



Republika e Kosovës
Republika Kosovo-Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 03/L-075

**ON THE ESTABLISHMENT OF THE OFFICE OF THE AUDITOR GENERAL
OF KOSOVO AND THE AUDIT OFFICE OF KOSOVO**

The Assembly of the Republic of Kosovo,

Pursuant to Articles 65 (1) and 142 of the Constitution of the Republic of Kosovo,

For the purpose of promoting high standards of transparency, accountability and integrity in the financial management and performance of public administration in Kosovo;

Hereby adopts:

**LAW ON THE ESTABLISHMENT OF THE OFFICE OF THE AUDITOR
GENERAL OF KOSOVO AND THE AUDIT OFFICE OF KOSOVO**

Article 1
Definitions

For the purposes of the present Law:

“**Assembly**” shall have same meaning as defined by the Constitution of the Republic of Kosovo.

“**Auditor-General function**” means a function performed pursuant to the duties and responsibilities of the Auditor-General as described in article 3 of this Law.

“**Authorized Official**” means an official who is authorized by the Auditor-General of Kosovo to perform official functions under this Law.

“**INTOSAI**” means International Organization of Supreme Audit Institutions.

“KBSFR” means Kosovo Board on Standards for Financial Reporting.

“Performance Audit” means an audit of the economical manner, efficiency and effectiveness with which the audited institution or entity uses and manages its resources in carrying out its responsibilities.

“Public Sector” means the general Government Sector including Financial and non-Financial Enterprises as defined in the Government Financial Statistics as issued by the International Monetary Fund.

“Regularity Audit” means attestation of financial accountability involving examination and evaluation of financial statements and other financial records and expression of opinions on:

- (i) whether the financial statements give a true and fair view of the accounts and financial affairs for the audit period;
- (ii) whether the financial records, systems and transactions comply with applicable statutes and regulations;
- (iii) the appropriateness of internal control and internal audit functions;
- (iv) the probity and propriety of administrative decisions taken within the audited institution or entity; and
- (v) all matters arising from or relating to the audit.

Article 2 **Auditor-General of Kosovo**

2.1 The Auditor-General shall carry out his or her functions independently and not subject to the direction or control from any other person or institution.

2.2 Subject to the provisions of this Law, the Auditor-General shall have complete discretion in the performance or exercise of his or her functions or powers. In particular, the Auditor-General shall not be subject to any direction in relation to:

- a) whether or not a particular audit is to be conducted;
- b) the way in which a particular audit is to be conducted; or
- c) the priority to be given to any particular matter.

2.3 The Assembly shall appoint the Auditor-General for a term of five (5) years. The Auditor-General shall be a person who possesses the required qualifications, high moral character, impartiality and integrity that are necessary to carry out the functions of the office, and who:

- a) has a university degree and qualified experience in the area of accounting and audit, public finance or public administration for not less than 10 years; and

b) is not under criminal investigation for a criminal offence and who has not has not been sentenced by a court of competent jurisdiction for having committed a criminal offence.

2.4 The Auditor-General shall hold office on a full-time basis and shall not hold other paid employment while serving as Auditor-General.

2.5 Whenever the office of Auditor-General becomes vacant, the Assembly shall fill the vacancy within 60 (sixty) days.

2.6 The Auditor-General shall be paid remuneration and allowances as set out in the appointment by the Assembly.

2.7 The Auditor-General may resign by giving the Assembly thirty (30) days written notice, signed by the Auditor-General.

2.8 The Assembly may appoint one of the deputies of the Auditor General to serve as Acting Auditor-General in the event that the Auditor-General is absent from the duty for more than 60 (sixty) days as he/she is temporarily absent from Kosovo or for any reason is unable to perform the duties of the office.

2.9 A person appointed to serve as Acting Auditor-General under paragraph 8 of this Article shall have the same powers and responsibilities as apply to the office of Auditor-General.

2.10 The Assembly may remove the Auditor-General from office only if the Auditor-General:

a) is unable to perform the function of his or her office due to physical or mental disability affecting his or her capacity to perform such functions

b) has engaged in misconduct or misbehavior in the performance of his or her duties or in circumstances that might compromise his or her ability to perform his or her duties;

c) is incompetent;

d) is convicted upon final judgment of a criminal offence and is sentenced to a term of imprisonment;

e) becomes bankrupt or applies to take benefit of any law or rule for the relief of bankrupt or insolvent debtors;

f) becomes unable to pay his or her debts and enters into a formal agreement with creditors;

g) assigns his or her remuneration for the benefit of his or her creditors.

Article 3

Powers and Responsibilities of the Auditor-General

3.1 The Auditor-General shall report to the Assembly.

3.2 The Auditor-General shall annually conduct a Regularity Audit of the Kosovo Consolidated Budget, budget organizations, including but not limited to the Assembly of the Republic of Kosovo, the Office of the President of the Republic of Kosovo, each Ministry and executive agency, municipalities, independent bodies, the Central Bank of the Republic of Kosovo (CBK), and other entities that are either more than 50 % publicly owned or receive funding from, or provide dividends or other non tax revenue to, the Kosovo Consolidated Fund including but not limited the Kosovo Customs Service, the Kosovo Privatization Agency and the Ombudsperson.

3.3 The Auditor-General shall report on all Regularity Audits and in this context the following requirements and procedures shall apply:

a) the Auditor-General shall provide to the Assembly a report of the Regularity Audit of the Kosovo Consolidated Budget and each institution or entity referred to in paragraph 2 of this Article no later than 31 August of the year following the audit period;

b) the Auditor-General shall provide his or her report to the audited institution or entity;

c) the management of an institution or entity referred to in article 3.2 shall have fourteen (14) days from receipt of the Auditor-General's report to provide the Auditor-General with any responses thereto and these responses (if any) shall be attached to the audit report and form a part thereof; and

d) copies of the report of the Auditor General shall be made available to the public.

e) within 30 days after the publication of the respective audit report the institution or entity audited pursuant to paragraph 2 of this Article shall submit to the Auditor General a report that indicated how such institution or entity intends to implement recommendations made in the audit report.

3.4 The Auditor-General may at any time conduct a Performance Audit of any institution or entity referred to in paragraph 2 of this Article. The provisions of paragraph 3 of this Article relating to a Regularity Audit shall apply equally to a Performance Audit.

3.5 The Auditor-General may at any time consult with any of the institutions or entities referred to in paragraph 2 of this Article for the purpose of coordinating audit responsibilities between the Auditor-General and the requirements of internal audits for any of those institutions or entities.

3.6 In addition to the compulsory audit requirements referred to in paragraph 2 of this Article the Auditor-General may enter into an arrangement with any institution or entity referred to the same paragraph to:

a) conduct a Regularity Audit;

- b) conduct a Performance Audit; or
- c) provide additional services of a kind commonly performed by an auditor.

3.7 The Auditor General may, upon the written request of the Assembly or the Government, conduct a financial Regularity Audit or a Performance Audit on any of the institutions or entities listed in paragraph 2 of this Article.

3.8 The Auditor-General shall not perform audit functions under this article for a purpose that is outside the scope of his responsibilities in respect of the institutions or entities referred to in paragraph 2 of this Article.

3.9 The Auditor-General may engage any person or entity including a national auditing organization of a foreign country to assist in the performance of an Auditor-General function.

3.10 The Auditor-General may, by written instrument, delegate all or part of the audit under the present Law provided that any person, organization or entity so delegated shall comply with all lawful directions of the Auditor-General.

3.11 The Auditor-General may, upon a request in writing from a donor state or organization, conduct an audit of funds donated by that state or organization to an institution or entity referred to in paragraph 2 of this Article if such funds have been included in the Kosovo Consolidated Budget, subject to an agreement regarding the coverage of the costs of such audit by the donor state or organization requesting the audit.

3.12 Unless otherwise instructed by the Auditor-General, an institution or entity referred to in paragraph 2 of this Article shall include in its annual report all audit reports issued by the Auditor-General and provided to the institution or entity concerned relating to the period covered in that annual report.

3.13. The Auditor-General shall publish in writing and regularly update the current Public Sector auditing standards that shall be complied with by persons performing Regularity and Performance Audits. These standards shall comply with INTOSAI, European Union (EU) Auditing Standards, and the International Standards of Auditing (ISA) as promulgated by the International Auditing Practices Committee (IAPC) of the International Federation of Accountants (IFAC). These standards should also comply with the relevant requirements of the KBSFR;

3.14 Pending the publication of the applicable standards referred to herein the Auditor-General shall publish an initial set of auditing standards prior to the commencement of audit work.

3.15 On an annual basis within three (3) months of the end of the year of account, the Auditor-General shall provide to the Assembly an annual report of the audit activities of the Auditor-General. The report shall include the report of the independent audit of the accounts of the Audit Office of Kosovo.

Article 4
Information Gathering Powers, Confidentiality and Secrecy

4.1 The Auditor-General may by written notice specifying a reasonable time for compliance, direct a person to do all or any of the following:

- a) provide the Auditor-General with any information that the Auditor-General requires;
- b) attend and give evidence before the Auditor-General or an authorized official; and
- c) produce to the Auditor-General any documents related to the execution of their duty in the custody or under the control of the person concerned.

4.2 The Auditor-General may direct that:

- a) the information or answers to questions be given either orally or in writing; and
- b) the information or answers to questions shall be given on oath or affirmation that the information provided is true. Such oath or affirmation shall be administered by the Auditor-General or by an authorized official.

4.3 A person who does not comply with a direction under paragraphs 1 and 2 of this Article commits a criminal offence punishable by a fine of up to five thousand (5000) euro or a term of imprisonment of up to three (3) years.

4.4 The Auditor-General or an authorized official:

- a) may, at all reasonable times, enter and remain on any premises occupied by an institution or entity described in paragraph 2 of this Article;
- b) is entitled to full and free access at all reasonable times to any property or to documents whether in hard copy or in electronic form; and
- c) may examine, make copies of or take extracts from data.

4.5 If an authorized official enters, or proposes to enter, premises acting under the authority of the Auditor-General, the occupier shall provide the official concerned with all reasonable facilities for the effective exercise of the powers and duties of the Office of the Auditor-General. Any person who fails to comply with this provision commits a criminal offence punishable by a fine of up to five thousand (5000) euro or a term of imprisonment of up to three (3) years.

4.6 An authorized official is not entitled to enter or remain on premises if he or she fails to produce a written authorization by the Auditor-General on being requested by the occupier to produce proof of his or her authority.

4.7 A person is not excused from producing a document or answering a question under paragraph 2 of this Article on the ground that the answer, or the production of the document, might incriminate the person or make the person liable to a penalty. However,

no such answer or document, or anything directly or indirectly obtained from such answer or document shall be admissible in evidence against the person in any criminal proceedings other than proceedings for an offence arising under paragraph 3 of this Article.

4.8 If a person has obtained information in the course of performing an Auditor-General function, the person concerned shall not disclose the information except in the course of performing an Auditor-General function or for the purpose of any provision of the applicable law that gives functions to the Auditor-General. Any person who fails to comply with this provision commits a criminal offence punishable by a fine of up to five thousand (5000) euro or a term of imprisonment of up to three (3) years.

4.9 The Auditor General shall not publish or otherwise disclose in a public report any information, which is classified by law as confidential information,

4.10 If the Auditor General omits from public report information pursuant to paragraph 9 of this Article, the Auditor General shall prepare and submit to the Presidency of the Assembly of Kosovo, upon its written request, a confidential report identifying such information and providing justification for their omission.

Article 5

Establishment of the Audit Office of Kosovo

5.1 The Audit Office of Kosovo is hereby established.

5.2 The Audit Office consists of the Auditor-General and the staff of the Audit Office. The Auditor-General may appoint a maximum of two Deputy Auditors-General persons who:

- a) have a university degree and qualified experience in the area of accounting and audit, public finance or public administration, not less than 8 years;
- b) are not under criminal investigation for a criminal offence and who have not been sentenced by a court of competent jurisdiction for having committed a criminal offence.

5.3 The function of the Audit Office is to assist the Auditor-General in performing the Auditor-General's functions.

5.4 Directions to staff of the Audit Office relating to the performance of the Auditor-General's functions may only be given by:

- a) the Auditor-General; or
- b) a member of the staff of the Audit Office authorized to give such directions by the Auditor-General.

5.6 The Audit Office, to the extent that it is not funded from other sources, shall be funded from the Kosovo Consolidated Budget. The budget for the Office shall be subject to the approval by the Assembly. The Auditor-General shall annually prepare and submit

to the Assembly the proposed budget for the Audit Office in accordance with requirements, guidelines and arrangements established by the Assembly. The Assembly shall review such proposed budget within 30 days from the day it has received the proposal. While reviewing and deciding on the proposed budget, the Assembly shall ensure that sufficient funds from the Kosovo Consolidated Budget are allocated to the Audit Office to allow it to carry out its functions and responsibilities fully and independently.

Article 6 **Audit of the Audit Office of Kosovo**

6.1 The accounts, records, and financial statements of the Audit Office of Kosovo shall be audited by internationally recognized independent external auditors selected and appointed by the Assembly of the Republic of Kosovo. The Assembly of the Republic of Kosovo may dismiss the independent external auditors for good cause. The same external auditor shall not be used for more than five years in a row.

6.2 Without prejudice to any reporting requirements pursuant to the Law on Public Financial Management and Accountability, the Audit Office of Kosovo shall, within four months after the close of each of its fiscal year, submit to the Assembly of the Republic of Kosovo:

- a) financial statements certified by its external auditors;
- b) a report of its operations and affairs during the year

Article 7 **Implementation**

The Auditor-General shall have the authority to issue sub-normative acts for the implementation of this Law.

Article 8 **Transitional provision**

Until the end of international supervision of the implementation of the Comprehensive Proposal for the Kosovo Status Settlement, dated 26 March 2007, the Auditor General shall be an international appointed by the International Civilian Representative.

Article 9
Entry into Force

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

Law No. 03/L-075
5 June 2008

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI