



**Republika e Kosovës**  
**Republika Kosovo-Republic of Kosovo**  
*Kuvendi - Skupština - Assembly*

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**LAW Nr.03/L- 175**

**LAW ON PUBLIC DEBT**

**Assembly of Republic of Kosovo,**

In conformity with Article 65 (1) and Article 120 of the Constitution of the Republic of Kosovo,

Adopts:

**LAW ON PUBLIC DEBT**

**PART I**

**STATE DEBT AND STATE GUARANTEES OF THE REPUBLIC OF KOSOVO**

**CHAPTER I**  
**GENERAL PROVISIONS**

**Article 1**  
**Purpose**

The purpose of this law is to provide the Republic of Kosovo the authority to borrow money; to make loan guarantees, to pay expenses for debt issuance and to pay the principal and interest on its State Debt. In addition, it has the objective of vesting the Minister of Economy and Finance with the authority, as well as the responsibility, and for providing overall management and administration of the Debt and of the authorized loan guarantee programs of the Republic of Kosovo including limitations, development of a Debt Management Program and a Debt Management Strategy.

## **Article 2**

### **Definitions**

1. The terms used in this Law have the following meanings:

1.1. **Fiscal Agent** - the CBK which acts as an agent of the Ministry of Economy and Finance to carry out certain duties relating to the fiscal affairs of the Republic of Kosovo.

1.2. **Central Bank (CBK)** - the Central Bank of the Republic of Kosovo, as the monetary authority of the Republic of Kosovo.

1.3. **Debt** - any financial obligation to repay or otherwise pay money created by Financing Contract or by notes of treasury, a bond, overdraft or other security issued as consideration for the disbursement of funds, as well as the obligation to repay principal, interest, discount, and any fees, commissions or penalties of any nature.

1.4. **Long-Term Debt** - Debt which is payable for a period of one year or more.

1.5. **Short-Term Debt** - Debt which is payable for a period of up to one year.

1.6. **Domestic Debt** - State Debt that is subject to the laws of the Republic of Kosovo.

1.7. **International Debt** - State Debt that is the subject of an agreement with foreign governments, agencies of governments, international financial organizations or other foreign organizations and firms pursuant to international agreements, treaties, conventions, or other similar agreements subject to the laws of a legal jurisdiction other than the Republic of Kosovo.

1.8. **Total Debt** - all state debt and municipal debt.

1.9. **State Debt** - Debt incurred on behalf of the Central Governmental Institutions that the Republic of Kosovo is obligated to pay, but shall not include any obligation of certain other governmental entities, including but not limited to Municipalities, public enterprises, or the Central Bank of Kosovo.

1.10. **Budget of Republic of Kosovo (BRK)** - the overall budget of Republic of Kosovo.

1.11. **Guarantee** - a contingent liability to pay Debt originally owed by a third party that is conditioned on such third party's failure to make payment within the fixed term or to comply with the conditions of the instrument with which such source Debt is regulated. All Guarantees into which the State or the Municipality

enters, must be pointed expressly in writing; there can be no implied Guarantees under this Law.

1.12. **State Guarantee** - a contingent liability of the Republic of Kosovo that is contingent on the financial obligation of another legal person and it becomes part of the State Debt when the party having the responsibility for payment of such financial obligation, has failed to make payment in due time.

1.13. **MTEF** - the Medium Term Expenditure Framework as foreseen in the LPFMA.

1.14. **Useful Life** – the anticipated term in years of actual use of capital investment including usual and customary maintenance.

1.15. **Municipality** - any of the basic territorial unit of local self-government operating under the Law on Local Self Government as defined in the Constitution of the Republic of Kosovo.

1.16. **Financing Contract** - a legal document that sets out the terms and conditions under which a borrower has obtained funds from a lender, and includes provisions that govern their repayment.

1.17. **Government Securities** - instruments of State Debt issued on an interest-bearing basis, on a discount basis, or indexed and upon such terms and conditions as the Minister of Economy and Finance may determine.

1.18. **LLGF** - the Law on Local Government Finance. [Law 2008/03-L049]

1.19. **LPFMA** - the Law on Public Financial Management and Accountability. [Law 2008/03-L048]

1.20. **LLSG** - the Law on Local Self-Government. [Law 2008/03-L040]

1.21. **Subsidiary Loan Agreement** - a legal document that determines the terms and conditions for a loan made by the Ministry of Economy and Finance from the proceeds of Debt to a borrower.

1.22. **Subsidiary Transfer Agreement** - an agreement that determines the terms and conditions for a transfer of funds by the Ministry of Economy and Finance from the proceeds of Debt.

1.23. **Minister** - the Minister of the Ministry of Economy and Finance of the Government of the Republic of Kosovo.

1.24. **Ministry** - the Ministry of Economy and Finance of the Government of the Republic of Kosovo.

- 1.25. **Debt Service** - payments to be made in each fiscal year for principal, interest, discount and other payments that must be done for the Debt or Municipal Debt, including associated expenses.
- 1.26. **Book-Entry System** – a computerized system established or otherwise authorized, by the Minister of Economy and Finance to register, for the account of holders, the issuance, account status, servicing, and reversion of Government Securities.
- 1.27. **Primary Market** – the initial issue of Government Securities by the Ministry of Economy and Finance to their purchasers.
- 1.28. **Secondary Market** – the trading of Government Securities after their initial issue.
- 1.29. **Fiscal Year** – the period from January 1 to December 31 of the same year.
2. References in the present law to any other law or regulation shall be interpreted with the inclusion any amendments or successor legislation related to it.

### **Article 3** **Authorized Purposes for Borrowing**

1. The Ministry is the sole entity authorized to incur (cause) State Debt for the following purposes:
- 1.1. To finance the State budget deficit, when the expenditures authorized by law exceed, or are likely to exceed, according to the judgment (estimation) of the Minister the revenues required to pay them.
  - 1.2. To finance investment projects that are estimated to be a national objective and are included in the KCB and the MTEF.
  - 1.3. To refinance State Debt previously contracted.
  - 1.4. To pay for State Guarantees, entirely or partly, in the event that borrowers have fail to meet their loan obligations.
  - 1.5. To pay the servicing costs of State Debt, including but not limited to, associated costs, such as fees for security issue, account maintenance, redemption and fiscal agency fees.
  - 1.6. To pay costs associated with a national emergency declared by the Assembly.

**Article 4**  
**Authority to Lend**

1. The Ministry shall be permitted to lend to any public sector entity, including Municipalities from the proceeds of State Debt.
2. The Minister shall adopt regulations to determine the terms and conditions for such Lending Agreements.

**Article 5**  
**Limitations on Total Debt**

1. Limitations for Total Debt shall be established in the KCB. The debt limitations prescribed shall be:
  - 1.1. first, for the amount of new State Debt and new Municipal Debt that can be incurred during the fiscal year, and,
  - 1.2. second, for the aggregate amount of Total Debt that can remain outstanding during each year.
2. For the purposes of this Article, State and Municipal Guarantees shall be treated as Debt for the purpose of measuring Total Debt and defining the ceiling of such debt.
3. In no event shall the outstanding principal amount of Total Debt exceed forty percent (40%) of the Gross Domestic Product. In the event that Total debt would exceed forty percent (40%) of GDP, the Government will present to the Assembly a strategy to bring Total Debt back under the threshold of forty percent (40%) within one year. Such strategy would be included in subsequent yearly budget laws.

## **CHAPTER II FORM OF STATE DEBT**

### **Article 6 Rules of State Debt**

State Debt may be issued in the form of Government Securities or Financing Contracts.

### **Article 7 Form of Debt**

1. Financing Contracts – The Minister is the only authorized to negotiate Financing Contracts and the Minister or the agent authorized by him shall execute the Financing Contracts.

2. Government Securities.

2.1. The Minister is the only authorized to issue marketable Government Securities such as Treasury Bills and Bonds only in negotiable book-entry form. Other Government Securities may be issued in physical form and may be either negotiable or non-negotiable. The Minister is authorized to offer Government Securities for sale by private placement or at auction, reserving, where appropriate, the right to reject any or all bids. The Minister is further authorized to establish and maintain directly, or through a Depository, a computerized system for securities issued as book-entries.

2.2. The Government Securities may be offered with such characteristics as shall be determined by the Minister. Such characteristics shall be described in a public document which contains technical description, terms and conditions of such Government Securities.

2.3. The Minister is hereby authorized to develop and facilitate the establishment of primary and secondary markets for Government Securities and regulates these markets. These markets for Government Securities are under the supervision of CBK.

2.4. In the event the payment date for a Government Security occurs on other than a customary business day, then such payment will be made in accordance with the terms and conditions for that issue.

2.5. Where the terms and conditions of a Government Security provide that the Ministry may redeem it prior to maturity, such action may be taken only if it is affected in accordance with the authority to which this right is reserved at the time of this security sale.

## **CHAPTER III STATUS OF STATE DEBT**

### **Article 8 Sovereign Nature of State Debt Obligations**

State Debt constitutes an absolute and unconditional obligation of Kosovo.

### **Article 9 Provision for Permanent Funding**

1. The payment of the principal, interest, commissions and fees on account of the State Debt shall have a permanent and indefinite appropriation, and the KCB shall irrevocably take into account the amount required, as determined by the Ministry, to meet this authorization.

2. Budgetary appropriation for debt service payments shall be contained in the annual budget. If the amount appropriated proves that it is insufficient to meet the debt service obligations (such as may be, but not limited to such, an increase in market rates or a need to borrow more than initially envisaged in the budget), the Ministry has the right to approve additional debt service related payments subject to a full report to be submitted to the Assembly. The report must include an analysis of the reason for excess of commitments. The government shall also present proposals to rebalance the budget to account for the excess expenditure to the Assembly for approval.

### **Article 10 Priority of State Debt**

All State Debt shall have parity and equality of status, will be parri passu, regardless of when they were incurred, and regardless of whether they are in the form of Government Securities, Financing Contracts, or other contractual borrowings. Claims on account of the payment of the principal and interest of State Debt, shall constitute a first claim against the general account of the Ministry, which means the account at CBK into which all Republic revenues are deposited, and shall not be now or hereafter be subordinated to any other claim.

Some certain instruments of State Debt may be additionally secured through specified collateral that is pledged solely to the payment of such Debt. The State cannot pledge collateral that is essential for the delivery of public services.

**CHAPTER IV**  
**INTERNATIONAL DEBT**

**Article 11**  
**Authorization**

1. The Government shall issue a Decision authorizing the Minister to sign agreements related to International Debt. The Minister is the only authorized to negotiate the conditions and to provide International Debt on behalf of Kosovo. The Minister may delegate this authorization for specific lending agreements with the consent of the Government.
2. In accordance with Article 18.1.4 of the Constitution of Kosovo, such agreements shall be subject to ratification by a two thirds (2/3) vote of all deputies of the Assembly.

**Article 12**  
**Enforceability**

1. Agreements required. International Debt contracted through international agreements, treaties, conventions, or other similar agreements will be used and serviced based on the terms and conditions of such documents.
2. Applicable Law. In accordance with Article 19 of the Constitution of Kosovo where the terms and conditions regarding the use, servicing and repayment of International Debt provided in international agreements, treaties, conventions or other similar agreements that are contradiction with any of the provisions of the present Law, or of any other Law of Kosovo, the terms and conditions of the international agreements, treaties or conventions shall take prevail.

**Article 13**  
**Receipt, Transfer and Lending the Proceeds of International Debt**

1. Receipt of Funds. Pursuant to regulations that the Minister shall issue, the Minister is the only authorized to request and receive the proceeds of International Debt.
2. Financing of Investment Projects Through Subsidiary Loans Agreements.
  - 2.1. Where the terms and conditions of the international agreements resulting in International Debt permit, the Minister is authorized to lend the funds derived in compliance with transparent and competitive procedures as may be required under applicable laws to:



2.1.1. public sector borrowers for the financing of their investment projects that are included in the KCB and MTEF, or

2.1.2. financial institutions in order that the latter may, in turn, provide to public sector borrowers funds for the financing of investment projects that are included in the MTEF and KCB.

2.1.3. borrowers that provide basic public services in the areas of water, wastewater and solid waste, sanitation, electric generation and transmission, rural electrification and heating.

2.2. Any Subsidiary Loan Agreement shall be documented in writing, and the Ministry shall require a commitment from the public sector entities to assure that the funds will be applied in the authorized manner, to repay the funds. In the case of financial institutions, the obligation to pay the Ministry shall be enforceable notwithstanding the status of the loan between the financial institution and the borrower.

2.3. Any borrower that is obligated pursuant to a Subsidiary Loan Agreement shall agree that the amount required to be paid in each year shall be included in such entity's budget.

2.4. Any borrower that is obligated pursuant to a Subsidiary Loan Agreement shall agree that upon a failure to pay the loan, his accounts, held either at the Ministry, the Central Bank or at private banking institutions, shall be immediately debited for the unpaid amount.

3. The Minister is the only authorized to negotiate and enter into any such Subsidiary Loan Agreements.

4. Financing of Investment Projects Through Subsidiary Transfer Agreements.

4.1. Where the terms and conditions of the international agreements resulting in International Debt permit, the Minister is authorized to transfer the funds derived to public sector organizations for the financing of their investment projects that are included in the KCB and MTEF.

4.2. Any Subsidiary Transfer Agreement shall be documented in writing, and the Ministry shall require a commitment from the public sector organizations to assure that the funds will be applied in the authorized manner.

4.3. The Minister is the only person authorized to negotiate and enter into any such Subsidiary Transfer Agreements.

5. Repayment in Other Currencies. The Minister is authorized to require the borrowers to which funds are provided in accordance with paragraph 2 above, that the loan repayments

shall be at the current exchange rate of a currency or currencies other than the national currency.

6. Servicing charges. The Minister is authorized to impose a fee on borrowers that have obtained funds under paragraph 2 above, to cover the costs of any currency exchange operations that the Minister may incur in receiving, servicing, disbursing and securing repayment of the funds.

7. Regulations. The Minister shall adopt regulations to determine the terms and conditions for such lending agreements.

8. Oversight by Ministry. The Minister is authorized to perform oversight of the financial conditions of all borrowers, including borrowers from the financial institutions, that have received loans under this Law and to require such borrowers to provide the information necessary to perform such oversight. The Ministry has the right to contract experts to carry out the oversight function, where such expertise is not available within the Ministry. The Minister shall evaluate the effective and efficient utilization of the proceeds of the borrowing to implement the project.

## **CHAPTER V STATE DEBT MANAGEMENT AND ADMINISTRATION**

### **Article 14 The Management and Administration of State Debt**

1. The Minister shall be the only entity responsible for the management and administration of State Debt.

2. The Minister shall establish procedures for the management and administration of Debt in the following areas:

2.1. Negotiation, including initial issue, debt restructuring and debt relief,

2.2. Contracting,

2.3. Utilization, including on-lending and transfers,

2.4. Administration, including servicing, registration, accounting and budgeting, and

2.5. Monitoring and Evaluation.

3. The Treasury Department within the Ministry shall have responsibility for cash and debt management.

### **Article 15 State Debt Program**

1. The Ministry shall annually provide, not later than 31 December of each year, a State Debt Program that presents a national debt policy and includes a Debt Management Strategy within a framework of sustainability. The Ministry will prepare a debt management and borrowing strategy that is consistent with the macroeconomic and fiscal framework as laid out in the Medium Term Expenditure Framework to ensure a sustainable debt position. The Debt Management Program shall describe how the Ministry will implement the Program and achieve specific debt limitations and fulfillment of standards of functioning. A section of the Program shall be dedicated to evaluating the previous year's functioning in relation to settled standards and objectives. The State Debt Program shall be submitted to the Government for approval and to the Assembly for information. The State Debt Program will ensure that borrowing needs are covered at the lowest possible cost, with a reasonable level of risk.

2. The State Debt Program shall include, but not be limited only to the following information:

- 2.1. statement of the Government's policy goals for debt;
- 2.2. Debt Management Strategy on how the Government intends to achieve its policy goals for debt;
- 2.3. standards and targets including specific annual debt limitations for each category of international and Domestic Debt;
- 2.4. historic State Debt and current outstanding part and State Guarantees;
- 2.5. expected payments on Guarantees;
- 2.6. historic and current debt service for all State Debt;
- 2.7. proposed State Debt and State Guarantees, including the purposes of such Debt;
- 2.8. projections of Debt Service including proposed future Debt;
- 2.9. historic debt sustainability indicators and projected debt sustainability analysis; and

2.10. review of previous years performance and any proposed changes to Debt Management Strategy.

## **CHAPTER VI FISCAL AGENT OF KOSOVO**

### **Article 16 Designation of Fiscal Agent**

1. CBK Designation. The Central Bank of Kosovo is the fiscal agent of the Ministry. The Ministry and CBK will execute a fiscal agency agreement to implement the duties and responsibilities of each party. Fiscal agent is hereby authorized to carry out the following matters on behalf of and with the approval of the Ministry:

1.1. To conduct auctions of Government Securities.

1.2. To be responsible for the registration of issue and transfer of dematerialized securities. To establish and maintain a Book-Entry System for Government Securities.

1.3. To facilitate the establishment of a secondary market for Government Securities by broadening access to the Book-Entry System, and to the custodians holding Government Securities, that are subject to the Central Bank's own responsibility for prudently conducting the payment side of all Government Securities transactions.

1.4. To perform, facilitate or conduct any other activities that may be reciprocally agreed upon.

2. Agreement with the Agency. The Minister is authorized to enter into an Agency Agreement with the Central Bank to regulate the relationship between the Ministry and its agent, the Central Bank.

### **Article 17 Registry**

The Ministry shall be responsible for establishing and maintaining an electronic registry system for managing and monitoring State Debt. The Ministry may designate The Central Bank of Kosovo, the Treasury Department or any other agent to perform this responsibility.

## **CHAPTER VII STATE GUARANTEES**

### **Article 18 Description of State Loan Guarantee**

1. **Contingent Liability.** A State Guarantee of Kosovo is not a direct obligation of Kosovo, but represents a contingent liability of Kosovo. State Guarantees shall be accounted as contingent liabilities on the balance sheet of Kosovo.

2. **Conversion to State Debt.** A State Guarantee shall be converted into State Debt after the determination by the Minister that the payment, or expected payments, of the loan for which the Guarantee has been given, they have not been received in accordance with the terms and conditions of the loan. Such conversion shall not be subject to the debt limitations established in the KCB. The action taken shall be evidenced by a Ministry document that contains a finding that the conditions for making payment of the Guarantee have been satisfied, and includes information on which the determination was based.

3. **Fee.** State Guarantees granted to public or private entities will include the condition for the borrower to pay a guarantee fee to the government. The fee level will be calculated based on an analysis of each guarantee share of the overall of the expected losses of the guarantee portfolio. Fees paid under the guarantee fee scheme will be included in the budget and accounted as a guarantee reserve. Only expenditures related to the losses associated with state guarantees may be covered under this category of commitments. Any excess amount in the guarantee appropriation at the end of the fiscal year will be carried forward into the budget of following years under the same budget appropriation heading.

### **Article 19 Authorizing State Guarantees**

1. The Minister is authorized to sign agreements related to State Guarantees. The Minister is the only authorized to negotiate the terms of, and to provide State Guaranties on behalf of Kosovo. The Minister may delegate this authorization.

2. Such agreements shall be subject to ratification by two thirds (2/3) vote of all deputies of the Assembly.

3. Borrowers that may be eligible for a State Guarantee are limited to:

3.1. public sector entities; or

- 3.2. private entities that are financing public infrastructure projects or projects related to an economic sector of strategic and social importance to Kosovo.
4. When deemed necessary by the Ministry, only partial guarantees will be granted.

## **Article 20**

### **Limitations of State Guarantees**

Limitations on the number of State Guarantees that can be incurred during the fiscal year shall be established in the KCB.

Additionally, State Guarantees shall be treated as State Debt for the purposes of the Debt Limitations established in Article 5 of this Law and will be included and treated as State Debt for the purpose of calculating the Debt Limitation set out in Article 5 of this Law.

## **Article 21**

### **Review of State Guarantees**

All guarantees shall be reported as part of the KCB. In order that any government guarantee can be approved, the borrower must submit a proposal to the Ministry, including economic and financial analysis of the proposed project to be financed by the underlying borrowing. The Ministry shall review the proposal and submit its opinion, together with the borrowers original proposal to the government for its decision.

The decision on the granting of the guarantee shall be taken by the Government not more than sixty (60) days after the loan request, properly documented, has been filed.

## **Article 22**

### **State Guarantee Records**

1. Record Maintenance of Documents. The Ministry shall be the repository for all documentation related to State Guarantees, so long as the loans to which they relate remain outstanding.

2. Descriptive Entries for Registry of State Guarantees. The Ministry shall provide separately summary data on guaranteed loans in the Register of State Guarantees, maintaining records that identify each loan guarantee by borrower, lending institution, loan amount, risk determination, together with semiannual status entries.

## **Article 23**

### **Oversight by Ministry**

The Minister is authorized to perform oversight of the financial condition of all borrowers that have received loan guarantees under this Law. The Minister is authorized

to require the borrower to provide the information necessary for the Ministry to perform such oversight, or he may obtain the services of external auditors at the borrowers' expense to audit their finances.

#### **Article 24** **Termination of State Guarantees**

1. The State Guarantee shall terminate when:
  - 1.1. The loan for which the guarantee is given, has been repaid in full by the borrower;
  - 1.2. The terms of the guarantee have expired; or
  - 1.3. Payment is done in full compliance with the terms of the guarantee.
2. The Minister shall document such termination.

#### **Article 25** **Payment of a State Guarantee**

1. Regulations. The Minister shall adopt regulations providing for the payment of State Guarantees.
2. Partial Default. In the event that only a partial amount of the loan has remained outstanding and such amount is paid pursuant to the Guarantee, the remaining obligation of the borrower to the lending institution shall remain in full force and effect. Any such remaining obligation of a borrower to the lending institution may not be subject to acceleration or become immediately payable without the consent of the Ministry.

#### **Article 26** **Recovery of State Guarantees**

1. Validity of Payment on Guarantee. Upon its payment on account of a State Guarantee to the lending institution, the Minister shall have all the rights and remedies provided in the Agreement of Guarantee with the Borrower.
2. Continuing Liability of Borrower. The liability of the borrower to pay the Ministry on account of the guarantee for which the latter has paid to the lending institution, shall be unqualified and absolute, and shall include any costs associated with the payment of such guarantee.

3. Collection Measures. The Minister is authorized to, and shall, take all measures authorized by this Law, by other laws of Kosovo, and by the Agreement on Guarantee, to cover any amounts paid on the guarantee, including the costs associated therewith.

4. Debit of Borrower's Accounts. All Borrowers shall agree in the Agreement on Guarantee that upon a failure to pay the loan, its accounts, held either at the central bank or at private banking institutions, shall be immediately debited for the amount of such nonpayment.

## **CHAPTER VIII RECORDS MANAGEMENT**

### **Article 27 Authority to Create Records**

To carry out the responsibilities for managing the State Debt and State Guarantees, the Minister shall maintain complete and accurate records of all obligations that comprise the State Debt and State Guarantees.

### **Article 28 Record of State Debt and Guarantees**

1. The Record of State Debt and Guarantees shall provide data on Domestic and International Debt in no less than two categories, it means, first the debt in the form of Government Securities, and second the debt in the form of Financing Contracts. The Minister shall establish Regulations setting forth the information to be contained in such Record.

1.1. Special Provisions on State Debt and Guarantees issued in a currency other than the national currency.

The Record of State Debt and Guarantees shall provide information as to the currency or currencies other than the national currency in which each obligation is payable, as well as their original and current valuations , both in the national currency as well as in the currency or currencies in which payment is promised. Information on current foreign exchange rates shall be provided by the Central Bank.

1.2. Special Provisions on State Debt that have been borrowed. The Record of State Debt shall provide information on all Subsidiary Loan Agreements.

1.3. Publication Requirement. The Record of State Debt and Guarantees shall be continuously updated by the Ministry and shall be published semi-annually in a newspaper of general circulation in Kosovo and shall be available electronically



on the website of the Ministry, and shall include comparative data, where available, for at least one year earlier, or longer if it is available. The semi annual publication shall also include a report on all outstanding Municipal Debt and guarantees.

## **PART II MUNICIPAL BORROWING**

### **CHAPTER IX GENERAL PROVISIONS**

#### **Article 29 Definitions**

1. For the purposes of Chapter IX and Chapter X, the following terms shall have the following meanings:

1.1. **Municipal Debt or Debt** – a monetary obligation or liability created by a Financing Agreement, treasury note, debenture, bond, overdraft, or the issue of securities, and unless otherwise provided herein includes a Guarantee.

1.2. **Event of Default** – the event when the Municipality fails to return the principal or interest on Debt, when due, or any other event which may be foreseen in the terms and conditions of the Debt.

1.3. **Financing Agreement** – a written instrument that foresees the terms and conditions under which a borrower has obtained funds from a Lender and includes provisions that regulate their payment, including any loan agreement, lease, line of credit, installment purchase contract or other purchase arrangement or any other document, pursuant to which a Municipality undertakes to pay the capital cost of property, plant and equipment within a time.

1.4. **Fiscal year** – the period from January 1 to December 31 of the same year.

1.5. **Guarantee** – a contingent liability of a Municipality to become responsible of a Debt of another legal person, in whole or in part, in the event the party having the primary responsibility for repayment of such financial obligation, has failed to make payment when due.

1.6. **Ledger of Municipal Debt** – a ledger prepared by the Ministry, which shall include all outstanding Municipal Debt.

1.7. **Lender** – any legal or natural person or persons that provides Debt financing of the Municipality, and includes holders of Municipal Securities as well as any authorized representative of such holders.

1.8. **Mayor** – shall have the meaning assigned in the LLSG.

1.9. **Municipal Assembly** – shall have the meaning assigned in the LLSG.

1.10. **Municipal Property** – property, including immovable property, lawfully owned by a Municipality.

1.11. **Municipality** – shall have the meaning assigned in the LLSG.

1.12. **Municipal Security** – any treasury note, bond, non-guaranteed debenture or other evidence of indebtedness issued by a Municipality, whether in physical or dematerialized form.

1.13. **Own Source Revenues** – any public money that has been lawfully assessed and collected by a Municipality from a specific source in Article 8 of the Law on Finances of Local Government.

1.14. **Resolution** – the resolution contemplated in Article 30.

1.15. **Total Budgeted Revenues** – the collected monetary funds in the Municipal budget.

1.16. **Total Budgeted Expenses** – the expenses included in the Municipal budget.

## **CHAPTER X**

### **MUNICIPAL DEBT AND GUARANTEES**

#### **Article 30**

#### **Authority to Borrow**

##### **1. Procedure for Authorization :**

1.1. Mayor of a Municipality may incur Short-Term Debt for the purposes established in sub-paragraph 1 of paragraph 3 of this Article and within the limits established in paragraph 1 of Article 32 of this Law. Within five (5) business days of the incurrence of such Short-Term Debt the Mayor shall give written notice to the Municipal Assembly and the Ministry. Such notice shall

contemplate the conditions of the Short-Term Debt and demonstrate compliance with the limitations of paragraph 1 of Article 32 of this Law.

1.2. A Municipality may incur Long-Term Debt to finance a capital improvement that is in compliance with sub-paragraph 2 of paragraph 3 of this Article and within the limits established in paragraph 2 of Article 32 of this Law if the Municipal Assembly has authorized the Debt pursuant to a Resolution adopted by the Municipal Assembly and approved by a majority of the members present and that vote in an open and public session of Municipal Assembly. In the case of Guarantees and Long-Term Debt issued to refinance outstanding Debt, approval of two-thirds of the Municipal Assembly shall be required.

1.3. The Resolution of the Municipal Assembly shall authorize the following terms of the Long-Term Debt and settles the standards for the following information and findings:

1.3.1. the principal amount of the Debt;

1.3.2. interest rate;

1.3.3. the form of the Debt;

1.3.4. the maturity and repayment terms;

1.3.5. the purpose for which the Debt is being issued;

1.3.6. the source of security for the payment of the Debt, including a description of any pledged revenues.

1.3.7. evidence of compliance with the Debt Limitation, according to paragraph 2 of Article 32 of this Law;

1.3.8. the Useful time of the facilities financed from the proceeds of the Debt;

1.3.9. a projection of Total Budgeted Revenues and Total Budgeted Expenses for each year and including the year in which the Debt is scheduled to be paid in full; including the material assumptions on which the projections are based,

1.3.10. in the case of Debt issue to refinance outstanding Debt, evidence on the savings, or evidence for the cash flow benefits to be achieved by the Municipality from such refinancing.

1.4. Notice for the meeting at which the Municipal Assembly shall consider the Resolution for approval shall be published in a newspaper of general circulation

within the Municipality not less than seven (7) days prior to the date of the meeting of the Municipal Assembly. Such Notice shall include the form of the Resolution to be considered by the Municipal Assembly. The cost of publishing this notice will be paid by the municipality out of appropriated funds of the KCB.

1.5. After approval by the Municipal Assembly in accordance with sub-paragraph 3 of this paragraph, Long-Term Debt shall be subject to the prior written approval of the Ministry, provided that in accordance with Article 124 (7) of the Constitution, the approval of the Ministry shall be limited to the validation of compliance with:

1.5.1. the procedural requirements to authorize the Debt in accordance with paragraph 1 of this Article,

1.5.2. the verification of compliance with the Debt Limitation provided in paragraph 2 of Article 32 of this Law, and

1.5.3. the requirements of sub-paragraph 2 of paragraph 2 of this Article with regard to the capital improvement being financed.

1.6. In the event the Ministry concludes that there has not been compliance with 1.5.1, 1.5.2, 1.5.3, of sub-paragraph 5 of paragraph 1 of this Article, then the Ministry will notify the Municipality in writing that the long-term debt will not be issued.

1.7. The Ministry shall be deemed to have approved the Debt if it has not responded within sixty days (60) of receipt of the application for approval received from the Municipality.

1.8. Debt may only be issued in the official currency of the Republic of Kosovo.

1.9. A Municipality may not incur Debt unless in the previous two years it has received unqualified audit opinions from the Office of the General Audit as part of the mandatory annual legal audits.

1.10. A Municipality that has defaulted on the payment of any Debt may not incur any additional Debt for a period of two years after it had done the payment of that outstanding debt in order that there has remained no unredeemed part.

1.11. A Municipality may not incur any Long-Term Debt for a period of six-months prior to any municipal elections.

1.12. The approval by the Ministry set out in sub-paragraph 5 of this paragraph shall not constitute a guarantee, implicit or otherwise, or in any way establish any liability of the Republic of Kosovo for the payment of the Debt.

1.13. Upon compliance with the provisions of this Article, the Mayor and other Municipal officials designated in the Resolution shall be authorized to execute and deliver the documentation necessary and ancillary to the issue of the Debt.

1.14. Within ten (10) days of the acquirement of any Debt, the Municipality shall provide notice to the Ministry for the issue of such Debt.

1.15. The procurement of professional or financial services needed or required by the Municipality in connection with the issuance of Debt are subject to the Law on Public Procurement, provided that the Municipality is specifically authorized to use Negotiated procedures in section 33 and 34 of the Law on Public Procurement and without limit to the number of responsive tenders. However the Municipality must issue a transparent public tender clearly setting out the services to be rendered and for every tender there is required a special part where the fees are given, costs and all other payments for the services.

## 2. Nature of the Obligation to Pay Debt

2.1. The discharge of Municipal Debt, in accordance with the determined terms and conditions is obligation only of Municipality unless it is expressly guaranteed by other legal person. Municipal Debt does not comprise a direct or indirect obligation of the Republic of Kosovo unless the Ministry has issued a written guarantee related to the debt. There can be no assumption of Municipal Debt by the State without a two-thirds vote of the State Assembly.

2.2. The Municipal budget shall include the amount of Debt Service that has to be paid in that year.

2.3. The Financing Agreement or the Municipal Security shall expound the sources of revenues that have been pledged to the payment of the Debt in accordance with the provisions of Article 31.

2.4. Additionally, unless the Ministry has issued a written guarantee for the Debt, such Financing Agreement or Municipal Security shall contain in its terms the statement that such “Debt is payable solely from the sources described in its terms and is not an obligation of the Republic of Kosovo”.

2.5. Any Debt instrument that does not contain the provision described in subparagraph 4 of this paragraph shall not be a valid and binding obligation for the Municipality.

2.6. All Municipal Debt authorized in accordance with the terms of this Article shall be valid, binding and enforceable obligations of the Municipality, enforceable in accordance with its terms and binding on the existing and all subsequent Municipal Assemblies.

### 3. Purpose of Debt

3.1. Short-Term Debt. A Municipality may obtain Short-Term Debt that must be paid within one-year of its issue, to finance cash flow budget deficits temporarily.

#### 3.2. Long-Term Debt.

A Municipality may obtain Long-Term Debt:

##### 3.2.1. for capital investments that:

3.2.1.1. are to be utilized by the Municipality for an essential municipal function,

3.2.1.2. are owned by the Municipality,

3.2.1.3. have a Useful time of not less than three years,

3.2.1.4. are set out in the Municipality's capital investment plan approved by the Municipal Assembly which plans capital investments for a period of not less than three years,

3.2.1.5. are in the Municipal budget approved by the Municipal Assembly,

3.2.1.6. are set out in the MTEF and the KCB, and

3.2.1.7. are related to education and healthcare. Such capital investments shall be submitted and reviewed by the budget office of the relevant Ministry for compliance with the sector's capital improvement strategy and not objected to within thirty (30) days of such submission.

3.2.2. to refinance outstanding Long-Term indebtedness obtained pursuant to 3.2.1. above, provided that such refinancing results in a debt service savings or cash flow benefits for the Municipality.

#### 3.3. Guarantees. A Municipality may issue a Guarantee of Debt of:

3.3.1. Another legal entity that is owned or controlled by the Municipality provided that such Debt is issued to finance capital investments, as defined in sub-paragraph 2 of paragraph 3 of this Article, for an essential municipal function, or

3.3.2. a joint association of Municipalities as provided in Article 37 provided that such Debt is issued to finance capital investments for an essential municipal function.

#### 4. Terms of Debt

- 4.1. Debt may bear interest at either a fixed rate or a variable rate.
- 4.2. Debt may be obtained only in the official currency of the Republic of Kosovo.
- 4.3. Long-Term Debt shall not mature and be payable beyond the Useful time of the capital investments financed with the proceeds of such Debt; and
- 4.4. Debt shall be subject to such prepayment terms as provided in the terms and conditions of its issue.

#### 5. Municipal Securities

- 5.1. After the approval of the Debt in accordance with sub-paragraph 2 of paragraph 1 of this Article the Mayor is authorized to issue, in the name of the Municipality, marketable Securities such as bonds and notes in book-entry only. Municipal securities that are not marketable may be issued in physical form and may be negotiable or non-negotiable. The Mayor is further authorized to establish and maintain directly, or through the fiscal agent, a computerized system for securities issued as book-entries.
- 5.2. Securities issued in the electronic form in an account are obligations of the Municipality. The issue, account maintenance, and transactions affecting such Securities, including redemption, are conducted electronically, utilizing interlinked computerized records.
- 5.3. Municipal Securities may be negotiable or non-negotiable, depending on the terms and conditions of issue.
- 5.4. Municipal Securities may only be offered for sale when a law on securities has been adopted establishing a securities commission and when that commission has adopted regulations on the issue of Municipal Securities.

#### 6. Proceeds of Debt

- 6.1. The proceeds of Debt shall be applied solely to the purposes authorized in the Resolution.
- 6.2. The Resolution authorizing Debt may provide that a portion of the proceeds of the Debt shall be held in a Reserve Fund, separate and apart from all other funds of the Municipality, and used solely to make payments on the Debt in the event the Municipality fails to make such payments, all in accordance with the terms and conditions of the Debt.

## 7. Investment of Funds

7.1. proceeds of Debt,

7.2. funds held for the purpose of making payments on Debt, including any Reserve Fund pursuant to sub-paragraph 2 of paragraph 6 of this Article, and

7.3. any revenues that are pledged to the payment of Debt, shall be held in sub accounts of the Municipality held at Treasury department of the Ministry . The funds might be invested by the Ministry on behalf of the Municipality in accordance with Articles 8 and 9 of the LPFMA. Any investment earnings on such funds shall be used first, to pay the cost of the project being financed, and after completion of the project shall be used to the payment of Debt Service.

### **Article 31 Security for Debt**

#### 1. General Obligation Debt.

All Municipal Debt shall be secured and accounted as a general obligation of the Municipality, payable as a first claim from all of the Municipality's lawfully available funds that have not otherwise been pledged to other Lenders pursuant to Article 31.2 below.

All General Obligation Debt shall have parity and equality of status regardless of when it was incurred and regardless of whether they are in the form of Securities or Financing Agreements.

#### 2. Additional Revenue Security. General Obligation Debt may be additionally secured by a pledge on:

2.1. a portion of Own Source Revenues, and

2.2. not more than twenty-five percent (25%) of the General Grant it receives from the Republic of Kosovo, however any such pledge shall not in any way obligate the Republic of Kosovo to make any such payments to the Municipality.

2.3 .Any such pledge of revenues shall be foreseen in the Resolution authorizing the Debt and shall be valid upon the issuance of the Debt.

2.4 .Pledged revenues shall be held separate and apart from all other funds of the Municipality and shall be applied in accordance with the terms and conditions of the Debt. The Lenders shall have a priority with respect to such pledged revenues opposite all third parties.



2.5. The Ministry shall establish procedures that, upon receipt of a Notice of and Event of Default from the Lender and confirmation of the Event of Default by the Ministry, shall provide for the timely application of such pledged revenues to the payment of the defaulted Debt that was owing.

### 3. Intercept Financing.

A Municipality may provide for additionally securing its Debt with revenues pursuant to Article 31.2 above by entering into written agreements to provide for the payment of Debt upon an Event of Default directly from unconditional transfers that are payable to the Municipality from the Ministry. This written intercept agreement may not provide for acceleration or otherwise vary any of the terms of repayment of the Debt. In the event of Default, the written agreement must be sent to the Ministry.

### 4. Physical Property Security.

Debt may also be secured by the immovable municipal property that is not used in delivering Municipal services. Pledged municipal property shall be owned by the municipality free of any ownership claim or encumbrances.

### 5. Additional Security Agreements.

A Municipal Assembly may provide security for Debt by agreeing to:

- 5.1. apply rates, fees and tariffs at a particular level, permitted by law, to produce a specified amount of revenues;
- 5.2. operate and maintain an enterprise or other property in accordance with the terms and conditions of the issue of Debt;
- 5.3. effect payment directly from funds or sources that become available and authorize direct access to such sources to secure payment of the debt;
- 5.4. deposit funds or pledged revenues by or for the benefit of a Lender;
- 5.5. accept specific payment procedures to ensure exclusive or dedicated payment to Lenders, including payments into special sub accounts, or other payment mechanisms or procedure;
- 5.6. accept restrictions on additional Debt;
- 5.7. have disputes resolved through mediation, arbitration or other dispute resolution mechanisms; and
- 5.8. accept such other arrangements as the Municipal Assembly approves and may consider necessary and prudent for the issue of Debt and providing security for its payment.

**Article 32**  
**Limitations on Debt**

1. The total stock of short-and long-term debt, including guarantees, shall not at any time exceed more than forty percent (40%) of Collected Own Source Revenues and general grants (excluding any of such revenues that are non-current) for the Fiscal Year immediately preceding the issuance of Debt.

2. Short-Term Debt.

2.1.Short-Term Debt issued to finance cash flow budget deficits:

2.1.1. shall not be subject to refinancing or other extension beyond twelve (12) months from its original issue, and

2.1.2. shall not at any one time exceed more than five percent (5%) of Total Collected Revenues (excluding any of such revenues that are non-current) for the Fiscal year immediately preceding the issuance of the Short-Term Debt.

2.2. Moreover, for thirty (30) consecutive days in each fiscal year, a Municipality shall not have any Short-Term Debt outstanding.

3. Long-Term Debt.

3.1. The principal of Long-Term Debt shall mature and be payable at a date not beyond the Useful time of the capital investment being financed from the proceeds of such Debt;

3.2.The amount of Debt Service owing in any year of a Long-Term Debt shall not exceed ten percent (10%) of the Total Collected Revenues (excluding any such revenues that are non-current) for the Fiscal Year immediately preceding the issuance of the Long-Term debt.

3.2.1. the calculation of interest for the purpose of determining compliance with this section shall be calculated as follows:

3.2.1.1. For Debt bearing interest at a fixed rate, at the interest rate in effect for such a debt; and

3.2.1.2. For Debt bearing interest at a variable rate, at the rate that would have been in effect for the preceding interest period plus one percent (1%).

3.2.2. The calculation of Debt Service shall include one hundred per cent (100%) of the Debt Service guaranteed by the Municipality.

The method of calculation of the Debt Service on guaranteed Debt shall be the same as for Municipal Debt.

3.2.3. Compliance with the provisions of this section shall be determined by the Municipality and approved by Ministry in accordance with Article 30.1 prior to the issuance of the Debt. Subsequent changes in the interest rate which may cause the Debt Service calculation to exceed the limit shall not cause this section to be violated or in any way effect the validity of the Debt that was in compliance with this section at the time of issue.

3.2.4. A Line of Credit shall be subject to the limitations of this section assuming the full amount of the Line of Credit has been drawn when it is issued and calculated in accordance with its terms of repayment obligation of the Municipality to the Lender.

### **Article 33**

#### **Joint Exercise of Municipal Authority as authorized in Article 124 (4) of the Constitution**

1. Joint Agreements. One or more Municipalities may enter into agreements with other Municipalities (including joint creating a separate legal entity) for the purpose of joint financing, building and operating capital investments utilized for Municipal services. Any such legal entity shall have all of the same legal authority to finance, build and operate such facilities that are common to all of the Municipalities that have created it.

2. Guarantees. Municipalities may guarantee their pro rata share of such legal entity's financial obligations. However, the guarantee should be treated as Debt for purposes of compliance with the limitations on Debt determined in Article 32 above.

### **Article 34**

#### **Corrective measures**

1. Continuing Default. In case of the continuance of an Event of Default for thirty (30) consecutive days, the Municipality and the Lender shall be required to inform the Ministry within five (5) business days thereafter. The Ministry shall make a notation in the Ledger of Municipal Debt that identifies the Debt as being in default.

2. Appoint a Representative. Holders of Securities shall be entitled to authorize a financial institution or other intermediary to act as a representative on behalf of all such holders in connection with legal measures undertaken against the Municipality, all in accordance with an agreement between the lenders and such financial institution.

3. Pledges. In the event of Default, Lenders of Debt, additionally secured with certain pledged revenues, shall be authorized to immediately take possession of any pledged revenues, which have been pledged to the Debt pursuant to the Resolution, and to use such revenues in accordance with the terms and conditions of the Debt or any Intercept Agreement, until all of the principal and interest on the Debt has been paid in full in accordance with procedures established by the Ministry.

4. Other corrective measures. In an event of Default, Lenders shall be entitled to pursue all legally available measures against the Municipality.

5. Events of Default. In an event of Default, the Ministry shall request the Municipality to draft and submit a corrective measures plan that shall be subject to the approval of the Ministry. In the event that the Municipality does not implement the approved corrective measures plan within thirty (30) days of the Event of default, the Ministry shall formulate a corrective measures plan for the Municipality that is to be presented to the Municipal Assembly and must be adopted by the Municipality. If the Municipality fails to adopt this plan, it will automatically enter into force and become enforceable if the Event of Default continues for another sixty (60) days.

6. Court Actions. In an Event of Default and after submission to the court of appropriate evidence of negligence by municipal officials and employees, the court may find the municipal officials and employees personally liable and the court may impose sanctions such as termination of employment or dismissal from office, as well as to order the payment of administrative fines. In cases where there has been an Event of Default and where the court finds deliberate and intentional fraud or misuse of municipal funds, the court may also impose criminal penalties.

7. Sole Responsibility. Municipal Debt is the responsibility only of the Municipality and its officials; the State will only intervene between the Lender and the Municipality and assume responsibility for the debt only when it realizes a two thirds vote of the State Assembly.

### **Article 35 Miscellaneous**

1. Ledger of Municipal Debt.

The Ministry shall maintain a Ledger of all existing Municipal Debt. The Minister is authorized to adopt regulations relating to the information to be contained in such Ledger. The Ledger shall be continuously updated by the Ministry, shall be open to inspection by the public, and shall be published annually.

2. Authority of Municipal Officials.

The Mayor and any other Municipal officials that are authorized pursuant to the Resolution shall be authorized to take any actions necessary for or in relation to the issuance of Debt in accordance with the terms and conditions of the Resolution.

3. Public Information.

All documentation relating to the authorization of Debt, including the Resolution and any Financing Agreement, shall be public information and available to the public on reasonable terms and conditions.

4. Books and Records.

A Municipality shall be required to keep such records and necessary information to permit the verification of the terms Debt and compliance with the terms of the Resolution, including, but not limited to, the usage of proceeds in accordance with the requirements of the Resolution. Such information shall be public information as set out in Article 35.3 above.

5. Leasing Contracts.

Leasing contracts and other similar financial arrangements that provide for installment payments for a period of time shall require the same procedures and authorizations as for long-term debt.

## **CHAPTER XI FINAL PROVISIONS**

### **Article 36 Collusions, Frauds and Deceits**

1. Participants in the Government Securities market are prohibited from colluding with one or more other participants with the intent to:

1.1. affect the market in terms of yield, price, amount of Government Securities purchased at auction or on the secondary market;

1.2. affect the portfolio composition held by any other market participant, the investment strategy of any other market participant or participants, or otherwise,

1.3. to engage in any transaction, practice or course of conduct that would operate as a fraud or deceit to other market participants.

**Article 37**  
**Taxation**

The interest income from State Debt shall be subject to taxation as provided in the applicable tax law, provided that the transfer of ownership and sale of Government Securities shall not be subject to taxation.

**Article 38**  
**Discrepancy of Laws**

In the event of a discrepancy between the provisions of this Law and those of other laws previously approved by the Assembly that contain provisions on, or otherwise affect the status of, State Debt and State Guarantees, this Law shall preponderate on all such prior laws, except that the validity of State Debt and State Guarantees contracted before the entry into force of this law, remain into force.

Specifically the following laws, or portion of laws, are revoked by the provisions of this law: Part V, Article 30 of the LLGF and Law on International Financial Agreements in its entirety.

**Article 39**  
**Sub-legal Acts**

The Minister may issue such sub-legal acts as are necessary to implement the provisions of this law including, but not limited to regulations related to the terms and conditions of Government Securities, including regulations relating to the rules for the auction of Government Securities.

**Article 40**  
**Entry into force**

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

**Law No.03/L – 175**  
**29 December 2009**

**President of the Assembly of the Republic of Kosovo**

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**Jakup Krasniqi**