

LAW No. 03/L-159

ON ANTI-CORRUPTION AGENCY

Assembly of the Republic of Kosovo,

In support of Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON ANTI-CORRUPTION AGENCY

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose of the Law**

This Law defines the status and responsibilities of the Anti-Corruption Agency in the field of combating and preventing corruption, especially in the area of reporting, detection and investigation of corruption, the implementation of the Strategy and Action Plan against Corruption

**Article 2
Definitions**

1. For the purposes of this Law, terms used shall have the following meaning:

1.1. **Agency** - the Anti-Corruption Agency

1.2. **Committee** - the Parliamentary Supervisory Committee

1.3. **Corruption** - any abuse of power or any other behavior of official person, responsible person or other person for the purpose of achieving or obtain of an advantage for himself or for illegal profit for his/her self or any other person.

1.4. **Official Person** - the official person defined in the Penal Code of Kosovo.

1.5. **Responsible person** – the responsible person defined in the Penal Code of Kosovo.

**CHAPTER II
ANTI-CORRUPTION AGENCY**

**Article 3
Agency Status**

The agency is an independent and specialized body responsible for implementation of state policies for combating and preventing corruption in Kosovo.

**Article 4
Budget of Agency**

1. With the proposal of the Agency, the Kosovo Assembly approves the annual budget of the Agency.

2. Agency decides independently to use the budget.

Article 5 Agency Competences

1. Agency has the following competences:

1.1. Initiates and undertakes the detection and preliminary investigation procedure of corruption, and forward criminal charges if ,for the suspected cases of corruption in competent public prosecutors office, if for the same case the criminal procedure has not been undertaken.

1.2. Cooperates with local and international institutions that have as a mission fighting and preventing corruption;

1.3. In cooperation with the Commission, Government, other Institutions and non-government organizations prepares Strategy against the Corruption and action plan;

1.4. Monitors and supervises the implementation of the Strategy against Corruption and action plan;

1.5. Supervises and prevents cases of conflict of interest and undertakes the measures as foreseen by a special Law,

1.6. Supervises and the property of senior public officials and other persons, as required by specific Law;

1.7. supervises the acceptance of gifts relating to the performance of official duty and undertakes measures foreseen by Law;

1.8. Cooperates with public authorities responsible for drafting, implementation and harmonization of legislation for combating and preventing corruption;

1.9. It is represented in international meetings that have to do with combating and preventing the corruption and takes part in the process of negotiations to conclude bilateral and multilateral agreements or the adoption of international legal instruments against corruption;

1.10. cooperates with the competent institutions of the Republic of Kosovo for the implementation of obligations arising from international acts against the corruption and offers recommendations for their completion;

1.11. Participates and offer advice on drafting the code of ethics in the public and private sectors;

1.12. Provides opinions regarding the conflict of interest and supervision of gifts related to the performance of official duty;

1.13. Offers clarification regarding the manner of declaration of wealth and other issues from the scope of the Agency;

1.14. Collects, analyzes and publishes statistical data or other data regarding the state of corruption in Kosovo;

1.15. cooperates with state institutions and civil society for raising public awareness about corruption;

1.16. Reports to the Assembly once a year and to the Commission every six (6) months for the work of the Agency. The Commission may request more frequent reports from the Agency.

1.17. Prepares and proposes the annual budget of the Agency;

Article 6
Wages and compensation

1. Salaries and supplements for employees of the Agency are based on the specific conditions under which they perform their duties and functions.
2. Basic salary and any supplements for the employees of the Agency are determined and paid in accordance with procedures determined by the legislation in force.

Article 7
Director of the Agency

1. The Agency is led by Director.
2. The Director of the Agency can not practice any function that might generate a conflict of interest with the position that she/he holds according to the Law in force.

Article 8
Procedures for the election of director

1. The Commission six (6) months before the expiration of the mandate of the Director of the Agency informs the Assembly of Kosovo in order to commence the procedure to appoint the new Director.
2. The Assembly of Kosovo, according to its the Rules of Procedures, selects the Director for the Agency based on the open competition.
3. Candidate for Director of the Agency must meet the following conditions:
 - 3.1. To be citizens of the Republic of Kosovo and have permanent residence in Kosovo;
 - 3.2. To have at least a four (4) year University diploma or Master diploma;
 - 3.3. not have been convicted of a criminal offence;
 - 3.4. to have high moral integrity;
 - 3.5. to have at least five (5) years professional work experience.
4. The Commission manages the procedures of selection of the best candidates, by submitting two of them to the Assembly of Kosovo for voting.
5. Kosovo Assembly by secret voting and simple majority votes chooses one of the proposed candidates.
6. Director is elected for five (5) years mandate and can be re-elected only for one more mandate.

Article 9
Salary of Director

Director of the Agency has a salary at the salary level of the President of the Parliamentary Committee of the Assembly of Kosovo.

Article 10
Completion of the Mandate of the Director

1. The function of the Director of the Agency is completed:

1.1.with the completion of the mandate as foreseen by this Law;

1.2.by permanent loss of ability to perform his/her function;

1.3.by resignation ;

1.4. if, by the court's final decision he/she has been sentenced for criminal offence, which by the Law is punishable more than six (6) months of imprisonment;

1.5. if exercises functions which are in contrary with his function according to the applicable Law;

1.6. if dismissed by the Assembly of Kosovo because of failure to complete the legal mandate.

1.7. by death

Article 11 Responsibilities and the Competences of the Director

1. Director of the Agency has the following responsibilities:

1.1. leads and organizes the work of the Agency ;

1.2. supervise the work of employees of the Agency;

1.3. Represents Agency inside and outside the country;

1.4. manages the budget of the Agency and is responsible for the way of spending it;

1.5. concludes agreements with other local and international institutions, in accordance with applicable Law;

1.6. decides on the commitment of experts outside the Agency;

1.7. exercises also other tasks determined by Law.

2. Director shall authorize, in writing, one of his/her direct dependent, to replace him/her in case of his/her temporary absence.

Article 12 Reporting for the work of the Agency

The Agency presents the annual report for the previous year in the Assembly of Republic of Kosovo at the latest by the date March 31.

CHAPTER III OVERSIGHT COMMITTEE OF THE AGENCY

Article 13 The Committee

The Assembly of Kosovo based on this Law and its Rules of Procedure, establishes the Oversight Committee of the Agency.

Article 14
Competences of the Committee

1. the Committee:

- 1.1. Reviews the reports of the Agency;
- 1.2. Supervise and periodically assess the performance of the Director of the Agency.
- 1.3. Initiates the procedure for selection and dismissal of the Director of the Agency;
- 1.4. Upon the submission of the report of the of the Agency, the Committee may request a special report regarding the cases the Agency has terminated the investigations;
- 1.5. The report shall comprise the clarifications regarding the reasons for closing these cases without mentioning the identity or the personal data of the investigated people.
- 1.6. Controls and supervises the wealth stated by senior officials of the Agency and the conflict of interest cases in accordance with the rules and procedure foreseen by special Laws.

Article 15

The Committee has no right to interfere in any way in cases which are in the process of preliminary investigation of the Agency.

CHAPTER IV
STRATEGY AND ACTION PLAN AGAINST CORRUPTION

Article 16
Strategy against Corruption

1. Agency, in cooperation with Government and other government and non-government institutions drafts strategy against corruption.
2. The Agency through the Government submits for approval the Strategy against Corruption in the Kosovo Assembly, a document which contains policies against corruption that must be implemented by the responsible institutions of the Republic of Kosovo, as in the central level also in the local one.

Article 17
Action Plan against Corruption

1. On Implementation of the Strategy against Corruption, the Agency drafts the Action Plan against Corruption in cooperation with the responsible institutions of the Republic of Kosovo, a document that contains concrete measures against corruption that must be implemented by institutions as in the central level also in the local one.
2. Anticorruption Action Plan can be amended and supplemented on the basis of proposals from the responsible institutions or at the initiative of the Agency.
3. The agency monitors the implementation of the Action Plan against Corruption by the Kosovo institutions as in the central level also at the local level. For the implementation of measures against corruption, the responsible institutions report to the Agency periodically once in six (6) months and whenever required by this Agency.

4. In the annual report of the Agency to the Assembly of Kosovo there also is reported the progress on the implementation of the Strategy and Action Plan against Corruption.

CHAPTER V PROCEDURE OF THE PRELIMINARY INVESTIGATIONS

Article 18 Preliminary Investigation

1. Agency conducts the procedure of preliminary investigation in case of suspicion of corruption, according to:
 - 1.1. Official duty, or
 - 1.2. according to the information received by natural and legal persons.
2. For the implementation of measures from paragraph 1 of this Article, the Agency:
 - 2.1. seeks, collects, investigates and analyzes other information and documentation relevant to the case;
 - 2.2. seeks information from persons involved in case;
 - 2.3. examines the circumstances relating to the case.
3. Preliminary investigations should be completed within a period of six (6) months from the moment of initiation of the investigation, exclusively in exceptional cases the Director of the Agency may allow the extension of the deadline by six (6) months more.
4. The extension of the deadline for completing the investigation under paragraph 3 of this Article must be justified in writing by the director and the justification shall be placed in the case file.
5. The Agency in exercising its function, if it meets any difficulties shall require assistance from the police.
6. If after completion of preliminary investigative procedures it is ascertained that are sufficient data and / or reasonable suspects that the case could constitute a criminal offence, the Agency submit the case to the competent prosecutor office for further processing.
7. Competent prosecutor office informs the Agency for further proceeding and final decision in connection with the case.
8. If not suspected of a criminal act but for administrative violations, the Agency forwards the case to the competent administrative body.
9. Competent administrative body should inform the Agency for further proceeding and final decision in connection with the case.
10. If after completion of preliminary investigative procedures Agency finds that there is no sufficient data and / or based suspects that the case could constitute a criminal offence or administrative violation, the Agency issues a decision to close the case.
11. The case may be reopened at any time when new circumstances may emerge
12. Agency informs the case reporter about the final decision on the case.

Article 19
Reporting corruption cases

1. When a person suspects on a corruption case he or she may report such case in the Agency.
2. If a person during the official duty is aware of official corrupted action, should notify the Agency and also to undertake necessary measures to preserve data in connection with corrupted conduct.
3. Paragraphs 1 and 2 of this Article shall not exclude the possibility of person to report cases directly to other institutions responsible for law enforcement.

Article 20
Access to the documentation

1. Public and private authority, local authorities and official persons are obliged to provide the Agency with its request the relevant information to perform their jobs and provide the relevant documentation within a reasonable time specified by Agency.
2. If the bodies and institutions foreseen in paragraph 1 of this Article refuse to provide requested information, the Agency shall notify the State Prosecutor Office, which acts in accordance with the Code of Criminal Procedure of Kosovo.

Article 21
Independence in the exercise of powers

Agency officials during the exercise of their official duty enjoy full independence and can not be imposed by any outside pressure because of their duty or when taking certain concrete actions in accordance with this Law or other laws in force.

CHAPTER VI
PROTECTION OF DATA, SAVING THE RECORDS AND INFORMATON CONFIDENTIALITY

Article 22

1. Officials of the Agency, any person employed by the Agency, as well as all persons that are aware for official secret during the cooperation with the Agency, are obliged to keep as secret any information they have learned while performing their official duty which is considered secret information.
2. In terms of this Law secret information are considered:
 - 2.1. information regarding personal data of individuals that are or have been object of investigation by the Agency,
 - 2.2. personal data of reporters of corruption cases if this is required by the reporter;
 - 2.3. and other information publication of which may damage the investigation process.

Article 23

The Agency is obligated to preserve received data, information and documentation on the basis of this Law and in accordance with the provisions of applicable Law.

CHAPTER VII
TRANSITIONAL AND FINAL PROVISIONS

Article 24

Selection of the Director under the procedure prescribed by this Law is made after the end of mandate of the current director of the Agency.

Article 25 Repeal

The entry into force of this Law abolishes all legal provisions that are contrary to it.

Article 26 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.03/L-159
29 December 2009.**

Promulgated by the Decree No. DL-006-2010, dated 19.01.2010, of the President of Republic of Kosovo, Dr. Fatmir Sejdiu.