



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

LAW Nr. 03/L-181

ON MARKET INSPECTORATE AND INSPECTIVE SUPERVISION

The Republic of Kosovo the Assembly;

Pursuant to article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

**LAW ON MARKET INSPECTORATE AND INSPECTIVE
SUPERVISION**

CHAPTER I

Article 1
General Provisions

With this law are designated principles, organizing, competences and procedures of inspection supervision of the market in the territory of Republic of Kosovo.

Article 2

1. The terminology used in this law has the following meaning:

1.1. **Ministry** – means the Ministry of Trading and Industry.

- 1.2. **Minister** – means the Minister of Ministry of Trading and Industry.
- 1.3. **Inspectorate** – means the established organ with this law, which performs the market inspecting supervision.
- 1.4. **Chief Inspector** – the first responsible person of the inspectorate and of inspective oversight of the market.
- 1.5. **Market supervision** –means the performed activities and the undertaken measures by the public authority in order to ensure that the products are in accordance with the legal demands, defined in respective legislative and do not jeopardize health, security or other matters that are linked with the protection of public interest.
- 1.6. **Inspector** – means the official person with authorization and special responsibility, who enforces the inspecting supervision of the business of physical and judicial persons.
- 1.7. **Permission issuing organ** – means the competent permission issuing organ, defined with this law.
- 1.8. **Goods** – means a real estate, articles but excluding precious papers and cash.
- 1.9. **Economical entity** – means the physical and judicial person that deals with business.
- 1.10. **Member of family** – means the spouse, parent, brother, sister, child, nephew, niece - brother, sister, parent or spouse of each one of the upper mentioned

CHAPTER II

Article 3

Market Inspectorate Principles of Work

Inspectorate while carrying out the tasks respects the principle of transparency and public form in compliance with the law. On demand of economical subjects, Inspectorate is obliged to hand over the necessary information, which are considered useful and that deal with overall security of the consumers and risk of life as well as the health of human except information which are not accessible by law.

Article 4

Inspectorate respects the principle of care and proportion in the cases when it is confirmed that the provision is not enforced or it is enforced in irregular, way so to economical subjects would be given the chance to eliminate deficiencies by respecting in this case the principle of care and proportion.

Article 5

Inspectorate is obligated to retain the data and information according to the principle of credibility that are obtained during performance of jobs of the inspectorate competencies in the manner and conditions foreseen by law. In the case of existing of serious danger towards human's life and health, their property, life environment and nature, the Chief Inspector of the Inspectorate announces the confirmed information out of inspecting supervision up to the level which is necessary to prove regarding the measures that have to be undertaken in compliance with the law.

Article 6

The Inspectorate during its activities must base itself on the method of risk assessment, regarding the market and products in the market, present towards the life, health and security of the citizens.

CHAPTER III

Article 7

The organizing of the Market Inspectorate

1. Market Inspectorate is an executive organ within the Ministry of Trading and Industry, which carries out market supervision in the territory of Republic of Kosovo.
2. The Inspectorate possesses the round stamp and dry stamp.

Article 8

Inspectorate's organizing, functioning and tasks are defined with a sub-legal act, which issues the Minister.

CHAPTER IV

Article 9

The competencies of the market inspectorate

1 The market inspectorate is competent to inspect the standards of trading of goods, the quality of the services that economical entities offer throughout the territory of the Republic of Kosovo through oversight

1.1 The fulfillment of standards by goods and services introduced in the market;

1.2. security of products in the market;

1.3. consumer's protection;

1.4. circulation of goods of precious metals;

1.5. technical suitability of the products;

1.6. control of use of measure and weighing-machines in the market;

1.7. tourist and hotel activity;

1.8. artisan activity;

1.9. protection of industrial ownership rights in the market;

1.10. protection of the right of author and other similar rights in the market and

1.11. other jobs, defined with this law, other special laws and sub-legal acts.

2. Inspectorate carries out jobs in compliance with the annual working program.

3. Inspectorate could undertake inspecting supervision even out of annual working program in case of danger towards human life and health as well as in the situations that require emergent intervention by the state organs.

4. Inspector that carries out inspection during inspecting supervision regarding confirmed violations undertakes designated measures with this law and other laws.

Article 10

1. The Chief Inspector leads, organizes and coordinates with Inspectorate works, undertakes measures and takes care about the progress of work and professional faculty of inspectors.
2. The Chief Inspector, through annual working program defines structure and method of carrying out the inspection supervision in order to enforce this law and other laws and acts from the Inspector's competency.
3. The Chief Inspector prepares the annual report about the work of Inspectorate regarding previous year within the end of January of following year and the same one shall deliver to Permanent Secretary.
4. The Chief Inspector and the Inspector are selected based on a public vacancy announcement in accordance with the legal provisions foreseen also for civil servants.
5. The Chief Inspector and the Inspector must have a university degree. The Chief inspector must have at least five (5) years of experience in his profession, whereas, the inspector must have at least three (3) years of experience in profession.
6. Every three years the inspectorate must organize professional trainings for the inspectors.
7. The organizing of trainings, their duration and the verification of the achieved professional skills for inspectors shall be regulated by a sub legal act of the ministry.

CHAPTER V

Article 11 Inspecting Supervision

1. While carrying out inspecting supervision, Inspector is authorized to:
 - 1.1. to control paperwork, evidences and information according to the matter of supervision as well as to require from the economical subjects or their employees to prepare copies and necessary documents;
 - 1.2. to carry out inspecting supervision in the business premises, transporting vehicles and products;
 - 1.3. to require from the subject that came under supervision or his employees to hand over the data regarding their furnisher;

- 1.4. to take samples without any compensation regarding further tests or controls in the cases defined with this law or sub-legal acts;
 - 1.5. to supervise the activities of economical subjects during the sale of products or offering of services;
 - 1.6. to carry out the registering of existing goods at the business premise as well as to obtain other necessary evidences and
 - 1.7. other jobs with accordance with his competences.
2. If it is not necessary to seize or temporarily safeguard the products, files or documents, Inspector could:
- 2.1. require from the economical subjects or employed person to open and allow access in each premise, locked container, vehicle or;
 - 2.2. require from each person that is in possession of authorization to decode the code in order to ensure access into computer files, premises and locked containers;
 - 2.3. require veracity of the copies with original documents, evidences and obtained information from economical subjects with own signature and stamp.
3. Economical subjects during supervision are obliged to co-operate with Inspector and on his demand to enable his open access in inspecting supervision as well as to deliver the required paperwork from Inspector.
4. In reference to inspecting supervision, Inspector compiles a report, which shall be signed by persons that took part in the inspecting supervision.
5. Inspector is independent during performance of the works of inspecting supervision and undertakes measures, which he is authorized by law.
6. Inspection supervision is carried out without any warning at the time when the economical subject carries out his activities at any time when this is reasonable in order to protect the public interest, life, human's health and property.
7. Inspectors carry out inspecting supervision in efficient manner by protecting the interest of economical subject up to that stage in order not to impinge the public interest.
8. Inspector keeps evidence regarding performed inspecting supervision and undertaken measures.

Article 12

1. The inspector before the inspection activity has to check where there is a conflict of interest and if it estimates that there is a conflict of interest should not undertake or participate in the inspective oversight of the respective economical entity.

Article 13

1. Inspector is obliged to prove his identity and authorizations by producing his official identification document during the inspecting supervision.
2. The form and content of the official identification document from paragraph 1 of this article is defined with a sub-legal acts.

Article 14

1. The economical subject who came under inspection is obliged to enable to inspector the inspection supervision in compliance with the provisions of article 10 of this law.
2. The economical entity is obliged that on Inspector's demand, within explicit term with inspectors report to produce or prepare the required data, those that are possible, regarding inspection accomplishment.
3. The supervised economical entity is considered that did not enable inspector the performance of supervision due to paragraph 1 of this article if even within estimated term with inspector's report does not allow access in products, required working documentation and other necessary documents in order to confirm the factual situation of the commenced supervision.
4. The inspector is obliged to include in the minutes the order for temporary suspension thus rendering a decision within forty-eight (48) hours.
5. The necessary longitude of the duration of the suspension of business activities due to inspection, is determined as per the estimation of the inspector, however, it can not be longer than five (5) working days.

Article 15

If the market inspectors do not have authorization to inspect a specific issue in a specific field, in which he has noticed irregularities, then he must inform immediately his immediate supervisor who without any delay is obliged to inform the other competent organ for necessary actions.

Article 16

1. Inspector, who during inspecting supervision confirms deficiencies is obliged to warn the economical subject to eliminate the confirmed deficiencies with the report except it is not foreseen by law otherwise.
2. The warning from the paragraph 1 of this article shall be confirmed in the report. The economical subject, within the estimated term in the report is obliged to operate according to the warning and to inform Inspector that the deficiencies have been eliminated.
3. If the economical subject does not act according to the inspector's warning due to paragraph 1 of this article then inspector within estimated legal term undertakes measures in compliance with this law.
4. Inspector, in the cases when there is a serious danger towards human's life and danger is obliged to issue a verbal order in order to eliminate urgently the confirmed deficiencies and the same ones to write down in the report.
5. Inspector, conform paragraph 4 of this article at once, most lately within forty eight (48) hours shall issue a decision, by which shall confirm the verbal order.

Article 17

1. Inspector, who during inspecting supervision confirms that the economical subject releases into market products without the following paperwork then the same products shall seize in accordance with the law.
2. Inspector, in case of seizure due to paragraph 1. of this article is obliged to issue a confirmation with the description and exact amount of the seized goods.
3. In the report regarding initiation of the procedure related to established violations or criminal act, inspector is obliged to write down as well the undertaken measure due to paragraph 1 of this article.

Article 18

1. Inspectorate in the cases defined with this law and other cases issues a Decision regarding extermination of goods.
2. The decision from paragraph 1. of this article, becomes legally binding in the cases when product is exterminated, and extermination expenses are carried by the economical subject.

Article 19

1. Inspector undertakes measures regarding inspection procedure according to official duty but also due to complain of the third party.
2. Inspector is obliged to take into consideration complain of the third party only if the complain presages a suspicious violation, for which is foreseen procedure commencement, due to official duty.
3. Inspector is obliged that conform paragraph 2 of this article to inform the complain submitter regarding the confirmed situation, respectively undertaken measures within the legal term.
4. Inspector is obliged to save the paperwork, facts and confirmed information in the inspection procedure as well as the identity of the complain submitter.
5. Inspector, according to written request of the court and other state organs offers to them the paperwork, confirmed facts during inspection as well as the identity of the complain submitter, which are necessary regarding judicial and administrative procedures.
6. Inspector while carrying out the inspection, if he notices irregularities has the right to sequester temporarily copies of documentation and other items, which during the court proceedings can be used as evidence, for such an action the inspector must issue a certification.
7. A confirmation shall be issued regarding temporary seizure of the documentation or items, due to paragraph 6 of this article.

Article 20

1. Inspector is obliged to undertake a decision, by which temporarily suspends the economical entity to perform activity and undertakes measures to shutdown the premise by stamping in the cases defined by law, as an ultimate measure after confirming that there are no other measures regarding protection of human life and health from serious danger.
2. The measure of shutdown shall be carried out with Inspectorate's stamp.
3. The stamp shall be removed without any delay in the cases from paragraph 1. of this article after it is confirmed that all the risks have been eliminated.
4. The removal of stamp shall be carried out with a report, conform paragraph 3. of this article.

Article 21

1. Inspector is obliged to seize the goods if it is foreseen by this or other laws the right to seize the goods, which have been utilized to commit the established violation, economical established violation or criminal act.
2. To person, from whom are seized goods or other items shall be issued confirmation, which contains correct data regarding the seized goods according to assortment and amount.
3. In case of seizure of perishable goods or livestock, inspector is obliged to commence judicial procedure within forty eight (48) hours from the seizure while the competent judicial organ should take a decision with immediate procedure.
4. The conditions are defined with a special law regarding custody and maintenance of seized goods until the competent court announces the legally binding decision.

Article 22

1. In the inspection procedure should be confirmed whether the placed products in the market correspond with the declared composition, product security requirements, declared information regarding the products, origin of goods and trading mark
2. Inspector could take samples of those products and to hand them over, market and stamped in a proper way regarding examination and assessment to authorized professional body or other competent inspecting body.
3. Whilst taking the samples of a certain products, inspector has right and obligation:
 - 3.1. under the same conditions and at the same time, from the same product could be taken at most three samples with necessary amount regarding examination of the first analyze, super-analyze and third party whilst at the same time to compile a report regarding the taken samples;
 - 3.2. the obtained sample regarding analyze to hand over without any delay to authorized professional body or other competent inspecting body from respective domain while the sample regarding super-analyze to save in suitable conditions until the end of first analyze;
 - 3.3. the samples of the products shall be tested without delay. After the end of test, the authorized body that carried out the test is obliged to compile a report regarding the test and hand it over to Inspectorate, most lately in a term of three days;

3.4. to inform in a written form the party, from who the sample is taken regarding the result of the first analyze;

3.5. on party's request, Inspectorate shall hand over the sample regarding super-analyze to authorized professional body at an Accredited Laboratory;

3.6. the examined sample, which does not correspond with the foreseen content, security conditions, foreseen information regarding the product or information about the produce whilst through a decision is not decided regarding the created expenses during the procedure of obtaining the examined samples, inspector, with a special conclusion shall confirm the amount of expenses and payment deadline.

Article 23

1. The obtained sample regarding product examination, which is exposed to getting perished should be handed over to authorized professional body regarding first analyze whilst on party's request, at the same time to other professional body regarding super-analyze at an Internationally Accredited Laboratory.

2. If results of the analysis as per paragraph 1 of this article changes determinant is the result of the analysis, carried out on party's request. If the party whilst obtaining the sample does not demand at the same time to obtain samples regarding super-analyze, it will be considered that he agrees with the result of performed analyze on inspector's request.

Article 24

1. Result of analyze of the first sample, according to party's written request could be contested from the result of super-analyze if the sample regarding super-analyze is taken at the same time and manner as well as examined with the same method.

2. The expenses for examination of samples shall be covered by the economical entity in case the results are not in his favor, otherwise, they shall be covered by the submitter of the request.

3. It will be considered that the party agreed with result of the first analyze if the request is not presented within estimated term, defined in paragraph 2 of this article.

4. If the result of super-analyze is not in accordance with the result of first analyze then legitimate is the result of super-analyze.

5. Performance of the first analyze and supper-analyze can not be carried out at the same Professional Accredited Laboratory.

Article 25

1. The economical entity is obliged to make available the necessary amount of product in order to get the samples regarding examination.
2. The expenses of sample examination shall carry the party, if the result is not their favor, otherwise the submitter of the request shall cover them.

Article 26

1. The inspector after the completion of the inspection has the duty to compile the minutes. The minutes shall always be signed by at least 2 people during the inspection and the minutes shall be issued on the same day.
2. The time period foreseen for the minutes can not exceed thirty (30) days.
3. The inspector is obliged to issue to the economical entity a decision or a written order through which either a measure is rendered or a duty is tasked upon to be fulfilled.
4. The decision shall be issued by the inspector within the time period of eight (8) days from the day the minutes were issued.

Article 27

1. The party could submit complain against Inspector's decision within the term of eight (8) days, from the day of receiving the decision.
2. The Chief Inspector is obliged that in a period of thirty (30) days of submission of the appeal after receiving to decide about the appeal submitted against the decision rendered by the market inspector.
3. The submission of an appeal suspends the execution of the decision except in cases foreseen under Article 16 and 17 of this law or in other extraordinary situations as foreseen by other laws.
4. Against the decision of the Chief Inspector a claim can be filed at the competent court within thirty (30) days.
5. The formal juridical elements that the decision, the order, the minutes or any other juridical act, must have and that is issued by any organ of the Inspectorate, are defined ended by a sub legal act of the Ministry.

Article 28

1. The inspector is obliged to undertake immediate actions for execution of actions set forth by the inspectorate in full accordance with paragraph 3 of Article 28 of this law, regardless of the appeal procedure.
2. Expenses of execution of the decision will carry the party, which was obliged to enforce decision regarding the appointed administrative measure.
3. Inspector, according to official duty shall issue conclusions if the party fulfilled defined obligation of the decision.

Article 29

1. The Chief Inspector issues a decision and orders its execution in case he confirms that the economical subject performs activity contrary to protection measure regarding activity prohibition, issued by the competent judicial organ.
2. In case of need, Inspectorate requests support from the Ministry of Internal Affairs during inspection and execution of the decision. In those cases, Ministry of Internal Affairs is obliged to offer support.

Article 30

1. Inspector is obliged that within the term of fifteen (15) days from the day of completion of inspection to initiate the procedure at the competent court if he confirms that there is a well-grounded suspicion that through the violation of laws and other sub-legal acts it is established that a violation has been committed, it is established that an economical violation has been committed or a criminal act.
2. Inspector in co-operation with the Prosecutor shall demand from the competent Court that through fast procedure to issue a written order regarding permission to control whatever the premise or other area where is being carrying out the forbidden activity.

CHAPTER VI

Article 31

Co-operation of Inspectorate with other institutions

Inspectorate co-operates with the organs of State Administration, municipal organs, Customs, Police, Judicial, Prosecutor's Office, Inspectorates of respective domains and

citizen's associations, which take care about the protection and advancing of consumer's interests.

Article 32

1. The economical entity, the citizens and their associations can denounce at the Inspectorate for any violation of provisions made by the inspectors during the inspective supervision
2. Inspector informs denunciator within the term of thirty (30) days regarding undertaken actions due to paragraph 1 of this article.

CHAPTER VII

Article 33 Retributive provisions

1. Inspector pronounces the fine regarding the established violence defined with this law and other laws.
2. With a fine from one thousand (1.000) up to three thousand (3.000) Euro shall be fined about the established violence the economical entity regarding the defined violations as per article 14, paragraph 1, 2, 3 and 4 of this law.
3. With a fine from two hundred (200) up to six hundred (600) Euro shall be fined the responsible person of the subject regarding the violation established due to paragraph 2 of this article.

Article 34

1. With a fine from one thousand (1.000) up to three thousand (3.000) Euro shall be fined regarding the violation established the economical entity in reference to defined violations due to article 22 (paragraph 1) and article 25 (paragraph 1).
2. Regarding the violation established due to paragraph 1 of this article shall be fined the responsible person of the economical subject with a fine from two hundred (200) up to six hundred (600) Euro.

Article 35

Fine in amount from on one thousand and five hundred (1.500) up to five thousand (5.000) Euro do shall be pronounced to authorized body that did not prepare the testing

report and after finishing the test does not hand over the report at Inspectorate within the term of three (3) days Article 22 paragraph 3.3 of this law.

Article 36

1. With a fine from three thousand (3.000) up to nine thousand (9.000) Euro shall be fined the economical subject that impedes the sequestration of the goods (as per article 17 par.1 of this law) as well as the economical entity that does not respect the decision as per Article 20 par.1 of this law.

2. Regarding the violation established due to paragraph 1 of this article shall be fined the responsible person of the economical entity with a fine from five hundred (500) up to one thousand and five hundred (1.500) Euro.

Article 37

The gathered means shall be shell out in the budget of the Republic of Kosovo.

CHAPTER VIII

Article 38

Transitional provisions

1. With entry into force of this law the municipal market inspectors their responsibilities, their rights and duties shall pass unto the Market Inspectorate within the Ministry for Trade and Industry

2. All Inspectors of Market Inspection and Municipal Market Inspectors become Inspectors of Market Inspectorate regarding inspecting supervision within the Ministry of Trade and Industry.

3. Ministry, in order to enforce this law shall issue a sub-legal acts within the term of six months, beginning the day of omnipotence of this law.

Article 39

Abrogating provisions

With the omnipotence of this law is abrogated law nr 02/L-1 regarding “Market Inspection” as well as other acts that are in contrary to this law.

Article 40
Entry into force

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

Law Nr. 03/ L-181

22 July 2010

Chairman of the Assembly of the Republic of Kosovo

Jakup KRASNIQI