



REGULATION NO. 2003/14

**ON THE PROMULGATION OF
A LAW ADOPTED BY THE ASSEMBLY OF KOSOVO
ON HIGHER EDUCATION IN KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council resolution 1244 (1999) of 10 June 1999,

In conformity with paragraphs 8.1 (a), 9.1.44 and 9.1.45 of the Constitutional Framework for Provisional Self-Government (UNMIK Regulation No. 2001/9),

Taking into account communications from the President of the Assembly of Kosovo, dated 18 October 2002 and 9 May 2003, concerning the Law on Higher Education in Kosovo adopted by the Assembly of Kosovo on 26 September 2002,

Taking also into account communications from the Special Representative of the Secretary-General, dated 31 October 2002 and 15 April 2003, concerning the said Law,

Recalling the Decision dated 9 August 2002 of the Special Panel that acted pursuant to paragraph 9.1.41 of the Constitutional Framework for Provisional Self-Government, and noting that the Assembly of Kosovo had rejected the recommendation contained in the Special Panel's Decision,

A. Hereby promulgates effective as of the date of signature, subject to part B below, the Law on Higher Education in Kosovo attached to the present Regulation (Law No. 2002/3), and

B. Determines that, pending the required action by the Assembly of Kosovo to ensure that the Law on Higher Education in Kosovo adequately covers the right of all Communities to higher education, the Law shall be provisionally supplemented with a new section 10.8 reflecting the recommendation in the Decision of the Special Panel, which reads: "All providers of higher education that were authorized to operate in the academic year 2001-2002 will be licensed under this Law and in conformity with international non-discrimination principles, while working to meet the standards set forth by the law".

Signed on this 12th day of May 2003.

Michael Steiner
Special Representative of the Secretary-General

PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT

ASSEMBLY OF KOSOVO

LAW NO. 2002/3

ON THE HIGHER EDUCATION IN KOSOVO

Pursuant to the authority given to it under United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation 2001/9 of 15 May 2001 “on the Constitutional Framework for Provisional Self-Government” article 9.1.34-45 and UNMIK Regulation 2001/19 of 13 September 2001 on the Executive Branch of the Provisional Institutions of Self Government in Kosovo, UNMIK Regulation 2000/11 of 3 March 2000 on Establishment of the Administrative Department of Education and Science, UNMIK Regulation 2000/45 of 1 August 2000 on Self Government of Municipalities in Kosovo, UNMIK Regulation 2000/51 of 30 August 2000 on the Age of Compulsory School Attendance in Kosovo,

Noting the European Convention for the Protection of Human Rights and Fundamental Freedoms and the protocols thereto, the Council of Europe/ UNESCO Convention on the Recognition of Qualifications concerning Higher Education in the European Region, Council of Europe Committee of Ministers Recommendations on the Recognition and Quality Assessment of Private Institutions of Higher Education, on Access to Higher Education and on the Research Mission of Universities; and other relevant principles reflected in internationally recognized legal instruments.

Recalling the Declarations of European Ministers of Higher Education at Bologna (1999) and Prague (2001),

For the purposes of regulating higher education in Kosovo,

Hereby promulgates the following:

CHAPTER I: GENERAL PROVISIONS

Section 1

DEFINITIONS

In this Law the following terms shall have the meanings indicated:

“Accreditation” shall mean a formal acknowledgement that a provider of higher education and its programmes fulfils generally accepted quality standards and that its qualifications confer on holders (in accordance with applicable law) a number of rights, e.g. access to a further stage of education, to specific occupations, to the use of a title.

The Ministry of Education, Science and Technology hereafter “The Ministry” shall mean the competent governmental authority whose responsibilities include education, science and technology matters in accordance with the applicable law.

“Communities” shall mean communities of inhabitants belonging to the same ethnic, religious or linguistic group.

“Diploma” and “Diploma Supplement” shall have the meanings assigned to them by the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165, 1997) as set out in Annex 1 attached to the present Law.

“European Higher Education Area” shall have the meaning assigned to it in the Declaration of the European Ministers of Higher Education at Bologna (1999) as set out in Annex 1 attached to the present law.

“European University Association” shall mean the Association having registered office at 10 rue du Conseil Général, CH-1211 Genève 4, Switzerland and its successors in title.

“ISCED” shall mean International Standard Classification of Education 1997 adopted by the UNESCO General Conference at its 29th session in November 1997 and the definitions therein, as set out in Annex 1 attached to this Law.

“Provider” shall mean any authorised institution or other body providing educational services at higher education level.

“Public provider” shall mean a provider created by the Ministry.

“Quality assessment” shall mean a range of explicit evaluation procedures concerning the quality of the programmes offered by providers of higher education.

“Quality audit” shall mean a formal evaluation of the quality processes and procedures of a provider of higher education.

Section 2

HIGHER EDUCATION: OBJECTS AND DEFINITION

2.1 The objects of higher education are:

- (a) To establish, develop, protect and transmit knowledge through teaching and scientific work and research; and
- (b) To provide opportunities for all inhabitants of Kosovo with the ability to benefit from such education, throughout their lives.

2.2 For the purposes of this Law, the term “higher education” is defined as:

- (a) Education leading to:
 - (i) The degree of Bachelor taken after the equivalent of at least three years of full-time study after obtaining the secondary school leaving certificate, or in exceptional cases the Ministry shall decide in line with the corresponding instruction; and
 - (ii) The degree of Master or Doctor taken after obtaining the degree of Bachelor,

with all such qualifications being hereinafter referred to as 'higher education diploma i.e. qualifications

(b) Education of equivalent level and content to that leading to a higher education qualification; and

(c) Any other post-secondary education at ISCED levels 4 and 5.

2.3 The secondary school-leaving certificate referred to in section 2.2(a)(i) may be substituted by a national or foreign qualification or national or foreign diploma assessed as equivalent by a higher education provider accredited in Kosovo. Where a foreign school-leaving certificate is presented for assessment, recognition shall, other than in exceptional cases, only be granted to a certificate showing completion of a minimum of twelve years' schooling and entitling the holder to apply to a university or to undertake a university entrance examination in the foreign country concerned.

2.4 The degree of Bachelor referred to in section 2.2(a)(ii) may be substituted by a national or foreign qualification or diploma or experience assessed as equivalent by a higher education provider accredited in Kosovo. Where a certificate from an institution of higher learning is presented for assessment, the institution must be one recognised by the European University Association or accredited by a national or nationally-recognised agency.

2.5 Higher education may be undertaken full-time, part-time, by distance learning and in any combination of these modes of study as provided in the statute of the provider which awards a higher education qualification.

2.6 Nothing in this law or subsidiary instruments issued under it, or the provisions of any other law, shall restrict the freedom of licensed higher education providers:

(a) To innovate in the provision of higher education within their licences; and

(b) To offer courses of any educational level for the acquisition of skills necessary or expedient for the purposes of realising the objects of higher education.

2.7 Higher education may be delivered by any licensed higher education provider without restriction as to the length or structure of the academic year.

Section 3

ACCESS TO HIGHER EDUCATION

3.1 Higher education carried out by licensed providers of higher education in Kosovo shall be accessible to all persons in the territory of Kosovo, or by distance learning within or outside Kosovo in any location, without direct or indirect discrimination on any actual or presumed ground such as sex, race, sexual orientation, physical, or other impairment, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status.

3.2 There shall be no age limit on enrolling for or being awarded a higher education qualification in Kosovo.

Section 4

COMPETENCIES OF THE MINISTRY IN PROVISION OF HIGHER EDUCATION

4.1 The Ministry shall be responsible on the basis of the provisions of the Law and subsidiary instruments issued under it for:

- (a) Planning the development of higher education in Kosovo in consultation with the accredited providers of higher education;
- (b) Regulating public providers of higher education and approving their statutes. These statutes shall be ratified in the Assembly;
- (c) Within the general provisions under the applicable law for the funding of public services in Kosovo, allocating funds to public providers for teaching and for research in the public interest;
- (d) Authorising the format and content of Diploma and Diploma Supplement issued by accredited providers of higher education;
- (e) Bringing forward proposals for the establishment of a scheme or schemes for student financial support and arranging for the administration of such scheme or schemes;
- (f) Promoting mobility of students and staff within the European Higher Education Area and internationally;
- (g) Establishing arrangements for academic and professional recognition within the framework of international agreements and conventions, either within the Ministry or by the Kosovo Accreditation Agency and offering advice to the public on the status of foreign qualifications;
- (h) Promoting equality of opportunity in access and admission to higher education, in staff development and training, in lifelong learning and in all other aspects of higher education;
- (i) Promoting links between public higher education providers in Kosovo, private providers of education and training, industry and commerce;
- (j) Promoting links between all higher education providers in Kosovo and higher education institutions in neighbouring countries and regions;
- (k) Licensing private providers of higher education;
- (l) Providing, in accordance with this Law, assistance to accredited private providers of higher education and to students enrolled therein;
- (m) Regulating all other matters concerning higher education which are not separately regulated by or under the Law; and
- (n) Carrying out all other functions specified in UNMIK Regulation No. 2000/11 or any other regulation amending or superseding it.

4.2 In exercising powers and duties under this Law, the Ministry shall respect and promote the rights of Communities and their members established in Chapter 4 of the Constitutional Framework for Provisional Self-Government. The Ministry shall co-operate with the Special Representative of the Secretary-General in the exercise of his direct responsibilities under UNSCR 1244 (1999) to protect and promote human rights and to support peace-building activities, and with regard to the authority vested in him by Chapter 4, section 4.6 and Chapter 8, section 8.1(a) of the Constitutional Framework for Provisional Self-Government.

4.3 The Ministry shall by administrative instruction provide for the establishment of the Kosovo Accreditation Agency (KAA) charged with promoting the quality of higher education in Kosovo. Through processes of licensing, inspection and accreditation by professional and transparent methods it shall assist higher education providers to develop their potential and to enhance and maintain the quality of their activity.

4.4 When established, the KAA shall be responsible in accordance with this Law and subsidiary instruments issued under it for:

- (a) Advising the Ministry on applications from private persons, bodies or institutions for licences to offer courses or programmes forming part of or leading to higher education qualifications;
- (b) Inspecting licensed higher education providers and advising the Ministry on the modification or revocation of licences;
- (c) Undertaking periodic quality audit of licensed higher education providers and issuing a decision on accreditation or re-accreditation including the power to award degrees and diplomas;
- (d) Undertaking periodic quality assessment of courses and programmes offered by accredited higher education providers;
- (e) Advising with the Ministry at its request on the results of quality assessment and its consequences for the funding of public providers of higher education, allocations to private providers of higher education and for discretionary support for students attending courses or programmes at private providers of higher education; and
- (f) Carrying out on behalf of the Ministry such functions as may be delegated to it relating to recognition of academic and professional qualifications.

4.5 The KAA shall publish its conclusions, recommendations and advice.

4.6 When established, the KAA shall consist of not less than five and not more than nine persons appointed by the Ministry for a fixed term from among persons of both genders active in academic work in higher education in and outside of Kosovo, such that there are at least three persons ('international experts') not employed by any higher education provider in Kosovo. KAA shall take decisions or recommendations related to licensing or accreditation by a majority votes of its members.

4.7 Pending the establishment of the KAA, all functions of that Agency shall be discharged by the Ministry.

CHAPTER II: PROVIDERS OF HIGHER EDUCATION

Section 5

PUBLIC PROVIDERS

5.1 Public providers of higher education shall be universities and other higher education institutions.

5.2 The title of each public provider shall be determined by the Ministry according to the provisions of this Law and published criteria.

5.3 Except as otherwise provided in this Law and subsidiary instruments issued under it, each licensed public provider of higher education shall have full legal personality in relation to the matters dealt with in this Law including powers to:

- (a) Own and manage land and buildings;
- (b) Receive and manage funds from any legal source;
- (c) Set and receive fees;
- (d) Employ staff;
- (e) Enter into contracts for goods and services;
- (f) Form legal relationships with students;
- (g) Establish commercial enterprises for educational and research purposes;
- (h) Enter into agreements with other providers in Kosovo and with institutions internationally;

and shall have such other powers necessary or expedient for the discharge of their functions.

5.4 The Ministry may, subject to the fulfilment of the requirements under the applicable law and, accordingly, the formal consent of UNMIK, grant to a public provider of higher education the right of use of public and socially owned land, buildings or equipment.

5.5 A public provider of higher education using any public or socially owned land, buildings or equipment may not sell or otherwise dispose of the ownership rights in such property. However, a public provider of higher education using any public or socially owned land, buildings or equipment may lease such property for educational purposes, subject to the prior formal consent of the Ministry and UNMIK. If such consent is granted, the Ministry and UNMIK may impose conditions on the use of any proceeds.

Section 6

CREATION, MERGER AND DISSOLUTION OF PUBLIC PROVIDERS

6.1 Public providers of higher education may only be created by the Ministry subject to ratification by the Assembly

6.2 If it appears to the Ministry to be in the public interest, public providers of higher education may be merged or closed by the Ministry, which shall publish the reasons for its decision. Before reaching a decision on merger or closure, the Ministry shall publish a discussion paper, and shall consult the governing body of all providers affected and the KAA.

6.3 The governing body of a public provider of higher education may itself propose the merger or closure of the provider, subject to the approval of the Ministry.

6.4 The creation of a public provider of higher education shall be accompanied by the issue of a licence under the provisions of and subject to the criteria set out in section 10.

6.5 In the event of closure or merger of a public provider of higher education the Ministry shall determine all questions relating to the property and liabilities of the closed or merged bodies.

Section 7

AUTONOMY OF PROVIDERS

7.1 Licensed providers of higher education shall enjoy freedom of teaching and, in the case of universities, in scientific and research work within their licences without interference from public authorities other than as provided by this Law.

7.2 In particular, licensed providers of higher education shall have the rights, subject to the further provisions of this Law, to:

- (a) Elect governing and management authorities and fix their terms of office;
- (b) Arrange their structures and activities through their own rules in conformity with the present regulation and subsidiary instruments issued under it, other applicable law, and their statutes;
- (c) Choose teaching and other staff, set conditions for admission of students and methods of teaching and assessment of students;
- (d) Independently develop and implement curricula and research projects;
- (e) Choose subjects to be taught; and
- (f) Grant titles to professors and other staff.

7.3 The statutes of higher education providers shall include provisions giving effect to academic freedom for staff and students as further prescribed in this Law.

7.4 The premises of licensed higher education providers shall be inviolable from entry by law enforcement agencies without permission given by or on behalf of the principal management authority defined in section 15, except where entry is necessary for the prevention of an impending offence or an offence already taking place or in the event of natural disaster or accident, or as otherwise provided under the applicable law.

7.5 A public provider of higher education shall be exempted from all forms of taxation in respect of its teaching and research activities funded from public resources, except in relation to commercial activity or other services rendered on a for-profit basis as referred to in section 21.

Section 8

UNIVERSITIES

8.1 A university shall be an institution of both education and research, offering diplomas and degrees up to and including doctoral level, with objectives including the advancement of knowledge, thought and scholarship in Kosovo, the educational, scientific, cultural, social and economic development of Kosovo, the promotion of democratic citizenship and the achievement of the highest standards in teaching and learning.

8.2 The title 'university' may be granted under the provisions of this Law only to an accredited provider of higher education with an independently audited enrolment of at least 3000 full-time-equivalent students and providing courses or programmes in at least five different subject groups as prescribed in administrative instructions to be issued by the Ministry.

Section 9

OTHER HIGHER EDUCATION PROVIDERS

9.1 The Ministry, in accordance with section 6.1, may establish providers of higher education offering diplomas up to the level of Bachelor's Degree.

9.2 Providers of higher education other than universities shall, subject to accreditation under section 4.4, be granted a title according to section 5.2 provided they have a structure appropriate to obtaining accreditation by an internationally recognised agency established for this purpose.

Section 10

LICENSING OF PROVIDERS

10.1 Every provider of higher education in Kosovo requires a licence in order to operate. Licences shall be granted by the Ministry as appropriate, in accordance with the provisions of this Law and subsidiary instruments issued under it.

10.2 The criteria for the award of a licence to a provider of higher education shall be formulated by the Ministry and shall constitute a government licensing standard which shall be published.

10.3 Every provider which meets the criteria shall be awarded a licence.

10.4 The government licensing standard shall take account of the variety of teaching and learning methods employed by providers of higher education, related to the specified objectives of the provider, including provisions related to:

- (a) Adequacy of buildings and equipment including teaching rooms and laboratories;
- (b) Library and computing facilities;
- (c) Number and qualifications of staff;
- (d) Facilities for students;
- (e) Basic curriculum; and
- (f) Financial viability.

10.5 Additional requirements for licensing of private providers of higher education are as further prescribed in this Law.

10.6 The University of Pristina shall be considered to be licensed without a time limitation under provisions existing as at 1 September 2000, however its licence may be amended or revoked by the Ministry following inspection no later than 31 August 2004 by the KAA under the provisions of this Law.

10.7 A provider of higher education may make application to the Ministry at any time for a variation of the terms of its licence.

CHAPTER III: THE ACADEMIC SYSTEM

Section 11

ACCREDITATION AND QUALITY ASSESSMENT

11.1 Licensed public providers of higher education shall be subject to procedures for quality audit and assessment by the KAA in accordance with an administrative instruction to be issued by the Ministry. Licensed private providers of higher education shall submit to such procedures periodically or based on a special request from the Ministry.

11.2 A provider of higher education seeking accreditation for the first time shall apply to the KAA at least one year in advance of the date from which accreditation is sought. The procedure for a first accreditation shall be set out in an administrative instruction to be issued by the Ministry on the recommendation of the KAA.

11.3 Re-accreditation of providers shall be carried out by the KAA in accreditation events at intervals of not more than five years.

11.4 The University of Pristina shall, subject to compliance with licensing requirements, be considered to be accredited until 31 August 2004; it shall be subject to re-accreditation procedures during the academic session 2003/2004.

11.5 Accreditation certificates shall be issued by the KAA.

11.6 Failure by a licensed provider of higher education to obtain institutional accreditation or re-accreditation will result in a further accreditation event in not more than one year.

11.7 A second failure to obtain accreditation will result in the revocation of the licence. Revocation may be appealed to a court of competent jurisdiction.

11.8 Additional requirements for accreditation of private providers of higher education are as further prescribed in this Law.

11.9 Quality assessment of courses and programmes at accredited providers of higher education shall be conducted on a cycle for each course or programme of not more than five years by the KAA, which shall appoint expert subject panels including international experts as advisers.

11.10 An administrative instruction for the conduct of quality assessments shall be issued by the Ministry on the recommendation of the KAA. The results of quality assessments shall be made publicly available.

Section 12

DEGREES AND DIPLOMAS

12.1 An accredited provider of higher education shall have power to award the degrees and diplomas specified in its accreditation certificate. Degree and diploma documents shall be in accordance with a format approved by the Ministry.

12.2 The statute of a provider of higher education, in accordance with this Law, shall specify the degrees and diplomas awarded by the provider and shall include power to make academic and other rules governing the award of such degrees and diplomas.

12.3 Bachelor's degree and diploma courses offered by public providers of higher education shall be flexibly constructed so as to allow entry and exit at appropriate points with the award of credits and/or qualifications depending on the progress made by an individual student; in formulating its rules a public provider of higher education shall take into account the current European Credit Transfer System.

12.4 The Ministry shall, in the public interest, have the right to approve or withhold approval of the curricula of courses leading to qualification as a teacher for employment in a publicly-funded school.

12.5 A provider of higher education shall otherwise have freedom to organise its curricula, assessment and examination schemes by means of rules which are transparent, fair and readily accessible to students.

12.6 Only those degrees and diplomas awarded by accredited providers of higher education shall be recognised by the Special Representative of the Secretary-General and the Provisional Institutions of Self-Government for the purposes of employment, or the holding

of any public office or for carrying out the international recognition function specified in section 4.1(g) and 4.2.

12.7 It shall be the duty of every accredited provider of higher education to provide each person awarded a degree or diploma with a sealed Diploma and a Diploma Supplement both in formats as set out in an administrative instruction to be issued by the Ministry.

12.8 A degree or diploma once awarded may only be revoked in specified circumstances set out in rules made under the statute of the provider of higher education and subject to appeal to a court of competent jurisdiction.

12.9 The Ministry, in consultation with other relevant governmental bodies, may prescribe in an administrative instruction the educational requirements additional to the award of a degree or diploma for entry to any profession which may be regulated by any other law or by the terms of any international convention or agreement.

CHAPTER IV: GOVERNANCE AND MANAGEMENT OF PUBLIC PROVIDERS

Section 13

THE STATUTE

13.1 The arrangements for governance and management of a public provider of higher education shall be set out in a statute approved in an administrative instruction issued by the Ministry and which may be amended in accordance with its provisions with the approval of the Ministry.

13.2 In respect of the University of Pristina, the Statute adopted by the University to take effect from 1 October 2001 shall be valid until the new Statute is issued in accordance with this Law. The University of Pristina is obliged to harmonize its statute with the provisions of this law within a period of three months from the day of entering into force of this law.

13.3 The statute of each public university shall contain provisions which:

- (a) Vest principal responsibility for advice on academic matters in a Senate or equivalent body which includes among its membership elected representatives of academic staff and students; and
- (b) Otherwise secure appropriate participation in academic matters for students and staff.

13.4 The statute of each public provider of higher education other than a university shall ensure that staff and students are consulted in relation to academic matters.

13.5 The statute of each public provider of higher education shall ensure that the following principles apply within the provider:

- (a) Equality of opportunity in employment and equal access to study and research, regardless of sex, race, sexual orientation, marital status, colour, language, belonging to an ethnic or national minority, political or religious belief and, so far as is reasonably practicable, age, physical or mental impairment; and

- (b) That all persons and bodies conduct themselves in accordance with the highest standards of selflessness, integrity, objectivity, accountability, openness, honesty and leadership: in discharging his or her official duties no person shall act as a delegate of any group of any description and shall neither seek nor accept any mandate: all persons must act at all times solely in the interests of the provider as a whole.

13.6 A statute submitted to the Ministry under the provisions of this Law shall be approved if it meets the conditions set out in this Law.e present regulation. Refusal by the Ministry to approve a statute or confirm modifications to it may be challenged before a court of competent jurisdiction.

Section 14

THE GOVERNING BODY

14.1 The principal governing authority of a public provider of higher education shall be a council of administrators, which may also be known as an administrative board. The council of administrators shall have overall responsibility for the conduct of the affairs of the provider and its functions shall be detailed in the statute.

14.2 A number of members of the council of administrators, to be specified in the statute and not to exceed one half of the total membership, shall be persons with relevant professional, commercial or other practical skills who shall be appointed by the Ministry in the public interest.

14.3 All members of a council of administrators other than those appointed under section 14.2 shall be elected as provided in the statute of the provider.

14.4 Appointments pursuant to section 14.2 shall be made on personal merit, following public advertisement, without direct or indirect discrimination on any actual or presumed ground such as sex, race, sexual orientation, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status.

14.5 Members of a council of administrators appointed pursuant to section 14.2 shall hold appointment for a fixed term according to the provisions of the statute. They may be removed by the Ministry, on the recommendation of the council of administrators or otherwise, for good cause, defined as:

- (a) Conviction for a serious criminal offence resulting in imprisonment for more than six months;
- (b) Inability to discharge the functions of the position through physical or mental incapacity evidenced by the report of an independent medical practitioner appointed by the Ministry; or
- (c) Conduct, which in the opinion of the Ministry, constitutes failure or persistent refusal or neglect or inability to perform the duties of the position or to comply with the principles set out in the statute of the provider or this Law, including those set out in section 13.6.

14.6 Appeal against removal proposed by the council of administrators may be directed to the Ministry according to the provisions of this section, and shall then lie to a court of competent jurisdiction.

14.7 The council of administrators shall arrange for the publication of an annual report on the performance of the provider and shall provide such information in the annual report as may be required by the Ministry and the KAA.

Section 15

MANAGEMENT AUTHORITIES

15.1 The principal management authority of a public university shall be the Rector. The Rector of a public university shall be appointed by the council of administrators with an absolute majority of all eligible votes.

15.2 The principal management authority of a provider of higher education other than a public university shall be denominated in the statute of the provider.

15.3 The arrangements for the election and appointment of the principal management authority, powers, duties, tenure of office and other matters shall be regulated in the statute of the provider.

CHAPTER V: FUNDING OF PUBLIC PROVIDERS

Section 16

GENERAL PRINCIPLES OF FUNDING

16.1 Licensed and accredited public providers of higher education may receive funding from the following sources according to the provisions of their statute:

- (a) Allocations made by the Ministry for teaching and research in the public interest;
- (b) Tuition and other fees paid by students;
- (c) Charges for commercial and other services;
- (d) Donations, gifts and endowments; and
- (e) Contracts with national, international, public or private bodies for teaching, research and consultancy.

16.2 Public providers of higher education shall have the freedom to enter into contracts for any purpose related to higher education and, in the case of universities, research. Providers may invest funds other than public funds in any enterprise with educational or research purposes provided that:

- (a) No contract shall impose any charge over publicly-owned assets without the consent of the Ministry; and
- (b) Public funds are not put at risk.

16.3 If a public provider of higher education fails to obtain re-accreditation pursuant to the Law, the Ministry may by administrative instruction make temporary provision for continued funding and receipt of tuition fees and other income pending the re-acquisition of accreditation, closure or merger as provided by the Law.

Section 17

FUNDING METHODOLOGY

17.1 The Ministry shall set out in an administrative instruction the methodology to be used for the allocation of funds for teaching and research in the public interest.

17.2 The allocation of funds may include separate provision for capital and recurrent funds.

17.3 The allocation of funds for teaching may specify the number of students to be educated at public expense in particular disciplines or fields of study subject to maximum numbers prescribed in a provider's current licence.

17.4 In allocating funds to public providers of higher education the Ministry shall take account of any observations or recommendations made by the KAA relating to the quality of educational provision in those providers or in particular courses or programmes.

17.5 Funds shall be allocated as one sum, paid to the provider at such intervals through the financial year as the Ministry shall determine. Within the limits of the licence and any conditions attached to the funds by the Ministry, the council of administrators of a public provider of higher education shall have freedom over the use of the funds allocated to it and shall be accountable to the Ministry accordingly.

Section 18

CONDITIONS OF FUNDING

18.1 In allocating funds for teaching and research in the public interest, the Ministry may impose conditions on providers.

18.2 Such conditions as are imposed under this section shall be consistent with the statute of the provider concerned and may relate to:

- (a) Financial control and audit;
- (b) Acquisition, use and disposal of land, buildings and equipment;
- (c) Level and applicability of tuition and other fees levied on students; and
- (d) Virement or transfer of funds allocated for teaching between subject fields.

18.3 The Ministry shall not impose any condition which would have the effect of limiting the ability of the provider operating within its statute to attract funding from other sources, including additional student places within the limits of the licence, provided that this does not in the Ministry's opinion:

- (a) Have a negative effect on the quality of education provided out of public funds; or
- (b) Prejudice the duty of the provider to conduct its affairs without discrimination on any ground such as sex, race, sexual orientation, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status.

18.4 The Ministry may not impose any condition which restricts freedom of teaching within this Law, the licence and the accreditation of the provider.

18.5 Subject to the provisions of this section, the Ministry may revoke any allocation of funds which it considers have been misused and in such case the funds shall be returned to the Ministry on demand.

18.6 Any funds remaining unspent at the end of the financial year and which are not committed to reserves for approved developments shall be returned to the Ministry unless it directs otherwise.

Section 19

ACCOUNTABILITY OF THE COUNCIL OF ADMINISTRATORS AND PRINCIPAL MANAGEMENT AUTHORITY OF A PUBLIC PROVIDER

19.1 The council of administrators of a public provider of higher education shall be accountable collectively to the Ministry for the proper and efficient use of funds allocated to the provider by the Ministry or other public source.

19.2 The council of administrators shall, within the provisions of the statute of the provider, appoint persons with appropriate managerial and financial expertise and experience to be responsible for the executive management of the provider and management of public funds allocated to it.

19.3 The principal management authority of a public provider of higher education shall report to the Ministry directly any action or omission of the council of administrators of the provider which, in the view of the principal management authority, constitutes an improper use of the public funds allocated to it. In such case, notwithstanding any provision of the statute of the provider to the contrary, no action may be taken against the principal management authority by the council of administrators except with the permission of the Ministry.

Section 20

AUDIT

20.1 The statute of a public provider of higher education shall include provisions for effective independent external and internal financial audit.

20.2 A copy of every report made by an external or internal auditor shall be submitted to the Ministry which may call for any explanations it deems necessary from the council of administrators of the public provider of higher education concerned.

20.3 The Ministry may appoint an independent auditor to investigate the financial affairs of any public provider of higher education and the council of administrators of that provider shall secure co-operation with that audit.

20.4 In the cases which, in the opinion of the Ministry, constitute serious mismanagement of public funds, the central authority may order the dismissal of the entire council of administrators of a public provider of higher education and take temporary direct control of the financial affairs of the provider for a period not exceeding three months pending the appointment of a new board of governors.

20.5 An appeal against the dismissal of the council of administrators pursuant to section 20.4 may be made by any former member of the council of administrators to a court of competent jurisdiction.

Section 21

COMMERCIAL ACTIVITY

21.1 A public provider of higher education shall be free within the provisions of this Law, other applicable law, its licence and statute to take any measures to promote and exploit its education activities and, in the case of universities, research activities commercially for the benefit of the provider.

21.2 Where such commercial activity includes, or could potentially include, the exploitation of any significant intellectual property right in any literary, artistic or scientific works, scientific discoveries, designs, inventions, materials, goods or services provided wholly or partially, or directly or indirectly out of public funds, the provider shall seek the prior approval of the Ministry. The Ministry shall determine what is a significant intellectual property right for the purposes of this Section.

21.3 The taxation of commercial activity by a public provider of higher education shall be in accordance with the applicable law.

CHAPTER VI: PRIVATE PROVIDERS OF HIGHER EDUCATION

Section 22

ESTABLISHMENT, LICENSING AND ACCREDITATION OF PRIVATE PROVIDERS

22.1 A private provider of higher education may be founded by a private individual, organisation or foundation, situated in Kosovo or having a registered office in Kosovo.

22.2 A private provider of higher education may apply for licensing and accreditation under the provisions of this Law.

22.3 A private provider of higher education may commence operation only after obtaining a licence but may advertise for and recruit students subject to a licence being granted.

22.4 A condition of the grant of a licence to a private provider of higher education shall be the submission to the Ministry of a business plan for the provider, including a guarantee by the founder of financial viability for at least three years. A rolling revision of the plan, including such guarantee, shall be submitted annually to the Ministry.

22.5 A private provider of higher education may be closed by the founder only at the end of an academic year. The licence for a private provider shall include provision for a bond to protect the financial interests of students needing to complete their education at another provider in the event of closure and provision to enable students to complete examinations.

22.6 A private provider of higher education licensed to operate in Kosovo may not advertise itself as 'accredited' unless accredited in Kosovo under the procedures set out in the present law and subsidiary instruments issued under it. If granted accreditation for any courses or programmes by another state or organisation, a private provider must clearly state the origin of such accreditation and that it is not approved in Kosovo.

22.7 A private provider of higher education shall be free to adopt in its statute or other constitutional document any model of governance and management provided that it allows for the participation of staff and students in decisions relating to academic matters.

Section 23

PROVISION FOR FUNDING ALLOCATIONS FROM PUBLIC FUNDS

23.1 Accredited private providers of higher education may receive funding allocations from the Ministry for teaching or research in the public interest.

23.2 The Ministry shall set out in an administrative instruction the methodology to be used for the allocation of funds to private providers for teaching or research in the public interest.

23.3 In allocating funds to private providers of higher education, the Ministry shall take account of any observations or recommendations made by the KAA relating to the quality of educational provision in those providers or in particular courses or programmes.

23.4 To assist in the allocation process, the Ministry may seek from private providers of higher education budgets for their proposed activities for the coming financial year.

23.5 In allocating funds for teaching or research in the public interest, the Ministry may impose conditions on private providers.

23.6 The Ministry may not impose any condition which restricts freedom of teaching within the applicable law, the licence and the accreditation of the provider.

23.7 The appropriate executive authority of a private provider of higher education shall be accountable to the Ministry for the proper and efficient use of funds allocated by the Ministry or other public source, and the Ministry may require access to the books and records of the provider for this purpose.

CHAPTER VII: STAFF

Section 24

TITLES AND GRADES OF STAFF

24.1 The titles and grades of staff, the criteria for appointment and re-appointment and related matters shall be specified in the statute of a public provider of higher education.

24.2 A private provider of higher education shall have freedom to adopt any titles or grades and to prescribe criteria for appointment and re-appointment of staff.

24.3 The Ministry, in consultation with other relevant governmental bodies, may by administrative instruction prescribe the manner in which academic titles awarded by providers of higher education within Kosovo, and by foreign institutions, shall be recognised for the purposes of employment in the public service or the holding of public office in Kosovo.

Section 25

ACADEMIC FREEDOM AND PROTECTION FROM MEASURES

25.1 Every provider of higher education shall include in its statute or equivalent constitutional document that academic staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their job or any privileges they may have with the provider.

25.2 The right of academic staff of providers of higher education to freedom of speech may only be restricted by law.

25.3 Academic staff of public universities shall have the freedom to publish the results of their research, subject to rules made by the university relating to the exploitation of intellectual property rights for the benefit of the university.

25.4 The statute of every public provider of higher education, and the constitution of every private provider of higher education shall, as a condition of accreditation, contain provisions which:

- (a) Secure for staff freedom of organisation and assembly within the law; and
- (b) Protect staff against discrimination on any ground such as sex, race, sexual orientation, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status.

25.5 Academic and other staff of providers of higher education shall have the right to challenge any decision or action of a provider of higher education in relation to them before the Ministry and then to a court of competent jurisdiction.

Section 26

CONDITIONS OF SERVICE OF STAFF

26.1 The statute of a public provider of higher education shall contain provisions relating to the appointment, tenure, promotion, discipline, dismissal and retirement of staff, the prevention of corruption and shall ensure fairness including equal pay for work of equal value as between men and women.

26.2 The principal conditions of service of staff in public providers of higher education shall be consistent with the applicable law.

26.3 Other conditions of service of staff in public providers of higher education, excluding individual salary and benefits levels, shall be determined by the Ministry, which shall establish appropriate consultative frameworks with recognised trade unions or other representatives of staff and with representatives of the providers.

26.4 Each member of staff shall be employed under individual contract with the governing body of the provider of higher education.

26.5 The statute of a public provider of higher education shall secure the participation of international experts in the appointment of academic staff of professorial status.

26.6 The statute of a public provider of higher education shall include provisions regulating the circumstances in which a member of staff may take up additional paid or unpaid employment and limiting the legal liability of the employer in such cases.

CHAPTER VIII: STUDENTS

Section 27

ADMISSION

27.1 Students shall be eligible for admission to undergraduate programmes in public providers of higher education on a competitive basis and on merit only.

27.2 Public providers of higher education may impose additional entry requirements and examinations for admission to certain subjects subject to approval by the Ministry. The detailed entry requirements shall be prescribed in rules made under the statute of the provider.

27.3 Students shall be eligible for admission to graduate studies on a competitive basis according to the results of degree examinations or their equivalent as defined in section 2 of the Law.

27.4 When the number of successful applicants exceeds the number of publicly-funded places available in any course or programme, applicants shall be admitted to those places on merit. The provider may admit, on the basis of merit, fee-paying students to non-publicly-funded places up to any limit prescribed in the provider's licence.

27.5 Rules made by a public provider of higher education may prescribe circumstances in which a student paying fees and achieving excellent results may be awarded a publicly-funded place in the second or subsequent year of study.

Section 28

TUITION AND OTHER FEES PAYABLE BY LOCAL AND NON-LOCAL STUDENTS

28.1 The Ministry shall prescribe in an administrative instruction, to be reviewed annually, the maximum tuition fees which shall be payable by students admitted to places at public providers of higher education funded by the Ministry.

28.2 The tuition fees referred to in section 28.1 may be set at different levels:

- (a) According to whether the student is domiciled in Kosovo or elsewhere;
- (b) For universities and other providers and, within them, for different courses or programmes according to cost.

28.3 Public providers of higher education may charge such fees for consideration of applications, for enrolment, for re-taking of examinations and for graduation as shall be approved by the governing body of the provider concerned and confirmed by the Ministry.

28.4 Public providers of higher education may charge at full economic cost for the provision of services including photocopying, specialised materials and other ancillary services.

Section 29

STUDENT RIGHTS AND OBLIGATIONS

29.1 Students who are admitted to and enrolled in a public provider of higher education enter into a legal relationship with that provider.

29.2 Students are entitled to the following rights, which may be elaborated further in the statute of the provider:

- (a) To attend all lectures, seminars and other teaching organised in their subject(s) according to their position and, subject to capacity, other organised teaching;
- (b) To use the facilities of libraries and other services for students located at the provider;
and
- (c) To participate in elections for student positions in bodies established under the provider's statute.

29.3 Students have the following obligations:

- (a) To observe rules made by the provider;

- (b) To have due regard to the rights of staff and other students; and
- (c) To give due and full attention to their studies and participate in academic activities.

29.4 The statute or equivalent constitutional document of every provider of higher education shall contain provisions which:

- (a) Secure the students' freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their position or any privileges they may have with the provider;
- (b) Secure the students' freedom of speech, organisation and assembly within the law;
- (c) Protect students against discrimination on any ground such as sex, race, sexual orientation, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status; and
- (d) Provide fair and impartial mechanisms for dealing with disciplinary questions affecting students.

29.5 Students have the right to complain about the quality of the teaching or other facilities of the provider and the statute shall make provision for dealing fairly with such complaints.

29.6 The circumstances in which students may be removed from registration for academic or disciplinary reasons, and procedures for appeal, shall be elaborated in the statute of the provider.

29.7 Students shall have the right to challenge any decision or action of a provider of higher education in relation to them before the Ministry and a court of competent jurisdiction.

29.8 Persons who have completed the final examination for the degree for which they are enrolled cease to have the status of student.

Section 30

STUDENT FINANCIAL SUPPORT

30.1 The Ministry may issue an administrative instruction to establish a scheme or schemes of student financial support based on economic need.

30.2 Schemes of student financial support may include provision for assisting students with payment of tuition and other fees at public and, on a discretionary basis, private providers of higher education.

30.3 Public providers of higher education may institute schemes of assistance for students out of funds not allocated from public sources.

30.4 The Special Representative of the Secretary-General may take such action as is expedient and necessary to secure that students enrolled at any provider enjoy equal access to any scheme or schemes of student financial support available pursuant to the present section.

30.5 All publicly-funded student support organisations providing housing accommodation, catering, medical and social assistance to students are integral parts of the provider and are subject to this Law. The Ministry may instruct such organisations with regard to obligations, self-government and fees.

Section 31

STUDENT ORGANISATIONS

31.1 The statute or other constitutional document of a provider of higher education shall provide for the establishment of one or more organisations to represent students and to contribute to the social, cultural, academic and physical recreation needs of students.

31.2 Public providers of higher education may contribute financially towards the establishment of student organisations, including capital and recurrent costs of buildings and facilities.

CHAPTER IX - DISPUTES

Section 32

RESOLVING DISPUTES BETWEEN THE GOVERNMENT AND PROVIDERS OF HIGHER EDUCATION

32.1 Every attempt shall be made to resolve disputes between government and public authorities and providers of higher education by negotiation and mediation and it shall be the duty of the Ministry to promote this.

32.2 If a dispute cannot be resolved by informal means, it may be referred by either party to a court of competent jurisdiction.

CHAPTER X: TRANSITIONAL AND CONCLUDING PROVISIONS

Section 33

EXAMINATIONS FOR ENTRY TO PUBLIC PROVIDERS OF HIGHER EDUCATION

33.1 Until a system of secondary school-leaving examinations is provided by law, reference to such examinations in this Law shall be interpreted to mean entrance examinations set by providers of higher education.

33.2 The Ministry may by administrative instruction make such provisions as are necessary and expedient concerning the timing and conduct of entrance examinations set by providers of higher education.

Section 34
IMPLEMENTATION

The Ministry shall issue administrative instructions for the implementation of this Law in compliance with the Constitutional Framework.

Section 35
APPLICABLE LAW

When this Law enters into force it shall supersede all other laws which regulated this field and which are inconsistent with it.

Section 36
ENTRY INTO FORCE

The Law shall enter into force on

Academician Nexhat Daci
President of the Assembly of Kosovo

ANNEX 1

Definitions of terms referred to in Section 1 (Definitions) of the Regulation on Higher Education in Kosovo

1. “Diploma Supplement”:

Article IX.3 of the **Convention on the Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165, 1997)** states:

“The Parties shall promote, through the national information centres or otherwise, the use of the UNESCO/Council of Europe Diploma Supplement or any other comparable document by the higher educations of the Parties.”

The Explanatory Report to this Convention gives further information about the Diploma Supplement:

“The Diploma Supplement explains the contents and form of the qualifications delivered by higher education institutions. It does not replace or modify those qualifications. Rather, the Diploma Supplement seeks to explain the qualifications in an internationally understandable form. The Diploma Supplement is therefore useful to higher education institutions in their relations with partner institutions with other countries, eg. in the framework of student exchanges...”

2. “European area of higher education”

This term is a political goal, not defined by geography. It was first cited in a declaration at Sorbonne in 1998 by four European Ministers of Higher Education (France, Germany, Italy and the UK). In this declaration, the Ministers

“Engage in the endeavour to create a **European area of higher education**, where national identities and common interests can interact and strengthen each other for the benefit of Europe, of its students, and more generally of its citizens.”

In the **Declaration of the European Ministers of Higher Education at Bologna (1999)**, a pledge by 29 countries to reform the structures of their higher education systems in a convergent way, the objective of a European area of higher education is reinforced:

“While affirming our support to the general principles laid down in the Sorbonne declaration, we engage in co-ordinating our policies to reach in the short term, and in any case within the first decade of the third millennium, the following objectives which we consider to be of primary relevance in order to establish the **European area of higher education** and to promote the European system of higher education worldwide:

- Adoption of a system of easily readable and comparable degrees, also through the implementation of the Diploma Supplement, in order to promote European citizens employability and the international competitiveness of the European higher education system;

- Adoption of a system essentially based on two main cycles, undergraduate and graduate. Access to the second cycle shall require successful completion of first cycle studies, lasting a minimum of three years. The degree awarded after the first cycle shall also be relevant to the European labour market as an appropriate level of qualification. The second cycle should lead to the master and/or doctorate degree as in many European countries;
- Establishment of a system of credits – such as in the ECTS system – as a proper means of promoting the most widespread student mobility. Credits could also be acquired in non-higher education contexts, including lifelong learning, provided they are recognised by the receiving universities concerned;
- Promotion of mobility by overcoming obstacles to the effective exercise of free movement with particular attention to:
 - o For students, access to study and training opportunities and to related services;
 - o For teachers, researchers and administrative staff, recognition and valorisation of periods spent in a European context researching, teaching and training, without prejudicing their statutory rights;
- Promotion of European co-operation in quality assurance, with a view to developing comparable criteria and methodologies;
- Promotion of the necessary European dimensions in higher education, particularly with regards to curricular development, inter-institutional co-operation, mobility schemes and integrated programmes of study, training and research.”

3. “International Standard Classification of Education 1997 (ISCED)”

UNESCO’s standard classification system for education is designed to facilitate comparisons of education statistics and indicators of different countries on the basis of uniform and internationally agreed definitions.

ISCED presents standard concepts, definitions and classifications. It is a framework for the compilation and presentation of national and international education statistics and indicators. It covers all organized and sustained learning activities for children, youth and adults including those with special educational needs. In providing a sound basis for statistical comparisons between different education systems, the ISCED will indirectly aid educational policy-makers and others who want to learn from the educational development experience of other countries.

ISCED is a multi-purpose system, designed for education policy analysis and decision-making, whatever the structure of the national education systems and whatever the stage of economic development of a country. It can be utilised for statistics on many different aspects of education such as pupil enrolment, human or financial resources invested in education or the educational attainment of the population. The basic concepts and definitions of ISCED have therefore been designed to be universally valid and invariant to the particular circumstances of a national education system.

See below a chart summarising the levels:

ISCED LEVELS OF EDUCATION AT A GLANCE
(source: UNESCO)

How to determine the level of a programme		Name of the level	Code	Complementary dimensions
Proxy criteria for contents				
Main criteria	Subsidiary criteria			
Educational properties School or centre-based Minimum age Upper age limit	Staff qualification	Pre-primary education	0	None
Beginning of systematic apprenticeship of reading, writing and mathematics	Entry into the nationally designated primary institutions or programmes Start of compulsory education	Primary education First stage of basic education	1	None
Subject presentation Full implementation of basic skills and foundation for lifelong learning	Entry after some 6 years of primary education End of the cycle after 9 years since the beginning of primary education End of compulsory education Several teachers conduct classes in their field of specialization	Lower secondary education Second stage of basic education	2	Type of subsequent education or destination Programme orientation
Typical entrance qualification Minimum entrance requirement		(Upper) secondary education	3	Type of subsequent education or destination Programme orientation Cumulative duration since the beginning of ISCED level 3
Entrance requirement, Content, Age, Duration		Post-secondary non tertiary education	4	Type of subsequent education or destination Cumulative duration since the beginning of ISCED level 3 Programme orientation
Minimum entrance requirement, Type of certification obtained, Duration		First stage of tertiary education (not leading directly to an advanced research qualification)	5	Type of programmes Cumulative theoretical duration at tertiary National degree and qualification structure
Research oriented content, Submission of thesis or dissertation	Prepare graduates for faculty and research posts	Second stage of tertiary education (leading to an advanced research qualification)	6	None