



Republika e Kosovës  
Republika Kosova – Republic of Kosovo  
Qeveria – Vlada Government  
*Zyra e Kryeministrit*  
*Kancelarija Premijera – Office of the Prime Minister*  
*Zyra Ligjore – Pravna Kancelarija – Legal Office*

#### LEGAL OPINION ON COMPLIANCE WITH EU LEGISLATION

17.04.2024

The Legal Office of the Prime Minister's Office, dated April 15, 2024, based on Article 7, subsection 1.2 of Regulation No. 09/2011 of the Work of the Government of the Republic of Kosovo, and Article 13, Paragraph 5 of Regulation No. 13/2023 for the Government Legal Service, as well as in accordance with Article 12, paragraph 3 and 4, subsection 4.19 of Regulation No. 02/2021 for the Areas of Administrative Responsibility of the Prime Minister's Office and Ministries, amended and supplemented by Regulation No. 04/2021 for the Areas of Responsibility of the Prime Minister's Office and Ministries, has submitted for consideration to the EU Law Division, to the Prime Minister's Office, *the Draft Law for the Ratification of "Amendment no. 2 of the Financial Agreement between the Republic of Kosovo and the European Union for the IPA Program 2016"*.

#### 1. SUBJECT

**Legal Opinion on the Compatibility of the Draft Law on the Ratification of "Amendment no. 2 of the Financial Agreement between the Republic of Kosovo and the European Union for the IPA Program 2016", with EU *acquis*.**

## 2. ATTACHED DOCUMENTS

In the request of the Legal Office of the Prime Minister's Office for an **Opinion on Compatibility** with the EU *acquis*, these documents were sent:

- The final draft of the *Draft Law* in three languages (Albanian, English and Serbian version);
- Declaration of Conformity (Albanian, Serbian and English version);
- Explanatory Memorandum.

## 3. PREAMBLE

In accordance with Article 7, paragraph 3 of Regulation No. 09/2011 of the Work of the Government of the Republic of Kosovo, article 3, subsection 1.3, article 13, paragraph 6, as well as article 21, paragraph 4 of Regulation No. 13/2013 for the Government Legal Service and Article 30, paragraph 4 of Administrative Instruction No. 03/2013 on Standards for the Drafting of Normative Acts, the Division of EU Law, of the Office of the Prime Minister, based on the scope of its powers, dated April 17, 2024, issues this:

## 4. LEGAL OPINION ON COMPLIANCE WITH EU LEGISLATION

The request for a **Legal Opinion** with the EU *acquis* was sent in electronic form on April 15, 2024.

## 5. INTRODUCTION

This draft law ratifies "Amendment no. 2 of the Financial Agreement between the Republic of Kosovo and the European Union for the IPA 2016 program".<sup>1</sup> This *Draft Law* has a total of 3 articles and the Agreement and its appendices are an integral part of this Draft Law.

## 6. SUMMARY OF EU ACTS REGULATING THE SCOPE OF THE DRAFT NORMATIVE ACT

The scope of the IPA is regulated by the primary and secondary *acquis*. The legal provisions of EU law which define measures of economic, financial and technical cooperation, including

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<sup>1</sup> Article 1 of the *Draft Act*.

support, in particular financial support, with third countries and the EU are defined in the provisions of Article 212 of the TFBE.<sup>2</sup> The provisions of Article 212 of the TFBE determine:

Chapter 2

Economic, financial and technical cooperation with third countries

Article 212

(former-article 181a TKE)

1. Without prejudice to other provisions of the Treaties and in particular articles from 208 to 211, the Union implements measures of economic, financial and technical cooperation, including support, in particular financial support, with third countries that are not developing countries. Such measures are in accordance with the Union's development policy and are developed within the framework of the principles and objectives of the Union's external action. The actions of the Union and those of the Member States complement and reinforce each other.

2. The European Parliament and the Council, according to the ordinary legislative procedure, adopt the necessary measures for the implementation of paragraph 1.

3. Within the relevant spheres of competence, the Union and the Member States cooperate with third countries and with competent international organizations. The organization of the Union's cooperation may be the subject of agreements between the Union and interested third parties.

The first subparagraph does not affect the competence of the Member States to negotiate in international bodies and to conclude international agreements.

Also, the secondary legislation of EU law that refers to the scope of the pre-accession instrument is defined Regulation (EU) 2021/1529 of the European Parliament and of the Council of September 15, 2021 for the creation of the Instrument for First Assistance - Accession (IPA III).<sup>3</sup> This

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<sup>2</sup> Consolidated version of the Treaty on the Functioning of the European Union [Consolidated version of the Treaty on the Functioning of the European Union] accessible through: <https://eur-lex.europa.eu/legal-content/EN/LEX/PDF/?uri=CELEX:L2012E/TXT&from=EN>.

<sup>3</sup> Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 on the establishment of the Instrument for Pre-Accession Assistance (IPA III) [Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession Assistance (IPA

regulation establishes the Instrument for Pre-Accession Assistance (IPA III) for the period of the multiannual financial framework 2021-2027 (known as MFF 2021-2027).<sup>4</sup> The transposition of the regulation is not applied, however, the beneficiary countries under this regulation are obliged to transpose the EU *acquis* for the realization of the objectives of IPA III.<sup>5</sup>

Within the SAA, the provisions referring to financial assistance are defined as follows:

Title IX Financial Cooperation

Article 121

To achieve the objectives of this agreement and in accordance with articles 7, 122 and 123 and 125, Kosovo may receive financial assistance from the EU in the form of grants and loans, including loans from the European Investment Bank. EU financial assistance is conditional on further progress in meeting the Copenhagen political criteria. The fulfilment of Kosovo's obligations with this agreement as well as the annual progress reports for Kosovo should also be taken into consideration. EU financial assistance will also be subject to PSA conditions, in particular regarding the beneficiary's commitment to carry out democratic, economic and institutional reforms. The financial assistance provided to Kosovo will be oriented towards identified needs, agreed priorities and capacity to absorb and deliver results as well as measures taken to reform and restructure the economy.

Article 122

Financial assistance, in the form of grants, will be provided in accordance with the relevant regulations of the European Parliament and the Council within a multi-year indicative framework based on annual or multi-year programs determined by the EU after consultations with Kosovo.

Article 123

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III)] accessible through: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1529&qid=1652771710674&from=en>.

<sup>4</sup> There, articles 1-2. The objectives of IPA III are listed in Article 6 of Regulation (EU) 2021/1529. Regarding the EU MFF 2021-2027, see through: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:multiannual\\_financial\\_framework](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:multiannual_financial_framework).

<sup>5</sup> See articles 2-3, annexes I and II of the Regulation (EU) 2021/1529.

Financial assistance can cover all sectors of cooperation, paying special attention to the field of freedom, security and justice, alignment of legislation with the EU acquis, socio-economic development, good governance, public administration reform, energy and agriculture.

#### Article 124

At the request of Kosovo and in cases of special needs, the EU, in coordination with international financial institutions, may consider the possibility of granting macro-financial assistance on an exceptional basis, which depends on certain conditions, taking into account the availability of all financial resources. This assistance can be given after fulfilling the conditions that will be set in the context of a program for which agreement has been reached between Kosovo and the International Monetary Fund.

#### Article 125

In order to enable the optimal use of existing resources, the Parties will ensure that EU financial assistance is provided in close cooperation with that from other sources such as those from member states, other countries outside the EU and international financial institutions. For this purpose, Kosovo should regularly provide information on all sources of assistance.<sup>6</sup>

## 7. DESCRIPTION AND EVALUATION OF THE DOCUMENTS SENT WITH THE PROPOSED LEGISLATION BY THE LINE INSTITUTION

### *Content and technical aspect*

This *draft law* ratifies "Amendment no. 2 of the Financial Agreement between the Republic of Kosovo and the European Union for the IPA 2016 program". CT (Compatibility Tables) with the EU *acquis* do not apply.

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<sup>6</sup> See Law No. 05/L-069 for the Ratification of the Stabilization and Association Agreement between the Republic of Kosovo, on the one hand, and the European Union and the European Atomic Energy Community, on the other, Official Newspaper: 34/2015 Date of publication: 01.12.2015, i accessible through: <https://ezk.rks-gov.net/actdetail.aspx?actid=11239>. In the framework of the 2022-2026 PESCA (*the program for the implementation of the SAA*), the activities that refer to financial assistance related to IPA II and IPA III are defined.

All other documents have been sent and partially completed according to the Manual for Completing the Compliance Tables and Declaration of Compliance.<sup>7</sup>

#### 8. COMPATIBILITY OPINION

This **Compatibility Opinion** is based on the content of the draft draft act. The responsibility of the Division for EU Law in the OPM is highlighted with its opinion, while the proposing institution is responsible for completing the Declaration of Conformity (DC) and Tables of Conformity (TC), when the draft act is related to transposition of the EU *acquis*. The line institutions are responsible for the policy they make and for the degree of harmonization with the EU *acquis*. Therefore, the preliminary periods from partial transposition to full transposition are the responsibility of the body proposing the draft guideline. In advance, completing and determining the level of compatibility with the EU *acquis* is the responsibility of the line institutions. *The Manual for Completing the Tables and Declaration of Conformity and Practical Instructions for the Alignment of the Legislation of the Republic of Kosovo with the Legislation of the European Union, contain practical instructions for this process.*<sup>8</sup>

#### 9. COMPATIBILITY ASSESSMENT

This *draft law* ratifies "Amendment no. 2 of the Financial Agreement between the Republic of Kosovo and the European Union for the IPA 2016 program". The transposition of Regulation (EU) 2021/1529 is not applied, however, the beneficiary countries under this regulation are obliged to transpose the EU *acquis* for the realization of the objectives of IPA III according to local sectoral laws and regulations that require transposition according to the relevant *acquis*.<sup>9</sup>

Labinote Kashtanjeva

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U.D. Head of the EU Legal Affairs Division  
EU Law Division / Prime Minister's Office

<sup>7</sup> Accessible through: <http://mci-ks.net/sq/dokumente-ndihzese-mpi-proceshi-e-praftimit-legjor>

<sup>8</sup> Accessible through: <http://mci-ks.net/sq/dokumente-ndihzese-mpi-proceshi-e-praftimit-legjor>

<sup>9</sup> See article 3 para. 1 of the Draft Law (EU) 2021/1529.