



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

Law No. 04/L-024

ON STATE AID

Assembly of Republic of Kosovo;

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

Approves

LAW ON STATE AID

GENERAL PROVISIONS

Article 1
Purpose

This Law sets-out principles and procedures, in accordance with which the state aid is allowed and controlled, in order to support the economic and social development, apply the principles of functioning of the market economy, protect competition, as well as implementation of commitments arising from international agreements ratified by the Republic of Kosovo, where the provisions for state aid are included.

Article 2

Scope of the Law

This Law applies to all sectors of production as well as services operating in the Republic of Kosovo, in exception of the sector of agriculture and fishery.

Article 3

Definitions

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

1.1. **State Aid** - any aid granted by the state or through state resources, in any form, which shall include but it is not limited to: grants and subsidies; tax exemption, reduction and differentiation; remission of overdue payments and fines; remission of debt or covering losses; guarantees on loans or granting loans under low interest rates; reduction of social insurance commitments; reducing the price of goods and services provided, or the sale of state property below the market price, or purchase of goods and services with the price higher than the one in the market, increasing state capital in the undertakings or changing its value, in circumstances that are not acceptable for a private investor operating in normal economic conditions.

1.2. **Providers of state aid** - all central public administration authorities and local self-government units, public enterprises, or entities operating on behalf of the state in terms of granting state aid for undertakings or special sectors.

1.3. **Enterprise** - any natural or legal person, private or public, performing economic activity.

1.4. **Small and medium enterprises** - enterprises classified according to the applicable legislation for small and medium undertakings.

1.5. **Aid scheme** - any normative act upon which in general form and without the need for other implementing acts, the state aid can be planned or granted.

1.6. **Individual Aid** - any aid granted to a specific beneficiary for a single case, or when the value of the aid granted to a single beneficiary, within an aid scheme, is higher than the minimum allowed ceiling.

1.7. **Unlawful Aid**- any state aid granted and implemented in contradiction to the principles of free competition, with this Law or in contradiction with the decisions taken by the State Aid Commission.

1.8. **Stakeholders**- the aid beneficiaries as well as undertakings or competing associations, whose interests may be affected by the granting of aid.

1.9. **State aid to Promote Capital Risk-** the financing of enterprises, as well as small and medium enterprises, through participation in capital in the form of quotas, shares or bonds convertible to shares, in the early stages of their growth/establishment and management.

1.10. **Notification for aid-** the requirement presented by the aid provider, for approval of state aid plan, accompanied with all the documents specified in this Law and its implementing acts.

1.11. De minimis aid – the aid that does not exceed the amount foreseen by the provisions of this Law within the three (3) year period, despite the form of aid or despite the purpose for which is has been granted.

Article 4 State Aid Prohibition

Except the cases provided in this Law, there is prohibited any aid granted from state resources, in whatever form which, directly or indirectly, deforms or threatens to deform the competition giving priority to one or some certain enterprises or for production of certain products.

Article 5 Allowed Aid

1. The following aids are allowed:

1.1. aid of social character, granted to individual customers, if not discriminatory regarding the origin of products;

1.2. aid in case of damages caused by natural disasters, or for special cases related to national security;

1.3. “de minimis” aid, if its amount does not exceed thirty thousand (30,000) Euro, over any three (3) year period, irrespective of the form of the aid or the purpose for which is granted and, simultaneously, is not granted for export-related activities, it is not conditioned with the use of domestic products vis-à-vis those imported and the beneficiary is not an undertaking in difficulty.

2. The financial budgetary aid or any other aid granted to public-private partnership in compliance with the Law on public-private partnership shall not be subject to this Law.

Article 6
Aid which may be allowed

1. The following aid may be allowed:

1.1 to promote the economic development of areas of the Republic of Kosovo where the standard of living is abnormally low or where the unemployment is very high;

1.2. to remedy a serious disturbance in the economy of the Republic of Kosovo or to promote the execution of an important project for the Republic of Kosovo;

1.3. that facilitates the development of certain economic activities or of certain economic areas, to the degree that does not adversely affect trading conditions to an extent contrary to the common interest under the international agreements ratified by the Republic of Kosovo;

1.4. that promotes the culture and heritage conservation, to a degree which this aid does not affect seriously the trade conditions and competition;

1.5. other aid that is in accordance with the provisions of this Law.

Article 7
State Aid Office

1. State Aid Office (hereinafter the Office), is the administrative unit for controlling the state aid and is established within the Kosovo Competition Commission.

2. The Office is responsible for receiving, analyzing and monitoring of notifications and other data on aid schemes and individual aid. Office shall prepare the assessment reports of state aid as well as decisions of the Commission.

3. The office shall have mostly six (6) officials who will have the status of civil servant and shall be subject to legal provisions for Civil Servants, including even the salaries. Despite this, the number of officials in the Office may increase only after the approval by the Assembly of Kosovo.

4. The office for its work shall report to the Kosovo Competition Commission. The annual report on the supervision of implementation of state aids will be attached to the annual report of Kosovo Competition Commission.

Article 8
State Aid Commission

1. The decision-making body for state aid is the State Aid Commission, hereinafter the Commission. The Commission acts on “Ad Hoc” basis and is independent in exercising its powers and in decision taking.
2. The Commission consists of five (5) members comprising of:
 - 2.1. The Minister of Finance, Chairman;
 - 2.2. The Minister for European Integration;
 - 2.3. The Minister of Trade and Industry;
 - 2.4. Civil Society - one (1) member; and
 - 2.5. Chairman of Association of Municipalities.
3. The Commission is appointed by the Government of Republic of Kosovo based on the proposal of the Ministry of Finance.
4. Commission members are appointed for a period of four (4) years with the decision of the Government of Kosovo.
5. The State aid Commission, supported by the Office, shall also carry out the functions assigned to it by other Laws.

Article 9
Maintaining the confidentiality

The Office staff and members of the Commission are obliged to keep in secrecy all the confidential information and data issued during the state aid assessment and supervision procedures, even after performing their functions or after completion of their employment period.

Article 10
Notification for aid

1. The state aid provider shall submit to the Office a complete notification on all state aid plans. If within fifteen (15) working days from the receipt of a notification on a proposed state aid or additional information, the Office does not request further additional information from the aid provider, it shall be deemed that the Office possesses sufficient information for assessment of the State aid.

2. The Notification must contain:

2.1. full data on the new state aid plan or modification of existing aid, approved previously by the Commission;

2.2. the data on existing state aid, which started prior to entry into force of this Law and which continues to be provided even after entrance into force of the Law;

2.3. the notification form is set forth in the Annex I of the sub-legal act “On Notification Procedures and Form”, issued by the Ministry of Finance.

3. A notification is not necessary in cases where the individual assistance is provided under the scheme approved by the Commission with a decision according to the Article 11 paragraph 3 of this Law, except cases when amount of the individual aid must be notified in accordance with specific rules of Commission decision, in terms of state aid to specific industries.

4. Where the notification on state aid is not complete, the Office’s shall, within a period of fifteen (15) days from the receipt of the notification, request all necessary additional information.

4.1. the state aid provider shall submit all additional information within fifteen (15) working days from the receipt of the request of the Office;

4.2. in cases when the state aid provider fails to submit the requested information or the information presented is not complete, the Office, not later than fifteen (15) working days, shall repeat the request allowing an appropriate additional period no longer than fifteen (15) working days within which the information shall be provided and submitted to the Office.

4.3. the notification is considered withdrawn if the requested information have not been submitted within the specified term, except cases when:

4.3.1. prior to the expiring of this period, the deadline has been extended with the approval of the Office and the provider;

4.3.2. the provider submits written arguments, through which, urges the Office to assess the full notification, because the additional information requested are not available or in the meantime where provided. If the notice is deemed withdrawn, the Office shall notify in writing the provider on this fact.

4.4. the state aid provider may withdraw the notification before the Commission itself has taken a decision, under Article 11 paragraph 4 of this Law. When the

provider withdraws the notification, the Commission shall conclude the proceedings with a decision.

Article 11

Assessment Procedure

1. After receiving the state aid notification, the Office will assess the state aid, to see if it is compatible with the provisions of this Law.
2. The Office shall have the right to request from all state aid providers, as well as from state aid beneficiaries, all the information for assessing a state aid. Information received from a stakeholder may be used, if all stakeholders in an assessment procedure have been able to comment on them.
3. The Commission, after considering the assessment report submitted by the Office decides whether to approve with or without conditions or disapprove the notified state aid.
4. The Commission shall take a decision:
 - 4.1. within sixty (60) calendar days, in cases of reviewing new plans of state aid;
 - 4.2. within thirty (30) working days in cases of aid to special industries (individual assistance), provided under the state aid scheme, which was approved earlier by the Commission;
 - 4.3. within twenty (20) working days in cases of modification of existing state aid schemes.
5. The timetable presented in paragraph 4 of this Article shall be deemed to begin next day, following the written confirmation by the Office that has received full notification.
6. When the Commission fails to take a decision during the periods specified in paragraph 4 of this Article and does not extend the assessment period, state aid provider is entitled to implement the state aid plan, after notifying the Office in written on this step.
7. Commission decision shall be taken by a majority vote of its members.
8. Decisions of the Commission shall be submitted to the state aid provider and published in the Official Gazette of the Republic of Kosovo.

Article 12 Compatibility

1. Where the Office has doubts about the compatibility of the state aid with this Law, it shall:

1.1. notify, for this, the state aid provider and require additional information within an appropriate deadline;

1.2. invite publicly all stakeholders to submit their written comments to the Office, within one (1) month from the date of publication; and

1.3. urge the Commission to take a decision in accordance with the Article 13 paragraph 4 of this Law.

2. Comments and opinions received from stakeholders, under sub-paragraph 1.2 of paragraph 1 of this Article shall be submitted to the state aid provider, without disclosing the identity of their author if so requested. The state aid provider may submit his/her comments to the Office within a period of one (1) month starting from the date of being informed on the stakeholders' comments, or for an extended period, if agreed with the Office.

Article 13 Unlawful Aid

1. If state aid provider takes actions which are related to the implementation of the state aid project without notification or prior to Commission's approval of the decision stipulated under Article 11 paragraph 4 of this Law, the Office shall initiate procedures on unlawful aid.

2. If the Office, acting on its own initiative, requested by the Commission, or on the basis of information from the stakeholders, obtains information on unlawful aid, it shall request from the provider of the unlawful state aid provider to submit all relevant information on the aforementioned aid within fifteen (15) working days.

3. If the state aid provider fails to submit the relevant information required within the period stipulated by the Office or provides incomplete information, than the Office will repeat the request for submission of relevant information, by imposing a new deadline of fifteen (15) working days.

4. The Commission may ask the state aid provider to suspend granting of the aid, if the aid was granted in an unlawful manner, pending a decision under Article 11 paragraph 4 of this Law.

5. The state aid provider, after receiving the request from the Commission to suspend the state aid, must cease granting the aid, and, to inform the Commission in the written form on this issue.

6. The Commission shall order the recovery of the aid, in cases when it is assessed that state aid is not in compliance with the provisions of this Law.

7. Unlawful aid shall be recovered together with interest, calculated from the date of issuing its first installment.

Article 14 Revoking the decision

1. The Commission may revoke a decision for approval of a state aid, if after approval has been observed that the decision was based on inaccurate information submitted by the provider, information that have been important in the decision-making.

2. Prior to revoking the decision and taking a new decision, the Commission should hear the arguments of the provider and stakeholders.

Article 15 Existing Aid Schemes

1. State aid providers are obliged to, within six (6) months from the entry into force of this Law, submit to the Office, all data on existing aid schemes.

2. The Commission is entitled to propose appropriate measures to align any existing aid scheme with the provisions of this Law. Due to this, the Commission may require suspension of existing state aid and decide to initiate the formal investigation of this aid measure subject to one of the following conditions:

2.1. if the additional information obtained raises doubts as to the non-compliance of the state aid to provisions of this Law and that the state aid provider is not implementing appropriate measures proposed by the Commission;

2.2. if the state aid is granted by disregarding the conditions set forth in the decision of the Commission approved under the Article13 paragraph 4 of this Law;

2.3. if the state aid provider fails to submit required additional information to the Office within a reasonable timetable fixed by the Office.

3. The Commission shall examine written complaints submitted by stakeholders, as well as other information related to state aid, it shall verify the data contained therein, assesses the significance of such information and takes a decision, according to Article 11 paragraph 4 or Article 13 paragraph 6 of this Law.

Article 16 Decision Review Procedure

1. Before a complaint is filed against a decision by the Commission, an objection procedure is required to review the legality and compatibility of the aid scheme or the individual aid with the provisions of this Law and its other implementing acts.
2. The notifier has to apply also for this procedure at least one (1) month after the announcement of the decision of the Commission to him. Commission has another one month to review the case and take a decision.
3. Appeals against the decision taken by the Commission, according to paragraph 1 of this Article, may be submitted at the competent Court, within one (1) month after taking the decision.
4. The appeal in the court, according to the paragraph 3 of this Article, shall not prevent execution of the decision.

Article 17 Annual Report

1. The state aid provider, within two (2) months after the end of the calendar year, during which the state aid has been granted, shall submit to the Office an annual report on aid granted during that calendar year. The form of an annual report is set forth in the Annex 2 of the sub-legal act “On Notification Procedures and Form” issued by the Ministry of Finance.
2. Where, after examination of the information contained in the annual report and any further information submitted by the state aid provider, the Office has doubts as to compatibility of the aid with the provisions of this Law, then it shall request from him to provide the missing information. The Office shall specify what information is required and request their submission by March 31st.
3. State Aid Commission, each year, on June 30, submits to the Government of Kosovo and Assembly of Kosovo the state aids report of the previous year, containing information of decisions taken by the Commission, the overall amount of the aid granted, as well as distribution of the aid through state aid schemes and individual aids.

Article 18
State Aid Planning

State aid provider must approve the state aid plan in its budget and present it as a separate budgetary position, after receiving the approval from the State Aid Commission.

Article 19
Transitional provisions

Upon entry into force of this Law, the Ministry of Finance, within six (6) months shall issue sub-legal acts for its implementation.

Article 20
Compliance

For implementation of this Law both on substance and procedure, the institutions concerned shall follow the case law of the Court of Justice of the European Union and the European Commission.

Article 21
Entry into Force

This Law shall enter into force on 1 January 2012.

Law No. 04/L-024
29 July 2011

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI