

Historical Overview of Law No. 9874, dated 14.2.2008 “On Public Auction” (Amended by Law No. 10346, dated 4.11.2010 and Law No. 12/2017, dated 9.2.2017) Practical Implementation and Critical Assessment

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Abstract: This paper provides an academic analysis of Law No. 9874, dated 14.2.2008 “On Public Auction,” as amended—a key component of public asset management reform in Albania. Through a historical, institutional, and critical perspective, it highlights the law’s primary objectives: increasing transparency, ensuring fair competition, and improving public revenue. The study focuses on the law’s practical implementation by public institutions such as municipalities, ministries, and the Agency for Property Treatment, while identifying the main challenges to its effective functioning. Particular attention is given to the limited use of technology and the absence of robust oversight mechanisms. The paper concludes with concrete recommendations for revising and modernizing the law in alignment with contemporary standards of public administration.

Keywords: Public auction, public property, transparency, good governance, Albania, Law No. 9874/2008, property compensation.

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1. Introduction

As part of Albania’s broad reforms in public administration and state asset management, several legislative initiatives were undertaken to promote transparency, accountability, and fair competition. Among these, Law No. 9874, dated 14.2.2008 “On Public Auction” stands out as the first legal act to establish a clear procedural framework for the sale of public assets through public auctions. The law represents a step toward modernizing public property administration in compliance with international standards and good governance principles.

Before its enactment, the sale of state assets (land, buildings, vehicles, etc.) lacked legal uniformity and was often conducted without standard procedures, leading to non-transparent practices. The law was passed during a period of legal and institutional transformation with the goal of enhancing transparency and efficiency in public property management.

2. Objectives of the Law

The law aims to create a transparent and functional legal framework for organizing and conducting public auctions as the

formal method for selling state-owned property and public assets. Its specific objectives include:

1. **Ensuring transparency** – All auction processes must be documented, publicly accessible, and verifiable by relevant institutions and citizens, minimizing potential abuses and favoritism.
2. **Promoting equality and competition** – The law guarantees that all participants are subject to the same rules, encouraging fair competition and increasing the quality and value of offers.
3. **Protecting public interest and maximizing state revenue** – By securing competitive and high-value bids, the sale of public assets benefits the state budget and ensures responsible property management in the public interest.

3. Core Principles and Historical Development

a. Non-discrimination and Equal Treatment of Participants

Enshrined in the 2008 law from the outset, this principle aimed to eliminate favoritism and exclusion based on political, social, or economic status. In a post-transition context, it intended to combat

clientelism and conflicts of interest. Amendments in 2010 and 2017 strengthened oversight and introduced electronic auctions to reduce subjectivity.

b. Transparency

Originally, auction announcements were inconsistently made or only posted physically in public offices. Legal amendments in 2010 mandated publication in the Official Auction Bulletin and online. The 2017 reforms introduced real-time digital systems,

though practical implementation remains hindered by limited technical capacity and political reluctance in some institutions.

c. Equal Treatment of Bidders

Beyond non-discrimination, this principle demands equal processing of all requests, offers, and complaints. Initially difficult to apply due to vague regulations and weak institutional capacity, later legal reforms introduced structured evaluation committees and mandatory documentation, enabling a more transparent and fair process.

Summary of Principles and Evolution

Principle	Benefits	Historical Issues	Legal Improvements
Non-discrimination	Builds trust and fair competition	Favoritism in earlier practices	Stronger oversight, e-auctions
Transparency	Reduces corruption and clientelism	Limited access, lack of digital tools	Mandatory online publication, e-systems
Equal treatment	Ensures fairness for all bidders	Subjective decisions, vague regulations	Clear rules, complaint mechanisms, documentation

4. Structure of the Law

The law sets out detailed and structured provisions for every stage of the auction process:

- **Organization:** Specifies responsible institutions and procedural steps to ensure compliance and public notification.
- **Eligibility Criteria:** Sets clear requirements for participant qualification, including documentation, financial capacity, and relevant experience.
- **Announcement and Conduct:** Establishes deadlines and procedures for public notice, registration, offer submission, bidding rules, and evaluation.
- **Winner Selection and Contract Execution:** Details criteria for selecting winners based on the most favorable bid, and outlines obligations and timelines for contract implementation.

- **Ministries and central agencies** – to sell surplus equipment, buildings, or vehicles.
- **Municipalities** – for local public asset sales.
- **Agency for Property Treatment (ATP)** – for compensating former property owners via public auctions.

2. Implementation Challenges

- **Complex procedures** – Institutions, particularly local ones, struggle with the law's strict requirements due to limited legal expertise.
- **Lack of transparency** – In several cases, auction notices were not published timely or comprehensively.
- **Weak oversight** – The Supreme State Audit has identified legal noncompliance in various auction procedures.
- **Limited use of technology** – Until recently, most auctions used traditional methods; electronic auctions remain underdeveloped and inconsistent.

5. Legal Amendments

Key legal changes include:

- Allowing negotiated auctions in exceptional cases (e.g., sensitive or depreciating assets).
- Clarifying the roles of organizing institutions like ministries and municipalities.
- Encouraging digital transformation and auction standardization, though not formally integrated into the original law.

3. E-Auction (Electronic Auction)

Though not explicitly foreseen in the 2008 law, digital auction platforms have been introduced by some institutions to increase efficiency. However, their adoption remains uneven and unregulated.

4. The Case of the Property Treatment Agency (ATP)

The ATP uses auctions to compensate former owners with approved claims by offering financial compensation through the auction process, based on the law's framework for transparency and fair allocation.

I. Practical Implementation of Law No. 9874/2008

1. Institutional Application

The law has been implemented by:

II. Critical Assessment of the Law

Positive Aspects

- **Institutional transparency** – Establishes open and documented procedures for public asset sales.
- **Fair competition** – Ensures equal opportunity for all participants.
- **Increased public revenue** – Enables the state to earn optimal returns from surplus asset sales.
- **Decentralized implementation** – Allows local and central institutions to conduct auctions based on their needs.
- **Property compensation tool** – Used by ATP as a method to resolve property disputes.

Negative Aspects and Challenges

- **Lack of digitization** – The law lacks provisions for mandatory electronic auctions, making the process less transparent and technologically outdated.
- **Limited local capacity** – Many municipalities lack the technical and legal skills to comply fully with the law.
- **Insufficient oversight** – No independent body regularly monitors auction implementation.
- **Broad interpretation of certain clauses** – Especially regarding negotiated procedures, potentially enabling abuse.
- **Public notice deficiencies** – Notices are often not widely disseminated, limiting participation.

Conclusion and Recommendations

Law No. 9874/2008 has played a crucial role in professionalizing public asset management in Albania. It contributes to good

governance, increases public revenues, and strengthens public trust in institutions. However, to enhance its effectiveness and modernity, the following steps are recommended:

- Integrate mandatory provisions for electronic auctions, especially for high-value assets.
- Simplify procedures for local governments with fewer administrative resources.
- Establish a dedicated body for monitoring and auditing public auctions.
- Provide regular training for staff involved in auction processes.

Historical analysis leads to the conclusion that Law No. 9874/2008 represents a significant milestone in ensuring good governance of public property and promoting transparency and accountability in the management of state assets.

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