

LAW No. 04/L-157 ON THE STATE ADVOCACY OFFICE

Assembly of Republic of Kosovo;

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

Approves

LAW ON THE STATE ADVOCACY OFFICE

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Scope**

This law regulates the establishment, organization and competencies of the State Advocacy Office of the Republic of Kosovo, conditions and procedures for appointment and dismissal of the State Advocate General and State Advocates, the means of work, their competencies, rights and duties, and other issues important to its work.

**Article 2
Establishment**

This law establishes the State Advocacy Office of the Republic of Kosovo (hereinafter: the State Advocacy Office) as an independent and sustainable mechanism of independent legal representation of public authorities of the Republic of Kosovo in judicial, arbitration and administrative proceedings.

**Article 3
Operational principles**

1. The State Advocacy Office shall carry out its function in accordance with the Constitution, applicable laws and general sub-legal acts.
2. Nobody has the right, in any way, to influence the State Advocacy Office in carrying out its function.

**Article 4
Public work**

1. The State Advocacy work is public and every person shall have access to information in accordance with Law.
2. If the State Advocate General considers it as useful, he/she may, through the media, inform the public about the level of representation and protection of the interest of public authorities.

**Article 5
Languages**

The official languages provided by the Constitution and law are the languages in use in the State Advocacy Office work.

Article 6 Stamp

1. The State Advocacy Office has its stamp according to the form and diameter provided by provisions on stamps.
2. The stamp of the State Advocacy Office has a circular form as foreseen with the Law on Stamps in institutions of the Republic of Kosovo.
3. The size of the stamp of the State Advocacy Office shall be of a forty (40) mm. diameter.
4. The text of the State Advocacy Office stamp shall be written in capital letters with the same size and form in official languages in Kosovo.
5. The Stamp of the State Advocacy Office contains the following data:
 - 5.1. in the first outside circle shall be written: Republic of Kosovo;
 - 5.2. in the second circle shall be written: Government of Republic of Kosovo;
 - 5.3. in the third circle shall be written: Ministry of Justice;
 - 5.4. in the fourth circle shall be written: The State Advocacy Office; and
 - 5.5. in the surface inside the smallest circle of the stamp shall be placed the emblem of the Republic of Kosovo.

CHAPTER II LEGAL STATUS, COMPETENCIES AND ORGANIZATION OF THE STATE ADVOCACY OFFICE

Article 7 Legal Status

1. The State Advocacy Office shall be a central administration body within the Ministry of Justice.
2. The State Advocacy Office shall have the status of a legal entity with its headquarters in Prishtina.

Article 8 Competencies

1. The State Advocacy Office shall represent, give advices and protect the public authorities of the Republic of Kosovo, defined by the Law on public financial management and accountability, in judicial, arbitration and administrative proceedings, in accordance with the Law.
2. The State Advocacy Office shall perform other duties defined by the Law.

Article 9 Exercise of function

1. The function of the State Advocacy Office shall be carried out by the State Advocate General and the State Advocates in the State Advocacy Office.
2. The State Advocate General and the State Advocates shall be independent in the course of performance of their function. The State Advocate General for his/her work is accountable to the Minister of Justice.

3. The State Advocate General shall present and represent the State Advocacy Office, lead and undertake actions which are authorized by this Law or other law.

**Article 10
State Advocates**

1. The State Advocates are accountable to the State Advocate General for their work.
2. The State Advocates shall inform the State Advocate General on the status of case representation.
3. The State Advocate General allocates duties and gives State Advocates general instructions related to performance of duties, in accordance with the State Advocacy Office rules for internal organization and systematization of job positions. In terms of this law, work instructions to the State Advocates include general directions on tasks and activities, and guidelines for undertaking the procedures and measures in specific cases.
4. In the course of representation, the State Advocacy Office is authorized to take all actions which a party to the proceedings undertakes, in accordance with the applicable laws of the Republic of Kosovo.
5. The State Advocate General may authorize a person who has passed the bar examination and is employed in the State Advocacy Office, who performs legal work to appear in legal disputes over property before courts and other bodies.
6. The State Advocate General may also authorize a person who has passed the bar examination and is employed in a state administration body and who performs legal work to appear in legal disputes over property before courts and other bodies.

**Article 11
Disqualification**

Rules of contested procedure for disqualification of judges apply accordingly also for the disqualification of the State Advocate General and the State Advocates.

**Article 12
Representation costs**

Representation costs by the State Advocate General and State Advocates shall be covered by the State Advocacy Office.

**Article 13
Structure of the State Advocacy Office**

1. The State Advocacy Office shall be headed by the State Advocate General.
2. The State Advocacy Office shall have a certain number of State Advocates.
3. The number of State Advocates and the organizational structure of the State Advocacy Office shall be regulated by a sub-legal act approved by the Ministry of Justice.

**Article 14
Incompatibility**

A State Advocate may not perform other public or private functions conflicting with his/her functions defined by this Law.

**Article 15
Conflict of interest**

In exercising his/her public functions, the State Advocate General, as well as any State Advocate, may not represent the public authorities if he has a personal interest, direct or indirect, in a case under adjudication.

CHAPTER III APPOINTMENT AND DISMISSAL FROM FUNCTION

Article 16 Appointment of the State Advocate General and State Advocates

1. The State Advocate General is appointed by the Government of the Republic of Kosovo upon the proposal of the Minister of Justice.
2. The State Advocate General and State Advocates shall be appointed following an open public vacancy announcement, according to the procedure set by the provisions on appointment for the senior-level management positions in Civil Service of the Republic of Kosovo.
3. The professional evaluation commission should be composed of the representative of the Ministry of Justice, a Judge of the Court of Appeals or Basic Court, a state prosecutor, a representative of civil society and a professor of law faculty.
4. The State Advocates in the State Advocacy Office shall be appointed following an open public vacancy announcement by the Ministry of Justice according to the provisions on appointment for the senior-level management positions in Civil Service of the Republic of Kosovo. For the appointment of the State Advocates, provisions on the appointment of the State Advocate General shall apply accordingly.

Article 17 Duration of function

1. The State Advocate General shall be appointed for a period of three (3) years and may be reappointed.
2. The State Advocates shall be appointed without restriction to the duration of their function.

Article 18 Criteria for appointment

1. Any citizen of the Republic of Kosovo who meets the following general criteria may be appointed as a State Advocate General and State Advocate:
 - 1.1. is a citizen of Republic of Kosovo;
 - 1.2. has a university degree in law;
 - 1.3. has passed the bar examination;
 - 1.4. has high moral integrity and needed experience and professional ability in the field of law;
 - 1.5. has not been convicted by a final court decision of a criminal offense;
 - 1.6. has not been dismissed from the civil service or any other public function of the Republic of Kosovo on account of a breach of duty or inability to perform duties.
2. A person may be appointed as a State Advocate General if, in addition to the conditions provided by this Law, he/she meets the specific requirements of having at least 10 (ten) years of legal professional experience in an institution in the judiciary, advocates office or other institutions.

3. A person may be appointed as a State Advocate if, in addition to the conditions provided by this Law, he/she meets the specific requirement of having at least 5 (five) years of professional legal experience in an institution in the judiciary, advocates office or other institutions.

Article 19
Commencement of duty

The State Advocate General, respectively the appointed State Advocate shall commence his/her duty immediately after appointment and at the latest within fifteen (15) days from the date of appointment.

Article 20
Termination of the function of the State Advocate General

1. The State Advocate General's termination of function shall be:

- 1.1. upon resignation;
- 1.2. upon reaching age sixty-five (65), namely attaining the mandatory retirement age;
- 1.3. expiration of the term of office;
- 1.4. upon dismissal as a result of disciplinary proceedings;
- 1.5. after permanent loss of work capacity to exercise the duty, proven by a medical record from a health institution; and
- 1.6. if convicted for a criminal offence with an effective imprisonment of at least six (6) months.

Article 21
Termination of the function of the State Advocate

1. State Advocate's termination of function shall be:

- 1.1. upon resignation;
- 1.2. upon reaching age sixty-five (65), namely attaining the mandatory retirement age;
- 1.3. upon dismissal as a result of disciplinary proceedings;
- 1.4. after permanent loss of work capacity to exercise the duty, proven by a medical record from a health institution; and
- 1.5. if convicted for a criminal offence with an effective imprisonment of at least six (6) months.

Article 22
Suspension

1. The State Advocate General or a State Advocate who is detained shall be suspended (mandatory suspension). The suspension shall last during the entire detention period.

2. The State Advocate General or a State Advocate shall be suspended (discretionary suspension) if:

- 2.1. a criminal proceeding investigation has been initiated against him/her;
- 2.2. the state prosecutor has filed an indictment for criminal offence against him/her;

2.3. a dismissal procedure against him/her has been initiated;

2.4. a disciplinary procedure has commenced and the disciplinary organ has determined that disciplinary liability cannot be determined in the right way if the State Advocate General or the State Advocate is not suspended temporarily during this procedure; and

2.5. the performance of official duties is significantly weakened due to his/her mental, emotional and physical condition.

Article 23

The liability of State Advocate General and State Advocates

The provisions on civil service of the Republic of Kosovo regarding the senior-level management positions and responsibilities shall apply accordingly even to the State Advocate General and State Advocates.

CHAPTER IV

EMPLOYEES OF THE STATE ADVOCACY OFFICE

Article 24

Civil personnel in the State Advocacy Office

1. In the State Advocacy Office, there are a certain number of civil servants who perform professional and technical-administrative duties.

2. The State Advocacy Office may employ a certain number of professional officers who help the office-holders to perform legal work.

3. The number of civil servants at the State Advocacy Office is determined by the act for internal organization and systematization of job positions of the State Advocacy Office. The act for internal organization and systematization of job positions of the State Advocacy Office which is prepared by the State Advocate General shall be approved by the Minister of Justice.

4. Provisions on the civil service in state administration bodies shall apply accordingly to the civil personnel of the State Advocacy Office, if this Law has not determined otherwise.

Article 25

Professional training

1. The State Advocate General, State Advocates and civil servants in the State Advocacy Office shall have the right and duty to continuous professional training and education.

2. For professional training and education needs, necessary means are provided which are foreseen in the Budget of the Ministry of Justice and allocated for the State Advocacy Office.

Article 26

Evaluation of professional work

1. At the end of each calendar year, State Advocates shall be subject to a professional work evaluation procedure to be conducted by the State Advocate General, which shall take into consideration results achieved in litigations and representations performed during the period under evaluation.

2. Evaluation criteria, rules and procedures are defined by the internal Rules of Procedures of the State Advocacy Office, issued by the Minister of Justice.

3. An assessment establishing professional incompetence shall constitute a ground for initiating the dismissal of the respective State Advocate.

CHAPTER V SALARIES

Article 27 Salaries of State Advocates

1. The salary level of the State Advocate General and the State Advocates shall be determined in accordance with the Law on Salaries of Civil Servants and relevant sub-legal acts for implementing the provisions for salaries of civil servants in senior-level management positions.
2. The salary level of the other personnel of the State Advocacy Office shall be determined in accordance with the Law on Salaries of Civil Servants.

CHAPTER VI TRANSITIONAL AND FINAL PROVISIONS

Article 28 Receiving the cases

1. The State Advocate General shall receive cases of its jurisdiction from the Division for Representation within the Ministry of Justice, within thirty (30) days of filling of job positions, which ensures the functioning of the State Advocacy Office.
2. The State Advocate General shall inform the Minister of Justice in writing, for received cases according to paragraph 1 of this Article, within fifteen (15) days of performing the handover.
3. The State Advocate General and the Chief of the Division for Representation of the Ministry of Justice, of paragraph 1 of this Article shall compile a registry of cases received, the evidence and archive of the cases.
4. The Division for Representation within the Ministry of Justice shall stop performing the duties of the representation of public authorities on the day it receives the cases.

Article 29 Continuation of the work of civil personnel

1. Upon entry into force of this Law, employees of the Division for Representation within the Ministry of Justice shall continue to work in the State Advocacy Office, in accordance with the provisions of this Law.
2. All legal officials in the division for representation who have exercised the duties of representing the public institutions and fulfill the conditions according to this Law to be appointed as State Advocate shall have the status of State Advocate.

Article 30 Appointment of the State Advocate General and the State Advocates

Within three (3) months after the entry into force of this Law, the State Advocate General shall be appointed, whereas the State Advocates shall be appointed within three (3) months after the appointment of the State Advocate General.

Article 31 Sub-legal acts

Within six (6) months after entry into force of this Law, there shall be issued sub-legal acts foreseen by this Law.

Article 32
Abolishment of the applicable legislation

The applicable legislation on public advocacy shall be abolished on the day this Law enters into force.

Article 33
Entry into force

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

Law No. 04/L-157
12 March 2013

Promulgated by Decree No.DL-008-2013, dated 26.03.2013, President of the Republic of Kosovo Atifete Jahjaga.