



**Republika e Kosovës**  
**Republika Kosovo-Republic of Kosovo**  
**Kuvendi - Skupština – Assembly**

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**Law No.03/L –226**

**ON ALLOCATION FOR USE AND EXCHANGE OF IMMOVABLE  
PROPERTY OF MUNICIPALITY**

**The Assembly of Republic of Kosovo;**

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

**THE LAW ON ALLOCATION FOR USE AND EXCHANGE OF  
IMMOVABLE PROPERTY OF MUNICIPALITY**

**CHAPTER I  
GENERAL PROVISIONS**

**Article 1  
Purpose**

This law aims to determine the procedure, upon which municipality can allocate to natural and legal persons its immovable property for use and also the exchange of the municipal immovable property with immovable property of social enterprises which currently are under the administration of the Privatization Agency of Kosovo, for public benefit purposes.

## **Article 2**

### **Scope**

This law determines the manner of allocation for short-term and long-term use of immovable property of municipality, to natural and legal persons, supervision, evidence of immovable property of the municipality and its exchange with immovable property of social enterprises which are under the administration of the Privatization Agency of Kosovo.

## **Article 3**

### **Definitions**

1. Terms used in this law shall have the following meaning:

1.1. **Immovable Property of the municipality** - the immovable property which is evidenced in the cadastral books in the ownership of the municipality.

1.2. **Allocation for use of immovable property** - the allocation of the immovable property including the land and objects in the ownership of municipality from the Municipal Assembly, within the deadline determined by this law.

1.3. **PAK** - the Privatization Agency of Kosovo.

1.4. **Board** - the Board of the Privatization Agency of Kosovo.

1.5. **Municipality** - has the meaning stipulated in the Law of Local Self-Government.

1.6. **Social Enterprise** – has the meaning defined by the Law on the Privatization Agency of Kosovo, no. 03/L-067.

1.7. **Purpose for Public Benefit** - has the meaning defined by the Law on Expropriation of Immovable Property, within the limits stipulated in Article 9 of this law.

## **CHAPTER II**

### **PRINCIPLES AND PROCEDURE FOR THE ALLOCATION FOR USE OF THE MUNICIPAL IMMOVABLE PROPERTY**

#### **Article 4**

##### **Principles for the allocation of immovable property for use**

1. The immovable property of municipality is allocated for use by the Municipal Assembly according to these principles:
  - 1.1. the principle of protection and provision of the public interest;
  - 1.2. the principle of protection and increase of the value of the municipal public property;
  - 1.3. the principle of protection of characteristics and unique values of property;
  - 1.4. the principle of environment protection.

#### **Article 5**

##### **Allocation for use of the municipal immovable property**

1. The Municipal Assembly has the right to allocate to natural and legal persons municipal public immovable property for short or long-term use.
2. The Municipal Assembly has the right to allocate for use the municipal immovable property in the period of ten (10) years, in accordance with criteria stipulated in the Law on Public Procurement.
3. The Municipal Assembly has the right to allocate for use the immovable property in terms longer than ten (10) years, but not more than forty (40) years, after fulfilling criteria set by the Law on Public Procurement and after the agreement by the Ministry of Economy and Finances and prior consent from the Ministry of Environment and Spatial Planning and Ministry of Trade and Industry.
4. The revenues of the municipality realized from the allocation for use of the immovable property, are considered public money, and are subject to the respect of legal provisions of the Law on Management of Public Finances and Accountability.
5. The property allocated for use is registered in the registers of the Municipality, in accordance with Article 14 paragraph 1. sub-paragraph 14.3 of the Law on Local Self-Government Nr. 03-L-040.

6. The criteria stipulated in the Law on Public Procurement is not applied in cases where the request for allocation for use is made by the central institutions of the Republic of Kosovo, diplomatic and consular representations and international organizations and institutions that have agreements with the Republic of Kosovo.

#### **Article 6**

#### **Presentation of the interest of the municipality for the allocation of municipal public property for use**

1. Mayor of Municipality proposes to the Municipal Assembly the allocation for long-term use of the municipal immovable property to legal and natural persons by presenting reasons and the public interest based on principles mentioned in Article 4 of this law.
2. The Municipal Assembly, after reviewing the proposal of the Mayor of the Municipality, decides on allocation for long-term use of municipal public, by clearly expressing the reason and interest of municipality for allocation of immovable property for use.

#### **Article 7**

#### **Procedure for allocation of municipal public property for use**

1. The Municipal Assembly establishes the special commission consisted of the representatives of the executive of Municipality and Municipal Assembly, who evaluates the bids, and proposes to the Assembly the short list of at least three main pretenders for long-term use of the municipal public immovable property.
2. The Municipal Assembly with the majority of the votes of the Assembly members, present and voting, takes the decision for allocation of municipal immovable property for use.
3. Decision adopted by the Municipal Assembly must contain, but not limited to:
  - 3.1. the name of the user of public municipal immovable property;
  - 3.2. activity that will exercise in public municipal immovable property;
  - 3.3. prescription of the municipal immovable property allocated for use;
  - 3.4. the time period and place of property given for use;
  - 3.5. the obligations of the parties of public municipal immovable property towards municipality during and after use.

**Article 8**  
**Expiration of the deadline**

Following the deadline of allocation for use, or early termination of the agreement for use, the right to use shall be returned to municipality.

**CHAPTER III**  
**TRANSFER OF THE RIGHT ON IMMOVABLE PROPERTIES UNDER THE**  
**ADMINISTRATION PAK TO MUNICIPALITIES FOR PUBLIC NEEDS**

**Article 9**  
**Request for transfer of the right to immovable property**

1. The Board of Directors Privatization Agency of Kosovo (hereinafter the “Board”) shall decide on the allocation for use of immovable property currently under the administrative authority of the Privatization Agency of Kosovo to a municipality for public benefit purposes as defined in Article 3 of this law.
2. The municipality concerned shall submit the request for allocation of the right to use the immovable property to the Managing Director of the PAK (hereinafter the Managing Director) on the basis of the following criteria:
  - 2.1. establishment of a manifest need for the allocation of a particular land parcel for a public benefit purpose, in particular requirements of the municipality, and with sufficient clarification as far as such public benefit purpose is concerned;
  - 2.2. establishment that no suitable municipal land is available within its jurisdiction for that public benefit purpose;
  - 2.3. manifestation that all efforts were made to obtain a land parcel requested through other means, including commercial lease agreements and for land swaps where resources are available for that purpose;
  - 2.4. exclusive usage of the particular land parcel for the public benefit purpose indicated under the exclusive authority and control of the municipal administration concerned to be realized within four (4) years;
  - 2.5. director shall review the request submitted by the municipal administration, and verify whether the criteria in this paragraph are met. On the basis of its evaluation, the Director shall then submit the request together with his/her recommendation to the Board for decision;

3. During the review of the request submitted by the municipality, and prior to the delivery of a positive recommendation, the Director takes into account:

3.1. any contest between the municipality and PAK regarding Socially-owned property of social enterprises;

3.2. the readiness of the municipality to agree to a process for the resolution of any such contests between the municipality and PAK for immovable properties.

4. With prior approval by the Board, the Managing Director requests from the municipality to begin procedures to transfer the right over the immovable property as defined in Article 10 of this law:

4.1. such exchange of immovable property with municipality should fulfill requests for compensation, defined in Article 10 of this law;

4.2. in case of agreement between municipality and the managing director for transfer of the right over the immovable property, the board shall approve such transfer by decision;

4.3. managing director shall sent the board decision to the municipality within period of fifteen (15) working days.

### **Article 10 Compensation**

1. The municipality shall pay compensation to the Agency Fund for the account of the Socially-owned Enterprise whose right over the immovable property has been allocated to the municipality. Such money shall be used only for purposes permitted by law, including the payment of employees entitled to a share of the proceeds from the sale of shares of a subsidiary corporation of a Socially-owned Enterprise or a voluntary liquidation of a Socially-owned Enterprise and its assets. Compensation shall be based on the value of the market of immovability, which shall be defined from the Office for Assessment of properties within the Department of Tax on Property – Ministry of Economy and Finances, in compliance with the law on Expropriation of Immovable Property nr. 03/1-139.

2. The municipality shall pay the amount due for compensation into the Fund of the Privatization Agency of Kosovo before the Privatization Agency of Kosovo, initiates:

2.1. the sale of shares of a subsidiary corporation of a Socially-owned Enterprise in accordance with Article 8 of the Law on the Privatization Agency of Kosovo;

2.2. a voluntary liquidation of a Socially-owned Enterprise and its assets in accordance with Article 9 of the Law on the Privatization Agency of Kosovo;

2.3. in case the municipality is unable to pay compensation, the Board may accept land or other immovable property owned by the respective municipality in return for the allocation of land assets of a Socially-owned Enterprise;

2.4. the Board may agree to such immovable property swap arrangements only if the immovable property proposed to be transferred by the municipality is appropriate to preserve, enhance or at least to be equal with the value of the immovable properties of the Socially-owned properties that is foreseen to be transferred to the municipality;

2.5. the land or other municipal immovable property is transferred to the Socially-owned Enterprise and becomes an integral part of its assets;

2.6. in the event that the municipality fails to comply with the requirements set out in this paragraph, the provisions of Article 12, paragraph 2 of this law shall apply accordingly.

## **Article11**

### **Legal Consequences of an allocation**

1. Upon entry into force of the decision of the Board, the particular immovable property defined in the decision shall be allocated to the municipality concerned for its use and the municipality shall assume full responsibility on a pro rata basis for all obligations and liabilities of the Socially-owned Enterprise concerned other than obligations and liabilities existing prior to the effective date of the decision in respect of the land parcel allocated to it.

2. Upon the entry into force of the decision, the Agency and the Socially-owned Enterprise concerned shall be released from all liabilities other than those existing prior to the effective date of the decision accruing with respect to such allocated land asset including, but shall not be limited to, the following:

2.1. property taxes;

2.2. unpaid utilities charges;

2.3. VAT or other taxes.

3. Compensation that could be payable in respect of the allocated land under Article 10 of the changed Regulation No. 2003/13 On the Transformation of the Right of Use to Socially-Owned Immovable Property.

4. All creditor claims whether secured or unsecured as well as ownership claims relating to the allocated land.

5. The decision by the Board on the allocation of the right over immovable property to the municipality for a public benefit purpose shall be without prejudice to the property rights of third parties as may be determined by a competent court in Kosovo.

#### **Article12**

#### **Restrictions on the allocation of the right over immovable property for public benefit**

1. Within a period of four (4) years, the municipality has not right to the land asset allocated to it or parts thereof to a third party or use it either itself or allow to be used by a third party for any other purpose except public benefit, excluding cases of prior decision of the Board.
2. Violations of the restriction in paragraph 1 of this Article and in the event that the municipality had no public need or has intentionally presented false information with regard to the allocation of immovable property, the Board may decide to invalidate the allocation of the immovable property within four (4) years.
3. In the event of annulment of the transfer, the immovable property shall revert to the Socially-owned Enterprise or, if the Socially-owned Enterprise has ceased to exist in the meantime, then it shall revert to the PAK or to its successor.
4. The compensation paid by the municipality doesn't revert and the municipality remains responsible for the obligations and debts created since the coming to power of the decision for the transfer of right over the immovable property until the coming to power of the decision for the annulment of the transfer.

### **CHAPTER IV APPEAL PROCEDURE**

#### **Article 13**

If one municipality does not agree with the process or the result of a decision of the Board for determination of a public benefit, the municipality may appeal for the decision of the Board to the Competent Court.



**CHAPTER V**  
**TRANSITIONAL AND FINAL PROVISIONS**

**Article 14**  
**Final Provisions**

1. Upon entry into force of this law the UNMIK Regulation no. 2005/13 and UNMIK Regulation Nr. 2006/5 and other acts issued for their implementation are repealed.
2. All transfers of the allocation of the right over the immovable property from social enterprise to municipalities that are made pursuant to UNMIK Regulation no. 2006/5 remain valid unless cancelled by the Board in conformity with the provisions of this Law.
3. Responsible Ministry for local self-government in cooperation with the KPA issues sub-legal acts for the implementation of this law, within six (6) months after law entry into force.

**Article 15**

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

**Law No. 03/L-226**  
**28 October 2010**

**Member of the Presidency of the Assembly**

**Xhavit Haliti**