

LAW No. 06/L –036

ON AMENDING AND SUPPLEMENTING THE LAW No.04/L-219 ON FOREIGNERS

Assembly of the Republic of Kosovo,

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

Approves

LAW ON AMENDING AND SUPPLEMENTING THE LAW No.04/L-219 ON FOREIGNERS

Article 1

Purpose

1. The purpose of this Law is the amendment and supplement of Law no. 04/L-219 on Foreigners (Official Gazette No. 35, dated 05 September 2013) hereinafter Law.

2. This Law is in accordance with:

2.1. Directive 2014/66 / EU of the European Parliament and the Council on conditions of entry and residence of third-country nationals in the framework of an intracorporate transfer;

2.2. Directive 2014/36 / EU of the European Parliament and the Council on conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers;

2.3. Directive 2016/801/EU of the European Parliament and the Council dated 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects, and au pairing;

2.4. Regulation (EU) No 610/2013 of the European Parliament and of the Council of 26 June 2013 amending Regulation (EC) No. 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the Convention implementing the Schengen Agreement, Council Regulations (EC) No. 1683/95 and (EC) No. 539/2001 and Regulations (EC) No. 767/2008 and (EC) No. 810/2009 of the European Parliament and of the Council.

Article 2

1. Article 3, paragraph 1, sub-paragraphs 1.18, 1.19 and 1.25 of the basic Law shall be reworded with the following text:

1.18. EARK - the Employment Agency of the Republic of Kosovo;

1.19. Seasonal worker - a foreigner residing in a state where he is a citizen or in which he has a permanent residency permit outside the Republic of Kosovo and resides lawfully and on a temporary basis in the territory of the Republic of Kosovo to carry seasonal activities that are dependant to the passing of the season, based on one or more term working contracts concluded directly between the foreigner and an employer in the Republic of Kosovo;

1.25. Return - return process of a foreigner, whether in accordance with a voluntary or compulsory obligation to return to the country of origin or transit country in accordance with international agreements or where the foreigner has the right to stay.

2. Article 3 of the basic Law, after the definition “sponsor” in sub-paragraph 1.29, four new definitions shall be added:

1.30. Intra-corporate transferee - a foreigner who, at the time of application for a temporary residency permit, resides outside the territory of the Republic of Kosovo and is delegated temporarily for professional or training purposes by an enterprise operating outside the territory of the Republic of Kosovo and to which the foreigner is related through a working contract and during the transfer to an entity that belongs to the enterprise or to the same group of enterprises located outside the Republic of Kosovo;

1.31. Manager - a person in a high position, who is mainly in charge of managing the host entity, subject to the supervision and management primarily of the Board of Directors or business shareholders or equivalent; the duties of this position includes: management of the host entity or of a department or subdivision of the host entity; oversight and control of the work of other supervisory, professional or managing employees; authority to recommend hiring, firing or other staff related actions;

1.32. Specialist – a person working under the group or enterprise who has specialized fundamental knowledge on activity areas of the host entity, on techniques or management. Assessment of such knowledge will not take into account only knowledge specific to the host entity, but also if the person has high qualification, including appropriate professional experience, referring to the type of work or activity that requires special technical language, including potential membership in an accredited profession;

1.33. Trainee - a person with a university degree or who is pursuing a course of study who is transferred to a host entity for the purpose of career development or to receive training on business techniques and methods, and who is paid during the period of transfer.

Article 3

Article 28, paragraph 1, sub-paragraph 1.4 of the basic Law shall be reworded with the following text:

1.4. has resided the ninety (90) days period within one hundred and eighty (180) days in the Republic of Kosovo.

Article 4

Article 31, paragraph 1 of the basic Law shall be reworded with the following text:

1. The foreigner may be allowed to enter the Republic of Kosovo for stays not longer than ninety (90) days within the period of one hundred and eighty (180) days and if he or she meets the conditions as follows:

Article 5

Article 33, paragraph 1, sub-paragraph 1.4 of the basic Law shall be reworded with the following text:

1.4. has used the ninety (90) days period of residency within one hundred and eighty (180) days.

Article 6

1. Article 38 of the basic Law shall be reworded with the following text:

1. Short-term residency shall mean residency of a foreigner up to ninety (90) days within the period of one hundred and eighty (180) days without visa or with visa if required.

2. Short-term residency may be shorter than ninety (90) days when this is indicated in the visa. Period of residency shall be calculated from the date of first entry in the Republic of Kosovo.

3. A foreigner who has already used a ninety (90) days of residency period within hundred and eighty (180) days period, may enter again and reside in the Republic of Kosovo after the pass of the hundred and eighty (180) days period from the date of first entry.

Article 7

1. Article 41, paragraph 1, sub-paragraph 1.4 of the basic Law shall be reworded with the following text:

1.4. humanitarian reasons, including refugees, persons under supplementary protection, and persons with stateless status; victims of human trafficking or victims of smuggling with migrants and foreigners who have expressed willingness to cooperate with competent authorities.

2. Article 41, paragraph 4 of the basic Law shall be reworded with the following text:

4. Notwithstanding paragraph 1 of this Article, foreigners may be granted temporary residence for other purposes as well.

Article 8

Article 43, paragraph 1 of the basic Law shall be reworded with the following text:

1. Application for residence permit a foreigner shall submit in person, whereas for children, unaccompanied children or vulnerable persons, application shall be submitted

by parents, one parent with the authorisation of the other parent, or legal custodian.

Article 9

Article 45, paragraph 1 of the basic Law shall be reworded with the following text:

1. Parents, one parent with the authorisation of the other parent or the custodian of a child born in the Republic of Kosovo is obliged to apply for a temporary residence permit for the child, not later than ninety (90) days from the date of birth.

Article 10

1. Article 47, paragraph 1 of the basic Law shall be reworded with the following text:

1. Application for extension of a temporary residence permit must be submitted no later than thirty (30) days before the expiration of a temporary residence permit at DCAM.

2. Article 47, after paragraph 5 of the basic Law, two other new paragraphs shall be added with the following text:

6. Foreigners who apply for extension of the temporary residence permit and do not alter the purpose from the previous application submit a request for the extension of the temporary residence permit at DCAM and must submit the documents as follows:

6.1. a valid document for travelling;

6.2. a proof of sufficient funds for living;

6.3. health insurance;

6.4. a proof of no criminal conviction by the court.

7. The foreigner under paragraph 6 of this Article cannot extend a temporary residence permit if he/she is convicted by a final judgment with imprisonment of over one (1) year.

Article 11

1. Article 48, paragraph 1, sub-paragraph 1.5 of the basic Law shall be reworded with the following text:

1.5. has no entry and residence bans in the Republic of Kosovo or constitutes no threat for illegal immigration or residence in the Republic of Kosovo.

2. Article 48, after paragraph 1 there shall be added a new sub-paragraph 1.7, with the following text:

1.7. a foreigner as set forth in paragraph 1.4 of Article 7 of this Law shall be exempted

from conditions set forth under Article 48, paragraph 1 sub-paragraph 1.1, 1.2, 1.3 and 1.4 of the basic Law.

Article 12

1. Article 49, after the sub-paragraph 1.4 of the basic Law there shall be added a new sub-paragraph 1.5 with the following text:

1.5. of the foreigner who has been granted the status of stateless person.

2. Article 49, paragraph 2 of the basic Law shall be reworded with the following text:

2. Irrespective of paragraph 1, sub-paragraph 1.3 of this Article, a close family member of a foreigner who is residing in the Republic of Kosovo on the basis of a temporary residence permit for employment issued for one (1) year, may be granted a temporary residence permit for the purpose of family reunification, if the foreigner seeks family reunification in the Republic of Kosovo, and if he/she has at least two (2) years of temporary residence. This exception does not apply to inter-corporate transferees, whose family members have the right to apply for a temporary residence permit together with the sponsor.

Article 13

Article 57, after paragraph 3 of the basic Law there shall be added a new paragraph with the following text:

4. A student, who is graduated in one of the higher education institutions in the Republic of Kosovo seeking employment, shall be extended the application for permit of stay for another nine (9) months. The application must be submitted within three (3) months of the graduation day.

Article 14

Article 58, after paragraph 3 of the basic Law there shall be added a new paragraph 4, with the following text:

4. Scientific researchers who have an agreement with one of the licensed institutions in the Republic of Kosovo shall be extended the application for a temporary permit of stay for another nine (9) months. The request must be submitted within thirty (30) days before the expiration of his / her permit of stay.

Article 15

Article 59, paragraph 2 of the basic Law shall be deleted.

Article 16

Article 66 of the basic Law shall be reworded with the following text:

Article 66

Rejection and revocation of a temporary residence permit

1. The application for a temporary residence permit or for the extension of a temporary residence permit shall be refused if:

1.1. the conditions for granting or extending a temporary residence permit are not met;

1.2. the documents presented by the foreigner were obtained through fraud, are forged or have been illegally altered.

2. A temporary residence permit shall be revoked to a foreigner if:

2.1. the conditions for granting temporary residence cease to exist, according to Article 48 of basic Law.

2.2. resides outside the territory of the Republic of Kosovo for more than thirty (30) days consecutively without any justification;

2.3. if his/her residence in the Republic of Kosovo is in contradiction to the purpose of a temporary residence.

2.4. the documents presented by the foreigner were obtained through fraud, are forged or have been illegally altered.

3. The decision referred to in paragraph 2, sub-paragraph 2.2 and 2.3 of this Article may be taken without a preliminary hearing of the foreigner, as long as he/she has been informed in advance that against him/her is being conducted the procedure for revocation_of his/her temporary residence.

4. The decision referred to in paragraphs 1 and 2 of this Article may be appealed to the Appeals Commission.

5. Notwithstanding paragraph 2, sub-paragraph 2.2 of this Article, a foreigner who for ninety (90) days resides outside the Republic of Kosovo due to reasonable causes, his/ her temporary residence shall not be revoked, if he or she notifies DCAM or the Border Police on the reasons his or her stay outside the country, no later than ten (10) days from the date of return to the Republic of Kosovo. DCAM shall render a decision based on the information provided by the foreigner.

Article 17

After Article 66 of the basic Law, a new Article 66 A shall be added, with the following wording:

Article 66 A

Persona non-grata

1. The Minister of Internal Affairs, based on important interests of the state, constitutional

and legal order, state security and public order, shall by means of an argued order declare a foreign person a persona non-grata, if he or she:

1.1. acts or propagandises against the sovereignty of the Republic of Kosovo, state's security, constitutional order and public order and security;

1.2. is a member of terrorist organisations, or supports and commits actions against the rule of law;

1.3. constitutes a threat to the country, or violates the relations of the Republic of Kosovo with other countries;

1.4. there are doubts that he or she will remain within the territory of the Republic of Kosovo to commit a criminal offense or an action which constitute a threat to the Republic of Kosovo;

1.5. is involved in organized crime, trafficking of human being, drugs, and any other type of illegal trafficking, based on the data obtained by responsible national security institutions.

2. The foreigner shall be declared a "persona non-grata" for a period not-shorter than five (5) years from the data of being declared as such, and shall be rejected entrance or stay in the Republic of Kosovo during this period.

3. Minister of Internal Affairs, upon the request of the foreigner, shall review the request for entrance, visa or residence permit, if the adult foreigner has committed the offenses defined in paragraph 1 of this Article while being a juvenile.

4. The procedure of declaring a foreigner person a "persona non-grata" is regulated by means of an Administrative Instruction, which shall be issued by the Minister of Internal Affairs in cooperation with the Minister of Foreign Affairs.

Article 18

1. Article 67, paragraph 1 of the basic Law shall be reworded with the following text:

1. Foreigner in the Republic of Kosovo can work under the work permit or short-term work permit for foreigners, unless otherwise provided by this Law, or international agreements recognised by the Republic of Kosovo or a Decision of the Government of the Republic of Kosovo.

2. Article 67, paragraph 3, subparagraph 3.2 and 3.3 of the basic Law shall be reworded with the following text:

3.2. with status of refugee, temporary or supplementary protection, and status of stateless persons.

3.3. with temporary residence with the purpose of family reunification with citizens of the Republic of Kosovo, with foreigners with permanent residence permit, with foreigners with a temporary residence permit after one (1) year, with foreigners with refugee

status as well as foreigners who have been granted subsidiary protection or temporary protection and with a foreigner who is intra-corporate transferee, as well as foreigners with temporary residence permit for study purposes.

Article 19

Article 71, sub-paragraph 1.4 of the basic Law shall be deleted entirely.

Article 20

1. Article 74, paragraph 3 and 4 of the basic Law shall be reworded with the following text:

3. Notwithstanding paragraph 2 of this Article, a foreigner's work permit referred to in Article 70, paragraph 1, sub-paragraph 1.5, 1.6 and 1.13 of this Law shall be issued for a period of validity of two (2) years, unless a shorter period is required for granting work permit.

4. A foreigner who has been issued a work permit for the reasons of seasonal work, may reside in the Republic of Kosovo at most six (6) months within the twelve (12) months period and must reside outside the Republic of Kosovo for at least six (6) months before it becomes possible again for him/her an entry into and residence for the purpose of work.

2. In Article 74, after paragraph 5 of the basic Law, a new paragraph 6 shall be added with the following text:

6. Exceptionally from paragraph 1 of this Article, DCAM shall render a decision on the application for work permit even without the confirmation by EARK, until the annual employment quota is provided.

Article 21

Article 75 of the basic Law shall be reworded with the following text:

1. A foreigner may be refused issuance of a work permit, in cases when:

1.1. the employer violates work provisions and work protection provisions, health and pension insurance, tax evasion or in the event the foreigner or the employer has failed to pay a penalty imposed in cash;

1.2. employer's enterprise is in the process of closing, or has been closed down, pursuant to relevant applicable legislation for bankruptcy, or no economic activity is being discharged;

1.3. a foreign national has not complied with the obligations arising from a preliminary decision for admission as a seasonal worker;

1.4. the employer has been sanctioned in accordance with the applicable law for undeclared work and / or illegal employment;

1.5. the foreigner has failed to comply with the obligations arising from the previous decision on work;

1.6. the business was established for the main purpose of facilitating the entry of foreigners;

1.7. the maximum time limit allowed for residence defined in Article 74, paragraph 4 of the basic Law has been reached.

2. A foreigner is considered a seasonal worker if he/she has resided in Kosovo for six (6) months within a period of twelve (12) months.

Article 22

1. The title of Article 76 of the basic Law shall be reworded with the following text:

“Short term work permit for foreigners”

2. Article 76, paragraph 1 of the basic Law shall be reworded with the following text:

1. Based on a short-term working permit, the following foreigners may work up to ninety (90) days within every period of one-hundred and eighty (180) days within one (1) year:

3. Article 76 of the basic Law, after sub-paragraph 1.17, there shall be added three (3) new subparagraphs 1.18, 1.19, 1.20, with the following text:

1.18. doctors or medical specialists of various medical fields;

1.19. teachers and lecturers of foreign cultural, educational and scientific institutions, whose engagement is not longer than ninety (90) days within every period of one-hundred and eighty (180) days in one (1) year, shall be issued a short-term work permit for foreigners.

1.20. Board Members and Executive Directors of foreign branches, whose engagement is not longer than ninety (90) days within a period of one-hundred and eighty (180) days in one (1) year, shall be issued a short-term work permit for foreigners.

4. Article 76, of the basic Law, after subparagraph 3.4, there shall be added a new subparagraph, with the following text:

3.5. seasonal workers whose engagement does not exceed ninety (90) days within any period of one hundred and eighty (180) days within one (1) year, who are unskilled cannot be granted Short Term Work Permits for foreigners.

5. In the entire text of the basic Law, the term “certificate for employment notification” shall be replaced with “foreigners’ short term work permit”.

Article 23

Article 78, after paragraph 2 of the basic Law, there shall be added a new paragraph 3, with the following text:

3. The maximum duration of a transfer within the corporation will be three (3) years for managers and specialists and one (1) year for trainees.

Article 24

1. Article 81, paragraph 1, sub-paragraph 1.4 of the basic Law shall be reworded with the following text:

1.4. a foreigner who works for the employer but he/she was not granted a work permit or the employer has been sanctioned in accordance with the applicable law for undeclared work and / or illegal employment.

2. Article 81, paragraph 1 of the basic Law, after sub-paragraph 1.11, there shall be added two new sub-paragraphs 1.12 and 1.13, with the following text:

1.12. the hosting entity is established for the main purpose of facilitating the entry of foreigners, which does not exercise any other activity;

1.13. the enterprise of the employer is being closed down or has been closed under the domestic laws on bankruptcy or no economic activity is taking place.

Article 25

1. Article 83, paragraph 1, sub-paragraph 1.1 of the basic Law shall be reworded with the following text:

1.1. employment conditions, including minimum working age, and working conditions, including salary and lay-off, working hours, vacation and holidays, as well as health and safety in the workplace.

2. Article 83, paragraph 1, sub-paragraph 1.2 of the basic Law shall be reworded with the following text:

1.2. the right on strike and undertaking industrial actions, in compliance with applicable legislation in Kosovo, freedom of association, affiliation and membership in an organization representing workers or any organization, whose members are engaged in a specific occupation, including the rights and benefits given by such organizations, including the right to negotiate and conclude collective agreements, without violating the legislation of the Republic of Kosovo related to public policies and public security.

3. Article 83, after sub-paragraph 1.6 of the basic Law, there shall be added two sub-paragraphs 1.7 and 1.8, with the following text:

1.7. outstanding payments shall be paid by the employer in relation to any payment

outstanding to foreign nationals;

1.8. tax benefits, in so far as seasonal worker is considered to be a resident for tax purposes in the Republic of Kosovo.

Article 26

After Article 83 of the basic Law, there shall be added Article 83/A, with the following text:

Article 83/A

Officials of the competent institution shall have the right to conduct interviews with the foreigner and his/her host to request explanations and additional documents justifying the entrance and purpose of the visit and the authenticity of the information provided by the foreigner, and verify information provided by the foreigner and his/her host, in order to take a decision as to the issuance or extension of visa, residence permit, work permit or authorization for work purposes.

Article 27

Article 84, paragraph 1 of the basic Law shall be reworded with the following text:

1. Permanent residence permit may be granted to the foreigner who, at the time of submission of the application, has an uninterrupted temporary residence permit of five (5) years in the Republic of Kosovo, except the cases of marriage with the citizen of the Republic of Kosovo or with a foreigner with a permanent residence, an uninterrupted residence of three (3) years is required.

Article 28

Article 85 of the basic Law, after paragraph 2 there shall be added the new paragraph 3 with the following text:

3. Exceptionally from paragraph 1, sub-paragraph 1.1 and 1.2 and paragraph 2 of the basic Law, persons with international protection, if the decision-making procedure lasts more than eighteen (18) months, the time period will be calculated from the date of application for international protection. Whereas, if the procedure lasts less than eighteen (18) months, the calculation of time is done as half of the procedure.

Article 29

1. Article 86, paragraph 1, sub-paragraphs 1.1 and 1.2 of the basic Law shall be reworded with the following text:

1.1. a foreigner who, until the day of submission of request, has at least five (5) years of refugee status and supplementary protection under the Law on Asylum;

1.2. foreigners who have stayed in the territory of the Republic of Kosovo for at least five (5) years without interruption and who are ascertained to have close family and

economic ties in the Republic of Kosovo. Their stay shall be evidenced by documents proving his/her uninterrupted stay in the territory of the Republic of Kosovo.

2. Article 86, after paragraph 1 there shall be added a new paragraph 2, with the following text:

2. The procedure for granting permanent permit of stay in extraordinary circumstances is regulated by a sub-legal act issued by the Minister of Internal Affairs.

Article 30

Article 89, after sub-paragraph 3.3 of the basic Law, there shall be added a new sub-paragraph 3.4, with the following text:

3.4. All foreigners who have as a mother tongue one of the official languages of the Republic of Kosovo.

Article 31

1. In all the text of the basic Law, the term “Order” is replaced by the term “Decision”.

2. Article 94, paragraph 1 of the basic Law shall be reworded with the following text:

1. Kosovo Police shall issue the return decision for foreigners residing illegally in the territory of the Republic of Kosovo or when the foreigner served a sentence imposed by the competent courts for a criminal offence, which under the Criminal Code of the Republic of Kosovo is sanctioned in a minimum of one (1) year imprisonment.

3. Article 94 of the basic Law, after paragraph 10, there shall be added three paragraphs 11, 12 and 13, with the following text:

11. Notwithstanding paragraphs 1 to 10, DCAM issues voluntary return decision in the following cases;

12. Refusal of the request for residence permit;

13. Revocation of the residence permit.

Article 32

After Article 94 of the basic Law, there shall be added Article 94/A with the following text:

Article 94/A **Assisted voluntary return**

1. Assisted voluntary return shall mean the removal of a foreigner to the country of origin based on a decision on return. In order to encourage assisted voluntary return, the police may revoke the decision on removal or revoke the entry and residence ban.

2. In the light of encouraging assisted voluntary return, the Ministry may conclude agreements or cooperate with other countries' competent bodies, international organizations and civil society organizations.

3. With the purpose of encouraging assisted voluntary return, DCAM shall provide travel documents and travel tickets, and conduct the financial payments.

Article 33

Article 95 of the basic Law shall be reworded as follows:

The foreigner has the right to appeal the decision on voluntary removal within eight (8) days from the day of receipt of the decision on voluntary removal at the Appeals Commission. The Commission must resolve the case within a period of fifteen (15) days from the day of receipt of the appeal. The appeal against the decision on voluntary removal suspends the execution of the decision on voluntary removal. Against the decision of the Appeals Commission, the foreigner may initiate an administrative dispute at the Basic Court within thirty (30) days from the receipt of the decision. Initiating an administrative dispute shall not suspend the execution of the decision on voluntary removal.

Article 34

Article 97, after paragraph 1.5 of the basic Law, there shall be added a new paragraph 1.6 as follows:

1.6. poses a risk to public order, state security or public health.

Article 35

1. After the Article 97 of the basic Law, there shall be added Article 97/A, with the following text:

Article 97/A

Categories of foreigners not granted return decision

1. The foreigner is not removed if he/she meets the following conditions:

1.1. is in possession of permanent residence permit;

1.2. is born in the Republic of Kosovo;

1.3. has entered into the Republic of Kosovo as an unaccompanied child and has been granted with a permanent residence permit;

1.4. has been granted with a temporary residence permit and is married to a foreigner who has a permanent residence permit or is a citizen of Kosovo;

1.5. there is a reasonable doubt that the foreigner, in his/her country of origin or another country, shall be sentenced with death, shall be subject to torture,

inhuman or degrading treatment or punishment for discriminatory reasons;

1.6. an unaccompanied child, if from the country of origin or another country or other institutions is not guaranteed family reunification or adequate health care;

1.7. is a family member of a foreigner whose refugee status is recognized in the Republic of Kosovo.

1.8. The person who has filed a claim or the person who has been recognized the status of the stateless person, as well as the direct descendant of the person who has been recognized the status of stateless person.

2. Exceptionally, a foreigner may be removed, even though he/she meets the conditions referred to in paragraph 1 of this Article, if his/her residence threatens public order and security, and constitutes a threat to national security.

Article 36

Article 98 of the basic Law shall be reworded with the following text:

The foreigner has the right to appeal within eight (8) days, after the receipt of decision on removal by force, at the Appeals Commission. The Commission must resolve the case within a period of fifteen (15) days from the day of receipt of the appeal. The appeal against the decision concerning the decision on forced removal suspends the execution of decision of removal by force, with the exception of cases that pose a risk to public order, state security or public health. Against the decision of the Appeals Commission, the foreigner may initiate an administrative dispute at the Basic Court within thirty (30) days after the receipt of the decision. Initiating an administrative dispute shall not suspend the execution of decision of removal by force.

Article 37

Articles 99, 100 and 101 of the basic Law shall be deleted.

Article 38

1. The title of Article 107 of the basic Law shall be reworded with the following text:

“Detention Centre for Foreigners”

2. Article 107, paragraph 1 and 4 of the basic Law shall be reworded with the following text:

1. Detention Centre for Foreigners shall have a certain level of security and of freedom limitations, where may only be kept a foreigner who is the subject of forced removal from the territory of the Republic of Kosovo.

4. The Detention Centre for Foreigners is part of DCAM’s organizational structure.

Article 39

1. After paragraph 4 of Article 108 of the basic Law, there shall be added two new paragraphs 5 and 6, with the following text:

5. Exceptionally from Article 107 and 108 of the basic Law for foreigners served with a forced removal decision and detained at the Detention Centre for Foreigner, in case the foreigner fulfils the criteria for voluntary return, the forced removal decision shall be revoked and a voluntarily removal decision shall be issued.

6. DCAM may detain the applicant at the Detention Centre when it considers necessary and on the basis of an individual assessment of each case, and if by other less coercive alternative measures cannot be achieved the purpose of limiting freedom movement, pursuant to Law on Asylum.

Article 40

Article 109 of the basic Law shall be reworded as follows:

1. The foreigner shall be entitled to lodge an appeal against the detaining decision to the Basic Court, within the time limit of thirty (30) days after receipt of the detaining decision or extension of detainment. The appeal shall not suspend the enforcement of the decision.

2. The party unsatisfied with the decision of the court may lodge an appeal to the Court of Appeals. The appeal against the Decision of the Basic Court shall not suspend the enforcement of the decision.

Article 41

Article 115, paragraph 5 of the basic Law shall be reworded as follows:

5. Sequestration of financial means according to this article shall carry out by DCAM for the purpose of covering the costs.

Article 42

After Article 119 of the basic Law, there shall be added a new Article 119 A, with the following text:

Article 119 A

Appointment of Migration Personnel in Diplomatic Missions abroad

1. The Ministry of Internal Affairs, with the consent of the Ministry of Foreign Affairs, shall appoint migration personnel in missions abroad.

2. Duties and financial responsibilities over the migration personnel appointed abroad shall be determined by means of a Scale Services Agreement between the Ministry of Internal Affairs and the Ministry of Foreign Affairs, in accordance with relevant legislation in force.

Article 43

Article 128, paragraph 2 of the basic Law shall be reworded with the following text:

From the Labour Inspectorate with a fine in the amount of one thousand (1.000) to two thousand (2.000) euro shall be punished an employer as a natural person, with a fine in the amount of five thousand (5.000) to seven thousand (7.000) euro shall be punished an employer as a legal entity and the responsible person of the legal entity shall be punished in the amount of one thousand (1.000) to two thousand (2.000) euro, who:

Article 44

Article 129, paragraph 1 of the basic Law shall be reworded with the following text:

A fine in the amount of one hundred (100) to five hundred (500) euros will be imposed by the Police to the foreigner who:

Article 45

Article 130, paragraph 1 of the basic Law shall be reworded with the following text:

1. The Labour Inspectorate shall impose a fine of one thousand (1.000) to two thousand (2.000) euro if the foreigner:

Article 46

1. Article 131, paragraphs 1, 2, 3 and 4 of the basic Law shall be reworded with the following text:

1. With a fine in the amount of one thousand (1.000) to two thousand (2.000) euro for each foreigner transported, shall be punished by the Police the carrier of a foreigner who does not have a valid passport or other document which is used for border crossing, a valid visa or a residence permit (Article 35, paragraph 2 of this Law).

2. With a fine in the amount of one thousand (1.000) to two thousand (2.000) euro for each foreigner carried, shall be punished by Police the carrier as a natural person who at his/her own expense has not delivered (removed) a foreigner to the border crossing point or from the Republic Kosovo or has not taken over the expenses for the return of the foreigner (Article 35, paragraph 3, 4 and 5 of this Law).

3. With a fine in the amount of one thousand (1.000) to two thousand (2.000) euro for each foreigner assisted shall be punished by Police a natural person who assists a foreigner illegally to cross the border, transit and illegal residence in the Republic of Kosovo (Article 36 of this Law).

4. With a fine in the amount of five thousand (5,000) euro shall be punished by Police a legal entity in the case of paragraph 2 and 3 of this Article, with a fine in the amount of two thousand (2,000) euro the responsible person at the legal entity, for each foreigner carried or assisted.

Article 47

1. Article 132, paragraphs 1, 2, 3, 4, and 6 of the basic Law shall be reworded with the following text:

1. From Labour Inspectorate with a fine in the amount of three thousand (3,000) to five thousand (5,000) euro for each foreigner will be punished an employer - a natural person who employs a foreigner or uses his/her work, and a fine in the amount of ten thousand (10,000) to twenty thousand (20,000) euro for each foreigner will be punished an employer - a legal entity which employs a foreigner or uses his work.

2. From Labour Inspectorate with a fine in the amount of three thousand (3,000) to five thousand (5,000) euro for each foreigner shall be punished an employer – a natural person which employs or uses the work of foreigners illegally residing in the Republic of Kosovo, and a fine in the amount of ten thousand (10,000) to twenty thousand (20,000) euro for each foreigner shall be punished an employer - a legal person who employs or uses the work of foreigners illegally residing in the Republic of Kosovo (Article 67, paragraph 7 of this Law).

3. Offenses referred to in paragraph 1 of this Article shall be punished by the Labour Inspectorate with a fine of one thousand (1,000) to two thousand (2,000) euro the liable person of the legal person.

4. For offenses referred to in paragraph 2 of this article with a fine in the amount of one thousand (1.000) to two thousand (2.000) euro, shall be punished by Labour Inspectorate the liable person of the legal person.

6. From the Labour Inspectorate with a fine in the amount of three thousand (3,000) to five thousand (5,000) euro shall be sanctioned an employer - a natural person, with a fine in the amount of ten thousand (10,000) to twenty thousand (20,000) euro shall be sanctioned an employer - a legal person who does not provide data or prevents access in closed or fenced commercial property spaces.

Article 48

1. Article 133, paragraph 3 and 4 of the basic Law shall be reworded with the following text:

3. The Labour Inspectorate with a fine of one thousand (1.000) to two thousand (2.000) euro shall fine any foreigner as a service receiver, if he knows or has reasons to know that for the work is using a posted worker who is not legally employed by a foreign employer (Article 77 of this Law).

4. Labour Inspectorate with a fine of one thousand (1.000) to two thousand (2.000) euro for each foreigner for a criminal offense according to paragraph 3 of this Article shall be punished the beneficiary and a natural person and the responsible person of legal person.

Article 49

1. Article 137 of the basic Law, paragraph 1, sub-paragraph 1.2 shall be conveyed as a separate paragraph after paragraph 5, as well as it shall be reworded with the following text:

6. The composition, duties, responsibilities and decision-making procedures of the Commission on Appeals will be regulated by sub-legal act which shall be approved by the Government, pursuant to paragraph 4 of Article 9 of this Law.

Article 50
Entry into force

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

Law No.06/L - 036
30 March 2018

Promulgated by Decree No.DL-019-2018, dated 20.04.2018, President of the Republic of Kosovo Hashim Thaçi.