

# Budget Law or the Law Establishing Rules for the Spending of Public Money?

*Group for Legal and Political Studies*

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## Budget Law or the Law Establishing Rules for the Spending of Public Money?

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Recently, the state budget became a highly controversial topic in the public discourse in Kosovo, both in terms of the approval procedure, its content, budget allocations, and the central-local level relationship. Initially, it should be clarified that in the legal sense, the budget means “the amount allowed by law which is made available for expenditure by the Kosovo Fund for a sub-program, specific purpose, or where no specific purpose is identified, for a category of expenditure of a budgetary organization”, as provided for by law. This definition has several legal requirements that must be met in order to understand the state budget or public money in general. The first requirement is the definition/allocation of the budget by law, which means that the budget allocation act is a law that must be approved by the Assembly based on a procedure provided for in the Law on Public Financial Management and Accountability (LPFMA). The second requirement is the possibility of spending the budget for a sub-program, specific purpose, category of expenditure (salaries and allowances, capital investments, goods and services, grants and subsidies and municipal expenditure) and for this there must be an authorization expressed by law (clause: as provided for by law). This definition is essential before moving on to the next legal issue, which has increasingly become a phenomenon in Kosovo: the budget law, beyond setting rules for allocation of the budget as defined by the term “budget”, also lays down rules of its spending. This should not be the case and such practice should be avoided, given that there are several other laws that already regulate the spending of public funds, including the state budget.

### **Should the appropriations law only define budget appropriations or should it also contain rules for their spending?**

The Law on Budget Appropriations (LBA), in its main scope, is understood as a legal act that determines the budget allocations of the Republic of Kosovo for a given fiscal year. In line with its purpose, in the strict sense, the law should focus solely on budget allocations for each budgetary organization according to the expenditure categories that are defined in the LPFMA, rather than introducing additional rules on how public money should be spent. This is due to the fact that the LBA is one of the few laws with yearly validity, and its exclusive purpose is to allocate the budget. This law enters in force on January 1 and, as a rule, expires on December 31, coinciding with the fiscal year.

Despite the explanations above, the LBA has for several years exceeded its intended purpose. Instead of solely determining budget allocations, it has also begun setting detailed rules on budget spending, thereby fundamentally undermining sound public finance management in Kosovo.

If analysed, these additional rules appear in the narrative section of the law and cover issues such as revenues (both own-source and dedicated), other budget allocations (most controversially, allocations related to agreements with UN troops), advances, unforeseen expenditures, budget execution, the economic recovery program, salary and allowance rules, real estate taxation, benefits for war categories, and more.

This approach creates a dangerous legal loophole, making it convenient, especially for daily politics, to determine not only budget allocations but also the legal provisions governing their spending, all with the sole purpose of circumventing necessary amendments to horizontal laws.

Kosovo's financial management system is designed in such a way that for each category of expenditure, systematic and exhaustive rules are set out in horizontal laws aimed at ensuring financial stability and responsible management of public funds. The primary laws regulating public expenditures are the Law on Public Financial Management and Accountability (LPFMA), the Law on Public Procurement (LPP), the Law on Salaries in the Public Sector (LSPS), as well as other legislation that provides the legal basis of the use of public money.

### **The relationship of the Law on Budget Appropriations with other laws governing the rules for spending public funds**

The main horizontal law regulating the management of public finances is the LPFMA. However, even professionals often take budget allocations for granted and misunderstand them, assuming that once funds are allocated, they may be spent without restriction, as if the mere existence of a budget line were sufficient. This assumption is incorrect and legally inaccurate because despite the existence of the budget, it must be spent initially in accordance with the rules and procedures of the LPFMA and, where appropriate, in accordance with the rules of other horizontal laws specifically adopted for this purpose, depending on the category of expenditure. For example, concluding a contract for the supply of goods or the execution of works under the categories of capital investments or goods and services required full adherence to the relevant rules of the Law on Public Procurement.

When it comes to salaries and allowances, it is entirely normal and acceptable for the coefficient value to be determined by the LBA, as it depends on the country's economic development. However, the current 2025 LBA in force and the newly presented LBA for 2026 introduce unusual legal solutions. For example, the rule increases by (1) unit for all classes of positions according to Annexes 1 - 15 of the LSPS. This "legal" solution is very unusual because the changes had to be made to the basic law, namely the LSPS, which contains the list of coefficients and their value. Even more unusual is that the increase by one (1) unit is not automatic at the beginning of the year but is done in two stages, with an increase of zero point five (0.5) units of the coefficient starting from January 2025, while the other increase of zero point five units (0.5) is applied from July 2025 which is temporary and in fact expires on December 31, 2025. It remains to be seen whether this rule will be repeated in the new budget law and how, because after December 31 it does not produce any legal effect.

An unusual provision is also noted in the 2026 budget draft law, introducing the 13th salary for the public sector employees, an arrangement not regulated by the Law on Salaries.

### **Derogation of certain issues that should be regulated by law for regulation by decisions**

As noted above, the LBA not only defines certain rules that bypass the provisions and principles of the horizontal laws but also contains numerous derogations, allowing some matters to be regulated by decisions undertaken by the Government or the Ministry of Finance. Such derogations are neither prohibited nor uncommon; in fact, they are recommended because it is neither possible nor appropriate for all details to be regulated directly by law. Consequently, certain issues must be addressed through sub-legal acts, such as with instruments with legal force lower than that of the law. However, several conditions must be cumulatively met for this to occur. First, there must be

constitutional authorizations specifying who may regulate issues via sub-legal acts (according to the Constitution, only the Government has this authorization, see paragraph 4 of article 93). Second, the law must expressly authorize it, and third, there must be clear limits defining which matters may be regulated by sub-legal act.

The strangest and problematic case is set out in paragraph 12 of Article 11 of the LBA. This paragraph allows financial resources allocated to the Ministry of Finance, Labor and Transfers in the subprogram 'Agreements with the bodies of the United Nations Organization' (code 34100), within the category of Subsidies and Transfers, to be transferred to the UN, by a government decision. These funds, intended for agreements with UN bodies, are meant to support projects or programs – such as commissions, funds, specialized agencies, and other agencies – aimed at achieving the Sustainable Development Goals. This provision raises several concerns. First, while it limits the transfers to UN agreements, it provides no guidance on which types of agreements qualify, what the procedure should be, or how far the Government's regulatory authority extends. A much more serious issue arises when the Government authorizes, via a decision, the transfer of part of the budget to UN bodies without the existence of an international agreement, an explicit requirement under paragraph 4 of the Article 18 of the Constitution.

The opposite example is the regulation governing the financing of Radio Television of Kosovo (RTK), where the legal framework is extremely rigid and has caused significant problems, particularly this year due to absence of a functional parliament. While the LBA allocates budget for RTK under the organizational code no. 248, paragraph 11 of Article 11 stipulates that these funds can only be released from the Treasury after approval by the parliamentary Committee for Budget, Labor and Transfers. This regulation has created a situation where both the employees and the overall functioning of RTK were endangered and continue to be at risk due to the failure to form the required parliamentary committees, even though RTK itself is regulated with a law by the Assembly. Other ad-hoc solutions that are rather "inventions" - such as providing loans - are only temporary and dangerous practices that have lasting consequences for the overall functioning of the RTK.

In conclusion, a thorough review of the legal framework is needed to establish rules that ensure responsible financial management, while also curbing political discretion in budget planning and execution.



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