

LAW ON TRANSFER OF REAL PROPERTY

Official Gazette of SAP Kosova, No. 45/81 and 29/86

I. GENERAL PROVISIONS

Article 1

This Law regulates the transfer of agricultural and construction land, forests and forestland, buildings, apartments, business premises and other real properties (hereinafter: real properties), except basis of ownership-legal relations and other real-legal relations, regulated in the unique manner for the whole territory of the Republic, by republican laws.

The provisions of this law are applied as well in transfers of the ideal parts of real properties.

Article 2

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Article 3

When a holder of ownership rights to real property acquired on the basis of inheritance acquires it beyond limits stipulated by the Law or when the condition upon which the ownership right on real property was acquired ceases, he/she is obliged to report to the municipal administrative body, competent for property-legal affair within thirty days from the day of coming into effect of the decision on inheritance, or from the day of the cessation of conditions for the acquisition of real property, and to elect which real property he/she will retain the ownership rights.

The holder of ownership rights may transfer the surplus real property within a three-year period, and inherited business premises may be transformed to an apartment by approval of the competent administrative body, as long as the limits stipulated by law in ownership rights to an apartment space is not exceeded.

If the holder of the ownership rights does not elect the real property upon which he/she will retain ownership right, the municipal administrative body competent for property-legal affair shall determine what will be the surplus inherited real property and this shall be become socially owned. The decision will be taken, after the expiry of time period referred to in paragraph 2 of this Article.

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II. TRANSFER OF THE LANDS AND BUILDINGS

Article 4

Agricultural and construction land, forest and forestland may not be transferred from social ownership, unless otherwise provided by the law.

Social legal persons may transfer real properties referred to in paragraph 1 of this Article between them, with or without compensation, which cannot be higher than the value of investments on the properties.

Article 5

Social legal persons may give agricultural land out of the agricultural complex, on which they have ownership rights, to another holder of ownership rights in exchange for land.

Organization of Associated Labour and other social legal persons may transfer, socially owned agricultural land for compensation for the benefit of a holder of ownership rights, if such land is outside agricultural use or small and scattered, with the condition that the money shall be used for buying new agricultural land within two years from the day of transfer.

The municipality where the agricultural land is located must issue approval for the transfer referred to in paragraph 1 and 2 of this Article.

Article 6

Organization of Associated Labour may transfer from social ownership for compensation, forest and forestland which are not possible to operate rationally (the small isolated forest, enclave and semi-enclave, in the forests where the ownership right exists etc.), on condition that the money received shall be used for buying another forest, forestland or raising another forest within a time period determined by the forest industry.

The condition referred to in paragraph 1 of this Article does not affect the validity of legal acts.

The municipality council must approve the transfer of the forests and forestland, referred to in paragraph 1 of this Article, if they are within a forest-Industry area.

Article 7

A social-legal person may acquire an apartment building, apartments, business premises, or particular parts of buildings from the holder of the ownership rights.

A social-legal person may only transfer socially owned apartment buildings, apartments, business premises or particular parts of the buildings, for compensation.

Article 8

When a socially owned apartment building or apartment is transferred through a loan, the type of loan and the conditions under which it is given shall not be more favourable than the conditions of a loan given by a bank for the construction of the building.

The buyer referred to in paragraph 1 of this Article can not sell the apartment building or apartment before the expiration of a five year period from the day the sale contract was concluded.

Article 9

The transfer of socially owned real properties shall be conducted through public tendering or by collecting written offers, and if the transfer can not be concluded through the tender process, or the collection of the written offers is unsuccessful, then the transfer shall be conducted through direct bargaining.

The contract on transfer of socially owned real property, which is concluded contrary to the provisions of paragraph 1 of this Article, shall be null and void.

Article 10

If an agricultural land owner can not prove ownership rights from the extract from the appropriate book for ownership rights registration or by a decision in force issued on the basis of the Law on Property Relations Settlement Created by Arbitrary Occupation of Land in social ownership, he/she can sell the land to a social-legal person or he/she can conduct an exchange for the land in social ownership, if s/he obtains a certificate issued from the municipal administrative body competent for property-legal affairs, proving that he/she is the owner of that land.

In order to obtain the certificate, referred to in paragraph 1 of this Article, the owner of the land is obliged to prove that:

1. He/she acquired ownership of the land on a legal ground and that he/she and his/hers legal predecessors were in permanent possession of the land.
2. There has not been a successful legal action over dispute of ownership awaiting execution
3. He/she is registered in cadastre books as the possessor of the land.

Article 11

The holder of the ownership right of a real property may waive his/her ownership right to the benefit of the municipality in whose territory the real property is located, by a unilateral declaration of the will, as long as there are no burdens on the real property, except a real usufruct right.

The waiver referred to in paragraph 1 of this Article shall be made to the municipal administrative body competent for property-legal affairs and shall serve as a basis for registration in the public book of real properties in social ownership.

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Article 12

The contract on the basis of which a social-legal person transfers real property from social ownership, and the contract on the basis of which social-legal person receives real property from the holder of an ownership right, shall be annulled, if at the time the contract was concluded, the contract price was not proportionate to the market value of the real property and it places the social owner as a disadvantage.

In arriving at the market value of real property referred to in paragraph 1 of this Article, the price reached on the free market, the location and the surroundings at the time of the conclusion of the contract shall be taken into consideration.

The application of the provision from paragraph 1 of this Article cannot be excluded by the contract.

Article 13

The court verifying the signatures of a contract referred to in Article 13 of this Law, is obliged to deliver a copy to the Municipal Public Attorney, in whose territory the real property is located, within 15 days from the day of the verification.

In cases where it is established that a contract on transfer of real property was concluded contrary to the conditions stipulated in Article 8 and 12 of this Law, the Public Attorney shall bring legal action to annul the contract within 6 months from the day of receiving the contract. During the annulment procedure, the contract referred to in paragraph 2 of this Article shall not be annulled if the provisions of this Law are complied with

Provisions of paragraph 2 and 3 of this Article shall not affect the right of the contracting parties to request annulment of the contract on other grounds.

Article 14

When a contract has been annulled by legal action in accordance with Article 13 of this Law, Public Attorney shall request from the contracting parties return of the real property and the sums paid.

Request for the return of the real property can be made by a third person, if he/she was not aware non compliance with the provisions of the Law during the acquisition of the real property.

If the request by a third person for the return of the real property is not successful, the Public Attorney can request from the buyer and seller the difference between the purchase and transfer price of the real property at the time of the sale.

Article 15

The contract for the provision, transfer and alienation of the real properties in possession of a socio-political grouping shall be concluded by the competent person, based on the socio-political groups' or an administrative body's decision.

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The competent person of the economic organizations in accordance with the organisations' decisions shall conclude the contract for the provision, transfer and alienation of real property from the joint use of economic organizations forming a body of social-political group.

Article 16

The contract for the provision, transfer and alienation of the real property in possession of the SAP Kosova shall be concluded by the Provincial Secretary of Finance in accordance with a decision of the Executive Government Council of the SAP Kosova Assembly.

Article 17

The legal opinion of the appropriate Public attorney shall be sought on the legality of a contract between a socio-political group and the ownership right holder for the provision and transfer of the real property to social ownership before it is concluded.

Article 18

Provisions from the Articles 8, 9, 12 and 13 of this law do not apply to the transfer of buildings, apartments, business premises and other real properties by a social-legal person in the ordinary course of its regular business activities.

III. PREFERENTIAL RIGHT TO PURCHASE

Article 19

The ownership right holder of agricultural land, who intends to sell this land, is obliged to make a written offer first to the Organisation of Associated Labour dealing with agricultural production, agricultural co-operatives in the municipality where the land is located, the municipality whose territory the land is located and to the owner of the neighbouring land.

In cases when there are several owners of the neighbouring land whose agricultural land borders on the agricultural land of the seller, the owner of the neighbouring land whose predominant part of the agricultural land borders on the land of the seller shall have priority in the exercise of the preferential right to purchase.

The ownership right holder of forest and forestland, who intends to sell, is obliged to make a written offer first to the Organization of Associated Labour engaged in the forest management in the municipality where the forest and forestland is located, and to the municipality whose territory the forest and forestland is located.

The offer referred to in paragraph 1 and 3 of this Article must contain data of the land (number of the cadastral parcel, surface, cultivation, location etc.) the price and other terms of sale.

If the preferential right holders who were offered the real property do not make a declaration within 30 days from the day of receipt of the offer, to accept the offer, the holder of the

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ownership right may sell the agricultural land, forest and forest land to another person but not under more favourable conditions.

The exercise of the preferential right to purchase shall be carried out in the order stipulated in paragraph 1 of this Article.

Article 20

The ownership right holder, who intends to sell land in construction area, is obliged to first offer it to the municipality in whose territory the land is located.

The provisions of Article 19 of this law shall also apply to transfer of forests and forestland in construction areas.

The provision of paragraph 1 of this Article relates to construction land within an urban plan, as well as to construction land in a designated construction area determined by municipal council decision.

The declaration regarding the written offer for the land subject to sale shall be given by a body or an organization determined by municipal council.

Article 21

The ownership right holder who intends to sell an apartment building or apartment, is obliged first offer it to the co-owner, occupancy right holder and to the municipality in whose territory the apartment building or apartment is located.

The exercise of the preferential right to purchase shall be carried out in the order stipulated in paragraph 1 of this Article.

Article 21-a

When a social-legal person intends to transfer a socially owned apartment building or an apartment, the social-legal person is obliged, in written form, to first offer it for sale to the occupancy right holder – the user of the apartment.

The offer must contain the price and other terms of the sale, and must be delivered in the form of a registered letter or by submission to the competent court.

If the preferential right holder who was offered the real property does not make a declaration within 30 days on receipt of the offer of the intention to decline or accept the offer, the seller, in accordance with the provisions of Article 9 of this Law, may transfer the apartment building or the apartment to another person.

When a socially-owned apartment building or apartment is transferred to another person, in accordance with paragraph 3 of this Article, the occupancy right holder – the user of the apartment shall continue to use the apartment with the rights and obligations established by the Law, while the owner of the apartment building or the apartment shall have all the rights and obligations referred to in Article 86 Paragraph 2 and 3 of the Law on Housing Relations.

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Article 22

The ownership right holder who intends to sell a business premises, is obliged to offer it first to the co-owner, lessee who has been using the business premises for five years and the municipality in whose territory the business premises is located.

The exercise of the preferential right to purchase shall be carried out in the order stipulated in paragraph 1 of this Article.

Article 23

The offer referred to in Articles 19 – 22 of this Law shall be in writing and it shall include data of the real property (number of the cadastral parcel, the surface, culture, location etc.) price and other terms of sale.

The offer must be delivered in the form of a registered letter or by submission to the competent body or organization and a certificate acknowledging receipt of the registered letter must be provided.

Article 24

If the preferential right holder who was offered the real property does not notify the owner of the real property in written form within 30 days from the day of receipt of the offer of the intention to accept or decline the offer, the ownership right holder may sell the real property to another person but not at a lower price or under more favourable conditions.

Article 25

If the ownership right holder does not sell the real property within one year from the day of non-acceptance of the offer, he/she is obliged to act in accordance with the provisions of Articles 19 – 22 of this Law if he/she intends to sell the real property again.

Article 26

A court shall reject a request for verification of signatures of a contract if the holder of the ownership rights does not enclose proof that he/she has made the offer in accordance with Articles 19-22 of this Law.

If the ownership right holder does not make the offer in accordance with Articles 19 – 22 of this Law, and he/she sells the real property to a third person under more favourable conditions than the conditions of the original offer, the preferential right holder may bring legal action seeking the annulment of the contract, and seeking the real property to be sold to him/her under the same conditions.

The legal action referred to in paragraph 2 of this Article may be brought within one year from the day when the preferential right holder became aware that the real property was sold to a third person, and no later than three years from the day the sale contract was concluded.

The claimant is obliged at the time of filing the legal action, to deposit an amount of money equal to the sale price in the municipality court in whose territory the real property is located.

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Article 26-a

If a contract for the sale of real property is not concluded in the form prescribed by this Law and possession of the real property is delivered to a buyer, the preferential right shall be considered violated, and the preferential right holder may exercise the right within one year from the day when he/she became aware of the sale.

IV. SPECIFIC PROVISIONS

Article 27

A court is obliged to deliver a copy of a decision on inheritance, a copy of a contract on transfer of the real property to the municipal administrative body responsible for geodetic affairs. except when the contract is a contract on transfer of real property in social ownership from one to another social-legal person.

If the municipal administrative body responsible for geodetic affairs discovers that the holder of the ownership rights based on inheritance, has acquired real property beyond the limits of the ownership rights, the municipal administrative body responsible for property-legal affairs shall be notified and legal action shall be commenced pursuant to Article 3 of this Law.

If the municipal administrative body referred to in paragraph 2 of this Article discovers that a holder of the ownership right acquired real the property over the limits of the ownership rights pursuant to a legal decision, a formal declaration shall be submit to the responsible municipal Public Attorney in order to commence legal action for the annulment of that legal act.

V. PENAL PROVISIONS

Article 28

The responsible court official who resells real property or mediate on real property transferred by compensation shall be committing an offence punishable by three years in prison or a fine.

Article 29

An Organization of Associated Labour that transfers agricultural land, forest or forestland from social ownership contrary to the provisions of Articles 5 and 6 of this Law shall be committing an offence and shall be fined up to 50.000 dinars.

With regards to the offence referred to in paragraph 1 of this article the responsible official from the Organisation of Associated Labour shall be fined an amount up to 5.000 dinars.

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Article 30

A social-legal person that transfers socially-owned apartment buildings or apartment, contrary to the provisions of Article 8 of this Law shall be committing an offence and shall be fined an amount up to 50.000 dinars.

With regards to the offence referred to in paragraph 1 of this Article the responsible person from the social-legal person shall be fined an amount up to 5.000 dinars.

A Holder of ownership rights, who sells an apartment building or apartment before the expiry of the time period referred to in Article 8 paragraph 2 of this Law, shall be committing an offence and shall be fined an amount up to 30.000 dinars.

Article 31

Any person who acquired real property by inheritance beyond the limits determined by the Law and who fails to inform the municipal administrative body responsible for property-legal affairs within the time limit referred to in Article 3 paragraph 1 of this Law be committing an offence and shall be fined an amount up to 5.000 dinars.

VI. TRANSITIONAL AND FINAL PROVISIONS

Article 32

On the day of entry into force of this Law, the Law on Transfer of Real Property ("Official Gazette of SAP Kosova" No. 18/75) shall become ineffective.

The procedure started by the provisions of the Law on Transfer of Real Property ("Official Gazette of SAP Kosova" No. 18/75) shall be concluded by the provisions of this Law.

Article 33

This Law shall enter into force on the eighth day from its publication in the "Official Gazette of SAP Kosova".

**LAW ON CHANGES AND SUPPLEMENTS
TO THE LAW ON TRANSFER OF REAL PROPERTY**

Article 1

In the law on transfer of real property ("Official Gazette SAPK", No.45/81), four articles are added after article 32:

Article 32a

As an exception to the provisions of the law by which the transfer of real estate was temporarily regulated, the transfer of real estate by citizens and civil legal persons who have the right to the property is prohibited if the transfer of real estate is between citizens of different nations from the territory of the Socialist Autonomous Province of Kosova.

The prohibition of real estate transfer from paragraph 1 of this article shall be extended until 31 December 1990 if it is determined that there is reason for its extension.

Article 32b

Contracts for the transfer of real estate, which are in contravention of the provision of article 32a of this law, shall be null and void.

Article 32c

Contracts for the transfer of the right to property, which on the day of entry into force of this law were not verified, shall be void.

Article 32f

The Director of the Provincial Directorate for property-legal affairs is authorised to provide instructions for the application of provisions of article 32a, 32b, and 32c of this law.

Article 2

This law enters into force on the day after publication in the "Official Gazette of Socialist Autonomous Province of Kosova".