



PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

KUVENDI I KOSOVËS
СКУПШТИНА КОСОВА
ASSEMBLY OF KOSOVO

Law No.02/L-9

FOR THE IRRIGATION OF AGRICULTURAL LANDS

The Assembly of Kosovo,

Pursuant to the UNMIK Regulation nr. 2001/9 of 15 May 2001 on the Constitutional Framework for Provisional Self-Government in Kosovo, Chapters 9.1.26 (a) and 5.1. (n).

For the purpose of regulating irrigation of agricultural land in Kosovo,

Hereby adopts the following:

LAW FOR THE IRRIGATION OF AGRICULTURAL LANDS

I. GENERAL PROVISIONS

The Scope of the Law
Article 1

The purpose of this Law is to establish legal infrastructure for setting up and functioning of bodies offering services, and users of services as well as their authentic organization in order to create optimum conditions for irrigation of agricultural land in Kosovo and its protection against excessive waters, aiming at increased yields of agricultural products.

Article 2

This law regulates the organization and administration of irrigation and drainage of agricultural land in Kosovo, competences and delineation of responsibilities of irrigation and drainage entities, establishment and registration of irrigation companies, federations, their organization, fees for water for irrigation, business of associations and other issues related to irrigation and drainage.

The Definitions
Article 3

The meaning of the terms used in this Law is:

“**Irrigation**” shall mean saturation of the agricultural land with water, in order to keep the humidity on best level for the development of vegetables.

“**Irrigation system**” shall mean a group of Hydro- technical facilities for the purposes of irrigation and other requirements, of a designated territory.

“**Drainage**” shall mean the evacuation of excessive waters from the agricultural lands through the constructed system.

“**Company**” shall mean the irrigation public company offering irrigation services to associations, farmers and other users.

“**Supervisory board of the company**” shall mean the supervisory and decision-making body, according to the statute.

“**Association**” shall mean the organized union of farmers for the purpose of using the water for irrigation and management of facilities given for utilization.

“**Federation**” shall mean the union of two or more associations of irrigation water users.

“**Transfer**” shall mean the transfer of responsibilities and the right of use from companies to associations and federations.

“**Area under irrigation**” shall mean a certain agricultural area that is supplied with water for irrigation from irrigation providers to users of irrigation services.

“**Assembly**” shall mean the highest decision-making body of the association.

“**Administrative Council of the association**” shall mean the body of the Association, Federation managing the association, federation.

“**Executive council**” shall mean the body responsible for water distribution, operation and maintenance given for use.

“**The commission for financial control**” shall mean the body for control of association or federation.

“**The arbitral commission**” shall mean the special body responsible for solving disputes inside the associations or federations.

“**The statute**” shall mean the normative act of the company, association, federation, regulating the establishment, organization and the functioning of the company, association and federation.

“**Rate**” shall mean the payment fee for irrigation services for one irrigation season.

“**Ministry**” shall mean the Ministry of Agriculture, Forestry and Rural Development.

“**The Minister**” shall mean the Minister of Agriculture, Forestry and Rural Development.

“**Department**” shall mean The Department of Plant Production and Protection of the Ministry of Agriculture, Forestry and Rural Development.

“**Regulatory Office**” shall mean the unit of the Ministry responsible for the creation of conditions about registration and functioning of Associations.

II. THE ADMINISTRATION OF IRRIGATION

Article 4

- 4.1. The Ministry is responsible for the creating and implementation of policies of irrigation and drainage of agricultural land in Kosovo.
- 4.2. The companies manage the irrigation in the manner provided for in this Law.
- 4.3. The associations and federations use the water for irrigation and maintain the parts of irrigation system given for use, in accordance with this Law and other applicable laws.

II.1. The Competences of Ministry

Article 5

5.1. The Ministry, in the field of irrigation and drainage of agricultural land, have the following competences:

- a) determine the irrigation and drainage policies ,
- b) Set the criteria and proposed limits for irrigation fees,
- c) As a member of Supervisory Board, assesses business plans in order to ensure implementation of approved policies,
- d) Gives the consent for transferring responsibilities for managing with of the secondary and tertiary canals and relevant facilities, from the company to the association, within appropriate boundaries,
- e) Define the responsibilities and boundaries between companies and associations and between associations only.

5.2. The Ministry through the Irrigation Section is competent for Supervision and control of transfer the management responsibilities of secondary and tertiary canals from company to association – federation, and

- a) keeps the register of companies, associations and federations,
- b) advises and instruct companies, associations and federations on legal and financial issues,
- c) monitors the irrigation and drainage and the quality of the water for irrigation, in cooperation with the Ministry of Environment and Spatial Planning,
- d) nominates the members of Supervisory Board of the companies in accordance with criteria set through the bylaw issued by the Ministry, and monitors selection of associations' bodies.

5.3. The Minister shall decide to transfer the right of use of facilities and responsibilities in accordance with the applicable law.

5.4. Ministry could decide to transfer the right of use of irrigation facilities used by two or more associations, to federation.

III. THE RESPONSIBILITIES AND COMPETENCES THAT THE COMPANY HAS

Article 6

6.1. Water for irrigation is offered through main infrastructures operated by registered and licensed service providing companies

6.2. Companies shall operate according to the terms of their contracts, in accordance with delegations granted by the Ministry according to Administrative Instructions. The license shall specify applicable conditions for granting the right, territory, duration, extension of duration.

6.3. Within the scope of the competences, obligation of public companies, are as following:

- construct, operate and maintain irrigation and drainage infrastructure in good business and in compliance with general interest.
- Provide in time water for irrigation, in sufficient quantities and required quality, for the needs of users, and through MAFRD and MESP request needed water quantities.
- Provide relevant contracts to water users for such services and collect fees for offered services.
- Instruct and asses new requests for interventions in the infrastructure of irrigation water, and offer corresponding services.
- Be in compliance with in compliance with statutes and bylaws approved by the regulatory authorities.
- Keep separately, financially controlled and independently the annual accounts and annual business plans available to Supervisory Board.
- Set the price of water for irrigation to users in coherence with their financial capacities.

6.4. Water Companies are responsible for:

- Managing and maintaining the infrastructure of irrigation and drainage, under its jurisdiction.
- Providing water on time and in sufficient quantities to users in accordance with annual plan.
- Making contracts with water users for the offered services, and deposits funds from offered services.
- In case of damages caused to other bodies as a result of defects to irrigation infrastructure, evaluates and reimburses.
- Gives consent for any new intervention from natural persons on irrigation infrastructure.
- draft development plans, for new investments on expanding the surfaces for irrigation, to be presented to the Ministry, in harmony with other development plans.

6.5. The Companies are public enterprises supervised by the Supervisory Board.

IV. THE TRANSFER OF IRRIGATION SYSTEM

Article 7

7.1. The transfer of responsibilities of systems or parts of it from companies to Water Users' Associations and Federations is done in compliance with provision of this law.

7.2. Transfer of responsibilities shall be done for at least 5 years, with the possibility of extension.

7.3. Transfer of responsibilities shall not mean the transfer of ownership rights.

V. WATER FEES

Article 8

8.1. The fees to be paid by associations and farmers shall be determined by the Supervisory Board.

8.2. All users of water for irrigation, whose land is under the irrigation system, shall pay for maintenance costs in the main network – primary, regardless whether they use the irrigation or not.

VI. WATER USER ASSOCIATIONS

Article 9

9.1. Association is non-profitable entity established on voluntary basis in compliance with provisions of this law.

9.2. Consent of 51% of farmers covered by the territory of the association is required for establishment of the association.

9.3. Each legal or natural person owning or using land within the area under irrigation of an association is entitled to affiliate in the association.

9.4. The association shall draft the statute and forward to the Ministry, and shall register to the competent body.

Article 10

10.1. Association shall use the irrigation system in the manner treating equally its members in water usage, and distributing water for irrigation according to the plan, possibly in sufficient quantity for all of its members.

10.2. Every person that is not a member of the association will be supplied with water only if he owns an agricultural land that lies inside the association's irrigation area, when supply possibilities exist.

Article 11

11.1. Membership in the association is opened for all natural and legal persons with the aim to use irrigation capacities of the association for agricultural purposes.

11.2. Manner and procedure establishing and registering the association shall be regulated with an Administrative Instruction.

11.3. To persons who are not members of the association, the Association could set higher fee for water irrigation than paid by the members, but not by higher than 150% of regular fee.

Article 12

Associations issued their statute in compliance with the provisions of this law. Tasks of association as well as rights and tasks of its members are set by the statute of the association.

Article 13

13.1. Within 30 days from approval of the statute, the Association shall submit the statute at competent body for registration.

13.2. Beside competent body for registration, the Association shall be registered with the Regulatory Office of the Ministry.

13.3. Amendments to statute of the Association shall be done in compliance with the law. Every proposal for amending the statute of an Association shall be approved by the Assembly of the Association and by sending to the Ministry.

Article 14

Main tasks of the Associations:

- a) Operation and maintenance of irrigation infrastructures,
- b) Continuous supply of water for irrigation to members and non-members in non-discriminatory and impartial manner,
- c) Collection of fees, which belong to federations, associations,
- d) Draft irrigation plans according to crops and make the balance of requirements for water for irrigation.

The Organization of Associations

Article 15

15.1. Every association should have its own bodies, for a normal functioning. The association's bodies are:

1. The Assembly,
2. The Administrative Council and
3. The Executive Staff.

15.2. Association with less than 30 members shall not have administrative council, while its tasks shall be completed by the chairman of the Association.

Article 16

16.1. Except the bodies mentioned in the article 15 of this Law, the association can foresee the establishment of other bodies through the special decision of the Assembly, as:

- a) The Commission of the Financial Control
- b) The Arbitral Commission

16.2. Organization of work, the competences, the manner of holding meetings, decision making in meetings of bodies of the association and other issues related to bodies and commission of the Association from article 15 and paragraph 1 of this article, shall be regulated with an Administrative Instruction and statute of association.

VII. WATER FOR IRRIGATION-RATE

Article 17

17.1. The statute of the associations determines fees to be paid by farmers:

- a) Water-rate for the irrigation,
- b) The rate for annual membership,
- c) Other rates decided by the association.

17.2. Final approval of members' and non-members' fees is given by Ministry .

Article 18

Business relations between the associations and farmers will be settled with the contract setting the quantity of water for irrigation, the price, payment term and the matter of advance payment

VIII. THE RECESSION AND DISMISSAL OF THE MEMBERS

Article 19

Every member has the right to leave the association, but only at the end of irrigation season, and after fulfilling all financial commitments to the association.

Article 20

20.1. The person, who sells the land, which lies inside the association's irrigation area, may transfer to the new owner the right of membership into the association, through informing the association.

20.2. All the obligations to the association should be fulfilled prior transfer from paragraph 1 of this article.

Article 21

21.1. The person violating the provisions of this Law and the association's statute, does not fulfill on time the financial commitments to the association who intentionally or rashly causes a damage to the association, he/she will be dispensed from the association, and must compensate the damage.

21.2. The dispensed member has the right of appeal to the Assembly of the Association within 8 days, from the day of the dispense.

Article 22

In the case of death, the member's rights and obligations to the association will be transferred to his legal inheritors.

IX. WATER USERS FEDERATION

The Establishment of the Federation

Article 23

23.1. The union of two or more associations on voluntary basis shall establish the Federation, for the purpose of administration and utilization of the water for irrigation.

23.2. Each association supplied with water from the same canal, bearing-pipe, water-cistern, and the same water line used by the federation, has the right of membership in that federation.

23.3. The Ministry shall set the rules and procedure on establishment of the federation, according to this law.

The Tasks of Federation

Article 24

Federation's main tasks are:

- a) Utilization and maintenance of the main facilities, canals, water-cistern and irrigation infrastructure,
- b) Water-supply for irrigation to associations that are members and non-members of the federation,
- c) take managing and required construction activities for normal functioning of the irrigation system,
- d) Collection of payments from services for maintenance of facilities of the federation.

Article 25

25.1. Each association that is a member of the federation participates proportionally in the cost of the utilization and maintenance of the facilities managed by the federation.

25.2. The association as per free will for joining the federation could leave in voluntary basis, but not during irrigations season.

25.3. In case of any additional expenditure made by the federation during planning or constructions in irrigation system, considering the membership of the Association in the federation, the association is not allowed to leave without reimbursing these expenditures.

25.4. The association violating the provisions of this Law and the federation's statute, intentionally or rashly causes a damage to the federation, the association will be dispensed from the federation, and the damage compensation procedure shall be initiated.

Article 26

Each federation in accordance with provisions of this Law must issue its statute, regulating matters related to its organization and organizational structure, the description of the federation's facilities, water sources, water reserves and the tasks and responsibilities of the bodies of the federation.

Article 27

27.1. The Statute of Federation and its amendments will be approved by the administrative council of the federation, after the consent of the Ministry.

27.2. The Federation shall submit its statute to the responsible body for registration within 30 days from the day of its approval.

The Organization of Federation

Article 28

28.1. The federation is consisted of the Administrative Council and the Chairman.

28.2. The federation with its statute, beside the actual bodies, may decide the establishment of other bodies: The Executive Council, Commission for Financial Control and the Arbitral Commission.

Article 29

The organization of work, competences, decision-making and other issues related to the work of bodies and commissions of the Federation shall be regulated with an Administrative Instruction and statute of federation.

X. WATER-RATES TO BE PAID BY FEDERATION MEMBERS

Article 30

The federation in compliance with this law shall propose water rates for water supply to associations and other fees to be set by the federation, which shall be implemented after their approval by the Ministry.

XI. THE RECESSION AND DISSMISAL OF FEDERATION MEMBERS

Article 31

31.1. The association according to the freewill membership into the federation, may also leave from the federation voluntarily.

31.2. Excluding from paragraph 1 of this article, the association cannot leave the federation during irrigation season and without fulfilling all obligations to the Federation.

Article 32

In case the association violates the provisions of this Law and the federation's statute and other bylaws, does pay or delays the payment of fees set by the federation or does not compensate damage caused intentionally or rashly, the association will be dispensed from the federation, and damage compensation procedure will be initiated

XII. ASSOCIATIONS AND FEDERATIONS BOOK (REGISTER)

Article 33

33.1. The Ministry shall keep the register of companies, associations, and federations, including:

- a) The name and residency of companies, associations, and federations,
- b) The areas under irrigation,
- c) The number of members and non-members,
- d) Their inventory and infrastructure,
- e) Data on their business supervised by the Ministry.

33.2. Data to be kept by companies, associations, and federations will be set by their statute.

Article 34

34.1. The Ministry is authorized to monitor the infrastructure of irrigation and to eliminate any technical irregularity observed in the irrigation system.

34.2. Companies, associations and federations are obliged to inform the Ministry on technical condition of the irrigation system, prior irrigations season.

Article 35

35.1. The temporary right for accessing alien land, for the control and maintenance of irrigation systems is the right of servitude about land.

35.2. The companies, associations and federations may authorize persons to traverse the private land for the purpose of control and maintenance of the channels and irrigation infrastructure.

35.3. For use of servitude from above paragraph, user shall compensate to the owner of the land the damage caused to agricultural crops.

35.4. The competent court will resolve the contest between the user of servitude and the owner of the land.

XIV. PUNITIVE PROVISIONS

Article 36

36.1. The person, association and federation shall be liable to a fine of 500 € to 5.000 € if:

- a) Damages the irrigation system or its infrastructure,
- b) Damages the other part of the land as a result of careless usage of water,
- c) Builds any facility on the irrigation system,
- d) Accesses or uses the irrigation system illegally and without authorization.
- e) Does not keep data according to the article 34, paragraph 2.
- f) Violate rules from the article 35.

36.2. In case that any person damages facilities of irrigation system, property of the association or federation or company, the person should compensate the damage, beside the payment of fine, and restore the land in the previous state.

XIV. LAW-ENFORCEMENT

Article 37

The Ministry must issue Administrative Instructions for implementation of this Law.

Article 38

Incomes generated from fines in accordance with this Law, will be transferred to the Ministry of Economy and Finances to be deposited in the Kosovo Consolidated Budget.

XV. TRANSITIONAL PROVISIONS

Article 39

The present law shall supersede any provision which is inconsistent with it.

XVI. COMING INTO FORCE

Article 40

The present law shall enter into force after adoption by the Assembly of Kosova on the date of its promulgation by the Special Representative of the Secretary-General.

Law No.02/L-9
23 March 2005

President of the Assembly

Academic Nexhat Daci