



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

Law No. 04/L-144

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

Assembly of Republic of Kosovo,

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

Approves

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

Article 1
Purpose

The purpose of this Law is to regulate the manner of allocation of municipal immovable property for use, exchange of municipal property between the municipality and natural and legal persons, and exchange with central institutions and Privatization Agency of Kosovo (PAK).

Article 2
Scope

This Law shall determine the rights and obligations of the municipality in management of municipal immovable property in relation to natural and legal persons and PAK.

Article 3
Definitions

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

1.1. **Immovable Property of the Municipality** - immovable property registered on behalf of the Municipality in the Immovable Property Rights Register.

1.2. **Allocation of Municipal Property** - allocation of immovable property for use, including municipally owned land and buildings, according to procedures provided by this Law.

1.3. **The deadline for the allocation of short-term use of the municipal immovable property** - the time period from one (1) to fifteen (15) years through a public auction.

1.4. **The deadline for the allocation of long-term use of the municipal immovable property** - the time period from fifteen (15) to ninety-nine (99) years through an open competition.

1.5. **Exchange** - the right of municipality to exchange the municipal immovable property with natural and legal persons, central institutions and PAK for the purpose of public interest of the municipality.

1.6. **PAK** - the Privatization Agency of Kosovo, in accordance with the Law on Privatization Agency of Kosovo.

1.7. **Board** - the Board of Privatization Agency of Kosovo, in accordance with the Law on Privatization Agency of Kosovo.

1.8. **Municipality** - has the meaning stipulated in the Law on Local Self Government.

1.9. **Owner** - any legal or natural person who is the holder of the property based on the Immovable Property Rights Register.

1.10. **Ministry** - the responsible Ministry for Local Self-Governance.

1.11. **Public auction** - the process of open public competition in which the winner is selected based on the highest price offered, and in specific cases, other criteria established through the auction.

1.12. **Expression of interest** - the public competition process where the winner is selected based on criteria specified in the call for bids.

1.13. **Body on financial assessment of the property for exchange** - the body that performs the financial assessment, which operates within the responsible ministry.

Article 4

Principles of allocation for use of the municipal immovable property

1. The municipal immovable property shall be allocated for use according to the following principles:

1.1. principle of legality;

- 1.2. principle of effectiveness;
- 1.3. principle of equal treatment of parties;
- 1.4. principle of transparency;
- 1.5. principle of protecting and guaranteeing the public interest;
- 1.6. principle of preserving and increasing the value of the municipal public property;
- 1.7. principle of protecting characteristics and unique values of property;
- 1.8. principle of environmental protection.

Article 5

Allocation for short-term use of municipal immovable property

1. The procedures for allocation for short-term use of municipal immovable property shall be conducted through an open public competition, procedures foreseen by this Law.
2. The open public competition for the allocation for short-term use of municipal immovable property shall be in a form of an auction.
3. The procedures for allocation for short-term use of municipal immovable property shall be conducted through the procedures of public auctions that shall be regulated with a sub-legal act.

Article 6

Allocation for long-term use the immovable property of the municipality

1. Allocation of municipal immovable property shall be based on the following criteria:
 - 1.1. municipal immovable property is registered and published on the municipal website;
 - 1.2. the immovable property of the municipality allocated for long term use has to be in compliance with the Municipal Development Plan;
 - 1.3. there is public interest justification;
 - 1.4. meets the given environmental conditions and criteria;
 - 1.5. fulfils the urban and rural plans.
2. The allocation for long-term use of municipal immovable property shall be done through an open public competition in accordance with the criteria defined with this Law. Other special procedures and criteria shall be defined by a sub-legal act.

3. Municipal Assembly may not allocate the municipal property for long-term use six (6) months prior to conclusion of the ordinary legal mandate.

4. Municipal revenues from allocation for use shall be considered public monies and shall subdue to all legal provisions of the Law on Public Finance Management.

Article 7

Proposal for allocating municipal public property for use

1. Mayor of Municipality proposes to the Municipal Assembly for preliminary approval the municipal immovable property on allocation for use to legal and natural persons by presenting reasons and the public interest.

2. Proposal for allocation for use of the municipal immovable property should identify property title, size, specify reasons, purpose and duration and recommended form of allocation of property for use.

3. The Municipal Assembly shall take preliminary decision to allocate for use the immovable property of the municipality by the majority of votes of members by Municipal Assembly.

Article 8

Evaluation Commission, duties and responsibilities

1. For the purpose of enforcing the procedures on the allocation of immovable property of the municipality for short- and long-term use, an Evaluation Commission comprised of seven (7) members is established to allocate for use immovable property of the municipality.

2. The Mayor nominates three (3) members from the Municipality executive, the Municipal Assembly nominates three (3) members from the various entities represented at the Assembly, and one (1) expert member from the civil society.

3. The proposal with nominated commission members shall be approved at the Municipal Assembly by the majority of votes of Assembly members.

4. Decision of the Municipal Assembly establishing the Evaluation Commission shall contain the duties and responsibilities of the Commission and other issues considered significant for the work of the Evaluation Commission.

5. The respective unit within the municipal administration provide professional support to the Evaluation Commission for allocating for use the immovable property of the municipality.

6. The municipality shall be responsible for:

6.1. public announcement for allocation of immovable municipal property;

6.2. written announcement shall be posted on the municipal website, public spaces and local electronic and printed media;

6.3. announcement shall identify property title, location and description, duration of use, any condition or restriction on rights for use, permitted use of land, form of competition, starting price, requirements for participating in the competition, including procedures for registering bidders, auction time and venue, and opening of bids;

6.4. announcement for short-term allocation of property for use shall not be shorter than thirty (30) days, while for long-term allocation, not shorter than forty-five days (45) days;

6.5. members of the commission shall be present in the auction and public opening of bids.

6.6. closed bids shall be publicly announced and protocol led upon opening;

6.7. the Commission shall be the authority for final evaluation of economically most favourable bids, in line with criteria provided in the auction announcement and expression of interest.

Article 9 Bids Evaluation

1. The Evaluation Commission, following the completion of procedures for allocating for long-term use the immovable property of the municipality, submits for approval in the Municipal Assembly the selected bid. The Municipal Assembly, by the majority of votes of the Assembly members approves the bid selected by the Commission.

2. The decision of the Municipal Assembly shall contain the name of the municipal property user, description of the municipal immovable property, timeframe and location of the property, activity to be performed in the property, and other issues related to the property and use, assessed by the Municipal Assembly.

3. Party dissatisfied with the final evaluation of bids by the Commission is entitled to present the appeal within fifteen (15) days to the Municipal Assembly.

4. The Commission established by the Municipal Assembly reviews the appeals within thirty (30) days.

5. For the implementation of the decision of the Municipal Assembly, the Mayor shall be obliged to conclude a contract setting rights and obligations of the contracting parties.

6. The Commission for the evaluation of the bid for the allocation for short-term use of the municipal immovable property conducted through auctioning submits the selected bid to the Mayor for concluding the contract.

7. After elapsing of the contract duration, the property shall be reinstated to its holder, respectively municipality.

8. Decision for allocation for use of municipal immovable property shall be published to the website of the municipality and other forms of publication.

9. Decisions for allocation of municipal immovable property for use shall undergo mandatory revision of legality, as provided by the Law on Local Self-governance.

Article 10
Allocation of municipal immovable property for special cases

1. Competition procedures shall not be followed on the following cases:

1.1. when the request for allocation for use is by central institutions of Republic of Kosovo;

1.2. diplomatic and consular offices, and international organizations and institutions that have an agreement with Republic of Kosovo;

1.3. upon legalization of informal settlements based on applicable legislation;

1.4. for religious communities for the purpose of carrying religious activities;

1.5. allocation of municipal immovable property purpose this to realize investments in energy sector;

1.6. proceed for allocation for use of municipal immovable property for such cases shall be determined by a sub-legal act.

Article 11
Exchange of municipal property with legal and natural persons

1. Municipality has the right to exchange municipal immovable property with legal and natural persons in cases when such exchange is required for obtaining land for main public interest use.

2. The decision to initiate the exchange of land parcels with private legal and natural persons shall be based on the following pre-conditions:

2.1. an exchange can be initiated by the municipality only, not by a private owner;

2.2. an exchange can be considered for obtaining land only for main public uses, if a need in land for this use is justified in approved development/urban plans;

2.3. if a thorough analysis of municipally-owned land demonstrates that no suitable municipal parcel exist for this use;

2.4. if capital funding for building the public-use facility is already secured.

3. Mayor of Municipality shall propose to the Municipal Assembly the municipal immovable property for exchange and with legal and natural persons.
4. The Municipal Assembly, after reviewing the proposal of the Mayor of the Municipality, shall decide on offering each of the suggested properties for exchange, by voting for each property separately. A positive decision requires the majority vote from the total number of members of the Municipal Assembly.
5. Prior to public announcement of the request for exchange, the municipality must obtain qualified independent evaluation of the market value of each municipal property planned for exchange.
6. Evaluation of municipal property and evaluation of private land shall be done in line with the respective Law on immovable property.
7. Results of the exchange must be published and include data on the exchanged properties, their estimated value, and the name of the private owner with whom the exchange was completed.

Article 12

The Right of the Municipality to Reinstate Part of the Land Managed by Privatization Agency of Kosovo

1. For the purpose of public interest, municipalities shall have the right to reinstate the immovable properties that include lands of former enterprises which are administered and managed by the PAK.
2. Municipalities shall list the land parcels, property these under the management of former socially owned enterprises managed by PAK, that municipalities request to reversion of public interest.
3. List of properties developed by the municipalities, according to paragraph 2 of this Article, shall be forwarded to the Government of Republic of Kosovo, for the purpose of releasing such properties from privatization process, and reinstate them under the municipal ownership for the purpose of accomplishing public interest.
4. Government of Kosovo in cooperation with PAK shall take legal actions for returning such parcels under the ownership of the municipality.

Article 13

Exchange of municipal property with a property under the administration of Privatization Agency of Kosovo

1. The municipality shall present the request for exchanging the immovable property to the Managing Director of PAK, based on the following criteria:
 - 1.1. establishment of a manifest required for the allocation of a particular land parcel for a public benefit purpose, in particular for buildings that would meet the

requirements of the municipality to exercise its competences, providing sufficient clarification for such public benefit purpose;

1.2. manifestation that all efforts were made to obtain a land parcel through other means, including commercial lease agreements and land swaps where resources are available for that purpose;

1.3. exclusive usage of particular land parcel for public benefit purpose under the exclusive authority and control of relevant municipal administration, a parcel that should be used within four (4) years.

1.4. director shall review the request submitted by the municipality and verify whether the criteria under this paragraph are met. On the basis of his/her evaluation, the Director shall then submit the request together with his/her recommendation to the Board for decision.

2. During the review of the request submitted by the municipality, and prior to the delivery of a positive recommendation, the Managing Director shall take into consideration:

2.1. if there is any contest between the municipality and PAK regarding the socially-owned property of social enterprises;

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

3. With prior approval of the Board, the Managing Director shall request from the municipality to initiate procedures for transferring the right on the immovable property.

4. Such exchange of immovable property with the municipality should meet the compensation requirements, as defined under Article 21 of this Law.

5. In case of agreement between municipality and the Managing Director for transfer of the right on the immovable property, the Board shall approve such transfer with a decision.

6. Managing Director shall send the Board's decision to the municipality within a period of fifteen (15) days after approval and signature.

Article 14

Procedure for exchanging the property

1. Municipality that needs to accomplish public interest over the immovable property of Social Owned Enterprise (SOE), upon filing the request for exchanging the property, shall present the following valid documentation:

1.1. decision of the Municipal Assembly declaring public interest on cadastral parcels indicating the property under the SOE.

1.2. property certificate from Municipal Cadastre Office (MCO) for cadastral parcels offered for exchange by the Municipal Assembly, not older than six (6) months of validity.

1.3. attached statement by the municipality indicating that apart from all efforts, the municipality was unable to ensure any parcel to realize the public interest – signed by the MCO and confirmed by the Mayor.

1.4. attached document issued by the respective Directorate for urbanism/property indicating that the municipality has no suitable property available for realizing the public interest.

1.5. written confirmation issued by the respective Mayor indicating that the property requested for exchange shall be exclusively used for public needs under the authority and exclusive control of respective municipal administration, parcel that will be used within four (4) years.

Article 15 Appeals' review

1. PAK, after receiving the request from the municipality, following preliminary assessment of the request presented, shall inform the Municipal Assembly and Mayor on the stance of the Agency related to request presented within sixty (60) days from receipt.

2. If preliminary conditions for exchanging immovable property are met, after confirmation letter of PAK, Mayor as soon as possible, not later than thirty (30) days, shall present the following additional documents:

2.1. attached document whether there is any dispute between the municipality and Agency over the socially owned property;

2.2. certificate from the Municipal Court that the immovable property offered for exchange is not an object of civil or enforcement procedure, or left for pledge;

2.3. certificate from MCO indicating the state of immovable properties requested for exchange, related with mortgage and pledge, and information on eventual claims of third parties for changing the holder in the cadastre registers;

2.4. certificate of the municipality that the immovable property offered for exchange, municipal property, shall not be part of urban plan for next five (5) years;

2.5. readiness of the municipality to agree on a dispute resolution process between the Municipality and agency over the immovable property requested for exchange;

2.6. requester – Municipality shall cover all costs related to completion of the documents, and cost for evaluation of immovable property.

Article 16
Responsibilities of Privatization Agency of Kosovo

1. After completion of the documents by the municipality, with regards to the property requested by the municipality, Agency shall take the required actions to ensure that:

1.1. socially owned enterprise, holder of the requested property for privatization, is not in liquidation;

1.2. socially owned enterprise has the discretion for exchange;

1.3. clear identification and verification of the SOE property requested for exchange;

1.4. information on status of property whether it is tendered, or is a part of the annual plan of the agency for tendering, or is not in the privatization process;

1.5. certificate of the Municipal Court that the immovable property offered for exchange is not an object of civil or enforcement procedure, and is not left as pledge;

1.6. certificate from MCO indicating the state of immovable properties requested for exchange, related with mortgage and pledge, and information on eventual claims of third parties for changing the holder in the cadastre registers.

2. After the municipality submits the documentation, and after the Agency undertakes the actions provided under Article 21 of this Law, PAK shall inform the municipal assembly that request may be filed to the Evaluation Office in the responsible ministry, for evaluation of immovable properties involved in exchange process.

3. Evaluation Report issued by the Evaluation Office in the responsible ministry shall reflect the exchange value of immovable properties, presented in the form of metric units (meter or hectare).

Article 17
Forwarding the proposal to the PAK Board

After the receipt of the Evaluation Report, the Managing Director of the Agency, within legal competences, in shortest possible timeframe, proceeds the proposal for exchange of immovable properties with his/her recommendation to the Board of Directors of the Agency for approval.

Article 18
Board's decision

Board of Directors of the Agency, based on whole documentation of the requester, recommendation of the Managing Director and based on applicable legislation covering this area, shall issue the decision to approve or reject the request of the municipality.

Article 19
Exchange contract

1. If the Board of Directors of the Agency approves the request of the Municipality, the Agency, based on its internal rules, but not later than ninety (90) days from receiving the decision of the Board of Agency, shall draft the contract on exchanging immovable properties.
2. Contract on exchanging immovable properties shall be signed by the Managing Director of the Agency and Mayor or duly authorized representatives of parties.

Article 20
Property registration

1. After signing the exchange contract, Mayor within sixty (60) days, shall forward the contract to the Municipal Cadastre Office for registering changes in the respective cadastre books.

Article 21
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 transferred to the municipality. Such funds shall be used only for purposes provided under the Law, including the payment for employees entitled to a share of the proceeds from the privatization or liquidation of socially-owned enterprises and their assets. Compensation shall be based on the market value of the immovable property, which shall be defined by the Evaluation Office in the responsible ministry, in accordance with the Law on Expropriation of Immovable Property No. 03/L-139.
2. The municipality shall pay the due amount for compensation into the Fund of the Agency before the Agency 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 the compensation, the Board may accept land or other immovable property belonging to the municipality in exchange;
 - 2.4. the Board shall have the right to agree to such immovable property swap arrangements with municipalities only if the immovable property proposed to be transferred is appropriate to preserve, enhance or at least to be equal with the value of the immovable property of the socially-owned enterprise that is foreseen to be transferred to the municipality;

2.5. the land or other municipal immovable property shall be transferred to the socially-owned enterprise and becomes an integral part of its assets;

2.6. in event the municipality fails to meet the requirements set out in this paragraph, the provisions of paragraph 2 of Article 22 of this Law shall apply accordingly.

Article 22

Restrictions on the allocation of the right on immovable property for public benefit

1. Within a period of four (4) years, the municipality shall have no right to transfer the immovable property allocated to it, or parts thereof, to a third party, or use it either itself or allow the use by third parties, for any other purpose except for public benefit, unless there is a prior decision of the Board.

2. Violations of paragraph 1 of this Article and in the event that municipality did not have a public need or has intentionally presented wrong information regarding the allocation of immovable property, the Board may decide to invalidate such allocation within four (4) years.

3. In the event of annulment of the transfer, the immovable property shall be returned to the socially-owned enterprise or if the socially-owned enterprise has ceased to exist, it shall be transferred to the PAK or its successor.

Article 23

The right to appeal

If a municipality does not agree with the process or the outcome of a decision of the Board determining the public benefit, the municipality may appeal against such decision of the Board to the Competent Court.

Final Provisions

Article 24

Abrogation

Upon entry into force of this Law there shall be abrogated the Law on allocation for use and exchange of municipal immovable property No. 03/L-226 published in the Official Gazette No.89 on 30.11.2010

Article 25

Deadlines for the promulgation of sub-legal acts

According to the proposal of the Ministry responsible for Local Self-Government, the Government shall issue sub-legal acts for implementing this Law within six (6) months after this Law enters into force.

Article 26
Entry into force

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

Law No. 04/L-144
22 November 2012

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI