

**LAW No. 05/L-055**

**ON THE AUDITOR GENERAL AND THE NATIONAL AUDIT OFFICE OF THE REPUBLIC OF KOSOVO**

**The Assembly of the Republic of Kosovo;**

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

Approves

**LAW ON THE AUDITOR GENERAL AND THE NATIONAL AUDIT OFFICE OF THE REPUBLIC OF KOSOVO**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Purpose**

The purpose of this law is to regulate the organisation, operation, and competencies of the Auditor General and the establishment, organisation and functioning of the National Audit Office of the Republic of Kosovo.

**Article 2  
Scope**

This Law sets the scope for external audit of public funds, the budget execution, use and governance of publically owned resources.

**Article 3  
Definitions**

1. For the purposes of the present law the following definitions mean:

1.1. **Audit** – means a qualified examination of legal and financial compliance or performance, carried out to satisfy the requirements of management (internal audit), or an external audit entity, or any other independent auditor, to meet statutory obligations (external audit);

1.2. **Audit Opinion** - means a formal written expression of an opinion on the financial statements or any certain process within a specified framework, indicating the auditor's overall conclusion based upon audit evidence obtained that provide a reasonable level of assurance (high but not absolute assurance);

1.3. **Audited Entity** – means any public institution, publicly owned enterprise or other authority managing public funds subject to audit;

1.4. **Auditor** – means an officer authorised by the Auditor General to carry out all functions under this Law;

1.5. **Classified Information** – means any information classified as confidential in compliance with respective applicable legislation;

1.6. **External Audit** – means an audit conducted by a body which is external and independent from the audited entity;

1.7. **Internal control** - means the organisation, policies and procedures used to ensure that government programmes achieve their intended results; that the resources used for these programmes are consistent with the stated objectives of the organisation concerned; that the programmes are protected from waste and mismanagement; and that reliable and timely information is provided;

1.8. **International Standards of Supreme Audit Institutions (ISSAIs)** – means INTOSAI Auditing Standards;

1.9. **INTOSAI** – means International Organisation of Supreme Audit Institutions;

1.10. **Public sector entity** – is a general term which implies and includes all budget organisations, independent public agencies and other public authorities;

1.11. **Performance Audit** - means an audit of the economy, efficiency and effectiveness with which an institution, programme or activity uses its resources in carrying out its responsibilities;

1.12. **The Regularity audit** – is an attestation of financial accountability of accountable entities, involving examination and evaluation of financial records and expression of opinions on financial statements; attestation of financial accountability of the government administration as a whole; audit of financial systems and transactions, including evaluation of compliance with applicable statutes and regulations; audit of internal audit and internal control functions; audit of the probity and propriety of administrative decisions taken within the audited entity; and reporting of any other matters arising from or relating to the audit.

#### **Article 4**

##### **The Auditor General**

1. The Auditor General is functionally, financially and operationally independent and shall not be subject to direction or influence by any person or institution.

2. The Auditor General, as the Head of the National Audit Office, is accountable before the Assembly for performing the duties and powers set forth by the Constitution, this Law, in sub-legal acts and internationally recognised public sector auditing standards.

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

- 3.1. whether or not a particular audit is to be conducted;
  - 3.2. the way in which a particular audit is to be conducted; or
  - 3.3. the priority to be given to any particular matter.
4. The Assembly of Kosovo shall upon the proposal of the President of the Republic of Kosovo with a majority of vote of all its deputies, appoint the Auditor General for a term of five (5) years. This shall be done after an open, impartial and transparent selection and interview process administrated by a selection committee appointed by the President of Kosovo. The members of the selection committee shall be nonpartisan and shall report in public about the outcome of the selection process.
5. 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, and who:
- 5.1. has a university degree and qualified experience in the area of accounting and audit, public finance or public administration for not less than eight (8) years out of which four (4) years of management experience;
  - 5.2. is not under criminal investigation for a criminal offence, is not under criminal procedure and has not been sentenced by a court of competent jurisdiction for having committed a criminal offence;
  - 5.3. is not, or at any time during the three (3) years period, before application date an official elected publicly, appointed politically or bearer of a leading position or decision making in a political subject.
6. The position of the Auditor General shall be a full-time basis and shall not hold other paid employment in any other organisation while serving as Auditor General.
7. The salary level of Auditor General is determined by the respective law regulating salaries of senior public officials.
8. Until the adoption of respective law regulating the salaries of senior public officials, the salary of the Auditor General shall be assigned by the Assembly.
9. Whenever the position of Auditor General becomes vacant, the Assembly shall fill the vacancy within 90 (ninety) days in accordance with what is stated in paragraph 4. of this Article. In case of expiry of the mandate, the Auditor General shall exercise her/his function as the outgoing Auditor General until a new Auditor General is appointed and have taken office.
10. The Auditor General may resign by giving the Assembly sixty (60) days written notice.
11. In case of resignation by the Auditor General, the Deputy Auditor General shall serve as Acting Auditor General under this Law and shall have the same powers and responsibilities as the Auditor General.
12. The Auditor General can be suspended if:

12.1. if against the Auditor General is filed an indictment for criminal offence, he/she shall be suspended with payment of fifty percent (50%) of his/her salary, until his/her dismissal or until is declared innocent by final judgment of the court. The suspension enters into force from the moment of filed indictment by the Prosecutor;

12.2. competent court on the day of filed indictment against the Auditor General shall sent the notification to the President of the Assembly, who after notifying the Assembly, as an institution that has appointed, shall notify the Auditor General of his/her suspension.

13. The Assembly may, with two thirds (2/3) of all deputies, discharge the Auditor General if:

13.1. for a period of six (6) months is unable to perform the function of his/her office due to physical or mental disability affecting his/her capacity to perform such functions;

13.2. has engaged in conflict with ethical code in the performance of his/her duties or in circumstances that might compromise his/her ability to perform his/her duties;

13.3. is convicted upon final judgment of a criminal offence and is sentenced to a term of imprisonment; and

13.4. becomes bankrupt or applies to take benefit of any Law or rule for the relief of bankrupt or insolvent debtor.

#### **Article 5**

#### **Establishment of the National Audit Office**

The National Audit Office is hereby established as an independent institution with the objective to assist the Auditor General in performing his/her duties.

#### **Article 6**

#### **Duties of the National Audit Office**

1. The National Audit Office shall:

1.1. implement its mandate in accordance with the Constitution, the Law and internationally recognised public sector auditing standards;

1.2. exercise its functions independently from any other body or authority in the Republic of Kosovo;

1.3. have its own budget that shall be administered independently in accordance with the Law;

1.4. give recommendations and contribute to a sound management of budgetary and other public funds;

1.5. promote high standards on transparency and accountability in financial management and performance of the public administration; and

1.6. submit audit reports to the Assembly and audited entities.

**Article 7**  
**Transparency**

1. The work of the National Audit Office shall be made public.

2. The National Audit Office shall publish on its web site:

2.1. all individual audit reports;

2.2. the Annual Audit Report;

2.3. the Annual Performance Report of the Office including the audited financial statements;

2.4. internal guidelines and regulations; and

2.5. other information regarding the Office and its activities.

**CHAPTER II**  
**MANAGEMENT AND ORGANISATION**

**Article 8**  
**Structure of the National Audit Office**

The National Audit Office shall consist of the Auditor General, the Deputy Auditor General, Assistant Auditors General, the General Director of the Office, auditors and administrative/ supporting staff.

**Article 9**  
**Management**

1. The Auditor General manages the National Audit Office, and is accountable for duties and powers established by this Law.

2. The Auditor General shall after an open competition select one Deputy, Assistant Auditors General and the General Director assisting in carrying out his/her duties. The Deputy Auditor General, the Assistant Auditors General and the General Director shall be appointed for a period of five (5) years. Criteria and procedures about appointments and terms of work shall be defined in accordance with Article 10 while taking into account Article 15 of this law.

3. Subject to the direction of the Auditor General, the Deputy Auditor General may exercise all the functions, and may have all the duties and powers of the Auditor General.

4. The General Director shall be in charge of all administrative support.
5. The Auditor General and the Deputy Auditor General cannot participate in, or make decisions about, audit of the institutions in which they were members of the management in the previous three (3) years;
6. The Auditor General and the Deputy Auditor General cannot, after resigning the office, take up any assignments on behalf of the National Audit Office for a period of three (3) years.

#### **Article 10 Organisation**

1. The Auditor General shall, through an internal regulation, define organisation and management in the National Audit Office.
2. The Auditor General shall adopt internal regulations and guidelines for the functioning of the National Audit Office.
3. The Auditor General shall adopt, keep updated and publish an Administrative Handbook covering paragraph 1. and 2. of this Article.

#### **Article 11 Delegation of Authority by the Auditor General**

The Auditor General may delegate any of his/her authorities, in writing, to any subordinate within the National Audit Office. In such a case the Auditor General is still accountable.

#### **Article 12 Cooperation with External Parties**

1. The National Audit Office shall cooperate with various institutions and organisations in audit or professional development related areas.
2. The Auditor General may engage any qualified person, firm or other Supreme Audit Institution to assist in carrying out any of the National Audit Office duties. In doing this, applicable internationally recognized auditing standards as well as the National Audit Office standards shall be adhered to. The Auditor General is responsible for the results and the quality of the work carried out.
3. The National Audit Office may cooperate with the European Court of Auditors and Supreme Audit Institutions from foreign countries, and represent Kosovo in INTOSAI.

### **CHAPTER III**

#### **BUDGET AND ACCOUNTABILITY**

##### **Article 13**

##### **Budget**

1. The National Audit Office shall be funded by the Budget of Republic of Kosovo.
2. The National Audit Office shall follow the budget process as described in the Law on Public Financial Management and Accountability.
3. The National Audit Office shall have financial, managerial and administrative independence as well as sufficient human, material and financial resources.
4. If the Government amends or in any other way modifies the budget proposal of the National Audit Office, it has to inform the Assembly about the budget proposal of National Audit Office at the same time as the draft budget is submitted to the Assembly.
5. If the Auditor General enters into a contractual agreement in accordance with Article 18.6. of this Law, the assignment shall be regarded as a project and the Auditor General have the right to recruit additional staff as needed for the period of implementation of that project.

##### **Article 14**

##### **Accountability**

1. The Auditor General shall submit Annual Financial Statements to the Government for inclusion in the Government's Report on the Kosovo Budget in accordance with the Law on Public Financial Management and Accountability.
2. Within four (4) months of the end of the budget year, the Auditor General shall provide to the Assembly an Annual Performance Report on the activities of the National Audit Office. This report shall include relevant extracts from the Annual Financial Statements and the opinion of the independent auditors.
3. The Assembly shall appoint an internationally recognised independent external firm to carry out the statutory audit of the Annual Financial Statements of the National Audit Office. Such firm shall not be engaged for more than three (3) consecutive years and cannot be in another business relation with the National Audit Office.

## **CHAPTER IV EMPLOYEES IN THE NATIONAL AUDIT OFFICE**

### **Article 15 Staff**

1. The respective legislation on Civil Service shall not apply for the Auditor General, Deputy Auditor General, Assistant Auditors General and Auditors of the National Audit Office, while the other staff is treated based on the Law on Civil Service.

2. The Auditor General shall, based on applicable legislation, establish regulations and guidelines on how all human resource issues shall be handled. In doing this, the values and principles in the Law on Civil Service and Law on Labour shall be taken into account.

### **Article 16 Duties and Rights of the Staff**

1. The Auditor General shall establish a Code of Ethics and Conduct for the employees, based on internationally recognised public sector auditing standards and applicable legislation.

2. All employees of the National Audit Office shall have the duties and rights as established in the internal guidelines and regulations.

### **Article 17 Incompatibilities**

1. An employee shall not exercise a function, an activity or hold a position, which constitutes conflicts of interest with his/her official duties and shall not:

1.1. hold any other function at any level within the public sector;

1.2. be a member of governing or others boards of public or private enterprises;

1.3 hold a function in a political party and not follow instructions from political parties;  
and

1.4. exercise any additional remunerated activity unless previously authorised by the Auditor General.

2. A person earlier employed by the National Audit Office cannot within a time frame of three (3) years take up remunerated assignments related to the National Audit Office.



## **CHAPTER V AUDIT**

### **Article 18 Audit Mandate**

1. The National Audit Office is entitled to audit all financial, administrative and other activities, programmes and projects managed by one or more of the institutions referred to in this article, including the process and proceeds of sales of assets, privatisations and concessions.
2. The National Audit Office has the right to follow public funds to the final beneficiary.
3. The National Audit Office is obliged to annually carry out statutory regularity audit of:
  - 3.1. the Governments Report on the Kosovo Budget;
  - 3.2. all Budget Organisations that directly have received a budget in the Annual Budget Law and are required to produce Annual Financial Statements; and
4. The National Audit Office may carry out statutory regularity audits in Publicly Owned Enterprises. The Auditor General shall inform the shareholder at the latest on the 30 September of the current year about which of these audits will be carried out.
5. The National Audit Office has the right to at any time carry out other audits than Regularity audits in the institutions mentioned under paragraph 3. and 4. of this Article and for:
  - 5.1. funds provided from the budget to an institution or organisation;
  - 5.2. the handling of all public money as defined in the Law on Financial Management and Accountability;
  - 5.3. Public Private Partnerships;
  - 5.4. loans, credits and liabilities guaranteed by public sector entities.
6. The National Audit Office may, upon a written request from a donor state or organisation, conduct an audit of funds donated by that state or organisation to an entity referred to in paragraph 3. and 4. of this Article provided that an agreement is reached with the donor country or organisation to cover the costs of the requested audit.
7. The National Audit Office shall not undertake any duties other than those required under this Law.

### **Article 19 Audit Standards, Quality Control and Quality Assurance**

1. The National Audit Office shall:

- 1.1. conduct its activities in accordance with the present Law and internationally recognised public sector auditing standards;
- 1.2. publish auditing standards in use;
- 1.3. adopt manuals and guidelines, and other acts necessary for the implementation of internationally recognised public sector auditing standards; and
- 1.4. be responsible for the implementation of quality assurance system in order to ensure the application of standards and good practices.

2. The Assembly of Republic of Kosovo may at least every fifth year initiate a professional assessment of work of the National Audit Office conducted by a Supreme Audit Institution or any relevant international partner.

## **Article 20**

### **Audit Planning**

1. The Auditor General shall adopt a three (3) year Strategic Audit Plan updated on annual basis.
2. The Auditor General shall adopt an Audit Plan annually and submit it to the Committee for Oversight of Public Finances (COPF), until the 31<sup>st</sup> October.
3. The Auditor General may, upon the written request of the Assembly or the Government, conduct additional audits.
4. The Audit Plan shall be made public on the National Audit Office website.
5. When executing the Audit Plan, the Constitution, this Law and internationally recognised public sector auditing standards shall be applied.
6. The Auditor General may at any time consult with any public institution or entity for the purpose of coordinating audit responsibilities.

## **Article 21**

### **Types of Audits**

1. When carrying out annually statutory Regularity audits, the National Audit Office shall, in compliance with internationally recognised public sector audit standards:
  - 1.1. examine the Annual Financial Statements and underlying accounts of the audited institution with the aim of assessing whether the reports are reliable and the accounts reflect fairly the results of the budget execution;
  - 1.2. assess whether the management has followed applicable Laws and regulations and whether the funds have been used for intended purposes; and

1.3. evaluate the functioning of financial management system, internal audit functions and internal control systems.

2. The National Audit Office shall conduct interim audits during the course of the financial year, including follow-up on implementation of recommendations from previous audits and an analysis of the measures taken on the basis of these recommendations.

3. When carrying out performance audits or other types of audits, the National Audit Office shall, in compliance with internationally recognised public sector auditing standards assess the economy, efficiency or effectiveness of a particular aspect of the operations of the whole or part of any institution, programme or activity.

## **Article 22**

### **Comments on Draft Reports**

1. After completion of the audit work, the National Audit Office shall prepare a draft Audit Report and submit it to the head of the audited institution for written comments.

2. The audited institution shall submit its written comments to the National Audit Office within fifteen (15) calendar days after receiving the draft report, or longer time as decided by the Auditor General. The National Audit Office shall consider those comments before preparing the final report. In cases of factual disagreements, such shall be attached to the final Audit Report.

## **Article 23**

### **Audit Reports**

1. The National Audit Office shall submit final Audit Reports to the audited institution. Copies may be sent to any other concerned institution. The National Audit Office shall make final Audit Reports public one (1) day after submission of such reports.

2. When reporting on statutory Regularity audits, the National Audit Office shall submit final Audit Reports to each audited institution and to the Assembly no later than ninety (90) days after the submission of the Budget Organisation's final Annual Financial Statements. In case the audited institution is a municipality, the final Audit Report shall also be submitted to the concerned municipal Assembly.

3. For the audit of the Government's Annual Report on the execution of the Kosovo Budget, the National Audit Office shall submit the Annual Audit Report to the Assembly within the deadline set forth in the Law on Public Finance Management and Accountability.

4. The National Audit Office shall in the report mentioned in paragraph 3. of this Article present important conclusions and recommendations from all audits carried out.

5. Within thirty (30) days of receiving the final Audit Report each audited institution shall deliver a response to the National Audit Office, which sets forth how the institution will address recommendations given in the final Audit Report. This response shall also be submitted to the concerned Assembly Committee. In case the audited institution is a municipality, the response shall also be submitted to the concerned municipal Assembly.

6. The Audit Reports shall be available on the National Audit Office website, with the exception

of information classified (as sensitive or not-for-publication) or other legal or administrative prohibitions in accordance with applicable legislation.

7. The Auditor General shall annually present the Annual Audit Report in the Plenary Session of the Assembly.

8. The Auditor General may at any time address the Assembly on any matter within the mandate of the National Audit Office.

#### **Article 24** **Information to Law Enforcement Authorities**

The Auditor General shall notify Law enforcement authorities when noticing legal violations. If it can be done without influencing the investigation, the head of the institution subject to the audit shall also be informed.

#### **Article 25** **Information Gathering Powers**

1. The Auditor General shall have unrestricted access to all information and explanations that he/she deems are necessary for audit purposes in accordance with Article 18 of this Law.

2. The Auditor General or an authorised person by him or her:

2.1. may, at all reasonable times, enter and remain in any premises held by an institution or entity subject to audit;

2.2. is entitled to full and free access to audit at all reasonable time, property or documents whether on paper or in electronic form; and

2.3. may examine, make copies or extracts from any documents.

3. The Auditor General may request in written from an authorised person, within reasonable time to:

3.1. provide any information requested;

3.2. present and give relevant evidence; and

3.3 provide documents relating to the duties under management or control of the concerned person.

4. The Auditor General may direct that:

4.1. information or answers to questions to be given orally or in written; and

4.2. information or answers to questions to be verified or documented confirming their accuracy.

5. An official person of the entity subject to audit should not provide any information he/she is aware that is not accurate and is misleading the essential matters subject to audit.

6. The Auditor General may, at any time, consult any entity under audit with the aim to coordinate audit responsibilities between the Auditor General and the internal audit of the concerned entity.

#### **Article 26**

##### **Accessibility in the Work Locations**

1. Officials authorised by the Auditor General may at all reasonable time enter and remain on any premises occupied by the entity or institution that was set to be audited.

2. If an authorised official enters, or proposes to enter, premises acting under the authority of the Auditor General, the entity shall provide the concerned official with all reasonable facilities for the effective exercise of the powers and duties of the National Audit Office.

#### **Article 27**

##### **Legal Protection for the Exercise of Professional Duties**

1. The Auditor General, the Deputy Auditor General, the Assistant Auditors General and the other personnel authorised to conduct audit are fully independent and legally protected on exercising of their legal duties authorised by this law.

2. The legal protection given in paragraph 1. of this Article shall not protect the authorised person who, while carrying out the duties, acts in contradiction with the present Law or commits criminal offense not related to the reasonable and professional performance of the work duties.

#### **Article 28**

##### **Responses to Requests**

1. The officials of audited entities shall be obliged to respond to requests of the auditors of the National Audit Office related to the audit.

2. The responsible person shall not be released from the obligation to provide any document or to answer specific questions on the justification that such provision of document or answer might incriminate or hold him/her legally accountable.

### **CHAPTER VI**

#### **ARCHIVING**

#### **Article 29**

##### **Retention of Audit Documentation**

1. The National Audit Office shall classify and store audit reports and documentation for a seven (7) years period.

2. All documentation constituting a base for information to Law implementation bodies shall be

retained for a period of fifteen (15) years.

3. Methods of classification, preservation and archiving shall be defined in regulations and guidelines.

4. All other general documents shall be handled in accordance with applicable legal provisions.

## **CHAPTER VII TRANSITIONAL PROVISIONS**

### **Article 30 Abrogation provisions**

The present law shall abrogate the Law no. 03/L-075 on the Establishment of the Office of the Auditor General of Kosovo and the Audit Office of Kosovo.

### **Article 31 Law enforcement sub-normative acts**

The Auditor General shall adopt sub-normative acts in accordance with this law within one (1) year from the time this law enters into force.

### **Article 32 Entry into Force**

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

**Law No. 05/L-055  
18 May 2016**

**Promulgated by Decree No.DL-012-2016, dated 03.06.2016, President of the Republic of Kosovo Hashim Thaçi.**