

LAW No. 06/L-026**ON ASYLUM**

The Assembly of the Republic of Kosovo,

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

Approves:

LAW ON ASYLUM**CHAPTER I****GENERAL PROVISIONS AND BASIC PRINCIPLES****Article 1****Purpose of the Law**

1. This Law regulates the conditions and procedures for granting the status of refugee, subsidiary protection, and temporary protection, status, as well as the rights and obligations of applicants, the persons with the refugee status and persons who are granted subsidiary protection and temporary protection.

2. This law aims to be harmonized with the:

2.1. Directive no. 2013/33/EU of the European Parliament and Council dated 26 June 2013 for laying down standards for the reception of applicants for international protection;

2.2. Directive No.2013/32/EU of the European Parliament and Council dated 26 June 2013 on common procedures for granting and withdrawing of international protection;

2.3. Directive No.2001/55/EC of the Council dated 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

2.4. Directive No.2011/95/EU of the European Parliament and Council dated 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

2.5. Directive No.2011/51/EU of the European Parliament and of the Council of 11 May 2011 Amending Council Directive 2003/109/EC to Extend its Scope to Beneficiaries of International Protection.

2.6. Council Directive No.2003/86/EC of 22 September 2003 on the right to Family Reunification.

Article 2

Scope

This Law will apply to all foreign nationals and stateless persons who have declared intention to apply for international protection in the territory of the Republic of Kosovo, including the border in the territorial waters or in transition zones as long as they are allowed to stay in the territory of the Republic of Kosovo as an applicant for international protection, as well as their family members, if they are included in the application for international protection in accordance with this law.

Article 3

Definitions

1. Terms and abbreviations used in this Law shall have the following meaning:

1.1. **Ministry** - Ministry of Internal Affairs;

1.2. **DCAM** - Department for Citizenship, Asylum and Migration within the MIA;

1.3. **NCR**- National Commission for Refugees;

1.4. **DMF**-Directorate for Migration and Foreigners in the Kosovo Police;

1.5. **UNHCR** - United Nations High Commissioner for Refugees;

1.6. **Applicant** - every foreign national or stateless person who has made an application in respect of which a final decision has not yet been taken;

1.7. **Application for international protection' or 'application'**- an application for protection made by a foreign national or a stateless person, that could be understood as seeking a refugee status or subsidiary protection, and who does not explicitly requests another kind of protection outside the scope of this law, that could be applied for separately;

1.8. **Subsequent application** - another application for international protection made after a final decision on a previous application has been taken, including cases where the applicant has clearly withdrawn his or her application and cases where the determining authority has rejected an application following its implicit withdrawal in accordance with this law;

1.9. **Foreigner**- any natural person who is not citizen of the Republic of Kosovo;

1.10. **Foreign national** - any person who is not a citizen of the Republic of Kosovo and who has a foreign citizenship;

1.11. **Stateless person** - a person who is not considered as a national by any state under the operation of its law;

1.12. **International protection** - refugee as defined in Article 3 sub-paragraph 1.18.

and subsidiary protection as defined in Article 3 sub-paragraph 1.19. of this Law;

1.13. Beneficiary of international protection - a person who has been granted refugee status or subsidiary protection in accordance with Article 3 sub-paragraph 1.18. and Article 3 sub-paragraph 1.19. of this law;

1.14. Refugee status –the recognition of a refugee status by the Republic of Kosovo to a foreigner or a stateless person.

1.15. Subsidiary protection status - the recognition of a subsidiary protection status to a foreigner or a stateless person by the Republic of Kosovo;

1.16. Person eligible for subsidiary protection - a foreigner national or a stateless person who fulfills the criteria in accordance with this Article;

1.17. Withdrawal of international protection- a decision by the competent authority to revoke, terminate or refuse renewal of refugee status or subsidiary protection in accordance with this law;

1.18. Refugee- a person who owing to the well founded fear of persecution for the reasons of race, religion, nationality, political conviction or belonging to a particular social group, is outside their country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to that country;

1.18.1. the concept of race shall, in particular, include considerations of colour, descent, or membership of a particular ethnic group;

1.18.2. the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

1.18.3. the concept of nationality shall not be confined to citizenship or lack thereof but shall, in particular, include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another state;

1.18.4. a group shall be considered to form a particular social group where in particular:

1.18.4.1. members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and

1.18.4.2. that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society.

Depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the Republic of Kosovo. Gender related aspects, including gender identity, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;

1.18.5. the concept of political opinion shall, in particular, include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in sub-paragraph 1.35 of this Article and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the applicant;

1.18.6. when assessing if an applicant has a well-founded fear of being persecuted, it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution;

1.19. **Subsidiary protection**- protection provided to foreign national or stateless person who does not qualify for refugee status, but in respect of whom substantial grounds have been shown for believing that should they return to their country of origin, or in the case of a stateless person to his/her country of former habitual residence, they will face a real risk of suffering serious harm and is unable, or owing to such risk, is unwilling to avail himself or herself to the protection of that country. Serious harm consists of:

1.19.1. the death penalty or execution;

1.19.2. torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or

1.19.3. serious and individual threat to the life of a civilian or person because of indiscriminated violence in the situation of armed international or internal conflict;

1.20. **Temporary protection** - a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection;

1.21. **Displaced persons** -a foreigner or stateless persons who have had to leave their country or region of origin, or have been evacuated, in particular in response to an appeal by international organizations, and are unable to return in safe and durable conditions because of the situation prevailing in that country, who may fall within the scope of Article 1A of the Geneva Convention or their international or national instruments giving international protection, in particular:

1.21.1. persons who have fled areas of armed conflict or endemic violence;

1.21.2. persons at serious risk of, or who have been victims of, systematic or generalized violations of their human rights;

1.22. **Mass influx**- arrival in the Community of a large number of displaced persons, who come from a specific country or geographical area, whether their arrival in the Community was spontaneous or aided.

1.23. **Geneva Convention**- Convention Relating to the Status of Refugees of 28 July 1951 and the 1967 Protocol, on the Status of Refugees;

1.24. **Country of origin**- country of nationality of a foreigner or the country in which a stateless person had his last residence;

1.25. **Family members** - in so far as the family already existed in the country of origin, or formed during flight or upon arrival in the country of asylum. The following members of the family of the applicant, beneficiaries of refugee status or subsidiary protection who are present in the Republic of Kosovo, in relation to the application for international protection:

1.25.1. the spouse of the applicant beneficiary of refugee status or subsidiary protection or his or her unmarried partner in a stable relationship, where the law or practice treats unmarried couples in a way comparable to married couples under its Law of Foreigners;

1.25.2. minor children of the couples referred to in sub-paragraph 1.25.1 of this Article of the applicant and beneficiary of international protection, on condition that they are unmarried and dependent regardless of whether they were born in or out of wedlock or adopted as defined under applicable law;

1.25.3. father, mother or another adult responsible for the applicant, beneficiary of international protection whether by law or by the practice of the Republic of Kosovo, when that applicant or beneficiary is a minor and unmarried;

1.26. **Child**- foreign national or stateless person under the age of eighteen (18) years;

1.27. **Unaccompanied/separated child** - foreign national or stateless person under the age of eighteen (18), who enter the territory of the Republic of Kosovo without being accompanied by parent or from their legal or customary primary care-giver for as long as they are not effectively taken into the care of such a person. An unaccompanied child includes a child left alone after entry in the territory of the Republic of Kosovo. A separated child is not necessarily separated from other relatives;

1.28. **Vulnerable persons** - such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation;

1.29. **Applicant with special procedural and reception needs**- person in a vulnerable position that is in need for special protection in order to enjoy the rights and fulfill its obligations during the procedure for determination of the status of protection in

accordance with this law;

1.30. **Residence permit** - any document issued by the authorities of the Republic of Kosovo allowing a foreigner to stay legally on its territory, with the exception of:

1.30.1. visas;

1.30.2. permits issued pending examination of an application for a residence permit or for international protection;

1.31. **Legal representative** – a representative assigned by law or state body to an applicant, who is not competent to act and who has the capacity to act on behalf, and to the account of the applicant throughout the procedure of determining the protection status or solely for performing a specific procedural action, except when by law is required that the party itself performs a certain procedural act;

1.32. **Authorized representative**- a representative who acts on behalf, and to the account, of the applicant throughout the procedures of determining the protection status or only for performing a specific procedural action, except in cases where by law is required from the party itself to perform a specific procedural action;

1.33. **Competent Authority**- Department for Citizenship, Asylum and Migration, National Committee for Refugees and the competent court, in accordance with the Law on the Courts unless the provisions of this law provide otherwise;

1.34. **Acts of persecution**- acts which are considered persecution among the reasons referred to in the sub-paragraph 1.18 of this Article, besides others mean:

1.34.1. acts sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights and in particular the rights from which derogation cannot be made under Article 15, paragraph 2. of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

1.34.2. or an accumulation of various measures including violations of human rights, which are sufficiently severe as to affect an individual in a similar manner as mentioned in subparagraph 1.34.1 of this Article.

1.35. **Acts of persecution** from sub-paragraph 1.35.1 of this Article include:

1.35.1. physical or mental violence, including sexual violence;

1.35.2. legal, administrative, police and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;

1.35.3. judicial prosecutions or judicial penalties that are disproportionate or discriminatory;

1.35.4. limitation of judicial redress resulting in an abusive and discriminatory punishment;

1.35.5. judicial prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling within the scope of the grounds for exclusion as set out in Article 8 of this Law;

1.35.6. actions which by their nature are specifically related to gender or child.

1.36. Actors of persecution or serious harm:

1.36.1. the actors of persecution or harm outlined in sub-paragraph 1.18. of this Article include:

1.36.1.1. the state;

1.36.1.2. the parties or organizations which control the state or a considerable part of the state's territory;

1.36.1.3. non-state actors if it can be demonstrated that actors referred to in sub-paragraphs 1.36.1.1. and 1.36.1.2 including international organizations are unable or unwilling to provide protection against persecution or serious harm.

1.37. Actor of protection – is considered:

1.37.1. protection from the persecution outlined in sub-paragraph 1.18. of this Article can be secured by:

1.37.1.1. the state;

1.37.1.2. parties or organizations, including international organizations which control the state or a substantial part of the territory of the state;

1.37.1.3. protection against persecution or serious harm must be effective and of a non-temporary nature. Such protection is generally provided when the actors mentioned under sub-paragraph 1.37.1.1 and 1.37.1.2 of this Article take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and when the applicant has access to such protection;

1.38. Reception conditions -all measures that Republic of Kosovo undertakes in favor of applicants for international protection in accordance with this law;

1.39. Material reception conditions- the reception conditions that include housing, food and clothing provided in kind, or in the form of financial assistance for daily living expenses;

1.40. Remain in state - stay in the territory, including at the border or in transit zones, of the Republic of Kosovo in which the application for international protection has been

made or is being examined;

1.41. **Asylum Centre** - any place used for the collective reception and accommodation of applicants for international protection;

1.42. **Detention** - detention of an applicant by a competent organ within a particular place, where the applicant is deprived of freedom of movement.

1.43. **Final decision** - a decision on whether the third country national or stateless person be granted refugee or subsidiary protection status.

1.44. **EU** – European Union;

1.45. **EASO** – European Asylum Support Office.

Article 4

Protecting family integrity

1. In accordance with this law, during the procedure and after the end of the examination of the application, the competent authorities must undertake all measures aimed at protecting the family unity.

2. The competent authority must ensure that, in cases when family members of the beneficiary of the protection do not qualify individually for such protection, they benefit from the derivative refugee status in accordance with the Law on Foreigners.

3. The exceptions to paragraph 1. and 2. of this Article are family members whose refugee status has been revoked, ended or refused or when circumstances exist excluding them from refugee status in accordance with this Law.

4. The benefits of paragraphs 1. and 2. of this Article can be refused or limited or removed for reason relating to national security or public order.

Article 5

Prohibition of expulsion or return (Non-refoulement)

1. The Republic of Kosovo shall not expel or return (refoul) an applicant, a refugee, person under subsidiary protection or person under temporary protection in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit from the paragraph 1. of this Article may not, however, be claimed by an applicant, refugee, person under subsidiary protection or a person under temporary protection for whom there are strong reasons to believe that he poses a danger to the security of the Republic of Kosovo, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the security of the Republic of Kosovo.

3. In cases from paragraph 2. of this Article, the residence permit will be revoked or refused to a person but not returned, expelled or extradited for the reasons deriving from the right to life and

the prohibition of torture, cruel, inhuman or degrading treatment or punishment.

Article 6

International protection needs arising *sur place*

1. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on events which have taken place since the applicants left the country of origin.
2. A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on activities which the applicant was engaged from the time of leaving the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin.

Article 7

Granting of refugee status

1. The Republic of Kosovo grants refugee status to a foreign national or stateless person, at their request, who fulfils the refugee criteria laid down in Article 3, sub-paragraph 1.18. of this Law.
2. Ministry will issue to beneficiary of the refugee status a residence permit as soon as their status is granted, that will be valid for at least three (3) years, with the possibility of renewal, unless compelling reasons of national security or public order require otherwise.

Article 8

Exclusion from refugee status

1. The right to refugee status will not be granted to a person, about whom there are serious reasons for considering that he/she:
 - 1.1. has committed a crime against peace, war crimes or crimes against humanity as defined in the international instruments drawn up to make provision in respect of such crimes;
 - 1.2. has committed a serious non-political crime outside the Republic of Kosovo prior to his or her admission as a refugee in the Republic of Kosovo;
 - 1.3. has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1. and 2. of the Charter of the United Nations.
2. Paragraph 1. of this Article will be applied to persons who incite or in other ways participate in committing the crimes or acts mentioned above.
3. Refugee status will not be granted to persons who at present are receiving the assistance or protection of United Nations bodies and agencies, other than the protection or assistance of the High Commissioner of the United Nations for Refugees. When such protection or assistance has ceased for any reason, without final settlement of the position of these persons in accordance with the relevant resolutions adopted by the United Nations General Assembly, these persons according to the facts (*ipso facto*) shall be entitled to benefit from this law.

4. Refugee status shall not be granted to persons whose rights and duties are recognized by Republic of Kosovo similarly like the citizens of Republic of Kosovo.

Article 9

Granting subsidiary protection

1. The Republic of Kosovo grants subsidiary protection to foreign nationals or stateless persons who do not qualify for refugee status, but do meet specified criteria defining subsidiary protection, as set out in Article 3, sub-paragraph 1.19. of this Law.

2. As soon as possible after the status has been granted, the Ministry shall issue to beneficiaries of subsidiary protection status a residence permit which must be valid for at least one (1) year and renewable, unless compelling reasons of national security or public order otherwise require.

Article 10

Exclusion from subsidiary protection

1. The right to subsidiary protection shall not be granted to a person, about whom there are serious reasons for considering that:

1.1. has committed crimes against peace, war crimes or crimes against humanity according to the international provisions that define these crimes;

1.2. has committed serious crimes;

1.3. is guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;

1.4. constitutes a danger to the community or to the security of the Republic of Kosovo.

2. Paragraph 1. of this Article is applied to persons who incite or in another manner participate in committing crimes or acts defined in sub-paragraph 1.1., 1.2. and 1.3. of this Article.

3. Subsidiary protection shall not be granted to a person if he or she, prior to his or her admission to the Republic of Kosovo, has committed one or more crimes outside the scope of paragraph 1. of this Article, which offences would be punishable by imprisonment, if committed in the Republic of Kosovo, and if he or she left his or her country of origin solely in order to avoid sanctions resulting from these crimes.

Article 11

Entry into the Republic of Kosovo

Foreign nationals or stateless persons who declare their intention to submit application for international protection in the Republic of Kosovo, shall be treated as applicants in accordance with this Law, and thus will be allowed to enter into the territory of the Republic of Kosovo.

Article 12

Assistance for applicants

1. The applicant may request international protection in a language which he or she understands.
2. Within a period of fifteen (15) days from the submission of their application, the applicant will be informed in a language that he or she understands, or is reasonably supposed to understand it about the procedure for determination of the protection status, the rights and duties of such a procedure, as well as the right to contact UNHCR and any Non-Governmental Organization which offers assistance to applicants.
3. Competent authorities shall ensure that information referred in paragraph 2. of this Article are in writing and in the language that the applicant understands, or is reasonably supposed to understand. If necessary, such information may be provided orally.
4. The applicant shall have the right to choose a representative, who will assist and represent him or her during the process of determination of the international protection on the expense of the applicant.
5. The representative of the applicant and the representative of the UNHCR office, have the right to contact the applicant at any time and at any stage of the procedure on the determination of the international protection.
6. The applicant has the right to talk with his or her representative, or with the UNHCR representative at any time and be informed of this right.
7. The representative shall enjoy access to information in the applicant's file, as is liable to be examined by the authorities responsible for examination of application for international protection insofar as the information is relevant to the examination of the application.
8. As an exception, the representative shall not enjoy access in the applicant's file where disclosure of information or sources would jeopardize national security, the security of the organizations or person(s) providing the information or the security of the person(s) to whom the information relates or where the investigative interests relating to the examination of the application by the competent authority or the international relations of Republic of Kosovo would be threatened. In these cases, access to information or sources in question shall be available to the competent authority, except where such access is precluded for the reasons of the national security.
9. The applicant with mental disabilities shall be assigned a representative in cases when expressed the intention to apply for international protection before the beginning of the procedure.
10. Systematic assessment of the personal circumstances of the applicants shall be carried out continuously by the relevant officers trained in particular to ensure necessary support for applicants with special procedural and reception needs throughout the duration of the procedure for the determination of protection status.
11. Through measures and specific procedural and reception guarantees, proper support for applicants with special procedural and reception needs should be based on the assessment mentioned in paragraph 10. of this Article. The official shall provide protection for the applicant

from the moment they apply for international protection until the final decision is taken, in order to exercise the right and obligations referred to in this law.

Article 13

Special procedures and reception guarantees

1. Through the special procedures and reception guarantees, the necessary support to applicants shall be conditional based on their personal circumstances, among others: age, gender, sexual orientation, gender identity, disability, serious illness, mental disorder, or as a result of a torture, rape or other serious forms of psychological, physical or sexual violence, in order to exercise the rights and obligations referred to in this law.

2. The procedure of recognition of the applicants' personal circumstances as mentioned in paragraph 1. of this Article shall be conducted on an ongoing basis by relevant specially trained officials, from the moment of expression of intent to apply for international protection until a decision on the application is taken.

3. The provisions of Article 60 on accelerated procedure shall not apply to applicants who need special procedural guarantees, in particular victims of torture, rape or other forms of serious violence, psychological, physical or sexual violence, if under this procedure a proper support can not be ensured.

Article 14

Language of the procedure and the right to a translator

1. In cases where the applicant does not understand the language in which procedures is done, the competent authority shall provide translation services in a language he or she is considered to understand. The translator shall be bound by professional confidentiality.

2. In specific cases, if it is possible the applicant shall be provided with a translator of the same gender.

3. The applicant has the right to engage a translator by choice, as long as the latter is not also an applicant.

Article 15

Women applicants

Female gender applicants have the right to request that the asylum procedure for them be conducted by the officer of the same sex. Her application will be applied if the facilities of the appropriate institution allow such a thing.

Article 16

Unaccompanied children

1. Unaccompanied child applicants shall be assigned an official for social services appointed from the Center for Social Affairs as soon as is it possible, as a representative of the unaccompanied child, in order to represent or assist the unaccompanied child with respect to the examination of the application for international protection and to enable him/her the benefits from the rights and comply with the obligations provided for in this law.

2. In no circumstances an unaccompanied minor can be interrogated without being accompanied from the official for the social services. The officer for social services shall perform his/her duties in line with the best interest of the child and will have necessary knowledge to do that. The officer for social services shall be changed only if this will be necessary.

3. The best interests of the child shall be a primary consideration for competent authority when implementing this Article.

4. The official for social services for children shall be given the opportunity to inform the unaccompanied child about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself/herself for the personal interview. The official for social services for children shall be allowed to be present at that interview and to ask questions or make comments, within the framework set by the interviewing officer.

5. If an unaccompanied child has a personal interview on his/her application for asylum, that interview shall be conducted by a person who has the necessary knowledge of the special needs of child, and the determining authority on the application for international protection shall also have the necessary knowledge on the special needs of the child.

6. After the recognition of refugee status, subsidiary protection and temporary protection of the unaccompanied child, a guardian for the child is appointed.

7. Ministry is obliged to start as soon as possible, tracing parents or close relatives of unaccompanied child applicant in cooperation with relevant organizations.

8. The ministry shall ensure that unaccompanied child, from the moment they are admitted to the territory until the moment when they are obliged to leave the country, are placed either:

8.1. with adult relatives; or

8.2. with a foster family; or

8.3. in centers specialized in accommodation for children; or

8.4. in other accommodation suitable for children.

9. Unaccompanied child applicants aged sixteen (16) or over may be placed in accommodation centers for adult applicants, if it is in their interests, as provided by this Article.

10. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis.

11. To the extent possible, siblings should be kept together, taking into account the best interests of children concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied children should be limited to a minimum.

12. With the request of the competent authority, unaccompanied child may undergo medical examinations to determine the age, within the framework of the examination of an application

for international protection where, following general statements or other relevant indications, competent authorities have doubts concerning the applicant's age. If thereafter, competent authorities are still in doubt concerning the applicant's age, they shall consider that the applicant is a minor.

13. All medical examinations shall be performed with full respect for the individual's dignity, shall be the least invasive examination and shall be carried out by qualified medical professionals allowing, to the extent possible, for a reliable result.

14. Where medical examinations are used, the competent authority shall ensure that:

14.1. unaccompanied child is informed prior to the examination of application, in a language that they understand or are reasonably supposed to understand, of the possibility that their age may be determined by medical examination. This shall include information on the method of examination and the possible consequences of the result of the medical examination, in terms of considering the application for international protection as well as the consequences of refusal of medical examination of unaccompanied child;

14.2. unaccompanied child and/or his representative shall give consent to conduct medical examination in order to determine the age of the child; and

14.3. the decision to reject an application submitted by an unaccompanied child who refused to undergo a medical examination shall not be based solely on that refusal;

14.4. the fact that an unaccompanied child has refused to undergo a medical examination shall not prevent the determining authority from taking a decision on the application for international protection.

15. In this context, the views of the child shall be taken into account in accordance with his or her age and degree of maturity.

16. Those working with unaccompanied children should have had or should receive appropriate training concerning their specific needs, and shall be bound by the confidentiality principle in relation to any information they may obtain in the course of their work.

Article 17

Vulnerable persons

1. Government shall pay particular attention treatment and special care to the vulnerable persons.

2. Special needs under this Law shall be determined on the basis of individual assessment of each applicant, refugee, person under subsidiary protection or person under temporary protection.

3. Applicants, refugees, persons with subsidiary protection or persons with temporary protection with special needs, will have special treatment in accordance with their specific needs in the case of accommodation, offering special reception conditions, the necessary medical treatment and the necessary psychosocial counseling.

4. Applicants, refugees, persons with subsidiary protection or persons with temporary protection who have been subjected to torture, rape or other serious forms of violence will receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care.

5. Those working with victims of torture, rape or other serious acts of violence shall have had and shall continue to receive appropriate training concerning their needs, and must adhere to the confidentiality rules in relation to any information they can obtain in their work.

Article 18

Residence, freedom of movement and detention

1. The applicants may move freely within the territory of the Republic of Kosovo from the moment of their application for international protection until the final decision.

2. The applicant shall not be held in detention center for the sole reason that he or she has applied for international protections.

3. The applicant shall not require permission to conduct meetings with authorities or courts when his/her appearance is necessary.

4. DCAM, may detain the applicant at the Detention Centre where it considers necessary and on the basis of an individual assessment of each case, and if other less coercive alternative measures cannot be applied effectively, in the cases below:

4.1. in order to determine or verify his or her identity or nationality;

4.2. in order to determine elements on which the application for international protection is based, that could not be provided without restricting freedom of movement, especially when there is a risk of absconding of the applicant;

4.3. when it is necessary for the protection of national security or public order;

4.4. in order to decide, in the context of a procedure, on the applicant's right to enter the territory.

4.5. when he or she is detained subject to a return procedure, in order to prepare the return and/or carry out the removal process, and when the competent authority can substantiate on the basis of objective criteria, including the fact that applicant has already had the opportunity to access the procedure for international protection, that there are reasonable grounds to believe that the person is applying for international protection merely in order to delay or prevent the execution of the decision for return;

5. Other alternatives measures restricting freedom of movement of applicants are as follows:

5.1. restricting movement by the Centre for Asylum;

5.2. prohibition of movement outside the designated space;

5.3. appearance to the competent authority at the due time;

5.4. delivery of travel documents or depositing of a financial warranty to the competent body.

6. In accordance with this Article, DCAM will take a decision in writing:

6.1. for alternative measures of restricting freedom of movement of the applicant;

6.2. for detention of applicant in detention center, and;

6.3. time duration in proportion to the purpose of the decision.

7. The applicant may file a lawsuit against the decision about measures restricting the freedom of movement, to the Basic Court, Department for Administrative Issues within seven (7) working days from the time the decision is taken. The lawsuit does not suspend execution of the decision. The applicant has the right to challenge the decision of Basic Court of the Department for Administrative Issues in the Court of Appeal under the procedure established by law.

8. Vulnerable persons may be detained in the detention center for foreigners if, based on individual assessment, it is assessed that such a form of accommodation is appropriate to the circumstances and needs of the applicant, and especially for his/her health.

9. Children applicants can be detained only as a last measure and after it is determined that other alternative measures restricting freedom of movement cannot be implemented effectively, such a detention would be for as short period of time as possible and will make every effort to release the minor detainees at the detention center and their placing in a suitable accommodation for minors, if deemed to be in his/her best interest.

10. If according to paragraph 4. of this Article any of the conditions exist for detention, DCAM may decide to detain the applicant to eight (8) days. The applicant may be detained for more than eight (8) days only on the basis of the decision of the Basic Court.

11. Basic Court, within twenty four (24) hours will make one of the following decisions as it considers a proposal to detain the applicant for more than eight (8) days, the opinion of DCAM official shall be heard, the applicant's opinion and his or her representative (if any), while assessing the reasons for the application of restrictive measures and conditions for detention:

11.1. reject the detention of the applicant;

11.2. detain the applicant, by indicating the detention period. The detention period can not be longer than two (2) months and cannot exceed the period of the asylum procedure.

12. If the court has decided to reject the applicant's detention, he or she shall be released without any delay.

13. If the Basic Court decides to reject the decision to detain the applicant, the competent authority shall immediately release the applicant. The applicant may be detained again, only under new circumstances that justify the detention.

14. The applicant or his or her representative, may at any time, file a lawsuit in the Basic Court related to assessing the need to continue the enforcement of detention or extension of the detention period or the decision taken in accordance with paragraph 7. of this Article. The lawsuit does not suspend the execution of the decision regarding the detention in detention center.

15. Basic Court within twenty four (24) hours shall review the indictment against the decision on extension of the detention period. The court shall hear the opinion of the police, the applicant, and shall assess the extent of the detention in the detention center and the conditions of detention and will decide on the indictment.

Article 19

Information and counseling in Detention center and border crossing points

1. When there is indication that third country citizens or stateless persons, held in the Detention center for foreigners or are present at the border crossing points, including transit zones, at the borders of Republic of Kosovo, they may submit applications for international protection, Republic of Kosovo shall provide them information on the possibility to do so. In the places referred to in this paragraph and border crossing points, the competent authority shall ensure translation arrangements, as needed, to facilitate access to procedures for determining protection status.

2. The competent authority shall ensure that organizations and individuals who provide counseling to applicants have effective access to applicants present at border crossing points, including transit zones, at borders. The competent authority may establish rules covering the presence of such organizations and persons in those border crossings and in particular that access is subject to agreement with the competent authority. Restrictions on such access may only be imposed if, according to national legislation, they are objectively necessary for security, public order or administrative management of the crossing points in question, provided that access is thus not severely restricted or becomes impossible.

Article 20

The Role of UNHCR

1. State authorities will allow UNHCR:

1.1. to have access to applicants, including those in detention, at the airport, border and transit zones;

1.2. to have access to information, on individual applications for international protection, on the course of the procedures and on the decisions taken, provided that the applicant agrees thereto;

1.3. to present its views, in the exercise of its supervisory responsibilities under Article 35 of the Geneva Convention, to any competent authority regarding individual applications for international protection at any stage of the procedure.

2. Paragraph 1. of this Article shall also apply to an organization which is working in the territory of the Republic of Kosovo on behalf of the UNHCR pursuant to an agreement with the Government of Kosovo

Article 21

First country of asylum

1. A country can be considered to be a first country of application for international protection for an applicant if:

1.1. he/she has been recognized in that country as a refugee and he/she may still avail himself/herself of that protection,

1.2. he/she otherwise enjoys sufficient protection in that country, including benefiting from principle of non-refoulement provided that he/she will be repatriated to that country.

Article 22

Safe third country

1. Republic of Kosovo may apply the concept of the safe third country only after the competent authority has considered that the person seeking international protection in the third country concerned will be treated in accordance with the following principles:

1.1. life and liberty are not threatened on the basis of race, religion, nationality, membership of a particular social group or political opinion;

1.2. there is no risk of serious harm under the refugee definition and subsidiary protection;

1.3 respect the principle of non-refoulement in accordance with the Geneva Convention;

1.4. respect the prohibition of removal, in case of violation of the rights to freedom from torture and cruel, inhuman and degrading treatment under international law; and

1.5. the possibility exists to request refugee status and, if the person is found to be a refugee, receives protection in accordance with the Geneva Convention;

2. The fact whether have been met the conditions to implement the concept of the third safe country shall be evaluated for each application separately, assessing whether a country meets the conditions referred to in paragraph 1. of this Article and if there is a connection between that country and the applicant, on the basis of which reasonably could be expected that he/she may seek international protection there, taking into account all the facts and circumstances of his/her application.

Article 23

European safe third countries

1. The third country can be considered safe third country only if:

1.1. it has ratified and observes the provisions of the Geneva Convention without geographical limitations;

1.2. it has in place by law the procedure for protection status determination; and;

1.3. it has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and observes its provisions, including standards relating to effective remedies.

2. When implementing a decision solely based on this Article, Competent authority shall:

2.1. assess whether the conditions are fulfilled for the implementation of the concept of Safe country for each application individually by assessing whether a country has fulfilled the conditions under paragraph 1. of this Article.

2.2. timely inform the applicant for implementation of the concept of safe country of origin, in order to enable him/her to challenge the implementation of the concept of safe third country of origin in the context of the nature and its personal circumstances;

2.3. shall issue the applicant whose application for international protection is rejected, a document in the language of the safe third country, informing the relevant authorities of the country concerned, that his application has not been examined in substance in the Republic of Kosovo.

Article 24

Safe countries of origin

1. A third country designated as a safe country of origin in accordance with this Law may, after an individual examination of the application, be considered as a safe country of origin for a particular applicant if:

1.1. he or she has the nationality of that country;

1.2. he or she is stateless person and was habitually residing in the country in question; and

1.3. he or she has not submitted any serious grounds for considering the country in question not to be a safe country of origin on his or her particular circumstances in terms of his or her qualification to be a beneficiary of international protection under this law.

Article 25

Designation of third countries as safe countries of origin

1. Government of Kosovo shall make a decision based on which a list of safe countries of origin shall be determined.

2. Government of Kosovo shall regularly review the situation in the countries designated as safe countries of origin.

3. The assessment of whether a country is a safe country of origin in accordance with this Article shall be based on a range of sources of information, including in particular information from other Member States of EU, EASO, UNHCR, the Council of Europe and other relevant organizations.

4. In applying the concept of safe country of origin, the applicant will be granted the right to appeal against the decision on rejection of the application based on the concept of the safe country of origin to his personal circumstances.

CHAPTER II

THE RIGHTS AND DUTIES OF APPLICANTS, PERSONS WITH THE REFUGEE STATUS AND PERSONS UNDER SUBSIDIARY PROTECTION

Article 26

The rights of the applicants

1. Applicant has the right:

- 1.1. to reside in the Republic of Kosovo;
- 1.2. to basic living conditions;
- 1.3. to basic health care;
- 1.4. to basic social assistance;
- 1.5. to free legal assistance;
- 1.6. of education for children applicants;
- 1.7. of freedom of thought and religious belief;
- 1.8. to employment and professional trainings.

Article 27

The right to residence of the applicant

- 1. The applicant has the right to reside in the Republic of Kosovo until a final decision is taken.
- 2. Members of the family which have arrived in the Republic of Kosovo together with the applicant have the right to residence, in accordance with paragraph 1. of this Article.
- 3. The competent authority shall take appropriate measures to maintain as far as possible family unity as it is within the territory of the Republic of Kosovo, if applicants are provided with housing.

Article 28

The right to basic living and social conditions

Applicants have the right for housing, food and clothing provided in kind, or as financial allowances or in vouchers, or as a combination of all three, and an allowance for the daily expenses.

Article 29

Health care

1. Applicants have the right for medical care which includes emergency medical care and essential treatment of illnesses and serious mental disorders.
2. Applicants who have been subject to rape, torture or who have suffered other serious forms of violence, and applicants in vulnerable position, will be provided with the necessary medical treatment according to specific requirements and the effects caused.

Article 30

Free legal assistance

1. Applicants are provided with the following free legal assistance:
 - 1.1. information regarding the rights and duties of applicants;
 - 1.2. assistance in drafting appeals, for decisions which are taken during the examination of the application;
 - 1.3. representation in procedures before competent authorities, concerning the decisions taken during the examination of the application.
2. Assistance according to paragraph 1. of this Article will be provided to the applicant who does not have sufficient means or valuable assets to cover the respective costs.
3. Assistance according to paragraph 1. of this Article can be provided by: lawyers or organizations assisting refugees based on the Law on Free Legal Aid.

Article 31

The right to education of minor applicants

1. Minor applicants have the right to elementary and secondary education according to the same conditions as citizens of the Republic of Kosovo.
2. The access to educational system according to paragraph 1. of this Article can not be postponed more than three (3) months from the date when the application for international protection has been submitted by the minor or on behalf of the minor.

Article 32

The right to freedom of thought and religious belief

The Kosovo Government shall guarantee the applicants the freedom of religion and the right to exercise it according to their convictions.

Article 33

The right to employment and the right to professional training

1. Applicants have the right to engage in profit-making activities nine (9) months after the day of submitting their application if the DCAM has not yet taken the decision in the first instance and this delay cannot be attributed to the applicant.
2. The Republic of Kosovo due to labour market policies can give priority to its citizens on labour market.
3. Applicants have the right to vocational training regardless of whether they have access to employment.

Article 34

Duties of the applicant

1. Applicant is obliged:
 - 1.1. to act in accordance at all times with respective legislation of the Republic of Kosovo and measures undertaken by state authorities;
 - 1.2. to cooperate with the DCAM and other relevant government authorities;
 - 1.3. to respond to invitations from the Competent authority and other government offices and to cooperate in every phase of the asylum procedure;
 - 1.4. to submit travel and identity documents and other evidence at their disposal;
 - 1.5. to inform DCAM and other respective international protection authorities of any change of address within three (3) days;
 - 1.6. to act in accordance with orders issued by the Competent authority and all other government orders regarding restriction of movement;
 - 1.7. to not leave the territory of the Republic of Kosovo without the permission of the Competent authority while the asylum process is ongoing;
 - 1.8. to cooperate with the Competent authority relating to taking the finger prints and photography;
 - 1.9. the Competent authority may inspect the asylum seeker and things which he/she possesses. Without prejudice to inspections carried out for security reasons, the inspections of an applicant under this law should be conducted by the persons of the same gender with full respect towards the principles of human dignity, physical and psychological integrity;
 - 1.10. the Competent authority may take a photography of an applicant.
2. Competent authority may record the applicants oral statements, provided he/she has

previously been informed thereof.

Article 35

The rights of the person with the refugee status and person with subsidiary protection status

1. The person with the refugee status and person under subsidiary protection have the following rights:

- 1.1. the right to reside in the Republic of Kosovo for as long as Refugee status or subsidiary protection lasts;
- 1.2. elementary social assistance;
- 1.3. elementary shelter;
- 1.4. health care;
- 1.5. education;
- 1.6. assistance for integration into society;
- 1.7. the right to freedom of thought and religious belief;
- 1.8. the right to employment and the right to professional training;
- 1.9. family reunification, as provided by this law;
- 1.10. the right to access court and legal assistance;
- 1.11. the right to possess immoveable and moveable property.

2. Person with the refugee status and persons with status of subsidiary protection enjoys the rights in paragraph 1. of this Article up to the level of protection enjoyed by citizens of the Republic of Kosovo.

3. The Competent authority shall inform the person with the refugee status or the person with subsidiary protection status within a fifteen (15) day period starting from the day of granting of refugee status or subsidiary protection, in a language which he or she understands or reasonably is assumed that understands about the rights and duties which derive from recognition of this status.

Article 36

The right to residence

Person with refugee status or person with subsidiary protection status has the right to reside in the Republic of Kosovo for as long as they have been given international protection or subsidiary protection.

Article 37
Social welfare

Person with refugee status or person with subsidiary protection status has the right to necessary social welfare under the same conditions as the citizens of the Republic of Kosovo.

Article 38
Elementary shelter

1. Person with refugee status or person with subsidiary protection status shall be provided shelter for up to two (2) years from the day of receiving a decision granting international protection or subsidiary protection.

2. Person with refugee status or person with subsidiary protection status shall lose the right to accommodation if they refuse the offer of elementary shelter made according to paragraph 1. of this Article.

3. Person with refugee status or person with subsidiary protection status who has his own means to cover the costs related to shelter, do not have the right to benefit from paragraph 1. of this Article.

Article 39
Health care

Person with refugee status or person with subsidiary protection status, has the right for health care under the same conditions as the citizens of the Republic of Kosovo.

Article 40
Education

Person with refugee status or person with subsidiary protection status, has the right to primary, secondary and higher education under the same conditions as the citizens of the Republic of Kosovo.

Article 41
Integration in society

For the purpose of integrating into Kosovar society, persons with refugee status and persons with subsidiary protection status will be enabled learning of history, language and culture in the Republic of Kosovo.

Article 42
Freedom of thought and religious belief

The Kosovo Government shall guarantee the person with refugee status or person with subsidiary protection status the right to exercise freely his or her religion and his or her opinion according to their beliefs.

Article 43**The right to employment and professional training**

1. Person with the refugee status or person with subsidiary protection status, has the right to work in the Republic of Kosovo without a work permit for foreigners.
2. Person with refugee status or person with subsidiary protection status have the right to professional training, practice for work experience under the same conditions as Kosovo citizens.
3. The Kosovo Government will endeavour to facilitate full access for beneficiaries of international protection to the activities referred to in paragraph 2. this Article.

Article 44**Family reunion**

Person with refugee status or person with subsidiary protection status has the right for family reunification as it is foreseen in the Article 3, sub-paragraph 1.25. of this Law and the Law on Foreigners.

Article 45**Free legal assistance**

1. Person with refugee status or person with subsidiary protection status is provided free legal assistance as follows:
 - 1.1. information regarding the rights and duties deriving from recognition of refugee status or subsidiary protection;
 - 1.2. assistance in drafting appeals and representation before competent authorities in the event of the cessation, annulment or revoking of the status refugee or status of subsidiary protection.
2. Assistance according to paragraph 1. of this Article will be provided to the person with the refugee status or person with subsidiary protection status who does not have sufficient funds or valuable assets to cover the respective costs.
3. Assistance according to paragraph 1. of this Article can be provided by lawyers or organizations assisting refugees.

Article 46**The right to possess immoveable and moveable property**

Person with refugee status or person with subsidiary protection status has the right to possess immoveable and moveable property under the same conditions as foreigners.

Article 47

Naturalization

Person with refugee status or person with subsidiary protection status has the right for the naturalization in accordance with the Law on Citizenship.

Article 48

The duties of the persons with the refugee status and persons with subsidiary protection status

1. Person with refugee status or person with subsidiary protection status is obliged:
 - 1.1. to respect the Constitution, laws and sub-legal acts of the Republic of Kosovo;
 - 1.2. to inform the Competent authority of any change of address within seven (7) days.

CHAPTER III

ASYLUM PROCEDURE

Article 49

Decision-making competent authorities

1. DCAM is responsible for decision-making at the first instance on an application for international protection.
2. The National Committee for Refugees is responsible for examining appeals lodged against decisions taken at the first instance.
3. The competent court in accordance with the Law on Courts is responsible for examining administrative decisions.

Article 50

The principles of procedure for international protection

1. The international protection procedure starts when the foreign national or stateless person submits an application for international protection.
2. The competent body during the examination of the application for international protection shall first assess whether the applicant is qualified as a refugee, and if not, to determine if it has the right to any kind of subsidiary protection and allows the applicant to present, explain and prove all facts and circumstances which are relevant for his/her application for international protection.
3. The Applicant must fully and actively cooperate with the competent authority during the procedure. The applicant will present and explain all facts and circumstances of which is aware, in order to assist the competent authority in its examination of evidence which the applicant has at his/her disposal. He/she will present all respective documents in his/her possession that may

be relevant to the determination of international protection.

4. The Competent authority examines the context of the information relating to the current situation in the country from which the person has fled and tries to verify the facts and circumstances relating to the applicant with regard to all evidence provided by him/her. The Competent authority may consider additional evidence available for the purpose of deciding on an application for international protection.

5. The decision of the Competent authority to recognize or refuse application for international protection are not taken only on the basis of formal documents and other similar evidence. The decision is taken based on an assessment of all evidence available, including the declarations of the applicant.

6. During the international protection procedure, the Competent authority shall make all efforts possible to ensure that the procedure is not unfavorable and to the extent possible and where necessary, shall assist the applicant in presenting his/her application. The officials responsible for interviewing the applicant are responsible for preventing the applicant's lack of knowledge and experience damaging his or her rights.

Article 51

Implementing the Law on General Administrative Procedure

If it is not otherwise provided for in this Law, the asylum procedure shall be in accordance with the Law on General Administrative Procedure.

Article 52

Purpose of making application and submission of application

1. The application is submitted at the moment of entry into the Republic of Kosovo, at a border crossing point, in a police station or at DCAM, or at a location designated by competent body in case of massive influx.

2. Foreign citizen or stateless person that has expressed intention to apply for international protection, shall be registered with the competent authority, and is obliged to appear in front of the competent authority within seventy two (72) hours.

3. Confirmation according to paragraph 2. of this Article serves as a proof that foreign citizen or stateless person have expressed intention to apply for international protection and shall be permitted to stay for a period of seventy two (72) hours.

4. Paragraphs 2. and 3. of this Article shall be applicable only in case of massive influx of migrants.

5. The competent authorities shall ensure that the person who has applied for international protection has an effective access to submit it as soon as possible.

6. In cases when foreign citizen or stateless person makes application for international protection in front of competent body in order to register the request, registration shall be made no later than three (3) working days after the submission of application.

7. In cases when the application is made to other authorities which may receive such requests, but are not responsible for the registration under this Law, Competent authority shall ensure that the registration is done no later than six (6) working days after the submission of the application.

8. The staff of other bodies which can accept the international protection applications for international protection, receives the appropriate level of training that is appropriate to their duties and responsibilities and guidelines to inform applicants about where and how to submit applications for international protection.

9. If there are multiple applications and at the same time for international protection from a large number of foreign nationals or stateless persons, it makes very difficult in practice to respect the specified deadlines as it is foreseen in paragraph 7. of this Article, the deadline shall be extended up to ten (10) working days.

10. The authorities in paragraph 1. of this Article are obliged to help the applicant to submit an application for international protection as soon as possible. The request is neither rejected nor excluded from examination on the sole ground that it was not submitted as soon as possible.

11. The Competent authority that receives the application according to this Article should, in the event of receiving the application, fill out an initial form, as well as take the finger prints, photographs, and other proof relating to the internal protection request and travel documents.

12. The competent authority may inspect and control the applicants and their personal belongings. Without prejudice, inspections may be carried out for security reasons. Controls/inspections of the applicant pursuant to this Law should be carried out by the persons of the same gender, with full respect to the principles of human dignity, physical and psychological integrity.

13. After filling out the initial form, the DMF that receives the request must immediately contact the competent asylum official in the DCAM and transfer the applicant to the Center for Asylum Seekers.

14. Republic of Kosovo shall ensure that a child has the right to make an application for international protection either on his or her own behalf, if he or she has the legal capacity to act in procedures according to the laws of the Republic of Kosovo, or through his or her parents or other adult family members, or an adult responsible for him or her.

Article 53

Center for Asylum

1. Center for Asylum operates within the framework of DCAM.

2. The functioning of the center and procedures shall be regulated by sub-legal acts approved by the Ministry of Internal Affairs.

Article 54

Receiving an Applicant to the Center

1. After receiving an applicant to the Center, the official of the Asylum Center must inform the applicant about his/her rights and duties and the procedure for determination of international

protection status including the possibility of benefiting from free legal assistance and of contacting UNHCR representatives or other organizations dealing with the protection of the rights of refugees, in his or her language or in a language which is reasonably supposed he/she understands.

2. After informing the applicant about his/her rights and duties and asylum procedure, the applicant is subject to necessary medical examination.

Article 55

Accommodation of the applicant

1. The applicant can be accommodated in the Center for Asylum Seekers, in another location assigned by the DCAM or somewhere else, as they wish.

2. In case the applicant is accommodated in a location of their choice, accommodation expenses shall be covered by the applicant.

Article 56

Participation of third parties in the asylum procedure

1. Asylum procedures are not open to the public.

2. The following individuals below can be present at asylum procedures:

2.1. authorized representative;

2.2. legal guardian for unaccompanied minors;

2.3. guardian for persons with limited mental capacities.

2.4. UNHCR representative;

2.5. translator.

Article 57

Interview with the applicant

1. The applicant will be interviewed personally without the presence of family members unless the determining authority considers it necessary for an appropriate examination to have other family members present. The personal interviews on the substance of the application for international protection are carried out by officials responsible for determination of the status of protection.

2. If a person has lodged an application for international protection on behalf of his/her dependents, each adult dependent will be given the opportunity of a personal interview.

3. DCAM will interview the applicant as soon as possible. If necessary, the applicant will be interviewed several times.

4. The applicant is obliged to declare all the facts and circumstances supporting his or her application for international protection, to declare the truth in all responses, to present all evidence available and to give a convincing and trustworthy explanation.

5. The Competent authority shall take all necessary measures to ensure that personal interviews are conducted in conditions that will allow the applicant to present the reasons in his application comprehensively. For this purpose, the competent authority shall:

5.1. ensure that person who conducts the interview is competent to take into account personal and general circumstances relating to the application, including the applicant's cultural origin, gender, sexual orientation, gender identity or vulnerability;

5.2. where possible, ensure that interviews with the applicant are carried out by a person of the same gender, if the applicant requests so, unless the responsible body has reason to believe that such request is based on grounds which are not linked with difficulties of the applicant to submit his/her reasons for the application in a comprehensive manner;

5.3. select a translator who is able to ensure appropriate communication between the applicant and the person who conducts the interview. Communication takes place in the language chosen by the applicant, unless there is another language which he/she understands and is able to communicate clearly. Wherever possible, the Competent authority engages a translator of the same gender if the applicant requests so, unless the responsible body has reason to believe that such request is based on grounds which are not related to difficulties by the applicant to submit his/her reasons for the request in a comprehensive manner;

5.4. ensure that official who conducts an interview on the substance of the application for international protection has not worn a military uniform or law enforcement uniform;

5.5. ensure that interviews with minors are conducted in an appropriate way for children;

5.6. while carrying out the personal interviews on the substance of the application for international protection, the Competent authority ensures that the applicant is given sufficient opportunity to present elements needed to substantiate his application in accordance with this Law, as complete as possible. This includes the possibility to give explanations about the elements that might be missing and/or inconsistencies or contradictions in the statements of the applicant;

5.7. applicants and their representatives or other advisors have access to the report and, where applicable, registration, prior to a decision by the competent authority.

6. Interviews with the applicant must occur in conditions which guarantee confidentiality.

7. The Competent authority can provide audio recording or visual recording of the personal interview on the condition that he/she is informed in advance regarding this.

8. A factual report on the personal interview with the applicant must be drafted and it must be signed by the applicant to confirm its authenticity, after it is communicated in a language that he/she understands.

9. Where an applicant refuses to approve the contents of the report, the reasons for this refusal

shall be entered into the applicant's file. Refusal to approve the content of the report shall not prevent the Competent authority to decide on application.

Article 58

Medical examination

1. If the Competent authority considers being important for the assessment of an application for international protection in accordance with this Law, the Competent authority, with the consent of the applicant, will make arrangements for medical examination of an applicant concerning signs that may indicate past persecution, or serious harm. On the other hand, the Competent authority may determine that an applicant makes arrangements for such medical examination.

2. Medical examinations mentioned in paragraph 1. of this Article are carried out by qualified medical professionals and their results are submitted to the Competent authority as soon as possible. The Competent authority may assign medical professionals who can perform such medical examinations. The applicant's refusal to undergo such a medical examination shall not prevent the competent authority in taking a decision on the request for international protection.

3. If the medical examination is not carried out in accordance with paragraph 1. of this Article, the Competent authority informs the applicant that they can, on their own initiative and expenses, make arrangements for medical examination for the signs that may prove indications of past persecution or serious injuries.

4. The results of medical examinations referred in paragraphs 1. and 2. are evaluated by the responsible body, together with other elements of the application.

Article 59

Verification of the facts

1. The DCAM verifies ex officio all the relevant facts when making a decision and if it deems it necessary, will hold supplementary interviews with the applicant, to examine the found evidence and if necessary, request additional evidence.

2. In cases where DCAM needs an expert opinion to verify the facts set out in order to take a decision about an asylum application, the Competent authority is authorized to consult an expert of that field. The expert will be instructed about the confidentiality of the procedure and will agree to be bound by confidentiality, as required by this law.

3. DCAM may consult an expert on issues relating to the evidence for determination of protection status according to the request of the applicant, his or her representative or the representative of the UNHCR office, if it deems that such opinion may be important with regard to deciding on the protection status.

4. The Competent authority, during the examination of the application, should ensure that the decision is taken individually, objectively and impartially, and the precise and up-to-date information is obtained from various sources, such as: EASO, UNHCR and other relevant international human rights organizations, on the general situation prevailing in the countries of origin of applicants and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions.

5. Responsible officials for examining the applications and taking decisions shall recognize applicable relevant standards in the field of asylum and legislation in the field of refugees.

6. Responsible officials for examining the applications and making decisions have the opportunity to seek advice, as necessary, from experts on particular issues, such as: medical issues, cultural, religious, child-related or gender.

7. The fact that an applicant has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, is a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.

8. When Republic of Kosovo applies the principle according to which it is the duty of the applicant to substantiate the application for international protection and where aspects of the applicant's statements are not supported by documentary or other evidence, those aspects shall not need confirmation when the following conditions are met:

8.1. the applicant has made a genuine effort to substantiate his application;

8.2. all relevant elements at the applicant's disposal have been submitted, and a satisfactory explanation has been given regarding any lack of other relevant elements;

8.3. the applicant's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the applicant's case;

8.4. the applicant has applied for international protection at the earliest possible time, unless the applicant can demonstrate good reason for not having done so; and

8.5. the general credibility of the applicant has been established.

Article 60

Accelerated procedures

1. DCAM may make a decision under accelerated procedure in accordance with the principles and basic guarantees of the first instance procedure, relating to cases when:

1.1. a positive decision is based on the evidence available; or

1.2. a negative decision is taken pursuant to Article 63 and 64 of this Law.

2. The applicant has the right to appeal to the National Commission for Refugees against a decision taken under accelerated procedures within seven (7) days.

3. Sub-paragraph 1.2. of this Article will not be valid for requests submitted by an unaccompanied child or person with limited mental capacities.

Article 61

First Instance Decision

1. DCAM makes a decision whereby:

- 1.1. recognizes the refugee status;
- 1.2. rejects the refugee status, and recognizes the subsidiary protection;
- 1.3. rejects the application for international protection;
- 1.4. discontinues the procedure for determination of the status for international protection.

2. DCAM shall make a decision in written, and in cases when the application for the international protection is rejected, the factual and legal reasons have to be stated in the respective decision as well as information relating to the possibility of the submission of an appeal.

Article 62

Rejection of the application

1. DCAM shall reject the application in cases when:

- 1.1. the applicant does not meet the criteria for a refugee as set out in the definition of a refugee and for subsidiary protection, as set out in the definition of subsidiary protection;
- 1.2. it is considered that the applicant does not have the right to protection according to Articles 8 and 10 of this Law;
- 1.3. the application is unfounded, according to Article 63 of this Law;
- 1.4. application is unacceptable according to Article 64 of this Law.

Article 63

Unfounded application

1. DCAM shall reject the application for international protection which is considered ungrounded under accelerated procedure in accordance with procedural guarantees which are foreseen by this Law in cases when:

- 1.1. the applicant at the time of filing his or her application and relevant facts, has only raised issues that are not relevant for examination if he or she qualifies as a beneficiary of international protection in accordance with this Law.
- 1.2. the applicant comes from a safe country of origin within the meaning of this Law;
- 1.3. the applicant has misled the Competent authority by presenting false information

or documents, or concealing the relevant information or documents proving his/her identity or citizenship, if it would have a negative impact on the decision; or

1.4. it is likely that, with bad intentions, the applicant has destroyed or perished identity or travel documents which would help in determining the identity or his or her nationality or;

1.5. the applicant has made contradictory and inconsistent statements, clearly false or evidently unsustainable, which are contrary with confirmed information coming from the country of origin, thus making claims not convincing whether he or she qualifies as a beneficiary of international protection, in terms of this Law;

1.6. the applicant has filed another request for international protection which is not acceptable under Article 64 of this Law or;

1.7. the applicant is submitting an application only to delay or obstruct an earlier decision that would result in his or her departure; or

1.8. the applicant has entered illegally in the territory of the Republic of Kosovo or has postponed his stay in the Republic of Kosovo illegally and without valid reason, or didn't show up to the Competent authority, or has not applied for international protection as soon as possible, given the circumstances of his or her entry; or

1.9. the applicant rejects the action in accordance with the obligations to give fingerprints under Article 34 of this Law, or;

1.10. the applicant may, for serious grounds be considered a danger to public safety or public order to the Republic of Kosovo, or that the applicant is forcibly expelled for serious reasons of public safety or public order, according to national legislation.

2. Competent authority shall inform the applicant on time for implementation of the concept of safe country of origin, in order to enable him/her to oppose the application of the concept of safe country of origin in the context of the nature and his personal circumstances in terms of his/her qualifications to obtain international protection according to this Law;

3. Provisions of the Article 60 of this Law will not be implemented for applicants in vulnerable position who need special procedural guarantees, in particular, victims of torture, rape or other forms of serious psychological, physical or sexual violence, if special warranties/proper support can not be provided.

4. Applications of unaccompanied children may be reviewed and the decision is based on grounds specified in sub-paragraphs 1.2., 1.6. and 1.10. of this Article.

Article 64

Inadmissible application

1. The application does not need to be examined if it qualifies for international protection and may be considered acceptable only if:

1.1. an EU Member State has offered international protection;

1.2. country which is not an EU Member State is considered as a first country of asylum for the applicant, in accordance with this Law;

1.3. state that is not a Member State of the EU is considered as safe third country for the applicant according to this Law;

1.4. the application is the following application, while there are no new elements or findings related to the examination if the applicant qualifies as a beneficiary of international protection under this Law which have appeared or have been presented by the applicant;

1.5. a dependent of the applicant submits an application after which he or she in accordance with this Law, have consented that his or her case to be a part of an application filed in his or her name and there are no facts associated with the situation of the dependent that justify a special request.

2. In cases when the decision is based solely on the concept of safe country of origin, the competent authority shall ensure that:

2.1. applicant will be informed in time about the implementation of the safe third country of origin concept, in order to enable him/her to oppose the implementation of the safe third country of origin concept in the context of the nature and his personal circumstances;

2.2. competent authority will issue to the applicant whose application for international protection was rejected, a document in the language of safe third country, according to which relevant authorities of the respective country shall be informed that his/her application has or has not been examined in substance in the Republic of Kosovo;

2.3. in cases when third country does not allow access to its territory, Competent authority shall provide the applicant access to the procedure in accordance with basic principles and guarantees set forth with this Law.

Article 65

Suspension of the procedure

1. DCAM will suspend procedure for determination of the protection status in cases where one of the following conditions is met:

1.1. the applicant withdraws the application for international protection;

1.2. when the applicant departs from the last place of residence for more than three (3) days without informing the Competent authority, except cases when the applicant proves within a reasonable time that his/her departure and non-reporting occurred by circumstances beyond his/her control.

2. The applicant can request to reopen the procedure to determine the protection status. The request to reopen the procedure for protection status will stop the expulsion of an applicant from the Republic of Kosovo. The request for reopening of the procedure can be done only once.

3. The applicant is entitled to apply for reopening of the procedure no later than nine (9) months from the time when the final decision was taken for the suspension of procedure for determination of protection status.

Article 66

Re-application for international protection

1. A person, whose application has been rejected, and decision is made final, may submit a new application for international protection.

2. The new application according to paragraph 1. of this Article shall be examined by a preliminary examination if applicant presents new evidence related to the determining whether he has a good chance to qualify for international protection. If during the preliminary examination according to this paragraph, new facts are ascertained likely significant that the applicant can be qualified for international protection, than the re-application will be examined through a regular examination.

3. The application which is subject to preliminary examination according to paragraph 2. of this Article shall be examined in accordance with procedural guarantees foreseen in this Law.

Article 67

Return of rejected applicant

If application is rejected by a final decision or discontinued, DCAM decides on, as a general rule, return from Kosovo and orders the decision to be executed. DCAM takes into consideration the principle of family unity.

Article 68

Cessation of a refugee status

1. A foreign national or a stateless person shall cease to be a refugee, if he or she:

1.1. has voluntarily re-availed himself or herself of the protection of the country of nationality; or

1.2. having lost his or her nationality, has voluntarily reacquired it; or

1.3. has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or

1.4. has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution; or

1.5. can no longer continue to refuse to avail himself or herself of the protection of the country of nationality, because the circumstances in connection with which he or she has been recognized as a refugee have ceased to exist; or

1.6. being a stateless person, he or she is able to return to the country of former habitual residence, because the circumstances in connection with which he or she has been recognized as a refugee have ceased to exist.

2. In considering sub-paragraphs 1.5. and 1.6. of paragraph 1. of this Article, the Competent authority shall take into consideration the fact whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded.

3. Sub-paragraphs 1.5. and 1.6. of paragraph 1. of this Article shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

Article 69

Revocation, cancellation or refusal to renew the refugee status

1. The competent authority shall revoke, or refuse to renew the refugee status in cases when:

1.1. he or she has ceased to be a refugee in accordance with Article 68 of this Law;

1.2. he or she has been or is excluded from being a refugee in accordance with Article 8 of this Law.

2. The competent authority shall cancel or refuse to renew the refugee status in cases when:

2.1. his or her misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of refugee status;

2.2. there are reasonable grounds for regarding him or her as a danger to the security of the Republic of Kosovo;

2.3. he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the society of Republic of Kosovo.

3. Before revoking, cancelling or refusing the renewal of the refugee status, the Competent Authority shall inform the applicant in writing about the reasons for re-examining asylum status and shall offer him/her an opportunity to present verbally or in writing reasons why the status should not be revoked.

4. A person whose refugee status is revoked according to subparagraph 1.2. paragraph 1. of this Article, and who is present in the Republic of Kosovo will be guaranteed the following rights: the right to non-discrimination, the right to religious freedom, access to courts, education, non punishment for illegal entry or stay, and respect for the principle of non-refoulement.

Article 70

Cessation of subsidiary protection

1. Persons with subsidiary protection are not considered as such from the moment when the circumstances justifying the granting of this protection cease to exist or when these circumstances have changed in such a manner that this protection is no longer necessary.

2. In applying paragraph 1. of this Article, the Competent authority shall take into consideration

whether the change in circumstances is of such a significant and non-temporary in nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.

3. Subsidiary protection ceases if the person withdraws from subsidiary protection.

Article 71

Revocation, suspension or denial of subsidiary protection renewal

1. The Competent authority shall revoke, or refuse to renew the subsidiary protection status in cases when:

1.1. he or she has ceased to be a beneficiary of subsidiary protection in accordance with Article 70 of this Law;

1.2. he or she should have been or is excluded from being granted the subsidiary protection status in accordance with Article 10 of this Law;

1.3. distortion or non-presentation of the facts by him/her, including the use of false documents, was decisive for the granting of subsidiary protection

2. Before revoking subsidiary protection, the competent authority will inform the persons under subsidiary protection in writing, about the reasons for the re-examination of the status of subsidiary protection and offer him/her the opportunity to explain the reasons orally or in writing why this status should not be revoked.

Article 72

Deadlines for first instance procedures

1. The procedure on the determining the protection status in the first instance as a rule lasts six (6) months from the day when the application is submitted.

2. The term of six (6) months may be extended for an additional period of three (3) months, but not longer than nine (9) months in cases when:

2.1. dealing with complex issues, factual or legal:

2.2. a large number of foreign nationals or stateless persons have applied for international protection at once, making it difficult in practice completion of the procedure within the six (6) month period;

2.3. when delays can not be attributed clearly to failure of the applicant to act in accordance with his or her obligation under this Law.

3. As an exception, the Competent authority in justified circumstances, shall not exceed the time limits specified in this paragraph for more than three (3) months, whenever it is necessary to ensure adequate and full consideration of application.

4. The Competent authority may postpone the completion of review procedures in cases when from the competent authority can not reasonably be expected to decide within the time limits

specified in paragraph 1., 2. and 3. of this Article, due to unclear situation in the country of origin which is expected to be temporary. In such case the competent authority shall:

4.1. review situation in country of origin at least every six (6) months;

4.2. inform the applicant at least every six (6) months on the reasons of delay and the time limits within which decision is expected to be issued on his or her request;

5. In any case, the competent authority shall complete the review of procedure within a maximum period of twenty-one (21) months from the application.

6. The decisions taken in accordance with Article 60 of this Law shall, as a general rule, be taken within thirty (30) days from the day of the submission of the request.

CHAPTER IV APEALS PROCEDURE

Article 73 Appeal

1. The applicant, the person with the refugee status, person under subsidiary protection or person under temporary protection has the right to lodge an appeal against a DCAM's decision at the National Commission for Refugees.

2. Appeals against a first instance decision are regulated by the Law on General Administrative Procedure, except in cases when the Law on Asylum provides otherwise.

3. Against decisions of the second instance the applicant is entitled to file a lawsuit to the competent court. An appeal against first instance decision and lawsuit according to this paragraph, shall suspend the execution of the decision.

Article 74 Deadline for lodging the appeal

1. The deadline for lodging an appeal against the first instance decision is fifteen (15) days from the day of notification of the decision, except in cases determined otherwise by this Law.

2. A complaint which is transmitted by fax is considered valid if it is sent within the deadline and the original is sent later.

Article 75 National Commission for Refugees

1. The Kosovo Government shall establish a National Commission for Refugees and its members shall serve for a three (3) year mandate:

1.1. the Commission is comprised of a President, Vice President and five (5) regular

members;

1.2. the President, Vice President and Commission members are appointed from the ranks of graduated lawyers, employed in state administrative bodies and must have at least five (5) years of professional experience;

1.3. the first instance authority is excluded from participation in the National Commission for Refugees;

1.4. the UNHCR representative participates in an observer's capacity and has the right to provide comments in the context of final decision.

2. The Commission is independent in its work.

3. In principle, the Commission decides about cases in a three (3) member council, chaired by the President or Vice President. The Commission takes decisions based on a majority vote.

4. The Government shall issue a sub-legal act to regulate the procedures of the National Commission for Refugees.

Article 76

Grounds for appeal

1. The grounds for appeal are as follows:

1.1. violation of the provisions of procedural law;

1.2. violation of the provisions of material law;

1.3. establishment of erroneous or incomplete factual situation;

1.4. new substantial facts in support of the request.

Article 77

Reinstatement of deadline

1. If the applicant, who for reasonable cause cannot submit an appeal within the legal deadline, may request reinstatement of deadline to appeal.

2. The application for re-instatement of deadline is submitted within ten (10) days from the day of becoming aware of the filing of a decision taken on his/her behalf.

3. The application for reinstatement of deadline suspends the execution of the decision on the expulsion of the applicant from Republic of Kosovo.

Article 78**Procedures at the second instance**

1. The National Commission for Refugees shall decide on the basis of evidence gathered during the asylum procedure in the first instance and on the basis of other evidence presented by the applicant.
2. At the conclusion of the review of an appeal, the Commission decides as follows:
 - 2.1. it approves the first instance decision;
 - 2.2. it annuls the first instance decision and returns it for re-examination at the first instance;
 - 2.3. it remedies noted shortcomings by taking appropriate decision;
 - 2.4. it changes the first instance decision on the basis of the same evidence.

Article 79**Deadline for the examination of the appeal**

1. As a general rule, the Commission decides within thirty (30) days on the examination of the appeal, except in cases of appeals presented against decisions taken pursuant to Article 63 and 64 of this Law.
2. In cases when the appeal is lodged against decisions taken pursuant to Article 63 and 64 of this Law then the deadline to decide about the appeal is fifteen (15) days from the day of submitting the application.

CHAPTER V**GRANTING TEMPORARY PROTECTION AND STATUS OF PERSONS WITH TEMPORARY PROTECTION****Article 80****Decision of the Government**

1. The Republic of Kosovo may grant temporary protection to foreign nationals or stateless persons who come in large numbers from countries where, because of war or similar situation, general violence or internal conflict, fundamental human rights are violated provided that the country of origin is unable or unwilling to protect them.
2. The decision about the need of granting temporary protection and the decision relating to the termination of the reasons for granting protection will be taken by the Kosovo Government.
3. The decision regarding the necessity of granting temporary protection will define the group of persons to which temporary protection will apply and the date for which protection will be effective as well as an evaluation of the scale of the movements of displaced persons.

4. The decision about the necessity of granting temporary protection under this Article should be taken while considering the economic capacities, national security, protection of public peace and order and relevant information as provided by UNHCR and other organizations assisting refugees.

5. Temporary protection shall not prejudice recognition of refugee status under Geneva Convention.

6. Republic of Kosovo shall apply temporary protection with due respect for human rights and fundamental freedoms and their obligations regarding non-refoulement principle.

Article 81

The Competent Authority for granting temporary protection

1. The Ministry is the competent authority for granting temporary protection.

2. Temporary protection is granted for a term of one (1) year.

3. Temporary protection may be extended for an additional six (6) months if the conditions persist in the country of origin of the protected person that established the grounds for the decision to grant the protection. Temporary protection may be extended for a maximum period of two (2) years.

4. The Ministry shall provide persons enjoying temporary protection with a document, in a language he/she understands, in which the provisions relating to temporary protection and which are relevant to them are clearly set out.

Article 82

Exclusion from temporary protection

1. The right of temporary protection shall not be granted to a person, who for serious reasons, is considered to have:

1.1. committed a crime against peace, a war crime or a crime against humanity, as defined by international instruments drafted to foresee provisions for such crimes;

1.2. committed a serious non-political crime outside the Republic of Kosovo, prior to his or her admission by the Member State as a person who enjoys temporary protection. This applies to accomplices to a crime and persons encouraging crimes.

1.3. been found guilty of acts in violation to the purpose and principles of the United Nations;

1.4. poses a threat to the community or the security of the Republic of Kosovo.

Article 83

Submitting application for international protection

1. Persons under temporary protection have the right to submit application for international protection at any time.

2. Application according to paragraph 1. of this Article will be examined after the end of temporary protection.

Article 84

End of temporary protection

1. Temporary protection shall end in these cases:

1.1. after the end of the period during which temporary protection was granted;

1.2. after the Government's decision regarding the cessation of the grounds for granting temporary protection.

Article 85

Return

1. The Republic of Kosovo shall take the measures necessary to make possible the voluntary return of persons enjoying temporary protection or whose temporary protection has ended. The Republic of Kosovo shall ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. The Republic of Kosovo shall ensure that the decision regarding the return of these persons is taken in full knowledge of the facts.

2. The Republic of Kosovo shall undertake all necessary measures to ensure that the forced return of persons, whose period of temporary protection has expired or has been terminated, occurs in accordance with respect for human dignity.

3. The Republic of Kosovo shall ensure that the decision regarding the return of these persons is taken in full knowledge of the facts.

4. In cases of forced return, the Republic of Kosovo shall consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.

5. The Republic of Kosovo shall take the necessary measures concerning the housing conditions of persons who have enjoyed temporary protection and who cannot, considering their health condition, reasonably be expected to travel. This includes the category of persons who suffer from serious negative consequences if their treatment is interrupted. They can not be expelled for as long as this situation continues.

6. As long as the temporary protection has not ended, the Republic of Kosovo shall, based on the circumstances prevailing in the country of origin, give more favorable consideration to requests from persons who have enjoyed temporary protection and exercised their right to a voluntary return in the host state.

Article 86

The rights and duties of persons under Temporary Protection

1. Persons under Temporary Protection have the right:

1.1. to stay temporarily in the Republic of Kosovo in accordance with the period of temporary protection;

1.2. to have basic conditions for shelter and living;

1.3. to have health care;

1.4. to have the right to family unity according to this law;

1.5. to have the right to education;

1.6. to have access to legal advice and protection;

1.7. to have the right to freedom of thought and religious belief;

1.8. to have the right to engage in profit-making activity;

1.9. to have the right to essential assistance in the sense of social welfare.

2. The duties defined in Article 48 of this Law, are valid also for persons who have been granted Temporary Protection.

Article 87

The right to health care

1. Persons under temporary protection have the right to health care which includes, emergency health care and the treatment of illness.

2. Persons under temporary protection who have been subjected to rape, torture or other serious forms of violence as well as asylum seekers with special needs will be offered necessary medical assistance according to specific needs and the effects caused.

Article 88

The right to basic living conditions

1. Persons under temporary protection have the right to basic living conditions which include but are not limited to: shelter, food, clothing and hygiene packs. Persons under temporary protection with special needs will be provided the living standards in accordance with their specific needs.

2. Persons under temporary protection have the right to benefit from social assistance in accordance with the Law on Social Schemes.

Article 89

The right to education

Persons under temporary protection have the right to elementary and secondary education under the same conditions as citizens of the Republic of Kosovo.

Article 90**The right to family reunification**

The family reunification with dependent members is allowed for persons who have been given temporary protection, for family members, as set out in Article 3 of sub-paragraph 1.25. of this Law.

Article 91**The right to employment**

1. Persons under temporary protection have the right to employment in the Republic of Kosovo without a work permit for foreign nationals.
2. Persons under temporary protection have the right to professional trainings and internship for work experience under the same conditions as Kosovar citizens.
3. Where persons enjoying temporary protection are employed or self-employed, the established level of assistance should be considered, depending on their ability to meet their own needs.

Article 92**The right to freedom of thought and religious belief**

The Kosovo Government shall guarantee persons under temporary protection the right to freely exercise religion according to their beliefs.

Article 93**Accommodation of foreigners granted temporary protection**

Persons under temporary protection shall be provided with accommodation in accordance with the economic capacities of the Republic of Kosovo.

CHAPTER VI**Article 94****Issuing documents**

1. The Ministry will issue to the applicants the following documents:
 - 1.1. certification of submission of the application for international protection;
 - 1.2. identity card for applicants;
 - 1.3. travel document for applicants when there are serious humanitarian reasons that requires their presence in another state;
2. The person with the refugee status will be issued the following documents:

2.1. resident permit for refugee; and

2.2. travel document for refugees.

3. Persons under subsidiary protection and persons under temporary protection will be issued the following documents:

3.1. residence permit; and

3.2. travel document for foreigners.

4. Republic of Kosovo shall, if necessary, provide persons to be admitted to its territory for the purposes of temporary protection, with all facilities for obtaining the necessary visas, including transit visas. Formalities must be reduced to a minimum because of the emergency situation. Procedures for obtaining visas will be free of charge.

5. The documents pursuant to paragraphs 2. and 3. of this Article will be issued in accordance with the Law on Foreigners.

Article 95

Identity card for applicants

1. The applicant's identity card also serves as a residence permit in the Republic of Kosovo until the review of the application for international protection in accordance with Article 18 of this Law.

2. The identity card is issued to all family members of the applicant.

3. The identity card according to paragraph 1. of this Article is not evidence of applicant's identity.

Article 96

Residence permit of the person with the refugee status, person under subsidiary protection and person under temporary protection

1. The residence permit shall be issued to person with the refugee status, person under subsidiary protection and person under temporary protection.

2. According to paragraph 1. of this Article, residence permits will be issued also to beneficiaries of family unification.

Article 97

Travel documents for the persons with the refugee status

1. A travel document is issued to person with the refugee status in accordance with the Geneva Convention Scheme and International Civil Aviation Organization standards.

2. An application for travel documents must be personally submitted by the person with the refugee status if he or she is eighteen (18) years old and has the capacity to act, or through his/her representative.

3. When the person with the refugee status is younger than eighteen (18) years, the application must be made by his or her legal representative or guardian.

4. DCAM will confirm the status of refugee for the purpose listed in this Article.

5. In the event of the withdrawal of the status of refugee, the person will be required to return the travel document to DCAM.

Article 98

Travel documents for persons under subsidiary protection and temporary protection

Ministry shall issue to beneficiaries of subsidiary protection status who are unable to obtain a national passport, documents which enable them to travel outside the territory, unless compelling reasons of national security or public order otherwise require.

Article 99

Return of documents

The documents listed in Article 94 sub-paragraph. 1.2., 2.1., 2.2. and 3.1. of this Law are to be returned to DCAM after the end of the procedure, revoking of status or in cases of replacement due to damage.

CHAPTER VII

HANDLING OF PERSONAL DATA

Article 100

Handling of personal data

In accordance with the fulfillment of their legal function, the DCAM, the authorities handling appeals and other organizations charged with duties pursuant to this law, can handle or provide for handling of applicant's personal data, a person to be protected and their relatives, including sensitive data, as defined in the Law on the Protection of Personal Data.

Article 101

Communication of personal data of the country of origin or descent

1. Personal data of applicants shall be protected by the Law on the Protection of Personal Data.

2. The Competent authority when examining individual application shall not:

2.1. directly disclose information to the alleged actors of persecution against the applicant regarding application for international protection, or for the fact that an application was submitted;

2.2. obtain any information from the alleged actor(s) of persecution in a manner that would result in such actor(s) being directly informed of the fact that a request for asylum has been made by the applicant in question, would jeopardize the physical integrity

of the applicant and his/her dependants, or the liberty and security of his/her family members still living in the country of origin.

3. DCAM in case of organizing the return of applicant can get in touch with the country of origin or descent in order to find the travel documents necessary for the execution of the decision, provided that the refugee status is not granted by a final decision.

4. For the purpose of executing the decision to return to the country of origin or descent, DCAM while organizing the return, may communicate the following information to foreign authorities:

4.1. personal data (name, surname, date and place of birth, gender, nationality, last known address in the country of origin or descent) of the person concerned, and if necessary the personal details of his relatives;

4.2. data on the passport or other identity document;

4.3. fingerprints, photographs and biometric data;

4.4. information about other documents that enable the identification of the person;

4.5. data regarding the health condition of the person provided that this is consistent with their interests;

4.6. any other information necessary to ensure the person's entry into the country of destination and to maintain the security of associated persons;

4.7. data relating to open criminal proceedings to the extent that it is important for the return procedure of the person concerned, the maintenance of order and public safety in the country of origin or descent, and as long as the person concerned is not threatened.

Article 102

Cooperation with criminal prosecution authorities

DCAM transmits to criminal prosecution authorities all data and evidence for an asylum seeker suspected of breaking public international law, especially if they have committed a crime against peace, a war crime or a crime against humanity, by participating in genocide or practicing torture.

Article 103

Biometric data

1. The competent authorities can handle biometric data of an applicant or a person to be protected for the purpose of determining their identity.

2. The type of biometric data that must be gathered and the right of access is regulated by the Law on the Protection of Personal Data.

Article 104

Finger prints and photographs

1. The fingerprints and photographs of each applicant and person to be protected will be taken. The Government of Kosovo defines as exceptions to these rule children who are under twelve (12) years.
2. The fingerprints and photographs will be registered by the police in a database held by DCAM.
3. If the police ascertain that the new fingerprints are the same as those previously registered, they inform DCAM, noting the personal data of the person (name, surname, date of birth, gender, reference number, personal number, citizenship and country in which they are located). If this concerns data gathered by the police, it is necessary to indicate (with a code) the date, location and reason of taking the fingerprints.

Article 105

Use of this data

1. DCAM uses these data for the purposes of:
 - 1.1. verifying the identity of the person in question;
 - 1.2. verify whether a person has lodged an application for international protection;
 - 1.3. verifying if there is data which confirms or contradicts the person's declarations;
 - 1.4. verifying if there exist data which questions the ability of the person to get the refugee status;
 - 1.5. facilitating cooperation between the DCAM and the police.
2. Communicating personal data outside the country gathered in accordance with paragraph 4. of Article 101 of this Law without the approval of DCAM is prohibited. Article 6 of the Law on the Protection of Personal Data applies analogously.

Article 106

Destruction of data

1. Data are destroyed:
 - 1.1. if refugee status is granted to the person;
 - 1.2. ten (10) years after receipt of a final decision on refusing an application, after voluntarily withdrawing an application, or after the discontinuation of the asylum procedure;
 - 1.3. ten (10) years after abolition of subsidiary protection for a person to be protected.

Article 107
Keeping statistics

1. DCAM administers a database which allows the registering of international protection applications, appeals and file control.
2. This database may contain sensitive personal data, insofar as this is necessary for carrying out the duties specified in the Law.
3. Inaccurate data should be corrected.

CHAPTER VIII
FINAL PROVISIONS

Article 108
Time limit for issuing sub-legal acts

1. Sub-legal act in force shall be implemented, provided that they do not contradict with this law, until the approval of new sub-legal acts for the implementation of this law.
2. The Ministry of Internal Affairs shall issue sub-legal acts necessary for the implementation of this law within six (6) months from the moment this law enters in force.
3. The Ministry in cooperation with other bodies may also issue other sub-legal acts for the implementation of this law.

Article 109
Transitional provisions

Applications ongoing before the entrance into force of this Law shall be regulated by this Law.

Article 110
Repeal

The entry into force of this Law, repeals the Law No. 04/L-217 on Asylum.

Article 111
Entry into force

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

Law No. 06/L-026
30 March 2018

Promulgated by Decree No.DL-018-2018, dated 20.04.2018, President of the Republic of Kosovo Hashim Thaçi.