

LAW No.03/L –215

ON ACCESS TO PUBLIC DOCUMENTS

Assembly of the Republic of Kosovo,

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

Approves:

LAW ON ACCESS TO PUBLIC DOCUMENTS

**CHAPTER I
GENERAL PROVISIONS**

**Article 1
Purpose**

This Law shall guarantee the right of every natural and legal person to have access, without discrimination on any grounds, following a prior application, to official documents maintained, drawn or received by the public institutions.

**Article 2
Scope**

1. This Law shall apply to all documents maintained, drawn or received by the public institutions.
2. The right of access to documents shall be exercised pursuant to this Law, without prejudice to provisions of laws and the international legal instruments providing for more rights on access to public documents.
3. This Law shall be without prejudice to the right of access to public documents maintained by institutions, which can derive from the international legal instruments or acts of enforcing institutions.

**Article 3
Definitions**

1. Terms used in this Law shall have the following meaning:
 - 1.1. **Public institutions** - the following state authorities and institutions;
 - 1.1.1. The Government and administration in national, regional and local level;
 - 1.1.2. lawmaking and judicial institutions, if they exercise administrative functions in accordance with laws of the Republic of Kosovo;
 - 1.1.3. natural or legal persons if they exercise administrative authority, exercise public functions or operate by public funds in accordance with laws of the Republic of Kosovo (private vendors exercising public competences);
 - 1.1.4. lawmaking institutions in relation to their other activities;

1.1.5. judicial institutions in relation to their other activities; and

1.1.6. independent institutions listed in or established under Chapter XII of Constitution of the Republic of Kosovo.

1.2. **Public Document** - any official document;

1.3. **Official Document** - including but not limited to, all information recorded in any form, drawn and received by the public institutions An Official Document is any official letter serving to prove or establish something, regardless its physical form or characteristics, written or typed text, maps, schedules, pictures, drawings, sketches, working materials stored in magnetic or electronic form as a sound or voice, any form of optical or visual recordings, and portable equipment for automatic data processing by installed or transferrable memories for electronic data storage (hereinafter "the document");

1.4. **The applicant of a document** - any natural or legal person, without discrimination on any grounds, under principles and conditions established by the present Law and other Law (hereinafter "the applicant").

1.5. **Ombudsperson** - the independent institution established under the Constitution of the Republic of Kosovo.

CHAPTER II PROCESSING OF APPLICANTIONS

Article 4 The right of access to documents

1. Any applicant of document shall have the right of access to documents of the public institutions, complying with principles, conditions and limitations established under the Law.
2. Documents shall be made accessible to the public based on a direct request, either following a written application or in electronic form, with exception to information restricted by Law.
3. Applications of the applicants for access to public documents, submitted in any way permitted with the provisions of previous paragraph of this Article, by the public institution to which the applicant addresses, shall be treated as equal and official.
4. Public documents received from the applicant can not be used for denigration, propagandistic and commercial purposes.

Article 5 Unit/responsible officer for communication with citizens

1. All public institutions shall be obliged to assign units or officers who will be responsible for receiving and conducting an initial review of applications for access to documents.
2. All applications for access to documents shall be addressed to the public communication units or officers of the authority concerned.
3. Unit or officer for communication with citizens, after the receipt and the initial review of an application for access to official documents, shall evaluate that which is the relevant unit within the public institution that should have the requested document. After the receipt of the document from the relevant unit within the public institution, this document, pursuant to the applicable law, shall be sent to the requesting applicant.

4. Unit or officer for communication with citizens shall keep precise records of the number of applications for access to documents as well as of the number of requests being granted or refused.

5. Unit or officer for communication with citizens shall prepare regular reports and shall send them to the relevant unit within the Kosovo Government/Office of the Prime Minister, which shall prepare an overall report of public institutions on exercising the right of access to public documents.

Article 6

Applications for access to official documents

1. Applications for access to a document shall be made in any form, which enables the public institution to identify the document.

2. The applicant of a document shall not be obliged to state the reasons to have access to documents.

3. If an application is not sufficiently precise, the public authority shall ask the applicant to clarify the application and shall assist the applicant in doing so.

4. The applicant of a document shall have the right to remain anonymous against the third parties.

5. The public institutions shall provide information and assistance to persons on how and where applications for access to documents can be made.

6. Formalities for applications shall not override what is crucial for processing of applications.

Article 7

Processing of applications for access to official documents

1. Applications for access to documents shall be handled by the public institution which possessed the document

2. If the public institution does not possess or does not supervise the information, and has knowledge for respective body, its sector or other institutions, immediately or at latest five (5) working days, from the day of receipt of the request of the applicant in writing, is obliged to send the request to the respective body or to its sector, which possessed or supervises the information.

3. The respective public institution, from paragraph 2 of this Article, is obliged to notify the applicant for these activities.

4. In cases from the previous paragraphs of this Article, deadlines for realization of the right in the access to the information, respectively document, are accounted from the day when the public institution, respectively its sector has officially received the request conveyed from the previous institution.

5. The public institution shall assist the applicant, as appropriate, on reasonable grounds, to identify the requested official document.

6. Applications for access to official documents shall be handled on equal basis.

7. An application for access to official documents shall be reviewed and handled promptly.

8. The public authority shall, within seven (7) days from registration of the application, be obliged to issue a decision, either granting access to the document requested, or provide a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a application for review. Refusal of the request is done with a decision in writing for its refusal.

9. In case of total or partial refusal, the applicant may, within fifteen (15) days from the receipt of a reply by the public institution concerned, submit the application for review of the issue asking the institution to reconsider the decision.

Article 8
Continuation of terms

1. Terms for realization of the right for access to information, respectively to public documents, defined with this Law, may be continued at mostly fifteen (15) days, if:

1.1. information or the document must be requested out of the public institution;

1.2. upon a request there are required some information or public documents, from the same party;

3. In relation to the continuation of the term, the public institution or its sector, without delay, at latest within eight (8) other working days, will notify the applicant about the progress and reasons that have caused the delay of the term.

Article 9
Application for review of the issue

1. The application for review of the issue shall be handled within seven (7) days from registration of the application for review of the issue.

2. The request for review shall be decided by the superior of competent public institution of Republic of Kosovo.

3. The public institution shall grant access to the document requested, or in a written reply, state the reasons for the total or partial refusal.

4. In the event of a total or partial refusal of the application for review of the issue, the public institution shall inform the applicant with a decision in writing.

Article 10
Failure by the public institution to reply

Refusal of the application of the applicant as well as the failure by the public authority to reply within the prescribed period of time shall be considered as a negative reply and shall entitle the applicant to initiate the procedure before the Ombudsperson Institution, other public institutions, competent court, in accordance with the Law into force.

Article 11
Types of access to official documents

1. Where access to a document is granted, the applicant shall have the right to choose whether he or she will consult the original or a copy, or whether he or she will receive a copy of the document in any available form or format at his or her choice.

2. If a restriction applies to some of the information on a document, the public institution shall grant access to the rest of information contained therein.

3. If the complete or partial document is required once or more times before, by the same applicant, if the institution has the evidence that the public institution or the official document is misused by the applicant before, if the partial or complete version of the document is misleading or incomprehensible in meaning, then the public institution, upon the legal procedure, may contest the access to information or document, respectively may refuse its grant in whole or a respective part of it.

4. The public institution may grant access to a document referring to the applicant in alternative sources that can be easily accessible.

5. If a document has already been released by the institution concerned and is easily accessible to the applicant, the public authority may fulfill its obligation of granting access to documents by informing the applicant how to obtain the requested document.

6. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille alphabet, large print or tape) with full regard to the applicant's preference.

CHAPTER III REFUSAL OF ACCESS TO PUBLIC DOCUMENTS

Article 12 Exceptions from the right of access to documents

1. Any applicant shall have the right to access public documents. Limitation of this right shall be exercised proportionally, and only for the purpose of protection of:

- 1.1. national security, defense and international relations;
- 1.2. public security;
- 1.3. prevention, detection and investigation of criminal activities;
- 1.4. disciplinary investigations;
- 1.5. inspection, control and supervision by public institutions;
- 1.6. privacy and other private legitimate interests;
- 1.7. commercial and other economic interests;
- 1.8. state Economic, monetary and exchange policies;
- 1.9. equality of parties in court procedure and efficient administration of justice;
- 1.10. environment; and
- 1.11. the deliberations within or between the public institutions concerning the examination of a matter.

2. Access to information contained in a document may be refused if disclosure of the information undermines or may undermine any of the interests listed in paragraph 1 of this Article, unless there is an overriding public interest in disclosure.

3. If only a part of the requested document is covered by any of the exceptions listed in paragraph 1 of this Article, the remaining parts of the document shall be released.

Article 13 Refusal of access to official documents

1. An application for access to documents may be refused:

- 1.1. if, regardless the assistance by the public institution, the application remains quite unclear to enable the identification of a document; or
- 1.2. if there are met the conditions and requirements from paragraph 2 of Article 11 of this Law.

2. The public authority refusing a total or partial access to a document shall state the reasons for refusal. The applicant shall be entitled, following the submission of an application, to receive a justified decision in writing for this refusal by the public institution concerned.

Article 14
Applications for access to classified documents

Applications for access to classified documents shall be submitted in accordance with applicable Law on Classification of information and security rules.

Article 15
Application of the provisions of the Law on administrative procedure

In the procedure of the realization of the rights for access to information, respectively to public documents, appropriately, there are applied the provisions of the Law on administrative procedure of Republic of Kosovo, if it is not defined otherwise by the provisions of this Law.

CHAPTER IV
DOCUMENTS PUBLISHED UPON THE PUBLIC INSTITUTIONS' INITIATIVE

Article 16
Direct access in electronic form

1. The public institutions shall, according to this Law, be obliged, that in electronic form and through the publication in Official Gazette of Republic of Kosovo, to publish all that can be public, which are drafted by such institutions, in compliance with the Constitution and Law on Official Gazette of Republic of Kosovo.

2. Web pages of the public institutions shall contain, including but not limited to:

2.1. the mission and functions of the public institution, including those of the subordinated units thereof;

2.2. the organizational chart of the public institution, including that of the subordinated units thereof;

2.3. the basic legislation on organization, functioning and functions of the institution concerned;

2.4. the updated data on public activity of the institution concerned, policies, legal acts and sub-legal acts;

2.5. the other policy strategies and documents adopted in line with the scope and functions of the public institution;

2.6. the detailed list of services rendered to public by the institution concerned, such as licenses, permits, authorizations, certificates, confirmations, other public documents or services, including therein:

2.6.1. the procedures and conditions for their acquisition;

2.6.2. the necessary documentation and service cost;

2.6.3. the application form for any service and guidelines how to fill it;

2.6.4. the mandatory time limit to receive a reply to requested service;

2.6.5. the time limit and the authority, where an appeal can be filed in case of rejection to reply or failing to render a service within the legal mandatory prescribed time limit;

3. All public institutions concerned shall make available an email address, especially for public communication and shall assign a person to check the received information on regular basis. This person may be responsible for updating, ensuring access and credibility of information posted in the public institutions' web pages.

4. The relevant Ministry of Public Administration shall, at last within six (6) months after entry into force of the Law, issue sub-legal acts on the form, view and other characteristics that public institutions' web pages must have.

5. The Kosovo Government may define by a decision the additional content of the public institutions' web pages.

CHAPTER V THE INDEPENDENT AUTHORITY FOR ACCESS TO PUBLIC DOCUMENTS

Article 17 The Ombudsperson Institution

1. The Ombudsperson Institution is an independent authority, which shall assist citizens to have access to the necessary documents being refused to them.

2. The Ombudsperson Institution's duty shall be to ensure an unobstructed exercise of the right of access to public documents, notably:

2.1. to take the necessary measures to promote and support the fundamental rights of access to documents; and

2.2. to submit regular reports to the Assembly on implementation of the right of access to official documents by public institutions.

3. The Ombudsperson Institution shall provide services to citizens free of charge.

4. The unsatisfied party may, in the procedure of realization of the right in access to public documents, address an appeal even to other public institutions.

CHAPTER VI IMPLEMENTATION

Article 18 Languages

Citizens, as established under the Constitution of the Republic of Kosovo, shall exercise their rights as set out in the present Law, in their respective language.

Article 19 Informing the public on their rights of access to documents

1. The public institutions shall inform the public for their rights of access to official documents and the manner how they can exercise this right. They shall also take the following requisite measures to:

1.1. fulfill their duties and obligations relating to implementation of this right;

1.2. provide information on issues or activities relating to their responsibilities;

1.3. manage their documents, efficiently, so that they are easily accessible;

1.4. inform public about the rights arised by this Law; and

1.5. determine the unit or responsible officer for communication with citizens, who shall be responsible for receiving and conducting an initial review of applications for access to documents.

Article 20

Transparence, reporting and information of public institutions

1. In order to provide entire transparence, the public institutions in their work and regarding the access to public documents shall be obliged to be responsible, efficient and shall report and inform the public opinion in a regular periodical and annual way.

2. Public institutions, at least once a year, must do the information from paragraph 1 of this Article, even through publishing comprehensive informators, reports and other constitutional appropriate forms of entire and transparent information of the citizens.

3. Each public institution shall publish an annual report for the preceding year, including the number of cases in which the public authority has granted access, as the cases in which the public authority has refused to grant access to documents, as well the reasons for such refusals.

4. Each public institution, annual report for the previous year, shall sent to relevant unit of the Government of Kosovo/ Office of the prime Minister, latest by the end of January of the respective year.

5. Relevant unit of the Government of Kosovo/ Office of the Prime Minister (OPM) for the implementation of this Law:

5.1. shall prepare an overall report for the preceding year, by the end of March of the respective year;

5.2. file a copy of the overall report in the Assembly of Kosovo,

5.3. shall make recommendations, including, as appropriate, proposals for the revision of this Law; and

5.4. shall prepare an action plan of measures to be taken by the institutions.

6. Relevant units within the Office of the Prime Minster, as needed and in cooperation with other public institutions and civil society shall take the necessary measures to promote and support the public institutions employees' fundamental rights of access to documents.

Article 21

Costs for access to official documents

1. Consultation of official documents in the public institutions' premises shall be granted free of charge, but does not exclude fees that can be imposed for related services rendered by archives and museums.

2. Costs for a copy of an official document may be covered by an applicant, which shall be reasonable and shall not exceed the real cost for production and the service of a copy.

3. Cost fees for production and service of copy of documents shall be regulated by the sub-legal act issued by the respective Ministry of Finance and shall be unified for all public institutions.

4. Cost fees shall be made public.

Article 22

Keeping the official evidence

1. Public institution shall be obliged to lead the official and regular evidence, in the form of register or similarly, in relation to the requests, activities, procedures and decisions, regarding the realization of the rights of natural and legal persons, in access to official documents and information.

2. The way of instituting, content and other relevant elements of leading the evidence shall be regulated in more details with sub-legal provisions by the Government of Republic of Kosovo.

CHAPTER VII TRANSITIONAL AND FINAL PROVISIONS

Article 23 Protection of personal data

Pending the entry into force of Law on Protection of Personal Data, the public institutions may only release such data upon prior and explicit consent of the person in question.

Article 24 Reproduction of documents

This Law shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

Article 25 Implementation of Law on General Administrative Procedure

Unless otherwise provided by this Law, the provisions of Law on General Administrative Procedure shall apply to the procedure for access to public documents.

Article 26 Sub-legal acts

1. The Government has the authority to adopt sub-legal acts with an aim of implementation of this Law.
2. The Government shall adopt sub-legal acts on implementation of this Law, three (3) months from the entry into force of this Law.
3. Failure to establish sub-legal acts in compliance with the previous paragraph shall not permit the institutions to refuse access to public documents.

Article 27 Punitive provisions

1. Public institution which in contradiction with the provisions of this Law, disables, detains or restricts realization of the rights in access to public document and information, shall be fined from five thousand (5.000) to ten thousand (10.000) euros.
2. For offence from paragraph 1 of this Article, the responsible person of public institution shall be fined with the amount from five hundred (500) to one thousand (1.000) euros.
3. With the fine from five hundred (500) to two thousand (2.000) euros, there shall be fined for offence the natural person who damages, destroys, hides or in any way makes as unclear the information, respectively public document, with the aim of preclusion of realization of the right in access to public documents, by the interested applicant.
4. For offence from the previous paragraph, with the fine from one thousand (1.000) to two thousand (2.000) euros, there shall be fined the responsible person of the competent public institution.

Article 28 Abrogation

1. The present Law shall abrogate:

- 1.1. Law No. 2003/12 on Access to Official Documents;
- 1.2. Administrative Instruction No. 3/2006, on implementing Law on Access to Official Documents;
- 1.3. Administrative Instruction No. 05/2006 on organization and functioning of offices for receiving complaints and requests – Communication Table with citizens;
- 1.4. Administrative Instruction No.07/2008-MSHP to strengthen transparency and standardization of the web sites of the Republic of Kosovo institutions, and
- 1.5. any provisions of the legislation relating to the right of access to official documents, inconsistent with this Law.

Article 29
Entry into force

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

Law No.03/L –215
7 October 2010

Promulgated by Decree No. DL-063-2010, dated 01.11.2010, Acting President of the Republic of Kosovo, Dr. Jakup Krasniqi.