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**PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT  
INSTITUCIONET E PËRKOHSHME TË VETQEVERISJES  
PRIVREMENE INSTITUCIJE SAMOUPRAVLJANJA**

**QEVERIA E KOSOVËS/ MINISTRIA BUJQËSISË, PYLLTARISË DHE ZHVILLIMIT RURAL  
VLADA KOSOVA/ MINISTARSTVO POLJOPRIVREDE, SUMARSTVA I RURALNOG RAZVOJA  
GOVERNMENT OF KOSOVA/MINISTRY OF AGRICULTURE, FORESTRY AND RURAL  
DEVELOPMENT**

**ADMINISTRATIVE INSTRUCTION NO. 41/2006  
ON CHANGE OF USE OF AGRICULTURAL LAND**

**DECEMBER 2006  
PRISTINA**

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DEVELOPMENT**

The Minister of the Ministry of Agriculture, Forestry and Rural Development, in accordance with:

Article 5.1 paragraph (n) of UNMIK Regulation No. 2001/9 date 15 may 2001 on the Constitutional Framework for Provisional Self-Government, article 1.3 paragraph (d) of UNMIK Regulation No. 2001/19 date 13 September 2001 on the Executive Branch of Provisional Institutions of Self-Government in Kosovo and articles 14.5 and 44.2 of the Law No. 02/L-26 on Agricultural Land, as promulgated by UNMIK Regulation No. 2006/37 on the Promulgation of the Law on Agricultural Land adopted by the Assembly of Kosovo, as of 23 June 2006,

For the purpose of implementing the Law on Agricultural Land by specifying the terms, procedures and activities referring to change of use of agricultural land,

Issues the following:

**ADMINISTRATIVE INSTRUCTION NO. 2006/41  
ON CHANGE OF USE OF AGRICULTURALE LAND**

**Article 1  
Purpose**

1.1 To protect agricultural land as national wealth of general interest, agricultural land shall be used for agricultural purposes only. As an exception, it may be used for other purposes if the requirements set forth in the Law on Agricultural Land, its administrative instructions and the Law on Spatial Planning are met.

1.2 The provisions of the Law on Agricultural Land supplement the provisions of the Law on Spatial Planning in case that no spatial plan is available.

1.3 The purpose of this administrative instruction is to establish the administrative procedure and the decision criteria for the permanent or interim change of use of agricultural land. The procedure requires a close collaboration of the relevant authorities competent for spatial planning and agriculture.

## **Article 2 Definitions**

Besides the definitions included in article 3 of the Law on Agricultural Land, the following terms shall have the meanings as set forth below:

- a) **Change of use** – shall mean that land does not serve anymore for agricultural purposes due to changed utilisation of the land. The construction of facilities used within the agricultural production shall also be defined as change of use.
- b) **Chief executive officer** – shall mean chief executive officer of a municipality.
- c) **Applicant** – shall mean any person requesting administrative action in order to get permission for the permanent or interim change of use.
- d) **Planning body** – shall mean municipal body competent for the establishment of location conditions according to article 23.1 of the Law on Spatial Planning.
- e) **Body for agriculture** – municipal body competent for agriculture.
- f) **Spatial plan** – includes spatial plans for special areas (article 12 Law on Spatial Planning), municipal development plans (article 13 Law on Spatial Planning), urban development plans (article 14 Law on Spatial Planning) and urban regulatory plans (article 15 Law on Spatial Planning) and existing spatial plans as described in article 31 Law on Spatial Planning.
- g) **Classification and/or class of land** – shall mean classification and/or class of agricultural land as defined in article 10.5 of the Law on Agricultural Land.
- h) **Forest and forest land** – shall have the meaning as described in article 2.1 of the Law on Forests.

## **Article 3 Request and Initiation of Procedure**

3.1 The change of use of agricultural land requires a prior permission if the concerned agricultural land is located outside the boundaries of a spatial plan.

3.2 The administrative proceeding for change of use shall commence upon a written and signed request of the applicant for the change of use. The request must be submitted to the municipality in which the concerned agricultural land is located and should be addressed to the planning body.

3.3 The application for change of use must include the following information and documentation:

- a) Location plan in the scale 1/500;
- b) Position and numbers of adjacent parcels and buildings;
- c) Proof of ownership by means of an extract of the immovable property rights register or proof of the right to use the land by means of the owner's consent or a contract allowing the applicant to apply for the permission for the change of use;
- d) Detailed project design including requirements relating to water, electricity, sewage connections and considerations on impact on environment and adjacent irrigation systems;
- e) Municipal statement of possible connection to technical infrastructure;
- f) The applicant shall state that the proposed construction needs to be established in the location applied for because land of non-agricultural use and/or agricultural land of lower class is not available or appropriate;
- g) In case interim change of use is requested, the project for re-cultivation pursuant to the Administrative Instruction on Re-Cultivation of Agricultural Land has to be submitted.

3.4 The documents listed above in paragraph 3 character a), c), d) and g) of this article shall be submitted in three copies.

#### **Article 4 Registration of Application**

- 4.1 The planning body shall register the request for change of use in a special register.
- 4.2 Within five working days upon receipt of the request, the planning body shall send a written confirmation of receipt of the request and the attached documents.
- 4.3 If the request is not in accordance with the requirements set forth in article 3 of this Administrative Instruction, the applicant shall be asked to comply with the requirements. The applicant shall be notified that the request will not be processed before the required documents and information have been presented.

#### **Article 5 Review Procedure**

5.1 Within ten working days after the receipt of the request and the required documentation, the planning body shall review:

- a) the applicant's property rights or his/her right to use the concerned land for the proposed construction;
- b) that the location of the proposed construction is located on agricultural land outside the boundaries of an existing spatial plan.

5.2 The request shall be rejected by a written decision if it does not comply with the criterion of paragraph 1 a) of this article.

5.3 If the proposed construction is located inside the boundaries of a spatial plan, the planning body shall proceed pursuant to the provisions of the Law of Spatial Planning and the Law on Construction.

5.4 If the request complies with the criteria a) and b) of paragraph 1 of this article, the planning body shall additionally review the classification of the concerned agricultural land pursuant to article 10.5 of the Law on Agricultural Land.

5.5 In case of a request for interim change of use, the planning body shall additionally review if the request complies with the criteria set forth in article 6.5 of this Administrative Instruction.

## **Article 6 Competences for Decision Making**

6.1 The competence to decide upon the request for change of use in absence of a spatial plan depends on the character of the change of use and on the concerned class of agricultural land.

6.2 The permanent change of use of agricultural land of classes 1 to 4 shall be approved with the decision of the Municipal Assembly after consent of the Ministry.

6.3 The permanent change of use of agricultural land of classes 5 to 6 shall be approved with the decision of the Municipal Assembly.

6.4 The interim change of use of agricultural land of classes 1 to 6 shall be done with city planning consent.

6.5 The permanent and interim change of use of agricultural land of classes 7 to 8 shall be done with city planning consent. It shall be issued by the planning body in compliance with the body for agriculture. The decision of the body for agriculture shall be given in writing and shall be reasoned.

## **Article 7 Granting Permission for Change of Use**

7.1 The request for permanent change of use shall be granted if all of the following requirements are met:

- a) The proposed construction is in compliance with the purposes as defined in article 17.3 Law on Spatial Planning;
- b) The proposed construction needs to be established in the location applied for because land of non-agricultural use and/or agricultural land of lower class is not available or not appropriate for construction;
- c) The proposed construction will not affect the operation and maintenance of any irrigation system or the applicant provides appropriate technical measures to overcome such effects.

7.2 The request for interim change of use shall be approved if

- a) the requirements according to paragraph 1 a) are met or if the requested change of use is of general interest. A general interest may be especially accepted if the intended construction is required for public services or if the intended use shall serve the basic needs of the applicant; and
- b) the requirements according to paragraph 1 b) and c) of this Administrative Instruction are met.

## **Article 8**

### **Decision Making for Change of Use of Agricultural Land of Class 1 – 4**

8.1 If the decision shall be made by the Municipal Assembly with the consent of the Ministry pursuant to article 6.2 of this Administrative Instruction, the provisions of this article shall conduct the procedure.

8.2 Ten working days upon the review pursuant to article 5.4 of this Administrative Instruction, the head of the planning body shall notify the chief executive officer about the request for change of use.

8.3 The chief executive officer shall put the issue on the agenda of the next session of the Municipal Assembly.

8.4 The respective municipality body shall prepare a draft proposal of the decision to be made by the Municipal Assembly. The draft proposal shall include the submitted documents and contain the following information:

- a) information on the requested permission, the affected parcels and the name of the applicant;
- b) the proposed decision and its reasoning;
- c) the amount of compensation and/or funds for re-cultivation to be paid by the applicant.

8.5 If the Municipal Assembly rejects the request for change of use, the planning body shall issue and submit the final decision to the applicant in the course of five working days upon the Municipal Assembly's decision.

8.6 If the Municipal Assembly approves the request for change of use, the municipality shall ask for the consent of the Ministry by submitting the draft proposal of the final decision together with the request of the applicant and the submitted documents in the course of five working days upon the Municipal Assembly's decision.

8.7 In the course of another fifteen working days, the Ministry shall issue and submit its written decision to the municipality. If the Ministry refuses to give its consent to the proposal, the decision shall be reasoned. The decision shall contain a summary of the facts and explain its legal basis.

8.8 In the course of ten working days upon notification of the Ministry's decision, the municipality shall issue the final decision and submit it to the applicant.

8.9 The final decision issued pursuant to this article shall be subject to appeal to the court.

#### **Article 9**

##### **Decision Making for Change of Use of Agricultural Land of Class 5 - 6**

9.1 If the decision shall be made by the Municipal Assembly pursuant to article 6.3 of this Administrative Instruction, the provisions of this article shall conduct the procedure.

9.2 Ten working days upon the review pursuant to article 5.4 of this Administrative Instruction, the planning body shall submit the request and its supporting documents to the chief executive officer.

9.3 The provisions of articles 8.3 and 8.4 of this Administrative Instruction shall apply accordingly.

9.4 In the course of ten working days after the Municipal Assembly's decision, the municipality shall issue and submit the final decision to the applicant.

9.5 The decision taken by the Municipal Assembly shall be subject to appeal to the court.

#### **Article 10**

##### **Decision Making for Change of Use of Agricultural Land of Class 7 - 8**

10.1 If the decision shall be made by city planning consent pursuant to article 6.4 and 6.5 of this Administrative Instruction, the provisions of this article shall conduct the procedure.

10.2 Within five working days upon the review pursuant to article 5.4 of this Administrative Instruction, the planning body shall submit the request and its supporting documents as well as the proposed decision to the body for agriculture and ask for its consent.

10.3 Within ten working days after receipt of the notification, the body for agriculture shall submit its written decision to the planning body. If the body for agriculture refuses to give its consent to the proposal, the decision shall be reasoned. It shall include a summary of the facts and explain its legal basis.

10.4 If the body for agriculture gives its consent to the proposal, the planning body shall issue and submit the final decision to the applicant in the course of another ten working days.

10.5 If the body for agriculture does not give its consent to the proposal, the planning body shall ask the chief executive officer in the course of five days to make a decision. It shall submit the request and its supporting documents, the proposed final decision and the decision of the body for agriculture.

10.6 In the course of another ten working days, the chief executive officer shall issue and submit the final decision to the applicant.

10.7 The final decision made pursuant to paragraph 4 of this article shall be subject to an administrative appeal to the chief executive officer.

10.8 The final decision of the chief executive officer shall be subject to appeal to the court.

## **Article 11**

### **Decision Making for Interim Change of Use**

11.1 In case of a request for interim change of use as provided for in article 13.1 b) and 13.2 of the Law on Agricultural Land, the provisions of this article shall conduct the procedure of approval.

11.2 Within five working days upon the review pursuant to articles 5.4 and 5.5 of this Administrative Instruction, the planning body shall submit the applicant's request for interim change of use and its supporting documents to the body for agriculture and ask for its approval of the re-cultivation project.

11.3 Within ten working days upon notification, the body for agriculture shall ask a professional institution in the field of agriculture to review the re-cultivation project. The institution shall send three copies of its written expertise to the body for agriculture in the course of fifteen working days upon its notification. Within another five working days upon receipt of the expertise, the body for agriculture shall submit one copy of the expertise and its statement on the re-cultivation project to the planning body.

11.4 In the following, the procedure pursuant to article 10 of this Administrative Instruction shall apply.

11.5 In case of granting permission for the interim change of use, the final decision shall include the obligation of the applicant to prepay at least 30% of the funds required for the re-cultivation. The payment shall be transferred in a trust account at the disposal of the body for agriculture. The applicant shall be notified that the permission for the interim change of use is subject to the prior payment.

**Article 12**  
**Form and Content of Final Decision**

12.1 The final decision shall be in writing, dated and signed. It shall

- a) identify the request, the applicant and the concerned parcels; and
- b) set forth the facts and legal basis of the decision.

12.2 The final decision shall include a determination of the amount of compensation to be paid for change of use. In case of exemption, its legal basis shall be provided.

12.3 The final decision shall include instructions for the right to appeal.

**Article 13**  
**Forest and Forest Land**

13.1 The provisions of this Administrative Instruction shall also apply for the change of use of forest and forest land.

13.2 In addition to the conditions and procedures set forth in this Administrative Instruction, the change of use of forest or forest land of any class shall require the consent of the Ministry. The Ministry shall consult the Kosovo Forest Agency before making its decision.

**Article 14**  
**Compensation for Change of Use**

14.1 The change of use of agricultural land requires payment of compensation if not otherwise provided by the law. The body for agriculture shall in accordance with this Administrative Instruction calculate the amount of compensation to be paid and determine if the requirements for an exemption are met.

14.2 The amount of compensation depends on the classification of the concerned land. If the requested change of use concerns land of

- a) class 1 – 4, the compensation shall be 1.00 €per square meter;
- b) class 5 – 6, the compensation shall be 0.75 €per square meter;
- c) class 7 – 8, the compensation shall be 0.50 €per square meter.

14.3 If the change of use of agricultural land is done in compliance with a spatial plan, paragraph 1 and 2 of this article apply accordingly. The compensation for change of use of agriculture land shall be paid in the course of the administrative procedure to obtain the construction permit.

14.4. For temporary change of use, the compensation from 20% per square meter should be paid out of the set amount, in accordance with classification as referred to in section 2 of this article, unless otherwise provided for by the law.

### **Article 15**

#### **Fines**

Any person who fails to observe the provisions of this Administrative Instruction will be subject to the fines set forth in article 42.1 a), b), c) and d) of the Law on Agricultural Land.

### **Article 16**

#### **Entry into Force**

This Administrative Instruction shall enter into force on the date of signature.

Date: 27.12.2006

Deputy Minister of the  
Ministry of Agriculture, Forestry and  
Rural Development  
Tomë Hajdaraj

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