack of a Review Mechanism

Since there is no "review mechanism" for complainants to appeal a dismissal at the initial stage. The Commission recommends amending the law in order to ensure that decisions to not proceed with an investigation are subject to some form of review.

Paragraph 71. Investigative Panels and Burden of Proof

As per art. 12 The Councils appoint a pool of nine judges or prosecutors to serve on investigation panels for five-year terms. The Commission recommends that the law more clearly define the membership criteria and the specific election methods for these panels, given their high level of responsibility. The Commission prescribes that the law must explicitly state that the burden of proof rests on the authorities conducting the investigation.

Finally, the Venice Commission puts forward four key recommendations, transcribed below in full:

- 77. As regards the draft law amending the Law on disciplinary liability of judges and prosecutors*
- 1. Disciplinary offences should be categorised according to their gravity and should be linked to potential proportionate sanctions.*
 - 2. The provision concerning temporary suspension of a judge or prosecutor based on "reliable information" should be amended, as this term lacks clarity and foreseeability.*

3. *The draft law should be amended so that authorities other than the KJC and KPC only have the competence to inform the councils about potential disciplinary offences. It is also recommended that the draft law be complemented by provisions containing clear procedural rules concerning the councils' decision-making process at this initial stage of disciplinary proceedings.*
4. *The membership and the method of election of the investigation panels of the councils should be clarified, and it should be explicitly provided that the burden of proof in the context of disciplinary proceedings, including investigations, rests on the authorities that initiate and carry out the relevant proceedings.*

5.6. The Draft Law 2026 against the Venice Commission (VC) Recommendations

Based on a comparative analysis of the Venice Commission (VC) recommendations and the 2026 Draft Law, here is an assessment of where the legislation aligns with international standards and where gaps remain.

5.6.1. Categorization and Gradation of Offences

VC Recommendation (Para 63 C 77.1): Disciplinary offenses should be categorized according to their gravity (minor, serious, grave) and linked to proportionate sanctions to ensure foreseeability.

Draft Law Status: **Fully Matched**. Violations are now unified for judges and prosecutors - and listed by gravity. Art. 7 lists "Minor disciplinary offences", while art. 8 lists "Serious disciplinary offences"

Accordingly, these categories are linked to specific sanctions, specified in art. 9. "Disciplinary Measures".

5.6.2. Salary Reductions

VC Recommendation (Para 64): If retained, salary reductions must be proportionate, limited in time, and clarify workload expectations.

Draft Law Status: **Matched**. Article 9.2.1. limits the reduction to 50% for a period of six months. This provides the "proportionality and time limit" the Commission requested, preventing indefinite or excessive financial hardship. Workload expectations are clarified, as the judge or prosecutor shall continue work full-time.

5.6.3. Publication and Anonymization

VC Recommendation (Para 65): Decisions should be anonymized at least until all appeal proceedings are finished.

Draft Law Status: **Fully Matched**. Article 10.2. states that decisions are published on the website "in an anonymized form". Art. 10.3 states that "the identity of a judge or prosecutor shall be published after the completion of all appeal procedures and the entry into force of the disciplinary measure".

5.6.4. Temporary Suspension and "Reliable Information"

VC Recommendation (Para 66 C 77.2): The provision allowing suspension based on "reliable information" lacks clarity and should be amended for better foreseeability.

Draft Law Status: **Matched.**

How it matches: new Art 15 (Suspension of judge and prosecutor during investigative proceedings) states: *"During the investigative proceedings, the Council, ex officio or at the request of the Competent Authority in cases where it has recommended the initiation of disciplinary proceedings, may suspend the judge or prosecutor under investigation until a final decision is rendered by the Council, if such suspension is necessary, taking into account the seriousness of the alleged disciplinary offence and in order to ensure the integrity and effectiveness of the investigation."*

The reference to "reliable information" was completely deleted. Now the ground for suspension is an objective parameter ("the seriousness of alleged disciplinary offence") plus investigative needs (which is reasonable), plus a further criteria of 'necessity' which leaves room for discretionality and it is much better than the 'exceptional cases' parameter which is a rather statistical criterion.

The text is pejorative in this: the previous text provided for a clear 30-day duration limit for the suspension; the 2026 draft doesn't. Yet the defendant may file an appeal within 7 days and the Supreme Court shall decide within 30 days.

5.6.5. Role of Competent Authorities (Initiation vs. Information)

VC Recommendation (Para 68-69 C 77.3): To safeguard judicial independence, authorities other than the KJC/KPC (like Court Presidents) should only have the competence to inform the councils, not to effectively trigger or mandate an investigation.

Draft Law Status: **Partially Matched.**

How it matches: The procedural flow in Articles 11 and 12.1 clarifies that the Councils are the bodies that formally decide to initiate an investigation. The "Competent Authority" acts as a preliminary filter. Art. 11.7 adds that the Competent Authority "assess the complaint, reviews the evidence submitted, and prepares a reasoned recommendation" to the Council.

Yet a gap remains: the VC's ideal model is a "pure information" model where the Council has absolute autonomy from the very first step. Yet art. 12.1 draft 2026 still uses the term *"request for initiation"* from the Competent Authority, which is the same as it was in art. 12.6 draft 2025. Para 68 VC states that *"other authorities should be limited to only informing the council about a judges' potential disciplinary liability"*, and para 69 *"recommends the amendment of Article 12 § C so that authorities other than the KJC and KPC have the competence to only inform the councils about potential disciplinary offences"*.

The provision of art. 12.1 (2026) should be therefore amended as to make it consistent not only with VC 69 and 77.3, but also with the provision of art. 11.7 (2026).

5.6.6. Clear procedural rules concerning the initial stage

VC Recommendation (Para 69 C 77.3): recommends that the draft law be complemented by provisions containing clear procedural rules concerning the councils' decision-making

process at this initial stage of disciplinary proceedings.

Draft Law Status: **Only partially Matched**. Art. 10.1 provides that any notice shall be immediately recorded on the "Register of disciplinary measures and publication. Strict timelines (Article 11.10) are provided to prevent the "procedural limbo" the VC was concerned about: the draft sets a mandatory 30-day deadline for the initial review. However, it is not clear if after the Council evaluates the Competent Authority recommendation and decides there is ground for a procedure, it immediately establishes the investigative panel (art.14.2, 14.4).

See also the following point, in the case where the Competent Authority fails to report a disciplinary case to the Council.

5.6.7. Lack of a Review Mechanism

VC Recommendation (Para 70): Complainants must have a mechanism to review or appeal a dismissal by the Competent Authority at this initial stage to ensure accountability and prevent arbitrary shielding of magistrate.

Draft Law Status: **Partially matched**. While the role of the Competent Authority is now diminished, as it has now only the power of information, not initiation. Inaction in reporting to the KJC is penalized (art. 11.9), yet the draft law does not explicitly state that a citizen has the right to file a formal complaint to the Council against the Indeed, Article 11(8) of the draft Law, provides that: "The person who filed the complaint has the right to submit any remarks regarding the recommendation of the Competent Authority directly to the Council" yet presenting remarks is not the same as filing a complaint. omission of the Competent Authority in referring the matter to the KJC.

While the Council can initiate *ex officio* a disciplinary procedure against the omissive Competent Authority, it rests unclear if it can initiate *ex officio* the disciplinary proceeding against a fellow judge/prosecutor if a report from the Competent Authority is missing. There is still some room for a Competent Authority to act as a bottleneck.

5.6.8. Investigative Panels and Burden of Proof

VC Recommendation (Para 71 C 77.4):

- a) Clarify membership and election methods for panels, and
- b) explicitly state that the burden of proof rests on the investigating authorities.

Draft Law Status: on a) **Only partially Matched**.

How it matches (Membership): Art. 14.5 clarifies membership requirements by stating that "*Members of investigative panels may only be judges or prosecutors who have a performance evaluation of at least "good" and who have no disciplinary measure imposed*". Article 14.1 and 14.3 provides some selection criteria for the Investigative Panels as it establishes a pool of 9 members with a 5 years mandate, of whom 3 shall be from the three different levels of courts, upon nomination by the presidents of the respective courts or by the prosecutors. This is a pace forward in respect to art. 12.5 (2025)⁹, yet it doesn't seem to fully match the VC requirements.. Indeed, art. 14.5 states that for each disciplinary case the Council shall establish a panel of three

⁹ "The procedure for selecting and appointing judges and prosecutors to serve in the Investigation Panel shall be determined by the respective Councils."

prosecutors appointed in rotation, and shall appoint the chairperson of the panel. Although a rotation mechanism is foreseen, the panel is established on an ad hoc basis and the chairperson is as well appointed ad hoc. This is contrary to the principle of the natural judge. Criteria and automatisms should be set BEFORE any case arise.

Draft Law Status: on b) **Fully Matched**.

Article 14.8 (2026) explicitly states that: *“The burden of proof for establishing a disciplinary offence shall lie with the investigative panel conducting the disciplinary investigation”*.

5.6.9. Summary of Alignment

VC Para	Venice Commission Recommendation	Draft Law 2026	Draft Law Status
63 & 77.1	Categorize offenses by gravity (minor, serious, grave) and link to specific sanctions.	Articles 7, 8, and 9	Fully Matched
64	Salary reductions must be proportionate, time-limited, and clarify workload expectations.	Article 9.2.1	Matched
65	Decisions must be anonymized until all appeal proceedings are finished.	Article 10.2 & 10.3	Fully Matched
66 & 77.2	Amend the vague "reliable information" standard for temporary suspension.	Article 15	Matched
68-69 & 77.3	Competent authorities should only "inform" the Council; the Council should have sole initiation power.	Articles 11 & 12	Partially Matched
69 & 77.3	Complement the law with clear procedural rules for the initial decision-making stage.	Articles 10.1& 11.10	Only Partially Matched
70	Establish a review mechanism for when a complaint is dismissed at the initial stage.	-	Neither addressed nor matched
71 & 77.4	Clarify membership and election methods for Investigative Panels.	Articles 14.1, 14.3, 14.5	Only Partially Matched
71 & 77.4	Explicitly state that the burden of proof rests on the investigating authorities.	Article 14.8	Fully Matched

5.7. Final remarks and recommendations

Overall, the 2026 Draft Law is a highly responsive document that integrates almost all of the technical "fine-tuning" requested by the Commission. Of the nine main recommendations, eight have been addressed. Of these, three were “fully matched”, which means the law completely answers the concerns expressed by the VC. In all the other cases, the legislative solution envisaged appears partially unsatisfactory, and may leave room for other remarks.

It is out of the scope of this mission to make a full review of the draft legislation 2026.

However, in the case of investigative panels ([6.6.8](#)), the expert would like to draw the attention on the fact that, for each disciplinary case, each Council shall establish an investigative panel composed of three members of the Investigative panel to conduct the investigation and shall appoint the chairperson of the panel (art. 14.2, 14.4 (2025)). Quite the same provision was contained in Art. 12.2. and 12.4 (2025). It is puzzling that the Venice Commission hasn't noticed that this *ad hoc* nomination after the emergence of the case is an infringement of the principle of natural judge. It is also puzzling that art. 14.4 (2026) improves in respect of 12.4 (2025) by providing that the three prosecutors of the panel are “appointed in rotation to conduct the investigation”, while art. 14.2 (2026) stays the same as 12.2 (2025). In short, the new draft

provides for the principle of rotation for the investigative panel of the prosecutors, but not of the judges.

The experts recommend that these grave inconsistencies be addressed and corrected.

Regarding the issue of [Publication and Anonymization](#) of Disciplinary decisions, the expert wishes to recommend, rather than focusing on names, to publish timely and detailed statistical reports about the disciplinary phenomenon, so to show accountability to the public. The report should include data and caselaw to be used as precedents.

While autonomous from each other, KJC and KPC should also develop some common procedure, to show consistency in their decisions.

The issue of disciplinary liability of Judges and Prosecutor should be further discussed and studied.

6. Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors (Katrien Witteman)

6.1. Introduction

By letter of 3 December 2024, the Minister of Justice of Kosovo, Ms Albulena Haxhiu, requested, among others, an opinion of the Venice Commission on the legislative package related to the justice reform in Kosovo, including the draft law on recruitment, performance evaluation, integrity control, and status of judges and prosecutors ([CDL-REF\(2025\)006](#)), hereinafter: the first draft law.

At its 142nd Plenary Session on 14-15 March 2025, the Venice Commission adopted its Opinion No. 1220/2024 (hereinafter: the VC Opinion) regarding the first draft law.

By request submitted on 4 February 2026, the Kosovo Ministry of Justice applied for TAIEX (Technical Assistance and Information Exchange) to provide technical expertise for the incorporation of the Venice Commission's recommendations (issued in March and October 2025) into the following five key legislative initiatives: The Law on the Judicial Council, the Law on the Prosecutorial Council, the Law on the Academy of Justice and the Law on Recruitment, Performance Evaluation, Integrity Control, and Status of Judges and Prosecutors and on the draft law amending the Law on the Disciplinary Liability of Judges and Prosecutors, specifically focusing on translating these complex recommendations into concrete legal provisions.

On Friday 3 April 2026, the TAIEX expert received the amended draft law (hereinafter: the second draft law) for assessment.

6.2. Methodology

The TAIEX expert compared the first draft law with the second draft law and evaluated whether the latter incorporates the Opinion and recommendations of the Venice Commission, while departing from the structure used in the Commission's Opinion.

6.3. Findings

The Venice Commission formulated the following recommendations, which will be assessed by the TAIEX expert under the headings to which they relate:

1. The authorities should consider introducing in the draft law the right to an effective judicial remedy against council decisions concerning recruitment and appointment.
2. The terms "continuous failure" and "continuous tasks" should be clarified.

3. The possibility of dismissals (under draft Articles 24 and 35) in case of two consecutive “poor” performance evaluations should be removed. In case the authorities retain this possibility, it is recommended that the draft law specify that as a result of these two consecutive evaluations, it is inevitably concluded that the assessed judge or prosecutor is incapable or unwilling to perform their functions to an objectively assessed minimum acceptable standard.
4. Providing also for a judicial remedy for the event of dispute arising from the result of a performance evaluation should be considered.
5. The procedures of integrity controls should be limited to the review of asset declarations, and should be clearly defined, as the consequences of these controls and the legal rights and obligations of the judges and prosecutors subject to these control procedures.

Introducing effective judicial remedies against decisions concerning integrity controls of judges and prosecutors should be considered.

6. The grounds for compulsory transfer should be clarified. The right to appeal against compulsory transfer decisions and more detailed indications of the criteria to be taken into account when such a decision is adopted should be explicitly mentioned in the Law.

CHAPTER I – GENERAL PROVISIONS

In Paragraph 15 of the VC Opinion, it is recommended that “the principle of institutional, and not solely functional, independence of judges and prosecutors be expressly incorporated in the draft law, in line with European standards and the Constitution of Kosovo.”

Article 4(3) of the first draft law read as follows:

3. The judge and prosecutor shall exercise their functions in accordance with the Constitution, the Law and ethical rules, based on the principles of independence, impartiality, integrity, suitability, equality and professionalism.

Article 13(1) of the first draft law read as follows:

1. The judges and prosecutors shall act independently, impartially and objectively in accordance with the applicable law and the rules.

Article 4(3) of the second draft law reads as follows:

3. The judge and prosecutor shall exercise their functions in accordance with the Constitution, the Law and ethical rules, based on the principles of functional and institutional independence, impartiality, integrity, suitability, equality and professionalism.

Article 13(1) remained unchanged.

The expert finds that, through the amendment of Article 4(3), the recommendation of the Venice Commission is sufficiently implemented.

CHAPTER II – RECRUITMENT, APPOINTMENT AND REAPPOINTMENT OF JUDGES AND PROSECUTORS

APPOINTMENT AND RECRUITMENT OF JUDGES AND PROSECUTORS

In Paragraph 17 of its Opinion, the Venice Commission observes that the criteria of recruitment in Article 6(5) of the first draft law differ from the ones contained in draft Article 5 § 1 concerning appointment, and recommends that “in order to ensure that the judges and prosecutors’ recruitment criteria are consistent with appointment criteria, the draft law clarify that applicants for recruitment should be qualified in accordance with the appointment criteria in order to apply for a position as judge or prosecutor, excluding the relevant examination, which may be part of the recruitment process rather than a condition of being recruited,” adding that: “elaboration on the role of the judges and prosecutors’ examinations should also be included in these draft provisions.”

Article 5(1) of the first draft law read as follows:

1. *The general conditions for the appointment of a candidate to the position of judge or prosecutor shall be as follows:*
 - 1.1. *be a citizen of the Republic of Kosovo;*
 - 1.2. *have a valid degree from the Faculty of Law in the Republic of Kosovo;*
 - 1.3. *have passed the Bar Examination, valid in the Republic of Kosovo;*
 - 1.4. *have integrity;*
 - 1.5. *have no indictment filed against him/her or have not been convicted of a criminal offence, except for offences committed through negligence;*
 - 1.6. *have at least three (3) years of professional work experience in the legal area, and*
 - 1.7. *have passed the judge exam for the position of the judge, and the prosecutor have passed the exam for the position of the prosecutor.*

Article 6(5) of the first draft law read as follows:

5. *In the case of recruiting a candidate, the relevant Committee shall, among other criteria, consider the following for the candidate:*
 - 5.1. *professional knowledge, work experience and performance, including the understanding and respect for human rights;*
 - 5.2. *capacity for legal reasoning demonstrated through professional activities;*
 - 5.3. *professional ability based on past career results, including participation in organized forms of training where performance has been evaluated;*
 - 5.2. *capacity for legal reasoning demonstrated through professional activities;*
 - 5.3. *professional ability based on past career results, including participation in organized forms of training where performance has been evaluated;*
 - 5.4. *communication skills.*

Article 5(1) of the second draft law reads as follows:

1. The general conditions for the appointment of a candidate to the position of judge or prosecutor shall be as follows:
 - 1.1. be a citizen of the Republic of Kosovo;
 - 1.2. have a valid degree from the Faculty of Law in the Republic of Kosovo;
 - 1.3. have passed the Bar Examination, valid in the Republic of Kosovo;
 - 1.4. have no indictment filed against him/her
 - 1.5. have not been convicted of a criminal offence, except for offences committed through negligence;
 - 1.6. have integrity, and
 - 1.7. have at least three (3) years of professional work experience in the legal field

Article 6(5) of the second draft law reads as follows:

5. The Recruitment Commission shall review all applications received from candidates. Only candidates who meet the conditions for appointment, pursuant to Article 5 of this Law, shall be entitled to take the examination for judge or prosecutor, respectively.

Furthermore, a new Paragraph 7 was added to Article 6, that reads:

7. The examination referred to in paragraph 5 of this Article shall be organized in three (3) parts:
 - 7.1. the first part includes the written qualifying test;
 - 7.2. the second part includes the written task test, and
 - 7.3. the third part includes the oral interview.

The TAIEX expert notes that Article 5(1) of the second draft law no longer contains the condition for the appointment of a candidate to have passed the judge exam for the position of the judge,

and the prosecutor have passed the exam for the position of the prosecutor mentioned under 1.7 of the first draft law, and that Article 6(5) cross-refers to Article 5.

The TAIEX expert is satisfied by the solution found by the authorities to implement the recommendations of the Venice Commission.

EFFECTIVE REMEDIES CONCERNING APPOINTMENT AND RECRUITMENT OF JUDGES AND PROSECUTORS

VC recommendation No. 1.

The authorities should consider introducing in the draft law the right to an effective judicial remedy against council decisions concerning recruitment and appointment.

In Paragraph 19 of its Opinion, the Venice Commission recommends that the authorities consider introducing in the draft law the right to an effective judicial remedy against council decisions on recruitment and appointment.

Article 6(6) of the first draft law read:

C. During the recruitment process, the right to appeal to the relevant Council against decisions of the Recruitment Committee shall be guaranteed.

In Article 8 of the first draft law, no appeal against the Recruitment Committee's decisions was foreseen.

Article 6(9) of the second draft law reads:

9. The right to appeal to the Appeals Review Commission against the decision to refuse the right to take the examination and the results at any stage of the examination is allowed.

Article 8(1 and 2) of the second draft law reads:

1. After developing the recruitment procedures, the respective Council shall send to the President the proposed candidates for appointment as judges or prosecutors with an initial term of three (3) years.
2. The proposal from paragraph 1 of this Article shall include a written report on the candidate.

In Article 8 of the second draft law, new Paragraphs 3 and 4 were included, that read:

3. If the decision on the proposal by the relevant Council does not include the candidate recommended by the Recruitment Commission, the excluded candidate may file an appeal with the Supreme Court within eight (8) days from the receipt of the decision of the Council.
4. The Supreme Court shall decide on the appeal within thirty (30) days.

The TAIEX expert observes that Article 6(9) of the second draft law specifies the name of the commission within the respective Councils tasked with the review of the appeals regarding the recruitment phase: the Appeals Review Commission. The recommendation of the Venice Commission to consider introducing in the law the right to an effective judicial remedy (i.e. an appeal with a judicial body other than the respective Councils' commission) against decisions of recruitment and appointment, was not followed.

Whereas it is understandable that the authorities decided not to provide for the possibility of appeal against *all* decisions of the recruitment committee, in the current wording of Articles 6 and 8 the decision of the recruitment committee not to recommend a candidate for appointment is not appealable. This can be solved by amending Article 8(3) of the second draft law as suggested below.

The TAIEX expert further observes that the meaning of Article 8(3) is unclear. Clarification is needed as to what decision is meant in this Paragraph. It is presumed that the subject of appeal is the respective Council's decision establishing the list of candidates to be sent to the President. However, Article 8(1) does not mention a decision, but just states that the respective Council "shall send".

Article 8(3) grants the right to appeal only to candidates who were recommended by the recruitment commission but were not included in the list of candidates to be sent by the respective Councils to the President. To solve the aforementioned lacuna in Article 6(9) of the second draft law, "recommended by the Recruitment Commission" can be removed from the text of Article 8(3), opening the possibility of appeal of *any* candidate who was not included in the list.

The TAIEX expert recommends to:

- Specify which decision can be appealed
- Delete the words 'recommended by the Recruitment Committee'

NB1: Article 8(1) of the second draft law in its English version reads: "After developing the recruitment procedures .." The TAIEX expert suggests "After completion of etc."

NB2: In the English version, both "Recruitment Committee" and "Recruitment Commission" are used.

INITIAL TRAINING FOLLOWING APPOINTMENT FOR THE INITIAL THREE-YEAS TERM

In Paragraph 20 of the VC Opinion, it is stated that "[w]hile the provisions requiring training within the first three-year term are welcome, it is recommended that more detailed provisions relating to the nature of the training (set out in draft Articles 9 and 15) should be set out instead in the (draft) Laws governing training and the Academy of Justice.

Articles 9 and 15 of the first draft law remained unchanged in the second draft law (in which Article 15 became 14).

The TAIEX expert observes that the recommendation of the Venice Commission to "instead" set out more detailed provisions related to the training in the respective laws on training and the Justice Academy seems not to be implemented. However, it is not deemed necessary to (further) reduce the text of these Articles in the second draft law.

In Paragraph 20 of its Opinion, the Venice Commission raises the issue of the pre- or post-appointment training, expressing their preference for a pre-appointment training. In Paragraph 21 of the VC Opinion, it is noted that the initial 3-years term for judges is laid down in the Kosovo Constitution. To abolish this probation period, as advocated by the Venice Commission, requires a constitutional reform. The Venice Commission stresses that "[p]ending constitutional reform, the three years should strictly be training and not probation."

In Paragraph 22 of the VC Opinion, it is recommended that Article 11 and 32 of the first draft law be reviewed in order to be harmonised and clarify whether "positive" means all evaluations other than the lowest one ('poor').

Article 11(1) of the first draft read:

1. *A judge and prosecutor with an initial term who receives a positive performance evaluation shall be proposed by the relevant Council for appointment with a permanent term by the President.*

Article 32(1) of the first draft law read:

1. *In addition to the general conditions stipulated by this Law, a judge, for the purpose of promotion to the following departments and Courts, must have a permanent term as a judge, at least a positive performance evaluation, and work experience as a judge as follows:
(...)*

Article 11(1) of the second draft reads:

1. After the end of the initial mandate, the judge and prosecutor shall be proposed by the relevant Council for appointment with a permanent mandate by the President.

Article 32(1) of the second draft reads:

1. In addition to the general conditions stipulated by this Law, a Judge, for the purpose of promotion to the following departments and Courts, must have a permanent term as a judge, at least a “good” level of performance evaluation, and possess the following minimum work experience as a judge

The TAIEX expert notes that the recommendation that the initial three years should strictly be training has led the authorities to remove the reference to the ‘positive performance evaluation’ from Article 11 of the second draft law. The recommendations set out in Paragraphs 20 and 22 of the VC Opinion do in fact appear to be contradictory in that, on the one hand, the Venice Commission seems not to accept that a proposal for appointment after the initial 3-years term depends on a positive performance evaluation, and on the other hand requires the law to clarify the meaning of ‘positive’.

From Paragraph 34 of the Opinion (see below), it becomes clear that the Venice Commission does allow a performance evaluation for the judges in their initial 3-years term but recommends that the consequences of a poor performance evaluation of judges and prosecutors with an initial mandate are similar to those concerning permanent judges and prosecutors.

The TAIEX expert therefore recommends re-inserting in Article 11(1) the words: “who receives a positive performance evaluation”, defining it however as: “at least a “good” level of performance evaluation.”

CHAPTER III - EXERCISE OF THE FUNCTION OF THE JUDGE AND PROSECUTOR

Paragraph 24 of the VC Opinion relates to Article 14(3) of the first draft and contains the recommendation that the draft law specify whether the duties (“measures”) listed in the draft law are to be expanded on or added to the Codes of Professional Ethics.

Article 14 of the first draft law read:

1. *The judges and prosecutors shall take all measures to protect and strengthen the dignity and standards of their function, the reputation of the judicial authorities, public trust in the judicial and prosecutorial system and the status of the judge and prosecutor’s function.*
2. *The judges and prosecutors shall take all reasonable measures to preserve the dignity of their function, including activities performed even when the judges and prosecutors are not exercising official duties.*
3. *The KJC shall adopt the Code of Professional Ethics for Judges, and the KPC shall adopt the Code of Professional Ethics for Prosecutors.*

Article 14 of the first draft found its place in the second draft as Article 19. Its 3rd Paragraph reads:

3. To implement obligations set out in this Article and the provisions of this Law the KJC shall adopt the Code of Professional Ethics for Judges and the KPC shall adopt the Code of Professional Ethics for Prosecutors.

The TAIEX expert notes that the authorities have chosen to expand the duties/measures of Paragraph 1 to the Codes of Ethics to be adopted by the respective Councils. They have thus fulfilled the recommendation of the Venice Commission.

CHAPTER IV – PERFORMANCE EVALUATION OF JUDGES AND PROSECUTORS

Bodies competent for evaluation

In Paragraph 27 of its Opinion, the Venice Commission finds that the first draft law lacks clarity regarding the bodies competent for evaluating the performance, and recommends that draft Chapter IV be revised in order to expressly name the competent bodies involved in the evaluation procedures, cross-referencing to relevant legislation.

Article 22 of the first draft reads:

1. The Regular performance evaluation of the judges and prosecutors with permanent terms shall be conducted every three (3) years.

Article 25(1) of the first draft reads:

1. The regular performance evaluation of Court Presidents and Chief Prosecutors shall be conducted two (2) years after their appointment to this position, and before the end of their term.

Article 22(1) of the second draft law stipulates:

1. The Regular performance evaluation of the judges and prosecutors with permanent terms shall be conducted every three (3) years, by the performance evaluation committees within the framework of the relevant councils, as determined by the laws in force.

Article 25(1 and 2) of the second draft law read:

1. Regular performance evaluation of the Presidents of Courts shall be conducted two (2) years after their appointment to this position, and before the end of their mandate, by the KJC Commission as determined by the law in force on the KJC.
2. Regular performance evaluation of the Chief Prosecutors shall be conducted two (2) years after their appointment to this position, and before the end of their mandate, by the Chief State Prosecutor in accordance with the law in force on the KPC (in the English version wrongly written as KJC).

The TAIEX expert is satisfied by the way the competent bodies for the evaluation were named in Articles 22 and 25 of the second draft law.

However, a simple reference to “the laws in force’ (Art. 22) and “law in force on the KJC/KPC” (Art. 25) is rather vague, and the TAIEX expert recommends calling the laws and articles involved by their name and number.

Frequency of evaluation

In Paragraph 28 of the VC Opinion, the Venice Commission concludes that the evaluations’ frequency provided for in draft Article 22 may be considered appropriate and in line with the Council of Europe standards.

The frequency (every 3 years) mentioned in Article 22(1) of the first draft law was not changed in the second draft law.

Criteria of performance evaluation

In Paragraph 30 of the VC Opinion, the Venice Commission underlines that evaluation procedures must be based on criteria that are clear and foreseeable. The Venice Commission further notes that qualitative criteria including “ethics and general behaviour” (Article 22 § 4.2). are usually deemed inappropriate due to their lack of clarity and foreseeability. Among the quantitative criteria “the implementation of case norms” (Article 22 § 5), is not immediately apparent, especially given its supposed quantitative nature. The authorities are thus invited to revise these two provisions in order to provide them with clarity and foreseeability. In Paragraph 31 of the VC Opinion, the Commission recommends that the quantitative criterion of “confirmed decisions” (Article 22 § 5) be applied with caution. It is further recommended that the draft law be reviewed in order to provide that the quantitative criteria take into account circumstances surrounding the judges’ and prosecutors’ work during the evaluation period, such as staffing situation, influx of cases, and the complexity of the cases dealt with the reference period.

Article 22(4 and 5) of the first draft law read as follows:

4. *The qualitative criteria for the performance evaluation of the judges and prosecutors shall be:*
 - 4.1. *Professional competency, including knowledge of applicable legislation, the ability to conduct judicial or investigative procedures, capacity for legal analysis and reasoning, as well as the ability to write clearly and justify decisions or legal submissions, and*
 - 4.2. *Personal competencies, including the ability to administer the legal, respectively investigative processes, communication skills, ethics and general behaviour of the judge or prosecutor, as well as the utilization of information technology tools in his/her work.*
5. *The quantitative criteria for evaluating the performance of the judges and prosecutors shall be the implementation of case norms and the number of confirmed decisions.*

The amended Article 22(4 and 5) in the second draft law reads:

4. The qualitative criteria for the performance evaluation of the judges and prosecutors shall be:
 - 4.1. professional competence that includes knowledge of applicable legislation, the ability to conduct judicial or investigative procedures, the capacity for legal analysis and reasoning that takes into account the evaluation of decisions made during the appeal procedure and the evaluation of indictments by the court, as well as the ability to clearly write and justify decisions or legal submissions, and
 - 4.2. personal competence that includes the ability to administer the judicial process, respectively the investigation, the communication skills, as well as the use of information technology tools in his work. Here is deleted: ethics and general behaviour of the judge or prosecutor.
5. The quantitative criteria for evaluating a judge's performance shall be:
 - 5.1. application of the case rate, which includes measuring the efficiency of the judge, namely the number of cases resolved or processed compared to the standard set by the Relevant Council, and
 - 5.2. the number of decisions confirmed, based on the principle that this criterion is valid only when a high, repeated and stable rate of changing or overturning decisions is identified.

A new Paragraph 7 was added to Article 22 in the second draft law:

7. Quantitative criteria shall take into account the circumstances related to the work of the judge and prosecutor during the evaluation period, which include the situation of the support staff, the workload and the complexity of the cases handled during the performance evaluation reference period.

The TAIEX expert notes that in Article 22(4.2) of the second draft law, the words “ethics and the general behaviour of the judge or prosecutor” have been removed, and that Paragraph 5.2 and 7 of Article 22 are amended to meet the demands of the VC’s recommendation. The TAIEX expert finds that the recommendations of the Venice Commission have been implemented.

Extraordinary performance evaluation

VC recommendation No. 2.

The terms “continuous failure” and “continuous tasks” should be clarified.

In Paragraph 32 of the VC opinion, the Venice Commission notes that given the provision of the three-year period for regular evaluation, and that a “poor” mark automatically leads to another performance evaluation one year after the completion of mandatory training at the Academy of Justice (Article 24 §§ 2-3), the purpose of an additional performance evaluation seems unclear.

Article 22(13 to 15) of the first draft law read

13. *The Performance Evaluation Committee may decide for an extraordinary performance evaluation of the judge or prosecutor in the event of a continuous failure to complete the continuous tasks of a judge or prosecutor, respectively.*

14. *The request for an extraordinary performance evaluation from paragraph 13 of this Article shall be made by the Court President, respectively the Chief Prosecutor, and should be justified.*

15. *The extraordinary evaluation may be done if it has been at least one (1) year since the last performance evaluation.*

In Article 22 of the second draft law, Paragraphs 13-15, governing the extraordinary performance evaluation, are deleted.

The TAIEX expert finds that the removal of the relevant paragraphs complies with the recommendation of the Venice Commission.

Poor performance evaluation and dismissal

In Paragraph 34 of its opinion, the Venice Commission reiterates that a refusal to confirm a non-permanent judge (*mutatis mutandis* a prosecutor) should be made according to objective criteria and with the same procedural safeguards as they apply where a permanent judge is to be removed from office, and recommends that draft Article 24 § 7 be reviewed so that the consequences of “poor” performance evaluation of judges and prosecutors with an initial mandate are similar to those concerning permanent judges and prosecutors, in particular, providing also judges and prosecutors with an initial mandate the possibility to be trained at the Academy of Justice and a subsequent assessment.

Article 24(7) of the first draft law states that

7. *A judge or prosecutor on initial term evaluated as “poor” shall not be proposed for a permanent term.*

In the second draft law, this Paragraph is no longer included.

The TAIEX expert notes that the recommendation of the Venice Commission has been considered. However, the TAIEX expert recommends specifying in the law that for the refusal to confirm a judge or prosecutor in their first 3-years term the same criteria and procedural safeguards apply as for the removal from office of a permanent judge.

VC recommendation No. 3.

The possibility of dismissals (under draft Articles 24 and 35) in case of two consecutive “poor” performance evaluations should be removed. In case the authorities retain this possibility, it is recommended that the draft law specify that as a result of these two consecutive evaluations, it is inevitably concluded that the assessed judge or prosecutor is incapable or unwilling to perform their functions to an objectively assessed minimum acceptable standard.

In Paragraph 35 and 36 of the VC Opinion, the Venice Commission recalls that dismissals may occur only where the inevitable conclusion of the evaluation process is that the judge (*mutatis mutandis*, the prosecutor) is incapable or unwilling to perform his/her functions to an objectively assessed minimum acceptable standard, and questions whether the wording of Article 24(4) and Article 35(2) meet this threshold.

Article 24(4) of the first draft law stated:

4. The failure to attend mandatory training or being evaluated as “poor” for the second consecutive time shall be considered a serious violation of duties and shall constitute grounds for dismissal from the position of a judge or prosecutor.

Article 35(2) of the first draft law read:

1. A judge and prosecutor may be dismissed from office due to conviction for a serious criminal offence or in cases where a judge or prosecutor have been evaluated as having a poor performance twice (2), or it has been proven that he/ she has unjustified assets, or has committed serious disciplinary violations, as defined by Law.

Article 24(4) of the second draft law states:

4. A “poor” rating for the second consecutive time shall be considered serious disregard for duties and shall be a ground for dismissal from the position of judge or prosecutor, where as a result of the last two ratings, it is inevitably concluded that the evaluated judge or prosecutor is unable or unwilling to exercise his or her functions at the minimum acceptable level, which is objectively assessed.

Article 35(1) of the second draft law reads:

1. A judge and prosecutor may be dismissed from office in case where a judge or prosecutor:
 - 1.1. has been assessed two (2) consecutive times with poor performance as defined in Article 24, paragraph 4 of this law;
 - 1.2. has been convicted of a serious criminal offence;
 - 1.3. it has been proven that the judge / prosecutor possesses unjustified assets or
 - 1.4. has committed serious disciplinary offences, as defined by the relevant law on disciplinary liability.

The TAIEX expert notes that in Article 24(4) was deleted “a failure to attend the mandatory training”, and that the remaining ground in this Paragraph, the two consecutive poor ratings, is limited to cases where as a result of these ratings, it is inevitably concluded that the evaluated judge or prosecutor is unable or unwilling to exercise his or her functions at the minimum acceptable level. The TAIEX finds that it is unclear what “which is objectively assessed” is referring to. For clearness sake, the TAIEX expert recommends following instead the wording of the Venice Commission: “(...) to an objectively assessed minimum acceptable standard”.

Article 35(1.1) cross-refers to Article 24(4).

The TAIEX expert finds that, whereas the addition to Article 24(4) complies with the recommendation of the Venice Commission, Article 35(1.1) is unclear. The reference to Article 24(4) as such is correct, but reference should be made not to the 2 consecutive poor performances, but to these performances resulting in etc.,

The TAIEX expert therefore recommends that the text of Article 24(4) be copied-pasted in Article 35(1.1), for instance as follows:

“has been assessed 2 consecutive times with poor performance inevitably resulting in the conclusion that the evaluated judge or prosecutor is unable or unwilling to exercise his or her functions to an objectively assessed minimum acceptable level.”

In Paragraph 37 and 38 of its Opinion, the Venice Commission refers to concerns about possible incompatibility of the grounds for dismissal with the Kosovo Constitution, adding that it is beyond its competence to assess the constitutionality of the provisions of the draft law, and of the alignment with Article 8 of the draft consolidated Law on disciplinary liability of judges and prosecutors.

The TAIEX expert draws the authorities' attention to these two points.

Effective remedies

VC Recommendation No. 4.

Providing also for a judicial remedy for the event of dispute arising from the result of a performance evaluation should be considered.

In Paragraph 39 of its Opinion, the Venice Commission recommends that the performance evaluation and appeal should not remain within a single institution and that the authorities consider the possibility of providing also for a judicial remedy for the event of dispute arising from the result of a performance evaluation.

Whereas the first draft law did not contain such provision, in the second draft law is inserted a new Article 26, that reads as follows:

Appeal against the performance appraisal decision

1. A judge or prosecutor who is dissatisfied with the decision of the relevant Performance Evaluation Committee may file an appeal with the Supreme Court, after having exhausted the possibility of appeal with the relevant Council as determined by this Law.
2. The appeal referred to in paragraph 1 of this Article shall be filed within fifteen (15) days from the date of receipt of the Council's decision, while the Supreme Court shall decide on the appeal within thirty (30) days.
3. Accordingly, the right to appeal for performance evaluation under this Article shall also belong to the Presidents of Courts and Chief Prosecutors whose performance is evaluated pursuant to Article 25 of this Law.

In line with this addition, Article 22(10) of the first draft law, stating that the decision of the respective Council shall, according to the appeal, be final, was deleted.

Paragraph 9 of Article 22 became Paragraph 10 in the second draft law, but its text remained unchanged:

10. The evaluated judge and prosecutor shall be entitled to access the evaluation documentation and appeal against the performance evaluation to the respective Council.

The TAIEX expert is satisfied that the possibility of appealing the performance evaluation has been included in the law, with time limits for the appellant to lodge his or her appeal, and for the Supreme Court to decide on it.

The TAIEX expert however recommends clarifying in Paragraph 1 whether it is the decision of the Performance Evaluation Committee that can be appealed, or the decision of the Appeals Review Commission of the respective Councils on the appeal against the decision of the Performance Evaluation Committee. The addition "after having exhausted the possibility of appeal with the relevant Council as determined by this Law" suggests the latter.

The TAIEX expert notes that Article 22(10) of the second draft law does not provide for a time frame and recommends introducing a deadline for the Appeals Review Commission to decide on appeals against decisions of the Performance Evaluation Commission, as well as including in the text that a failure to take such a decision shall be deemed a negative decision.

CHAPTER V – INTEGRITY CONTROL OF JUDGES AND PROSECUTORS

In Paragraph 42 of its Opinion, the Venice Commission recommends that for clarity, foreseeability and coherence, the Law should provide a definition of “integrity” or at least refer to a relevant legal act where such a definition is to be found.

The TAIEX expert notes that no definition of ‘integrity’ is included in the second draft law. The recommendation of the Venice Commission is thus not followed. The TAIEX expert recommends including a definition of judicial integrity, in accordance with the Bangalore Principles of Judicial Conduct or Opinion No 3 (2002) of the Consultative Council of European Judges (CCJE).

a) Assets control

In Paragraph 43 of the VC Opinion, the Venice Commission noted that the criteria for dismissal remain ambiguous, as the provision does not establish a clear obligation for dismissal if it has been proven that the judge or prosecutor has unjustified assets, and recommended that this provision be amended and clarified accordingly.

Article 35(1) of the first draft law stated:

1. A judge and prosecutor may be dismissed from office due to conviction for a serious criminal offence or in cases where a judge or prosecutor have been evaluated as having a poor performance twice (2), or it has been proven that he/ she has unjustified assets, or has committed serious disciplinary violations, as defined by Law.

Article 35(1) of the second draft law reads:

1. A judge and prosecutor may be dismissed from office in case where a judge or prosecutor:

- 1.1. has been assessed two (2) consecutive times with poor performance as defined in Article 24, paragraph 4 of this law (Paragraph 36 and 58 O);
- 1.2. has been convicted of a serious criminal offence;
- 1.3. it has been proven that the judge / prosecutor possesses unjustified assets or
- 1.4. has committed serious disciplinary offences, as defined by the relevant law on disciplinary liability.

The TAIEX expert notes that clear definitions of “a serious criminal offence” and “unjustified assets” are missing. The TAIEX expert recommends including clear definitions of “a serious criminal offence” in the law, and reminds that the authorities in Article 5(1.5) of the second draft law require that candidate for judicial or prosecutorial office have not been convicted of a criminal offence, except for offences committed through negligence. The TAIEX expert suggests using the same definition.

Regarding Paragraph 1.3, it is unclear to the TAIEX expert how this Paragraph relates to Article 28(6) (was 27) of the second draft law, that stipulates:

6. As a result of a conviction for a criminal offence related to the declaration of assets, or a court decision on the confiscation of unjustified assets of the judge or prosecutor, the judge or prosecutor shall be dismissed from office.

The TAIEX expert therefore recommends adding Article 28(6) to Article 35, replacing its Paragraph 1.3, as follows:

1. A judge and prosecutor may be dismissed from office in case where a judge or prosecutor:

(...)

1.3. has been convicted for a criminal offence related to the declaration of assets, or subject to a court decision [or: “order”] on the confiscation of unjustified assets

(...)

The wording “may be dismissed” suggests a mere possibility, whereas the Venice Commission recommends establishing a clear obligation for dismissal. The TAIEX expert recommends replacing “may be dismissed” by “shall be dismissed”.

b) Authorities competent to exercise the integrity control

In Paragraph 44 of the VC Opinion, the Venice Commission notes that the first draft law lacks clarity concerning the bodies competent for carrying out integrity controls and recommends that for clarity, transparency and coherence, draft Articles 27, 28 and 29 be reviewed in order to expressly define the bodies competent for integrity control as well as the procedures to be followed, cross-referencing to applicable legislation.

Article 27 of the first draft law does not specify a body tasked with the integrity control. Regarding the procedures to be followed, in Paragraphs 1-3 it was stated:

- 1. Integrity control for judges and prosecutors shall include the control of assets and the control of actions or omissions of the judge or prosecutor, if they have been or are in conflict with the duties and responsibilities of the position which the judge or prosecutor exercises according to the applicable legislation, which may be qualified as disciplinary violations.*
- 2. Integrity control from paragraph 1 of this Article shall be applied through the asset verification system and the discipline system.*
- 3. Asset verification of judges and prosecutors shall be done in accordance with the special laws.*

The relevant Paragraphs of Article 28 of the first draft law stated:

- 1. The respective councils shall develop the integrity control procedure for candidate judges and prosecutors during their recruitment.*
- 2. Integrity control from paragraph 1 shall include the control of actions of the past, including checking whether the candidate has been convicted for a criminal offence, received disciplinary measures, asset control, as well as other actions that make the candidate indecent to exercise the function of a judge or prosecutor.*
- 3. The integrity control procedure shall be supported by the relevant verification unit within the respective Council and shall be developed only for the candidates who pass the written test and before the interviews are held by the respective recruitment committee.*
- 4. To verify the facts referred to in paragraph 2 of this article, the respective verification unit shall collect data and information from:*
 - 4.1. central criminal records;*
 - 4.2. Registers of the Court, Prosecution Office and Kosovo Police;*
 - 4.3. Bank accounts, tax, customs and other financial intelligence data or information;*
 - 4.4. Property register, including data of contracts from the Notary Chamber;*
 - 4.5. Business register;*
 - 4.6. Registers of declared assets, if the subject has declared assets earlier according to the special law;*
 - 4.7. Previous employers, and*
 - 4.8. Other relevant data about the subject.*
- (...)*
- C. The verification unit shall collect the data or information about the criminal past from other countries or international organizations, if this is considered necessary to vet the candidate's integrity according to the legislation in force.*
- (...)*
- 12. The respective Councils shall issue a bylaw defining the rules and procedure for the integrity control of the candidates for judge and prosecutor respectively.*

The relevant Paragraphs of Article 29 of the first draft law read:

- 1. The respective Councils shall develop the integrity control procedure for judges and prosecutors with an initial mandate, before their initial mandate ends.*
- 2. The integrity control procedure from paragraph 1 of this article shall be supported by the relevant vetting unit within the respective Council.*
- 3. The integrity control for judges and prosecutors with an initial mandate shall include checking past actions from the moment of appointment, including whether the candidate has been convicted of a criminal offense, disciplinary measures have been imposed against them, checking their assets according to a special law, as well as any of the action that makes them unfit to exercise the function of a judge or prosecutor with a permanent mandate.*

4. For the integrity control referred to in this article, the relevant vetting unit shall use the sources of data and information defined in Article 28 of this Law, as well as the rights of the control subject and the obligations for public bodies and private entities defined in that article shall be applied.

(...)

7. The respective Council shall issue a bylaw to define the rules of procedure for the integrity control of judges and prosecutors with an initial mandate.

Article 28(1) (was 27) of the second draft law reads:

1. Integrity control for judges and prosecutors includes regular control of the assets of judges and prosecutors, which is implemented by the Agency for Prevention of Corruption, in accordance with the separate law on declaration of assets.

Article 29 (was 28) of the second draft reads:

1. The respective councils shall develop the integrity control procedure for candidate judges and prosecutors during their recruitment.

2. Integrity control under paragraph 1 shall include the control of past actions, including verifying whether the candidate has been convicted of a criminal offence, subjected to disciplinary measures, undergone asset verification as well as any other inappropriate actions that may undermine the authority of the judicial or prosecutorial system. Amended

The text of Article 29 (was 28) remained unchanged, except for two Paragraphs:

- Paragraph 2, where “was: that make the candidate indecent to exercise the function of a judge or prosecutor was replaced by “that may undermine the authority of the judicial or prosecutorial system”;

- Paragraph 4.8, that instead of “other relevant data” reads:

4.8. Information from civil society that are not part of a formal request from an institution, but which, if accepted, must be verified in terms of credibility.

Article 29 (old) was deleted.

The TAIEX expert finds that Article 28(1) now clarifies which body will perform the integrity control: the Agency for Prevention of Corruption. The expert invites the authorities to complete the reference to the “separate law on declaration of assets” with its full name: “Law on Declaration, Origin and Control of Assets and Gifts.”

The TAIEX expert endorses the deletion of Article 29 of the first draft law, which results in judges and prosecutors in their initial term no longer constituting a separate category and being treated in the same way as permanent judges and prosecutors. The TAIEX expert however recommends making this explicit, for instance by adding in Article 28: “Integrity control for judges and prosecutors, *including judges and prosecutors in their initial term* etc”.

c) *Scope of integrity control of candidates and judges and prosecutors with an initial term*

In Paragraph 45 and 46 of its Opinion, the Venice Commission expresses the view that the open-ended draft provisions concerning control of “actions of the past” and any other actions which make a candidate indecent to be a judge or prosecutor should be modified. Further to the objective elements which may be controlled, such as convictions for a criminal offence and disciplinary sanctions, adding, for example, professional ethics (academic integrity requirements), inappropriate behaviour that would undermine the authority of the judicial/prosecutorial system, etc., might also be considered.

Article 28(2) of the first draft law stated:

2. Integrity control from paragraph 1 shall include the control of actions of the past, including checking whether the candidate has been convicted for a criminal offence, received disciplinary measures, asset control, as well as other actions that make the candidate indecent to exercise the function of a judge or prosecutor.

Article 29(2) (was 28) of the second draft law states:

2. Integrity control under paragraph 1 shall include the control of past actions, including verifying whether the candidate has been convicted of a criminal offence, subjected to disciplinary measures, undergone asset verification, as well as any other inappropriate actions that may undermine the authority of the judicial or prosecutorial system.

The TAIEX expert notes that “any other inappropriate actions that may undermine the authority of the judicial or prosecutorial system” was copied from the recommendation of the Venice Commission and added to the list of matters to be considered in the integrity control. The Venice Commission asked the authorities to consider this and other examples. Strictly speaking, one could say that the new wording complies with the requirement of the Venice Commission.

However, the list of matters to be considered is not logic. It states that Integrity control (...) shall include the control of

- past actions (...), including verifying whether the candidate:
 - has been convicted for a criminal offence
 - subjected to disciplinary actions
 - undergone asset verification
- as well as *any other* inappropriate actions (...)

It is clear that “undergone asset verification” is not an inappropriate action.

The TAIEX expert recommends to follow the suggestion of the Venice commission as follows: Integrity control (...) shall include the control of

- past actions of the candidate, including verifying whether the candidate has been convicted for a criminal offence, has been subjected to disciplinary actions;
- professional ethics of the candidate;
- whether the candidate has undergone asset verification

The TAIEX expert advises revising the text of this Paragraph accordingly.

The TAIEX expert further notes that in Article 5 of the second draft law, the criteria are listed to be met by the candidate for the position of judge or prosecutor and recommends aligning these with the subjects of control listed in Article 29.

In Par 47 of its Opinion, the Venice Commission invites the authorities to revise the draft law so that the procedure of integrity control of judges and prosecutors with an initial term is limited to the review of asset declarations, and is clearly defined, including the consequences of these controls and the legal rights and obligations of the judges and prosecutors subject to these control procedures.

The TAIEX expert refers to the assessment above, where it was noted that Article 29 of the first draft law, governing the integrity check of judges and prosecutors in their initial term, was deleted.

d) Sources of information for integrity control of candidates and judges and prosecutors with an initial term

In Paragraph 48 of its Opinion, the Venice Commission recommends that as regards candidate judges and prosecutors, draft Article 28 § 4.8 be amended (for example, replacing “other relevant data” with “unsolicited information” received from civil society).

Article 28(4) of the first draft read:

4. To verify the facts referred to in paragraph 2 of this article, the respective verification unit shall collect data and information from:

(...)

4.8. Other relevant data about the subject.

Article 29.4 (was 28) of the second draft law reads:

4. To verify the facts referred to in paragraph 2 of this article, the respective verification unit shall collect data and information from:

4.8. Information from civil society that are not part of a formal request from an institution, but which, if accepted, must be verified in terms of credibility.

The TAIEX expert finds that the recommendation of the Venice Commission is sufficiently met. However, it is unclear from the text of Article 29(4.8) of the second draft law by whom the unsolicited information should be verified (by the respective verification units?), and the TAIEX expert recommends specifying this.

NB: The TAIEX expert notes that the current wording in the English version leads to a doublet: “information from information from”. Also “must” needs to be changed in “must”.

e) Integrity control of serving judges and prosecutors

VC Recommendation No. 5.

The procedures of integrity controls should be limited to the review of asset declarations, and should be clearly defined, as the consequences of these controls and the legal rights and obligations of the judges and prosecutors subject to these control procedures.

Introducing effective judicial remedies against decisions concerning integrity controls of judges and prosecutors should be considered.

In Paragraph 49 of the VC Opinion, the Venice Commission recommends to the authorities to revise draft Article 27 so that the procedure of integrity controls of permanent judges and prosecutors, as with judges and prosecutors with an initial mandate, is limited to the review of their asset declarations, and is clearly defined, including the consequences of these controls and the legal rights and obligations of the judges and prosecutors subject to these control procedures. The Venice Commission also points at the need for a judicial review (judicial remedy) of decisions concerning the career of judges and prosecutors, and invites the authorities to consider introducing such remedies in this context.

Article 27(1) of the first draft law read:

1. Integrity control for judges and prosecutors shall include the control of assets and the control of actions or omissions of the judge or prosecutor, if they have been or are in conflict with the duties and responsibilities of the position which the judge or prosecutor exercises according to the applicable legislation, which may be qualified as disciplinary violations.

Article 28(1) (was 27) of the second draft law reads:

1. Integrity control for judges and prosecutors includes regular control of the assets of judges and prosecutors, which is implemented by the Agency for Prevention of Corruption, in accordance with the separate law on declaration of assets.

The TAIEX expert finds that, although from the subjects of control listed in Paragraph 27(1) of the first draft law only the asset control is maintained in the second draft law, the wording of the new Paragraph does not comply with the recommendation of the Venice Commission, the word “includes” still permitting other subjects. The TAIEX expert therefore recommends replacing “includes” by “consists of”.

Although the provision appears to strictly follow the VC recommendation, the TAIEX Expert is of the opinion that the remainder of Article 28 of the second draft law, except its Paragraph 6, has no added value and on the contrary can lead to confusion as to which provisions apply. In Paragraph 1, reference is made to the Law on Declaration, Origin and Control of Assets and Gifts (Law No. 08/L-108). This law, which applies to judges and prosecutors pursuant to its Article 4(1.21), foresees in a detailed procedure for regular checks of assets, including punitive

measures and reporting with the prosecution office in case of noncompliance. The TAIEX expert therefore recommends removing Paragraphs 2 to 5 from Article 28 of the second draft law.

Instead, the TAIEX experts recommends maintaining Paragraph 6 of Article 28 of the second draft law, but to move it to Article 35, where it logically belongs. For other remarks regarding this Paragraph, see above.

CHAPTER VI – TRANSFER AND PROMOTION OF JUDGES AND PROSECUTORS

VC Recommendation No. 6

The grounds for compulsory transfer should be clarified. The right to appeal against compulsory transfer decisions and more detailed indications of the criteria to be taken into account when such a decision is adopted should be explicitly mentioned in the Law.

In Paragraph 55 of the VC Opinion, the Venice Commission underlines that grounds for transfer without consent of judge/prosecutor should be exceptional and subject to strict criteria clearly identified in the law. the Venice Commission recommends specifying the second ground. Finally, the draft law does not mention the right to appeal against transfer decisions. The Venice Commission recommends that the right to appeal against compulsory transfer decisions and more detailed indications of the criteria to be taken into account when such a decision is adopted be explicitly mentioned in the Law.

Article 30(1 and 2) of the first draft law read:

1. *The KPC may transfer a judge to another Court and the KPC a prosecutor to another Prosecution Office for an interim period of up to one (1) year respectively, regardless their will, in cases where the respective Court or Prosecution Office has an insufficient number of judges or prosecutors, or with the aim of increasing efficiency with possibility of extension for one (1) more year.*
2. *The decision for transfer shall be justified based on the conditions set out in paragraph 1 of this Article.*

Article 30(1, 2 and 4) of the second draft law reads as follows:

1. The KJC may transfer a judge to another Court and the KPC may transfer a prosecutor to another Prosecution Office for a temporary period of up to one (1) year, regardless of their will, in cases where the respective Court or Prosecution Office has an insufficient number of judges or prosecutors, or with the aim of increasing the efficiency of the respective Court or Prosecution Office.
2. For the purposes of paragraph 1 of this Article:
 - 2.1. insufficient number of judges or prosecutors means a situation in which the number of judges or prosecutors falls below the minimum level necessary for the normal functioning of the court or prosecution office;
 - 2.2. increasing efficiency means undertaking a temporary transfer when there is a need to balance the caseload between courts or prosecution offices, with the aim of reducing the duration of proceedings and improving access to justice.
- (...)
4. The transfer may be extended for another one (1) year if the conditions from paragraph 1 of this Article continue to be met.

A new Paragraph 9 was added to Article 30 of the second draft law, stating:

9. A party dissatisfied with the decision of the relevant Council regarding an involuntary transfer may file an appeal with the Supreme Court within fifteen (15) days from the date of receipt of the decision. The Supreme Court shall decide on the appeal within thirty (30) days.

The TAIEX expert is satisfied with the specification of the grounds for transfer and with the introduction of the right to appeal.

In Paragraph 56 of its Opinion, the Venice Commission recommends that draft Article 32 be amended to make clear which of the foreseen rating levels would allow a promotion of a judge or prosecutor.

Article 32(1) of the first draft law stated that

1. *In addition to the general conditions stipulated by this Law, a judge, for the purpose of promotion to the following departments and Courts, must have a permanent term as a judge, at least a positive performance evaluation, and work experience as a judge as follows:*

(...)

Article 32(1) of the second draft law states:

1. In addition to the general conditions stipulated by this Law, a Judge, for the purpose of promotion to the following departments and Courts, must have a permanent term as a judge, at least a “good” level of performance evaluation and possess the following minimum work experience as a judge:

(...)

The TAIEX expert is satisfied with the way the recommendation of the Venice Commission was implemented.

CHAPTER VII – TERMINATION OF THE TERM OF JUDGES AND PROSECUTORS

In Paragraph 58 of its Opinion, the Venice Commission refers to the earlier analysis and recommendations concerning draft Article 24 § 4 (performance evaluation), applicable also to draft Article 35 § 1.

In Paragraph 59, the Venice Commission further notes that under Article 35(2) “the judge and prosecutor shall have the right to appeal directly to the Supreme Court of Kosovo against the decision on dismissal”, while under draft Article 35(3) the relevant council “shall, before submitting the proposal for the dismissal of a judge or prosecutor, ensure that all relevant procedures have been completed in accordance with the applicable legislation”. It is presumed that the “applicable legislation” refers notably to the Law on the disciplinary liability of judges and prosecutors (see also relevant section below). In order to enhance clarity, it is recommended that this is also clarified in draft Article 35.

Article 35(1 to 3) of the first draft law read:

1. *A judge and prosecutor may be dismissed from office due to conviction for a serious criminal offence or in cases where a judge or prosecutor have been evaluated as having a poor performance twice (2), or it has been proven that he/ she has unjustified assets, or has committed serious disciplinary violations, as defined by Law.*

2. *The judge and prosecutor shall have the right to appeal directly to the Supreme Court of Kosovo against the decision on dismissal.*

3. *The relevant Council shall, before submitting the proposal for the dismissal of a judge or prosecutor, ensure that all relevant procedures have been completed in accordance with the applicable legislation.*

Article 35(1-3) of the second draft law reads:

1. A judge and prosecutor may be dismissed from office in case where a judge or prosecutor:

1.1. has been assessed two (2) consecutive times with poor performance as defined in Article 24, paragraph 4 of this law;

1.2. has been convicted of a serious criminal offence;

1.3. it has been proven that the judge / prosecutor possesses unjustified assets not modified, although recommended in Paragraph 43 O) or

1.4. has committed serious disciplinary offences, as defined by the relevant law on disciplinary liability.

Paragraphs 2 and 3 remained unchanged in the second draft law.

Paragraph 35(1) was assessed by the TAIEX expert under Chapter IV, Integrity control of judges and prosecutors.

The TAIEX expert notes that the recommendation to make an explicit reference in Paragraph 3 to the Law on Disciplinary Liability instead of stating “in accordance with the applicable legislation.” has not been satisfied and recommends following the recommendation of the Venice Commission.

6.4. Recommendations

1. The TAIEX expert recommends, when cross-reference or cross-reference is made to laws in force, calling the laws and articles involved by their name and number.
2. Regarding Article 8(3) of the second draft law, the TAIEX expert recommends:
 - specifying which decision can be appealed
 - removing the words 'recommended by the Recruitment Commission'
3. Regarding Article 11(1) of the second draft law, the TAIEX expert recommends re-inserting the words "who receives a positive performance evaluation", defining it however as: "at least a "good" level of performance evaluation."
4. Regarding Article 22(10) of the second draft law, the TAIEX expert recommends including a time limit for the Appeals Review Commission to decide on the appeal against the decision of the Performance Evaluation Commission and to add that a refusal to take such decision equals a negative decision.
5. Regarding Article 24 of the second draft law, the TAIEX expert recommends specifying in the law that for the refusal to confirm a judge or prosecutor in their first 3-years term the same criteria and procedural safeguards apply as for the removal from office of a permanent judge.
6. Regarding Article 28 of the second draft law, the TAIEX expert recommends removing Paragraphs 2 to 5.
7. Regarding Article 28(6) of the second draft law, the TAIEX expert recommends adding it to Article 35, replacing Article 35(1.3).
8. The TAIEX expert recommends revising the text of Article 29(2).
9. Regarding Article 29(4.8) of the second draft law, the TAIEX expert recommends specifying the body tasked with the verification of the information.
10. Regarding Article 35 the TAIEX expert recommends including clear definitions of "integrity" and "serious criminal offence" in the law.
11. The TAIEX expert recommends revising the text of Article 31(1) of the second draft law. Regarding Article 35(1.1) of the second draft law, the TAIEX expert recommends using the same wording as in Article 24(4).



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**REPUBLIC OF KOSOVO
KOSOVO JUDICIAL COUNCIL**

Kosovo Judicial Council,

Pursuant to Articles 103, 104, 105 and 108 of the Constitution of the Republic of Kosovo, Article 7, paragraph 1, points 1.2, 1.5, 1.6, 1.7, 1.8 and 1.9, and Articles 20 and 21 of Law No. 06/L-055 on the Kosovo Judicial Council, Articles 30 and 31 of Law No. 06/L-054 on Courts, as well as Article 16, paragraphs 1 and 2, Article 19, paragraph 3, and Article 28 of Regulation No. 03/2020 on the Organization and Functioning of the Kosovo Judicial Council, at the meeting held on 1 November 2021,

Adopts:

**REGULATION No. X/2021
ON THE RECRUITMENT, EXAMINATION, APPOINTMENT AND
REAPPOINTMENT OF JUDGES**

CHAPTER I

GENERAL PROVISIONS

**Article 1
Purpose and Scope**

1. This Regulation determines the rules and procedures for the recruitment, appointment and reappointment of judges, including: the announcement of vacancies for judges; the preparation, evaluation, organization and administration of the examination for judicial candidates; the establishment, competences and mandate of the Recruitment Commission and the Review Commission; the process of assessing the personal and professional integrity of judicial candidates; as well as the proposal for the appointment and reappointment of judges.
2. This Regulation shall apply to all judicial candidates throughout the process of recruitment, examination, appointment and reappointment, to the Council, to the members of the commissions established under this Regulation, as well as to all other officials of the Council who are involved in this process.

Article 2

Definitions

1. The definitions used in this Regulation shall have the following meanings:
 - 1.1. **Law** – shall mean the Law on the Kosovo Judicial Council;
 - 1.2. **Council** – shall mean the Kosovo Judicial Council, as defined in the Law on the Kosovo Judicial Council;
 - 1.3. **Entities providing recruitment process** – shall mean: the members of the Recruitment Commission, the Review Commission, and the officials of the Unit, and shall be used solely for the purposes of this Regulation;
 - 1.4. **Recruitment Commission** – shall mean the commission established by the Council, responsible for conducting procedures for the recruitment of judicial candidates;
 - 1.5. **Review Commission** – shall mean the commission established by the Council, responsible for reviewing complaints submitted by candidates in the judicial recruitment process;
 - 1.6. **Unit** – shall mean the Unit for Support to the Recruitment, Promotion and Disciplinary Commissions;
 - 1.7. **Commission Member** – shall mean a member appointed by the Council who performs duties and responsibilities in accordance with this Regulation;
 - 1.8. **Alternate Commission Member** – shall mean a member appointed by the Council who replaces commission members in cases of conflict of interest or other potential impediments during the performance of their duties as a member;
 - 1.9. **Examination** – shall mean the examination for judicial candidates, which includes the qualifying test, the written examination and the oral interview;
 - 1.10. **Final result of the recruitment process** – shall mean the overall result obtained from the total number of points accumulated from the qualifying test, the written test (criminal and civil law), and the oral interview;
 - 1.11. **Assessment of the candidate's suitability** – shall mean the procedure for verifying the data submitted by the candidate, as well as data from relevant public registers for assessment purposes, including standard verification of criminal background records;
 - 1.12. **Appointment** – shall mean the appointment of a candidate as a judge to perform judicial functions with an initial mandate; and
 - 1.13. **Reappointment** – shall mean the appointment of a judge with a permanent mandate following the successful completion of the initial mandate.

Article 3

Cooperation

For the purpose of implementing the Law and this Regulation, the Council may enter into cooperation agreements with institutions of the Republic of Kosovo, as well as with local and international organizations.

Article 4
General Principles for the Recruitment, Examination, Appointment and Reappointment of Judges

The process of recruitment, examination, appointment and reappointment of judges shall ensure professionalism, integrity, non-discrimination, transparency, independence, impartiality and meritocracy, and shall reflect the multi-ethnic character and the principles of gender equality, as guaranteed by the Constitution of the Republic of Kosovo, international human rights and fundamental freedoms agreements and instruments, as well as the applicable laws of the Republic of Kosovo.

CHAPTER II
COMMISSIONS

Article 5
Recruitment Commission

1. The Council shall establish the Recruitment Commission, based on the criteria set out in the Law, Regulation No. 03/2020 on the Organization and Functioning of the Kosovo Judicial Council, and this Regulation. The Recruitment Commission shall be responsible for ensuring the proper conduct of the recruitment procedure, preliminary selection, evaluation, compilation and submission of the final list of proposed candidates to the Council.
2. The Recruitment Commission shall consist of five (5) regular members and two (2) alternate members, who shall be selected by the Council for each open competition.
3. The members of the Recruitment Commission shall include three (3) members of the Council, two (2) members from the courts, as well as two (2) alternate members, one of whom shall be from the Council and the other from the courts.
4. A member of the Recruitment Commission from the courts shall be appointed only from among judges holding a permanent mandate and against whom no disciplinary measure has been imposed, with the exception of a non-public written warning.
5. When deciding on the composition of the Recruitment Commission, the Council shall take into account the principle of gender equality and the representation of non-majority communities. The Council shall appoint the Chairperson of the Commission from among the regular members of the Recruitment Commission.

Article 6
Review Commission

1. For each open competition, the Council shall establish a Review Commission, based on the criteria set out in the Law and this Regulation. The Commission shall be composed of three (3) members, of whom one (1) member shall be from among the judicial members of the Council, one (1) from among the judges of the Supreme Court, and one (1) from among the judges of the Court

of Appeal, as well as two (2) alternate members, one of whom shall be from the Council and the other from the courts.

2. When deciding on the composition of the Review Commission, the Council shall take into account the principle of gender equality and the representation of non-majority communities.

3. The Review Commission shall be responsible for reviewing complaints submitted by candidates against the decisions of the Recruitment Commission.

4. The Council shall appoint the Chairperson of the Commission from among the regular members of the Review Commission.

Article 7

Conflict of Interest

1. A conflict of interest shall mean any circumstance which, for the entities providing the recruitment process of judicial recruitment, would be considered a private interest that affects, may affect, or appears to affect the impartial and objective performance of their duties, as defined in Law No. 06/L-011 on the Prevention of Conflict of Interest in the Exercise of Public Office.

2. The Entities providing recruitment process shall make every effort to prevent and/or avoid any situation of conflict of interest in the performance of their duties. The appearance of any conflict of interest shall be as detrimental to public confidence in the work of the Council as an actual conflict of interest.

3. In the event that, during the recruitment process, any the entity providing the recruitment process believes that a conflict of interest may exist, he/she shall immediately notify in writing the Chairperson of the respective Commission, who, after verifying the potential conflict of interest, shall decide on his/her exclusion and replacement.

4. In the event that a conflict of interest related to the recruitment process arises with respect to the Chairpersons of the respective Commissions, they shall notify the Council in writing, which, after verifying the potential conflict of interest, shall decide on his/her exclusion and replacement.

5. In the event of a potential conflict of interest, the Entities providing recruitment process shall immediately suspend any further action until a decision is taken regarding their exclusion and replacement, in accordance with paragraphs 3 and 4 of this Article.

6. Where the Entities providing recruitment process referred to in this Article are found to be in a conflict of interest with any candidate and have concealed such a fact, disciplinary liability shall be incurred by the respective the entity providing the recruitment process.

CHAPTER III

CRITERIA, ANNOUNCEMENT OF THE VACANCY AND PRELIMINARY SELECTION

Article 8

Criteria

1. A candidate to be appointed as a judge shall meet the following general requirements:
 - 1.1. to be a citizen of the Republic of Kosovo;
 - 1.2. to hold a Law Faculty diploma valid in the Republic of Kosovo;
 - 1.3. to have passed the Bar Examination recognized in accordance with the applicable legislation of the Republic of Kosovo;
 - 1.4. to possess a high professional reputation and personal integrity;
 - 1.5. not to have been convicted of a criminal offence, with the exception of criminal offences committed through negligence;
 - 1.6. to have at least three (3) years of work experience in the legal field; and
 - 1.7. to have passed the judicial examination, in accordance with the conditions and procedures set forth in this Regulation.

Article 9

Announcement of the Vacancy

1. By decision, the Council shall announce a vacancy for judicial positions, which shall be published in at least one (1) daily newspaper with nationwide circulation throughout the territory of the Republic of Kosovo, as well as on the official website of the Council. For the purpose of informing candidates from non-majority communities, the vacancy shall also be published in public information media of non-majority communities, in the official languages in use in the Republic of Kosovo.
2. Prior to announcing the vacancy, the Council shall ensure that it has conducted a needs assessment and determined the number of judges for each court, based on the provisions of the applicable legislation.
3. The announcement of vacancies shall contain all relevant information for each position, including:
 - 3.1. the number of vacant positions at the national level;
 - 3.2. a description of job duties;
 - 3.3. qualification criteria;
 - 3.4. the manner of submission of the application and supporting documents;
 - 3.5. the deadline for submission of the application, which shall not be shorter than fifteen (15) days; and
 - 3.6. instructions on the consequences borne by the candidate in case of failure to submit the application and supporting documents within the deadline specified in the vacancy announcement.

Article 10

Required Documents and Method of Application

1. The candidate shall submit the following documents:
 - 1.1. a completed application containing the required data;
 - 1.2. a certificate of citizenship of the Republic of Kosovo;
 - 1.3. a Law Faculty diploma valid in the Republic of Kosovo;
 - 1.4. a certificate of completion of the Bar Examination, recognized in accordance with the applicable legislation of the Republic of Kosovo;
 - 1.5. a criminal record certificate issued by the court;
 - 1.6. a medical certificate assessing psycho-physical fitness; and
 - 1.7. proof of work experience in the legal field, as determined by the Law on Courts.
2. Information provided by the employer regarding at least three (3) years of professional experience in the legal field, which shall include, but not be limited to: a description of job duties, professional performance, disciplinary measures, and other matters deemed relevant to the process, accompanied by supporting documents, for the purpose of assessing personal integrity and professional abilities, as provided for by this Regulation and the provisions of the applicable legislation.
3. The candidate may also submit the following documents:
 - 3.1. professional or academic publications; and/or
 - 3.2. information on participation in trainings.
4. The application together with the supporting documents may be submitted to the Council in physical form, by regular mail or by electronic mail, and shall be registered, with each candidate being provided with a confirmation of receipt of the application.
5. A file shall be created for each candidate, containing all documents submitted by the candidate. The Recruitment Commission and the Unit shall be responsible for the establishment and maintenance of the file, ensuring its completeness and updating until the final conclusion of the recruitment process.
6. Only candidates registered with the Council within the deadline specified in the vacancy announcement, with a complete application and documentation, shall be entitled to undergo the recruitment process. Candidates who have not applied within the prescribed deadline, as well as those who have applied within the deadline but have failed to submit complete documentation in accordance with the criteria and requirements of the vacancy announcement, shall not be taken into consideration.

Article 11

Preliminary Selection

1. The Recruitment Commission, with the support of the Unit, shall review all received applications within the shortest possible time. A candidate who meets the criteria set forth in the announced vacancy shall be notified through the official website of the Council and via the candidate's electronic address.
2. In the event of rejection of the application, the candidate shall be individually notified, through the Unit, of the reasons for rejection, against which the candidate shall have the right to file an appeal within three (3) days from the date of notification.
3. The candidate's appeal shall be reviewed by the Review Commission within five (5) days from the date of expiration of the appeal submission deadline.
4. Following the review of the appeal by the Review Commission, the Council shall notify, through its official website and electronic address, the candidate who meets the conditions to undergo the first part of the examination.
5. The notification shall contain a list with the candidate's first and last name, as well as information on the time, date, venue, and other relevant details regarding the organization of the examination.

CHAPTER IV

ORGANIZATION AND CONTENT OF THE EXAMINATION

Article 12

Administration of the Examination

1. As provided for by this Regulation, only candidates included in the list published in the Council's notification shall be eligible to sit for the examination.
2. The examination shall be conducted and supervised by the Recruitment Commission, with the support of the Council's support staff.
3. The Guideline with the Rules of the Examination for Candidates shall be annexed to this Regulation and shall constitute an integral part thereof.
4. Violation of the rules determined pursuant to paragraph 3 of this Article by a candidate shall result in his/her disqualification and the declaration of the examination as invalid for that candidate.

Article 13

Content of the Examination

1. The examination shall be organized in three (3) parts:
 - 1.1. the first part shall include the qualifying test;
 - 1.2. the second part shall include the written examination; and
 - 1.3. the third part shall include the oral interview, which shall also include an essay.
2. The qualifying test shall consist of multiple-choice questions from the fields of criminal law, civil law, administrative law, economic law, constitutional law, human rights, and professional ethics.
3. The written examination shall consist of two (2) separate tasks, namely: one from the field of criminal law and one from the field of civil law, for which the Recruitment Commission shall prepare and determine one specific task for each field.
4. The oral interview shall include questions assessing the candidate's personal and professional integrity, knowledge of legislation, communication skills, and professional abilities, while the essay shall consist of a written paper on a general topic determined by the Recruitment Commission.
5. In the event that a candidate is absent from any of the parts of the examination specified in paragraph 1 of this Article, such absence shall result in the candidate's disqualification from the vacancy competition.

Article 14

Qualifying Test

1. The purpose of the qualifying test shall be to assess the candidate's knowledge in criminal law, civil law, administrative law, economic law, constitutional law, human rights, and professional ethics.
2. The test shall consist of one hundred (100) questions from all fields specified in paragraph 1 of this Article.
3. Each question shall have three (3) alternative answers, with only one (1) correct answer.

Article 15

Preparation of the Qualifying Test

1. The qualifying test shall be prepared by the Recruitment Commission, as provided for in Article 12 of this Regulation, in one of the official languages of the Republic of Kosovo and shall be translated into the other official languages as prescribed by law.
2. The qualifying test shall be drafted on the day of the examination, under fully confidential conditions and premises.

3. The structure and content of the qualifying test shall be as follows: forty (40) questions from the field of criminal law and forty (40) questions from the field of civil law, while four (4) questions each shall be from the fields of: administrative law, economic law, constitutional law, the Code of Ethics, and human rights.
4. The Recruitment Commission, during the appointment and preparation of the test, ensures that the electronic devices used for work are not connected to the network or the Internet. At the end of the preparation of the qualifying test, the Recruitment Commission checks the questions and decides on its final version.
5. After the preparation of the final version of the test, it is printed on paper for the purposes of testing the candidate. The preparation of sufficient copies for testing is carried out under the supervision of the Commission, under security measures that guarantee complete confidentiality.
6. During the preparation of the qualifying test, the members of the commission and the support staff must not have access to the telephone, the Internet or other means of electronic communication.

Article 16

Notification and manner of holding the qualifying test

1. The Recruitment Commission shall notify the candidate through a notice on the official website of the Council and by e-mail of the day, time and place the qualifying test will be held, at least eight (8) days before the test.
2. The qualifying test lasts one hundred and twenty (120) minutes and, depending on the spatial conditions and the number of candidates, may be held in more than one testing room.
3. The candidate shall place the completed test in an A-4 envelope and seal it, while on the A-6 envelope sheet they shall write their name, surname and signature and place it in the A-6 envelope and seal it. All these actions shall be carried out in the presence of the committee. These two envelopes will be connected (glued) together and after the test is completely completed, the commission will place codes on the envelopes that will be separated from each other.

Article 17

Evaluation of the qualifying test

1. The Recruitment Commission evaluates the qualifying test.
2. In the qualifying test, the candidate can achieve a maximum of ten (10) points, of the final result of the recruitment process.
3. The candidate who, out of one hundred (100) questions of the qualifying test, has given seventy (70) correct answers, obtains four (4) points of the final exam evaluation and is considered to have passed the qualifying test. Whereas, for each correct answer given from question seventy-one (71) to question one hundred (100), based on arithmetic progression, the candidate will be added 0.2 points;

4. A candidate who does not pass the qualifying test or has not reached the passing level of seventy (70) correct answers cannot proceed to the further recruitment process.
5. The Recruitment Commission evaluates the qualifying test solely on the basis of the code indicated on Envelope A-4 in which the test is located, which is opened on the day the evaluation begins.
6. Each test is evaluated on the basis of the key with correct answers, created for this purpose by the Recruitment Commission at the moment of drafting the qualifying test.
7. After the Commission has carried out the evaluation and scoring of all tests, Envelopes A-6 are opened, the candidates are identified, and the results of the qualifying test are derived.

Article 18

Notification of the Results of the Qualifying Test

1. After completion of the evaluation, the Unit, in accordance with the recommendations of the Recruitment Commission, notifies the candidates of the results of the qualifying test. The notification of the results of the qualifying test contains the first name, last name, and the achieved result.
2. The Unit publishes on the official website of the Council the list through which the candidates are notified regarding the points achieved. The list is divided into two parts: the list of candidates who have passed the test and those who have not passed the qualifying test.

Article 19

Written Test

1. The written test is prepared in two (2) tasks, one from the criminal field and one from the civil field, in relation to which the Recruitment Commission assigns specific tasks.
2. The written test is conducted on two (2) consecutive days, in which case the candidates are tested in relation to the criminal case on the first day, while the civil case is on the second day, each with a duration of five (5) hours.
3. The Council provides the laws, in one volume or a compilation of laws, for each candidate individually.
4. The manner of codification of the test and the conduct of the written test shall be carried out in accordance with the provisions of this Regulation.

Article 20

Criteria for the Evaluation of the Written Test

1. In the written test from the two fields (criminal and civil), the candidate may achieve a maximum of sixty-six (66) points, respectively sixty-six percent (66%) of the final result of the recruitment process.

2. A candidate who has achieved thirty-nine (39) points in the total evaluation of the written test is considered to have passed it.
3. Before carrying out the evaluation of the written test, the Commission shall adopt a written position on the evaluation of the task and on each element of the act that is evaluated, assigning the weight to each element.

Article 21

Evaluation of the Written Test

1. The members of the Recruitment Commission evaluate the written test independently and impartially, respecting the criteria determined by the Recruitment Commission, no later than within five (5) days from the day of its completion.
2. The written test is evaluated by all members of the Recruitment Commission individually, who sign the evaluation form. The summation of the points of each member of the Commission produces the average of the final scoring by the Commission for a specific candidate.
3. The Recruitment Commission, during the evaluation of the written test, for the purpose of maintaining confidentiality, acts in accordance with the rules for the preparation of the qualifying test.

Article 22

Notification of the Results of the Written Test

After the evaluation of the written test, the Unit, in accordance with the recommendations of the Recruitment Commission, compiles the list of candidates who have passed the written test, ranking the candidates by first name, last name, and on the basis of the number of points achieved. The compiled list is published on the website

Article 23

Process of Verification of the Candidate's Personal and Professional Integrity

1. The procedure of verification of personal and professional integrity is applied to all candidates who have met the conditions to be subject to the oral interview.
2. Under the authority of the Council and the supervision of the Recruitment Commission, the Unit is responsible for the collection and gathering of the necessary data, which shall serve the Commission for the verification and evaluation of the candidate's personal and professional integrity, while respecting international acts and standards relating to the protection of human rights and freedoms, as well as the applicable laws in force.
3. Candidates have the right to be notified of and to review the documents collected in their files, not earlier than five (5) days and not later than ten (10) days prior to the holding of the oral interview, except where such review is not permitted by the laws in force.

4. The procedure for the evaluation of personal and professional integrity, professional abilities, knowledge of legislation, and communication skills is included as part of the oral interview, during which candidates may be questioned on matters related to their personal and professional integrity, and are given the opportunity to confirm, supplement, or contest the evaluation based on the verification of the requested and collected documents and information.

Article 24

Oral Interview

1. On the day of the oral interview and its evaluation, the candidate shall undertake an essay with a duration of no more than thirty (30) minutes, the topic of which shall be determined by the Recruitment Commission.

2. The essay shall be evaluated up to four (4) points, respectively four percent (4%) of the final evaluation of the recruitment process, while the interview shall be evaluated up to twenty (20) points, respectively twenty percent (20%) of the final evaluation of the recruitment process.

3. On the day of the oral interview and essay, the candidate shall be informed of the composition of the Recruitment Commission and shall be asked to immediately declare if they request the exclusion of any member of the Commission, providing the reasons for such a request. The exclusion of a member of the Commission shall be decided by the Chairperson of the Commission, while the exclusion of the Chairperson shall be decided by the members of the Commission by a simple majority of votes.

4. Before the interview, a list of questions is prepared by the members of the Recruitment Commission, which must cover each legal field. The questions prepared by the Commission are submitted to the Unit in order to create question tickets. Each ticket shall contain eight (8) questions: two (2) questions from the criminal field, two (2) from the civil field, and one (1) question from each of the other fields, namely: administrative, economic, human rights, and the code of ethics.

5. The evaluation of the oral interview and essay is carried out according to the standard form, which shall be part of this Regulation. The final result of the oral interview for a candidate is obtained by calculating the average of the points awarded by each member of the Recruitment Commission. The same applies to the result of the essay.

6. The oral interview shall be recorded via cameras, and the candidate shall be notified of this.

Article 25

Final Result of the Examination

1. The final result of a candidate's success is calculated based on the total points obtained in the qualifying test, the written test, the essay, and the oral interview.

2. After the completion of the evaluation process, the points are totaled, the results are verified, and the final list is prepared for the purpose of announcing the examination results.

3. The final results of the candidates who have successfully passed the examination are published on the official website of the Council. The notification shall include the candidate's first name, last name, and the number of points obtained in the qualifying test, written test, essay, oral interview, and the total points.
4. Regardless of a candidate's high performance in any part of the examination, a candidate shall in any case be considered not to have successfully passed the judicial examination if they do not achieve at least sixty-seven (67) points out of the total possible one hundred (100) points in the entire recruitment process.
5. The Recruitment Commission shall compile the list of candidates according to the points obtained in the examination. The ranking of candidates is determined according to the highest results obtained in the qualifying test, written test, essay, and oral interview. The ranking of successful candidates in the final list ends with the number of candidates determined by the position announcement of the Council. The Chairperson of the Recruitment Commission shall submit the list of successful candidates to the Council after the review of any appeals by the Review Commission.

Article 26

Right to Appeal

1. A candidate, as a dissatisfied party, has the right to appeal to challenge the process regarding the violation of rules related to the organization of the examination, as well as the results of the qualifying test, written test, essay, and oral interview, within three (3) days from the day of announcement of the results, based on the notification made in accordance with this Regulation.
2. The candidate's appeal under paragraph 1 of this Article shall be reviewed by the Council's Review Commission within five (5) days from the end of the appeal period.
3. If the Review Commission, after evaluating the appeal, finds that violations of the rules regarding the organization of the qualifying test, written test, essay, or oral interview, as defined in this Regulation, have occurred, it may decide that the contested part of the examination be repeated, to which candidates from the list who have met the conditions to undergo the relevant part of the examination shall be subject.
4. If the Review Commission decides that the relevant part of the examination should be repeated, the examination shall be organized within five (5) days from the decision of the Review Commission. In this case, the Recruitment Commission shall prepare a new test, the results of which shall be taken into account when preparing the final list of the examination.
5. If the Review Commission finds that technical errors occurred in the calculation of points for the qualifying test, written test, essay, or oral interview, and upon reviewing the appeal it is confirmed that the candidate is classified in the group of candidates who did not pass the relevant part of the examination, that candidate shall be included in the list of candidates who have passed that part of the examination.
6. After reviewing the appeals regarding the qualifying test, written test, and oral interview, the Council shall compile the final list of the examination, as provided in this Regulation, which shall be published on the official website of the Council.

Article 27
Final Report of the Recruitment Process

1. The Recruitment Commission, in cooperation with the Unit, after the completion of the recruitment process, shall prepare a written final report describing the course of the entire process.
2. The report referred to in paragraph 1 of this Article shall be submitted to the Council, which, after approval, shall publish it on its official website.

Article 28
Retention of the Candidate's File

1. The examination is retained and archived together with the file of the candidate who has passed it, in accordance with the rules for the retention and archiving of official documents.
2. The Council maintains the file in electronic and physical form for the candidate appointed as a judge, which contains personal data as well as all materials collected during the recruitment process.
3. The file is retained for each process of organizing the examination and is closed upon its completion. The data are confidential, and access to the retained documents is carried out in accordance with the applicable legal provisions.
4. Upon written request, after the completion of the recruitment process, the candidate has the right to access the data referred to in paragraph 2 of this Article.
5. Personal documents of candidates who did not pass the examination and were not appointed, after registering the data for retention at their request, shall be returned within thirty (30) days after the completion of the recruitment process; otherwise, after this period, they shall be destroyed.

Article 29
Retention of the Recruitment Process File

The file of the recruitment process is retained for each process of organizing the examination and is closed upon its completion. The data are confidential, and access to the retained documents is carried out in accordance with the applicable legal provisions.

Article 30
Responsibility for Disclosure of Data

1. The Council is solely responsible for the manner, type, and extent of data disclosure.
2. Any data or information related to the recruitment process and examination disclosed without authorization, in violation of the applicable laws and this Regulation by entities involved in the process, shall be treated as a serious breach of work duties and a disclosure of official secrecy.

CHAPTER V APPOINTMENT OF THE JUDGE

Article 31 Selection of the Most Successful Candidate

1. The Council, upon the proposal of the Recruitment Commission, appoints and assigns candidates as judges to courts and branches.
2. The right to choose the court and branch to which they will be assigned is granted only to one-fifth (1/5) of the candidates who are ranked highest in the final list of the judicial recruitment process.
3. Notwithstanding the candidate's right under paragraph 2 of this Article, the Council's authority prevails in assigning a judge to a court, taking into account the needs of the courts.
4. The Chairperson of the Recruitment Commission shall submit to the Council the final list of candidates, including the information referred to in paragraph 2 of this Article.

Article 32 Proposal for the Decree of Appointment of a Judge

1. The Council, by a simple majority of the votes of the members present, shall decide on the proposal of each candidate individually for appointment as a judge to the President of the Republic of Kosovo.
2. In the event that the Council does not propose a candidate for appointment as a judge to the President of the Republic of Kosovo, it shall issue a written reasoned decision stating the causes for the refusal.

CHAPTER VI REAPPOINTMENT OF THE JUDGE

Article 33 Evaluation of the Judge after Training and Initial Term

The judge shall be evaluated upon completion of the initial training as well as at the end of the initial term, in accordance with the law and the applicable sub-legal acts.

Article 34 Reappointment of the Judge

1. The Commission for the Evaluation of Judges' Performance shall submit to the Council the report on the evaluation of the judge's performance for the initial term.

2. The Council shall decide on the judge's evaluation within fifteen (15) days after receiving the report from the Commission for the Evaluation of Judges' Performance.
3. The Council shall submit to the President of the Republic of Kosovo the name of the judge proposed for reappointment with a permanent mandate, no later than fifteen (15) days before the expiration of the initial term.
4. The Council shall notify the judge through a written reasoned decision.

Article 35

Compensation of the Commissions

Members of the Commissions established under this Regulation shall not be compensated.

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

Article 36

Repealing Provisions

1. Upon entry into force of this Regulation, the following Council Regulations are repealed:
 - 1.1. Regulation No. 05/2016 on the Recruitment, Examination, Appointment, and Reappointment of Judges;
 - 1.2. Regulation No. 07/2016 on the Amendment and Supplementation of Regulation 05/2016 on the Recruitment, Examination, Appointment, and Reappointment of Judges;
 - 1.3. Regulation No. 12/2016 on the Amendment and Supplementation of Regulation 05/2016 on the Recruitment, Examination, Appointment, and Reappointment of Judges;
 - 1.4. Regulation No. 13/2016 on the Amendment and Supplementation of Regulation 05/2016 on the Recruitment, Examination, Appointment, and Reappointment of Judges.

Article 37

Transitional Provisions

1. A candidate who has completed the examination and initial training on legal education organized by the former Kosovo Judicial Institute shall be subject only to the oral interview and the process of evaluating personal integrity and professional abilities, as provided in this Regulation.
2. The examination and initial training on legal education organized by the former Kosovo Judicial Institute, as provided in paragraph 1 of this Article, shall be counted as two-thirds (2/3) of the maximum points of the first two parts of the examination, namely the qualifying test and the

written test. A candidate, with their consent and request, may undergo the recruitment process from the beginning, in accordance with the procedures provided in this Regulation.

Article 38

Annexes to the Regulation

1. The annexes attached to this Regulation are an integral part of it:
 - 1.1. Annex 1: Application for the position of judge;
 - 1.2. Annex 2: Guide with the Examination Rules for the Candidate;
 - 1.3. Annex 3: Guide with the Written Test Rules for the Candidate;
 - 1.4. Annex 4: Form for the evaluation of the qualifying test for judges;
 - 1.5. Annex 5: Form for individual evaluation by a member of the Written Test Commission in the criminal field;
 - 1.6. Annex 6: Form for individual evaluation by a member of the Written Test Commission in the civil field;
 - 1.7. Annex 7: Form for the commission's evaluation of the written test for judges in the criminal field;
 - 1.8. Annex 8: Form for the commission's evaluation of the written test for judges in the civil field;
 - 1.9. Annex 9: Form for the overall evaluation of the written test for judges in the criminal and civil fields;
 - 1.10. Annex 10: Individual evaluation form for judges in the oral interview and essay;
 - 1.11. Annex 11: Candidate evaluation form for judges in the essay;
 - 1.12. Annex 12: Candidate evaluation form for judges in the oral interview;
 - 1.13. Annex 13: Form for the final evaluation by the commission in the judicial examination; and
 - 1.14. Annex 14: Test sheet.

Article 39

Entry into Force

This Regulation shall enter into force on the day of its approval by the Kosovo Judicial Council.

Albert Zogaj

Chair of the Kosovo Judicial Council

Date: 04.11.2021