

# Guide

on realization of the right to

## **ACCESS PUBLIC DOCUMENTS**

Kosovo 2008



Kosovo Transparency  
Initiative (KTI)



United Nations  
Development  
Programme  
Kosovo

Besim M. **KAJTAZI** & Shqipe **PANTINA**:  
**GUIDE ON THE RIGHT  
OF ACCESS TO PUBLIC  
DOCUMENTS**

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&  
Shqipe **PANTINA**

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OF ACCESS TO PUBLIC  
DOCUMENTS**



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*\*\*\*Legislation in effect in Republic of Kosovo used as working material in this Instruction, may be found in Annex 1: Basic legislation on access to public documents in Republic of Kosovo*

# GUIDE ON THE RIGHT OF ACCESS TO PUBLIC DOCUMENTS

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# Foreword

## CONSTITUTION OF REPUBLIC OF KOSOVO

### Article 41

#### *[Right of Access to Public Documents]*

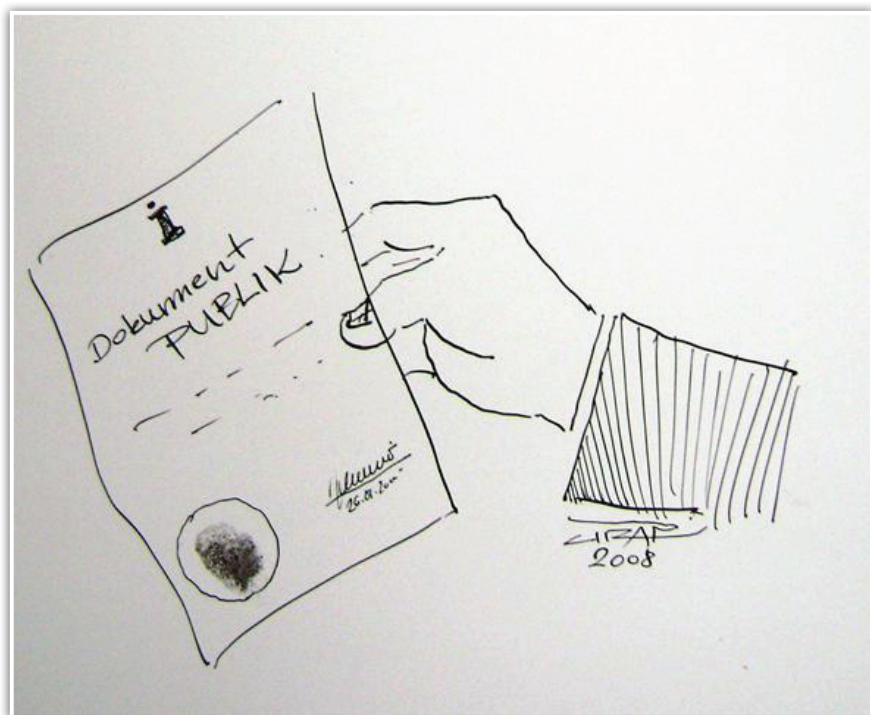
1. Every person enjoys the right of access to public documents.
2. Documents of public institutions and organs of state authorities are public, except for information that is limited by law due to privacy, business trade secrets or security classification.

**TH**e guide on the right of access to public documents was drafted to facilitate citizens and journalists to accomplish their rights on access to public documents, to contribute in implementation of the Law on Access to Official Documents, and to enable responsible officials of public institutions to fulfill their duties. This is for the purpose of contributing in strengthening our society towards a democratic and open society, in compliance with best international standards and practices.

The right on access to public documents is a novelty for Kosovo and other countries in the region, a novelty of democratic era that was introduced in Kosovo after the war. In this regard, added and continuous engagement is required from public institutions for fulfilling this obligation.

Keep in mind: Human rights and basic freedoms are indivisible, inalienable and invulnerable, and constitute the ground for legal order of Republic of Kosovo. The right on access to information is considered one of the basic human rights.

Constitution is the highest legal act of Republic of Kosovo. Laws and other bylaws shall be in compliance with the Constitution. One of the rights stipulated by the Constitution of Republic of Kosovo includes the right on access to public documents. Each individual and institution of Republic of Kosovo shall subdue to provisions of the Constitution, which includes the provisions on the Right on Access to Public Documents.



Human rights and fundamental freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions. Among other, this includes Universal Declaration of Human Rights, European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, which are directly applicable in Republic of Kosovo.

*Article 19 of the Universal Declaration on Human Rights:*

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

*Article 10 – of European Convention for the Protection of Human Rights and Fundamental Freedoms stipulates:*

**1.** Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

**2.** The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary

Assembly of Kosovo in October 2003 adopted the Law on Access to Official Documents in order to enable Kosovo citizens participate in the decision-making process of public institutions, and guaranty greater transparency and legitimacy to public institutions and make them efficient and accountable to citizens of Kosovo. For the purpose of implementing the Law on Access to Official Documents, Kosovo Government issued the Administrative Instruction no. 3/2006 implementing the Law on Access to Official Documents, setting the practical rules for implementing the Law on Access to Official Documents, including the framework for managing official documents in an institution.

Republic of Kosovo also adopted other laws which in specific fields oblige public institution to transparency of their work.

Despite all legal guaranties on transparency and rights on access to public documents, there still is a problem in implementing them in practice. Complaints of individuals, groups of individuals and media are numerous on lack of transparency in public institutions.

It remains verifying the accomplishment of legal obligations by public institutions of Kosovo, for the purpose of implementing legal provisions on access to public information into practice.

This guide should serve the accomplishment of this purpose.

Researches in Kosovo indicate that the number of requests for access to official documents is still very low. Low number of requests means that citizens are not sufficiently informed on their rights on access to public documents.

Request you right for access to public documents in order to accomplish it.

Implementation in practice of the Law on Access to Official Documents makes the performance of public institutions more open to public. You may contribute while requesting public institutions to serve you.

Citizens of Republic of Kosovo enjoy the right and freedom on access to public documents. Submit your request for information. You may submit your request in written, including the electronic form. You are not obliged to state the reason for submitting the request.

## **I. Why the Law on Access to Official Documents was adopted?**

*There are four main reasons for adopting this Law:*

1. For the purpose of enabling citizens of Kosovo to participate more closely in the decision-making process of public institutions – In a democratic and modern society, citizens may control the efficiency of public institutions if they have the right of accessing public documents, held by the public institutions.
2. Guaranteeing that the public institutions enjoy greater legitimacy, transparency and are more effective – Documents possessed by public institutions help informing citizens, while state officials are more responsible, thus diminishes the risk of abusing the position and ensures respecting human rights and freedoms;

**3.** To define the principles, conditions and limits on grounds of public or private interest governing the right of access to documents, and to establish rules ensuring the easiest possible exercise of this right;

**4.** To promote good administrative practice on access to documents and public institutions to be more accountable to citizens of Kosovo – Advanced democratic societies are distinguished, inter alia, with the fact that they adopted the Law on Access to Official Documents and they enforce it with efficiency. Through requesting access to public documents, citizens start implementing democracy against bureaucracy which intends to hide their work from public.

All the above may be summarized that the Institutional Transparency and Accountability are the main objectives of the Law on Access to Official Documents.



## THE PRINCIPLE OF PUBLICITY OF PUBLIC ADMINISTRATION BODIES

*Article 9 of the Law no. 02/L-28 on Administrative Procedure, stipulates:*

**9.1.** The public administration bodies shall exercise their activity in a transparent manner and in close cooperation with concerned natural and legal persons.

**9.2.** Any natural and legal persons, without disclosing his-her specific interest vis-à-vis public administration bodies, shall have the following procedural rights:

**a)** to obtain information available to public administration bodies,

**b)** to obtain such information in a timely fashion,

**c)** to obtain it in the same manner as any other person;

**d)** to obtain it in a convenient and effective means or format.

**9.3.** Excluded from paragraph 2 information may be limited only for purposes of protection on legitimate public interests, private life or other legitimate private interests determined by relevant laws.

**9.4.** To refuse the access in information, the public administration body takes the decision in written a decision as such shall contain the reasons of issuing and instructions for appeal.

## **II. Which institutions are obliged to provide access to official documents?**

All legislative, executive and judicial institutions of the government of central and local level, their subordinate bodies in Republic of Kosovo, and independent bodies provided for by the Constitution of Republic of Kosovo are obliged to provide access to official documents, e.g. Assembly of Republic of Kosovo, President of Republic of Kosovo, Government of Republic of Kosovo, ministries and their subordinate units (executive agencies, offices, institutes, etc.) all municipalities and their subordinate nits, all courts including the Supreme Court and Constitutional Court (after its establishment), State Prosecutor, Police of Republic of Kosovo, Kosovo Security Force, Kosovo Intelligence Agency (after its establishment). Also the independent institutions as the Office of the General Auditor, Central Election Commission, Central Bank of Kosovo, Independent Supervisory Council, Kosovo Judicial Council, Kosovo Prosecutorial Council, General Auditor of Kosovo, Independent Media Commission, Civil Aviation Authority, Office of Ombudsperson, etc. are obliged to provide access to official documents.

Also other institutions entrusted with exerting public competencies, and institutions financed fully or partially by one of the abovementioned institutions of public government, such as pre-school institutions, primary and high schools, scientific institutions, faculties and public universities, hospitals, clinics, rehabilitation centers, nursing houses for elderly, theatres, houses of culture, are obliged to provide access to official documents.

## TRANSPARENCY IN KOSOVO CIVIL SERVICE

Principle of transparency: ensuring that government processes are open to public scrutiny, except as provided by law;

(article 2.1 (d) UNMIK Regulation no. 2001/36 on the Kosovo Civil Service)

Principle of transparency: ensuring that processes of Civil Service are open to public scrutiny, to preserve confidentiality of information held, without violating discharging duties deriving from the Law on Access to Official Documents.

x) Code of conduct for civil service, issued by the Government in 2006 (RR-01/2006),

II. Which institutions are obliged to provide access to official documents?

## LAW ON PUBLIC PROCUREMENT IN KOSOVO

### Article 9

#### Transparency

**9.1** A contracting authority shall maintain a well-ordered and comprehensive set of records for each procurement activity that it conducts, regardless of whether such activity results in a contract or design award. At a minimum, the records for each procurement activity shall contain (i) all documents related to, developed or acquired in the course of, or used to initiate, conduct or conclude, a procurement activity, regardless of whether such activity results in a contract or design award, (ii) if the procurement activity has resulted in a contract or design award, all documents related to such award, and (iii) if the procurement activity has resulted in the execution of a public contract, a copy of the public contract and all documents relating to that contract and/or its performance.

**9.2** Upon the request of an interested party, a contracting authority shall provide such interested party with immediate access to all records described in Section 9.1, other than confidential business information, that relate to the procurement activities in which such interested party has or had a specific material interest. **9.3** Upon the request of any person, a contracting authority shall provide such person prompt and reasonable access to the records described in Section 9.1, other than confidential business information, relating to any procurement activity that has been concluded for more than ten (10) business days. For the purposes of this Section 9.3, a procurement activity shall be deemed to have been concluded (i) on the date of publication of the concerned contract award notice or design contest results notice, or (ii) if the procurement activity was formally cancelled or otherwise terminated prior to the making of an award or the selection of a winner, on the date that the procurement activity was formally cancelled or otherwise terminated.

**9.4** The contracting authority shall provide the access required by Sections 9.2 and 9.3 in a routine, uneventful, and non-obstructive manner. The contracting authority may, however, provide for the supervision of such access or take other reasonable measures to ensure that the integrity of the records is maintained.

### III. Who had the right to access public documents?

Any habitual resident of Kosovo or any person who meets eligibility requirements for registration as a habitual resident of Kosovo, and any natural or legal person residing or having its registered office in Kosovo, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Law. The institutions may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in Kosovo. Everyone, under same conditions, has the right to access information.

Institution may not provide “selective” access to official documents. If the official document is public, the official document shall be public for everyone without exception.

It is not allowed to discriminate requestors for public documents based on race, color,



gender, language, religion, political opinions, national or social background, certain ties with a community, property, economic state, social state, sexual orientation, birth, limited abilities or any other persona status.

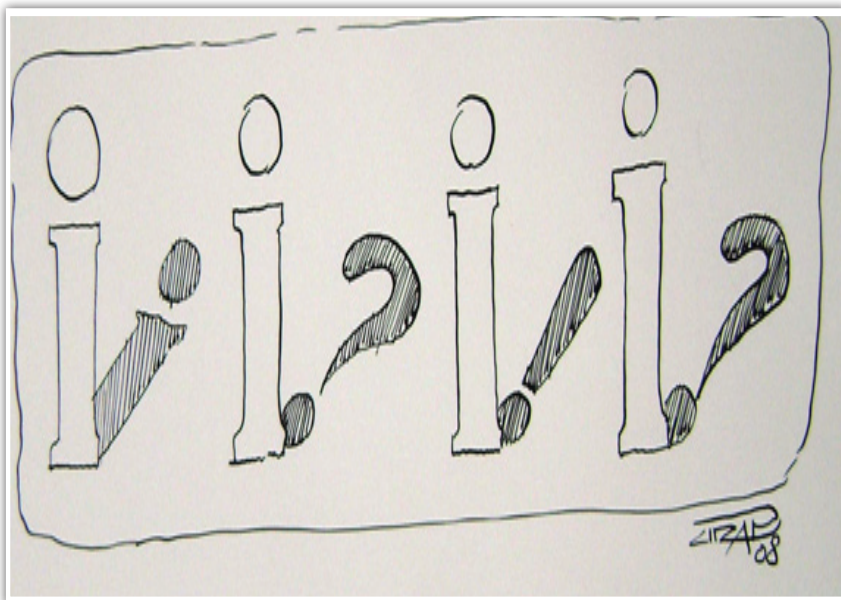
## Law no. 2002/08 on environmental protection

*Guiding principles of the policy on Protection of Environment*

### **Article 5**

(m) Principle of Public Access to Information

All persons have a general right to be informed about the state of the Environment. Information concerning the state of the Environment and environmentally relevant information on the procedures and activities of public authorities and public services operators providing Public Services in the Field of Environmental Protection shall, to the extent required by the Law on the Freedom on Information, by public information and accessible to the public.



## IV. What are your rights upon requesting access to public documents?

*Upon requesting access to public documents in any public institution, you enjoy the following rights:*

1. Public institution shall enable easiest possible access to public documents, providing information and assistance on the manner, and where you may file your request for access to documents,
2. Public institution should inform you that it possesses the public document, respectively if it is suitable or will refer you to the place where it is published;
3. Public institution shall enable you to see the public document;
4. Public institution shall enable receiving a copy of the public document after paying the fee;
5. Public institution shall provide free of charge all ad hoc consultations, copies of less than 20 pages of A4 format and direct access in electronic form or through the register;
6. Public institution shall enable mailing, faxing, sending electronic copy or using other form as preferred by the applicant to obtain the copy of the document after paying the fee;
7. Public institution shall provide true and comprehensive information, otherwise the public institution that provides partial and untrue information shall be held legally liable. The body of public government shall be responsible for the damage caused thereof, through restricting access to requested information;
8. If the document contains parts which reasonably are not in the interest of public, the public institution has the right to adopt parts of the document in question;
9. If you request reasonable and specific access, access shall be granted in that manner.

## Law Nr. 03/L-040 ON LOCAL SELF GOVERNMENT

### Article 68

#### Public Information and Consultation

**68.1.** Each municipality shall hold periodically, at least twice a year, a public meeting at which any person or organization with an interest in the municipality may participate. The date and place of the meeting shall be publicized at least two weeks in advance. One of the meetings shall be held during the first six months of the year.

**68.2.** At the meeting municipal representatives shall inform participants about the activities of the municipality and participants may ask questions and make proposals to the elected representatives of the municipality.

**68.3.** In addition to the public meetings noted above, Municipalities are obliged to inform the citizens of the Municipality of any important plans or programs of public interest, which shall be regulated by the Municipal Statute.

**68.4.** The Municipal Assembly shall adopt municipal regulation promoting the transparency of the legislative, executive and administrative bodies of the municipalities, enhancing the public participation in the decision making at the local level, and facilitating the public access to official documents of the municipalities. The ministry responsible for local government may issue administrative instructions on municipal transparency.

**68.5.** Any person may inspect any document held by the Municipality, unless such disclosure is restricted in accordance with the Law on Access to Official Documents.

## V. To which public documents you may have access?

You may have access to all documents held by an institution, drawn up or received by it and in its possession, in all areas of activity of the institutions, with the exception of public documents exempt from public access based on legislation in effect.

Document shall mean the copy of the official document or part of the official document related to policies, activities and decisions in the field of responsibility of the institution whatever its medium - written on paper or stored in electronic form or as a sound, visual or audio-visual recording;

### RULES OF PROCEDURES OF THE KOSOVO ASSEMBLY

*(Prishtina, 20 May 2005 – amended on 1 June 2006)*

#### **Rule 24:**

##### *Publicity and registering of the plenary sessions*

1. Sessions of the Assembly are public, unless otherwise decided by the Assembly. They may be broadcast in accordance with such arrangements as the Presidency shall decide. A record shall be made of all plenary sessions of the Assembly with each contribution being recorded in the language in which it was made. Minutes shall contain a resume of discussions and decisions taken by the Assembly.

2. The record referred to in paragraph 1 shall be published and

- (a) filed in the Assembly archives; and
- (b) made available to the public pursuant to the law.

## **VI. How to submit a request on accessing public documents?**

Before submitting a request on accessing public documents, you should get informed if the requested type of official documents is exempted from public. Request the list of all types of documents and list documents exempted in that institution.

Analyze if you will need a copy of the official document or it will be sufficient you access on the spot, and ask about the possible expenses.

The procedure for exerting the right on access to public documents shall be initiated through submitting your request to the institution, which you consider possesses the document.

The request for access to official documents kept by the institution, shall be submitted to the archivist of the institution, it can also be submitted to any body of the institution during the working hours of the institution. You will save time if your request is submitted to the Archive Office of the institution since your request shall be recorded in the register of requests, stored in archive and the Archive Office may have the requested document at hand.

Nevertheless each body of the institution is obliged to provide information and assistance on how to file a request on access to documents or will refer you to the archive of the institution, or shall receive the request and forward it to the archive office of the institution in the same day of receiving the request. Official documents are open for access during all working hours of the institution.

Your request for access to official documents, filed to the institution or any body of the institution, shall be recorded in the Register of Requests for access to official documents, on the date the request was received by the institution or any body of the institution.

If the official person for proceeding the request for access to official

documents is not assigned, the head of the public institution shall be competent for proceeding the request.

Applications for access to a document shall be made in any written form, including electronic form, and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application.

The government produced the request form (see annex 2), thus it is the best way to use that form, but you should also consider that public institutions are obliged to review requests which are not filed with the form. Request the request form from the institution.

Nevertheless the Law enables you using any written form, including electronic form for access to public documents.

You should consider that in events of verbal request, minute should be drafted, held by the authorized person of the public institution.

Upon filing the request, don't forget to use clear and readable letters including at least the following data:

- exact name of the public institution
- you name and surname, full address, respectively seat of the legal person
- description of the document you are requesting, and
- other data that would facilitate finding the public document.

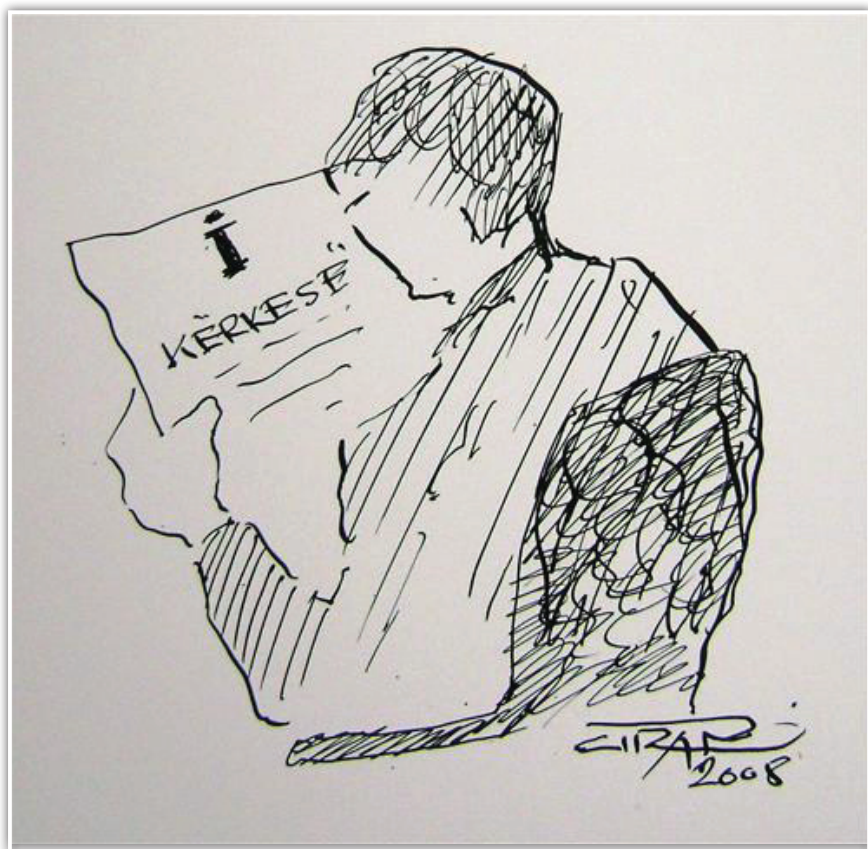
Keep in mind that each request on access to official documents shall be accepted, recorded and processed by the institution, disregarding the fact that the request may be rejected.

With the exception of cases when on site access is permitted, you should be given written information on received request on the form you have filed the request, on the same day when the request was recorded.

If an application is not sufficiently precise, the institution shall ask the applicant to clarify the application or in the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution. In those cases, you should cooperate with the institution to find the most suitable solution for you.

Even in case of rejecting your request, keep in mind that the institution shall provide assistance and suggest some ways on how to overtake the grounds and formal reasons for refusing the access. Institutions are obliged to send the letter with information that the request was accepted.

Don't forget that you have the right to complain, disregarding the decision of the public institution.



*IX. PUBLIC NATURE OF THE WORK OF GOVERNMENT*

**Article 91**

- (1) Work of the Government is public.
- (2) Publicity of Government's work is ensured through press conferences, official releases or publications on website.
- (3) Journalists and other representatives of public don't attend the meetings of the Government.
- (4) Debates between members of the government and their votes are treated as official secret.

**Article 92**

In compliance with the law, data or various documents and decisions may be determined as official secret and shall not be provided to the public or will be made public after certain time.

**Article 93**

Spokesperson of the Government and Prime Minister's Information Office shall ensure the public nature of the government's work.

**Article 94**

- (1) Prime Minister, Deputy Prime Minister, ministers, deputy ministers, secretary and the spokesperson, with the authorization of the government and ministers and senior officials and directors of government directorates, shall inform the public on the work and decisions approved by the government.
- (2) Persons from paragraph 1 in their statements and public appearances shall represent and present stances of the government.

**Article 95**

Special issues or documents of the government may be treated as confidential in compliance a specific procedure. Reviewing confidential documents shall be regulated with a special law of the government.

## **VII. How long you have to wait to obtain access to an official document?**

An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days from registration of the application, the institution shall either grant access to the document requested and provide access in accordance or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application.

In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the institution's reply, make a confirmatory application asking the institution to reconsider its position.

In exceptional cases, where an application relates to a very long document or to a very large number of documents, the time-limit of 15 working days may be extended, provided that the applicant is notified in advance and that detailed reasons are given

Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.

Your confirmatory application shall be handled promptly. Within 15 working days from registration of the application, the institution shall either grant access to the document requested and provide access in accordance or, in a written reply, state the reasons for the total or partial refusal.

In the event of a total or partial refusal, the institution shall inform the applicant of the remedies open to him or her, namely instituting court proceedings against the institution pursuant to the provisions of the relevant applicable law and/or filing a complaint with the Ombudsperson.

Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and entitle you to institute court proceedings against the institution pursuant to the provisions of the relevant applicable law and/or file a complaint with the Ombudsperson.

## VIII. Treatment of sensitive documents?

You should consider that a range of documents are treated as sensitive. Sensitive documents are documents originating from the institutions classified in accordance with the rules of the institution concerned, which protect essential interests of the public institutions.

Sensitive documents shall mean not only a certain category of classification of official documents, but a suitable method to refer all information as restricted, confidential, secret and high secret. Category of sensitive documents refers to all information of the institution which is not explicitly marked as Public.

Applications for access to sensitive documents shall be handled only by those persons who have a right to acquaint themselves with those documents. These persons shall also assess which references to sensitive documents could be made in the public register.

Sensitive documents shall be recorded in the register or released only with the consent of the originator.

An institution which decides to refuse access to a sensitive document shall give the reasons for its decision in a manner which does not harm the interests protected in compliance with the Law on Access to Official Documents.

The rules of the institutions concerning sensitive documents shall be made public.

According to rules in effect of governmental institutions, each official document which is not explicitly classified shall be considered Restricted. However this does not grant the right to the institution to prolong categorization of the official document according to the classification scheme of official documents of the institution.

Classification of an unclassified official document may not take longer than 15 working days from the date of receiving the request for accessing that official document.

In determining whether there is an overriding public interest in disclosure the institutions shall have due regard to considerations such

as any failure to comply with a legal obligation, the existence of any offence, miscarriage of justice, abuse of authority or neglect in the performance of an official duty, unauthorized use of public funds, or danger to the health or safety of an individual or the general public.

When some documents fall in the category of excepted documents, such document may be disclosed if public interest on releasing the document is more important than the exemption.



## IX. Refusing access to official documents

You have to remember that exception of documents from public access is only exception, not a rule. Institution may refuse access to official document only in conditions provided for by the legislation in effect.

The institutions shall refuse access to a document where disclosure would undermine the protection of:

(a) the public interest as regards:

- i. public security,
- ii. defense and military matters,
- iii. international relations,
- iv. the financial, monetary or economic policy of Republic of Kosovo;

(b) the privacy and the integrity of the individual, in particular in accordance with the applicable legislation regarding the protection of personal data.

Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

Government shall draft the list of the documents, which shall be treated as sensitive documents to protect the public interest

If only a part of requested documents subdue to some exceptions, the remaining part will become public.

Institution may refuse access to official document if:

- i. access to the document would cause damage of document and in case that the institution does not have a possibility to create a copy of the document or if there are no other forms of access to docu-

ment except the form by which the document may be damaged, or if

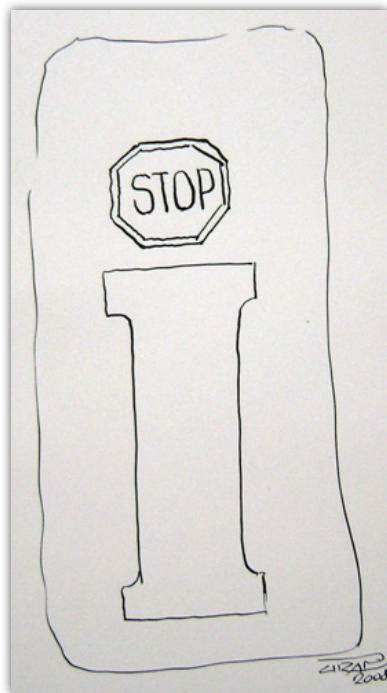
ii. the document has become public by the institution and if the submitter of the requirement has an easy access to it and when responsible institution within the refusal explains to the submitter of requirement how can he/she find the required document, or

iii. information to official document can be reproduced or become accessible only by application of an equipment and specific technology which the institution or the archive does not have or if the access to that equipment or technology can not be provided, or

iv. if an official document which does not exist has been required, or

v. if an official document which will be produced in future has been requested, or

vi. a request has been submitted to the institution to create an official document, a list or a compilation.



The information should justify the decision for refusal of access to any kind of official document required arguing that:

i. the official document required belongs to that category of official documents which is excluded by law from unlimited access; or

ii. The official document is in the list sensitive documents approved by the government; or

iii. the essential public interest for not permitting access is clearly more important than the essential public interest to permit access.

The response to a request for access to official document which contains the decision on refusal for access should be given in written form. Written notification on refusal to access to any kind of official document must contain names and posts of each responsible person who have decided to refuse the requirement for access.

Only in the cases when it is forbidden by law, the institution can ap-

prove rules which enable more frequent and more efficient access to official documents which are property of that institution, than the access defined by this article

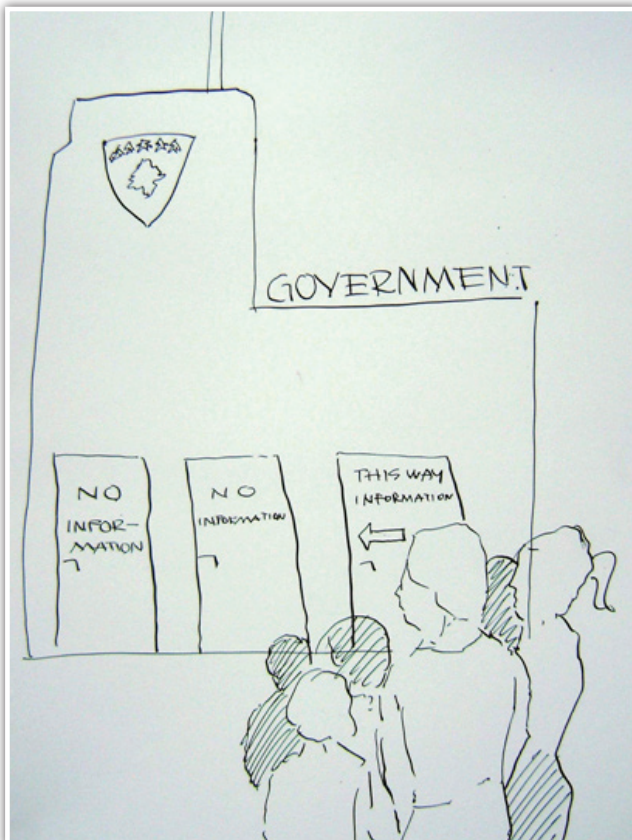
The access may not be given in a requested manner or form by the submitter but in another manner or form determined by the archivist, if giving access to the document in requested manner or form by the submitter:

i. shall interfere in unreasonable manner in the work of archives or responsible institution; or

ii. shall damage the document; or

iii. will not be suitable, taking into account the physical nature of the document; or

iv. shall violate the author's rights (copyright), unless the author is instrumentalisation of the poker



## **X. Are personal data protected upon submitting a request on access to public documents?**

Each individual enjoys the right of protection personal data. Collection, maintenance, access, correction and using those data will be regulated by law.

Institutions may refuse access to a document when its disclosure may put at stake the private life and moral of the individual, especially according to the law in effect, which is related to protection of personal data.

In absence of the legislation in effect on protection of personal data, institutions may issue such data only based on previous consent of the concerned person.

The institution shall not permit access to:

- i. documents of personal information of citizens collected and kept by the institution in function of offering and perform of services to citizens,
- ii. documents of personal information of employees, except if they have to do with the institution affairs, if they are prepared, if they are property of the institution, and if they are in use and archived by the institution.

## **XI. In what language you have to address the request to public institutions for access to public documents?**

The official languages in the Republic of Kosovo are Albanian and Serbian.

Turkish, Bosnian and Roma languages have the status of official languages at the municipal level or will be in official use at all levels as provided by law.

In municipalities inhabited by a community whose mother tongue is not an official language, and which constitutes at least five (5) percent of the total population of the municipality, the language of the community shall have the status of an official language in the municipality and shall be in equal use with the official languages. Notwithstanding the foregoing, exceptionally, in Prizren Municipality the Turkish language shall have the status of an official language.

Every citizen of Republic of Kosovo may exert their rights on access to public documents in their respective language.

Keep in mind that all laws adopted by the Assembly of Republic of Kosovo are published in Albanian, English, Serbian, Turkish and Bosnian language. They are available without restriction and you may find them in electronic format and published on the Official Gazette of Republic of Kosovo.

## **XII. What is the role of Ombudsperson in accomplishing your right on access to public documents?**

The Ombudsperson monitors, defends and protects the rights and freedoms of individuals from unlawful or improper acts or failures to act of public authorities.

The Ombudsperson provides mechanisms enabling persons easy and duly access for reviewing actions related to abuse of power by Kosovo institutions, and provides recommendations for remedying them.

Pursuant to article 7 of the Law on Access to Official Documents, the Ombudsperson is assigned as the custodian of implementation of this law.

Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and entitle the applicant to institute court proceedings against the institution pursuant to the provisions of the relevant applicable law and/or file a complaint with the Ombudsperson following the provisions of Chapter XII of the Constitution and UNMIK Regulation No. 2006/6 on Ombudsperson in Kosovo.

Based on the Constitution, the Ombudsperson is eligible to make recommendations and propose actions when violations of human rights and freedoms by the public administration and other state authorities are observed.

Every organ, institution or other authority exercising legitimate power of the Republic of Kosovo is bound to respond to the requests of the Ombudsperson and shall submit all requested documentation and information in conformity with the law.

### **XIII. When can you address the Court if you're unsatisfied with the decision of public institution?**

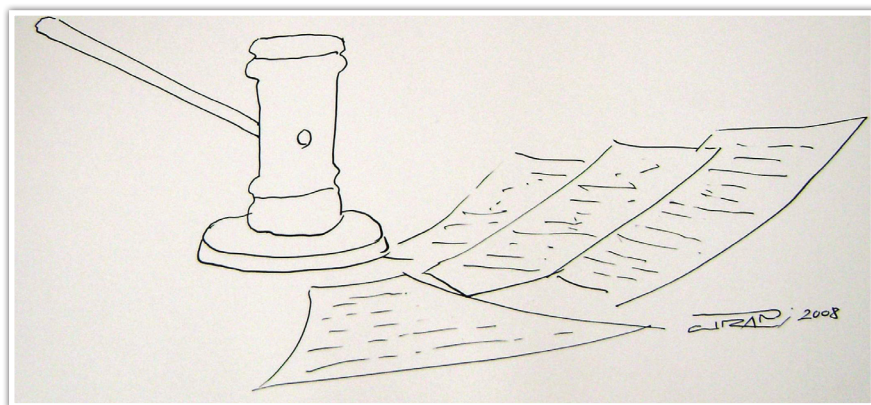
If you as submitter of request for access to public documents, are dissatisfied with your right to get access to public documents, you have the right to institute court procedure against that institution, in accordance with applicable relevant laws in force.

Failure by the institution to reply within the prescribed time limit in the Law on Access to Official Documents, shall be considered as a negative reply and entitle the applicant to institute court proceedings.

In cases the public institution issued a final decision disallowing access to public document, you also may institute court proceeding based on the applicable relevant laws in force.

Complaint should include the following data:

- name and surname, occupation and residence, respectively name and seat of the accuser;
- name of accused public institution;
- decision of the institution;
- reason for filing a complaint (e.g. non-issuance of the decision by the public institution or because of the decision refusing the request for access), and
- direction and volume proposed for annulling the decision.





# Annex 1.

Basic legislation on access to public documents  
in Republic of Kosovo



## **Annex 1. Basic legislation on access to public documents in Republic of Kosovo:**

1. *Constitution of Republic of Kosovo;*
2. *Universal Declaration on Human Rights;*
3. *European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;*
4. *Law no. 2003 / 12 on access to official documents;*
5. *Law no. 02/I-28 on Administrative Procedure (Official Gazette of Provisional Institutions of Self Governance in Kosovo, no. 13, 1 June 2007);*
6. *Law no. 02/I-80 amending the Law no. 2003/7, on Archive Material and Archives;*
7. *Law no. 2002/8 on protection of environment (Official Gazette of Provisional Institutions of Self Governance in Kosovo / Prishtina: year III / no. 21 / 1 February 2008);*
8. *Law no. 03/I-040 on Local Self-Government (Official Gazette of Provisional Institutions of Self Governance in Kosovo / Prishtina: year III / nr. 28 / 4 June 2008);*
9. *Law no. 02/I-99 on Public Procurement in Kosovo, no. 2003/17, with amendments of 08.02.2007 (Official Gazette of Republic of Kosovo / Prishtina: year III / no. 25 / 1 June 2008);*
10. *Law no. 02/I-37 on the Use of Languages (Official Gazette of Provisional Institutions of Self Governance in Kosovo / Prishtina: year II / no. 10 / 1 March 2007*
11. *UNMIK Regulation no. 2006/6 on the Ombudsperson Institution of Kosovo (16 February 2006 );*
12. *Rules of Procedures of Kosovo Assembly (Prishtina, 20 May 2005 – amended on 1 June 2006);*
13. *Rules of Procedures of Kosovo Government no. 01/2007;*
14. *UNMIK Regulation no. 2001/36 on the Kosovo Civil Service;*
15. *Code of Conduct of Civil Servants, adopted by the Government in 2006 (rr-01/2006);*
16. *Administrative Instruction no. 3/2006 implementing the Law on Access to Official Documents (14.04.2006);*
17. *Administrative Instruction no. 07/2007 principles, procedures and classification signs of official documents;*
18. *Administrative Instruction no. 2008/03 amending Administrative Instruction no. 2006/03 on transparency in municipalities;*
19. *Administrative Instruction no. 09/ 2007 on handover – takeover of archived material;*
20. *Administrative Instruction no. 08/2007 on selection of archived material and destruction of useless records' material;*
21. *Administrative Instruction no. 07/2008 – MPS on strengthening transparency and standardization of websites of institutions of Republic of Kosovo.*



# Annex 2.

Form - request for access  
to official documents



## REQUEST FOR ACCESS TO OFFICIAL DOCUMENTS

Should be submitted to the institution's archives, but it may be submitted to any unit of the institution too

Ref. No: \_\_\_\_\_  
This document contains 1 page

### Part 1. – SHOULD BE FILLED IN BY THE APPLICANT

- (1) Name of applicant: \_\_\_\_\_  
(should be filled in by the physical person or by the authorized person of the legal entity in Part 1b.)
- (2) ID, personal document No.: \_\_\_\_\_  
(Number) (personal document type)
- (3) Address: \_\_\_\_\_  
(Street, No) (City) (State) (postal code)
- (4) Phone: \_\_\_\_\_ (5) email: \_\_\_\_\_

### Part 1a. – Should be filled in following the Part 1 only if applicant is a legal person

- (6) Name of legal person: \_\_\_\_\_
- (7) No. of registration: \_\_\_\_\_ (8) Date registered: \_\_\_\_\_
- (9) Address: \_\_\_\_\_  
(Street, No) (City) (State) (postal code)
- (10) Phone: \_\_\_\_\_ (11) email: \_\_\_\_\_

- (12) Description of document(s) requested: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (13) Number of documents: \_\_\_\_\_
- (14) Access form desired: \_\_\_\_\_  
(consultation on the spot, paper copies, copies in electronic form, other)
- (15) Documents to be available on (date): \_\_\_\_\_ (16) Number of copies: \_\_\_\_\_  
(either to consult on the spot or pick up copies)

### Part 2. – SHOULD BE FILLED IN BY THE INSTITUTION OR ARCHIVIST

- (17) How was the application received: \_\_\_\_\_ (18) Date received: \_\_\_\_\_  
(in person, via mail, email, other)
- (19) Request received by: \_\_\_\_\_ (20) No. registered: \_\_\_\_\_  
(archives, department or official's name) (Register of applications for access)
- (21) No. in the register, if the requested document is in the Register: \_\_\_\_\_
- (22) No. of ref. in the document (if the doc. is found): \_\_\_\_\_
- (23) Institution responsible – Owner (if the doc. is found): \_\_\_\_\_

### Part 2b. – Institutional response to the applicant

- (24) Application approved: \_\_\_\_\_ (25) Date: \_\_\_\_\_  
(signature)

### Part 2c. – Should be filled in only if access is denied

- (26) Application denied: \_\_\_\_\_ (27) Date: \_\_\_\_\_  
(signature)
- (28) Name of official(s) responsible for denial: \_\_\_\_\_
- (29) Reason(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Notice of receipt for the applicant. Issued only if consultation on the spot is not allowed for whatever reason

- (17) How was the application received: \_\_\_\_\_ (18) Date received: \_\_\_\_\_  
(in person, via mail, email, other)
- (19) Request received by: \_\_\_\_\_ (20) No. registered: \_\_\_\_\_  
(archives, department or official's name) (Register of applications for access)



# Annex 3.

List and websites of some public institutions  
of Republic of Kosovo



## **List and websites of some public institutions of Republic of Kosovo**

1. Assembly of Republic of Kosovo  
<http://www.kuvendikosoves.org/>
2. Presidency of Republic of Kosovo  
<http://www.president-ksgov.net/>
3. Office of the Prime Minister of Republic of Kosovo  
<http://www.ks-gov.net/pm/>
4. Ministry of Education, Science and Technology  
<http://www.masht-gov.net>
5. Ministry of Justice  
<http://www.md-ks.org/>
6. Ministry of Energy and Mines  
<http://www.ks-gov.net/mem/>
7. Ministry of Finance and Economy  
<http://www.mfe-ks.org/>
8. Ministry of Environment and Spatial Planning  
<http://www.ks-gov.net/mmph/>
9. Ministry of Local Government Administration  
<http://www.ks-gov.net/mapl/>
10. Ministry of Internal Affairs  
<http://www.mpb-ks.org/>
11. Ministry of Foreign Affairs  
<http://www.ks-gov.net/mpj/>
12. Ministry of Labor and Social Welfare  
<http://www.mpms-ks.org/>
13. Ministry for Communities and Return  
<http://www.ks-gov.net/mkk/>
14. Ministry of Health  
<http://www.mshgov-ks.org/>
15. Ministry of Public Services  
<http://www.ks-gov.net/mshp/>
16. Ministry of Culture, Youth and Sports  
<http://www.mkrs-ks.org/>
17. Ministry of Transport and Communications  
<http://www.mtpt.org/>
18. Ministry of Agriculture, Forestry and Rural Development  
<http://www.mbpzhr-ks.org/>
19. Ministry of Trade and Industry  
<http://www.mti-ks.org/>
20. Institution of Ombudsperson in Kosovo  
[www.ombudspersonkosovo.org](http://www.ombudspersonkosovo.org)

21. Kosovo Judicial Council  
<http://www.kgjk-ks.org/>
22. Kosovo Cadastral Agency  
<http://www.kca-ks.org/>
23. Kosovo Property Agency (KPA)  
<http://www.kpaonline.org/>
24. Kosovo Police  
<http://www.kosovopolice.com/>
25. Police Inspectorate of Kosovo  
<http://www.ks-gov.net/ipk/>
26. UNMIK Customs Service  
<http://www.unmikcustoms.org/>
27. Office of the General Auditor of Kosovo  
<http://www.ks-gov.net/oag/>
28. Independent Supervisory Board of Kosovo  
<http://www.ks-gov.net/kpmk/>
29. Public Procurement Agency  
<http://www.ks-gov.net/prokurimi>
30. Kosovo Anti-Corruption Agency  
<http://www.akk-ks.org>
31. Public Procurement Regulatory Commission  
<http://www.ks-gov.net/krpp/>

## MUNICIPALITIES OF KOSOVO

**[www.komunat-ks.net](http://www.komunat-ks.net)**

1. Municipality of Deçan based in Deçan [www.decan-komuna.org](http://www.decan-komuna.org)
2. Municipality of Gjakov based in Gjakovë; [www.gjakova-komuna.org](http://www.gjakova-komuna.org)
3. Municipality of Glogovc based in Glogovc; [www.drenasi-komuna.org](http://www.drenasi-komuna.org)
4. Municipality of Gjilan based in Gjilan; [www.gjilani-komuna.org](http://www.gjilani-komuna.org)
5. Municipality of Dragash based in Dragash; [www.komuna-dragash.org](http://www.komuna-dragash.org)
6. Municipality of Istog based in Istog [www.komuna-istog.org](http://www.komuna-istog.org)
7. Municipality of Kaçanik based in Kaçanik; [www.komuna-kacanik.org](http://www.komuna-kacanik.org)
8. Municipality of Klina based in Klina [www.komuna-kline.org](http://www.komuna-kline.org)
9. Municipality of Fushë Kosova based in Fushë Kosova;
10. Municipality of Kamenica based in Kamenica; [www.kamenica-komuna.org](http://www.kamenica-komuna.org)
11. Municipality of Leposaviq based in Leposaviq;
12. Municipality of Lipjan based in Lipjan; [www.lipjan-komuna.org](http://www.lipjan-komuna.org)
13. Municipality of Obiliq based in Obiliq;
14. Municipality of Rahovec based in Rahovec;
15. Municipality of Peja based in Peja; [www.peja-komuna.org](http://www.peja-komuna.org)
16. Municipality of Podujeva based in Podujeva; [www.podujeva-komuna.org](http://www.podujeva-komuna.org)
17. Municipality of Prishtina based in Prishtina; [www.prishtina-komuna.org](http://www.prishtina-komuna.org)
18. Municipality of Prizren based in Prizren; [www.komuna-prizren.org](http://www.komuna-prizren.org)
19. Municipality of Skënderaj based in Skënderaj; [www.komuna-skenderaj.org](http://www.komuna-skenderaj.org)
20. Municipality of Shtime based in Shtime [www.shtime-komuna.org](http://www.shtime-komuna.org)
21. Municipality of Shtërpce based in Shtërpce;
22. Municipality of Suhareka based in Suhareka; [www.therandaere.org](http://www.therandaere.org)
23. Municipality of Ferizaj based in Ferizaj; [www.ferizaj-komuna.org](http://www.ferizaj-komuna.org)
24. Municipality of Viti based in Viti; [www.kk-viti.org](http://www.kk-viti.org)
25. Municipality of Vushtrri based in Vushtrri; [www.kk-vushtrri.org](http://www.kk-vushtrri.org)
26. Municipality of Zubin Potoku based in Zubin Potok;
27. Municipality of Zveçan based in Zveçan; and
28. Municipality of Malisheva based in Malisheva. [www.malisheva.org](http://www.malisheva.org)
29. Municipality of Novobërda based in Bostan;
30. Municipality of Mitrovica north based in Mitrovica; [www.mitrovica-komuna.org](http://www.mitrovica-komuna.org)
31. Municipality of Mitrovicës south based in Mitrovica;
32. Municipality of Junik based in Junik;
33. Municipality of Hani i Elezit based in Hani i Elezit;
34. Municipality of Mamusha based in Mamusha;
35. Municipality of Graçanica based in Graçanica;
36. Municipality of Ranillug based in Ranillug;
37. Municipality of Partesh based in Partesh;
38. Municipality of Klllokot based in Klllokot.



# Annex 4.

International Right to Know Day – 28 September 2005 –  
ten principles of the right to know



## **Annex 4**

### ***International Right to Know Day – 28 September 2005 – ten principles of the right to know***

For the purpose of marking the third anniversary of the International Right to Know Day, initiative of open society of justice made public the ten principles of the right on access to information, developed jointly with partner organizations:

#### **TEN PRINCIPLES ON THE RIGHT TO KNOW**

*To mark the third annual International Right to Know Day, the Open Society Justice Initiative today announces the following set of 10 principles on the right of access to information developed together with partner organizations:*

##### **1. Access to information is a right of everyone.**

Anyone may request information, regardless of nationality or profession. There should be no citizenship requirements and no need to justify why the information is being sought.

##### **2. Access is the rule – secrecy is the exception!**

All information held by government bodies is public in principle. Information can be withheld only for a narrow set of legitimate reasons set forth in international law and also codified in national law.

##### **3. The right applies to all public bodies**

The public has a right to receive information in the possession of any institution funded by the public and private bodies performing public functions, such as water and electricity providers.

##### **4. Making requests should be simple, speedy, and free**

Making a request should be simple. The only requirements should be to supply a name, address and description of the information sought. Requestors should be able to file requests in writing or orally. Information should be provided immediately or within a short timeframe. The cost should not be greater than the reproduction of documents.

##### **5. Officials have a duty to assist requestors**

Public officials should assist requestors in making their requests. If a request is submitted to the wrong public body, officials should transfer the request to the appropriate body.

##### **6. Refusals must be justified.**

Governments may only withhold information from public access if disclosure would cause demonstrable harm to legitimate interests, such as national

security or privacy. These exceptions must be clearly and specifically defined by law. Any refusal must clearly state the reasons for withholding the information.

**7. The public interest takes precedence over secrecy.**

Information must be released when the public interest outweighs any harm in releasing it. There is a strong presumption that information about threats to the environment, health, or human rights, and information revealing corruption, should be released, given the high public interest in such information.

**8. Everyone has the right to appeal an adverse decision.**

All requestors have the right to a prompt and effective judicial review of a public body's refusal or failure to disclose information.

**9. Public bodies should proactively publish core information.**

Every public body should make readily available information about its functions and responsibilities, without need for a request. This information should be current, clear, and in plain language.

**10. The right should be guaranteed by an independent body.**

An independent agency, such as an ombudsperson or commissioner, should be established to review refusals, promote awareness, and advance the right to access information.

# Annex 5.

Law on Access to Official Documents



## **Annex 5- Law on Access to Official Documents**

**Law No. 2003 / 12**

### **LAW ON ACCESS TO OFFICIAL DOCUMENTS**

*(Official Gazette of Provisional Institutions of Self Governance in Kosovo, Prishtina year II/no17/ 1 October 2007)*

#### **Pursuant to Chapter 9.1.26 (a) of the Constitutional Framework,**

*For the purpose of enabling citizens of Kosovo to participate more closely in the decision-making process of public institutions and guaranteeing that the public institutions enjoy greater legitimacy, transparency and are more effective and more accountable to the citizens of Kosovo, the Assembly of Kosovo hereby adopts the following:*

### **I. GENERAL PROVISIONS**

#### **Section 1**

##### *Purpose*

*The purpose of this Law is:*

*(a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to documents of:*

*(i) any Provisional Institution of Self-Government (PISG) organ or agency thereof,*

*(ii) any municipality organ or agency thereof,*

*(iii) any of the independent bodies and offices listed in or established under Chapter 11 of UNMIK Regulation No. 2001/9 (Constitutional Framework);*

*(iv) Kosovo Trust Agency*

*(b) to establish rules ensuring the easiest possible exercise of this right; and*

*(c) to promote good administrative practice on access to documents.*

#### **Section 2**

##### *Definitions*

*For the purpose of this Law:*

*(a) "institutions" shall include all Provisional Institution of Self-Government organs and agencies thereof, KTA, municipality organs , agencies thereof , as well as independent bodies and offices also listed in or established under chapter 11 of the Constitutional Framework,*

*(b) "document" shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility;*

(c) “third party” shall mean any natural or legal person, or any entity outside the institution concerned.

### **Section 3**

#### *Beneficiaries and scope*

3.1. Any habitual resident of Kosovo or any person who meets eligibility requirements for registration as a habitual resident of Kosovo, and any natural or legal person residing or having its registered office in Kosovo, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Law.

3.2. The institutions may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in Kosovo.

3.3. This Law shall apply to all documents held by an institution, drawn up or received by it and in its possession, in all areas of activity of the institutions.

3.4. Without prejudice to sections 4 and 8, documents shall be made accessible to the public either following a written application or directly in electronic form or through a register. In particular, documents drawn up or received in the course of a legislative procedure shall be made directly accessible in accordance with section 11.

3.5. Sensitive documents as defined in section 8.1 shall be subject to special treatment in accordance with that section.

3.6. This Law shall be without prejudice to rights of public access to documents held by the institutions which might follow from instruments of international law or acts of the institutions implementing them.

### **Section 4**

#### *Exceptions*

4.1. The institutions shall refuse access to a document where disclosure would undermine the protection of

(a) the public interest as regards:

(i) public security,

(ii) defense and military matters,

(iii) international relations,

(iv) the financial, monetary or economic policy of the PISG;

(b) the privacy and the integrity of the individual, in particular in accordance with the applicable legislation regarding the protection of personal data.

4.2. The institutions shall refuse access to a document where disclosure would undermine the protection of:

(a) commercial interests of a natural or legal person, including intellectual property,

(b) court proceedings and legal advice,

(c) the purpose of inspections, investigations and audits, unless there is an

overriding public interest in disclosure.

4.3. Government shall draft the list of the documents, which shall be treated as sensitive documents to the actions foreseen under section 4 and 8, in order to protect the public interests.

4.4. Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

4.5. Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

4.6. As regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception in section 4.1 or 4.2 is applicable, unless it is clear that the document shall or shall not be disclosed.

4.7. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.

4.8. The exceptions as laid down in sections 4.1 to 4.4 shall only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a period of 30 years from the creation of the document.

4.9. In determining whether there is an overriding public interest in disclosure the institutions shall have due regard to considerations such as any failure to comply with a legal obligation, the existence of any offence, miscarriage of justice, abuse of authority or neglect in the performance of an official duty, unauthorized use of public funds, or danger to the health or safety of an individual or the general public.

## II. PROCESSING OF APPLICATIONS

### Section 5

#### *Applications*

5.1. Applications for access to a document shall be made in any written form, including electronic form, and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application.

5.2. If an application is not sufficiently precise, the institution shall ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing information on the use of the public registers of documents.

5.3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.

5.4. The institutions shall provide information and assistance to persons on how and where applications for access to documents can be made.

## **Section 6**

### *Processing of initial applications*

6.1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days from registration of the application, the institution shall either grant access to the document requested and provide access in accordance with section 9 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with section 6.2.

6.2. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the institution's reply, make a confirmatory application asking the institution to reconsider its position.

6.3. In exceptional cases, where an application relates to a very long document or to a very large number of documents, the time-limit provided for in section 6.1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

6.4. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.

## **Section 7**

### *Processing of confirmatory applications*

7.1. A confirmatory application shall be handled promptly. Within 15 working days from registration of such an application, the institution shall either grant access to the document requested and provide access in accordance with section 9 within that period or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the institution shall inform the applicant of the remedies open to him or her, namely instituting court proceedings against the institution pursuant to the provisions of the relevant applicable law and/or filing a complaint with the Ombudsperson pursuant to Chapter 10 of the Constitutional Framework and UNMIK Regulation No. 2000/38.

7.2. In exceptional cases, where an application relates to a very long document or to a very large number of documents, the time limit provided for in section 7.1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

7.3. Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and entitle the applicant to institute court pro-

ceedings against the institution pursuant to the provisions of the relevant applicable law and/or file a complaint with the Ombudsperson following the provisions of Chapter 10 of the Constitutional Framework and UNMIK Regulation No. 2000/38.

## **Section 8**

### *Treatment of sensitive documents*

8.1. Sensitive documents are documents originating from the institutions classified in accordance with the rules of the institution concerned, which protect essential interests of the PISG.

8.2. Applications for access to sensitive documents under the procedures laid down in sections 6 and 7 shall be handled only by those persons who have a right to acquaint themselves with those documents. These persons shall also assess which references to sensitive documents could be made in the public register.

8.3. Sensitive documents shall be recorded in the register or released only with the consent of the originator.

8.4. An institution which decides to refuse access to a sensitive document shall give the reasons for its decision in a manner which does not harm the interests protected in section 4.

8.5. The rules of the institutions concerning sensitive documents shall be made public.

## **Section 9**

### *Access following an application*

9.1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge.

9.2. If a document has already been released by the institution concerned and is easily accessible to the applicant, the institution may fulfill its obligation of granting access to documents by informing the applicant how to obtain the requested document.

9.3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.

### III. REGISTERS

#### Section 10

##### *Registers*

10.1. *Each institution shall provide public access to a register of documents. Access to the register should be provided, where possible, in electronic form. References to documents shall be recorded in the register without delay.*

10.2. *For each document the register shall contain a reference number, the subject matter and a short description of the content of the document and the date on which it was received or drawn up and recorded in the register. References shall be made in a manner which does not undermine protection of the interests in section 4.*

10.3. *The institutions shall immediately take the measures necessary to establish a register which shall be operational by 1 January 2004.*

#### Section 11

##### *Direct access in electronic form or through a register*

11.1. *The institutions shall as far as possible make documents directly accessible to the public in electronic form or through a register in accordance with the rules of the institution concerned.*

11.2. *In particular, legislative documents, including documents drawn up or received in the course of procedures for the adoption of acts which are legally binding shall, subject to sections 4 and 8, be made directly accessible.*

11.3. *Where possible, other documents, notably documents relating to the development of policy or strategy, should be made directly accessible.*

11.4. *Where direct access is not given through the register, the register shall as far as possible indicate where the document is located.*

### IV. IMPLEMENTATION

#### Section 12

##### *Languages*

*Members of communities, as defined in the Constitutional Framework, may exercise their rights as set out in this law in their respective language.*

#### Section 13

##### *Information*

*Each institution shall take the requisite measures to inform the public of*

*(a) the rights they enjoy under this Law; and*

*(b) a contact person at the institution to whom questions and concerns can be*

directed.

## **Section 14**

### *Administrative practice in the institutions*

14.1. *The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Law.*

14.2. *The institutions shall establish an inter-institutional committee to examine best practices, to address possible conflicts and to discuss future developments on public access to documents.*

14.3. *The Government shall have the authority to issue secondary legislation with regard to the implementation of the present Law and in particular with regard to the establishment of rules and procedures with respect to the classification of sensitive documents.*

## **Section 15**

### *Reproduction of documents*

*This Law shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.*

## **Section 16**

### *Reports*

16.1. *Each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.*

16.2. *At the latest by 31 July 2004, and every year thereafter, the Office of the Prime*

*Minister shall publish a report, and file a copy with the Assembly of Kosovo, on the implementation of this Law and shall make recommendations, including, if appropriate, proposals for the revision of this Law and an action programmed of measures to be taken by the institutions.*

## **V. TRANSITIONAL PROVISIONS**

## **Section 17**

### *Transitional Provisions regarding access to sensitive documents*

17.1. *The Government shall adopt adequate rules and procedures regarding the classification of sensitive documents pursuant to section 8 , sixty days after the Law come to effect.*

17.2. *Failure to provide rules and procedures in compliance with section 17.1 shall not permit the institutions to deny access to documents pursuant to section 8*

## **Section 18**

*Transitional Provisions regarding the protection of personal data*

*Pending the entry into force of legislation related to the protection of personal data, the institutions may only release such data upon prior and explicit consent of the person affected.*

## **VI. FINAL PROVISION**

### **Section 19**

*Entry into force*

*This Law shall enter into force on the day of its promulgation by the Special Representative of the Secretary-General in Kosovo.*

**Law No.2003/12**  
**16. October 2003**



