



**Republika e Kosovës**  
**Republika Kosova - Republic of Kosovo**  
*Qeveria - Vlada - Government*

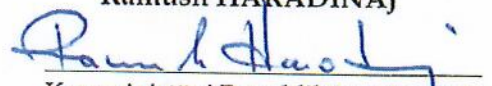
Nr. 11/98  
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Në mbështetje të nenit 92 paragrafi 4. dhe të nenit 93 paragrafi (4) të Kushtetutës së Republikës së Kosovës, duke u bazuar në nenin 4 të Rregullores Nr. 02/2011 për Fushat e Përgjegjësisë Administrative të Zyrës së Kryeministrit dhe Ministrive, e ndryshuar dhe e plotësuar me Rregulloren Nr. 15/2017, me Rregulloren Nr. 16/2017, me Rregulloren Nr. 07/2018, me Rregulloren Nr. 26/2018 dhe me Rregulloren Nr. 30/2018, në pajtim me nenin 19 të Rregullores së Punës së Qeverisë së Republikës së Kosovës Nr. 09/2011, Qeveria e Republikës së Kosovës, në mbledhjen e mbajtur më 18 prill 2019, nxjerr këtë:

**V E N D I M**

1. Aprovohet Koncept Dokumenti për plotësim ndryshimin e Ligjit Nr. 04/L-088 për Arkivat Shtetërore.
2. Obligohet Ministria e Kulturës, Rinisë dhe Sportit dhe institucionet tjera kompetente për zbatimin e këtij vendimi, në pajtim me Rregulloren e Punës së Qeverisë së Republikës së Kosovës.
3. Vendimi hyn në fuqi ditën e nënshkrimit.

**Ramush HARADINAJ**

  
Kryeministër i Republikës së Kosovës

Iu dërgohet:

- Zëvendëskryeministrave
- të gjitha ministrive (ministrave)
- Sekretarit të Përgjithshëm të ZKM-ës
- Arkivit të Qeverisë



REPUBLIKA E KOSOVËS/REPUBLIKA KOSOVA/ REPUBLIC OF KOSOVO  
QEVERIA E KOSOVËS/VLADA KOSOVA/GOVERNMENT OF KOSOVA  
ZYRA E KRYEMINISTRIT / URED PREMIJERA /OFFICE OF THE PRIME MINISTER  
AGJENCIA SHITETËRORE E ARKIVAVE TË KOSOVËS  
DRŽAVNA AGENCIJA ARHIVA KOSOVA  
THE STATE AGENCY OF KOSOVO ARCHIVES

**CONCEPT DOCUMENT**  
**FOR SUPPLEMENT - AMENDMENT OF LAW NO. 04 / L-088 ON STATE**  
**ARCHIVES**

Pristina, 2018

## **Chapter 1: Introduction**

The legislation in force for the State Archives regulates the issue of collection, protection, preservation, arrangement, processing, publishing, presentation and use of the archival material. The State Agency of Kosovo Archives is the responsible institution for supervising, controlling and implementation of the standards for preservation of written cultural archival heritage of the permanent preservation value.

The present legal framework, which regulates the activities in the field of the archival activity should be enhanced even further, in order to strengthen the overall functioning of the archival activity, as well as to ensure that their competences and duties will be carried out in the most efficient and effective way.

After the entry in force of the Law on the State Archives No. 04 / L-088, "OG" on March 19, 2012, the State Agency of Kosovo Archives as the highest archival institution in the country, in this period of implementation of this Law, in many cases, has faced legal gaps and lack of norms that have hampered the exercise and development of the archival activity in the country.

The current law is applicable, but there are missing some provisions, and also some provisions need reformulation or amendment and supplementation procedures that are hampering the development of the archival activity in Kosovo. All shortcomings are specified in the relevant parts of this Draft Concept Document. : Therefore, we see the amendment and supplementation of this law necessary in order to eliminate shortcomings and uncertainties such as the lack of provisions for: the punitive provisions; licensing of the archivist's profession; recommendation / advisory Board for Archives; the provisions which regulate the issue of export-import of the archival documents; the provisions on purchasing of the archival material; preservation of documentation on time and under special and extraordinary circumstances; division of competences between the central and local archives; definition by law of archival network; change of the name of the Agency, from the State Agency of Kosovo Archives, (SAKA) in the State Archival Agency of Kosovo (SAAK)

The aforementioned amendment and supplementation of the current law in this field avoid such situations, which are barrier and can further deepen in the future.



Changes of the legal framework through the integration of the applicable laws and addition of the elements will enable the establishment of more functional system, more secure and easier to use in management and control of the documents which are created in the Republic of Kosovo, which is important and has permanent preserving value.

In this case, we have constantly emphasized the most immediate and vital issues that must be met, but could be expanded and detailed further the range of additional issues in this field.

## Chapter 2: Description of the main issue/ problem

### Explanation

Since the entry in force of the Law, respectively during the implementation of this law some difficulties encountered as a result of shortcomings and obscurities of some provisions. For this reason, the current law needs to be amended and supplemented.

Therefore, we will present the problems and shortcomings that we aim to improve with the amendment and supplementation of the law.

The archival material of the Creators, which meet legal timelines for submission to the Agency, is not delivered according to the professional methodology of the official management in Kosovo and international standards, but comes unarranged, unrecorded, unregulated and damaged ( in containers , waste sacks etc.

Also, irresponsibility of creators and holders institutions for the maintenance, storage and arrangement of the archival documents, even after the inspection and consultation by the Agency through the inspectors remains only the attempt, and this comes as a consequence that **the Law lacks the sanctioning norms for Creators** to implement this obligation.

The State Agency of Kosovo Archives is facing difficulties in terms of infrastructure in the main Office as well as in the Inter- municipal archives, which funds in capital investments are planned with the budget of 2019-2021.

In order to exhibit or promote the archival documents abroad, it is required by law to guarantee **export-import of documents** abroad and their return to the country of origin, but this provision is missing in the current law.

Enrichment of fonds and collections with important documents pertaining to our country and those offered to the Agency is impossible due to **the absence of a legal provision for the purchase of the important archival documents**. We have the case of offering important materials from the period of the 90's, which were offered to the SAKA for purchase from the Kosovo Information Centre, but it was not possible in the absence of this right.

**Preservation and protection of documentation** on time and under special and extraordinary circumstances whether natural disaster or caused, according to the practices of other countries, should be foreseen and regulated by law.

Lack of recommendatory / advisory board (collective) for the archives, which will give advices on professional work of the archival activity; analyzes general issues in the field of archival activity; gives recommendations and opinions on the progress of the archival activity and the need to establish archives in the Republic of Kosovo, gives opinion on the conduct of scientific and cultural functions of the archives; gives recommendations on the use of the archival material in the archives before the expiration of the timelines, and recommends the formation of various committees in the function of the archival activities.

To reach the appropriate professional level of the archives staff, it is necessary for these employees to be licensed in the profession of archivist. This qualification can be achieved through the professional examination of the archival service that would be performed by SAKA, but this should be regulated by legal provisions.

We propose to change the name of the Agency, from the State Agency of Kosovo Archives, (SAKA) to the State Archival Agency of Kosovo (SAAK), for the purpose of avoiding the duplicating of acronyms with the Academy of Sciences and Arts of Kosovo.

In the current Law, Article 9, paragraph 2, the institutions that can exercise self-archives should include also:

- Ministry of Foreign Affairs, due to the nature of the work because the archival material is distributed in the embassies in various countries;
- Clinical Center of the Kosovo University (CCKU), due to the history of the patients, this creator must retain the archival material even after the expiry of a period of more than 30 years.

Also with the amendment and supplementation of the law we aim to specify who represents the archival network of the Republic of Kosovo. So, archival network consists of:



- The State Agency of Kosovo Archives (SAKA), within which are the Inter-municipal archives;
- Archives of public and private institutions – creators;
- Special Archives;
- Private archives; and
- Institutions stated on Article 9, Paragraph 2 of the Law 04 / L-088, on the State Archives.

The current law lacks the division of competences between the central and local archives.

Based on our experience, especially after the entry in force of the current law, we have noticed that there is a parallelism in the competencies of the SAKA (with inter-municipal archives) and municipal archives, where we see as a necessary the solution of the exact definition of competencies. Our proposal is that the municipal archives to be as creators of archives in the municipalities which means that the Municipal Archives should deal with documentation that is created by the Municipal Assembly, Mayor of Municipality, Board of Directors and the subordinate bodies within the Municipality. Whilst, the Inter-municipal Archives that are extended part of the SAKA have the authority to deal with all archival material of all institutions in all territory which they cover. So, it should make a clear division in competencies between the Inter-municipal Archives (that are extended part of the SAKA) on one side and Archives of the Municipalities, which in practice until now have aimed to cover all municipality creators, otherwise they would be parallel authorities.

Taking into account the aforementioned issues, the amendment and supplementation of existing law is regarded as necessity in order to improve the archival service in our country.

### **Information**

The State Agency of Kosovo Archives with the Government Decision no. 05/119 on 23.11.2016 from 01.01.2017 is transferred from the Office of the Prime Minister to the Ministry of Culture, Youth and Sports. The SAKA possesses 7,938.78 meters length of the archival material in paper in different formats (1,310 fonds and archival collections); 25 km linear length of microfilms with 800,000 documents; 202 titles of documentary and artistic films with 1000 rolls; more than 260,000 digital documents brought by researches from the archives of different countries, as well

as 185,000 scanned documents from microfilms fonds and fonds in possession of the SAKA. This number of digital documents increases every month with about 3000 digital documents according to the work plan with the current resources.

However, 48 % of the abovementioned archival material is unprocessed, unregulated and unarranged in professional aspect, due to the lack of human resources.

As a result of the large amount of unregulated material, giving in use of this material for scientific and professional researchers and other needs that are of interest to institutions, organizations, individuals and legal persons is a challenge in itself with which the archivists of SAKA are facing every day, and especially the community that needs the use of this archival material.

Number of creators registered in the SAKA is 1310 and the trend is growing. Within a year are conducted about 500 inspections to creators in the entire territory of Republic of Kosovo. About 80% of creators have not regulated documentation by the standards, don't have drafted lists with time limits, haven't created conditions for storage, we think that this is due to the lack of punitive measures in the current Law, measures which in other countries are foreseen and implemented by their legislation, even previous laws have had chapter of penal provisions, (Law No.2003/7, for the Archival Material and Archives - Article 46).

### **Current policy**

The law 04 \ L -088 on State Archives is currently in force , responsible for implementation of this law is the State Archives Agency of Kosovo, its subordinate mechanisms, and other fond creator institutions (public and private institutions).

The Agency is an institution that receives, records, preserves and publishes the archival material and enables its use for scientific researches and professional work, as well as other needs which are of interest to institutions, organizations, natural and legal entities. The agency advises and guides as necessary the institutions that fall within the scope of the Law relating to the administration of the archival material, its storage and protection. Organizes training, courses, lectures in order to enhance professional capacity of archival staff in Kosovo, and also performs other activities determined by Law and according to international archival standards.



Archival network aims the archival storage, protection and appropriate use of the archival material and further development of the archival activity. This network operates through interconnection of all archival institutions in Kosovo.

All public, private, natural and legal persons (creators ) possessing the archival material created during their activity, are obliged that after meeting the deadline set by the Law, to submit materials of permanent value for preservation at the Agency.

The submission of the archival material to the Agency should be conducted according to the professional scientific methodology, whereby this material must be systemized and recorded according to the formal management system in Kosovo and international standards. The Agency within its mandate regularly inspects creators for the way of maintenance, storage, recording, and creation of conditions for the preservation of the archival material and the procedure of hand - over of the archival material in the Agency.

The State Agency of Kosovo Archives constantly makes permanent efforts to be closer to the creators through regular inspections, expert advising, and the conducting of annual training, courses, and lectures. The current condition of the documents in our possession is not good, due to the non-existence of the punitive measures.

### ***Laws and the secondary legislation***

For organization of Archival field, apart from the Law on Archives, this field is also affected by other laws, indirectly in relation to this matter, such as:

**Law No. 04/L-088, for the State Archives** - This law determines the organization and operation of the Archival Services in the institutions of the Republic of Kosovo, from the creation, storage, protection, management to the giving into use of the archival documentary material.

However, some provisions are missing, as well as some provisions require reformulation or amending and supplementing which are making difficulties in the development of the archival activity in Kosovo, for ex.: lack of recommendation / advisory Board for the Archives; lack of punitive provisions; lack of dispositions which regulates the issue of export-import of archival documents; lack of dispositions on purchasing of the archival material; preservation of

documentation on time and in special and extraordinary circumstances; licensing of the archivist's profession; division of creators in local and central level and division of competences between SAKA and the Municipal Archives ; definition by law of the archival network. All these deficiencies in the current law are causing problems and dysfunction, opposing the requirements by international standards of archival activities.

**Law no. 04/L-184, on Office Work Administration**- this Law is to administer office work and official documents from the initial recording to their final processing, in the institutions of the Republic of Kosovo and the Public Owned Enterprises.

**Law No. 03/L-172, on Protection of Personal Data** - The Law defines the rights, responsibilities, principles and measures concerning the protection of personal data.

**Law No. 03/L-178, on Classification of Information and Security Clearance** - The purpose of this law is to establish a unique system for classifying and protection of information relating to the security interests of Kosovo, and for the security clearance of persons who have access to this information.

**Law No. 02/L-88, on Cultural Heritage** - The purpose of this law is to regulate the field of cultural heritage about preservation, protection, public access, communication and provision of necessary resources, so that the heritage to be enjoyed by current generations and be ready for future generations as a historical and cultural document.

In addition to the aforementioned primary legislation, this field is arranged also by the following secondary legislation:

**Administrative Instruction No. 08/2007, on selection of the archival material and annihilation of worthless register materials** – with this Instruction is regulated the procedure of selection of the archival material and annihilation of worthless register materials.

**Administrative Instruction No. 09/2007, on Receiving and Hand-Over of Archival Material** – this Instruction defines the system and procedures of receiving and hand-over of public and private archival material in the Kosovo Archives.

**Regulation No. Nr. 01/87/17, on the Manner of using the archival material at the SAKA.**



This regulates the conditions and manner of use of the archival material at the SAKA in the following areas: procedures and use of the archival material, the criteria and standards for the preservation of the archival material, creation of copies and reproductions, the responsibility of the users of the archival material in case of damage of the archival material, and fees and charges for the use of the archival material and compensation for expenses incurred in the case of copying and reproductions.

**Regulation No. 01/2015, on Unique Marks for Classification of Documents and timelines of their preservation-** this Regulation shall govern unique marks for the classification of documents, the content of key groups and the timelines of document preservation.

### **Current Expenditure**

<b>12500 State Agency of Kosovo Archives</b>	<b>Expenditure of 2017</b>	<b>Budget 2018</b>	<b>Projections 2019</b>	<b>Projections 2020</b>	<b>Projections 2021</b>
Expenditure categories	723,662	778,662	1,299,639	1,237,752	1,135,414
11 Wages and Salaries	575,558	575,558	651,535	654,792	658,066
13 Goods and Services	120,519	120,519	120,519	166,263	249,763
14 Municipal Expenditure	27,585	27,585	27,585	27,585	27,585
30 Capital Expenditure		55,000	500,000	389,112	200,000

The table above shows the spent budget of 2017, approved budget of 2018 and 2019-2021 budget projections for SAKA in spending categories.

Special emphasis should be given to: purchase of archive boxes; maintenance of the Inter-Municipal Archives, as in some Archives, the officials themselves clean up offices; do the physical security of the Inter-Municipal Archives, where none of the Inter-Municipal Archives has physical security; also the purchase of inventory for the Ferizaj Inter-municipal Archives, technology equipment, staff trainings and medical visits of the officials, because it is mandatory by the law no. 04 / I-161 on Safety and Health at work, article 17, item 5.

### **Additional assessment of the current policy**

The State Agency of Kosovo Archives has a limited budgetary fund for three (3) years for operational expenses, while for capital investments are foreseen € 1,144,112 for warehouse construction, digitalization of archival material and renovation of existing facility.

Financial resources are managed by the SAKA as sub budgetary program 12,500 in the framework of the MCYS with organizational code 207, reporting the MCYS on expenditures, revenues, capital and non-capital wealth, and liabilities.

The Agency has difficulty in terms of infrastructure, which owns the facility (in Pristina), which was built for the Archives of Kosovo since 1977, but so far had no investment in this premise. Storages where the archival material is being stored are not equipped with the air conditioning system, where temperatures should be constant for protection of documents, 18-22 degrees Celsius, lack of fire protection equipment, the building has an old electric system of 70s, damaged floors and ceilings, sanitation facilities and outdated windows. The main problem remains limited space, since in the building of the Agency there are located also other institutions such as: the Kosovo Cadastral Agency, which possesses the entire second floor (II), the Institute of History a part of the first floor (I) and ground floor (12 offices and two halls).

The Inter-municipal Archives mainly operate in a shared environment with other Institutions.

Today, in modern times we cannot think of the Archives without the digitizing of the archival documents, it is not only imperative but also the requirement of the implementation of international standards.

In the last two years, the Agency has reached good results in digitalization of the archival records, even though it was achieved on personal efforts. Nowadays, the Agency performs with old technology equipment for digitalization of the archival records.

With the same challenge or even greater one are facing the Inter-municipal Archives in terms of infrastructure, except the Inter-municipal Archives of Peja, which possesses its own building, all other Inter-municipal Archives have temporary premises in use ,from other institutions ,to develop the archival activity , which do not meet even the basic criteria for the development of this activity.



The worst is that the archival material is being damaged further during the transfer from one building to another.

### **Experiences of other countries**

The Agency in the framework of its cooperation has visited and taken the best practices of States as: Croatia, Albania and Turkey, where these countries in the field of the archives have overcome challenges which are alike to the problems of the archival services to us.

The experience of these states is as follows:

**Croatia-** the scope of the archival activity is regulated by the Law on archives material and the archives, the secondary legislation, and the Statute, for the purpose of determining the organization, functioning, and competences over creators, holders of the archival material and the establishment of other mechanisms for protection the archival material of historical, scientific and national value. Croatian State possesses one of the most professional process of digitizing the archival material in Europe.

Also, the Croatian state with the abovementioned Law provides the Council, which has an advisory mandate and has shown success in implementing policies in the area of archival activities. The Croatia State Archives possesses the chapter of sanctions in cases of violation of legal provisions, with fines for the creators and holders of the archival material, who do not meet the requirements of recording, arranging, processing, compiling lists with timelines of preservation, protection, creating conditions of storage, delivery to the competent archive, giving in use the archival material before expiration of timelines set by the law, etc., which enabled application and better monitoring of policies in the area of the archival activity.

**Albania:** The scope of the archival activity, in the state of Albania is regulated by the Law on Archives and the secondary legislation in its implementation. Also, the General Directorate of the Archives of with the abovementioned Law provides the Council, which has decision-making mandate and been successful in implementing policies in the field of the archival activity.

The Council consists of 17 members, 8 internal and 9 external. Internal members are elected representatives from among the specialists and workers of state archives network managed by the General Directorate of the Archives. External members of the Council are appointed by heads of

the institutions which they represent, as: Three representatives of the Academy of Sciences or its subordinate institutions; Two representatives of the Ministry of Culture, Youth and Sports and / or its subordinate institutions; Two representatives of the University of Tirana; Two representatives of the system archives.

**Turkey:** Turkey the scope of the archival activity has regulated by a special Law, which covers the scope of archival Network. The archives of Turkey as the most successful practice have the digitizing of the archival data through a contracted private company.

As a proven practice for the successful operation of the Archives, we consider the (mixed) practices between Albania and Croatia to operate in our country.

In order to avoid additional costs we intend that with amending and supplementing of the law to create the internal recommendation/advisory board, like Croatian model.

The board will consist by the Executive Chief Officer of the Agency, including the Directors of Departments and Directors of Directorates of Inter-municipal Archives. Duties and tasks of the board will be regulated by a secondary legislation.

### **Chapter 3: Goals and Objectives**

#### **Goals**

The Agency's aim or goal is the development of policy related to improving the intensification and full functioning of the archival network, human resources, physical infrastructure, collection of the archival material, which have been matured to be delivered to the archives, digitization of documents etc.

#### **Objectives**

The lack of human resources results that 48% of the archival material is unregulated. There is always a danger that unregulated material could be damaged. Although archivists of the SAKA, work with the highest norm in the region, and with the current staff we could not catch up for the improvement of the situation.



Therefore, the objective to accomplish the mission of the archives is:

**Management and digitization of the archival documents** which provides monitoring and oversight in registries (to creators) and competencies to give remarks, proposals and recommendations including the imposition of punitive measures for their non-realization.

Whereas the digitization is to be closer to the community and the growing demands of scientific and institutional researchers, where is necessary the use of modern information technology tools that would facilitate greatly the exchange of documents with international archives, the use of information that documents provide, and at the same time will have impact also in their physical protection from possible physical destruction, and would increase the efficiency of the use of the archival material by the researchers.

**Increase the number of the professional staff** - who will register, regulate, classify and process the documents of funds and archival collections with adequate dynamic.

**Improvement of physical infrastructure** - to achieve standards of document storages and to meet international norms of the physical storage of documents is more than necessary to create conditions of physical infrastructure for the protection and preservation of the archival material (sufficient space, acclimatization, fire protection system, shelves, etc.).

**The digitization of the archival records** - to be closer to the community and the growing demands of scientific and institutional researchers, it is necessary the use of modern information technology tools that would facilitate greatly the exchange of documents with international archives, the use of information that documents provide, and at the same time will have impact also in their physical protection from possible physical destruction, and would increase the efficiency of the use of the archival material by the researchers.

## **Chapter 4: Options**

### **Option 1: Status quo option (no change)**

The continuation of this situation will further deepen management problems and better functioning of the archival activity in Kosovo. The lack of recommendation / advisory Body for Archives; lack of the punitive dispositions; lack of provisions which regulate the issue of export-import of the archival documents; lack of dispositions on purchasing of the archival material; preservation of documentation on time and in special and extraordinary circumstances; licensing of archivist's

profession; competences of local and central level of Archives; definition by law of the archival network; change of the name of the Agency, from the State Agency of Kosovo Archives, (SAKA) in the State Archival Agency of Kosovo (SAAK), will have impact in the increase of the percentage of unprocessed documents, their further damage, the impossibility to accept documents which are matured according to the law, due to the lack of the space and human resources. If the Law will not change, it will deepen and worsen the current state of the archives.

### **Option 2: Change of the existing policy**

The existing policy may change with the amendment and supplementation of the current Law, determining additional provisions to regulate the field of the archival activity.

The amendment and supplementation of the Law shall contain the following provisions:

**The Archives Network of the Republic of Kosovo will consist of:** the State Agency of Kosovo Archives, the Inter-municipal Archives, Archives of the private and public institutions, Special Archives and Private Archives, and the Institutions as defined in Article 9, Paragraph 2 of the Law 04 / L-088, for the State Archives.

The Agency is the highest body of the Kosovo Archival Network, the central archival institution that acts as a government body, which organizes, directs and controls the archival activity in all archival network in the country.

The Agency preserves, protects and manages the archival material of the institutions, bodies and public organizations, legal and natural persons, families and other entities, submitted to the Agency.

In the direct administrative and professional capacity of the Agency are the Inter-municipal Archives: in Pristina, Mitrovica, Peja, Gjakova, Prizren, Gjilan, and also as an immediate need we plan the establishment of the Inter-Municipal Archives in Ferizaj (if budgetary opportunities are created).

Special archives of the institution and the private ones that are part of the archives network in the country, have constant professional cooperation with the State Agency of Kosovo Archives.

### **Inter-municipal Archives:**

The Inter-municipal Archives of the Republic of Kosovo:



- Inter-municipal Archives of Pristina, which covers creators and holders of the archival material from the municipalities of: Pristina, Podujevo, Obiliq, Fushë Kosovo, Lypjan, Drenas and Gracanica;
- Inter-municipal Archives of Mitrovica, which covers creators and holders of the archival material from the municipalities of: Mitrovica, Skenderaj, Vushtrri, Zveqan, Leposaviq and Zubinpotok;
- Inter-municipal Archives of Peja, which covers creators and holders of the archival material from the municipalities of: Peja, Deçan, Junik, Istog and Klina;
- Inter-municipal Archives of Gjakova, which covers creators and holders of the archival material from the municipalities of: Gjakova, Malisheva and Rahovec;
- Inter-municipal Archives of Prizren, which covers creators and holders of the archival material from the municipalities of: Prizren, Mamusha, Suhareka and Dragash;
- Inter-municipal Archives of Gjilan, which covers creators and holders of the archival material from the municipalities of: Gjilan, Ferizaj, Kaçanik, Han i Elezit, Shtërpce, Shtime, Kamenica, Artana (Novobërda), Viti, Ranilluk, Partesh and Klllokot.

Due to the large geographic breadth and the large number of creators who currently is covered by the Inter-municipal Archives of Gjilan, we see as necessary the establishment of the Inter-Municipal Archives of Ferizaj (if budgetary opportunities are created).

The Inter-municipal Archives administer, preserve, protect, classify and categorize inherited documents, archives and also the documents of the local institutions archives operating within the relevant territory they cover.

The Inter-municipal Archives are required to record every archival property that exists in the territory which they cover.

- *The recommendatory / advisory Board* - will be established by the amendment and supplementation of the Law.

This Board will give advices on professional work of the archival activity; analyzes general issues in the field of archival activity; gives recommendations and opinions on the progress of the archival activity in the Republic of Kosovo; gives opinion on the conduct of scientific and cultural functions

of the archives; gives recommendations on the use of the archival material in the archives before the expiration of the timelines, and recommends the establishment of various commissions in the function of the archival activity. The Board will be composed by the Directors of Departments and Directors of the Inter-municipal Archives Directorates, headed by the Chief Executive of the Agency. For the duties and tasks of the Board shall be issued a secondary legislation which will define the duties and responsibilities.

**-Changing the name of the Agency**, from the State Agency of Kosovo Archives (SAKA) in the State Archival Agency of Kosovo (SAAK), for the purpose of avoiding the duplicating of acronyms with the Academy of Sciences and Arts of Kosovo (ASAK).

**-Possibility of purchasing documents with historical, cultural, scientific and national value** – as provided with Law. In order for the Agency to be able to enrich the fonds and collections from the owners of the concerned documents in the country and abroad. The commission will be established by the field specialists to determine the value of the documents.

**-Export- import of documents: documents**, archival fonds and collections stored in the Agency, in private and special archives, to be exposed in international environments for the purpose of exhibiting or cultural promotion and historical- scientific purposes, should be guaranteed the movement of documents and safe return to their country of origin.

The responsible body for implementing the export / import of the documents and their movement shall be the competent Board of the SAKA, determined by law or the secondary legislation. Archival documents of permanent value and of historic-cultural exceptional importance for the people and the state of Kosovo, can be taken out the country only with the consent of the professional commission or a body appointed by the Agency.

**-Preserving documents in exceptional circumstances**, the circumstances created by the consequences of natural disasters (fire, flood, earthquake) cases of wars etc.

**The law should contain punitive Provisions** in case of legal violations, in order that creators who do not meet the requirements of recording, arranging, processing, compiling of the lists with



timelines in terms of preservation, protection, creating conditions for storage, submission to the Agency according to the law and international standards.

With the amending and supplementing of the law on State Archives we expect that the situation will be improved in the better management and functioning of the archival activity in Kosovo. So, we will have a bigger percentage increase of the processed documents, protection of the archival material, the possibility of acceptance of matured documents according to the law, acceptance of the archival documents arranged according to required standards. Responsible for implementing the law will be the State Agency of Kosovo Archives.

### **Option 3: change of existing approach of implementation**

If the existing policy does not change, but are provided financial means for the function of the archival activity including digitization and additional necessary human resources and trainings for them, the situation in the Agency will be considerably improved.

The increase of the number of employees would improve the situation in the arrangement, processing of archival fonds and collections. Digitalization would significantly improve the use and storage of the archival material.

However, the situation in the registries, where the main problem is, would not change at all due to the lack of legal and punitive provisions.

## Chapter 5: Summary of the Options

<b>Summary of the Options</b>			
<b>The main characteristics</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>
Major features of options	Not taking any action to change policy and the current situation.	Improving the situation with the amendment of the Law in force.	Improving the situation by providing financial resources for the functioning of archival activities, including digitization and providing additional human resources, and regulation of some deficiencies in the issuance of bylaws.
Sector	Agency and archival network	Agency and archival network	Agency and archival network
Implementation characteristics - who is responsible –government (which), private sector, citizens.	Agency and archival network, fund-creators and holders of archival documents.	Government of R. of Kosovo, Agency and archival network, fund-creators and holders of archival documents.	Government of R. of Kosovo, Agency and archival network, fund-creators and holders of archival documents.
Program or service administration or delivery.	////	/////	////



Laws, secondary laws, changes and amendments, enforcement, sanctions.	<p>Law no. 04/L-088 for State Archives, Bylaws: Administrative Instruction No. 08/2007, on Selection of Archive material and annihilation of worthless register materials;</p> <p>Administrative Instruction No. 09/2007, on Receiving and Hand-Over of Archive Materials.</p> <p>For Manner of using archive material at the SAKA.</p>	Changes and amendments of existing law.	Existing law, also issuance of bylaws: Archival network, deadline for hand-over of archival documents, tariffs.
Economic incentives or disincentives, taxes or subsidies	/////	////////	////////
Educational and communication campaigns	/////	////////	////////
Instructions and Codes	/////	////////	/////
Timing – When would option go in to force	Law is in to force	2017/18	2017

## **Chapter 6: Analysis of the Options**

### **Benefits**

**Option 1** - Even despite the shortcomings in the implementation of this law in practice, this Law covers the field of the archival activity in Kosovo.

**Option 2** - Drafting the amending and supplementing of the law would regulate these issues: we will have the percentage increase of documents regulated, more professional protection from further damage of the documents, increasing the amount of the reception of fonds and archival collections that are mature to be archived; advisory/recommendation mechanism for the policy development program of the archives; as well as the insurance for the full implementation of the Law through punitive measures.

**Option 3** - If the existing policy is not changed, but are provided additional financial funds for the functioning of the archival activity including digitization and additional human resources and training for the staff, situation in the Agency will be improved significantly. Some of the shortcomings of the current law would be regulated by the issuance of the secondary legislation.

### **Negative consequences**

**Option 1** - Continuation of the existing policy would cause deepening of the existing problems. As a result of the lack of punitive measures comes as a failure in the implementation of the current law.

**Option 2** - Amendments and supplements of the existing law will require additional budgetary cost.

**Option 3** - By changing the existing approach of the implementation, the situation in the registries, where the source of the main problem is, would not change at all, due to the lack of legal punitive provisions.



### ***Chapter 7: Consultation***

During the process of drafting this Draft Concept Document, experts from the Internal Departments of the State Agency of Kosovo Archives, Government Coordination Secretariat and Legal Office of the Prime Minister were consulted, who also participated in the drafting of this Draft Concept Document.

The consultation process will be conducted in accordance with Regulation no. 09/2011 on Government Work.

### **Chapter 8: Comparison of Options**

**Option 1** - Status quo - the continuation of this condition, the situation will remain unchanged in the functioning of this field. Development of the archival activity with the applicable law remains incomplete and does not promise a progressive development.

**Option 2 - With the issuance of amendment and supplementation of the law**- situation of the functionality in the archival field promises that in the future will be solved the essential problems that today face numerous challenges such as: absence of clarification of the archival Network and explanation of the archival duties and competences; the advisory / recommendatory board; punitive provisions, the handover timelines, the possibility of purchasing the archival documents, export- import of the archival documents etc.

**Option 3** – By changing the existing approach of the implementation, hence with additional funds for the operation of the archival activities including digitization and additional human resources and training for the staff, the situation in the Agency would be improved considerably. But, the situation in the registries, where the source of the main problem is, would not change at all, due to the lack of legal punitive provisions.

**The option that will have more chances to achieve our goals and objectives for solving this field is the amendment and supplementation of the Law on Archives option 2.**

## **Chapter 9: Recommendation**

It is recommended that the Government of the Republic of Kosovo, to adopt the Concept Document with the second (2) recommended option, the issuance of the Draft Law for the amendment and supplementation of the Law no. 04 / L-088 on the State Archives, which would regulate the functioning of the Archival Network; establishment of the advisory / recommendation Board; purchasing of the archival documents; export and import of the archival material and punitive provisions.

This option will not have few budgetary implications, the budgetary implications will be with the establishment of the Inter-Municipal Archives of Ferizaj (depending on budget opportunities) which are presented in the form of the financial impact assessment. In case of approval of this Concept Document, the State Agency of Kosovo Archives in cooperation with the Office of the Prime Minister will draft and submit to the Government for approval the Draft Law on amendment and supplementation of the Law No. 04 / L-088 on State Archives of the Republic of Kosovo.

## **Chapter 10: Communication**

With the approval of the Concept Document, the State Agency of Kosovo Archives according to the rules and procedures will communicate to the interested parties the decision of the Government on the changes that will be made in the field of archives. Method of communication will be open, according to the regulation on Work of the Government. The main message will be the announcement of new opportunities that will bring the amendment of the law on the State Archives.

This Draft Concept Document was sent for prior consultation in accordance to Article 7 (3) of the Regulation on Work of the Government to all relevant interested parties, in accordance with established procedures, whilst we have taken reviews only from GCS. All recommendations taken from GCS are incorporated in this Draft Concept Document.