



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

Law No. 04/L-088

ON STATE ARCHIVES

Assembly of Republic of Kosovo,

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

Approves:

LAW ON STATE ARCHIVES

CHAPTER I
GENERAL PROVISIONS

Article 1
Purpose

This law determines the ground rules for the organization and operation of Archival Services in institutions of the Republic of Kosovo.

Article 2
Scope

For the purposes of this law, public institutions, which fall within the scope of this law shall include: Government and administration at central and local level, legislative and judicial institutions, the Office of the Presidency, Prosecution office, legal and natural persons, on condition of exercising administrative authority, performing public duties or operate with public funds according to Laws of the Republic of Kosovo (private holders of public competences), and their legal obligations for the establishment, maintaining and use of archival wealth.

Article 3 Definitions

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

1.1. **Agency – Kosovo State Archives Agency** – is the Governmental body, which organizes, directs and controls all archive network activity in the country (hereinafter the Agency).

1.2. **Archived Material** - all original and reproduced material by public institutions, legal and natural entities in their activities such as: manuscripts, printed records, drawings, photographs, stamps, audiovisual materials, electronic materials and all other supporting tools that enable a clear understanding of the content of information and facilitate the use of them.

1.3. **Documentary Material** - all documents or data generated during the work and activities of public institutions, legal and natural entities and legal records related to them, regardless of the form and format of the record.

1.4. **State Archival Fund** - the whole state archival material, which is under state protection of the Republic of Kosovo, and serves as a source of information for society to realize its interests and needs of the state.

1.5. **The creators and holders of archive materials** - institutions defined within the scope of this law, which during the work performance create the material which shall be submitted for archiving to the Archives Authority after the expiration of the deadline set by the law.

CHAPTER II BASIC PROVISIONS

Article 4 Agency Organization

1. State Archive Agency is Governmental body that carries out duties and responsibilities defined by this Law.

2. The Agency is led by Chief Executive, who is responsible for the administration, operation and management of the Agency.

3. The appointment, dismissal, functions and responsibilities of the Chief Executive shall be regulated by relevant provisions in force in the Republic of Kosovo.

4. The structure and organization of the Agency shall be regulated by a secondary legislation proposed by the Agency and approved by the Government.

Article 5
Duties and responsibilities of the Agency

1. The Agency is an institution, which receives, identifies, maintains and publishes the archival material and enables its use for scientific research and professional work and for other needs which are of interest to institutions, organizations, legal and natural entities.

2. The Agency shall exercise its activities in accordance with the law and other acts based on it and international archival standards.

3. When necessary advises and guides institutions that enter into the scope of the law relating to the management, maintaining and protection of archival.

4. Organizes training, courses, training lectures and perfection of professional archival staff in Kosovo and performs other activities defined by the law and general legal acts, referring to the Archive.

Article 6
Network Archival Institutions

1. In order to maintain, protect and proper use of archival material and further development of archival activity is created the Kosovo archive network.

2. Kosovo Archive Network shall be established through functional interconnection of all archival institutions in Kosovo.

3. Kosovo Archive Network is created, organized and functions according to the secondary legislation on archival network in Kosovo, which is proposed by the Agency and is approved by the Government.

Article 7
Archival Fund at local and central level

The archival fund at local and central level includes the whole archival material created during the activities of the institutions, that fall within the scope of this law and natural and legal entities with historical, legal, political, economic, social and cultural values, which serves as a source of the information to realize the needs and interests of the state and society in general.

Article 8

Public Archive Registry

1. Agency, in order to improve opportunities for the use of archive material shall create, maintain and update the public archive registry.
2. Public archive registry among others contains the following elements:
 - 2.1. evidence of data for all archival institutions and creators of archive materials of Kosovo. These data are classified according to the central, municipal and private level.
 - 2.2. a general overview of all the archived material in the Agency.
 - 2.3. conditions for the use and access to archived material in the Agency.
3. All records in the central, municipal and private are obliged to make available all agency records and information necessary for updating the registry public archive.
4. The Agency cooperates with other archives to build and update the public archive registry.
5. Every natural and legal entity may have access to public archive registry.
6. Registry should be managed by using the most modern systems of information technology and should be published in the website of the Agency.

Article 9

Responsibility for archiving

1. Kosovo State Archives Agency shall be responsible for archiving the materials of all public institutions, which fall within the scope of this law, which are no longer necessary for use and which expired the preservation at the respective institution.
2. Except from paragraph 1. of this Article, in the following institutions, may develop self-archive within their fields of operation:
 - 2.1. Administration of the Assembly of the Republic of Kosovo;
 - 2.2. Constitutional Court and Supreme Court of the Republic of Kosovo;
 - 2.3. Universities of the Republic of Kosovo;
 - 2.4. Ministry of Kosovo Security Force;

2.5. Ministry of Internal Affairs;

2.6. Kosovo Intelligence Agency.

3. In case of institutions listed in paragraph 2. of this Article do not possess the necessary conditions and space for archiving, preservation and protection of archival material from damage or destruction, then the above mentioned institutions shall provide their materials for archiving to the Agency, considering the conditions and criteria set forth in this law.

Article 10 **Provision and acceptance of archival material**

1. Public institutions which fall within the scope of this law are obliged to provide to the Archiving Agency all materials which are not considered necessary to perform further duties and whose deadline for storage has passed.

2. Provided material for admission to the Agency is the latest after the expiration of thirty (30) years from the moment of creating the material, except in cases when content of the material is specific and relevant legislation in force requires a longer-term storage at the institution.

3. Access to all material and relevant data are provided from the relevant institution, which is proposed for admission to the Agency in order to evaluate whether the material meets the requirements for archiving. All relevant data are attached together with the material provided for the archive at the Agency by the respective institution, which are necessary for clear understanding of information and their effective use.

4. All electronic materials subject to continuous actualization should be offered which undergo continuous actualization should be offered to be filed in the Agency.

5. Responsible Commission of evaluates whether the offered material by the relevant institution meets the required conditions and criteria to be archived. In case the conditions and criteria foreseen by law and sub-legal acts are not met, respective material, for archiving in the Agency continues to remain in the respective institution until their completion.

6. Agency within the time limit of (6) months after delivery of material from the creators of archive materials should evaluate which material is relevant for archiving in the Agency. To make this assessment enable the Agency access to all material offered for archiving.

7. In case when the Agency decides not to archive the material provided by the institution concerned within the time limit of (6) months, continues the obligation of the relevant institution for further storage provided for archive material.

Article 11
Administering and Protecting of Archive Material

1. Archive material is to be preserved in the condition it was accepted in the Agency.
2. Archive material is to be preserved as a whole and can not be alienated, damaged and annihilated.
3. Archive material is processed in accordance with standards and criteria on archiving and is protected by unauthorized usage and abuse.

Article 12
Usage of Archive Material

1. Archive material is preserved and used for education science, cultural, research and information needs as well as professional and civilian need.
2. This law guarantees the rights for each legal and natural entity, without discrimination on any basis, right on access after the request archived in the Agency, with expectance of restrictions which are determined by this law and other legislation in force.
3. Research and usage of archive material is fundamental right of citizens for free information, and being so, in principle it can not be restricted.
4. Usage of archive material in the Agency is in principle free.
5. With exception to paragraph 4. of this Article with appropriate legal and sub-legal acts are set the fees and taxes for archive servile which are created by usage of archive material and copying which is approved by the Agency.
6. Usage of archive material can be restricted partly or fully in cases:
 - 6.1. when wellbeing of Republic of Kosovo is endangered;
 - 6.2. when national security is violated as well as security of international relations and defense;
 - 6.3. when life of private individual is violated;
 - 6.4. when rights of third party are violated which are protected by appropriate legislation for protection of personal information;
 - 6.5. when finance, monetary and tax policy of Republic of Kosovo is violated;

6.6. each document under supervision of Kosovo archive which contains information that can affect fundamental human rights and freedom guaranteed by European Convention on human rights.

7. Respective personnel in the Agency, in cases when material is used or copied, issues a document which contains fact that are included in the archive material. The issued document by the Agency has the value of official document.

Article 13

TimeLine for Using Archived Material in the Agency

1. If it is not to be decided differently by a respective legislation in power, archived material in the Agency, in principle can be used after a period of 30 (thirty) years from the moment of creating of this material by the creators of archive material, if it is not determined otherwise by this law.

2. If, by giving this material in usage, as determined in paragraph 1. of this Article protection of interests of Kosovo and its relations with other countries is violated, then this material is delivered for use only after reasons are given, or at last after 50 (fifty) years from the starting year of protecting of material in the Agency.

3. Timeline to give in usage of archive material, in which are foreseen certain rules of confidentiality is 60 (sixty) years form the moment of its creation.

4. Archive material, which according to its purpose and content is related to personal data of natural entity, can not be given in usage before the following timelines:

4.1. 10 (ten) years after decease of natural entity;

4.2. 100 (one hundred) years from year of birth, in case when the year of death of natural entity in unknown;

4.3. 60 (sixty) years from the moment of creation of archive material in case when birth and death year is unknown;

5. Timelines determined in paragraph 4. of this Article are not meant for documents, which, when created were public and were dedicated to public.

6. Timelines determined in paragraph 4. of this Article are not meant for archive material, archived in the Agency by public institutions.

7. Spouse, children and parents of person whose data are in the Agency can have access and use the archive material in the Agency before the timeline determined in paragraph 4. of this Article, except cases when respective person before death has not granted access in this material for his/her family members.

8. Usage of archive material within timelines determined in paragraph 4. of this Article can be allowed on the basis of request before expiration of time in these cases:

8.1. when respective person has approved usage of archive material;

8.2 after decease of respective person, this right can exercise his/her legal descendants, except cases when respective person has not approved access in his/her personal data.

Article 14

Duties and Responsibilities of Creators of Archive Material

1. Creators of archive material are obligated that the material in their possession to be delivered to the Agency for evidence and maintenance according to the criteria determined in this law and archive standards.

2. Creators of archive material shall be obliged to act as follows:

2.1. preserving archive material in normal condition and protection from damage until its delivery to the competent archive;

2.2. delivery of archive material for registration and preservation on request of the Agency, as well as informing for every change and development related to it;

2.3. evidencing and classifying of archive material according to the determined system for managing of official material;

2.4. delivery of archive material to the Agency after the deadline determined by the law.

Article 15

List of Categorization for Preserving and Using of Archive Material

The Agency approves the list of categorization for preserving and using of archive material in which are determined value and timeline of preserving as well as how to use the material.

Article 16
Local Archive Fund

1. Local archives administer, preserve, protect, classify and categorize archive material of local institutions and other bodies which operate within respective territorial administrative unit. They control and offer professional help creators of archive material of institutions in local level.
2. Archive material is delivered in the competent archive under the Agency after the timeline determined by this law, registered and evidenced in accordance with rules and standards of archives. In cases when archive material is not regulated in accordance with methodology of official management of material determined by the Agency, then the competent authority in the Agency determines timeline within which the polder is obligated to deliver the supplemented material as requested.
3. In case when condition foreseen in the paragraph 1. of this Article is not fulfilled, the Agency regulates the material on the expenses of the holder.

CHAPTER III
TRANSITIONAL AND FINAL PROVISIONS

Article 17
Sub-Legal Acts

1. Every institution is obligated to issue an instruction on ways of preserving and using archive material, which, amongst others needs to regulate these fields:
 - 1.1. formal management system;
 - 1.2. procedure of using archive material;
 - 1.3. criteria and standards for preservation of archive material;
 - 1.4. creation of copies and reproduction;
 - 1.5. responsibility of the user of archive material in case of damaging of this material;
 - 1.6. fees and taxes for using archive material and compensation for expenses in cases of copying and reproduction;
 - 1.7. other conditions and procedures of using archive material.

Article 18
Timeline for Issuing Sub-legal Acts

1. Sub-legal acts, for implementation of this law are issued in period of 6 (six) months after entering into force of this law.
2. Digitalization of public archive registry ends up within three (3) years from entrance into force of this law.

Article 19
Repeal

1. After entering in force this law repeals:
 - 1.1. Law on Archive Substances and Archives (Law no. 2003/7)
 - 1.2. Law no. 02/L-80 for Amending and Supplementing 2003/7 and
 - 1.3. Law no. 03/L-077 for Amending and Supplementing the Law no. 2003/7 on Archive Substances and Archives, dated 7 November 2008.

Article 20
Entry into Force

This law shall enter into force 15 (fifteen) days after publishing it in the Official Gazette of Republic of Kosovo.

Law No. 04/L-088
15 February 2012

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI