



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

Law No.03/L –205

**ON AMENDING AND SUPPLEMENTING LAW NO. 03/L-139 ON
EXPROPRITATION OF IMMOVABLE PROPERTY**

The Assembly of Republic of Kosovo;

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

Approves:

**LAW ON AMENDING AND SUPPLEMENTING LAW NO. 03/L-139
ON EXPROPRITATION OF IMMOVABLE PROPERTY**

Article 1
The purpose

The purpose of this law is to amend and supplement the Law no.03/L-139 on Expropriation of Immovable Property in order to improve its implementation and to explain the implementation in relation to immovable property which was socially owned property on or after 22 March 1989.

Article 2
Amendments and supplements in the Law on Expropriation of Immovable property

1. The following amendments shall be made in the Law no.03/L-139 “on Expropriation of Immovable Property”:

1.1. In paragraph 1 Article 9, the word “thirty (30)” is replaced with “ten (10)”.

1.2. Sub-paragraph 1.2 of paragraph 1 Article 10 is deleted and reworded as the following:

1.2. include in such Preliminary Decision a notice advising any Person who is an Owner or Interest Holder with respect to property that is affected by the Preliminary Decision and who has good reason to believe that the Preliminary Decision is contrary to one or more of the conditions specified in paragraph 1 of Article 4 of this law of their right to file a complaint with the competent court under Article 35 of this law challenging such decision, or any aspect thereof, within the thirty (30) day period following the effective date of such Preliminary Decision; and”

1.3. Paragraph 1 Article 11 shall be deleted and replaced as the following:

1. The Expropriating Authority shall adopt a Final Decision approving or rejecting an expropriation application, whether in whole or in part, only during the twelve-month period that begins on the date occurring fifteen (15) days after the effective date of the Preliminary Decision. This twelve-month period shall be referred to as the “Final Decision Period”. The Final Decision Period shall be subject to extension in accordance paragraph 2 of this Article. If the application covers more than one parcel of property, the Expropriating Authority may issue one or more Final Decisions, with each such Final Decision covering one or more of the concerned parcels.

1.4. The last sentence of paragraph 2 Article 11 shall be deleted and replaced with the following:

If an appeal is filed, the Final Decision Period shall be further extended by the number of days occurring between the date on which the original judgment is issued and the date on which the appeal is decided.

1.5. Paragraph 9 of Article 11 shall be deleted and replaced with the following:

9. Persons owning or possessing the concerned property shall not be required to vacate or surrender such property until:

9.1. in the case of a building that is actively being used for residential or business purposes, twenty (20) calendar days have passed from the date on which the compensation specified in the Final Decision has been paid in accordance with Article 16 of this law; or

9.2. in the case of any other property, ten (10) calendar days have passed from the date on which the compensation specified in the Final Decision has been paid in accordance with Article 16 of this law.

1.6. The text of Article 25 shall be deleted and replaced with the following:

The Expropriating Authority, Applicant or Beneficiary (if any), may take possession of the expropriated property only after the expiration of the applicable period specified in paragraph 9 of Article 11 of this law.

1.7. Paragraphs 3-13 of Article 35 shall be deleted and replaced with the following paragraphs 3-15:

3. Any such complaint must be filed with the competent court within fifteen (15) calendar days after the effective date of the concerned Preliminary Decision as specified in paragraph 5 of Article 10 of this law. On the same day that the complainant files the complaint with the court, the complainant shall also immediately and directly deliver five (5) accurate and complete copies of such complaint (including any attachments and documents filed therewith) to the legal office of the concerned Expropriating Authority. If the requirements of this paragraph are not fulfilled, the court shall reject the complaint.

4. If the requirements of paragraph 3 have been fulfilled, the court shall immediately review the concerned complaint and, on its own initiative, issue a decision rejecting the complaint, or any part thereof, if the court determines that the complaint or the concerned part concerns an issue that is not clearly and directly related to the compliance of a Preliminary Decision with the conditions specified in paragraph 1 of Article 4 of this law. The court shall provide a copy of any such decision to the complainant and the concerned Expropriating Authority.

5. The Expropriating Authority shall have fifteen (15) days after receiving the copies required by paragraph 3 to file its response with the court. The Expropriating Authority shall not be required to file a response to any complaint, or any part of a complaint, that has been rejected by the court pursuant to paragraph 3 or 4 of this Article.

6. Immediately after receiving the response of the Expropriating Authority, the court shall:

6.1. handle the entire case as a matter of extreme urgency;

6.2. prioritize such case over all other cases and matters pending before the court;

6.3. issue its judgment on the case within thirty (30) calendar days after receiving the Expropriating Authority's response; and

6.4. schedule all proceedings in the case in a manner that will enable the court to issue its judgment within such thirty (30) calendar day period.”

7. If the court determines, within the thirty (30) day period specified in sub-paragraph 6.3 paragraph 6 of this Article, that the Preliminary Decision, or an aspect thereof, fails to satisfy one or more of the conditions specified in paragraph 1 of Article 4 of this law, the court may:

7.1. issue a judgment requiring the Expropriating Authority to terminate the expropriation procedure in its entirety, if the court determines that the entire procedure does not satisfy one or more of the conditions specified in paragraph 1 of Article 4 of this law; or

7.2. issue a judgment requiring the Expropriating Authority to modify the Preliminary Decision and the scope of the expropriation procedure to exclude certain property and/or rights if the court determines that the expropriation of such property and/or rights would be contrary to one or more of the conditions specified in paragraph 1 of Article 4 of this law.

8. If the court fails to actually issue a judgment within the thirty (30) day period specified in subparagraph 6.3 paragraph 6 of this Article, the court shall be deemed – as a matter of law - to have issued a judgment rejecting the complaint in its entirety immediately upon the expiration of such thirty (30) day period.

9. The Expropriating Authority shall not issue a Final Decision with respect to any property or rights that are the subject of a complaint that has been timely filed under this Article until the court where such complaint was filed issues a judgment on that complaint or is deemed, under paragraph 8 of this Article, to have issued such a judgment.

10. Except as provided in paragraphs 11, 13 and 14 of this Article, any judgment on - or rejection of - a complaint by a court under the previous paragraphs of this Article shall be appealable in accordance with the generally applicable law governing such appeals.

11. Such an appeal must be filed within fifteen (15) days calendar days after the issuance of the judgment being appealed. On the same day that the appellant files its appeal with the court, the appellant shall also immediately and directly deliver five (5) accurate and complete copies of such appeal (including any attachments and documents filed therewith) to the other party. If the requirements of this paragraph are not fulfilled, the appellate court shall reject the appeal. The other party shall have fifteen (15) days after receiving such copies to file its response.

12. The filing of an appeal shall in no way impair the power or authority of the Expropriating Authority to take any action that is consistent with the judgment being appealed, including – if such action is consistent with such judgment - continuing with the conduct of the expropriation procedure, issuing one or more Final Decisions on the expropriation and implementing such decision(s).

13. Upon receipt of such an appeal, the appellate court shall:

13.1. handle the entire case as a matter of extreme urgency;

13.2. prioritize such case over all other cases and matters pending before the court;

13.3 issue its judgment on the appeal within thirty (30) calendar day period following the date on which it received the other party's response or the date on which the fifteen (15) day period for filing a response expires, whichever occurs earlier; and

13.4 schedule all proceedings in the case in a manner that will enable the court to issue its judgment within such thirty (30) calendar day period.”

2. Article 35 of the law in force, two new paragraphs 14 and 15 are added as following:

14. If the appeal has been filed by the complainant and the complainant prevails on such appeal, the appellate court shall:

14.1. if the Expropriating Authority has not yet issued a Final Decision with respect to the concerned property and/or rights (or any part thereof), issue a judgment ordering the Expropriating Authority to modify the Preliminary Decision to exclude any property or rights that are not then subject to a Final Decision, if the appellate court determines that the expropriation of such property and/or rights would be contrary to one or more of the conditions specified in paragraph 1 of Article 4 of this law; and/or

14.2. if the Expropriating Authority has issued a Final Decision with respect to the concerned property or rights (or any part thereof), issue a judgment ordering the Expropriating Authority to pay to the complainant:

14.2.1. the expropriation compensation and damages required by the other provisions of this law, if such have not already been paid, and

14.2.2. an additional amount that is equal to two (2) times the amount of expropriation compensation required by this law for any property and/or rights that the appellate court determines were expropriated in violation of paragraph 1 of Article 4 of this law.

15. If the competent court determines that no aspect of a complaint or an appeal filed under this Article has a reasonable basis in fact or in law, and that the Person filing such complaint or appeal knew or should have known that the complaint or appeal was without any reasonable factual or legal basis, the court may require such Person to pay the costs and other damages incurred by the other party as a consequence of the filing of such complaint or appeal.

1.8. Paragraph 7 of Article 36 shall be deleted and replaced with the following:

7. A judgment of a court under this Article shall be appealable in accordance with the applicable law governing such appeals.

1.9. Paragraph 6 of Article 37 shall be deleted and replaced with the following:

6. A judgment of a court under this Article shall be appealable in accordance with the applicable law governing such appeals.

1.10 Paragraph 6 of Article 38 shall be deleted and replaced with the following:

6. A judgment of a court under this Article shall be appealable in accordance with the applicable law governing such appeals.”

1.11. A new paragraph 3 at the end of Article 44 is added as following:

3. With respect to any immovable property that comprised socially owned property on or after 22 March 1989:

3.1. if the requirements of paragraph 1 of Article 4 are fulfilled, the Government may expropriate such property or, if the property is then under the administration of a public authority, remove such property from the administration of such public authority and use such property to accomplish the concerned public purpose;

3.2. any such expropriation or removal of property from the administration of a public authority shall be subject to the procedural and other provisions of this law governing the expropriation of immovable property. In particular, the amount of required compensation shall be determined in accordance with this law; and

3.3. if the property has been removed from the administration of the Privatization Agency of Kosovo, the amount of such required compensation shall be paid to PAK. PAK shall hold such compensation in trust for the satisfaction of any applicable employee entitlements and owner and creditor claims with respect to the concerned property. The distribution of such compensation – including, if applicable, the return of any surplus to the Government – shall be subject to the same laws and rules as are applicable to distribution of other funds held in trust by PAK.

Article 3
Final Provisions

1. A consolidated text of the Law No.03/L-139 including amendments defined in Article 2 of this law shall be prepared and published in Official Gazette together with this law. The consolidated text of the Law No.03/L-139 immediately after the title shall include words” with amendments and supplements dated”, and continues with the date of entry into force of this law.
2. This law shall enter into force immediately following its promulgation in accordance with Article 80 of the Constitution of Republic of Kosovo.

Law No. 03/L-205
28 October 2010

Member of the Presidency of the Assembly

Xhavit Haliti