



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No. 02/L-1

MARKET INSPECTION LAW

Assembly of Kosovo,

According to Regulation Nr.2001/9 of May 15 2001 of Constitutional Framework for Provisional Self-Government in Kosovo, and referring to Chapters 5.1(d), 9.1.1 and 9.3.3.,

Taking into consideration the necessity of market supervision establishment as a prominent supervisory mechanism on market law implementation,

Hereby adopts the following:

MARKET INSPECTION LAW

CHAPTER I
GENERAL PROVISIONS

Article 1

This law determines the inspective supervisory functions and operations (hereinafter the market inspection) and authorizations for market inspectors who implements inspecting supervisions.

Meanings and Definitions

Article 2

Each of the following term used in this Law will have a meaning according to the given definition in this article, except cases where the context of the term means something else:

Minister shall mean the Minister of Ministry of Trade and Industry;

Ministry shall mean Ministry of Trade and Industry established according to Regulation nr. 2001/19 of UNMIK;

Supervisory inspection - shall mean supervision of law implementation, and other secondary legislations as well as undertaking the administrative measures and other measures in order to remove the irregularities found during the period of inspection according to the law;

Inspector - shall mean the official competent person which implement supervisory inspection of the natural and legal person business.

Competent Authority - shall mean the organization or authority whose competence domain is by law defined;

Authorization - shall mean the permit issued by respective licensing authority where is authorized the possessor of which to carry out the tasks in full compliance with terms and conditions decisively determined;

Licensing Organization - shall mean the public authority as defined per this law or any other normative act, has the responsibility and the obligation to issues the license permit;

Normative Act - shall mean any law, by-law, decree, regulation, administrative order, and any other act of the same nature, which is entitled with a normative power by a public authority and international agreement, which considers this law as mandatory for Kosova;

Goods - shall mean the immovable and movable items and movable personal assets, except the securities, commercial papers and cash (banknotes and coins);

Business premise - suitable place for exercising business activity and the other location envisaged for such activity.

Article 3

3.1. In general, market inspection functions of the first instance are carried out by municipal inspectors.

3.2. Market inspection functions of the second instance are carried out by inspectors established within the structure established in the Ministry of Trade and Industry pursuant to Article 7.

Article 4

Notwithstanding Article 3, inspectors within the Ministry shall carry out first instance market inspections for:

- a) functions related to quality of goods surveillance;
- b) functions that cannot be concluded by the respective municipal inspectors.

Article 5

If the inspectors of local administration and of Ministry of Trade and Industry, in exercising their inspecting functions do not fit the sufficient number of market inspectors needed for the respective area, the Minister or any other person authorized by him, nominates the complementary local administration inspectors.

CHAPTER II MARKET INSPECTION OBLIGATIONS

Article 6

The tasks and authorized domain of market inspection includes the supervision of normative acts which assign specific authority to market inspectors to implement specific provisions of such acts, including, but not limited to Law No. 2004/18 on Internal Trade, Law No. 2004/17 on Consumer Protection, and Law No. 2004/11 on Measuring Units.

Article 7

7.1. Market inspectorate is established by the Ministry of Trade and Industry as an executive authority and it is responsible to that Ministry.

7.2. Market Inspectorate exercises its functions to the physical and legal persons within Kosova territory.

7.3. Market inspector coordinates its functions and operations with municipality government, tax agents and inspectors, health supervisory units and police by aiming the law applicability in its domain.

7.4. Municipality Assembly appoints the municipal inspectors.

Article 8

The inspector is liable by carrying out the supervisory inspection to provide professional assistance to physical and legal persons in order to achieve a better implementation of law provisions and to avoid irregularities on exercising business activities.

Article 9

A person who has finished superior education and at least have three years work experience may be appointed as a market inspector to carry out the functions of a second degree market inspector's works.

CHAPTER III AUTHORIZATIONS AND TASKS

Article 10

Market inspection authorities shall have the competence and resources to:

- a). regularly control commercial, industrial, and storage premises;
- b). regularly control, if appropriate, work places and other premises where products are put into service;
- c). to organize random and spot checks;
- d). to require all necessary information in accordance with secondary legislation on this matter which shall be based on EU principles.

Article 11

For any supervisory inspection, an inspecting report is prepared where is stated the situation found during the control.

Article 12

12.1. Physical and legal persons which are under inspection, are liable to create a favorable and facilitate the market inspector working conditions to perform his job as in article 10 of this Law.

12.2. According to the paragraph 1 of this article, it is concluded that supervised physical and legal persons have not created access and facility to the market inspectors if no documentary and other data were not provided to the inspectors on the due time, to audit and check the actual state derived by them.

12.3. As in paragraph 1 of this article, by a special request of the market inspector, the physical and legal persons are liable temporary to suspend the work in progress in the underlying object where was the supervision done, if the inspector has no other way to accomplished started supervisory inspection.

Article 13

13.1 Physical and legal persons whose business is an object of supervisory inspection by a special request of market inspector are liable to send data and related materials according to a time schedule determined by the market inspector.

13.2. The term according to paragraph 1 of this article must be in compliance with the request type.

Article 14

14.1. Market inspection authorities shall have the power to suspend the further circulation of goods in circumstances defined in special laws.

14.2. The measure on temporary suspension of commodity maintenance goes on until the causes such a measure motivated will be eliminated.

14.3. In any case, of canceling the administrative suspension measure the market inspector does it in writing.

14.4. If during the supervisory inspecting, the inspector who has ordered verbally to suspend further commodity maintenance is liable to inform in writing within 3 days the respective party about the decision.

Article 15

15.1. If it states on law and other legal acts, the right to confiscate the goods and items considered as material evidence of the violation and/or of the economic delict or penal crime, the market inspector may temporarily block those goods and items.

15.2. A confiscation certificate is issued to the party to whom the goods are confiscated describing the quantity, nature, type and other characteristics of confiscated article.

15.3. The market inspector is liable to inform the competent authority that a punitive procedure for a violation or a crime has started by a temporary confiscation and submitting of the goods or means.

15.4. The market inspector is liable to treat the confiscated goods and/or means in full compliance with respective laws.

15.5. Central administration entity where operates the market inspector, is liable to assure appropriate conditions to temporarily maintain and conserve the confiscated goods and/or means.

Article 16

In accordance with specific provisions of special laws, the market inspection authorities shall have the power to:

- a). suspend the continuation of business activity; or
- b). temporarily close down a business premises, excluding residential premises, or;
- c). forbid the use of space for business activity.

Article 17

17.1. The market inspector is liable to take a decision and to inform the party no later than 8 days from the report preparation date.

17.2. After the final decision the procedural measures are undertaken to execute the decision.

Article 18

18.1. The accused party has the right to introduce to the Ministry of Trade and Industry within 15 days the decision was received, any complaint against the first-degree inspector's decision regarding the administrative measure.

18.2. Municipal inspection after the complaint was received, verifies if the time terms of the complaint are appropriate and it is liable to submit to the Ministry of Trade and Industry's inspection the complaint with other documents attached to it, within 5 days from the date the complaint was received.

18.3. Ministry of Trade and Industry's market inspectorate is liable to decide and notify about it the plaintiff party within 30 days from the date the complaint was accepted.

18.4. The submitted complaint interrupts its execution except for cases covered by Article 14 or 16 of this law, or other extraordinary cases defined in specific laws.

Article 19

19.1 The market inspector is liable to take the decision for punitive measures execution, within 8 days from the date the decision enters into power.

19.2. Execution costs are charged to the convicted party whom is pronounced the measure by court decision.

Article 20

Market inspector's execution decision, whose subject it is a penalty in non-monetary terms, but with a mandatory character can be executed enforceable without a preliminary application of restrictive measures.

Article 21

21.1. In a case, the inspector finds out a violation of legal provisions, an economic crime or a penal crime, by a special decision for the issue he is authorized, if he has not authority to make a decision, the inspector is liable to start proceedings at law at most within 15 days from the date the violation examination report was issued.

21.2. As in paragraph 1 of this article, the organization to which the request was introduced calling paper, is liable to inform the request introducing party about the undertaken decision.

Article 22

22.1. If it is foreseen by a special legal act on violations of legal provisions the legal measure: to seize the benefited amount in contradiction with law, the inspector is liable to state in the inspecting report the level of net assets realized by that benefit amount.

22.2. As in paragraph 1 of this article, the inspector is liable to propose the compensation of the amount realized from the benefit and includes it in the suit procedure request.

Article 23

If it is considered necessary that the quality of products and services must be determined during a supervisory inspection procedure, according to defined criteria, the inspector receives the samples and delivers them for quality level examination to the authorized competent Institute.

Article 24

During the process of sample selection and receiving, the inspector has the right and the obligation to:

- a. Take no more than three sample and in the same conditions (for the first analysis second and for the party)- for determining the quality.
- b. To prepare a report for samples received,
- c. First sample received for examination shall be sent immediately to the relevant institute, meanwhile the second sample shall be carefully conserved until the first analysis will be carried out,
- d. To inform the party without delay about the analysis results,
- e. Second sample received shall be sent without delay to the institute as requested by the party,
- f. To inform within 3 days the party under examination, and introduce a request for a second analysis after the first analysis results are issued.
- g. With a special conclusion must be determined the examination cost level for the party, if the sample does not corresponds to quality criteria.

Article 25

25.1. The commodity samples of perishable items received for examination on quality analysis the inspector shall be sent them to a professional institute of analysis, and simultaneously by a request of the party under examination may be sent for examination to another institution.

25.2. If the examination results between the two examining institutions are different, as in paragraph 1 of this article, as the relevant one depends by the under examination party requirement.

25.3. If it happens that the under examination party during the sample selecting process, do not pretend to have a second counter-examination, this attitude is considered as the party agrees with the market inspector's analysis results.

Article 26

26.1. Physical and legal persons are liable to submit without any compensation the appropriate quantity of products needed as samples for examination of quality.

26.2. Samples charges are covered by party if it is proved that samples do not meet the defined provisions for quality.

26.3. The sample charges are covered by the inspection authority, if the samples meet the standards and quality provisions.

26.4. The results of the second analysis are considered relevant even for the expenditures of first examination analysis.

Article 27

The provisions of articles 23-26 of this law do not regard on products whose standards are regulated by specific legal acts.

Article 28

Market inspector acts in fully compliance with the administrative procedure provisions of this law, unless it is stated differently in a special law.

Article 29

29.1. By exercising the supervisory inspection, the market inspector must possess the appropriate legitimacy, ID card identifying his professional position, and authorization.

29.2. Minister with a special act determines the legitimacy and inspector's ID card and the way of issuing and ethics of use.

Article 30

30.1. It is mandatory that the market inspector during the supervisory inspecting process to be associated by a conductor-witness as in the paragraph 1 for performing the supervisory inspection and for undertaken measures.

30.2. Minister of Trade and Industry determines the approach of leading the conductor - witness as in paragraph 1 of this article.

CHAPTER IV PUNITIVE PROVISIONS

Article 31

31.1. The legal person shall be punished with a penalty of 250 up to 1.000 € for a violation if:

- a. Impedes the authority of the market inspectors to perform their duties pursuant to Article 10,
- b. Fails to facilitate a favorable working conditions or access to the premises pursuant to Article 12,
- c. Fails to execute a decision of the market inspector pursuant to Article 14 or 16,
- d. If prohibits the inspector to take the material evidence considered as the ingredient of a violation or crime act as per article 15 paragraph 1.
- e. If it makes impossible to take samples for examination of products quality article 23.

31.2. For actions covered by the paragraph 1 of this article, responsible person of legal person shall be punished with a penalty of 125 up to 500 €

Article 32

32.1. A legal person is punished with a penalty from 250 € up to 1.000 € when:

- a. Does not submits or prepares the data required by the inspector, or submits inaccurate data or report (article 13.),
- b. If he does not act according to verbal or inspector's written decision where is ordered to pay back to the buyer the exceeding balance from the seller's predetermined selling price for goods and services delivered.

32.2. Violations defined in paragraph 1 point (b) of this article, excluding the punishment in monetary terms, the protecting measure is also pronounced to buyers who may pay higher amounts for services consumed. If the buyer of goods and/or services is not notified by, the seller, for the higher amount paid, this will be considered as a non-legal benefit.

Article 33

All payments collected through fines shall be deposited in the Kosovo Consolidated Budget.

CHAPTER V
TRANSITORY AND CLOSING PROVISIONS

Article 34

All inspectors who have exercised the supervisory inspecting functions according to previous laws, by-laws and related legal issues, are liable to harmonize their supervisory functions and operations in full compliance with this law within 60 days after the law enters into force.

Article 35

35.1. Ministry of Trade and Industry is responsible to issue necessary by-laws and provisions deriving from its responsibility to ensure the implementation of this law.

35.2. If the provisions of this law, in relation to the powers of the market inspectors, shall be in conflict with the provisions of special laws, the provisions of the special laws shall supersede.

Article 36

The day this law enters into force in all Kosova territory, all previous laws and other normative acts regarding the supervisory inspection shall cease.

Article 37

The present law shall enter into force after adoption by the Assembly of Kosova on the date of its promulgation by the Special Representative of the Secretary-General.

Law No. 02/L-1
23 March 2005

President of the Assembly

Academic Nexhat Daci