

**LAW NO. 04/L-218
ON PREVENTING AND COMBATING TRAFFICKING IN HUMAN BEINGS AND PROTECTING
VICTIMS OF TRAFFICKING**

Assembly of Republic of Kosovo,

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

Approves

**THE LAW ON PREVENTING AND COMBATING TRAFFICKING IN HUMAN BEINGS AND
PROTECTING VICTIMS OF TRAFFICKING**

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

1. The Purpose of this law is to establish legal provisions through which competent local authorities are given rights, obligations and responsibilities for:

1.1. preventing and combating trafficking in human beings in all its forms;

1.2. protection of victims of trafficking, including ensuring the rights, such as legal aid, medical assistance, psycho-social support, compensation and other rights for all persons who are presumed or identified as trafficked persons, regardless of their sex, gender, age, marital status, language, mental or physical disability, sexual orientation, political affiliation or conviction, ethnic origin, nationality, religion or belief, race, social origin, property, birth or any other status, through a human rights based approach , in full compliance with international human rights instruments and standards.

1.3. national and international cooperation for the purpose of preventing and combating trafficking in human beings, and ensuring assistance and protection to victims of trafficking.

1.4. nothing in this law shall affect the rights, obligations and responsibilities of authorities and individuals under international law, including international humanitarian law and international human rights law and, in particular, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, the principle of non-refoulement and the right to seek asylum as contained therein.

**Article 2
Scope**

Provisions of this Law shall apply to all forms of trafficking in human beings, whether national or transnational, and regardless if it is linked or not to organized crime, including offences committed for the purpose of victims' exploitation, so far as they contain elements of trafficking in human beings.

**Article 3
Definitions**

1. For the purpose of implementing this Law, terms and abbreviations used in this Law shall have the following meanings:

1.1. **Trafficking in human** – recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

1.2. **Child** – a person who is under the age of eighteen (18) years.

1.3. **Vulnerable victim** – a child, a physically or mentally handicapped person, a person suffering from diminished capacity, a pregnant woman, or a domestic partner as determined by the Criminal Code of the Republic of Kosovo;

1.4. **Forced labour** – all work or service which is extracted from any person under the menace of any penalty and for which the said persons has not offered him/herself voluntarily.

1.5 **Illegal adoption** - any institution or practice whereby a child, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.

1.6. **Forced marriage** – a servile or fictitious form of marriage of persons, so far as they contain constituent elements of trafficking in human beings, as provided for in the Criminal Code of Kosovo. In case of a child, the child's consent shall be considered irrelevant for any of the above actions.

1.7. **Victim of trafficking** – a person subjected to an act or practice described in paragraph 1., sub-paragraph 1.1. of this Article.

1.8. **Exploitation of the victims** – include, but not be limited to prostitution of others, pornography or other forms of sexual exploitation, begging, forced or compulsory labour or services, slavery or practices similar to slavery, servitude or the removal of organs or tissue.”

1.9. **Authorities** – any state institution in accordance to Article 6 of this Law.

1.10. **Government** – the Government of the Republic of Kosovo;

1.11. **NGO** – Non-Governmental Organizations as determined by the Law on Freedom of Association in Non-Governmental Organizations;

1.12. **Reflection period** – the period made available to victims or witnesses of trafficking, to recover from the experience and make a decision whether or not to cooperate with the competent authorities.

1.13. **National referral mechanism** – the collaboration framework through which state institutions fulfill the obligations to protect and promote the rights of victims of trafficking and to coordinate their efforts in a strategic partnership with civil society.

1.14. **Commission** – the panel for receiving, reviewing and deciding on the application for compensation of victims of trafficking in human beings.

1.15. **Legal Person** – any entity which, under the applicable law has legal personality, except public state bodies in the exercise of state authority, and international public organizations.

1.16. **National Authority** – the national authority as determined in Article 7 of this Law;

1.17. **Presumed victim** – a person who is presumed to be a victim of trafficking, but who has not formally been identified by the relevant authorities, or who has declined to be formally identified as such. A person presumed as trafficked is entitled to the same treatment as the identified victims from the beginning of the identification process.

2. The definitions contained in this Article, aim among others to identify types of abuse, and they do not criminalize the described conduct. The Criminal Code provides the legal ground for the criminalization of prohibited conduct.

3. Other terms and abbreviations used in this Law, shall have the meaning of the terms used in relevant legislation in force.

Article 4 **Basic principles on combating trafficking in human**

1. Combating trafficking in human beings shall be carried out on the basis of the following principles:

1.1. respect for human rights and freedoms, in particular for vulnerable victims;

1.2. acknowledgment of trafficking in human beings as a crime affecting the fundamental human rights, dignity, liberty and integrity of human beings;

1.3. inevitability of punishing traffickers in human beings;

1.4. legality;

1.5. free access to justice, access to free legal counseling and representation, including the application for compensation;

1.6. free access to services and medical treatments for harms caused by the abuse of/or trafficking.

1.7. assistance and support for the victim are not conditional by the victim's willingness to cooperate in investigation, prosecution or trial;

1.8. ensuring security and a fair, unbiased attitude towards victims of trafficking;

1.9. holistic use of preventive measures: legal, socio-economic and international;

1.10. social partnerships, collaboration of authorities, non-governmental organizations and other representatives of civil society with international organizations;

1.11. proportionality between respect of fundamental rights of the victims of trafficking and conditions of criminal prosecution, in the manner that it does not violate the rights of the defendant;

1.12. ensure that all anti-trafficking activities take gender aspect, promotion of gender equality and empowerment of women and girl victims into account.

1.13. equal treatment of all forms and types of national and trans-national trafficking in human beings, whether or not related to organized crime;

1.14. cooperation of national authorities with institutions of other countries and international organizations in order to achieve the objectives of preventing and combating trafficking in human beings.

1.15. application of the provisions of this Law, especially the measures for protection of victims of, shall be granted without discrimination on any grounds, such as: gender, race, language, religion, political or other opinion, social or national origin, citizenship, association, belonging to an ethnic minority, etc.

Article 5

Elements of the offense of trafficking in humans beings

1. As determined by Article 171 of the Kosovo Criminal Code, elements of trafficking in human beings consist of:

1.1. recruitment;

1.2. transportation;

1.3. transfer;

1.4. harbouring or reception of persons, by means of the threat and use of force or other forms of coercion;

1.5. abduction;

1.6. fraud;

1.7. deception;

1.8. abuse of power or of a position of vulnerability, and

1.9. giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation purposes.

2. Incitement, assistance or attempting to commit an offense referred to in this Law is punishable as well in accordance to the Criminal Code of the Republic of Kosovo.

3. When the conduct referred to in paragraph 1. of this Article involves a child, it shall be a punishable offence of trafficking in human beings, even if none of the means set forth in paragraph 1. of this Article has been used, in accordance to the Criminal Code of the Republic of Kosovo.

4. The consent of a victim of trafficking to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in paragraph 1. of this Article has been used against the victim, in accordance to the Criminal Code of the Republic of Kosovo.

CHAPTER II

AUTHORITIES FOR PREVENTING AND COMBATING TRAFFICKING IN HUMAN BEINGS AND PROTECTING VICTIMS OF TRAFFICKING

Article 6

Authorities

1. Competent authorities for preventing and combating trafficking in human beings and providing of assistance and protection of victims of trafficking are:

1.1. Ministry of Internal Affairs;

1.2. Kosovo Police;

- 1.3. Kosovo Judicial Council;
- 1.4. Kosovo Prosecutorial Council;
- 1.5. Ministry of Justice;
- 1.6. Ministry of Education, Science and Technology;
- 1.7. Ministry of Local Governance Administration;
- 1.8. Ministry of Culture, Youth and Sports;
- 1.9. Ministry of Labour and Social Welfare;
- 1.10. Ministry of Health;
- 1.11. Ministry of Foreign Affairs;
- 1.12. Ministry of Finance;
- 1.13. Gender Equality Agency
- 1.14. State Prosecutor;
- 1.15. Courts;
- 1.16. Office for Protection and assistance to victims,
- 1.17. Municipalities, and
- 1.18. Any state institution, and service provider within these institutions, which, under this Law or any other relevant Law, is authorized to deal with preventing and combating trafficking in human beings and providing assistance and protection of victims of trafficking.

Article 7

National Authority against trafficking in human beings

1. National Authority against trafficking in human beings (hereinafter referred to as the National Authority), is composed of authorities set on Article 6 of this Law and other relevant state institutions from different scopes, including representatives of the local governmental and non-governmental service providers.
2. National Authority shall describe within the National Strategy and Action Plan Against Trafficking in Persons, the Standard Operating Procedures for Victims of Trafficking, Minimum Standards of Care for Victims of Trafficking and all other relevant documents, the duties and responsibilities of each institution for preventing and combating trafficking in human beings and victims' protection, in order to enable effective and efficient fight against trafficking in human beings and provide assistance and protection of victims of trafficking in Kosovo, as is defined within institution's legislative mandate.
3. Representatives of non-governmental organizations and international organizations that have their offices in Kosovo and are involved in activities for combating trafficking in human beings, as well as providing assistance and protection to victims of trafficking, may attend the meetings of the National Authority, in advisory capacity;
4. Organizational and coordination matters of the National Authority are ensured by the National Strategies Monitoring and Evaluation Secretariat, which operates under Ministry of Internal Affairs.

5. National Authority shall submit to the Government periodically, but not less than once per year, as well as upon request, a report on its activity. At any given time, central state institutions may request information from the National Authority on the state of observance of legislation on preventing and combating trafficking in human beings and protection of victims of trafficking and protection of victims of trafficking, as well as on implementation of the National Strategy and action plan against trafficking in human beings.

6. The Government shall enact sub-legal act on formal composition, powers, responsibilities and the manner of functioning of the National Authority.

Article 8

Appointment and Competencies of the National Anti-Trafficking Coordinator

1. The Government shall appoint a National Anti-Trafficking Coordinator (hereinafter referred to as the Coordinator).

2. The Coordinator shall chair the National Authority. The Coordinator shall regularly cooperate with authorities stipulated in Article 6 of this Law, and other law enforcement authorities, for the purpose of preventing and combating trafficking in human beings and protection of victims of trafficking.

3. With the support of the Secretariat National Strategies Monitoring and Evaluation Secretariat, which operates under Ministry of Internal Affairs, the Coordinator shall develop, coordinate and monitor the implementation of National Referral Mechanisms to ensure proper identification, referral, assistance and protection of victims of trafficking, including child victims, and to ensure that they receive the adequate assistance by protecting their human rights.

4. The Government shall ensure sufficient financial and human resources for the Coordinator, National Authority and Secretariat to carry out the following activities:

4.1. coordinating the implementation of this Law, including drafting of administrative instructions, regulations, and other sub-legal acts to be endorsed by the Government;

4.2. drafting and continuous implementation of the National Strategy and Action Plan, which shall contain a comprehensive package of measures for preventing and combating trafficking in human beings, as well as for coordinating and monitoring its implementation;

4.3. promoting researches and determining procedures to analyze the degree, nature and new forms of both local and cross-border trafficking, as well as identification of best practices for preventing and combating trafficking in human beings and reintegration of victims of trafficking, including collection of information on the number of victims disaggregated according to gender and other data important to analyze the scale, nature and the form of trafficking;

4.4. facilitating cooperation between authorities and various governmental stakeholders and among governmental and nongovernmental stakeholders, including labour inspectors, Kosovo Chamber of Commerce and other relevant parties of the labour market;

4.5. facilitating cooperation between the countries of origin, transit and destination;

4.6. acting as a focal point for national institutions and other state and non-state parties, as well as international bodies, in regards to Government's efforts against trafficking in human beings;

4.7. ensuring that anti-trafficking measures are in line with existing norms and international human rights standards that are envisaged with the Constitution of the Republic of Kosovo and other relevant laws.

5. The National Coordinator will act as the National Reporter in order to carry out assessments of trends in trafficking in human and measure the results of anti-trafficking actions including the gathering of statistics in close cooperation with relevant civil society organisations active in this field.

Article 9

Preventing and combating of trafficking in human

1. Preventing, combating and protecting of victims of trafficking with human beings is carried out by all the authorities, including representatives of local governmental and non-governmental service providers, based on the respective legislation in force;

2. Authorities identify victims of trafficking when there are reasonable-grounds for believing that a certain person is a victim of trafficking;

3. Authorities should take necessary measures, such as education and training, with goals to reduce the demand that favors all forms of exploitations related to trafficking in human beings.

4. Authorities, in cooperation with the respective organizations and civil society actors take appropriate actions, including the internet, such as information and awareness-raising campaigns, research and education programs, aimed at raising awareness about trafficking in human beings and reducing the risk that different persons, especially children, and vulnerable groups becoming victims of trafficking in human beings.

5. Authorities will promote regular training for officials who might come in contact with victims or potential victims of trafficking in human beings, including front-line police officers, border guards, immigration officials, public prosecutors, judiciary members and court officials, labor inspectors, social care personnel of children and health and consular staff, but depending on local circumstances, might also include other groups of public officials, who over the course of their work come across victims of trafficking with aim to enable them identification, referral and dignified treatment of trafficking in human beings.

6. Aiming at discouraging the demand, increase the efficiency of preventing and combating trafficking in human beings, authorities shall take necessary actions ensuring the utilization of services that are subject of exploitation are considered criminal offences in accordance with Criminal Code of the Republic of Kosovo.

CHAPTER III

INVESTIGATION AND PROSECUTION

Article 10

Offenses related to trafficking in human beings and joinder of proceedings

1. In cases when criminal action contains one of the elements of the offense of trafficking in human beings from the Article 5 of this Law, such an offense shall be considered as an offense that is related to trafficking in human beings.

2. Victims of the offences from the paragraph 1. of this Article are considered victims of trafficking and as such they enjoy all the rights envisaged by this Law.

3. If the perpetrator, during the process of trafficking in human beings, with his/her actions simultaneously commits other offenses related to the offense of trafficking, he/she will be judged in association of the offenses in line with the provisions of the Criminal Code and Criminal Procedure Code of the Republic of Kosovo.

4. Aiming to preserve the course and integrity of the process for the offense of trafficking in human beings and all the actions related to the offense of trafficking, every time that evidences are associated, a joined

proceeding will take place, in line with the provisions of the Criminal Procedure Code of the Republic of Kosovo.

5. In cases when for the sake of preserving the efficiency or other relevant reasons, if it is not possible to associate the procedure according to paragraph 4. of this Article, cases will be proceeded separately, in line with the provisions of the Criminal Procedure Code of Kosovo.

6. Issues regarding association or separation of the procedure, as well issues related to competence (jurisdiction) of the court for the acts according to this Law are settled in line with the Criminal Procedure Code.

Article 11

Investigation and prosecution

1. When necessary, investigation means envisaged by the Criminal Code Procedure, such as the ones used for organized crime or other grave offenses are put at disposal of law enforcement authorities for investigation or prosecution of offenses of trafficking in human beings and other offenses that contain elements of the offense of trafficking.

2. In order to have an effective investigation and prosecution of cases of trafficking in human beings in Kosovo, State Prosecution and Police can bring together joint investigative teams.

3. Law enforcement authorities and prosecutors identify and freeze, seize or confiscate assets used and wealth gained from the offense of trafficking in human beings, and any other illegal asset in line with Chapter VII of the Criminal Code.

4. Prosecution and investigation of offenses against trafficking in human beings does not depend on the reporting or accusations of a victim of trafficking, and the criminal procedure must continue even if the victim of trafficking withdraws his/her statement.

5. Courts and bodies for criminal prosecution recognize the measures for ensuring the rights and their physical safety to victims of trafficking in human beings, as set with the Criminal Procedure Code and the Law on Witness Protection, as well as other respective legislation in Kosovo.

6. Authorities organize adequate trainings for persons, units or services in charge that deal with investigation or criminal prosecution of actions of trafficking in human beings.

Article 12

Official identification of victims of trafficking

1. Official identification of victims of trafficking in human beings is done by the respective Police units, Prosecution, Victim Advocate and centers for social work based on Article 5 of this Law, when they have grounded doubt for believing that a certain person is a victim of trafficking, in line with the Standard Operating Procedures developed by the respective authorities.

2. Ministry of Justice in cooperation with respective authorities draft the indicators' list regarding trafficking in human beings, with aim to facilitate identification of victims by police, criminal, judicial and social authorities that might be in contact with the victims or potential victims of trafficking. Indicators' list is adopted by the Government of the Republic of Kosovo.

3. Upon proposal of the Ministry of Internal Affairs, the Ministry of Foreign Affairs and the Ministry of Labour and Social Welfare issue specific instructions for consular services, border police and labour inspectors with the aim of early identification of victims of trafficking.

Article 13

Non-liability of victims of trafficking

1. A victim of trafficking should not be arrested and cannot be criminally prosecuted for criminal and minor offences committed by him/her as a direct result of the crime of trafficking in human beings, including:
 - 1.1. illegal exit and entry of the trafficked person from/out the country;
 - 1.2. purchase or possession of false travel or identification documents that he/she took, or he/she was given, for the purpose of entering or exiting the country regarding the criminal act of trafficking in human beings;
 - 1.3. involvement of the victim in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.
2. Children that are victims of trafficking are not subject to procedures or legal sanctions for offenses related to their situation as victims of trafficking.

Article 14 Liability of legal persons

1. Legal persons are kept liable for offenses of trafficking in human beings, committed for their gain by one person, who acts either individually or as part of a body of the legal person, and who has a leading position under the legal person, based on the:
 - 1.1. competence to represent the legal person;
 - 1.2. authority to take decisions on behalf of the legal person;
 - 1.3. authority to exercise control within the legal person.
2. Legal persons are also held liable in the case when the lack of oversight or control by a person mentioned on paragraph 1. of this Article has made the act of trafficking in human beings possible, for benefit of that legal person by the part of a person under his/her authority.
3. According to paragraph 1. and 2. of this Article, liability of a legal person shall not prevent criminal proceedings against natural persons, who committed, incited or aided the trafficking in human beings.
4. Legal sanctions against legal persons on cases of trafficking in human beings will be applied in accordance with the Law on liability of legal persons' actions for offenses.

Article 15 Treatment of victims of trafficking in human beings in criminal investigation and proceedings

1. Victims of trafficking in human beings receive adequate protection based on the individual risk assessment.
2. In cases when issues related to offenses according to this Law are reviewed in the court, for persons identified as victims, the prosecutor and other authorized parties must request and the court allows application of the special investigation opportunity, in line with the Criminal Procedure Code. Statements will be recorded and they will be completely acceptable during the trial. Statements from this paragraph might be used for local victims and victims that are located outside of Kosovo.
3. Without prejudice to the rights to protection, and in accordance with individual assessment carried out by the authorities, victims receive special treatment that aims to prevent re-victimization, in particular for vulnerable victims, thus avoiding, for as much as it is possible, the following situations:
 - 3.1. unnecessary repetition of interviews during investigation, criminal prosecution or trial;

- 3.2. visual contact (confrontation) between the victims and defendants while giving testimony such as interviews and indirect interrogations, through adequate means including appropriate communication technologies;
- 3.3. giving testimony in open public session; and
- 3.4. unnecessary interviewing regarding intimate relations of the victim while he/she was trafficked.

Article 16
Treatment of child victims of trafficking in human beings in criminal investigation and proceedings

1. Without prejudice to the rights to protection, and in accordance with individual assessment carried out by the authorities, child victims receive special treatment that aims to prevent re-victimization, thus avoiding, for as much as it is possible, the following situations:

- 1.1. interviews with the child victims shall take place without unjustifiable delay after the facts have been reported to the competent authorities;
- 1.2. interviews with child victims take place, in premises designed or adapted for that purpose;
- 1.3. interviews with child victims are carried out, using child appropriate interviewing techniques by or through professionals trained for that purpose ;
- 1.4. if possible, the same officers conduct all interviews with the child victim;
- 1.5. the number of interviews of the child victim is limited to one. The number of interviews can be more than one only for the purposes of exceptional and complex investigations. in line with the Justice Code for Minors, Criminal Code and Criminal Procedure Code of Republic of Kosovo;
- 1.6. the victim child may be accompanied by an authorized representative, or when appropriate, an adult according to his/her choice, unless a reasoned decision has been made to the contrary in respect of that person.

2. Provisions from Article 15, paragraph 2. of this law, shall be applied *mutatis mutandis* while taking the statement of child victims.

3. Court – takes necessary measures to ensure that in criminal court proceedings of any of the offences of trafficking in human beings, when a child victim is involved, it might order that:

- 3.1. hearing is held without the presence of the public; and
- 3.2. child victim is heard in courtroom without being present, in particular, through use of appropriate communication technologies.

Article 17
Closing of premises or businesses involved or facilitating trafficking in human beings

In cases when there is grounded suspicion that a premise or business, acting legally or illegally, is involved in issues of trafficking in human beings, according to this Law and Criminal Procedure Code, the prosecutor demands from the judge immediate closure of the premises or the business.

Article 18
Protection of data/personal and privacy

1. Personal data, private life and identity of victims of trafficking are protected by the law enforcement authorities during the criminal procedure. The recording, maintenance, utilization of personal data of the victim of trafficking is carried out in line with conditions set by the Law on Protection of Personal Data.
2. In line with paragraph 1. of this Article, an agreement for exchange of information between authorities that deal with identification and assistance of the victim should be drafted, as well as with criminal investigation while fully respecting the protection of personal data and privacy and safety of the victims' integrity.
3. All information exchanged between the victim and a professional providing medical, psychological, legal or other assistance or services shall be confidential and shall not be exchanged with the third persons without victim's consent, in case of a child victim, without the consent of the legal representative.
4. Disclosure of data related to state protection measures for the victims of trafficking in human beings, persons that provide such protection, as well as persons that provide assistance in fighting trafficking in human beings is forbidden.
5. In case that the life or health of the victim of trafficking is threatened from the real danger, than, according to his/her request, based on the court decision taken upon prosecutor's request, he/she is given the possibility to change his/her name, surname, date and place of birth, in line with conditions set in the law for protection of personal data and respective legislation in force.
6. Disclosure of information regarding protection measures and confidential information of the victim of trafficking, as well as disclosure of information related to criminal prosecution and measures provided for the safety of participants in criminal procedure, is sentenced in line with the law for the protection of personal data and legislation on criminal and administrative acts.

Article 19

Ensuring safety of the victims or witnesses

1. Competent body as defined in the Law on Protection of Witnesses, takes all necessary measures to ensure that the victim or the witness of trafficking in human beings and his/her family is provided with appropriate protection in case that his/her security is at risk, including measures for his/her protection from intimidation and retaliation of traffickers and their collaborators.
2. When it is necessary for ensuring physical safety of the victim or the witness, based on the request of the victim or the witness, or in consultation with him/her, the competent body undertakes all necessary measures for his/her displacement within or outside of Kosovo in line with the sub-chapter H of the law for the protection of personal data and limitation of disclosing his/her name, address and other personal identification information to the extent it is possible.
3. Victims and witnesses of trafficking in human beings have access to existing witness protection programmes in line with Law on Witness Protection and the Criminal Procedure Code of Kosovo.
4. In cases of appearing in front of court that deal with criminal actions according to this Law, the court might allow presumed victims or witnesses to present their evidence in cameras or through other electronic or special means, as deemed appropriate by the court.
5. A victim of trafficking or a witness outside of Kosovo that might be able to provide information while investigating cases related to trafficking in human beings might be given provisional authorization to remain in Kosovo and appropriate protection during these periods, and according to conditions that are considered appropriate by the institutions in charge.
6. Nothing in this law forbids the victims and their authorized representatives to claim compensation ordered by the court, according to the civil and legal procedure which is guaranteed by the laws in force.

CHAPTER IV
ASSISTANCE AND PROTECTION OF VICTIMS OF TRAFFICKING IN HUMAN

Article 20
Assistance and protection of victims of trafficking in human

1. Victims of trafficking in human beings are given protection and assistance by the Authorities set in Article 6 of this Law, under their competencies and in line with this Law and other normative acts.
2. In line with Criminal Procedure Code, a victim of trafficking has the fundamental rights as it follows:
 - 2.1. right to information on the progress of criminal proceedings, as well as to all the rights pertained according to this Law and other legislation in force.
 - 2.2. right to be treated as a party in procedure;
 - 2.3. right of access to free of charge legal services;
 - 2.4. right to written or oral translation services over all the phases of procedure, in an understandable language to him/her;
 - 2.5. right to protect victims and witnesses, and in certain cases also for their families that are subjected to threats or intimidations in line with the Law on Witness Protection;
 - 2.6. right to privacy and confidentiality;
 - 2.7. right to enunciation of legal means, including legal assistance in this matter;
 - 2.8. right to provisional refuge;
 - 2.9. right to a reflection period of thirty (30) to ninety (90) days with purpose of recover.
 - 2.10. right to medical, psychological assistance and social welfare services, payment as it might be necessary for meeting their needs and in line with legislation in force;
 - 2.11. right to indemnity and compensation;
 - 2.12. right to participation in sessions on determination of the sentence or information regarding the sentence;
 - 2.13. right to information on release or escape of the defendant from detention centers.
3. Rights from this Article are provided to victims prior, during and after completion of criminal procedures.
4. Assistance services envisaged by this Article are also at the disposal of victims repatriated from another country in the Republic of Kosovo and accompanying dependants of the victim.
5. Assistance and support to victims of trafficking is made available once the competent authorities have reasonable-grounds for believing that the person might have been subjected to an envisaged action of trafficking in human beings.

6. Assistance and support for the victim are not conditioned with the victim's willingness to cooperate during investigations, prosecutions or judgment.

7. Assistance and support measures are provided based on appropriate accord and information, taking into account special needs of children and other vulnerable victims.

8. Victims' Defender provides legal assistance and support to the victim of trafficking in human beings, since the very first contacts with the competent bodies. Victims' defender takes part in all procedural stages and represents the victim of trafficking in all trial sessions.

9. Each time when the competent body, international organizations and non-governmental organizations that are active in this field has reasonable reasons to believe that a person is victim of trafficking in human beings, then one such person is provided with protective measures and assistance determined by this Law.

Article 21 Rehabilitation of victims of trafficking

Rehabilitation of victims of trafficking in human beings is done with the purpose of their rehabilitation and return to normal life, including provision of medical, psychological, legal and material assistance.

Article 22 Reintegration of victims of trafficking

Reintegration of victims of trafficking in human beings is done after rehabilitation with the purpose of successful social inclusion of the victims of trafficking in human beings, into normal life and freedom, through provision of adequate access to educational services, vocational training, permanent and safe resident opportunities, as well as financial independence by providing different opportunities for (self)employment.

Article 23 Security and support of Centers and shelters for temporary housing of victims of trafficking

1. Government ensures support of Centers and provisional shelters as well as protection of victims of trafficking in human beings, with aim that the specialized centers or shelters to be able to provide conditions for accommodation, personal hygiene, food, urgent care and legal assistance, social, psychological and medical care, safety and protection, as well as assistance in mediation and in contacting family and relatives.

2. Centers and provisional shelters might be established by:

2.1. Government upon the proposal of National Authority;

2.2. National Authority according to the proposal of authorities set in Article 6 of this Law;

2.3. Nongovernmental and international organizations upon approval of the National Authority;

2.4. Authorities set in Article 6 of this Law, based on the agreement for joint activities and upon approval of the National Authority.

3. Costs related to joint activities of the centers and shelters will be covered by their joint budgets.

4. Arrangement of the organization and action of centers and shelters is approved by the founder, based on the respective legislation in force in Kosovo.

5. With aim to guarantee safety of centers and shelters that accommodate victims of trafficking in human beings, centers and shelters, as per their requests, are provided assistance and safety by the police.

6. Centers provide accommodation to victims of trafficking in human beings based on the assessed needs for period of thirty (30) up to ninety (90) days.

7. Accommodation timeline set in paragraph 6. of this Article might be extended:

7.1. based on doctor's recommendation during the treatment period, but not longer than six (6) months;

7.2. based on the request of legal prosecution bodies or the court's request during the criminal procedure period, and when the life and health of the victim is threatened by real danger, accommodation timeline might also be extended even after the completion of criminal procedure for a period that is considered necessary for protection of the victim, based on prosecutor's request;

7.3. based on the request of the victim of trafficking in human beings, for a period of up to ninety (90) days.

8. Pregnant women, who are victims of trafficking, are entitled to accommodation the centre for a period of up to one (1) year, with possibility of extension.

Article 24 Vocational training of victims of trafficking

Authorities provide the vocational training for victims of trafficking in human beings, according to conditions set by the legislation in force, through provision of them free of charge services with priority on mediation in employment, information, professional counseling, professional orientation and professional training, as well as through providing them the right to take part in the professional training course funded by the unemployment programme. Beneficiaries of the determined services in this paragraph are victims of trafficking over sixteen (16) years of age.

Article 25 Information regarding the procedures for granting residence permits

From the moment that competent authorities are aware that a foreign person falls under the scope of implementation of this Law, they inform and assist the person in question regarding the opportunities he/she is provided in the residence field.

Article 26 Reflection period for victims and witnesses of trafficking in human

1. If it considered that a foreigner, whose stay in Kosovo is not regular, is a victim or witness of trafficking in human beings, competent rule of law enforcement bodies on foreigners, offer him/her a reflection period, over which the person in question recovers, escapes from the influence and threats of perpetrators, irrespective to the fact if he/she wants to cooperate with respective authorities or not.

2. Duration, start date of the reflection period and conditions for completion of this period are regulated according to provisions of the applicable legislation on foreigners and provisions of this Law. Respect of the non-refoulement principle is taken into consideration.

Article 27 Services provided prior to the granting of residence permit

1. Kosovo Authorities provide foreign persons, who do not have sufficient financial means, with necessary living support and for access to emergent medical service, as well as, when possible, psychological assistance services to vulnerable persons.

2. In line with the respective legislation, authorities should take into consideration protection and safety needs of foreign persons.
3. As appropriate, authorities should provide interpreting services.
4. Provided that it is envisaged by the local legislation in force, authorities should provide free of charge legal services.

Article 28
Presence of victims and witnesses of trafficking in human beings

1. If the presence of a victim or of a witness of trafficking is necessary, investigative authorities inform authorities that implement the legislation on foreigners by setting the duration of reflection period.
2. Authorities implementing legislation on foreigners issue a short-residence permit for as long as the investigation of court procedure lasts.
3. In humanitarian cases, victims or witnesses of trafficking in human beings might be given additional protection, according to criteria envisaged in the legislation on foreigners.
4. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 29
Return of victims of trafficking from Kosovo

1. Safe return of victims of trafficking is organized if:
 - 1.1. Victims of trafficking want to return to their place of origin or resettle in another country;
 - 1.2. Kosovo Authorities provide the victims of trafficking with information regarding safe return at the beginning of the reflection period, throughout the period that he/she is given assistance and at the moment that the victim expresses his/her desire to return to his country of origin or resettle in a third-country.
2. Child victims or witnesses are not returned to their country of origin, if after the risk and safety assessment it is considered that their return would not be at their best interest.
3. Return of victims of trafficking is arranged according to the legislation on foreigners, international or bilateral agreements. Principle on non-refoulement should be taken into consideration.
 - 3.1. the procedures for return of victims of trafficking or presumed victims of trafficking must be in accordance with the Constitution of the Republic of Kosovo, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees.

Article 30
International cooperation in the field of return

1. In case of return of a foreign victim, hosting country and the country that the victim of trafficking is resident, or the country in which the victim has residence permit, should envisage special provisions regarding cooperation between them.
2. Upon a request filed by the requesting state, the requested state should facilitate return of the victim through verifying if the victim is its resident, has residence permit in its territory, and, if necessary, equip him/her with travel documents.

3. Repatriation and readmission of victims of trafficking in humans is carried out in line with legislation that regulates readmission issue in Kosovo, and in line with this Law.

Article 31

Providing assistance and protection to victims of trafficking

1. Providing assistance and protecting victims of trafficking is done by offering medical, psychological, social and legal assistance through respective specialized measures.
2. Victims of trafficking and presumed victims benefit free of charge medical services from respective health authorities, as regulated by the respective health legislation.
3. The State, through its authorities and organizations, takes immediate appropriate measures to identify and refer victims of trafficking in human beings in protection and assistance services, enabling them a reflection period of thirty (30) to ninety (90) days. Over this period, application of any deportation order against such a person is prohibited.
4. Victims of trafficking in human beings are provided assistance and protection by the authorities set in Article 6 of this Law, under their competencies and in line with this Law and other normative acts.

Article 32

Providing assistance and protection to victims of trafficking in human beings by the Diplomatic Missions and Consular Offices of the Republic of Kosovo

1. On the occasion of providing assistance and protecting victims of trafficking in human beings, the Diplomatic Missions and Consular Offices of the Republic of Kosovo shall carry out these obligations:
 - 1.1. to carry out activities for defending the rights and interests of the citizens of the Republic of Kosovo that became victims of trafficking in human beings in the country of residence or, in countries they have accredited missions, and contribute to their repatriation in line with legislation of the Republic of Kosovo and legislation of the country of residence;
 - 1.2. in case of loss or impossibility of recovery of identity documents from the traffickers, to issue free of charge and in a prompt manner, jointly with the respective ministry, documents or other acts needed for repatriation in the Republic of Kosovo of citizens of the Republic of Kosovo who have become victims in trafficking in human beings;
 - 1.3. to disseminate informative materials to interested persons regarding the rights of victims of trafficking in human beings, in line with the legislation of Republic of Kosovo and the legislation of the country of residence;
 - 1.4. to provide information to authorities or judicial bodies of the country of residence or in the countries that they have accredited missions regarding the legislation of the Republic of Kosovo in the field of preventing and combating trafficking in human beings, regarding the rights of victims and their protection, including addresses of Centers for Protection and Assistance of Victims of Trafficking in Human Beings;
 - 1.5. heads of diplomatic missions and consular offices appoint a diplomat from their missions to be in charge of the application of procedures for repatriation procedures for Kosovo citizens that are victims of trafficking in human beings, for their protecting and assisting while residing in the country of transit or destination, as well as for cooperation in this field with bodies from the Republic of Kosovo.

Article 33

Role of the non-governmental sector

1. National Authority supports, encourages and directs local nongovernmental organizations and international organizations to support authorities from Article 6 of this Law, in preventing and combating trafficking in human beings, and protection of victims of trafficking.
2. Local and international nongovernmental organizations provide respective services for victims of trafficking, either with their initiative, on behalf of the municipal directorate in the case of municipal services, or on behalf of the National Authority in case of services at the Kosovo level.
3. Each nongovernmental organization that provides services to victims of trafficking should be licensed by the respective institution, as well as adhere to regulations, guidance and procedures related to their activity, as determined by the respective institution.
4. Institutions within the national authority might allocate funds and provide any other material assistance, including premises, or councils for nongovernmental organizations that provide respective services (in rehabilitation or reintegration shelters) for victims of trafficking at the Kosovo level.
5. Due to inability to provide certain services for the victims, municipalities and central institutions might purchase services for victims of trafficking from local nongovernmental organizations, through respecting public procurement rules.
6. Local nongovernmental organizations and international organizations are obliged to respect the legislation in force and minimum standards for protecting victims of trafficking and always accept monitoring and inspection of quality of services provided for the victims.

CHAPTER V PREVENTING AND COMBATING TRAFFICKING IN CHILDREN

Article 34

General provisions on assistance and protection of child victims of trafficking in human beings

1. Children who are victims of trafficking benefit assistance and protection. The best interests of the child shall be taken into consideration during the implementation of the legislation.
2. Authorities responsible for social, health care and education, non-governmental organizations, other institutions, and civil society representatives, without any delay, contact law enforcement bodies when they have knowledge or suspect that a child is exploited or trafficked, or that he/she is exposed to the risk of exploitation or trafficking.

Article 35

Special principles for combating trafficking in children

1. In addition to the basic principles set out in Article 4 of this Law, specific principles set out below shall be considered in the activity of preventing and combating trafficking in children and the protection or assistance of children who are victims of such trafficking:
 - 1.1. strict observance of the rights of the child set out in the United Nations Convention on the Rights of the Child and Juvenile Justice Code of Kosovo, and any other relevant legislation
 - 1.2. undertaking of measures to special protection and assistance of children who are victims of human trafficking;
 - 1.3. whenever a child victim of trafficking is capable of forming his or her own views, giving due weight to the view of the child, in accordance with his/her age and maturity and his/her best interests;

1.4. informing a child who is a victim of human trafficking in a child appropriate manner on the state and the rights of his/her protection and assistance measures, available services, repatriation procedures, and the process of family reunification;

1.5. ensuring that the identity and any details that may enable the identification of child victim of trafficking, not to be made public under any circumstances.

Article 36 Presumption of age

When the age of the victim of human trafficking is not known but there are reasons to believe that the victim has not yet reached eighteen (18) years, it is presumed that the victim is a child, and, until the final ascertainment of age, the victim is treated as a child, by recognizing him/ her all the special protection measures stipulated in this Law and other normative acts.

Article 37 Repatriation of a child victim of trafficking in human beings

1. The child who is a victim of trafficking in human beings is repatriated to his / her country of origin, provided that, before returning to his/her parent, relative, or legal guardian have consented to the admission of the child in his/her care, or governmental authority or institution for the protection of children from their country of origin has consented that is able to take over responsibility for child's care and to provide him/ her adequate assistance and protection.

2. Obtaining a statement from the child by the criminal prosecution body or by the court on the manner of trafficking, does not prevent or delay family reunification or return the child to his / her country of origin, provided that this is in the best interest of a child.

3. When returning the child to his/her country of origin or his/her integration in the country of destination is not possible, or when these solutions are not in the best interest of the child, the authorities of both countries provide relocation of a child victim of trafficking in a third-country, with the consent of the latter.

4. Whenever a child victim of trafficking is capable of forming his or her own views, when deciding the Kosovo authorities shall give due weight to the view of the child, in accordance with his/her age and maturity and his/her best interests.

5. The child who is a victim of trafficking cannot be returned to his/her home or transferred to a third-country, if, after a risk and security assessment there are reasons to believe that the safety of the child or his/her family is at risk.

6. Children who are victims of trafficking in human beings who are foreign nationals or stateless persons have the right to get temporary residence permit which guarantees them the right on legal residence in the territory of Kosovo until reaching a sustainable solution on their return to their country of origin.

Article 38 Granting assistance and protection to child victims of trafficking in human beings

1. Authorities provide protection and assistance to children victims of trafficking in human beings as of the moment that there are reasons to believe that a child is a victim of trafficking until the identification, integration and full recovery of the child, regardless of their cooperation with the authorities, as defined in this Law.

2. Assistance and support for children victims of trafficking in their physical and psychosocial recovery are carried out upon individual assessment of specific circumstances of each child victim, taking into account the views, needs and child concerns with the purpose to find a long-term solution for the child.

3. Once identified as a presumed victim of trafficking in human beings, child immediately is sent to the competent services for protection, support and rehabilitation of children.
4. National Authority, the authorities defined in Article 6 of this Law, including law enforcement authorities, centers or shelters, non-governmental organizations, and other competent organizations if they have information about a child who is a victim of trafficking in human beings are obliged to immediately notify observation and guardianship institutions, in order to safeguard child's rights.
5. When a child victim of trafficking in human beings is deprived of parental care, supervision and custody institutions set as prescribed by Law, a legal guardian, which ensures that all decisions made are in the interest of the child, who gives statements on behalf of the child, and who participates with the child in all criminal proceedings and judicial actions, pending a solution in accordance with the best interests of the child.
6. The child who is identified as a victim of human trafficking shall be provided the opportunity of a reflection period of thirty (30) to ninety (90) days, so that he/she decides in person, by proxy or his legal guardian if he/she shall testify against the trafficker.
7. In the case of child victims of trafficking accommodation in centers or shelters, they shall be accommodated separately from adults.
8. Child victims of trafficking in human beings are entitled to accommodation in the centre for a period of up to six (6) months or for the duration of the legal proceedings.
9. All institutions or authorities or organizations whose activity is related to children who are victims of trafficking in human beings establish specific practices and programs for the identification, referral, protection and assistance, while at the same time preserve the confidentiality of information that has to do with the personal data and the child's status as a victim.
10. Child victims of trafficking in human beings and children of the victims are guaranteed the right to continue their education in state educational institutions in accordance with the conditions laid down in the Law on Education.
11. When children victims of trafficking in human beings are left without parental care or when they do not know the whereabouts of their parents, they are provided opportunity to urgently search for their family supervisory institution or guardian, as defined by the relevant legislation.
12. Child victims who suffered from trafficking in human beings are entitled to long-term care and protection until their full recovery. Children deprived of their family environment are entitled to alternative care similar to that family or community.

CHAPTER VI COMPENSATION OF VICTIMS OF TRAFFICKING

Article 39 Types of compensation

1. Victims of trafficking, including child victims, whenever possible, receive compensation in order to be re-integrated and to have full recovery. Procedures for the acquisition and implementation of compensation should be accessible to children.
2. Compensation includes:
 - 2.1. compensation by the perpetrator who is ordered by the court;

2.2. damages which are ordered to be paid through civil proceedings; and

2.3. legal Act for Compensation of victims of trafficking.

Article 40
Court ordered restitution

1. Compensation ordered by the court is subject to the provisions of the Kosovo Criminal Procedure Code.

2. Courts ensure that orders for compensation are implemented efficiently and prioritize them in comparison to other payments such as fines.

Article 41
Right to initiate civil action

1. The victim of trafficking in human beings has the right to initiate civil proceedings to claim compensation for material, physical and emotional harms that are caused to him/her as a result of the actions defined as offences by this Law, if he/she could not exercise this right in criminal procedure.

2. The right to file civil claim for compensation for material, physical and emotional harm is not affected by the existence of criminal proceedings relating to the same actions from which the civil claim derives from.

3. Absence of the victim during the procedure does not impede the court to order payment of compensation from this Article.

Article 42
State compensation

1. Compensation of victims of trafficking in persons by the State shall be regulated by a respective legal act on compensation of all victims of crime.

2. In accordance with the Criminal Procedure Code, when compensation is not completely possible from other sources, the state contributes to compensate victims of trafficking or a family member of the child victim of trafficking in human beings or dependants of the victim who died as a result of such crime.

3. Government of Kosovo shall ensure that within the respective legal act for compensation of victims of crime also foresees compensation for victims of trafficking in human beings.

4. Compensation is given as:

4.1. additional compensation if the defendant only partially compensates the victim;

4.2. full compensation in cases of inability for full payment by the defendant; or

4.3. full compensation when the defendant is not identified, prosecuted or convicted. In this case the respective legal act for compensation of victims of trafficking remains as the sole manner of reparation for the victims.

5. Immigration status or return of the victim to his/her place of origin shall not prevent the certain institution to order the payment of compensation according to this Law.

6. Compensation covers compensation for material, physical and emotional harm.

7. Upon proposal of the National Authority, the Government issues the decision on establishment of the Commission for admission, revision and settlement of compensation claims for victims of trafficking in human beings.

8. Government ensures that main authorities liable according to this Law are represented in the Commission for admission, revision and settlement of compensation claims.

9. Government of Kosovo issues a sub legal act for Commission's functioning by determining its competencies, as well as criteria and procedures for issuing compensation from this Fund, including but not limited to:

9.1. circumstances under which the compensation payment might be implemented;

9.2. the basis upon which the compensation and the amount of compensation that should be paid, taking into account any compensation or amount received by other persons;

9.3. application procedure for compensation payment; and

9.4. procedure for revision of application and appeals against the decisions related to compensation requests.

10. Commission ensures that victims of trafficking have the opportunity to apply for compensation payment from this Article even in the cases when the perpetrator is not known, detained or convicted.

Article 43 **Compensation of child victims**

1. Child victims are entitled to compensation.

2. Claims for child compensation is done as determined by the respective legislation in force.

3. Access to compensation of the child victim of trafficking is regulated in accordance with the legislation in force.

Article 44 **Claim for state compensation**

1. Compensation claim is done within deadlines set by the Criminal Procedure Code.

2. Compensation is refused due to the finding of the involvement of the victim or claimant in organized crime or because of membership in the organization, which is involved in crimes of violence.

3. In order to avoid double compensation, the Commission may reduce the compensation provided or require the return of any compensation amount received by a person as compensation for injury or death, if it is compensated by the offender, insurance company or if compensation is made from any other source.

CHAPTER VII **COOPERATION**

Article 45 **Cooperation between authorities**

1. Law enforcement authorities, immigration, labour and other relevant authorities, as needed, cooperate with each other to prevent and prosecute trafficking crimes and to protect victims of trafficking, without prejudice to the right of victims' privacy, exchanging and sharing information and taking part into training programs, among others, with the purpose to:

- 1.1. identify victims and traffickers including identification documents using while crossing the border for the purpose of trafficking in human beings;
 - 1.2. identify ways and methods used by criminal groups for the purpose of trafficking in human beings;
 - 1.3. identify best practices for all aspects of prevention and combating trafficking in human beings;
 - 1.4. provide assistance and protection to victims and witnesses.
2. To develop and implement practices, programs and measures for preventing and combating of trafficking in human beings and provision of assistance and protection to victims of trafficking, as needed, authorities cooperate with nongovernmental organizations, other civil society institutions and international organizations.
 3. If Kosovo Police or State Prosecutor have information available or reasonable grounds for believing that the life, freedom and physical integrity of a person, presumed victim of trafficking, is in danger on the territory of another country, in such cases, authorities exchange information without delay to the country in question in order to take appropriate protection measures.
 4. Authorities are obliged to strengthen their cooperation in search of missing persons, in particular the missing children, if the information available makes them believe that he/she is a victim of trafficking in human beings.
 5. In order to effectively fight trafficking in human beings and to increase interstate cooperation, the institution liable under the laws of Kosovo, will sign bilateral or multilateral agreements and treaties with other countries.
 6. In order to increase the efficiency of activities to prevent and fight trafficking in human beings, and their protection, the authorities set forth in Article 6 of this Law engage separately or in combination with each other for such activities.
 7. In carrying out the activities for the prevention of trafficking in human beings, the authorities cooperate among themselves for the purpose of exchange of experts, conducting joint activities for an early identification and questioning of victims of trafficking, implementation of socio-economic initiatives, identification, arrest and conviction of persons who deal with human trafficking, and through other activities in this area.

CHAPTER VIII TRANSITIONAL PROVISIONS

Article 46

All evidence obtained in cases of trafficking in human beings before the adoption of this Law shall be considered acceptable in accordance with the procedures applicable in the time of obtaining of evidence.

Article 47 Abrogation

With the entry into force of this Law, UNMIK Regulation No. 2001/4 on the Prohibition of Trafficking in Persons in Kosovo and Administrative Order No. 2005/3 for the implementation of UNMIK Regulation no.2001/4 shall be abrogated.

Article 48

Application

1. Liable for implementation of this Law are all competent authorities referred to in Article 6 of this Law, as well as other national and international institutions that are interested in helping the fight against trafficking in human beings.
2. State institutions, each service provider under these institutions, NGOs and international organizations, are obliged to implement the National Strategy and Action Plan against Trafficking in human beings, Standard Operating Procedures, Long-Term Strategy for Reintegration of Victims of Trafficking, Minimum Standards of care for Victims of Trafficking and other respective acts promulgated by competent authorities that treat prevention and fight against trafficking in human beings and protection of victims of trafficking.
3. The rights of a victim of trafficking or a presumed victim of trafficking who requests, or might reasonably be expected to request asylum or any form of subsidiary protection provided for in the Kosovo Law on Asylum, shall always be guaranteed in accordance with the provisions of that Law.
4. Government may issue decisions or other sub-legal acts to implement of this Law.

Article 49 Issuance of sub-legal acts

Sub-legal acts for the implementation of this Law shall be issued within six (6) months from the entry into force of this Law.

Article 50 Entry into force

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

**Law No. 04/L-218
31 July 2013**

**Promulgated by Decree No.DL-043-2013, dated 19.08.2013, President of the Republic of Kosovo
Atifete Jahjaga**