

LAW NO. 06/L-092

ON ALLOCATION FOR USE AND EXCHANGE OF MUNICIPAL IMMOVABLE PROPERTY

Assembly of the Republic of Kosovo,

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

Adopts

**LAW ON ALLOCATION FOR USE AND EXCHANGE OF MUNICIPAL IMMOVABLE
PROPERTY**

**CHAPTER I
GENERAL PROVISION**

**Article 1
Purpose**

1. This Law aims at ensuring the effective use of immovable property of the municipality for sustainable economic development, increase in value of the immovable property of the municipality and fulfilment of the general interest. This Law also provides opportunity for exchanging the immovable property of the municipalities and acquisition of the ownership right by municipalities over the properties administered by state institutions, in view of fulfilling the general public interest.

2. This Law regulates and defines the forms and procedures for use and exchange of immovable property of the municipality and procedures of transferring the ownership of the immovable property managed by the Central Institutions, Kosovo Forestry Agency owned by municipality.

**Article 2
Scope**

The provisions of this Law shall be implemented by municipal bodies, state institutions, natural and legal persons.

**Article 3
Definitions**

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

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

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

1.3. **Period for allocation for short-term use of immovable property of the municipality** – the time period of more than one (1) year up to fifteen (15) years;

1.4. **Period for allocation for long-term use of immovable property of the municipality** - the time period of more than fifteen (15) up to ninety-nine (99) years;

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

1.6. **Municipality** - the definition stipulated in the Law on Local Self-Government;

1.7. **Mayor** – the definition stipulated in the Law on Local Self-Government;

1.8. **Owner** - the natural or legal person, who is the title holder of property based on the Immovable Property Rights Register;

1.9. **Government** - the Government which exercises its executive power in compliance with the Constitution and legislation in force;

1.10. **Ministry** - the responsible Ministry for Local Self-Government;

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

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

1.13. **General Public Interest** – the allocation for use of immovable property of the municipality, exchange or request for returning it to the municipality ownership, with the aim of its better use or destination and in the general interest of citizens, from natural and legal persons, in compliance with the spatial planning documents and legislation in force;

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

Article 4

Principles of allocation for use of immovable property of the municipality

1. Immovable property of the municipality shall be allocated for use based on the following principles:

1.1. **Principle of legality** – shall mean that the allocation for use and exchange of immovable property of the municipality should be based on the Constitution, Law and other sub-legal acts;

1.2. **Principle of effectiveness** – shall mean that municipal bodies carry out the procedure for allocation for use and exchange of immovable property of the municipality as soon as possible and with lowest possible cost for the municipality and parties, ensuring the purpose of allocation of the property for fulfilling the public interest and local economic development;

1.3. **Principle of equal treatment of parties** – shall mean that all parties in the process for allocation and exchange of immovable property of the municipality are equally treated, avoiding any discrimination against parties and acting objectively and impartially towards all;

1.4. Principle of transparency – shall mean that municipal bodies should act with transparency, respect and guarantee the rights of parties to be informed for procedures, conditions and progress of allocation for use and exchange of immovable property of the municipality;

1.5. Principle of protecting and increasing the value of the municipal public property – shall mean that the user of the municipal property is obliged to use the property in such a manner as to protect its value and take all measures necessary for increasing that value;

1.6. Principle of protecting the characteristics and unique values of the property – shall mean that the user of the municipal property should use the property only according to the destination of the property, maintaining its cultural, historic, archaeological values, historic architecture and all its other unique values, as provided for in the legislation in force.

CHAPTER II

ALLOCATION FOR USE OF IMMOVABLE PROPERTY OF THE MUNICIPALITY

Article 5

Criteria for allocation for use of immovable property of the municipality

1. Allocation for use of immovable property of the municipality shall be based on the following criteria:

1.1. immovable property of the municipality to be allocated for use shall be registered in cadastral registers of property;

1.2. the purpose of use of immovable property of the municipality shall be aligned with the spatial planning documents;

1.3. shall have public interest justification or economic benefit for the Municipality;

1.4. shall meet the given environmental conditions and criteria.

Article 6

Period of allocation for use of immovable property of the municipality

1. The municipalities can allocate for use the immovable property of the municipality for the following period:

1.1. allocation for short-term use of immovable property of the municipality, meaning the period from one (1) year to fifteen (15) years;

1.2. allocation for long-term use of immovable property of the municipality, meaning the period of more than fifteen (15) years to ninety nine (99) years;

1.3. municipalities may allocate the immovable property for use for less than one (1) year. Procedures and forms for allocation for use of immovable property of the municipality for the period up to one (1) year shall be governed and determined with a municipality regulation.

Article 7

Benefiting entities

1. Immovable property of the municipality may be allocated for use to all natural and legal persons recorded and registered in the Republic of Kosovo.
2. Special cases as established in Article 21 of this Law and cases handled with negotiation procedures by the Mayor shall be exempted from paragraph 1. of this Article.
3. Municipalities may allocate for use immovable properties of the municipalities for a short-term period to civil society organizations, in view of fulfilling the general interest.
4. The sub-legal act proposed by the ministry shall govern and determine the procedures and forms for allocation for use of immovable property of the municipality for benefiting entities, which will be approved by the Government.

Article 8

Procedures for allocation for use of immovable property of the municipality

1. Allocation for use of immovable property of the municipality shall take place under the following procedures of:
 - 1.1. Public Auction;
 - 1.2. Expression of interest; and
 - 1.3. Negotiations of the Mayor.
2. No procedure for allocation for use of the immovable property can be carried out without the fulfilment of the criteria established in Article 5 of this Law.
3. The property to be allocated for use shall be included in the published list of immovable properties, as determined in Article 13 of this Law.

Article 9

Regulation of property by the municipality

1. Upon the proposal of the Mayor, following the fulfilment of the criteria set forth in Article 5 of this Law, the Municipal Assembly shall render a decision to change the purpose of use for the immovable property of the municipality where the municipal building is located by demolishing, merging, dividing the immovable property of the municipality, in compliance with the conditions of the property for the purpose of allocating it for use.
2. The decision of the Municipal Assembly shall be rendered by the majority of general members of the Municipal Assembly.

Article 10

Restrictions of the municipality

The Municipal Assembly and municipal executive cannot render any decision with regards to the allocation for use and exchange of immovable property of the municipality from the day when the president announces local elections.

Article 11

Negotiation of bids by Mayor

1. Natural and legal persons may express interest in acquiring for use of the municipality property to the Mayor.

2. The Mayor has the right to develop preliminary procedures to negotiate bids presented by interested parties and to present final proposal for allocation for use of the immovable property of the municipality, for final approval at the Municipality Assembly.

3. The right of negotiation the Mayor may use it in the following cases:

3.1. in the cases when the investing value is at least ten percent (10%) of the overall budget for municipal capital investment of the previous year, but not more than the minimum value defined by the Law on Strategic Investments in the Republic of Kosovo;

3.2. in cases when an investor has expressed an interest in opening a business in the municipalities interest;

3.3. in cases when there is no interest in acquiring the municipality property for use by the parties for at least three (3) last years.

Article 12

Financial revenues

Municipal financial revenues generated from the allocation for use of the property shall be considered public funds and shall be subject to the legislation on public finance management and local government finance.

Article 13

Publication of the list of immovable properties of the municipality

1. The municipality shall publish the general list of immovable properties of the municipality, as well as special list of properties planned to be allocated for use for the coming year up to 31 December, justifying the public interest and economic development of the municipality.

2. List of immovable properties for allocation for use shall contain the following data: cadastral data of the property, purpose, destination, date of publication of the announcement and period for allocation for use of immovable property of the municipality.

Article 14

Proposal for allocation for use of immovable property of the municipality

1. Mayor shall propose to the Municipal Assembly for preliminary approval the immovable property of the municipality allocated for use, by presenting the reasons and public interest.

2. The proposal to allocate for use the immovable property of the municipality shall identify cadastral data of the property, size, specific reasons, purpose, duration and the form in which it is recommended the process for allocation of property for use.

3. The Municipal Assembly shall render preliminary decision to allocate for use the immovable property of the municipality by the majority of votes of the Municipal Assembly's members present in the session.

4. Preliminary decision for allocation for use of immovable property of the municipality shall be subject to mandatory review of legality, as established in the Law on Local Self-Government.

5. After the preliminary decision on allocation for use of certain immovable property of the municipality is taken, the Municipality shall publish the announcement on the property available to be allocated for short-term use or long-term use in the Municipality's official website.

Article 15

Public announcement

1. After the preliminary decision on allocating the immovable property of the municipality for use is taken, the Municipality shall, within the time limit of fifteen (15) calendar days, publish the announcement on the property allocated for use.
2. The public announcement shall be published on the municipal official website, in the municipality's announcements table, at the location of the municipal property subject to allocation and at least in one of the local press and electronic media.
3. The announcement shall comprise cadastral data of the property, location, description, duration of use, any condition or restriction on the right of use, permitted use of land, competition form, justification for public interest or economic development, starting price, requirements for participating in the competition, including procedures for registering bidders, the time and place where the auction is to be held and the opening of bids.

Article 16

Submission of bids

1. Natural and legal persons may submit their bids for obtaining for use the immovable properties of the municipality for the short-term or long-term period, according to the public announcement of the Municipality.
2. Bids shall be closed and protocolled in the Municipal Document Administration Unit.

Article 17

Evaluation Commission

1. The Evaluation Commission shall be established to carry out procedures for allocating for use the immovable property of the municipality and shall be composed of five (5) members.
2. Mayor shall nominate two (2) members from the municipal executive, the Municipal Assembly shall nominate two (2) members from the Municipal Assembly among different political entities and one (1) member among the non-governmental sector, who is proposed by the local non-governmental sector.
3. The decision for nomination and dismissal of the Commission's members shall be approved at the Municipal Assembly with the majority of votes of present and voting members.
4. The decision of the Municipal Assembly for establishing the Evaluation Commission shall contain duties, responsibilities and other issues considered as important for the work of the Evaluation Commission.
5. The Municipal Administration shall provide support to the Evaluation Commission for allocation for use of immovable property of the Municipality.
6. An Evaluation Commission shall be established for each preliminary decision of the Municipal Assembly.

Article 18

Appeal Commission

1. Municipal Assembly shall establish the Appeal Commission, which shall review the appeals of parties in the procedure for allocation of short-term and long-term use of immovable property of the municipality, which shall be composed of five (5) members.

Assembly shall nominate two (2) members from the Municipal Assembly among the different political entities and one (1) member from the non-governmental sector, who shall be proposed by the local non-governmental sector.

3. The decision for nomination and dismissal of Commission's members shall be approved in the Municipal Assembly by a majority of votes of present members and voting.

4. The Decision of the Municipal Assembly to establish the Appeal Commission shall contain duties and responsibilities and other issues deemed significant for the work of the Appeal Commission.

5. Municipal Administration shall provide support to the Appeal Commission, upon their request.

6. The mandate of the Appeal Commission shall be two (2) years within the mandate of the Municipal Assembly.

Article 19 Bids Evaluation

1. The Evaluation Commission, following the receipt of bids, shall perform their evaluation in compliance with the conditions set forth in the public announcement. The Commission shall publish the announcement for selection of bids in the Municipality's official website and the same shall be sent to the parties involved in the process.

2. The Evaluation Commission, following the expiration of deadline for reviewing appeals related to the allocation for use of immovable property of the municipality, shall submit the selected bid to the Mayor, for cases with period of short-term use.

2.1. based on the recommendation of the Evaluation Commission, the Mayor shall sign a contract with the winner, whereby setting rights and obligations of the contracting parties.

3. The Evaluation Commission following the expiration of the deadline for the review of appeals for allocation for long-term use of immovable property of the municipality, shall submit the selected bid to the Municipal Assembly for approval.

3.1. Municipal Assembly by the majority of votes of present and voting members shall approve the bid selected by the Commission;

3.2. The Mayor of the municipality, in order to enforce the decision of the Municipal Assembly, shall be obliged to conclude a contract with the winner of the competition, thereby setting the rights and obligations of contracting parties.

4. The decisions on allocation of immovable property of the municipality for use shall undergo mandatory revision of legality, as provided for by the Law on Local Self-Government.

5. The right to use the immovable property cannot be transferred for use to the third persons.

Article 20 The right to appeal

1. The party unsatisfied with the evaluation process of bids by the Commission shall be entitled to submit an appeal, within seven (7) calendar days from the day of receiving the announcement, to the Appeal Commission.

2. The Appeal Commission in the Municipality shall review the appeals within ten (10) calendar days.

3. The parties unsatisfied with the decision of the Appeal Commission, within the legal time limit may initiate an administrative dispute.

Article 21

Allocation for use of immovable property of the municipality for special cases

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

1.1. when the request for allocation for use is made by central institutions of the Republic of Kosovo. The request shall be addressed by the Head-leader of the relevant institution and it should determine the purpose and public interest which is in full concordance with Local Development Plan;

1.2. diplomatic and consular representations, and international institutions which have agreements with the Republic of Kosovo. The request shall be addressed through the Ministry of Foreign Affairs;

1.3. allocation for use of immovable property of the municipality for the purpose of implementing investments in the renewable energy production sector.

2. Allocation for use of immovable property of the municipality for special cases, according to the categories mentioned in paragraph 1. of this Article, shall not restrict the municipality in the realization of public interest or its economic benefit.

3. Procedures of allocation for use of immovable property of the municipality for such cases shall be stipulated by a sub-legal act, which is proposed by the ministry and approved by Government.

Article 22

Supervision of contracts

1. The Municipality shall supervise the implementation of contracts on allocation for use of immovable property of the municipality according to the dynamic implementation plan.

2. The Mayor shall be obliged to present, within its regular six (6) months reports, to the Municipal Assembly the specific report on monitoring the implementation of contracts and fulfilment of the purpose for allocating the immovable properties for use, until the commencement of implementation and achievement of the purpose for allocating the property for use.

3. In the event of failure to implement the dynamic plan of the contract on allocation for use of immovable property of the municipality by exceeding the deadlines set forth in the contract, the Mayor shall issue the decision for termination of the contract. With this decision shall be notified the Municipal Assembly.

4. In case of identification of the contract violation or deviation of the user from the purpose of use of immovable property of the municipality, the Mayor shall be obliged to inform, at any time, in written the Municipal Assembly, together with his recommendation for termination of contract or measures imposed on the user.

Article 23

End of period for use of immovable property of the municipality

1. Upon the end of the period determined in the contract for allocation for use of immovable property of the municipality, the property shall be returned to the municipality.

2. The Mayor shall be obliged to notify the Municipal Assembly on the termination of every contract for allocation for use of immovable property of the municipality by describing the current situation of the property, and giving proposals for its destination in the future.

3. Following the completion of the contract for long-term use of immovable property of the municipality, the term can be extended based on the performance.

CHAPTER III EXCHANGE OF IMMOVABLE PROPERTY OF THE MUNICIPALITY

Article 24

Conditions for exchange of immovable property of the municipality

1. The Municipality shall have the right to exchange immovable property of the municipality with legal and natural persons.
2. Immovable property of the municipality may be exchanged only to ensure the property for purposes of fulfilling the public interest, in compliance with the legal competencies of the local governance level.
3. In view of commencing the procedures for exchanging the municipal property, the Mayor shall be obliged to preliminarily ensure an official report that there are no other municipal properties suitable for this purpose.
4. Based on recommendations deriving from the professional report referred to in paragraph 3. of this Article, the property to be exchanged should have been preliminarily declared by the Municipal Assembly as property of public interest, unless the need for such a property is justified in the municipal development plans.
5. For implementing the property exchange, the funds for implementation of public interest project must be provided in advance.
6. The immovable property of the municipality that is allocated for exchange should not have judicial dispute.

Article 25

Exchange of municipal immovable property with legal and natural persons

1. The request for exchanging the immovable property of the municipality may be initiated by the municipality and stakeholders.
2. The municipality shall initiate the procedures for exchange of municipal property with natural and legal persons on property security for fulfilling the purpose of public interest.
3. Natural and legal persons may request the exchange of their property with the municipal property, if:
 - 3.1. the property of the party requesting the exchange is at the cadastral borders with the municipal property for which the exchange is requested; and
 - 3.2. this exchange will lead to the fulfilment of the public interest.
4. The Mayor shall propose to the Municipal Assembly the immovable property of the municipality for exchange with natural and legal persons.
5. The Municipality shall ensure the evaluation of immovable property of the municipality, which has been planned for exchange, pursuant to the relevant legislation in force.
6. The Municipal Assembly, after reviewing the proposal of the Mayor, shall decide on offering each of the property proposed for exchange, by voting for each property separately. The

decision shall be taken by the majority votes of the present and voting members of the Municipal Assembly.

Article 26
Exchange of immovable property of the municipality with property of central institutions

1. In view of fulfilling the public interest, the Municipality shall have the right to request the exchange of the immovable property with the property of central institutions.
2. For the realization of exchange according to paragraph 1. of this Article, the Municipality may submit a request to the ministry responsible for local self-government, after the fulfilment of the conditions set forth in Article 24 of this Law.
3. The relevant ministry of local self-government shall, within seven (7) calendar days after the receipt of the request by the municipality, establish a joint commission for the review of the request.
4. The Commission shall consist of three (3) members: one (1) member from the ministry who chairs the work of the commission, one (1) member from the relevant municipality and one (1) member from the institution owner of the property.
5. The Commission shall be obliged to review, within ten (10) calendar days, the request of the Municipality and submit to the minister of the ministry the final report, together with the supporting materials and recommendation for exchange. The Minister shall be obliged to propose to the Government, not later than five (5) calendar days, to take the decision for exchange of immovable properties included in the exchange process.
6. The Government, based on the proposal of the minister, documentation of the applicant and applicable legislation of this field, shall issue a decision for approval or rejection of the request of Municipality.
7. Within a period of one (1) year after the transfer of property rights to the municipality, the Municipality shall be obliged to commence with the use of the property and shall have no right to change the purpose of the use of the relevant property within a period of four (4) years.

CHAPTER IV
THE RIGHT OF THE MUNICIPALITY TO TRANSFER THE PROPERTY MANAGED BY CENTRAL INSTITUTIONS

Article 27
The right of the municipality to transfer of ownership of immovable property administered by central institutions

1. Municipalities shall, for the purposes of public interest, have the right to request the transfer of ownership of the immovable properties that are in the territory of the municipality and are now administered by central institutions.
2. The Municipality shall identify and accurately describe the immovable property whose ownership they request to be transferred for realization of public interest.
3. The Municipality shall, for the purpose of transferring ownership of immovable property managed by central institutions, submit the request through the Ministry responsible for local self-government, after fulfilling these criteria:

3.1. fulfilment of conditions for exchange of the immovable property, as determined in paragraphs 2., 3. and 4. in Article 24 of this Law, as well as conditions for expropriation

of the immovable property, as determined with the relevant legislation for expropriation of immovable property, shall apply even in the case of requests addressed in this Article.

4. The Ministry responsible for local self-government, after reviewing and completing the case received by the Municipality, shall send it with recommendation to the Government for approval.
5. The Government shall take a decision regarding the request of the municipality.
6. In case of the approval of the request by the Government, the property shall be transferred to the Municipality within thirty (30) days.
7. Creditor obligations for the property transferred to the municipality shall be taken by the Government.

Article 28

Restrictions on the transfer of the right on immovable property

1. Within a period of four (4) years, the municipality shall have no right to transfer the property, or parts thereof to a third party, or use it for any other purpose except for public benefit for which the property was transferred.
2. In case of the failure to observe paragraph 1. of this Article, the Government has the right to issue a decision whereby annulling the transfer of property within four (4) years.
3. In the event of annulment of the transfer, the immovable property shall be returned to the prior holder or its successor.

CHAPTER V FINAL PROVISIONS

Article 29 Supervision

1. The Ministry responsible for local government shall monitor the implementation of the provisions of this law through the mandatory evaluation of the legality, according to the competence and procedures determined with the legislation on local government.
2. The Ministry responsible for local government shall assess the legality of municipal acts for the provisions with procedural character determined by this law.
3. Sector ministries or responsible institutions according to the fields shall be responsible for material assessment of the legislation during the process of allocation for use, time period for use of the municipal property and cases with the exchange of immovable property of the municipality.
4. The Government is the final authority for deciding over the cases of the exchange of municipal property with state institutions and cases of use of the state property by municipalities.

Article 30 Abrogation

Upon the entry into force of this Law, the Law No. 04/L-144 on Allocation for Use and Exchange of Immovable Property of the Municipality published in the Official Gazette (No. 35/17 December 2012) and Regulation GRK No. 23/2013 on the Determination of Procedures on the Allocation for Use and Exchange of the Immovable Property of Municipality.

Article 31
Issuance of sub-legal acts

The Ministry responsible for Local Self-Government shall, within six (6) months after the entry into force of the law, issue a sub-legal act for implementation of this law which shall be approved by the Government.

Article 32
Entry into force

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

Law No.06/L-092
07 March 2019

Promulgated by Decree No.DL-80-2019, dated 25.03.2019 President of the Republic of Kosovo Hashim Thaçi.