

LAW NO. 04/L-250**ON THE AIR NAVIGATION SERVICES AGENCY**

The Assembly of the Republic of Kosovo,

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

Approves

LAW ON THE AIR NAVIGATION SERVICES AGENCY**Article 1
Purpose**

The purpose of this Law shall be the establishment of the Air Navigation Services Agency –ANSA in order to provide infrastructure and air navigation services in air space of the Republic of Kosovo.

**Article 2
Scope of Application**

This Law applies to every aircraft engaged in general air traffic in the territory and airspace of the Republic of Kosovo, or any other airspace in respect of which the Republic of Kosovo has responsibility for the provision of air traffic control services.

**Article 3
Definitions**

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

1.1. **ANSA**- the Air Navigation Service Agency of the Republic of Kosovo;

1.2. **Agreement on the Establishment of a European Common Aviation Area** - the Multilateral Agreement on the establishment of a European Common Aviation Area, (30 November 2006), which became binding for the Republic of Kosovo;

1.3. **Aeronautical information service** - a service established within the defined area of coverage, responsible for the provision of aeronautical information and data necessary for the safety, regularity, and efficiency of air navigation;

1.4. **Air navigation services** - in respect of Kosovo airspace or any other airspace in respect of which Kosovo has responsibility for the provision of air traffic control services: (1) air traffic services, (2) communication, (3) navigation and surveillance services, (4) meteorological services for air navigation, and (5) and aeronautical information services;

1.5. **Air navigation service provider (ANSP)** - any public or private entity, certificated by a competent authority, which provides air navigation services for general air traffic;

1.6. **Air traffic control (ATC) service** - a service provided for the purpose of:

1.6.1. preventing collisions between aircraft, and in the maneuvering area between aircraft and obstructions; and

1.6.2. expediting and maintaining an orderly flow of air traffic.

- 1.7. **Air traffic services** - the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);
- 1.8. **Aircraft** - any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;
- 1.9. **Aircraft operator** - any legal or natural person, operating or proposing to operate one or more aircraft, whether directly or indirectly or by a lease or any other arrangement;
- 1.10. **Airport** - a landing area used regularly by aircraft for receiving or discharging passengers or cargo;
- 1.11. **Annexes to the Chicago Convention** - the documents issued by the International Civil Aviation Organization containing the Standards and Recommended Practices applicable to civil aviation;
- 1.12. **CAA** - the Civil Aviation Authority of the Republic of Kosovo;
- 1.13. **Chicago Convention** - the international basis for civil aviation agreements, formally known as the Convention on International Civil Aviation;
- 1.14. **Civil aviation** - the operation of any civil aircraft for the purpose of general aviation operations, aerial work, or commercial air transport operations;
- 1.15. **Certificate** - a document issued by the CAA in compliance with the legislation of the Republic of Kosovo which confirms that an air navigation service provider meets the requirements for providing a specific service;
- 1.16. **Commercial air transport operation** - an aircraft operation involving the transport of passengers, cargo, or mail for remuneration, hire, or reward;
- 1.17. **General air traffic** - all movements of civil aircraft, as well as all movements of State aircraft when these movements are carried out in conformity with the procedures of ICAO and Law on Civil Aviation;
- 1.18. **General aviation** - a civil air operation that is not a commercial air transport operation or an aerial work operation;
- 1.19. **ICAO** - the International Civil Aviation Organization;
- 1.20. **Meteorological services** - those facilities and services that provide aircraft with meteorological forecasts, briefs, and observations as well as any other meteorological information and data provided for aeronautical use;
- 1.21. **Navigation of aircraft** - a function that involves aircraft navigation, including the piloting of aircraft;
- 1.22. **Navigation services** - those facilities and services that provide aircraft with positioning and timing information;
- 1.23. **Person** - any natural person, business organization, firm, partnership, corporation, company, association, joint stock association, societies, government or public authority, and includes any trustee, receiver, assignee, or other similar representative of any such entity;
- 1.24. **SARPs** - the Standards and Recommended Practices of ICAO;
- 1.25. **State aircraft** - an aircraft used exclusively in military, customs, and police services. It does not include any Government owned aircraft engaged in operations that meet the criteria of the definition of commercial air transport operations;
- 1.26. **Surveillance services** - those facilities and services used to determine the respective positions of aircraft to allow safe separation;

1.27. **User Charges** - the charges applied by ANSA to the owners and operators of aircraft for the provision of air navigation services as enumerated in this Law;

1.28. **VFR** - Visual Flight Rules;

1.29. **Ministry** – respective Ministry for Civil Aviation.

Article 4

Rules and Standards for Civil Aviation in the Republic of Kosovo

1. Civil Aviation activities in the Republic of Kosovo air space above its territory shall be carried out in accordance with the provisions of the Law into force on Civil Aviation, the Convention on International Civil Aviation of 7 December 1944, and the Agreement on the Establishment of a European Common Aviation Area.

2. Any directly applicable legal provision of the Agreement on the Establishment of a European Common Aviation Area shall prevail over any provision or legal aspect of the Republic of Kosovo that is inconsistent with it.

Article 5

Air Navigation Services Agency

1. This Law establishes the Air Navigation Services Agency of the Republic of Kosovo (“ANSA”) which is committed to the safe operation of air navigation system of the Republic of Kosovo.

2. ANSA will act in accordance with applicable policies, legislation, international standards and agreements on civil aviation in the Republic of Kosovo as well as in accordance with ICAO standards and recommended practices on air navigation services. CAA may issue additional procedures or rules.

3. ANSA is an independent budget organization and public authority and has its own budget that is administered independently, in accordance with the applicable legislation in the Republic of Kosovo.

4. ANSA is functionally and organizationally separated from the CAA.

5. ANSA has full legal capacity and shall act as a not-for-profit, cost-recovery and performance-based service provider.

6. ANSA is headed by a full-time Director, who shall be the responsible authority for overall day-to-day management and decision-making.

7. The Director is aided by full-time Deputy Directors.

8. ANSA acts in the public interest and independently exercises the powers and carries out the functions foreseen by this Law and sub-legal acts.

9. Director is accountable and reports to the Government of the Republic of Kosovo.

Article 6

Appointment and dismissal of the Director of ANSA

1. A person may be appointed as the Director of ANSA if he/she accomplishes all of the following conditions:

1.1. to have a university degree by an accredited academic institution or a postgraduate degree in the field of civil aviation;

1.2. to have at least five (5) years work experience in management in the field of civil aviation or air navigation;

1.3. has not been convicted for any criminal offence;

- 1.4. to have no direct or indirect monetary, financial or other interest in any business organization that is engaged in the civil aviation sector.
2. The Director shall be appointed by the Government after the delivery of the recommendation by the Minister. The Minister shall before the recommendation, establish and evaluation Commission which shall be responsible for evaluation of the candidates, that through an open and transparent competition aims to provide appointment based on merit and qualifications that fulfills the conditions required according to paragraph 1 of this Article.
3. Upon the proposal of the Minister, the Government by sub-legal act shall determine the way of compensation and other benefits which shall be paid to the Director and Deputy Directors. When determining the compensation of the Director and Deputy Directors, the Minister shall take into consideration the great importance of the position of the Director and Deputy Directors for the proper and safe conduct of air navigation services in the Republic of Kosovo.
4. The Director shall serve on a full-time for a period of five (5) years. With the recommendation of the Minister and approval of the Government, upon expiry of the initial term, the Director may be reappointed.
5. Upon a proposal of the Minister, the Government may dismiss the Director only when he/she:
 - 5.1. has seriously breached the law and his/her professional duties;
 - 5.2. has been convicted of a criminal offence by a final court judgment;
 - 5.3. acquires directly or indirectly monetary-financial means or other interest in any business organization, engaged in the civil aviation sector;
 - 5.4. becomes mentally or physically incapable of performing his/her duties for a period longer than three (3) consecutive months; or
 - 5.5. engages in any other business, vocation or employment.
6. If the Director believes he/she has been unlawfully dismissed, he/she may address the case before a competent court.

Article 7 **Competences of the Director of ANSA**

1. The Director shall give the highest priority to the maintenance of safety in air navigation, and shall ensure the execution of the powers and responsibilities of ANSA in accordance with the legislation into force.
2. The Director supervises and oversees all safety, technical and operational, administrative, financial and legal issues directly and indirectly associated with the management and operation of ANSA and its properties.
3. The Director represents ANSA in domestic and international initiatives and projects related to its activities.
4. The Director ensures that the activities of ANSA to be in compliance with all applicable provisions of the Law on Public Financial Management and Accountability and other relevant legislation.

Article 8 **Deputy Directors of ANSA**

1. The Director is aided by two duly qualified professional who serve as Deputy Directors:
 - 1.1. Deputy Director for operation services;
 - 1.2. Deputy Director for administrative and financial services.

2. The Deputy Directors, regarding their work, report to the Director of ANSA.

3. Competences, responsibilities, criteria and procedure for appointment and dismissal of the Deputy Directors shall be conducted through a sub-legal act issued by the Government.

Article 9 ANSA personnel

The Director by a sub-legal act regulates the operation and staff job positions.

Article 10 Delegation of duties

1. The Director may, in writing, delegate his/her duties and competences to any of his/her subordinate personnel, provided that the Director to be responsible to ensure that the subordinate shall exercise legally every delegated duty or competence.

2. If the Director considers reasonable and necessary to achieve proper performance of the functions assigned to ANSA with this Law may engage qualified contractor to perform such functions. Selection of such contractors shall be done in a competitive procurement process, in accordance with the Law on Public Procurement.

Article 11 ANSA revenues

1. ANSA's revenues shall consist of:

1.1. user charges assessed and collected by ANSA;

1.2. donations, grants and any other financial or technical support designated for ANSA.

2. For each fiscal year, the Director shall draft the proposal-request on budget and allocations for ANSA and submit it to the relevant Minister of Finance. The preparation and submission of such documents shall be done in accordance with the requirements of the Law on Public Financial Management and Accountability, and by taking into account the level of the ANSA's current and expected costs and dedicated revenues.

Article 12 Administrative Disputes

Except if the dispute relates to an alleged violation of the Law on Public Procurement, any person who has a specific interest in, and is damaged by, any procedural or substantive act or omission of the Director or of ANSA personnel, and who believes that such act or omission is contrary to the provisions of this Law or legislation into force, may contest such act or omission in accordance with the general Law on Administrative Procedure.

Article 13 Division of Competences

1. The CAA is the competent authority to represent the Republic of Kosovo in air navigation matters which involve the expression of sovereign interests and other commitments at the state level.

2. ANSA is authorized to manage the relations with international organizations and other service providers for all operational and technical matters.

Article 14 Regulation and Oversight of ANSA

1. ANSA must hold a certificate issued from the CAA to provide air navigation services within the Republic of Kosovo.

2. ANSA shall respond to and be accountable to CAA in accordance with the applicable Law on Civil Aviation.
3. Unless otherwise specified by the CAA, ANSA shall act in accordance with ICAO Standards and Recommended Practices regarding the air navigation services.

Article 15 **Designation and Geographical Scope**

1. ANSA shall coordinate and cooperate with the appropriate NATO services and units, and other national services and units, and take the necessary steps to ensure that written agreements between the ANSA and NATO authorities, or the equivalent legal arrangements, are established in respect of the management of specific airspace blocks.
2. Nothing in this present law shall prohibit the future development and implementation of the flexible use of airspace and airspace management procedures, jointly with the relevant NATO authority dealing with air navigation services.

Article 16 **Authorities and Responsibilities of ANSA**

1. Unless otherwise provided by contract or international agreement, ANSA shall be responsible for:
 - 1.1. the provision of Air Traffic Control Services;
 - 1.2. Air Traffic Flow Management and Airspace Management (in cooperation with NATO);
 - 1.3. Aeronautical Information Services;
 - 1.4. Aeronautical Meteorological Service;
 - 1.5. purchasing, installing, maintaining, operating, and modernizing the airspace communication, navigation, and surveillance equipment and systems;
 - 1.6. procuring, installing, maintaining, operating, and modernizing all required navigational aids (excluding visual aids), as well as required primary and redundant power and auxiliary supplies. ANSA and the airport operators, or the companies managing and operating airports within the Republic of Kosovo, shall have a Memorandum of Understanding stating the ownership, responsibility, maintenance, and operation of such equipment. The Memorandum of Understanding will be reviewed annually to ensure continuing relevance and effectiveness;
 - 1.7. providing training and consultation with respect to air navigation;
 - 1.8. performing research and development with respect to air navigation;
 - 1.9. developing methods to accelerate air traffic control modernization and to improve aviation safety related to air traffic control;
 - 1.10. development agreements with the Director General of the CAA and users of the products, services, and capabilities it will provide;
 - 1.11. operating in accordance with standards developed by the CAA and rapidly respond to CAA oversight findings;
 - 1.12. consultation with customers, travellers, including direct users such as airlines, cargo carriers, manufacturers, airports, general aviation, and focus on producing results that satisfy ANSA's external customer needs;

1.13. consulting and cooperating with airport operators or companies managing and operating airports within the Republic of Kosovo, the CAA, Ministry and NATO to determine the best practices for meeting the diverse needs throughout the airspace of the Republic of Kosovo;

1.14. formulating and recommending to the CAA any regulatory changes necessary for ANSA to achieve its performance goals, and to ensure safety;

1.15. providing advice to the Government regarding the development of policies proposed by the Government for the use of the Republic of Kosovo airspace in order to fulfill the needs of users, taking into account national security, economic and environmental factors, and the need for a high standard of safety;

1.16. performing any other functions pertaining to civil aviation in the Republic of Kosovo assigned to it by the present law or another normative act.

2. ANSA coordinates search and rescue efforts with the Relevant Ministry of Internal Affairs and cooperates fully with the Aeronautical Accident and Incident Investigations Commission.

3. ANSA shall ensure safe, continuous, smooth, and effective air navigation by performing functions of an air navigation service provider, airspace management, and air traffic flow management pursuant to the Law on Civil Aviation into force, and the Regulations pursuant to the Agreement on the Establishment of a European Common Aviation Area.

Article 17 **Relations with other Service Providers**

1. ANSA is authorized to negotiate contractual arrangements with other air navigation service providers that have been certified in the European Common Aviation Area to avail ANSA to the services of the others. Such arrangement shall be subject to the approval of the CAA as it is determined with the respective legislation.

2. On the basis of contracts and agreements, air navigation services provided by ANSA may be:

2.1. extended into the airspace beyond the borders of the Republic of Kosovo; and

2.2. performed with the assistance of air navigation service providers of other States.

Article 18 **Transparency of Accounts**

1. ANSA shall have transparent accounts and publish an annual report and on web page subject to external audit by the General Auditor in accordance with the Law.

2. ANSA shall submit the Annual Report to the Government for approval.

Article 19 **Ownership of ANSA Infrastructure**

1. ANSA infrastructure shall be owned by ANSA.

2. The cost related to the deployment, development, and maintenance of the infrastructure shall be covered by ANSA through its dedicated revenues or other Government economic supports.

3. Facilities and equipment operated by Pristina International Airport "Adem Jashari"- Air Control and used for air navigation services shall be transferred under ANSA authority and responsibility from the moment of its establishment.

Article 20

User Charges

1. User Charges assessed and collected by ANSA shall include:

- 1.1. approach fees assessed in return for air navigation services provided within Kosovo air space; and
- 1.2. over-flight fees assessed on aircraft authorized to use Kosovo air space.

2. ANSA shall only be permitted to assess and collect Approach Fees and Overflight Fees and said fees shall be duly regulated by the CAA, in accordance with the Law on Civil Aviation.

3. ANSA shall propose the user charges for air navigation services rendered so that said fees strive to be competitive with similar charges assessed by other countries in the European Common Aviation Area, and calculated on the basis of reasonable cost-recovery, taking into account all other revenue sources.

4. The CAA shall review and approve the charges proposed by ANSA, in accordance with Law on Civil Aviation and inform the Ministry on the determination of charges.

5. The user charges shall be due and payable from the aircraft operator. If the aircraft operator is unknown, the user charge shall be due and payable from the aircraft owner.

6. The user charge regime shall be defined by legislation on the establishment of a common charging scheme for air navigation services and any amendments/ supplementations thereto. The rates established in this way shall ensure that there will be no discriminations between different users.

7. ANSA may deny the provision of air navigation services an airspace user who infringes the conditions of payment except emergency landing.

Article 21

Exonerated Flights from User Charges

1. Visual Flight Rules flights and aircraft used by the State, such as military, customs and police services, shall also be excluded from user charges.

2. The State shall ensure that ANSA is reimbursed for the services they provide to exempted flights.

Article 22

Labour and Social Aspects

ANSA shall ensure the continuity of the provision of air navigation services at all times. Any action by ANSA personnel, such as strikes and assimilated practices that could endanger the life, personal safety or health of persons is prohibited.

Article 23

Transfer of Provision of Services

Upon the entry into force of this Law, ANSA shall provide all users with the civil air navigation services that the Pristina International Airport "Adem Jashari" –Air Control provided prior to entry into force of the present law.

Article 24

Repeal of Previous Incompatible Legislation

1. Except where otherwise stipulated herein, the present law repeals all normative acts that are incompatible with it.

2. To the extent compatible with the present law, all normative acts covering the subject matter within the scope of the present law shall be deemed to be implementing regulations issued under the authority of the present law. Such sub-legal acts shall continue in effect until replaced by regulations for implementation that cover the same subject matter.

Article 25

Transitional Provisions

1. Within ninety (90) days from the entry into force of this Law, the Director of ANSA shall be appointed by the Government, in accordance with the procedures and requirements set forth by this Law.
2. For the implementation of this Law, the Government, CAA and ANSA, on the basis of their competence, within six (6) months shall issue sub-legal acts defined by this Law.
3. All professional and administrative staff of Pristina International Airport "Adem Jashari" Air Control is transferred to ANSA.
4. If this Law or amendment and supplementation of this law, is interpreted without compliance with the Law on Civil Aviation, the latter shall prevail.
5. Entry into force of this Law does not derogate the authority given to the North Atlantic Treaty Organization (NATO) regarding the airspace of the Republic of Kosovo.

Article 26

Entry into force

This Law shall enter into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo.

Law No. 04/L-250
20 March 2014

Promulgated by Decree No. DL-010-2014, dated 07.04.2014, President of the Republic of Kosovo Atifete Jahjaga