



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

Law No.03/L –192

**ON INDEPENDENT OVERSIGHT BOARD FOR CIVIL SERVICE
OF KOSOVO**

Assembly of Republic of Kosovo,

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

Approves

**LAW ON INDEPENDENT OVERSIGHT BOARD FOR CIVIL
SERVICE OF KOSOVO**

GENERAL PROVISIONS

Article 1
Purpose and scope

This Law shall regulate the organization and the overall functioning of the Independent Oversight Board of Civil Service of Kosovo (hereinafter Board).

Article 2
Definitions

1. Terms used in this Law shall have the following meanings:

1.1. **Civil Servant** - any member of Civil Service established by Law on Civil Service in the Republic of Kosovo;

1.2. **Secretariat** - a body which supports the Board in discharging its functions and powers.

1.3. **Code of Ethics** - the Code of Ethics adopted by the IOBK.

Article 3 **Independent Oversight Board of Civil Service of Kosovo**

The Board shall be an autonomous body reporting to Assembly of the Republic of Kosovo and which shall determine appeals and shall ensure compliance with all rules and principles governing the civil service in the Republic of Kosovo.

Article 4 **Composition of the Board**

1. The Board shall be composed of seven (7) members appointed by the Assembly of the Republic of Kosovo on basis of an open and transparent procedure.

2. The composition of the Board shall reflect the multi-ethnic and gender character of Kosovo. At least two (2) of its members shall be appointed from among Kosovo non-Albanian community and at least two (2) members shall be among female gender.

Article 5 **Eligibility for appointment as a member of the Board**

1. An applicant eligible for appointment as a member of Board shall have the qualifications and meet the following requirements, and shall:

1.1. be habitual citizen and resident of the Republic of Kosovo;

1.2. have a high moral integrity;

1.3. have at least a valid diploma of Law faculty or public administration pursuant to the applicable Law;

1.4. have at least five (5) years of relevant work experience in civil service;

1.5. have a good knowledge of applicable Laws;

1.6. not to be convicted for a criminal offence punishable by a prison term of six (6) months or more.

Article 6
Selection of members of the Board

1. Within sixty (60) days before the term of office of the Board member expires or after the launch of a vacancy announcement for other reasons, the Assembly of Kosovo in accordance with rules of procedure shall make a public announcement, within a reasonable time but not later than that established by Law.
2. Proposed appointments which are duly received shall be considered by an Ad-Hoc Committee of the Assembly of Kosovo.
3. Within a period of twenty-one (21) days from closing deadline for submission of applications, the Committee, following the interviewing process, shall recommend two (2) applicants for each vacant position to the Board, who are found to be the most suitable on the basis of competence, integrity and their commitment to developing a politically impartial Civil Service in Kosovo that is based on merit and reflects the multi-ethnic character of Kosovo.
4. Based on the Rules of Procedure of the Assembly, the Assembly shall appoint one among the applicants recommended for the position on the basis of the majority of votes by the Assembly deputies voting.

Article 7
Term of office for members of Board

1. Members of the Board shall be appointed for a term of office of five (5) years, with the possibility of reappointment only for another additional term of office.
2. While serving on the Board, member shall neither exercise any other function, nor take an active part in political activities.

Article 8
Chairperson of the Board

1. Chairperson of the Board shall be elected among its members, with a two (2) year mandate.
2. Chairperson of the Board shall manage the work and shall coordinate the activities of Board members.
3. Chairperson of the Board shall represent and be responsible for the activities of the Board, he or she shall delegate powers on discharging functions, appoint panels and issue decisions.

Article 9
Discharge of members of the Board

1. Kosovo Assembly, upon proposal by the majority of Board members, the recommendation of the permanent committee of the Assembly or a motion by Deputies, may discharge the member of the Board through the majority votes on the following grounds:

- 1.1. The member's professional incapacity;
- 1.2. The member's mental or physical incapacity to carry out his or her functions;
- 1.3. Conviction of the member for a criminal offence punishable more than six (6) months;
- 1.4. The member's absence from work for a period over one (1) month for the reasons that are not foreseen by Law; and
- 1.5. breach of paragraph 2 of Article 7 of this Law and the breach of Code of Ethics.

Article 10
Functions of the Board

1. The Board shall have the following functions:
 - 1.1. reviews and determine appeals filed by civil servants against decisions of employing authorities in all institutions of Civil Service in accordance with rules and principles set out in Law on Civil Service in the Republic of Kosovo;
 - 1.2. determines whether the appointments of civil servants at level of heads are made in accordance with rules and principles set out in Law on Civil Service in the Republic of Kosovo;
 - 1.3. supervises implementation of rules and principles of legislation related to Civil Service.

Article 11
Powers of the Board

1. For the purpose of carrying out its functions, the Board may:
 - 1.1. visit any location where civil servants are employed;

1.2. obtain access and examine written records relating to the recruitment, appointment, disciplinary procedures and promotion of civil servants or relevant to the review and determination for appeals; and

1.3.interview any civil servant at any level, who may possess information of direct relevance to the carrying out of the Board's functions.

2. The Board shall preliminary give the senior managing officer of the respective employing authority reasonable notice of any visit or request for information, indicating the type of records to which it requires access and the civil servants sought for interview.

Article 12 **Appeals**

1. A civil servant who is unsatisfied by a decision of an employing authority in alleged breach of the rules and principles set out in Law on Civil Service in the Republic of Kosovo, shall have the right to appeal to the Board.

2. The appeals shall be reviewed and decided by a panel of three (3) Board members, on behalf of the Board.

3. The Board shall prescribe rules and procedures applicable to appeals. Such rules and procedures shall provide:

3.1. That before appealing to the Board, the civil servant or applicant who alleges to be damaged must exhaust the internal appeals procedures of the employing authority concerned, unless the Board excuses this requirement based on evidence of reasonable fear of retaliation, failure by the employing authority to resolve the appeal within thirty (30) days, or other good cause;

3.2. That the aggrieved party and the employing authority shall both have an opportunity to present their positions to the Board in writing, which shall be made available to the opposing party;

3.3. That, in cases involving disputes of material fact, both parties shall have the opportunity that together to be interrogated by the Board, at which they may present evidence and witness for the direct and cross-examination and investigation, and

3.4. That in each appeal brought before it, the Board shall within sixty (60) days of the end of the appeal proceedings issue a written decision setting forth its determination and the legal and factual basis therein.

3.5. In exclusion from sub-paragraph 3.4 of this paragraph, there can be cases of specific nature wherein the Board shall have to issue a decision and the deadline of sixty (60) days is extended by another thirty (30) days.

4. Where the Board is satisfied that through challenged decision there are breached the principles or rules set out in Civil Service of the Republic of Kosovo, it shall issue a written decision directed to the senior managing officer or the chief executive officer of the respective employing authority, who shall be responsible for implementation of Board's decision.

5. A member of the Board, who participated as a member of the panel concerning the appointment of a civil servant, shall not participate in appeal procedure against such decision.

Article 13 Decision of the Board

Decision of the Board shall represent a final administrative decision and shall be executed by the senior managing officer or the person responsible at the institution issuing the original decision against the party. Execution shall be effected within fifteen (15) days from the day of receipt of the decision.

Article 14 The right to appeal

The aggrieved party, alleging that a decision rendered by the Board is unlawful, may appeal the Board's decision by initiating an administrative dispute before the competent court within thirty (30) days from the day of the service of decision. Initiation of an administrative dispute shall not stay the execution of the Board's decision.

Article 15 Procedure in case of non-implementation of the Board's decision

1. Non-implementation of the Board's decision by the person responsible at the institution shall represent a serious breach of work related duties as provided in Law on Civil Service in the Republic of Kosovo.

2. If the person responsible at the institution does not execute the Board's decision within the deadline set out in Article 13 of this Law, the Board within fifteen (15) days from the day of expiry of execution deadline, shall notify in writing the Prime Minister and the immediate supervisor of the person responsible for execution.

3. Notification from paragraph 2 of this Article shall be considered as a requirement for initiation of disciplinary and material procedure against the person responsible for execution, which shall be conducted pursuant to provisions set out in Law on Civil Service of the Republic of Kosovo.

4. The aggrieved party may initiate, within thirty (30) days of the day of expiry of execution deadline, an execution procedure before the municipal court pursuant to Law for the execution procedure against the person and institution responsible for execution, because of the material and nonmaterial damage caused by that decision. If the competent court decides on reimbursement of the amount of salaries to the employee (person), who has disputed the non-execution (non-execution of decision), the procedural costs and other eventual costs shall be incurred by the person responsible at the institution and he or she shall also be responsible for damage caused to the institution in accordance with Law.

5. The Board shall have to notify in writing for the decisions that have not been executed even the Assembly of the Republic of Kosovo.

Article 16 **Review of appointments of civil servants**

1. For the purpose of reviewing the appointments of civil servants at the level of heads to verify whether those appointments are made in accordance with rules and principles set out in Law on Civil Service in the Republic of Kosovo, the Board shall:

1.1. be represented at least by one (1) member of the Board, who shall attend as observer in the meetings of any committee appointed to consider the recruitment or promotion of candidates to fill positions at heads level;

1.2. upon the recommendation of the member of the Board who acted as observer, the Board shall determine whether decisions of appointment committees are taken pursuant to rules and principles set out in Law on Civil Service in the Republic of Kosovo, and it shall recommend in writing to the employing authority, whether decisions of appointment committees are not in compliance with rules and principles set out in Law on Civil Service in the Republic of Kosovo.

2. If the employing authority does not implement the recommendation mentioned in subparagraph 1.2. paragraph 1 of this Article, the Council shall notify Kosovo Assembly and Prime Minister.

Article 17
Assessment of respecting

1. For the purpose of providing an assessment of employing authorities' respecting the principles set out in Law on Civil Service in the Republic of Kosovo, in institutions, the Council shall annually:

1.1. review a sample of employment related records maintained by the employment authorities;

1.2. observe directly a sample of employing authorities' recruitment, promotion and disciplinary procedure, and

1.3. as appropriate, interview persons at employing authorities responsible for decisions reviewed by the Board.

2. Where a Board determines areas in need of improvement, it shall make appropriate recommendations to the chief executive head of the respective employing authority.

3. The Board shall assess the employing authorities' responses to its recommendations and, where an employing authority unreasonably does not implement its recommendations, the Board shall report the matter to the Assembly, which then will forward it to the Prime Minister.

Article 18
Cooperation with employing authorities

The Board shall cooperate with the employing authorities in order to carry out its functions under this Law, and employing authorities are obliged to cooperate with the Board. Where an employment authority does not cooperate, the Board shall report for this non-cooperation to the Assembly, which then shall forward this notification to his or her immediate supervisor and the Prime Minister.

Article 19
Annual report

1. The Board shall make an annual report to Kosovo Assembly, and the Board shall also send a copy of the report for information to the Prime Minister.

2. The Board's report shall be made publicly available following its endorsement by the Assembly. The report shall be published in the Official Gazette of the Republic of Kosovo.

Article 20
Secretariat of the Board

1. The Secretariat shall be functional within the Board, which shall support the Board in discharging its functions and powers.
2. The Secretariat shall be headed by the Secretariat Executive Director who shall directly report to the Chairperson of the Board. The Director and employees of the Secretariat shall be civil servants.

Article 21
Funding of the Board

1. The Board shall be funded by the Budget of the Republic of Kosovo. The board shall have its own budget line which guarantees its independence.
2. The Board may receive contributions from donors and they should not influence on the Board's independence.
3. The Assembly shall be notified of contributions received from donors.
4. Salary level for the Chairperson and members of the Board shall be set in accordance with Law on salaries of senior officials.

Article 22
Rules of Procedure of the Board and the Code of Ethics

The Board shall adopt the Rules of Procedure and the Code of Ethics.

Article 23
Transitional and final provisions

Upon the entry into force of this Law, UNMIK Regulation 2008/12 amending UNMIK Regulation 2001/36 on Civil Service in Kosovo shall be superseded.

Article 24
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 –192
15 July 2010

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI