

**LAW No. 04/L-011
FOR ORGANIZING TRADE UNION IN KOSOVO**

Assembly of Republic of Kosovo;

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

Approves

LAW FOR ORGANIZING TRADE UNION IN KOSOVO

**Article 1
Purpose**

1. This Law aims to regulate and determine the rights and freedom of the employees to establish and free and volunteer organizing in the Trade Union organizations in the public and private sector, with the aim of the representation and protection of economic interests, social and professional workers from work and work relation.
2. With this Law are not regulated the rights and freedoms of action and trade union organizing in the Kosovo Security Force and other services prescribed by special Law.

**Article 2
Definitions**

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

1.1. **Unions** - independent organizations that are created as a voluntary union of employees whose aim is the representation and protection of the legal rights and interests of economic, social and professional to their members;

1.2. **Trade union organization** - any organization of employment created in the form of association, or organization unit of federation, confederation, which aims to represent and protect the interests of union workers in the syndicate organizations;

1.3. **The employers' organization** - the organization in which the employer's join on the basis of free volition for the protection of their interests;

1.4. **Syndicate Freedom** - the civil right of the employers to create and join the syndicate organizations who freely organize activities, administration and trade union activity for the protection of their interests;

1.5. **Statute of the Trade Union** - the highest legal act of the trade union, with which is regulated and determined purview, basic principles of work, trade union organization, the rights and duties of members, as well as the composition and functioning of the trade unions leadership bodes;

1.6. **Trade Union Association** - the basic trade union organization of employers' voluntarily affiliated, which aims to protect the interests of the workers' of a legal subject.

1.7. **Trade Union Federation** - Trade Union organization is composed of trade union associations voluntarily affiliated, which aims to protect the interests of certain group of workers;

1.8. **Trade Union Confederation** - Trade Union organization of the voluntarily union of the trade union federation with the aim to realize and protect the interests of the trade union members;

1.9. **MLSW** - the Ministry of Labor and Social Welfare (MLSW);

1.10. **ILO** - the International Labor Organization;

1.11. **ICFTU** - the International Confederation of Free Trade Unions;

1.12. **ETUC** - the European Trade Unions Confederation;

1.13. **Representative Trade Union** - is the Trade Union organization with the higher number of the members employed in the appropriate level.

Article 3 The right for the union

1. Employees are entitled under their will to establish organizations, affiliate in Trade Unions and join them, according to this Law, Trade Union Statute and international standards and International Conventions of the ILO's.

2. Employees are entitled according to their will to form trade union organizations and join the federation and the Confederation under the conditions and principles laid down in acts of union organization;

3. A trade union organizations under paragraph 1. and 2. of this Article can be established without approval of government authorities and employers.

Article 4 The right for the membership in the syndicate organization

1. The employee freely decides for the membership in the union organization.

2. No one should be discriminated against, or to be violated the rights of employees because of membership, non entrée in the union organization for the trade union activity in the union organization.

3. The government authorities can not intervene to limit the rights and freedom to union employees, or impede the exercise freely activities in union.

Article 5 Organizations with different activities

1. Organizations may be established according to the union of the same activities, or activities in which different interests related employers.

2. Trade Union organizations with the same event and with different activities have the right to unite and cooperate with international Trade Union organizations established for the interests and rights of common employers.

Article 6
Establishment of the Trade Union organizations

1. Employees are guaranteed the freedom of association and Trade Union action.
2. Trade Unions are established to protect rights and freedoms of union employers.
3. Employees are entitled, on the basis of free will, to establish union and join in, under conditions which are determined by this Law and Statute.
4. Trade Union organizations are entitled to realize their activity in accordance with normative acts, voluntarily choose their representatives, to organize the administration, conduct Trade Union activities and develop programs of the Trade Union.

Article 7
Creating the conditions for Trade Union action by the employer

1. Employer should create necessary conditions and facilities for the elected representatives of the Trade Union organizations for the Trade Union action to employers;
2. For creating favorable conditions for Trade Union action, the employer must engage in:
 - 2.1. allowing movement in work environments;
 - 2.2. allowing the distribution of reports, brochures, publications and other documents of Trade Union organization for union activities;
 - 2.3. providing the time needed for Trade Union activity inside and outside the country;
 - 2.4. creation and provision of facilities for collection of tools and dues,
 - 2.5. creation of optimum conditions for functioning of the trade union including organization of meetings and various Trade Union meetings.

Article 8
The purpose for establishing union

1. The main purpose of the establishment of Trade Unions is:
 - 1.1. creating conditions and better Standards of work employees;
 - 1.2. protecting the legal, economic, social, professional rights of employees;
 - 1.3. promotion and development of social Dialogue between social partners;
2. With the aim of achieving the same interests and strengthening the union for the advancement and development of social dialogue with social partners, unions can be organized in vertical line in the Association, the Federation and the Trade Union Confederation.

Article 9
Membership in the union

1. Member of union can be employed according to any Law in force has met the age of employment, accept the employer.
2. Membership in the trade union will be by free willing of the employees.

3. During the application for membership must be given written statements, and completed form which must be the name and surname, gender, birthday, residence, address, profession, place of work and the signing of the member.
4. Trade Union member is given membership cards as proof of membership.
5. The Trade Union member is obliged to pay regular monthly union membership in the amount of which determines the competent authority of the union.
6. A member of a union can not be also members of another union.
7. With the signing of a personal statement for membership of the employees, create reports of rights and obligations for member unions by the Status.

Article 10 Trade Union elections

1. All members of the union have the right to elect and to be elected.
2. The right to be elected shall not enjoy the members who:
 - 2.1. have managerial positions;
 - 2.2. are elected and nominated in local and central bodies of the state;
 - 2.3. are elected in management structures of political parties.
3. Members may choose to resign or be removed from office by the body which has elected in accordance with legal provisions.

Article 11 Annual Leave of the union membership

1. Member of the union membership will cease under the Trade Union Law and the statutes in the following cases:
 - 1.1. when member leaves the union with the will expressed by the written statement;
 - 1.2. when a member acts contrary to the Law, Statute and other acts of the union;
 - 1.3. when a member does not pay membership three (3) months in a row;
 - 1.4. when an employee is retired;
 - 1.5. when a member dies.
2. Association union, which carried no obligations dues or other legal obligations and statutory within three (3) months period excluded from trade union federation.
3. Federation union, which carried no obligations dues or other legal obligations and statutory, within three (3) months period can be excluded from the Trade Union Confederation.
4. The data from paragraph 2 and 3 of this Article, shall ascertain the financial competent service of the Federation, i.e. Trade Union Confederation.

Article 12
Conditions and criteria for registration of Trade Unions

1. Workers Organizations (Association Federation and Trade Union Confederation) to formalize the jurisdiction thereof should apply for the register in the responsibility body of Ministry of Labor and Social Welfare.
2. Trade Union Association, as the basic organizational unit, may be registered in MLSW if there are at least ten (10) Trade Union members.
3. Trade Union Federation may be registered in MLSW-s, if it is within at least two (2) associations of trade union activities of the same or similar membership of which is at least 10% of employees at the level of respective sector.
4. Trade Union Confederation, may be registered in MLSW-s, if in the context of its work at least two (2) Federation of Trade Union activities, membership of which is at least 10% of employees at the country level.
5. Unions can start and develop its activity, since only be registered in MLSW-s.

Article 13
Necessary Documents for registration

1. Union in the quality of the Association, Federation or Confederation with the application to enroll in MLSW, along with written request must present this documentation:
 - 1.1. Statute of the Union (Association, Federation or Confederation);
 - 1.2 . Record collection of constituent unions;
 - 1.3. Paper for the title, headquarters, and union;
 - 1.4. Register of Trade Union members, including name, surname, birthday, number of identification card, signatures and addresses of Trade Union members;
 - 1.5. Statements for membership of Trade Union members in the union;
 - 1.6. Accurate data for Trade Union leadership, including name, surname, birthday, identification card number, telephone and signatures of members of the union leadership;
 - 1.7. Rename the union which should not be the same with the registered Trade Unions in MLSW.
 - 1.8. Ministry in specially cases for verification, may require the verification statements by the Trade Union members.

Article 14
Registration Procedure

1. Application for registration of unions along with the necessary documentation submitted in the body responsible for registration of Trade Unions in MLSW.
2. Body responsible MLSW estimates that if the conditions are met and the criteria for registration

set by the provisions of this Law and other positive, the period of thirty (30) days from the date of application for registration, issue a decision in writing, for registration of the union.

3. Body responsible MLSW's praises when it has shortcomings in documentation, requiring the representative union organization in the period of eight (8) days from the day of receipt of the request, provide additional documentation in order to meet conditions and criteria for registration, set with this Law and other legal provisions..

4. In cases where the union does not meet the conditions and criteria specified for registration, as defined by law, the body responsible MLSW issue a decision for refusal of registration of the union, informing applicants of the reasons for refusal.

5. MLSW against the decision of the party unhappy, in a period of thirty (30) days, can exercise suit for starting competent Court administrative dispute, the date of receipt of the decision.

6. The Ministry will publish in the Official Gazette the list of registered Trade Union.

Article 15 **The right of union after registration**

1. After the registration, the union has the right:

1.1. to enjoys all the rights of a legal person , in accordance with legal provisions;

1.2. to represent its members before employers and public authorities in connection with any matter involving collective negotiations for employees, particularly in the promotion of social dialogue, economic and social rights, the labor relations;

1.3. to manage its resources for protecting the rights of employer's.

Article 16 **Legitimacy of the Trade Union**

1. Registered Trade Union shall have the quality of the legal person, with rights and duties specified by law, the Statute of the International Union Conventions and the ILO.

2. The union should have its harangue which will be engraving stamp and it is forbidden to be used by other unions.

3. The chairman of the union representing the Union.

4. The union should be the bank account with authorization for the financing of Trade Union activity.

Article 17 **The right of representation**

1. The right of trade union's representation is defined according to the following criteria:

1.1. registration of trade union to the competent body of MLSW;

1.2. number of registered members with membership cards and membership payment slip;

2. Trade union shall acquire the right of representation in respect of collective contracts, in agreements with employers, within the authority of social dialogue, if they have at least 10% of

members out of the total number of employees in the level of the enterprise sector and in country level.

Article 18 The Trade Union bodies

1. Unions choose the form and in accordance with its Statute and other acts of the Trade Union.
2. The union conducts their activities according to law, statutes, international conventions and principles of the international union of the ICFTU and the ETUC.

Article 19 Regulation of Trade Union scope

Trade Union organizations shall regulate the scope of its Statute by other domestic acts, in accordance with the provisions of this Law.

Article 20 Social Dialogue

1. Social Partner of Employer is representative of the Trade Union.
2. Representative Trade Union of the relevant level as social partner negotiates and signs Collective Contract level concerned.
3. Trade Unions not representative can contribute through the social dialogue processing of the recommendations, opinions or public tables.

Article 21 Financial resources of the Trade Union

1. Scope for Trade Union funds provided by:
 - 1.1. dues from membership;
 - 1.2. donations from different;
 - 1.3. the assistance of solidarity;
 - 1.4. the incomes of property and trade unions;
 - 1.5. other sources that are not in contradiction with the legal and statutory provisions.
2. The employer is obliged to provide payment of membership fee in institutional manner, and the means from membership fee shall be deposited in the bank account of respective trade union.
3. Trade union's organizations in the level of Federation and Confederation are obliged at the end of each fiscal year, to do external audit of spent means.
4. Funds transferred to union membership and spent in institutional form in accordance with the decision of the competent body of the Trade Union Association, the Federation or Confederation.

Article 22 Trade union's Property

1. Wealth union is unique and inalienable.
2. The union has the right to identify the wealth and property.

3. Union organizations have the right to property and movable and immovable assets in accordance with the provisions of the Law on Property.

Article 23

Duties and responsibilities of Trade Union members

Trade Union members must participate in work and activities of the union, restraint to the principles and norms of the status, image and preserve the unity of the union and pay monthly quota of union membership.

Article 24

Immunity of Trade Union representatives

1. Prohibited discrimination against Trade Union representatives of the organizations.
2. For union activities, trade union representatives, without consent of the union, may not:
 - 2.1. discontinue the employment contract;
 - 2.2. assigned to other working place;
 - 2.3. low position of the work;
 - 2.4. initiate disciplinary proceedings,
 - 2.5. reduced wages.
3. Elected to the Senior Trade Union, the president and vice president of the Federation and the Confederation union, after the expiration of the mandate of which are elected, have the right to return to the workplace in accordance with professional training and work experience.
4. The rights prescribed in paragraph 2. of this Article, shall be applicable from two (2) years after finishing the regular mandate of the union's representative.

Article 25

Prohibition of interference

1. Any act prohibited intervention in the creation of union programs, the choice of trade union representatives, management and trade union organizations from governmental authority.
2. Any act prohibited intervention in the creation, operation or management of trade union organizations of employers or employers' organizations.
3. Union organizations can address the court's interventionist actions or threat to them.
4. Interventionist actions considered:
 - 4.1. acts that impede the establishment, functioning or administration of a Trade Union organization.
 - 4.2. acts that harm the organization because of union affiliation or activity and discriminated union.
 - 4.3. acts that promote the creation of trade union organizations of employers or employment organizations, with the aim of establishing their control.

Article 26
The right to organize Federations and Confederation

1. Trade Union organizations are entitled to form Trade Union Federations and the Confederation and the right to join them.
2. Local Trade Union Confederation or Federations have the right to membership in the International Trade Union Confederation.

Article 27
Trade Union pressure and the right to strike

1. In order to fulfill the trade union's requirements forms of union pressure are allowed, as well as the protests and employees strikes in accordance with International Conventions, applicable laws and Trade Union Statute.
2. The right to strike is an elementary right of the employees and trade union's bodies which is guaranteed in Kosovo by the law on Strikes.
3. During the organizing forms of Trade Union pressure, it shall be banned the use of violence by the employees.
4. It is forbidden to use violence and to take punitive measures by the employer, towards the employees who have participated in a protest or in a legal trade union strike.

Article 28
Trade Union disputes

1. Trade Union various disputes between the Federation and Union Confederation shall be resolved by the Commission for Resolution of Disputes, within the Trade Union Confederation, based on the submission of applications by interested parties.
2. Dissatisfied parties may require initiation of the procedure, the highest body Confederation who takes final decision.

Article 29
Resolving Trade Union disputes

1. Eventual resolution of disputes at different levels of Trade Union organizations is done by the Commission consisting of five (5) members. The Commission is elected by the union with the highest level of relevant
2. Committee elects from among its chairman.
3. During the work the Commission may engage experts to respective fields with the aim of resolving a dispute.
4. Bodies of Trade Union Federations are obliged to give assistance, Commission in the form he wants.
5. Commission decides by a majority vote of members elected and works under the Regulation of Labor that develops and approves it.

Article 30
Protection of Trade Union members in court

Every Trade Union organization recognized as a legal person may address the Court to protect the interests of each of its members, the employer required to act under the provisions of the Law in force.

Article 31
Punitive Provisions

1. Natural person, who disregards provisions of this law, in legal procedure, shall be fined in amount from two hundred (200) up to one thousand (1000) euro.
2. Legal person, or the responsible person of a legal person who disregards provisions of this law, in legal procedure, shall be fined in amount from five hundred (500) up to three thousand (3000) euro.
3. Means collected from announced fines shall be deposited in the Budget of Republic of Kosovo.

Article 32
Implementation of the Law

1. Minister of MLSW shall issue the secondary sub legislation to ensure full implementation of the provisions of this Law, no later than six (6) months after the entry into force of this Law.
2. Supervision for implementation of this Law shall be carried out by the Labor Inspectorate.

Article 33
Entry into force

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

Law No. 04/L-011
28 July 2011

Promulgated by Decree No.DL-015-2011, dated 09.08.2011, President of the Republic of Kosovo Atifete Jahjaga.