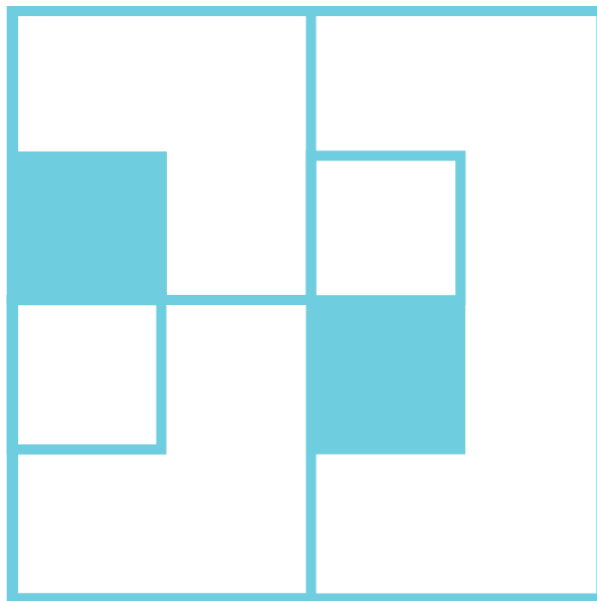




Funded by  
the European Union

POLICY BRIEF #2

# Legal Framework for Water Resources Management



Promoting Universal  
Access to Clean Water

Let's do it  Peja!

**DISCLAIMER**

This publication has been produced as part of the project “Promoting Universal Access to Clean Water”, funded by the European Union Office in Kosovo and implemented by Let’s Do It Peja.

The views, opinions and recommendations expressed in this publication are those of the author and do not necessarily represent the views of the European Union Office in Kosovo.

POLICY BRIEF

LEGAL FRAMEWORK  
FOR  
WATER RESOURCES  
MANAGEMENT

March, 2023

## Content

Abbreviations.....	5
1. BACKGROUND .....	6
2. THE LAW ON THE WATERS OF KOSOVO .....	7
2.1 Purpose of the Law .....	7
2.2 Scope of the Law .....	7
3. LAW ENFORCEMENT .....	8
3.1 Approval and publication of secondary legislation .....	8
3.1.1 Administrative Instructions .....	8
3.1.2 Decisions issued by law .....	10
3.1.3 Drafting and approval of planning documents .....	11
3.1.4 Implementation of the foreseen institutional changes .....	11
4. SHORTCOMINGS OF THE LAW ON KOSOVO WATERS.....	14
4.1 Erroneous/Unnecessary Definitions.....	14
4.2 Missing Definitions.....	15
4.3 Deficient and Inadequate Regulation of Water Resources .....	15
4.4 WATER monitoring.....	15
4.5 Other issues .....	15
5. CONCLUSIONS.....	17
6. RECOMMENDED POLICY .....	18
References.....	20

## ABBREVIATIONS

RBDA	River Basin District Authority
European Union	European Union
WFD	Water Framework Directive
European Commission	European Commission
IWC	Interministerial Water Council
IMWR-K	Project: Integrated Management of Water Resources - Kosovo
MESPI	Ministry of Environment, Spatial Planning and Infrastructure
SIDA	Swedish International Development Agency
AI	Administrative Instruction

## 1. BACKGROUND

In post-war Kosovo, the legal framework for the management of water resources was created for the first time in 2004 with the issuance of the Law on Kosovo Waters (Law no. 2004/24) which was decreed<sup>1</sup> on October 14, 2004. This law established the principles for the administration of Kosovo's waters and had regulated the relevant issues for the administration, planning, protection and responsibility of institutions in the field of water, including the establishment of an institutional framework for the administration of water resources in Kosovo. In 2013 (on March 19, 2013), the Assembly of Kosovo approved a new law on water - Law on Waters of Kosovo No. 04/L-147 – which repealed the 2004 Law.

The basic principles for the administration of water resources, such as *the user pays principle*, *the polluter pays principle*, *integrated management of water resources*, *water management according to river basins*, etc., are the same in these two laws. However, taking into account that the old law was issued before the declaration of Kosovo's independence, unlike the first law, with the new law the ownership of water resources is also defined as "property of general interest and property of the Republic of Kosovo". In addition to this, the new law also includes some changes regarding the institutional framework, such as: the establishment of an Authority of the River Basin Region (the old law foreseen two authorities), the establishment of the Interministerial Water Council as an interministerial decision-making body led by the Prime Minister (the old law had the Water Council of Kosovo as an independent advisory body for the Assembly of Kosovo, composed of sector experts) and the establishment of the Water Institute.

---

<sup>1</sup> With the UNMIK Regulation no . 2004/41

## 2. THE LAW ON THE WATERS OF KOSOVO

### 2.1 PURPOSE OF THE LAW

**The purpose** of this [law](#) is to firstly to define the ownership of water resources, as determined in paragraph 1 of Article 1: "*Water resources are assets of general interest and property of the Republic of Kosovo that are preserved and protected by law*".

However, there are many cases when a municipality, village or community does not allow, i.e. illegally, the neighboring municipality, village or community to use the water resource in their territory. For example, the municipal assembly of Istog has decided not to share its source with the municipality of Klina, or the village of Budakova together with the village of Vranic in the municipality of Suhareka, or the Bosnian community in the villages of Zhupa, and other such cases are tolerated in violation of the law.

Paragraph 2 of the same Article further clarifies that the purpose of the law is to determine the principles and procedures as well as to establish adequate institutions that ensure the optimal use of water resources on the one hand, and the protection of water resources from pollution, overuse and misuse on the other hand, in order to ensure a sustainable development of water resources in function of public health protection, environmental protection and economic development of Kosovo.

### 2.2 SCOPE OF THE LAW

**The scope** of the Law includes ‘the regulation of all matters related to: surface water, lakes, accumulations, reservoirs, natural resources, underground water, wetlands, land along river beds, management related manners; water use and water distribution, water protection and conservation, protection from water harmful actions, including floods, inundations, droughts, erosion, water facilities and infrastructure, water financing, as well as the conditions, methods and actions by which water can be utilised or discharged.’

Therefore, the Law regulates all issues related to the administration and financing of water resources management, including: (i) their utilization, (ii) protection, and (iii) protection from them. The responsibilities for this are delegated to the Ministry of Environment, Spatial Planning and Infrastructure (MESPI) and its agency, the River Basin District Authority (RBDA).

It should be noted that the law does not regulate water services, i.e. water and sewerage services or wastewater treatment, although MESPI finances and/or

manages such projects. According to the institutional responsibilities and the legal framework as well as according to the decisions of the Interministerial Water Council (IWC), this scope belongs to the Regional Water Companies, therefore the Ministry of Economy as a shareholder of these public enterprises.

The only exception that the law makes in terms of responsibilities beyond water resources, is to IWC, as a "coordinating and decision-making body, which examines the systemic issues of water administration, the harmonization of different needs and interests, and proposes measures for the development, the use and protection of Kosovo's water resources and system".

### 3. LAW ENFORCEMENT

#### 3.1 APPROVAL AND PUBLICATION OF SECONDARY LEGISLATION

##### 3.1.1 Administrative Instructions

The Law on Water defines a total of 19 Administrative Instructions (AI) as well as a significant number of decisions on various issues. The deadline for issuing these, according to Article 110, paragraph 7 of the Law on Water, is determined to be 18 months from the date of entry into force of the Law. This means that all by-laws must have been **approved by mid-October 2014**. However, as can be seen from the following tables, this has not happened, clearly affecting the implementation of the law and the state of water resources.



Table 1: Status of by-laws required by the Law on Waters of Kosovo

No.	Administrative Instructions and Regulations required by the Water Law	Drafted and approved	Date of approval <sup>2</sup>	The new UA
1	Article 8 – <u>Status of Artificial Water Resources</u>	+	29.09.2016	
2	Article 18 – <u>Working regulations of the Inter-ministerial Council for Water</u>	+	04.06.2014	
3	Article 20 – Statute of the Institute for Water of Kosovo	-	Not approved	
4	Article 22 - <u>Duties and Responsibilities of RBDA</u>	+	23.12.2016	
5	Article 42 – <u>Dams and Reservoirs</u>	+	04.07.2017	
6	Article 47 - <u>Protection from the harmful actions of water</u>	+	16.12.2015	
7	Article 48 – <u>Protection of the banks of watercourses</u>	+	07.09.2016	
8	Article 54 - <u>Proclamation of erosive areas</u>	+	23.12.2016	
9	Article 58 - <u>Classification of surface water bodies</u>	+	08.12.2017	
10	Article 59 - <u>Classification of underground water bodies</u>	+	08.12.2017	
11	Article 60 - The limiting values of the effluent that is discharged into the container and sewerage network	+	30.12.2014	17.05.2022
12	Article 65 - <u>Acceptable ecological flow</u>	+	11.08.2016	
13	Article 66 – <u>Protected water areas</u>	+	08.12.2017	30.12.2022 ( <u>addition-change</u> )
14	Article 66 - <u>Protected areas for strategic purposes</u>	+	20.11.2015	
15	Article 68 - <u>Washing area</u>	+	17.12.2015	
16	Article 71 - <u>Procedures for granting water permits</u> (including Article 72 - Water Permits)	+	29.08.2018	
17	Article 81 – <u>Water Information System</u>	+	17.06.2013	
18	Article 92 - <u>Determination of Water Payments</u>	+	18.02.2016	29.07.2021
19	Article 95 - <u>Presentation of the inspector</u>	+	x. 12.2013	

From the above table it can be seen that:

- All the main by-laws have been drafted and approved, but only two of them within the legal deadline (*Working Regulations of the Interministerial Council for Water and AI for the Water Information System*)<sup>3</sup>;
- Only one by-law has not been drawn up - the Statute of the Water Institute. *The establishment of the Water Institute is not considered a matter of priority due to the lack of professional staff, and therefore its establishment and drafting of the statute have not been initiated.*

### 3.1.2 Decisions issued by law

Besides the AI and Regulations, there are also some decisions that must be issued by the Minister. In the following table are the decisions and their status.

*Table 2: The status of issuing the decisions required by the Law on Waters of Kosovo*

No.	Decisions required by the Water Law	Drafted and approved
1	Article 38(1) – Determination of the status of water facilities and equipment	NO
2	Article 50(1) – Determination of the full line	NO
3	Article 54(1) – Determination of erosive areas	NO
4	Article 56(3) – Determination of river segments where inerts can be extracted	NO
5	Article 58(2) – Classification of surface water bodies	NO
6	Article 59(3) – Classification of underground water bodies	NO
7	Article 68(2) – Determination of washing areas	NO
8	Article 78(3) – Granting of concessions for commercial use of water	NO
9	Article 81 - Development and updating of the water information system	NO
10	Article 82 - Development and updating of the water protocol (Water Book)	NO
11	Article 83 - Development and updating of the water cadastre	NO

Thus, none of the decisions required by the Law have been issued to date.

<sup>3</sup> 6 were previously approved by the water law 2004/24 and were not harmonized with the new law within the legal deadline

### 3.1.3 Drafting and approval of planning documents

According to the Law, the following planning documents are to be drafted and approved:

- National water strategy
- Plans for the management of river basins
- Water monitoring program, and
- Program of measures.

From all these documents until now, only *the National Water Strategy 2017-2036* has been drafted and approved. However, legally, this strategy had to be reviewed every five years, and although a draft was prepared, the revised strategy for the 5-year period, 2022-2026, has not been approved yet.

Taking into account that *the Program of Measures* must be an integral part of *the River Basin Management Plan*, therefore it does not need to be issued as a separate document. As for the plans, *the Plan for the Management of the Drini i Bardhë Basin* was drafted with the assistance of SIDA<sup>4</sup> and was submitted in November 2022, but it has not yet been processed for public discussion and approval by the Government. Plans for the other 3 basins are being prepared with the assistance of the Swiss Office for Cooperation through the program co-financed with the Government, Integrated Management of Water Resources in Kosovo (IMWR-K), where the first drafts are expected to be submitted in May 2023.

However, the Water Monitoring Plan was created by an internal working group of the Ministry as early as 2013, but this document is expected to be revised through the IMWR-K program.

### 3.1.4 Implementation of the foreseen institutional changes

The Law established three new institutions, as follows:

- 1) The Interministerial Water Council (IWC) which is led by the Prime Minister also has 4 ministries of the line in its composition,
- 2) Kosovo Institute for Water within MESPI,
- 3) The River Basin District Authority (RBDA) within the MESPI that reports to the Minister.

---

<sup>4</sup> Swedish International Development Agency

Out of three institutions that must have been established, based on the law, only two are functional until now: IWC and RBDA<sup>5</sup>, but the latter still has the status of a department of MESPI, which is not in accordance with the Law.

Also, according to *the National Strategy for Kosovo Waters: 2017-2036*, the establishment of RBDA as a department within the Ministry was only an initial and temporary solution with the aim of being raised to the agency level, according to the water law. Recently, IWC decision No. KNMU/K/03/2018 dated 07.12.2018 is to start this process. Recently, the donor community has also requested that this process be completed (EC reports for Kosovo continuously require the functionalization of RBDA) and such an obligation has been included in the agreement between the Government of Kosovo and the Swiss Government for the IMWR-K program.

However, the third institution that was expected to be established under the Water Law, the Institute of Kosovo Waters, has not been initiated, and its establishment is not considered important due to the lack of a professional framework.

---

<sup>5</sup> The former Department of Waters was merged into the Department of RBDA (June 2017) in order to be raised to agency level, according to the Law on Waters of Kosovo.



*Figure 1. The confluence of the Llapi and Sitnica rivers in Lumadh village*

## 4. SHORTCOMINGS OF THE LAW ON KOSOVO WATERS

During the process of drafting by-laws as required by this law, a considerable number of technical and substantive shortcomings have been identified, causing ambiguity and consequently affecting its implementation. Moreover, in its current form, this law has failed to transpose many of the concepts and principles of the EU's Water Framework Directive, which is the fundamental legislation for water resource management.

### 4.1 ERRONEOUS/UNNECESSARY DEFINITIONS

It should be emphasized here that the definitions were initially taken from the EU Water Framework Directive and were translated into Albanian with deficiencies, making them unclear or incorrect. For example:

- The law defines some non-existent terms and notions such as: 'water basin', 'retention', 'extraction', 'artificial water resources'.
- There is unnecessary repetition of some definitions such as: 'water regime' and 'waters regime', 'water use' and 'water utilization'.
- Some definitions have been formulated (translated) in an inadequate form, as a result of which these definitions are not compatible with the definitions in the EU Water Framework Directive:
  - 'surface waters' – should be: 'all internal waters except groundwater'.
  - 'surface water body' – should be: 'a special and significant (considerable) element of surface water such as a lake,...'
  - 'internal waters' – should be: 'all stagnant or flowing water on the surface of the earth as well as underground water'
  - 'sub-pond' – should be: 'the surface of land from which all surface water flows through a series of streams, rivers and, possibly, lakes to a particular point in a watercourse (normally a lake or other river)'
  - 'universal principle of water services' - should be: 'principle of universal service'.
- Some important definitions for the purpose of the law are missing, such as: 'flooding', 'sensitive areas', 'transboundary waters'.
- In addition, the law uses the notion of 'water assets' and 'water resources' without any distinction. Moreover, what is 'water assets' is not defined at all.

## 4.2 MISSING DEFINITIONS

The law does not include the use of a large number of basic notions defined by the EU Water Framework Directive: '*water services*', '*water for human consumption*', '*emission limit values*', '*groundwater bodies*', '*aquifer*', '*groundwater status*', '*surface water status*', '*good groundwater status*', '*good surface water status*', '*ecological status*', '*good ecological status*', '*quantitative status*', '*heavily modified body*', '*available groundwater reserves*', '*emissions control*'.

## 4.3 DEFICIENT AND INADEQUATE REGULATION OF WATER RESOURCES

Water resource is a concept which normally includes water land and coastal zone. In the water legislation of some countries (eg. Slovenia and Montenegro) water resources includes waters and water lands. In the Kosovo Water Law, this issue is not clearly regulated. Thus, in the definitions, it is said that water resources include water bodies and water land, which could be understood that here water resources have the meaning of *water wealth*. On the other hand, in Article 8, is used the term *artificial water wealth*. This artificial water wealth is then not fully and clearly regulated. Moreover, in Article 10 of the Law, it is stated that "the owner or possessor of water and water resources has no right to compensation..." which implies that this owner can be any public or private entity, which is contrary to Article 1 of the Law which explicitly states that water resources are the property of the Republic of Kosovo.

## 4.4 WATER MONITORING

According to the Law (Article 35), it is determined that the water monitoring program is developed for a period of 40 years. This is an excessively long period that is not found in any of the legislation of the countries in the region. On the contrary, it is standard practice for water monitoring programs to be developed on an annual basis (or possibly every three years). Moreover, as regards water monitoring, the types of monitoring that are defined by the EU Water Framework Directive have not been transposed into the Law: supervisory monitoring, operational monitoring and investigative monitoring that are necessary for determining the water status and their classification.

## 4.5 OTHER ISSUES

In addition to the above deficiencies, the Kosovo Water Law has not properly transposed important aspects of the EU legislation such as flood protection, diffuse and droplet pollution of waters, discharge of industrial wastewater, modalities of



granting concession for water use, etc. Bearing in mind that Kosovo aspires to be integrated into the EU and in this context has adopted the policy of harmonizing its legislation with the *acquis communautaire*, it would be necessary to fully transpose the provisions of the EU directives in the field of water (Framework Water Directive, Groundwater Directive, Washing Water Directive, Floods Directive, Nitrates Directive, Urban Wastewater Treatment Directive, Priority Substances Directive etc.).



*Figure 2. River Drini i Bardhë*



## 5. CONCLUSIONS

- The current status of RBDA as a department of MESPI is not in accordance with Law 04/L-147 on Kosovo Waters. Considering the competencies and characteristics of RBDA defined in the Law, RBDA should be classified as a central body of state administration because it exercises competencies that extend throughout the territory of Kosovo, is subordinate to the Ministry, and is established by law (Law No. 03/L-189 on the State Administration of the Republic of Kosovo, Articles 23 and 28, paragraph 2). As a central body of state administration, which is subordinate to the Ministry, RBDA should have been organized in accordance with the provisions of Law No. 03/L-189 on the State Administration of the Republic of Kosovo.
- There have been significant delays in implementing the law, both in drafting subordinate legislation, harmonizing and/or implementing them, and in (not) issuing decisions that should have been derived from the law and planning documents.
- Instead of focusing on enforcing the law and protecting water resources for which it is legally responsible, MESPI has financed and managed water utility projects (water supply and sewerage, including wastewater treatment plants), contrary to the legal responsibilities of clearly defined by articles 1, 2 and 13 of the water law, contrary to article 35.A of [Law No. 06/L-088 on the amendment and completion of Law No. 05/L-042 for the regulation of water services](#) which clearly specifies that "Investments in the water services sector will be made directly through water service providers or the Ministry responsible for public enterprises". Moreover, this division of institutional responsibilities is clearly expressed in the Government's Water Policy approved on June 3<sup>rd</sup>, 2015, and it is contrary to the decisions of the 7<sup>th</sup> and 8<sup>th</sup> meetings of the Interministerial Water Council.
- Despite the fact that the Law stipulates that the commercial use of water should be done through concessions (Article 78), so far, MESPI has not respected this provision of the law. The granting of water use rights (for energy production, bottled water, fish farming) has been and continues to be done through water permits without a competitive process.
- It is not defined and treated the water property, the way of identification, when the status of water property can be acquired and when it can be lost, who is the owner, harmonization with the law on cadastre, etc.

## 6. RECOMMENDED POLICY

- A new law should be drafted titled "Law on Water Resource Management" since the current title as "Water Law" causes misunderstandings during implementation, and often MESPI interferes in the water services sector (water supply and sanitation services).
- With the new Water Law, the provisions of the relevant EU directives from the field of water should be completely transposed.
- The new law should determine that the allocation of water resources for water supply service is of general interest.
- Regardless of the new law, RBDA should already be elevated to the agency level according to the current law in force, in line with the reports of the EU and the agreement between the Government of Kosovo and the Swiss Government for the IMWR-K program, and as soon as possible to ensure long-term projects for strengthening RBDA and water resource management. It should be clearly emphasized that RBDA is a body of state administration.
- Regardless of the new law, as of now, the sub-legal act defining the conditions, terms, and other aspects for the allocation of concessions should be issued. The AI for water permit does not address this water right and exceeds its scope by dealing with the administration of water in the properties of public enterprises. It should be clarified that water facilities and equipment do not include the assets of public enterprises for water services, although the law is clear that only water resources are intended.
- MESPI to control and register all operators and set application deadlines for operators who meet the conditions, according to the relevant water right defined in the law, that is, for commercial use, the water right should be granted with a concession.
- MESPI must urgently define the issue of water properties.
- The new law, in harmony with the Water Framework Directive, should emphasize the need to maintain *good water status*.
- The new law, in harmony with the Drinking Water Directive, should emphasize the need to identify water sources for drinking water supply.
- The new law should not define the creation of the Institute for Water, in the absence of a professional framework, a reality that is observed in all relevant institutions for the management of water resources. The institute

for research in the field of water could be created within the Faculty of Civil Engineering.

- MESPI should act more actively in the prevention of the pollution of water resources, the untreated discharge of effluents into water resources, the dumping of waste in the rivers of Kosovo.
- Erosion management is non-existent! MESPI must urgently recruit and train erosion management staff.
- Water resources in Kosovo are few and neglected over the years due to pollution and their management. The government should urgently allow the completion of the staff of RBDA, the Hydro-Meteorological Institute and Water Inspectors, especially now that there are long-term projects for the support of these institutions and the lack of absorption capacities is being observed.

## REFERENCES

- [1] Assembly of the Republic of Kosovo (2013) Law No. 04/L-147 for Kosovo Waters. Official Gazette of the Republic of Kosovo/No. 10. Prishtina - <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=8659>.
- [2] Assembly of the Republic of Kosovo (2018) State Water Strategy 2017-2036. Pristina.
- [3] Mihaela Popovici (2020) Support to the European Integration Process in Kosovo: Legal Approximation on Chapter 27 Environment, Sub-Chapter Water Acquis. GIZ. Prishtina.
- [4] Ministry of Environment, Spatial Planning and Infrastructure (2021) Report of the Working Group for the Review of Administrative Procedures Applied to Hydropower Plants and Their Impact on the Environment. Pristina.
- [5] Government of the Republic of Kosovo – Interministerial Council for Water (2019). Report on the Evaluation of the Implementation of the Law on Waters of Kosovo. Pristina.
- [6] Government of the Republic of Kosovo (2014) Practical Guide for the Legal Alignment of the Legislation of the Republic of Kosovo with the Legislation of the European Union. Pristina.
- [7] Government of the Republic of Kosovo (2021) Program of the Government of the Republic of Kosovo 2021-2025. Pristina.



**Funded by  
the European Union**

This publication has been produced as part of the project “Promoting Universal Access to Clean Water”, funded by the European Union Office in Kosovo and implemented by Let’s Do It Peja.

The views, opinions and recommendations expressed in this publication are those of the author and do not necessarily represent the views of the European Union Office in Kosovo.

Let's Do It Peja  
Address: House of Culture, floor III  
30000, Peja, Kosovo  
Email: [letsdoitpeja@gmail.com](mailto:letsdoitpeja@gmail.com)  
Phone: +383 49 124 548



Promoting Universal  
Access to **Clean Water**