

Compliance of the Legal Framework for the Use of Public Property in Kosovo

Analysis and Recommendations

National Council for Economy and Investments

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Prishtina, Kosovo

April 2026

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Executive Summary

This analysis examines the compatibility of the Law on Public Property with the sectoral legislation touching upon the use of public property in Kosovo. The focus of the analysis lies in the legislation regulating forests, renewable energy sources, sustainable investments, industrial and technology parks, inspections and municipal properties. The analysis aims to identify normative ambiguities, overlapping competences and procedural obstacles that affect the practical application of the law and legal certainty for the private sector.

The findings show that, although the LPP aims to establish a unified regime for the administration and leasing of public property, in practice continue to exist parallel sectoral regimes or unclear provisions regarding the competent body, the applicable procedure, the duration of the lease and the role of the in-principle consent from the Office for the Administration of Public Property. These uncertainties directly affect the efficiency of procedures, creating barriers for sectors that depend on access to land or publicly owned resources.

The analysis shows that tensions with the Law on Public Property are not always presented as direct contradictions, but often as overlap or lack of clarity in the relationship between the base law on public property and special laws.

On this basis, the analysis recommends a harmonization of the legal framework, a more precise definition of exceptions from the Law on Public Property regime, a strengthening of institutional coordination and continued involvement of private sector in the legislative review processes.

1. INTRODUCTION

Through this analysis, it is intended to assess the compatibility of Law No. 08/L-125 on Public Property ("LPP") with the sectoral legislation regulating, directly or indirectly, the use of public property. The focus of the analysis is, in particular, regulations related to forests, renewable energy sources, sustainable investments, industrial and technological parks, inspections, and granting use of municipal properties.

The purpose of the analysis is to identify the normative and procedural ambiguities that arise in the relationship between the LPP and the specific laws, and to assess their impact on the practical implementation of the legislation and the investment climate. In this sense, the analysis is also based on the challenges raised by the private sector in the framework of the public-private dialogue, in order to, in addition to identifying problems, also provide recommendations for legal harmonization and improvement of efficiency.

2. BACKGROUND OF BUSINESS CHALLENGES RELATED TO THE USE OF PUBLIC PROPERTY

2.1. Challenges before the implementation of the Law on Public Property

The entry into force of Law No. 08/L-125 on Public Property (“LPP”) in November 2023 brought a change in the way public property is administered, moving from a fragmented regime between sectoral institutions (such as KFA and ICMC) to a more centralized approach, delegating the powers for administration with public property to the Office for Public Property Administration, established within the Office of the Prime Minister.

However, despite the entry into force of the law, the immediate non-functionalization of the Office and the absence of the three bylaws provided for by the LPP created an institutional gap and procedural uncertainty.

As a result of this transitional situation, a number of public institutions had suspended their respective procedures related to the allocation for use of the public property. Based on declarations from businesses, the Kosovo Forestry Agency had suspended the signing of new lease contracts and the renewal of existing contracts; the ICMC had suspended the issuance of licenses for exploitation; while the Ministry of Environment, Spatial Planning and Infrastructure had suspended the issuance of environmental consents. This situation had directly affected the operation of about 200 businesses that exploited publicly owned natural resources, causing significant economic damage and increased operating costs, including the need to import raw materials from abroad.

Although administrative clarifications had been provided regarding the continuation of the procedures according to the previous practice, the relevant institutions had been reluctant to take action due to the risk of interpretation as an action contrary to the LPP.

In this context, the drafting and approval of the LPP bylaws, together with the functionalization of the Office for Public Property Administration, as a necessary link, became a necessity to enable the implementation of the LPP. The bylaws entered into force in March 2025, and the Office for Public Property Administration started working in April 2025, thus enabling the start of the implementation of the LPP.

2.2. Procedure for leasing public property according to the Law on Public Property and its secondary legislation

The LPP establishes the general legal framework for the administration and leasing of public property in the Republic of Kosovo. Article 17 of this law regulates the manner and powers for the lease of public property, defining the time limits and the competent bodies for decision-making.

In accordance with this provision:

- The lease is granted for up to fifteen (15) years by decision of the Government, respectively the competent body of the municipality;
- The lease for a period of fifteen (15) to ninety-nine (99) years is made by decision of the Assembly of the Republic of Kosovo, upon proposal of the Government, respectively the Municipal Assembly for properties of local self-government units.

Based on this provision, it results that the LPP establishes a tiered decision-making system, according to which, decision-making depends on the duration of the required lease period.

In addition to the definition of decision-making competencies, Article 17 also defines the methods of leasing goods and items in public ownership. As a rule, public property can be leased through 1) the public auction procedure; or 2) collection of offers (bidding), and 3) exceptionally by direct agreement, if such a thing has been determined by any special law.

Thus, the law establishes as a standard the application of the principle of competition, transparency and equal treatment of entities, limiting the implementation of direct agreement as a method only in specific cases.

Whereas, in its transitional provisions, the LPP stipulates that the provisions of special laws regulating the regime of publicly owned items must be in accordance with this law, and if they are not, then they must be harmonized within a period of one (1) year from the entry into force of the LPP. Furthermore, the LPP determines that, in case of ambiguity or conflict of the legal provisions of the LPP with other laws, the provisions of the LPP shall apply.

2.2.1. Chronology of actions preceding the lease of public property

The procedure for leasing public property, in accordance with the LPP and the bylaws issued in support of it, takes place in several stages:

1. Initiation of the request - The entity interested in the transfer or use of a public property submits a request to the relevant institution (the requesting authority).
2. Request for Consent in Principle - The requesting authority submits a request for consent in principle to the Office for the Administration of Public Property (Unit/Office). Consent is granted if it is verified that none of the public institutions has an interest in using the property in question.
3. Conducting of the competitive procedure - After obtaining the consent from the Office, according to the conditions established by the sub-normative act, a public auction or bidding takes place, where interested entities can submit bids. In cases where it is provided for by a special law, public property can be leased by direct agreement.
4. Selection of the winning offer - The most favorable bid, in accordance with the announced criteria, is declared the winner.
5. Final decision making – Depending on the duration of the lease, the relevant Decision is taken by the Government, respectively the Assembly (or the competent municipal body) on the lease of public property.
6. Conclusion of the contract - In accordance with the decision for approval of the request, within 30 days the lease contract is concluded between the winner and the relevant institution (the requesting authority).

2.3. Challenges of businesses during the lease of public property after the start of the implementation of the Law on Public Property

In February 2026, in the framework of the public-private dialogue, a comprehensive discussion was held with the private and public sectors, to discuss in detail the challenges faced by businesses during the procedure for lease of public property.

The main obstacles come as a result of overlaps and legal ambiguities, which leave great room for interpretation, and consequently, leave institutions with gaps in decision-making in certain cases.

During this meeting, the biggest dissatisfactions from the private sector were identified as follows:

- **Renewal and extension of licenses issued by the Independent Commission for Mines and Minerals**

For businesses in the mining sector, the challenging period is as they explore and research the land for minerals, for which they are provided with an exploration license. After this period,

which can last up to 4 years, for which period they had a prior lease contract, they must complete the remaining part of the necessary documentation to apply for a mineral exploitation license. If the applicant meets all the conditions, it remains to conclude only the lease contract with Kosovo Forestry Agency (KFA) for the upcoming period – for which the LPP requires that a competitive procedure be conducted.

The LPP and its supplementary acts regulate the lease of the plot by analyzing only the plot (land), without considering as a relevant factor the applicant who will acquire usage rights. Thus, the LPP does not provide for a difference in treatment between businesses that possess a previous active license, and those that do not possess any such license. Consequently, the KFA cannot favor the applicant in awarding the contract on the sole basis of possession of the prior license for operation. Such a situation has been considered challenging for the mining sector in the climate of doing business.

- **Prior investments of businesses in the property they seek to acquire lease right on**

Many businesses in the mining sector have operated for long periods of time on the same land, and as a result, have made large investments in those properties. However, according to the requirements presented by LPP, they are now obliged to undergo a competitive procedure to acquire lease rights over the land to continue their operation.

Businesses consider as unfair the fact that the prior investment does not guarantee them the right to acquire lease of the land in which they have invested earlier through a direct agreement, or at least does not give them priority in the selection process.

However, such proposals should be treated very carefully by legislators, in order to protect healthy competition, as a right guaranteed to citizens and businesses.

- **Participation of businesses in the auctions of the Ministry of Economy for the construction of generating capacities, with non-specific locations**

In cases of auctions with non-specific locations, the economic entities (bidders) identify the locations on public property where they intend to develop the generating capacities. They cannot acquire lease of property until they are declared successful bidders by the Ministry. To apply in the competitive process in question, these bidders must have carried out the necessary measurements – meet the conditions and technical specifications – which often take years. Once they have been successfully selected, they submit a final application for acquiring lease of the respective property.

As a next step, according to the LPP requirements, in order to acquire lease of the property in question, the economic entity would have to undergo another competitive procedure, this time for the use of the property. As a result, despite the fact that the bidder has acquired the right to

build capacity from the Ministry, and has made monetary investments and timely investments related to the respective plot, there is still no guarantee that they will sign the lease contract on that plot. Such a situation could expose the Government to the risk of possible measures by investors regarding their rights obtained in the competitive procedure by the Ministry.

3. ANALYSIS OF SECTORAL LAWS IN RELATION TO THE LAW ON PUBLIC PROPERTY

The LPP serves as a framework law for the administration and use of public property in the Republic of Kosovo. This law aims to establish a more unified regime of public property administration, on the application of the principle of transparency, competition and protection of the public interest.

However, special sectoral laws have created parallel regimes regarding the use of public property, its change of destination, and the procedures for leasing it.

This fragmented regulation is creating difficulties in practical implementation, causing uncertainty regarding the competences of institutions, procedural overlap and the risk of non-uniform interpretation of the norms in force. Therefore, the lack of complete harmonization between the LPP and other laws regulating the use of public property, has brought the need for an analysis of the regulation by these normative acts.

3.1. Forests

Most of the public property that is taken for use by businesses is forest land, which is managed by the Kosovo Forestry Agency ("KFA") regulated by Law No. 08/L-13 on Forests ("Law on Forests").

The Law on Forests, particularly regulates the permitted uses for leasing, the maximum duration of the lease, the institutional competencies, the criteria and principles applied for the lease of forest land.

As for the duration of the lease, the Law on Forests stipulates that the lease can be made for 10, 20, or 30 years, with the possibility of extension, depending on the destination of the property. In cases where the use of property is subject to a license from another institution, then the duration of the lease shall pertain to the duration of the license.

As far as decision-making is concerned, the Law on Forests divides the competence for leasing forest land between the Agency, the Ministry, and the Government, depending on the area of land that is leased. While, according to the LPP, the competence regarding decision-making on the lease of public property depends on the period of time for which the property is leased. For

leases up to 15 years, the Government is competent for the decision, while for leases up to 99 years, the decision is taken in the Assembly.

Furthermore, the Law on Forests stipulates that forest land is given for use in accordance with the public interest and according to the professional assessment of the Agency, excluding the principle "first in time, first in justice".

Law on Forests vs. Administrative Instruction No. 08/2025

Administrative Instruction No. 08/2025, in force from September 2025, which regulates the conditions, tariffs, and procedures for the lease of forest land, establishes a leasing procedure through a direct agreement – a procedure which begins with the request for expression of interest by the interested person.

This procedural form for leasing on the basis of a direct agreement: 1) does not guarantee competition automatically, and 2) may result in the granting of the property for use based on the order of application. Moreover, if the procedure for leasing is initiated and conducted on the basis of an individual request, there is a risk of inconsistency with the spirit of the law itself, which expressly excludes the principle of "first in time, first in justice (the right)".

Law on Public Property in relation to the legislation on forests

From the above, it follows that the legislation in force creates a parallel normative regulation for the procedure of exploitation of forests, as a category of public property.

From the provision of Article 17, paragraph 1 of the LPP, it follows that, as a rule, the lease is based on a public auction or bidding, providing as an exception the direct agreement. However, in order to activate the possibility of leasing through a direct agreement, such a requirement must be provided for by a special law.

In the present case, the Law on Forests does not expressly provide for a direct agreement as a form of lease of forest land – such a procedure is provided for only by a by-law (UA No. 08/2025). In this way, no space has been created for the activation of the opportunity provided by Article 17 of the LPP.

Finally, although the Law on Forests constitutes *a lex specialis* for forest land, it does not exclude the application of the LPP, nor does it expressly stipulate that forest land is not subject to the general rules of public property. This leaves room for interpretation regarding the application of the relevant legal provisions for this category of public property.

3.2. Renewable Energy Sources

The Law on the Promotion of the Use of Renewable Energy Sources ("Law on RES"), regulates the development of new generation capacities from renewable energy sources, including cases where projects are developed on public property.

As far as the use of public land is concerned, Article 22 of the Law on RES creates a special regime. It distinguishes the construction of new generating capacities through public investment or public-private partnership, strategic investments, construction by public enterprises and construction by other parties.

For the beneficiaries of the capacity building support scheme, the right to capacity building is related to the Competitive Bidding Process implemented by the Ministry, and can be conducted in one of the following forms:

- 1) Competitive bidding process with a specific location - The Ministry, through the decision of the Government, must acquire the property rights or rights for the use of public property in the locations assessed by the Ministry as having potential. Then, the Ministry is authorized to lease the property in question to the successful bidder (the privileged producer) for a period as defined in the documentation of the competitive bidding process, without exceeding 40 years. Meanwhile, after the end of the support contract, the value of the lease should reflect the market price.
- 2) Competitive bidding process with unspecified location – only qualified bidders can submit requests to verify availability for the use of public property, and then obtain consent from the relevant institution. After the selection as a successful bidder, the entity submits a final request to the relevant institution for the lease of the relevant public property, which is considered as a request of the Government - Ministry. According to the administrative instruction, this bidding process is considered as a special case in the public interest for the use of public property.

Terminology related to the competitive procedure

As mentioned above, the LPP recognizes public auctions and the bidding as the main forms to lease public property, while it foresees the direct agreement, as an exception, when this is allowed by a special law. On the other hand, the Law on RES uses the term "Competitive Bidding Process", a transparent sectoral procedure for the selection of investors for the construction of generating capacities (successful bidders).

Although the two processes are competitive in nature, the terminology they use is different, as well as they do not refer to the same object. The competitive process according to the Law on RES serves for the selection of the beneficiary of the support scheme and the project developer, which

may result in leasing. Meanwhile, in the LPP, the lease of public property is treated as a special institute of disposal of public property, which is subject to a certain procedure. This creates uncertainty regarding the right acquired according to the procedure provided by the Law on RES, in relation to the lease procedure provided for by the LPP.

Decision-making on the lease of public property

Regarding decision-making based on the time limits of leasing, the LPP determines that the lease of public property for up to 15 years requires a decision of the Government, while for time periods up to 99 years, it requires a decision of the Assembly. Meanwhile, the Law on RES gives the competence to the Ministry to lease public property to the Privileged Producer for up to 40 years – without a decision of the Assembly, raising dilemmas of compliance with the requirements of the LPP.

Thus, it turns out that the regulation provided by the Law on RES, provides the Ministry with broader material and procedural powers, while the LPP delegates these competencies to the Government, respectively the Assembly. Consequently, it should be examined whether the regulation by the Law on RES deviates from the procedure provided for by the LPP regarding the decision-making body and the time limits of the lease of public property.

Moreover, the LPP expressly requires the consent in principle from the Office for the Administration of Public Property before leasing or exchanging public property. According to the LPP, the contract concluded in violation of Article 17 of the LPP is invalid. Meanwhile, the Law on RES does not mention the consent of the Office at all. Such discrepancy creates a space for interpretation regarding the applicable procedure, and brings the need for review and harmonization of these provisions.

Leasing of public property in cases of Competitive Bidding Processes with unspecified location

A particularly problematic aspect occurs in cases of Competitive Bidding Process with unspecified location. As a result of the parallel regimes that are created under the Law on RES and LPP, there is a risk of creating legal uncertainty for investors, and uncertainty regarding the competencies of each institution. This issue is addressed in more detail in Part 2.3 of this analysis.

3.3. Sustainable Investments

Law No. 08/L-209 on Sustainable Investments does not create a parallel regime for the use of public property, but expressly refers to the implementation of the legislation on public property.

However, even though both laws provide for a maximum period of up to 99 years for the use/lease of public property, there is a difference in the level of decision-making required for the

lease of properties owned by the Republic of Kosovo. Specifically, for such properties, the Law on Sustainable Investments requires approval by the Assembly for the use of the property in the framework of the investment, regardless of the duration of the use.

In this sense, the Law on Sustainable Investments treats the use of public property for strategic investments as a matter of strategic (Parliament decision-making) level, while the LPP envisages a scaled decision-making approach, depending on the duration of the lease.

Although this regulation does not necessarily represent a legal inconsistency with the LPP, it does represent an institutional difference in relation to the decision-making on the use of properties for periods of up to 15 years.

Furthermore, although there is no legal conflict between these laws, from the perspective of investment promotion policies, the current regulation does not make a clear distinction between the use of property for ordinary commercial purposes and for strategic investment purposes. Consequently, the strategic investor is subject to the same ownership regime, regardless of the developmental importance of the investment.

In this regard, it would be useful to consider the revision of the legislation in terms of creating clearer and more flexible mechanisms for strategic investments, in order to encourage such investments.

3.4. Industrial and Technology Parks

Law No. 08/L-208 on Industrial and Technological Parks ("Law on Parks") regulates the establishment, administration, management and exploitation, and monitoring of industrial and technological parks. On the other hand, the LPP regulates the legal regime of public property on which the park can be established and built.

Duration of the lease

As explained earlier in this analysis, the LPP stipulates that public property can be leased for up to 15 years, respectively 99 years, with staggered decision-making depending on the duration of the lease. Also, the LPP provides that the selection of the tenant of public property is made, in principle, through public auction or bidding, except when a special law allows for direct agreements.

On the other hand, the Law on Parks provides in Article 6 (5) that the conceptual project for the establishment of the park must also include the duration of the park, which can be from 40 to 99 years, depending on the determination in the Government's decision. Furthermore, the law stipulates that the duration of the use of the plot within the park by the business organization

may not exceed the duration of the park determined by the Government Decision, and this approach is also reflected in the bylaws issued for its implementation.

This shows that the legislation on parks links the use of the plot to the duration of the park, but does not explicitly link this regime with the requirements of the LPP regarding the competent decision-making body and the manner of selecting the user.

Selection of the park's founder and park space users

The Law on Parks distinguishes between the investment partner (in the special cases of establishment and development of the park), on the one hand, and the users of the space within the park, on the other hand.

As far as the investment partner is concerned, Article 7 of the Law on Parks stipulates that the Government, based on priorities and policies, may call for the selection of the investment partner with strategic interest for the establishment and development of the industrial and technological park according to the evaluation criteria in accordance with the relevant law on investments. Also, in certain cases, the Government may select through direct negotiation the investment partner with strategic interest. In this respect, the possibility of direct negotiation can be considered, in principle, in compliance with the LPP, since Article 17 of the LPP allows for direct agreement when it is provided for by a special law.

Meanwhile, as far as the users of the space within the park are concerned, the Law on Parks stipulates that the space is given for use to business organizations, which are selected "through an open call" or "at their request in accordance with the applicable criteria", in a transparent manner and with equal treatment of the interested parties. The law also allows the park, in whole or in part, to be allocated to strategic investors, foreign investors, domestic export-oriented investors or for the diaspora, as well as to be prioritized according to strategic objectives and priority sectors.

This section presents the ambiguity in relation to the LPP. While the "open call" comes close to the logic of the competitive procedures provided for by the LPP, the wording for the selection of the user of public property "at their request in accordance with the applicable criteria" does not sufficiently clarify the nature of the procedure to be followed. As a result, it remains unclear whether this form of selection meets the standard required by the LPP for the lease of public property.

In-principle consent from the Office for Public Property Administration

An issue of particular importance is the fact that the LPP expressly requires the consent in principle from the Office for the Administration of Public Property before leasing or exchanging public property. Through this consent, the Office determines the destination of the use and the

duration of the lease. The LPP also determines that the contract concluded in violation of Article 17 of the LPP is invalid.

Meanwhile, the Law on Parks and the bylaws issued for its implementation, do not expressly address this requirement. This creates a kind of normative gap and creates ambiguity regarding the validity of contracts concluded in accordance to the legislation on parks.

Ambiguity regarding the powers of the park administrator

The Law on Parks gives the park administrator broad powers, including managing the park, selecting the manager, determining the lease of use, selecting users per unit of the park's area, overseeing implementation, and reporting. Also, AI No. 08/2024 regulates the selection of users and the form, content of the exploitation contract, which is concluded between the user of the plot and the park administrator.

However, such wording creates ambiguity, since the LPP mandates the administration and disposal of public property in the competences of the holders of the property right and the bodies authorized by law. In this regard, the Law on Parks does not make a clear distinction between the park administrator and the body with the competence to dispose of public property.

Such regulation may create uncertainty in practice regarding the applicable procedure, the competent body for the use of public property, as well as the validity of contracts concluded by the administrator without full compliance with the requirements of the LPP.

Overall, the legislation on industrial parks needs normative clarification, especially regarding the duration of use, the procedure for selecting users, the role of the administrator and the need for in-principle consent from the Office for Public Property Administration. For this reason, it would be necessary to further examine the harmonization of this regime with the requirements of the LPP, in order to avoid ambiguities and increase legal certainty.

3.5. Inspections

The Law on Inspections stipulates that, as a rule, inspection functions are exercised by central inspectorates. However, the law provides for exceptions to this rule – that certain inspection functions be exercised by separate units within ministries or regulatory agencies. Such exceptions come into expression when 1) the inspection functions are so rare or specific that it is not reasonable to exercise them by separate inspection units, 2) when separating the inspection function from other functions of the organization would compromise its effectiveness, or 3) when the inspection functions are part of the competences of the relevant regulatory agency. So, in cases where the inspections are of an internal administrative nature, they fall outside the regulation of the Law on Inspections.

On the other hand, the LPP authorizes the Office for the Administration of Public Property to provide conditions for the inspection of the property and for the initiation of misdemeanor procedures for violation of the procedures provided by this law.

This competence is further concretized by Regulation (GRK) No. 02/2025 on the Internal Organization and Functioning of the Office for the Administration of Public Property in the Office of the Prime Minister - a by-law in support of the Law on Public Property, where among the duties of the Division for Verification and Granting of Consents within the Office (Unit), include:

...

1.7. Provides conditions for the protection and inspection of the property;

1.8. Performs the inspection for initiating misdemeanor procedures for violation of the procedures provided for by this Law;

Meanwhile, the manner of exercising inspections is regulated by the Law on Inspections and by special laws. The Law on Inspections requires that the inspection be carried out by inspection bodies and inspectors – public officials who supervise the legislation and have been expressly provided with the competence to conduct inspections. According to this law, clear procedural rules related to the inspection are required, including but not limited to the approval of the inspection, notification, checklist, minutes, right to be heard and complaint.

In this context, it is essential to clarify the intention of the legislator in drafting these provisions related to inspection. So, (a) if the purpose is to carry out an inspection in the classical sense – regulated by the Law on Inspections, then the procedure and organizational structure required by that law should be reflected in the LPP; while (b) if the purpose is an internal administrative inspection, then it is not regulated according to the requirements of the Law on Inspections. Such clarification would lead to a conclusion regarding the compliance or not of the LPP with the legislation on inspections.

3.6. Allocation for use of Municipal Properties

The procedures for leasing and exchanging the immovable property of the municipality, as public property registered in the name of the local self-government unit, according to Article 17, paragraph 6 of the LPP, are regulated by a special law. In this sense, the Law No. 06/L-092 on the Allocation for Use and Exchange of the Municipal Real Estate ("Law on Municipal Properties"), together with the Regulation issued in support of it, no. 09/2020, constitute the special regime for regulating the procedures and conditions for the granting for use of public property.

The Law on Municipal Properties does not use the term "lease" in relation to public property, but only the term "allocation for use". However, for the purposes of comparison with LPP, the term

allocation for use should be understood, in essence, as equivalent to leasing, since both laws regulate the same legal relationship of temporary disposal with public property.

A possible discrepancy between this particular law and the LPP is presented in the structure of the periods of the duration of the lease, i.e. the allocation of public property for use. The LPP, in Article 17, recognizes only two categories of lease time - a) up to 15 years, and b) 15-99 years. For municipal properties, the LPP also determines the decision-making body at the municipal level, i.e. for the period up to 15 years decides the "competent municipal body", while for the period up to 99 years decides the municipal assembly.

On the other hand, the Law on Municipal Property, supported by Regulation No. 09/2020, distinguishes three time categories: (a) less than 1 year, (b) short-term (1-15 years), and (c) long-term (15-99 years). Whereas, as far as the procedure of allocation for use is concerned, the Law on Municipal Properties provides for three possible forms: (a) public auction (for short-term leases), (b) expression of interest (for long-term leases), and (c) direct negotiation of bids by the Mayor of the Municipality (in specified cases).

For the category under 1 year, this law provides that the procedures and conditions for allocation of the property for use are determined by the respective municipal regulations. Meanwhile, the LPP does not recognize the period of use of less than 1 year as a special category, but includes it within the range "up to 15 years". As a result, the special law creates this additional time category, without linking it to the separate competencies recognized by the LPP.

Consequently, during the discussion on the need for harmonization of the legislation, it remains to be further discussed whether this particular category is a problem of compliance with the LPP, or it is simply necessary to clarify whether it is reflected in the LPP.

4. COMPARATIVE ANALYSIS: THE MODEL OF THE REPUBLIC OF CROATIA IN THE MANAGEMENT OF STATE PROPERTY

The Law on the Management of Immovable and Movable Property Owned by the Republic of Croatia, of 20 December 2023, establishes a normative structure for the administration and disposal of state property owned by the Republic of Croatia. This law regulates the principles, ways, conditions, and the competencies of the relevant bodies for the management of this property.

An important element of Croatian law is the clear definition of the categories of property that are considered to be owned by the Republic of Croatia, for the purposes of this law. At the same time, the law excludes from this category certain forms of agricultural and forest land in cases where

the acts on the implementation of spatial plans have provided for certain infrastructural, energy or productive uses, such as yards for recycling of construction waste, production buildings using renewable energy sources, exploitation of mineral resources, exploitation of hydrocarbons and thermal waters for energy, underground storage of gas and carbon dioxide, etc. In this way, Croatian law more precisely defines which categories of property fall under its regime and which are treated differently.

Competencies related to the management of state assets

As a general rule, Croatian law entrusts the management of property owned by the Republic of Croatia to the Ministry responsible for state property, unless its management has been entrusted to another body under a special law or under this law itself.

The law distributes the decision-making powers for disposing of property according to the type of property - distinguishing between national parks, or apartments and business premises, and, in some cases, in accordance with the value of the property. For certain categories of property, if the overall assessment or compensation is up to a certain threshold, the local body or the managing entity decides; above that threshold, the procedure passes to the Ministry; while on a higher threshold, the Government decides upon the proposal of the Ministry. This model makes clear the division of competencies, and increases the predictability of the process in this regard.

Properties of strategic importance

A special category in Croatian law is properties of strategic importance to Croatia. The law defines these as properties from the use, exploitation or disposal of which significant economic, financial, developmental or social benefit can be expected for the Republic of Croatia, as well as properties that serve to fulfill the obligations of the state. These properties are managed by the Ministry, while the Government, upon the proposal of the Ministry, decides which properties will be categorized as properties of strategic importance. This regulation creates a clear legal basis for the treatment of properties that are considered of special state interest, distinguishing them from the general regime.

Ways of disposing of state property

Another important element of Croatian law is that it expressly regulates the ways in which state property is disposed. According to the law, the disposal can be made through public tender or direct negotiation. The public tender can take the form of a public auction or a public bidding. The law, in addition to accepting direct negotiation as an exception, also defines in more detail the cases in which this form is allowed.

In addition to strategic investment projects, the possibility of direct negotiation for the disposal of state property also includes cases such as: disposal in favor of the person who needs a part of

the state land for the formation of the construction plot; cases of legalization of buildings built without a permit under certain conditions; persons who have been in peaceful and uninterrupted possession of property in a legally determined period; local and regional self-government units and legal entities established by them for the implementation of commercial projects or projects that are not of public interest; diplomatic and consular missions; extinction of co-ownership; establishment of the servitude; resolution of disputed property relations; and other cases where this is provided for by special regulations. In this way, Croatian law identifies and limits the cases in which the disposal of property by direct agreement is allowed.

Finally, the Croatian model presents a structured approach to regulating the relationship between the basic law on state property and special regimes, clearly defining the categories of property that fall within its areas of application, identifying cases of exclusion, and ways of disposing of property. In this sense, the Croatian regulation can serve as a reference point for Kosovo, especially in terms of clarifying the relationship between the Law on Public Property and the regulations with special laws.

5. RECOMMENDATIONS

During the analysis of the legal framework and institutional practice regarding the use of public property, a number of normative ambiguities and overlapping competencies have been identified according to the regulation of the Law on Public Property and the relevant sectoral laws. In this context, the following recommendations aim to contribute to increasing the coherence between the basic law on public property and sector-specific laws, increasing legal certainty for the private sector and improving the efficiency of administrative procedures. Also, the recommendations aim to contribute to the creation of a more appropriate framework for fostering investments in Kosovo, as well as a systematic model of public-private consultation during the discussion on legislative changes.

Overall, the recommendations contribute to the improvement of the business climate and aim at a clearer and more unified implementation of the legislation regulating the use of public property.

1. Harmonization of the legislative framework regulating the use of public property

It is necessary to harmonize the legislative framework regulating the use of public property, in order to clarify the relationship between the horizontal basic law and the specific sectoral laws. As elaborated in this analysis, even when particular laws are not in direct contradiction with the Law on Public Property, they often use different terminologies, special procedures, or different division of powers, which creates difficulties in implementation. For this reason, a genuine harmonization process is needed that would eliminate normative or institutional overlaps, and clarify the relationship between the acts in force.

The appropriate way to realize this harmonization should be discussed within a comprehensive working group, with the participation of relevant institutions and stakeholders. In normative terms, harmonization can be realized either through an initiative of a "legislative package" that enables the amendment of several laws simultaneously, or through supplementing and amending the Law on Public Property, if it is assessed that this option is sufficient to address the identified ambiguities. The choice between these two approaches should be based on the degree of intervention needed and the possibility of ensuring a sustainable and coherent solution.

2. Clearly defining exceptions to the rules of the Law on Public Property

One of the main sources of legal uncertainty is precisely the fact that in some cases special laws create special procedures or delegate special powers, without always making it clear whether these constitute a deliberate exception to the general rule, or only a supplementary regulation. For this reason, exceptions to the general regime should be explicitly formulated in the Law on Public Property, in order to avoid contradictory interpretations and uneven application in practice.

3. Involving the private sector systematically in consultative processes for drafting and reviewing legislation

As the effects of legal uncertainties and procedural delays are directly reflected in the business climate and the investment climate, it is important for businesses, chambers of commerce and sectoral associations to actively contribute to identifying practical obstacles and formulating solutions. Although during the discussions on the Law on Public Property, the private sector has been continuously involved in consultative meetings, this recommendation remains of a general nature and aims at continuous involvement in relation to future legislative changes. Such an approach helps to draft more easily applicable legislation, taking into account the identification of challenges of businesses from practice.

4. Discussion of normative modalities for promoting strategic foreign investments

A final recommendation, it is to discuss clearer modalities for promoting strategic foreign investments, especially in sectors related to the use of public property. The purpose of this discussion is to achieve mechanisms that enable more efficient handling of projects of particular importance to Kosovo, without undermining the principles on which our legal system is built.

Conclusion

The analysis shows that the Law on Public Property has established a more unified framework for the administration and leasing of public property, but its implementation in practice continues to be affected by the lack of full harmonization with sectoral legislation. These ambiguities manifest themselves in various forms, including the overlapping of institutional competencies, the duration of the lease, and the lack of clarity on the relationship between the LPP and specific laws.

As a result, legal uncertainty is created for both the enforcement institutions and the private sector, especially in sectors that depend on access to public property for the development of their economic activity. For this reason, the main need that emerges from this analysis is the clearer normative and institutional harmonization of this area, in order to increase legal certainty, administrative efficiency and predictability for investors.