



CASA Legal & Policy Desk

Legal & Policy Brief

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of the Demolition of Houses and Holiday Homes in the Lake Gazivode Area

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PROCEDURAL LEGALITY OF THE DEMOLITION OF HOUSES AND HOLIDAY HOMES IN THE AREA OF LAKE GAZIVODE

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INTRODUCTION

The demolition of private houses and holiday homes in the area of Lake Gazivode during June and July 2026 raises important questions concerning the rule of law, due process, the right to property, and access to effective judicial protection. This brief examines the procedural legality of the demolitions and does not seek to determine whether each demolished structure was lawfully constructed, nor does it challenge the right of public authorities to protect public property and enforce the applicable rules governing the environment, water resources, spatial planning, and construction. The focus is narrower and more fundamental: **whether the demolition of private houses and weekend houses was carried out by a competent authority, on the basis of an individual, reasoned, and enforceable decision, with a clear legal basis; whether the affected persons were duly notified; and whether they had a genuine opportunity to seek judicial protection.**

Based on the material currently available, there are serious grounds to question the procedural legality of the actions taken. The only document presented thus far as the immediate basis for the demolitions is a notice issued by “Ibar–Lepenac” on 3 July 2026, ordering the users to vacate the land, remove their belongings and structures, and restore the land to its previous condition within 15 days. In terms of both its form and content, this document does not appear to contain the elements of an administrative decision, court decision, or enforceable instrument. “Ibar–Lepenac” is a central public enterprise, but it is organized as a joint-stock company, and its status as a public enterprise does not, in itself, confer general administrative, inspection, or enforcement powers. If the demolitions were indeed ordered by the competent inspectorate, as has been publicly stated, it is crucial that the specific inspection decision, proof of its service, evidence that it has become final and enforceable, as well as the complete inspection file, be produced. Otherwise, the question remains open as to whether a formal decision existed prior to the demolitions or whether such a decision was obtained only subsequently.

The issue of police assistance is particularly important. The police may provide assistance to a competent public authority under the conditions prescribed by law, but the mere presence of the police does not, in itself, constitute a legal basis for demolition. Police assistance cannot substitute for an inspection procedure, nor can it legalize action taken by an entity that lacks the authority to independently order and carry out a demolition.

KEY INSIGHTS

1. **“Ibar-Lepenac” does not have general administrative, inspection, or enforcement powers to independently order and carry out demolitions.** The fact that it is a public enterprise and manages property does not mean that it has the powers of a state authority.
2. **The notice dated 3 July 2026**, identified in the available material, appears at first sight to constitute a request by the company to vacate the land and remove the structures; it does not contain the elements of an administrative decision ordering demolition, a court decision, or an enforceable instrument.
3. **Ownership of land and the authority to demolish a structure are not the same thing.** Registration of ownership in the cadastre does not, in itself, constitute an order to demolish. Likewise, the absence of a building permit, if established, does not automatically mean that a structure may be demolished without an individualized procedure. Ownership rights over the land do not, in themselves, confer an automatic right to unilaterally demolish a structure situated on that land.
4. **The key legal distinction is between the right to protect property and the authority to impose and enforce a public-law coercive measure (demolition):** the former may belong to the enterprise; the latter must have an explicit legal basis and be entrusted to a competent authority.

5. **The key concern is a possible break in the entire procedural chain:** jurisdiction → inspection procedure → establishment of facts → participation of the party concerned → reasoned decision → service of the decision → legal remedy → enforceability → enforcement. The available materials contain significant gaps precisely at these stages.
6. **The presence of the police does not, in itself, make the demolitions lawful.** The police may provide assistance to a competent authority, but only where an appropriate legal basis exists and the institution requesting assistance has first fulfilled its statutory obligations.
7. **There is a potential issue concerning the right to an effective remedy.** If a structure was demolished before the owner/user was given an opportunity to have the decision reviewed by an independent authority, judicial protection may be rendered practically ineffective because the consequences of the measure are already irreversible.
8. **The case-law of the European Court of Human Rights emphasizes individualized assessment and proportionality.** Particularly where the demolition concerns a home or a structure that has been used for a prolonged period, the mere fact that the construction was unlawful is not necessarily sufficient; there must be an opportunity for an independent review of the proportionality of the measure.

Factual Background and Chronology of Events

During June and July 2026, a number of houses and holiday homes in the area of Lake Gazivode were demolished. On 3 July 2026, “Ibar-Lepenac” posted notices on certain private houses and holiday homes, identifying the persons using them as “users” and demanding the immediate vacating of the allegedly occupied property. The notice provided a period of 15 days to vacate the property and remove the structures.

The demolitions were subsequently carried out in several stages, including the demolition of approximately eleven structures, which was reported during July, as well as the demolition of the “Jezero” motel at the end of July. Some of the affected persons publicly stated that they had initiated court proceedings, relied on long-term use or contractual arrangements, or had submitted applications concerning the legal status of their structures. Such claims do not, in themselves, establish ownership or the legality of the structures. However, they are relevant to the question of whether the competent authority individually assessed the legal and factual circumstances of each case before carrying out the demolitions.

LEGAL ISSUE: Ownership Is Not the Same as Authority to Demolish

The analysis distinguishes between three separate issues: (1) ownership and possession; (2) the status of the structure in terms of construction, spatial planning, and water law; and (3) the legal basis and procedure for enforcement. Even if “Ibar-Lepenac” is registered as the owner of a particular parcel of land, this does not, in itself, mean that the enterprise has the powers of an inspectorate, court, police authority, or enforcement authority. The enterprise may protect its property through legally prescribed procedures, including issuing warnings, reporting alleged violations, and seeking judicial protection. Administrative demolition, however, requires action by an authority that has statutory jurisdiction to order and enforce such a measure. This distinction is important because a dispute over rights to the land does not, in itself, answer the question of whether a particular demolition was lawfully ordered and carried out.

Procedural Requirements for Lawful Demolition

A lawful demolition should be traceable through a clear procedural sequence:

Required procedural step	Question requiring verification
Competent authority	Which institution had statutory competence for the particular object and location?
Inspection / fact-finding	Was an inspection conducted and recorded?
Individual assessment	Were the parcel, structure, user and relevant legal circumstances individually established?
Participation	Were affected persons given an opportunity to provide documents and explanations?
Decision	Was a written, reasoned decision issued by the competent authority?
Notification	Was the decision properly served and were legal remedies explained?
Legal remedy	Could the affected person seek suspension or other effective judicial protection before demolition?
Enforceability	Was there a documented basis for execution?
Execution	Who executed the demolition and under what written instruction?
Police assistance	Who requested assistance and was the statutory procedure for assistance followed?

The material currently available does not demonstrate that this sequence was fully followed. A company notice is available, whereas inspection records, individual demolition decisions, proof of service, confirmation that the decisions became enforceable, decisions on appeals, or documentation explaining the legal basis and manner of enforcement have not been provided. A particular concern is the requirement for individualized assessment. Addressing all users as “occupiers” or “usurpers” does not replace the obligation of the competent authority to establish the status of each structure and each affected person. Structures may differ in terms of their age, purpose, legal basis for use, available documentation, legalization status, and the consequences of their demolition. Such differences must be reflected in the factual and legal reasoning of an individual decision.

Why Compliance with the Legally Prescribed Procedure Matters

A legitimate public-interest objective does not eliminate the obligation of public authorities to act within the scope of their statutory powers and in accordance with procedures prescribed by law. Demolition constitutes an irreversible intervention. Once a structure has been demolished, subsequent compensation or judicial review cannot fully restore the previous situation. For this reason, effective legal protection, where necessary, must be available before an irreversible measure is carried out. Relevant human rights standards do not establish a general right to retain a structure constructed in breach of the law. However, they point to the need, before implementing an irreversible measure affecting property or a home, to assess the lawfulness and proportionality of the measure, the individual circumstances of the case, and the possibility of access to an independent authority for review of the decision.

Constitutional Protection and the Right to an Effective Remedy

The Constitution of Kosovo protects the right to property (Article 46), the right to fair and impartial adjudication (Article 31), the right to a legal remedy (Article 32), and the right to judicial protection of

rights (Article 54). Articles 22 and 53 additionally accord the European Convention on Human Rights and the case-law of the European Court of Human Rights a special role in the interpretation of fundamental rights, while Article 55 regulates the conditions for restricting rights. In the context of demolition, procedural safeguards are particularly important because the physical removal of a structure is irreversible. Subsequent compensation for damage may be important, but it cannot fully restore a destroyed structure, belongings, the manner in which the property was used, or a home. Accordingly, a legal remedy must be available sufficiently early to allow for independent review before the measure is enforced. Law No. 08/L-182 on Administrative Disputes provides for the possibility for a court to suspend the enforcement of an administrative act or halt another administrative action where necessary to prevent serious and irreparable harm, while taking into account the public interest and proportionality. If the affected person was not provided with a specific act that could be challenged, or if the demolition was carried out before a court could realistically rule on interim protection, the effectiveness of the legal remedy may be seriously undermined.

European Court of Human Rights Standards

Although Kosovo is not a party to the European Convention on Human Rights and individuals cannot directly lodge applications against Kosovo with the European Court of Human Rights, the Convention and the Court's case-law have constitutional significance in Kosovo and are binding on all public authorities when interpreting and applying fundamental rights. In the context of Article 1 of Protocol No. 1, the European Court proceeds from the requirements of lawfulness, a legitimate aim, and a fair balance between the public interest and the protection of the individual.

The cases of *Baykin and Others v. Russia* and *Öneryıldız v. Turkey* demonstrate that property interests relating to structures with a problematic or unlawful legal status may, under certain circumstances, enjoy protection. Long-standing knowledge and tolerance by the authorities, the provision of public services, investments, and other concrete expectations may be relevant to assessing whether a protected property interest exists.

The cases of *Yordanova and Others v. Bulgaria*, *Ivanova and Cherkezov v. Bulgaria*, *Winterstein and Others v. France*, and *McCann v. the United Kingdom* particularly emphasize the need for an individualized proportionality assessment where a measure affects a home. The designation of a structure as a "holiday home" is not, in itself, decisive; what is relevant is the person's actual and enduring connection with the premises.

Rousk v. Sweden is particularly relevant to the procedural aspect of irreversible enforcement: where judicial review and a request for suspension are available, the manner and timing of enforcement must be arranged in such a way that judicial protection is not reduced to a subsequent assessment of the consequences. *Papamichalopoulos and Others v. Greece* further confirms that the factual effect of action taken by public authorities may be assessed independently of the formal designation of the measure.

Police Assistance

Law No. 04/L-076 on the Police and Administrative Instruction No. 02/2013 establish the conditions under which the police provide assistance to public authorities. As a general rule, a request by the competent institution is required, containing information on the nature, grounds, location, and timing of the requested assistance, together with an appropriate risk assessment and decision. Such assistance should follow the prior fulfilment of the statutory obligations of the authority requesting it. It is therefore necessary to establish who formally requested police assistance, on the basis of which act, who was responsible for directing the enforcement operation, and whether there was a valid and enforceable act issued by the competent inspectorate. If the police merely provided security for the lawful enforcement of a measure, their role may be legally justified. If, however, the police, together with the company, effectively carried out the demolitions in the absence of a prior lawful and enforceable basis, this raises a question of possible overstepping of legal powers.

FINAL ASSESSMENT AND RECOMMENDATIONS FOR FURTHER ACTION CONCERNING THE DEMOLISHED HOLIDAY HOMES

There are serious and legally relevant grounds to suspect that the procedural legality of the demolitions carried out in the Lake Gazivode area may have been compromised, particularly if the competent authorities are unable to produce prior, individualized decisions that were duly served and whose enforceability had been established. The key priority for further action is therefore to obtain the primary evidence, as public statements concerning who ordered the demolitions have not been entirely consistent. Based on the material currently available, the strongest legal conclusion is not that every demolished structure was necessarily lawful, but rather that the lawfulness of the demolitions cannot be inferred solely from the assertion that the land is owned by “Ibar-Lepenac” or that the structures lacked building permits. For a demolition to be lawful, the competent authority, the procedure followed, the individualized decision, proper service, enforceability, and the lawful basis for police assistance must all be established.

The legal and public policy significance of the case extends beyond the individual structures concerned. The protection of public property and the enforcement of construction, water, and spatial planning regulations are legitimate objectives, but they must be pursued through lawful procedures. The rule of law requires that a public authority may implement even an unpopular or restrictive measure, but only on the basis of clear legal authority, established facts, a reasoned decision, and an effective opportunity for independent review.

The following steps are recommended as a matter of priority:

- The competent authorities should immediately be requested to provide copies of all inspection records and individual demolition decisions concerning each structure.
- Proof of service of each decision should be requested, together with information on any appeals, administrative disputes, and applications for interim measures.
- It should be established who formally issued the demolition order and who was formally responsible for its enforcement.
- The written request for police assistance, the corresponding risk assessment, and the police decision and/or operational documentation should be obtained to the extent available.
- For each structure, cadastral records, contracts, evidence of use, utility bills, any applications for legalization, and evidence of investments should be collected separately.
- For structures that served as homes, the duration of residence, family circumstances, and the consequences of the demolition should be documented separately for the purpose of assessing the applicability of Article 8 of the European Convention on Human Rights.
- Depending on the legal basis ultimately established, consideration should be given to initiating administrative proceedings, seeking compensation for damages, pursuing ownership and/or possession proceedings, and, following the exhaustion of effective legal remedies, lodging a constitutional complaint.

RECOMMENDATIONS FOR FUTURE ACTION BY PUBLIC AUTHORITIES

The demolition of structures in the Lake Gazivode area highlights the need, in addition to addressing individual cases, to improve the system by which public authorities act in all situations involving the planned demolition of private structures, particularly where the measure is undertaken to protect public property, water resources, the environment, spatial planning, or other legitimate public interests.

1. Clearly Establish Jurisdiction Before Initiating Proceedings

Before taking any demolition measure, it must be clearly established which authority has the statutory jurisdiction to determine whether a violation has occurred, issue a decision, and implement the measure. Public enterprises and other entities managing public property may report violations, seek protection of their property, and initiate appropriate proceedings, but they should not assume the powers of inspection, administrative, judicial, or enforcement authorities without an explicit legal basis.

2. Establish a Mandatory Procedural Minimum for Every Demolition

Before a demolition is carried out, at a minimum, the following should be verified and documented: the jurisdiction of the authority, the identity of the structure and the parcel, the identity of the owner or user, the factual circumstances, the legal status of the structure, relevant permits and any pending legalization applications, the manner in which the structure is used, and any existing judicial or administrative proceedings. This procedural minimum should apply to each individual structure, regardless of whether it is a house, holiday home, business premises, or another type of building.

3. Ensure an Individualized and Reasoned Decision

A demolition decision should be issued in respect of a specific structure and a specific person, clearly stating the legal basis, established facts, reasons for imposing the measure, manner of enforcement, and available legal remedies. General notices, public statements, or demands to vacate the land should not substitute for a formal decision where the law requires an administrative act to be issued.

4. Ensure Meaningful Participation of Affected Persons

Persons affected by the measure should, before a decision is issued, be given an opportunity to be informed of the proceedings, submit relevant documentation, and make representations concerning the factual and legal circumstances. Particular attention should be given to cases involving claims of long-term use, contracts, investments, legalization applications, or other rights and legitimate expectations.

5. Ensure Effective Legal Protection Before Enforcement

Affected persons must be given an opportunity, in accordance with the law, to challenge the decision and seek interim judicial protection before the demolition is carried out. The deadlines and manner of enforcement should not be arranged in such a way as to render judicial protection ineffective. It is particularly important that authorities refrain from carrying out a demolition while proceedings are pending in which a court has been asked to decide on the suspension of enforcement, unless there is a clear and lawful basis for proceeding otherwise.

6. Apply Proportionality to Irreversible Measures

Demolition should be treated as a measure of last resort and as an irreversible intervention. Before it is enforced, the competent authority should assess whether a less restrictive measure could achieve the same public objective and whether the consequences of demolition are proportionate to the legitimate aim pursued. Where a structure constitutes a person's home, the assessment should specifically consider the actual nature and intensity of the person's connection with the premises, family circumstances, the availability of alternative accommodation, and other relevant individual circumstances.

7. Establish a Specific Procedure for Structures Subject to Long-Term Use or Potentially Constituting a Home

The fact that a structure is designated as a "holiday home" or was constructed without a permit should not automatically exclude an assessment of human rights implications. Where there are indications that a structure constitutes a home or that a person has maintained a long-standing and continuous relationship with the premises, the authority should conduct a specific assessment of the potential consequences of demolition.

8. Prioritize Preventive Dispute Resolution

Where possible, public authorities should use measures that allow for the voluntary removal of a structure, consensual resolution, a period for bringing the structure into compliance with applicable regulations, or other less restrictive measures before resorting to forced demolition. This is

particularly important where there is a dispute concerning ownership, use of the land, or the legal status of the structure.

9. Establish a Clear Procedure for Police Assistance

Police assistance should constitute the final stage of a lawful procedure, rather than a means of compensating for a lack of jurisdiction or an enforceable decision. A request for police assistance should be based on a prior decision issued by the competent authority that is enforceable, and should contain sufficient information concerning the subject matter, location, timing, reasons, and risks associated with enforcement. Within the scope of their powers, the police should verify whether the statutory prerequisites for providing assistance have been met.

10. Establish a Centralized Record and Documentation Trail

For every demolition measure, there should be a complete administrative file enabling subsequent review of the entire procedure. At a minimum, the file should contain the inspection record, evidence and photographs, the demolition decision, proof of service, information on available legal remedies, confirmation of enforceability, an enforcement plan, and documentation concerning any police assistance provided. This would ensure transparency, accountability, and the possibility of independent review of the authorities' actions.

11. Strengthen Coordination Between Public Institutions

Where a public enterprise, inspectorate, municipal or central authority, police, and, where applicable, a court are involved in the proceedings, their respective roles must be clearly delineated. Situations in which it is unclear who issued the decision, who is responsible for its enforcement, and who is merely providing technical or security support should be avoided.

12. Introduce Internal Review Mechanisms Following Demolition

Following the implementation of an irreversible measure, an internal review should be conducted to determine whether all legal and procedural requirements were satisfied. Such a review can identify systemic deficiencies and help prevent similar irregularities from recurring in future proceedings.

KEY PUBLIC POLICY RECOMMENDATION

Cases involving the demolition of structures should be viewed not merely as matters of public property management or the enforcement of construction and spatial planning regulations, but as proceedings in which public authorities apply a coercive and irreversible measure that may seriously affect individuals' property and other fundamental rights. Accordingly, it is necessary to establish a clear institutional division of responsibilities, minimum procedural standards, individualized assessment, and effective prior legal protection. The purpose of such an approach is not to restrict the ability of public authorities to protect public property or enforce the law, but to ensure that the same public objective is pursued lawfully, predictably, proportionately, and subject to independent review.

RECOMMENDATIONS FOR INTERNATIONAL ACTORS

International representatives are not required, and need not, take a position on ownership disputes in order to address this issue. A constructive approach can instead focus on procedure, transparency, and institutional accountability.

- Seek clarification from the relevant institutions in Kosovo regarding the legal basis and institutional responsibility for the demolitions carried out.
- Encourage the relevant institutions to provide the primary administrative and enforcement documentation necessary to assess the lawfulness of the measures taken.
- Monitor whether affected persons have access to effective judicial remedies, including timely interim protection where necessary.

- Encourage future enforcement measures affecting property or a home to be carried out in accordance with the requirements of due process and proportionality.
- Support independent fact-finding where significant procedural questions remain unresolved.
- Clearly distinguish between the legitimate protection of public property and the separate question of whether enforcement was carried out lawfully.

Methodological Note

This brief is based on a preliminary legal analysis drawing on the notice issued by “Ibar-Lepenac” on 3 July 2026, public statements by relevant actors, media reports and international reactions, the applicable legislation of Kosovo, and relevant European human rights standards. The underlying analysis expressly notes that key primary documentation is still unavailable; accordingly, any conclusions concerning specific violations should be regarded as conditional pending the collection and review of that documentation. This document is intended to support information-sharing, advocacy, and accountability. It does not constitute a final judicial assessment of the lawfulness of any individual demolition, nor does it substitute for legal representation in a specific case.

Primary source: *“Procedural Legality of the Demolition of Houses and Holiday Homes in the Lake Gazivode Area: Legal Analysis in Light of the Applicable Law of Kosovo, the Constitution of Kosovo, and the Case-Law of the European Court of Human Rights,”* authored by Ivan Spasojević, NGO CASA, September 2026. <https://ngocasa.org/legal-analysis-procedural-legality-of-the-demolition-of-houses-and-holiday-homes-in-the-area-of-lake-gazivode/>