

The Republic of Albania

Assembly

Law

No. 8561, dated 22.12.1999

On

Expropriations and Temporary Takings of Private Property for a Public Interest

In reliance on articles 41, 78 and 83 point 1 of the Constitution, on the proposal of the Council of Ministers

the Assembly

of the Republic of Albania

Decided:

Chapter I

General Provisions

Object of the Law

Article 1

This law regulates the right of the state to expropriate or take for temporary use for a public interest the properties of natural or juridical private persons, as well as the protection of the rights and interests of the respective owners.

Article 2

1. Natural and juridical private persons have the right to the respect for the properties that they own. The expropriation of private properties is done only for a public interest, in the conditions when the public interest prevails over the private interests of their owners, in accordance with the conditions prescribed by the law and with general principles of international law.

2. The right to expropriation and temporary taking of private property is exercised for a public interest that cannot be realized or protected in another manner, only for the reasons and with respect for the procedures expressly set out in this law, to the extent that is essential for the realization of the purpose of the expropriation and in any case against fair compensation.

Article 3

Expropriation and temporary taking of private property is realized in compliance with the conditions and procedures set out in this law while guaranteeing transparency, equality of citizens and the protection of their property interests and rights.

Article 4

Expropriation and temporary taking of private property shall be done while respecting, and compensating in value, in accordance with the law, the rights of third parties in the private properties that are expropriated, as well as the devaluation because of the expropriation of other private properties that are not object of the expropriation.

Chapter II

Expropriation

Article 5

Meaning of Expropriation

1. When the realization or protection of public interests cannot be achieved without exercising the rights of ownership over movable or immovable properties that are privately owned, the Council of Ministers, on the application of the requesting subject in favour of whom the expropriation is to be done, on the proposal of the minister who is competent under this law, decides on the expropriation of these properties.
2. When the expropriation is done on the application of a private juridical subject, the competent minister, in the capacity of legal representative of state property, is authorized by this law, on the preliminary application of this subject, to make the transfer of ownership of the properties expropriated by the state in favour of the private subject who has applied for expropriation, on the condition that the realization of the building or investment for a public interest for which expropriation was performed has been verified according to law.
3. When the private applicant does not seek the transfer of property in his favour, the property remains in favour of the state.
4. The objects expropriated for the reasons contemplated in letters "a," "b," "d," "dh," and "ë," of article 8 of this law remain in each case in the ownership of the state.

Article 6

The rights and Privileges of the Owner of the Private Property that is Expropriated

1. In cases when the owner has died or is declared missing and a certificate of inheritance has not been issued, the competent ministry has the right to submit a request for the issuance of a certificate of inheritance in the competent court, if such a request has not been submitted or the interested parties refuse to submit it.
2. When at the end of the procedures and time periods contemplated in this law, related to the notification and publication of the application for expropriation, the owner of the private property sought to be expropriated is not found, the competent ministry continues the procedures of

expropriation and the amount of compensation that belongs to the expropriated owner is deposited in a bank for the account of the latter.

3. When the owner of the private property sought to be expropriated is not known, applying article 172 of the Civil Code, the competent minister is authorized by this law to apply in court for the transfer of the properties to the state ownership. The judicial expenses and those of representation are chargeable to and prepaid by the applicant for expropriation.

4. When the owner of the private property undertakes the realization of the public interest and the purpose for which expropriation is sought by a private juridical subject, contemplated in letters "c" and "ç" of article 8 of this law, fulfilling the same legal conditions and guarantees for meeting the respecting time periods, expropriation is not permitted.

5. When the owners of private properties, through a written declaration, give consent and accept the passage of ownership of these properties in favour of the state, in accordance with the conditions offered by the competent ministry through a direct notification or publication of the request for expropriation for a public interest, the procedure of expropriation for these properties is considered completed.

6. An expropriated owner or his heirs enjoy a priority right to purchase in the case when their properties that have been the object of expropriation, or the projects or investments realized on them, are put up for sale or are alienated in any manner by the state or the private subject who is the beneficiary of the expropriation.

Article 7

Objects of Expropriation

The objects of expropriation are immovable properties in the form of land, buildings of every kind of a permanent nature, as well as movable properties indicated in letters "e" and "ë" of article 8 of this law.

Article 8

Reason for Expropriation

In the function of the public interest, expropriation may be done for the following reasons:

- a) For the realization of obligations of the state that come from treaties and international multilateral conventions.
- b) For the realization of programs, projects and investments contemplated in international agreements that extend into the territory of several states, to which our state is a party.
- c) For the realization of projects and investments that present national or local territorial extent or interest in the field of transportation of every kind, energy, telecommunication, water and irrigation works of every kind, in the service and interest of the public.
- ç) For the realization of national or local projects and investments, in the function of protection of the environment, health, culture and public education, as well as infrastructure, in the service and interest of the public.

d) For the realization of programs and investments in the field of national defence.

dh) For the protection of monuments and immovable objects of a nature that is archaeological, historical, cultural and scientific, when these purposes, by the very nature of the objects, cannot be realized by a private owner, because of his objective inability or subjective position, with the consequence of a real risk of failure of realization, damage or hindrance to their functioning.

e) For the protection of movable property with a historical, archaeological, cultural or scientific value, in cases when, even with the performance of the obligations of the organs that are competent according to law, these objects risk being damaged or disappearing.

ë) For cases when movable and immovable objects, for objective reasons or *force majeure*, create a permanent risk to public health and security, to the extent that, despite all the assistance of the state, these risks cannot be avoided by their owner.

Article 9

Subject in Favour of Whom Expropriation is Done

1. Expropriation may be done in favour of the state and of public or private, local or foreign juridical persons, for the realization of a project, investment or object of theirs that, in each case in accordance with this law, presents a public interest.

2. A private juridical person may submit an application for expropriation in the public interest only connected with the reasons for expropriation contemplated in letters "c" and "ç" of article 8 of this law.

Article 10

Application for Expropriation and Accompanying Documents

1. The subject, in favour of whom the expropriation is done, shall submit the application for expropriation to the ministry that is competent pursuant to law. The application shall be accompanied by the following documentation:

a) Official documents that attest its status and registration as a juridical person.

b) Necessary plans, approved according to law, as well as the respective legal arguments about the public interest connected with the realization of these projects.

c) Documentation related to the source and guarantee of the financial funds necessary for the realization of the project, including those for expropriation or because of devaluation.

ç) A preliminary valuation of the objects of expropriation and the measure of compensation that is contemplated for each private owner.

d) Appropriate licenses and approvals from the competent organs according to the law, in accordance with the nature and type of the project that is sought to be realized.

dh) Official documents that attest to the manner of realizing the project by the applicant for expropriation itself or with third parties, as well as the respective time periods.

e) A list of the owners of the private properties, as to which expropriation is sought, a list of the owners of private properties that are devaluated because of the expropriation and a list of the third persons who should be compensated for their rights to the private properties that are sought to be expropriated, together with explanations and data necessary for each of them, with the respective estimates of the valuation of these properties and rights, as well as the addresses and last known residence of the respective owners and third persons.

ë) Documents that attest to the reason for the expropriation according to article 8 of this law.

2. In cases where the applicant for expropriation is a state organ or state institution, created by separate law, the documents contemplated by letters "a" and "c" of this article are not submitted.

3. Detailed regulations related to the content and standards that are to be respected in the compilation and presentation of the documentation that accompanies an application for expropriation for the public interest are set by normative act of the Council of Ministers.

Article 11

Ministry Competent for Expropriation

1. Applications for expropriation are submitted to the ministry that covers the respective activity, while the proposal to the Council of Ministers for the approval of the application for expropriation is made by the respective ministry.

2. On the submission of the application for expropriation for a public interest, the competent minister orders the setting up of a special commission for following and accomplishing the procedures of expropriation.

3. The members of the commissions shall be employees or independent experts, with experience and special qualification in the juridical, economical and engineering field, who, in any case, shall not be related by blood or marriage to the person being expropriated or have any kind of interests with the parties interested in the expropriation.

4. The rules about the composition and the working procedures of the special commission on expropriations are set by normative act of the Council of ministers.

Article 12

Return without Action and Refusal of the Application

1. The competent ministry performs necessary verifications about the applicant in whose favour the expropriation is sought, the documentation submitted, the reason for expropriation, and also administers the documents of ownership for the object of expropriation, also carrying out on-site investigations if necessary.

2. When the documentation submitted by the applicant is not complete or accurate, the competent ministry immediately returns the application for expropriation and the documentation

accompanying it according to this article to the applicant without action, designating a special time period for the appropriate completion.

3. When the application and the accompanying documentation are not submitted complete in the designated time period, or is found to be unsupported, because of the absence of a reason or of the conditions of expropriation according to this law, the application is refused by the ministry and the applicant for expropriation is notified immediately.

4. The applicant for expropriation has the right to appeal in court within 30 days from receiving notification.

5. The judicial examination is done in accordance with the legal provisions for the adjudication of administrative disputes in the Code of Civil Procedure.

Article 13

Acceptance of the Application

1. On the completion of the necessary verifications as well as the procedures contemplated in article 12 of this law, when the application and respective accompanying documentation are supported according to the conditions and criteria of this law, the competent ministry decides on the acceptance of the application for expropriation, immediately notifying, in writing, the applicant in favour of whom the expropriation is sought.

2. Within 10 days from the day of notification of acceptance of an application for expropriation, an agreement is entered into between the applicant in favour of whom the expropriation is sought and the competent ministry as to the mutual rights and obligations related to the expropriation procedure. If the applicant is a private subject, this agreement is done by notarial act.

3. In the act of agreement, the parties undertake the fulfilment of the obligations set or specified in this law within the respective time periods. The act of agreement is an executable document.

4. The act of agreement is invalid if, at the time it is signed, the documents that accompany the application for expropriation according to this law are not attached.

Article 14

Notification of Application for Expropriation

1. Within 10 days from the day of entering into the agreement with the subject applying for expropriation, the competent ministry begins fulfilling the procedures of direct notification to each owner or joint owner of the private properties sought to be expropriated or devalued as well as to third persons related to their compensation.

Together with the procedures of notification, the competent minister also performs those of publication of the application of expropriation in a public interest.

2. Detailed regulations about the manner of notification, its content and the respective procedures are set by normative act of the Council of Ministers.

Article 15

Publication of Application for Expropriation in a public Interest

1. To make it possible to protect the rights and interests of third persons in or because of the private property sought to be expropriated, at the same time as the notification of the application for expropriation in a public interest pursuant to point 1 of article 14 of this law, the competent ministry publishes the expropriation application in the Official Journal, in a newspaper with national circulation and in a local newspaper for a one week period.
2. Third persons not later than 15 days from the completion of the time periods of publication pursuant to this article have the right to submit their claims accompanied by the relevant documents to the competent ministry.
3. When the claims of third persons about ownership as well as about the conditions of expropriation offered are verified to be legally supported, the competent ministry proceeds with the expropriation, while also respecting these rights.

Article 16

Judicial Conflicts and Submission of Claims

1. The competent minister may not request the Council of Ministers to take the decision of expropriation before a one-month period from the day of conclusion of the procedures and time periods of direct notification of the owner who is expropriated and the publication of the application for expropriation according to this law.
2. The bringing of lawsuits or judicial examination of a civil question connected with private property that is sought to be expropriated does not constitute a lawful reason to seek, or for the court to order, the interruption or suspension of the procedures of expropriation according to this law. The court or the competent ministry shall immediately notify one another about these cases. The competent ministry is obligated, at the completion of the procedure of expropriation, to put the amount of payment or compensation for the private property expropriated or devalued, in a special bank account. The amount of compensation is paid to or put at the disposition of the person who wins the final court decision, after the competent ministry has notified.
3. Within 15 days from the date of notification according to this law, or of the time period of publication of the application for expropriation, the owner, the joint owners, or third persons, shall notify the competent ministry, also indicating whether they accept the voluntary transfer of the property on the conditions offered by it.
4. Within 15 days from receipt of the answer by the notifying person, but in any case not before one month has passed from the last date of the time period of publication of the request for expropriation for a public interest, the competent ministry, in the cases when the notifying parties have accepted the conditions offered by it or it has found the claims presented by them to be correct, in the sphere of expropriation and with the authority of the organ that makes the expropriation, carries out with the notifying party, as the case may be, the actions for transfer of ownership in favour of the state, against compensation or payment of the amount of compensation for the devaluation of the private properties or the rights of third parties because of the expropriation. With the fulfilment of the reciprocal obligations, the procedure of expropriation of these private properties is considered to be completed.

5. With the consent of the competent minister, the above actions may be performed even after the above-mentioned time periods, as if the proposal for expropriation had been submitted to the Council of Ministers, so long as the expropriation had not been decided on by the latter.

Article 17

Valuation of Objects Expropriated

1. At the conclusion of the procedures contemplated in articles 14 and 15 of this law, the special commission set up by the competent minister performs the actions for determining the final valuation, as well as the computation of the amount of compensation of the objects expropriated.
2. In valuing the private properties that are expropriated, the other properties that are devalued, or the rights of third persons that are to be compensated because of the expropriation, according to their nature, the initial value, the amortization, the purpose for which they are destined, the location of the object, and the change of the index of market prices and money are taken into account.
3. Other technical criteria for valuation and the computation of the amount of compensation for private property that is expropriated, properties that are devalued, and the other rights of third persons according to this law are set by the Council of Ministers.

Article 18

Compensation for the Value and Devaluation of the Property

1. Compensation is given for the value of devaluation of property in cases when the expropriation for a public interest is accompanied with the devaluation of a part of the property that is not expropriated, or of property located near that which is expropriated.
2. The cases, manners and calculations of the amount of compensation are set by instruction of the Council of Ministers.

Article 19

Calculation of the Payment

On the basis of the value that results from the final valuation of the objects that are expropriated, the amount of the respective computation is calculated, in the measure of its full value.

Article 20

The Proposal for Expropriation

At the conclusion of the preliminary procedures for expropriation, the competent minister submits to the Council of Ministers the proposal for expropriation, accompanied by the this documentation:

- a) A summary statement of the purpose, reason and need for expropriation, the time period for beginning and ending the expropriation as well as the time period for beginning and ending the work or realization of the purpose of the expropriation.
- b) The documents required in letters "a" through "dh" of article 10 of this law.

c. c) A final list of the owners of the properties who are expropriated or devalued and the respective official documents of ownership, as well as a list of the third persons, whose rights are to be compensated because of the expropriation.

ç) The documentation of valuation of the properties that are expropriated and devalued, the rights of third parties related to them and the amount of compensation proposed, with the respective arguments.

d) Documents verifying the expenses of the procedure of expropriation.

Article 21

Expropriation Decision

1. When the proposal is found to be well grounded in law and in fact, the Council of Ministers decides on expropriation.

2. The decision of expropriation shall contain:

d. a) The purpose and legal reason for expropriation;

e. b) the private properties that are expropriated and the respective owners;

f. c) the amount of compensation for the owners who are expropriated, for the owners of the properties that are devalued, for third persons who are compensated for their rights because of the expropriation as well as the time period and manner of paying them;

g. ç) the time period for beginning and ending the expropriation and the organ or subject that will start using the expropriated private properties;

h. d) the time period for beginning and ending the work for the project and the investment, or for the realisation of the purpose of the expropriation.

i. dh) the value of the expenses of the procedure of expropriation charged to the applicant for expropriation.

3. When there are many objects and joint owners, the data required according to letters "b" and "c" of this article are reflected in a special attachment as an integral part of the decision.

4. In cases the expropriation is applied for by a private subject, the properties expropriated pass to the ownership of the state. The transfer of the ownership of these properties in favour of the private subject who has applied for the expropriation is done only when the latter has realized, in accordance with the law, the purpose and cause of the expropriation for a public interest.

5. Having the quality of an implementing regulation, the decision of expropriation of the Council of Ministers enters into force immediately. The decision is also published in the Official Journal.

Article 22

Refusal of the application for expropriation

When an expropriation according to an application accepted by the competent ministry is refused by the Council of Ministers, the competent ministry returns to the applicant for expropriation all funds deposited for the expropriation procedure.

Article 23

Payment of Compensation because of Expropriation

The amount of compensation that is, respectively, given to or put at the disposition of the person who is expropriated, the owner or third person who is damaged, within the time period indicated in letter "c" of article 21 of this law and, in every case, no latter than three months from the end of the time period, or from the date when the court decision has become final, according to point 2 of article 16 and article 24 of this law.

Article 24

Appeal of Decision

1. The decision of the Council of Ministers on expropriation is made known by the competent ministry directly to the owners who are expropriated, the owners of properties that are devalued by the expropriation and third persons whose rights are compensated because of the expropriation who, only as to the amount of compensation specified in the decision, have the right to appeal in court within 30 days from receiving notice.
2. An appeal against a decision of the Council of Ministers for the expropriation does not suspend the implementation of this decision and the respective procedure of registration of the property expropriated.
3. As to the amount of compensation for expropriation, if an appeal in court is not taken within the 30 day time period according to this law, the decision of the Council of Ministers for the expropriation becomes an executable document.
4. The judicial examination is done in accordance with the legal provisions connected with the adjudication of administrative disagreements of the Code of Civil Procedural.

Article 25

New Registration of expropriated Properties

In cases when the private properties that have been expropriated are to be registered according to law, this registration shall be done by the competent ministry within 30 days from the date when the decision of the Council of Ministers for expropriation has been taken.

Article 26

Invalidity of Expropriation

1. When the subject in favour of whom the expropriation was done does not begin or conclude the works for the projects and investments or for the accomplishment of the purpose for which the expropriation was performed within three months from the date of the end of the respective time periods set in the decision of the Council of Ministers, the expropriation is considered invalid.

Within the three months term period mentioned above, on its own initiative or on the reasoned request of the subject in favour of whom the expropriation was done, the Council of Ministers may decide to extend the time period for beginning and concluding the works or the realisation of the purpose of the expropriation.

2. When the subject in favour of whom the expropriation was done uses the private properties expropriated that were or performs actions in conflict with the reason for and purpose of expropriation, as well as when he changes the purpose for which these properties or projects and investments realized over them are destined before the conclusion of the period for keeping the destined purpose set in the decision of expropriation, if the Council of Ministers does not decide within a three month period that the state shall undertake the realization of the purpose of and reason for the expropriation for a public interest, this expropriation is considered invalid.

3. An expropriation is considered invalid if during the time periods contemplated in article 23 of this law, the payment of, or the putting at the disposition of, the amount of compensation according to this law, for the account of the owners who are expropriated as well as the owners and third persons who are damaged because of the expropriation is not done.

4. In the cases of invalidity of expropriation contemplated in points 1, 2 and 3 of this article, on the application of the respective owners, the private properties that were expropriated are returned to them with full rights as at the moment of expropriation and, on the other hand, the owners who are were expropriated are obliged to return, in advance, the amount of compensation that was paid to them because of the expropriation in value or by compensating this value with property in kind.

5. In addition to what is provided in point 4 of this article, the owners who were expropriated, as well the owners and third persons damaged because of the expropriation, have the right to seek from the subject in favour of whom the expropriation was done compensation of the damages caused because of the expropriation.

Chapter IV

Taking of Property for Temporary Use

Article 27

Taking the property of private natural and juridical persons for temporary use is done for the needs of works and services in the function of a public interest, in compliance with the conditions and cases that are expressly set out in this law, as well as for meeting needs and emergencies because of *force majeure* events or a state of emergency or war.

Article 28

Taking for temporary use of private property may also be done for the needs of realizing the projects or investments for a public interest for which a decision of expropriation has been taken, to secure necessary temporary roads for transport, for setting up construction sites and warehouses, for opening channels to change water courses, for the installation of the necessary engineering networks, as well as for other essential needs in the function of these projects and investments for a public interest.

Article 29

In *force majeure* events or a state of emergency or war, the taking for temporary use is done only when meeting them is not guaranteed or the time or circumstances, do not permit the use of the means that the state or competent organ, or respective juridical subject, who is charged by law has at its disposition or the means are insufficient.

Article 30

Taking property for temporary use is done for those objects, to that extent and for so long as the lawful cause continues and, in any case, against a set compensation.

Article 31

1. A request for taking objects of private property for temporary use is done, respectively, by the central or local state organs or interested juridical person and is directed to the chairman of the respective municipality or commune, who give their opinion and send it to the prefect for approval.
2. When the temporary taking is for the needs of central state organs or of projects being realized for the account of the state at the national level, the respective request shall be submitted to the minister charged with or competent for the realisation of the construction or service or for meeting the *force majeure* event, state of emergency or war.

Article 32

A request for temporary taking of property shall contain:

- a. a description of the property that will be taken for temporary use;
- b. the reason and time period of the temporary taking of the property;
- c. the compensation offered.

Article 33

A temporary taking of private property may not last after the removal of the lawful reason and, in any case, not more than two years from the date the objects were taken for temporary use.

Article 34

In cases of need and urgency, and when the circumstances will not wait, the taking of objects of private property and using them into use for the reasons contemplated in this law may be done immediately by the competent state organ, or by any state employee but, within 24 hours, the request shall be submitted to the competent organ and the respective procedures completed.

Article 35

1. The official document for a temporary taking of property shall contain the object taken for temporary use, a description of it, the lawful reason, the time period and the amount of the respective compensation.
2. The document for a temporary taking is an executable document.

Article 36

1. Taking of objects into delivery and the return of the objects is done in every case by separate official document in which are reflected the legal basis, the characteristics of the object and its actual condition, against the signature of the owner. In his absence, these actions are done in the presence of two witnesses.

2. In cases when the owner refuses to hand over his private property, the rules for execution of executable documents are applied and, in special cases, it is taken directly.

3. At the time of the return of the properties taken for temporary use, the owner has the right to request their return in the prior condition or with a counterpayment for the damages caused.

4. When the owner refuses to accept the return of the private property taken for temporary use, it is kept in safekeeping for the account of the owner, and the expenses are charged to him.

Article 37

1. Their owner has the right to bring a suit in court against an immediate taking for temporary use, according to article 34 of this law, against the respective decision of the competent organ and also about the amount of compensation and the manner and condition of return of the object, within 30 days from receiving notice.

2. For other disagreements that arise about temporary taking of private property, the owner has the right to turn to the court within 30 days from receiving knowledge.

Chapter V

Final and transitional Provisions

Article 38

For procedures of expropriation as to which, according to article 7 of Law No. 7848, dated July 25, 1994 "On expropriation for a public interest, as well as for the taking of real property for temporary use," publication of the application for the promulgation of the expropriation of immovable property for a public interest has been made by the Council of Ministers, the provisions of Law No. 7848, dated July 25, 1994 shall apply.

Article 39

Law no. 7848, dated July 25, 1994 "On expropriation for a public interest, as well as for the taking of real property for temporary use," and every other provision that conflicts with this law, is repealed.

Article 40

This law is effective March 1, 2000.

Proclaimed with decree no. 2516, dated 11.1.2000 of the President of the Republic of Albania, Rexhep MEjdani.