

**LAW No.04/L –023
ON MISSING PERSONS**

Assembly of Republic of Kosovo,

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

Approves

LAW ON MISSING PERSONS

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose and Scope**

1. This Law aims to protect the rights and interests of missing persons and their family members, in particular the right of family members to know about the fate of missing persons, who were reported missing during the period 1 January 1998 – 31 December 2000, as a consequence of the war in Kosovo during 1998-1999.
2. This Law, also, establishes the powers and responsibilities of Governmental Commission on Missing Persons.

**Article 2
Definitions**

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

1.1. **Missing person** is a person whose whereabouts is unknown to his/her family members and seekers who based on reliable information was reported missing during the period 1 January 1998 – 31 December 2000, as a consequence of the war in Kosovo during 1998-1999.

1.2. **A family member of the missing person** means a family member of a missing person as established by the Family Law of Kosovo No. 2004/32, unless otherwise provided by law for the purposes of this law.

1.3. **Central Register on Missing Persons** means the central database including information collected on searching, recovery and identification process of missing persons and other rights on the person or his/her family member.

1.4. **Reliable information** is considered the information which reasonably could lead to conclusion that the whereabouts of a relevant person is unknown to his or her family members or in cases when they have no family members, the person is not found in his or her habitual or temporary residence address.

1.5. **Minimal data on a missing person** - consists of person's first name, parent's name and last name, sex, place and date or only year of birth, place and date or only the supposed year of disappearance and circumstances of disappearance.

**Article 3
Prohibition of discrimination**

Missing persons and their families shall enjoy equal rights and shall be excluded from any discrimination based on their race, color, sex, language, religion, political opinions or other opinion, their national or social origin, affiliation with any community, property, economic and social condition, sexual orientation, birth, disabilities or any other personal status.

CHAPTER II RIGHTS OF THE MISSING PERSONS AND THEIR FAMILY MEMBERS

Article 4 Rights of the missing persons

There shall be no prejudice to the rights and interests of a missing person due to his or her status as a missing person.

Article 5 The right of family members to get informed on the fate of missing persons

1. Everyone shall have the right to know about the fate of his or her missing family member(s), including the whereabouts, or in case they deceased, the circumstances of their death and location of burial, if such location is known, and they shall also have the right to recover the mortal remains.
2. Governmental Commission on Missing Persons (hereinafter: Commission) shall inform, in writing, the family members of the outcome of searching requests.
3. Commission reviews all requests relating to missing persons, including the request referred to in the paragraph above.
4. Nobody holds criminal liability nor shall be exposed to threats, violence or any other form of threat when he or she wants to know about the fate or whereabouts of his or her missing family members.

Article 6 Rights of the family members in relation to the legal status of missing persons

1. The civil status of the spouse of a missing person does not change until the identification of mortal remains of a missing person is conducted and a death certificate is issued, or the missing person is proclaimed dead by the court pursuant to Law on Non-contested Procedure.
2. In case where both parents are reported missing to the Commission, the custody shall be imposed pursuant to Family Law of Kosovo. The custody shall protect the best interest of the child.
3. A family member of the missing person may request from the Basic Court of the last residence address of the missing person to take an authorization on temporary administration of property and assets belonging to the missing person. The court may issue such authorization if this petition is in the best interest of the missing person. In case the missing person is proclaimed dead thereafter pursuant to provisions of Law on Non-contested Procedure, the same person (family member) may be appointed as a custodian pursuant to the same Law.
4. A family member of the missing person, who can prove his or her material dependency on the incomes of the missing person, may apply to the Basic Court of the last residence address of the missing person to receive a payment (daily fee) from the properties of the missing person, so that the family member could fulfill their needs.
5. The expenses of reburial after the identification of mortal remains of missing person shall be covered by Governmental Commission on Missing Persons.

Article 7 Beginning and termination of research

1. The request for the beginning of procedure for the missing person shall be submitted to the Governmental Commission on Missing Persons.
The request for missing person may be submitted by the family member of missing person, other persons, and competent bodies
 - 1.1. The request should contain the minimal data for verifying the identity of missing person as foreseen in Article 2, paragraph 1 sub-paragraph of this Law.
When there is a lack of minimal data for verifying the identity of missing person, Commission in order to ensure additional information, in the shortest period of time, should contact the submitter of the request for the beginning of procedure.

2. The search for a missing person is considered completed when the missing person is located or his/her mortal remains are identified.
3. The search for a missing person shall not be terminated even if a missing person is declared dead in accordance with the Law on Non-Contentious Procedure.
4. The search for a missing person shall continue until the fate and, when possible, the whereabouts, of the reported missing person have been determined and the family and relevant authorities have been duly informed.
5. Procedures for termination of research shall be regulated by sub-legal acts, proposed by the Ministry of Justice and approved by the Government.

CHAPTER III GOVERNMENTAL COMMISSION ON MISSING PERSONS

Article 8 Governmental Commission on Missing Persons - GCMP

1. Commission is a governmental body which heads, supervises, harmonizes and coordinates the activities with local and international institutions, cooperates with Institutions and International Organizations and the other stakeholders with regards to clarification of the fate of missing persons as a result of 1998-1999 war, regardless their ethnic background, religion or military or civil status.
2. Commission operates within the Office of the Prime Minister, or within a successor entity as decided by the Government.
3. Commission may receive donations provided that they have no impact on its work and its independence.
4. The Government may decide on the entity which will be the successor of the Commission and which will have the same mandate as established under provisions of this Law.

Article 9 Members of Commission

1. Members of Commission shall include, but not limited to, the following representatives:
 - 1.1. Office of the Prime Minister -Chairperson and Vice Chairperson ;
 - 1.2. Ministry of Justice – member;
 - 1.3. Department of Forensic Medicine - member;
 - 1.4. Ministry of Internal Affairs - member;
 - 1.5. Ministry of Local Government Administration - member;
 - 1.6. Ministry of Labor and Social Welfare - member;
 - 1.7. Ministry of Foreign Affairs - member;
 - 1.8. Ministry for Kosovo Security Force - member, and
 - 1.9. Other members, including three representatives of associations of family members of missing persons of Kosovo, where one of the members should be amongst non-majority community.
2. Governmental members of Commission shall cooperate by providing the available information and assisting the Commission.

3. The Chairperson and the Vice Chairperson of Commission shall be nominated by the Prime Minister, the Vice Chairperson should be amongst the non-majority communities.
4. Member of Commission shall be represented at the level of senior civil affairs officers, respectively the general secretaries or directors of respective departments with the relevant ministries and other institutions.
5. Office of the Prime Minister or successor entity shall provide administrative and financial support to the Commission.
6. Within the Commission shall operate the Unit which helps the Commission to implement its duties and responsibilities.
7. The head of Unit and employees are civil servants.

Article 10 Competence of Commission

1. Commission shall protect the rights and interests of missing persons and their families.
2. Commission shall coordinate the activities in collecting the data relating to the missing persons.
3. Commission shall establish a Central Register on Missing Persons.
4. Commission shall inform the family members of missing persons and shall cooperate with their associations, notifying the family members of the fate of missing persons, raising the consciousness (awareness) and supporting initiatives related to missing persons by reporting publicly the outcome of its findings.
5. Commission undertakes other significant activities relating to the missing person.

Article 11 Cooperation of the Commission with local and International institutions

1. Commission exercises its activity in full cooperation with local institutions, international institutions and organizations, Public Prosecution Office, Courts and other responsible structures authorized by law to collect data on missing persons.
2. Commission cooperates with local and international organizations and associations involved in protection of the rights of missing persons and their families.
3. Commission cooperates with the relevant authorities of countries in the region in relation to missing persons in compliance with international agreements and applicable Laws in Kosovo.
4. Commission or a successor entity to whom is given the same mandate coordinates activities with international and local institutions, and other stakeholders relating to construction of the monument or other initiatives related to the honor of missing persons.
5. Relevant public authorities of Foreign Affairs, Justice, Internal Affairs and Local Government Administration, within their area of responsibilities cooperate with Commission by providing the available information and providing assistance for the realization of his/her duties.

Article 12 Rules of Procedure of the Commission

Other competencies and procedures of Commission, including the appeal submission procedure, internal organization and systematization of workplaces of the relevant administrative unit shall be regulated by the Rules of Procedure of Commission. Rules of Procedure are proposed by Commission and approved by the Government, within six (6) months following the entry into force of this Law. Governmental Commission shall draft a periodical and annual work report and shall report to the Government of Republic of Kosovo

CHAPTER IV CENTRAL REGISTER ON MISSING PERSONS

Article 13 Central Register on Missing Persons

1. Commission, with purpose of ensuring the implementation of its mandate and clarifying the fate of missing persons, shall establish and maintain a Central Register on Missing Persons.
2. Commission collects and centralizes the data on missing persons in its Central Register, which data have been collected from all available sources to assist in revealing their identity and location as well as circumstances to their disappearance.
3. The data collected in this way shall be exchanged with the relevant state organizations, as appropriate, for the purpose of searching and identifying the missing persons or recovering the mortal remains.

Article 14 Access to Central Register

1. With view to implementation of the rights established under Article 6 of this Law, the access to information available in Central Register shall be enabled to families or legal representatives of missing persons and other organizations, which have the mandate to conduct searching, finding and identification of missing persons. These data shall be available pursuant to relevant legislation on personal data protection.
2. The request for access to register data can be addressed to the Commission by the family members of a missing person or by the State bodies that are not represented in Commission. Commission reviews the application and takes a decision within fifteen (15) days from the date of its submission.

Article 15 Personal data processing and review in Central Register

1. The data kept in Central Register are processed and reviewed pursuant to the Law on Protection of Personal Data and Law on Classification of Information and security clearances, as well as with other legal obligations relating to the protection of Personal Data.
2. Commission adopts a regulation which establishes the procedure for using, registering, excluding and exchanging the data, their verification and management pursuant to the Law on Protection of Personal Data and Law on Classification of Information and security clearances and the security rules as well as with other legal obligations relating to the protection of Personal Data.

CHAPTER V FINAL PROVISIONS

Article 16 Petitions prior to entry into force of the present Law

All requests relating to missing persons, which have been submitted prior to entry into force of the present Law, are considered valid and submitted in accordance with provisions of this Law, if they contain the minimal required data.

Article 17 Supervision

The supervisions of the implementation of this Law shall be done by the Office of the Prime Minister of the Republic of Kosovo.

Article 18

Upon entry into force of this Law, all legal provisions that are inconsistent with this Law shall be abrogated.

Article 19
Entry into force

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

Law No.03/L -023
29 August 2011

Promulgated by Decree No.DL-023-2011, dated 31.08.2011, President of the Republic of Kosovo Atifete Jahjaga.