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LAW

No. 8561, dated 22.12.1999

**ON EXPROPRIATIONS AND TAKING IN TEMPORARY USE OF THE PRIVATE PROPERTY FOR
THE PUBLIC INTEREST**

(Amended with law no. 20/2016, dated 10.3.2016)

Pursuant to articles 41, 78, 83, paragraph 1 of the Constitution, with the proposal of the
Council of Ministers,

**THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA**

DECIDED:

**CHAPTER I
GENERAL PROVISIONS**

Article 1

Object of the Law

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

Article 2

1. The private natural and legal persons are entitled to have the properties in their ownership respected. The expropriation of the private properties is done only for the public interest, in

the conditions when the public interest prevails towards the private interests of their owners, in compliance with the conditions provided for by the law and the general principles of international law.

2. The right of expropriation and taking in temporary use of the private properties is exercised for a public interest which cannot be realized or protected in another way, only except for and in compliance with the procedures stipulated herein in this law, in the measure that is necessary for the realization of the expropriation purpose and in any case towards a fair compensation.

Article 3

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

Article 4

The expropriation and taking in temporary use of the private properties is done by complying with and compensating in the value, according to the law, the rights of the third parties on the private properties that are expropriated as well as the devaluation due to the expropriation of the other private properties, which are not the object of the expropriation.

CHAPTER II EXPROPRIATION

Article 5

Meaning of expropriation

1. When the realization or the protection of the public interests cannot be achieved without exercising the rights of the ownership on the immovable or movable private property, the Council of Ministers, based on the request of the applicant ne in whose favour the expropriation is carried out, upon the proposal of the competent minister according to this law, decides to expropriate these properties.

2. When the expropriation is carried out upon the request of a private legal subject, the competent minister, in the capacity of the legal representative of the state property, upon the preliminary request of this subject, is authorized with this law to transfer the properties expropriated by the state in the favour of the private subject, who has required the expropriation, on the condition that the realization of the construction or of the investment

for the public interest, for which the expropriation is carried out, be verified according to the law.

3. When the private applicant does not require the transfer of the ownership in his favour, the ownership remains in the favour of the state.

4. The expropriated objects shall remain in any case in the ownership of the state, because of the reasons provided for in letters "a", "b", "d", "dh" and "ë" of article 8 of this law.

Article 6

Rights and privileges of the owner of the private property that is expropriated

1. In the cases when the owner is dead or is announced missing and the testimony of inheritance has not been issued, the competent ministry is entitled to submit the request for the issuance of the declaration of the will at the competent court, if such request has not been submitted or if the interested parties refuse to submit it.

2. When, upon the completion of the procedures and of the time limits provided for with this law, the owner of the private properties, which are required to be expropriated, is not found, the competent ministry continues with the expropriation procedures and the measure of compensation, which belongs to the expropriated owner, is deposited in the bank on behalf of the latter.

3. When the owner of the private properties, which are required to be expropriated, is not known, according to article 172 of the Civil Code, the competent minister is authorized with this law to ask in the court the transfer of these properties to the ownership of the state. The judicial expenses and the ones of the representation shall be charged to and shall be prepaid by the applicant of the expropriation.

4. The expropriation is not permitted when the owner of the private property undertakes to realize the public interest and the purpose for which the expropriation is required by one private legal subject provided for in letters "c" and "ç" of article 8 of this law and by fulfilling the same legal conditions and guarantees to comply with the respective time limits.

5. When the owners of the private properties, through a written statement, provide their consent and accept the transfer of the ownership of these properties in the favour of the state, in compliance with the conditions provided by the competent ministry through the direct notification and the publication of the expropriation request for the public interest, the expropriation procedure for these properties is considered completed.

6. The expropriated owner or his heirs enjoy the right to pre-emption, in the case when their properties, which have been subject to expropriation, as well as the projects and the investments realized on them, are on sale or are alienated in any ways by the state of the private beneficiary subject of the expropriation.

Article 7
Objects of expropriation

The objects of expropriation are the immovable properties in the form of the land, of constructions of any type with a permanent character as well as the movable properties mentioned in letters “e” and “ë” of this law.

Article 8
Cause of expropriation
(Letter “f” added with Law no. 20/2016, dated 10.03.2016)

In the function of the public interest, the expropriation can be done for these causes:

- a) For the realization of the obligations of the state, which derive from the multilateral treaties and conventions;
- b) For the realization of the programs, of the projects and of the investments provided for in the international agreements extended in the territory of several countries, where our country is a party.
- c) For the realization of the projects and of the investments with a national or local territorial interest or expansion in the field of transports of any kind, of energy, telecommunication, water works of any kind in the service of the public interest.
- ç) For the realization of the national or local projects and investments for the preservation of the environment, health, culture and public education as well as infrastructure, in the service and for the interest of the public.
- d) For the realization of the programs and investments in the field of the national protection.
- dh) For the protection of the monuments and of the immovable objects of the archaeological, historical and scientific character, when these purposes, because of the nature of these objects, cannot be carried out by the private owner due to his objective incapability or his subjective attitude, causing the real danger of not realizing, damaging or impeding their functioning.
- e) For the protection of the movable objects with historical, archaeological, cultural or scientific value, in the cases when these objects are at risk of being damaged or disappearing.
- ë) For the cases when the movable and the immovable objects, due to objective causes or majeure force, create a permanent danger for the public security and health, at that level that despite the state assistance, these risks cannot be prevented by their owner.

f) For the realization of the strategic investments, according to the legislation into force.

Article 9

The subject in whose favour the expropriation is conducted

(Paragraph 2 was amended with Law no. 20/2016, dated 10.03.2016)

1. The expropriation can be done in favour of the state and of the public or private legal persons, who are either native citizens or foreigners, in order for them to realize a project, an investment or an object, which in any case, in compliance with this law, presents a public interest.
2. The private legal person may submit a request for expropriation for public interest, only related to the causes of expropriation provided for in letters "c", "ç" and "f" of article 8 of this law.

Article 10

Request and accompanying documents of the request for expropriation

1. The subject, in whose favour the expropriation is done, shall submit to the competent ministry, according to the law, the request for expropriation. This request shall be accompanied with the following documentation:
 - a) The acts that verify his capacity and registration as a legal person;
 - b) The projects that are necessary and approved according to the law, as well as the respective legal arguments for the public interest, regarding the realization of these projects;
 - c) The documentation related to the resource and guaranteeing the financial funds necessary for the realization of the project, including the ones of expropriation or depreciation.
 - ç) The preliminary evaluation of the expropriation objects and of the compensation measure which is foreseen for each private owner.
 - d) The permits and the respective approvals by the competent bodies according to the law, in compliance with the nature and the type of the project that is requested to be realized.
 - dh) The acts that verify the mode of the realization of the project by the expropriation applicant or with the third parties as well as the respective time limits.
 - e) The list of the owners of the private property, for which the expropriation is requested; the list of the owners, whose private assets are deprecated due to expropriation; as well as the list of the third parties that shall be compensated for their

rights on the private properties required to be expropriated, along with the necessary explanations and data for each of them, with the respective provisions for the evaluation of these properties and rights, as well as the most recent addresses and residence of the owners and of the respective third parties.

ë) The documents which verify the reason of expropriation, according to article 8 of this law.

2. In the cases when the expropriation applicant is a state body or state institution established by a special law, the documents provided for in letters “a” and “c” of this article shall not be submitted.

3. The comprehensive rules related to the content and the standards that shall be respected in the drafting and the submission of the documentation that accompanies the request for expropriation for the public interest, are set out through a normative act of the Council of Ministers.

Article 11

The ministry competent for expropriation

1. The requests for expropriation are submitted at the ministry which covers the respective activity, meanwhile the proposal in the Council of Ministers for the approval of the request for expropriation is done by the respective minister.

2. Upon the submission of the request expropriation for the public interest, the competent minister orders the establishment of the special commission for the supervision and the realization of the expropriation procedures.

3. The members of the commission shall be independent officials or experts, with special experience and qualification in the legal, economic and engineering field, who, in any case, shall not have any family or marriage relations with the expropriated people, or any interest relations whatsoever with the parties interested in expropriation.

4. The rules for the composition and the work procedures of the special commission for the expropriations are determined with a normative act of the Council of Ministers.

Article 12

Return without an action and the refusal of the request

1. The competent ministry carries out the necessary verifications for the applicant, in whose favour the expropriation is required, for the documentation submitted because of expropriation, and administers the ownership acts for the expropriation objects, by conducting, if necessary, verifications on the spot, as well.

In the cases when the documentation submitted by the applicant is not complete or correct, the competent ministry returns immediately without an action to the expropriation applicant the request of expropriation and its accompanying documentation according to this article, by determining a special time limit for the relevant completions.

2. When the request and the accompanying documentation are not submitted in a complete form, within the determined time limit or when they are not well-founded due to the cause and the conditions of expropriations according to this law, the request is refused by the ministry and is notified immediately to the expropriation applicant.

3. The expropriation applicant is entitled to appeal in the court within 30 days from the date when he receives the notification.

The judicial review is carried out in compliance with the legal provisions for the adjudication of administrative disputes of the Civil Procedure Code.

Article 13

Acceptance of the request

1. At the end of the necessary verifications as well as of the procedures provided for in article 12 of this law, when the request and the respective accompanying documentation are based on the conditions and the criteria of this law, the competent ministry decides on the acceptance of the request for expropriation by notifying immediately in writing the applicant, in whose favour the expropriation is requested to be carried out.

2. Within 10 days, from the date of the notification of the acceptance of the request for expropriation through the applicant, in whose favour the expropriation is requested to be carried out and the competent ministry, an agreement is signed on the mutual rights and obligations regarding the procedure of expropriation. In the case of the private applicant, this agreement is done with a notary act.

3. In the act-agreement, the parties undertake to complete the determined obligations, or the ones set out in this law in the respective time limits. The act-agreement is an executive title.

4. The act-agreement is invalid providing that at the moment when it is signed, the documents that accompany the request for expropriation are not enclosed with it according to this law.

Article 14

Notification of the request for expropriation

1. The competent ministry, within 10 days from the date of signing the agreement with the expropriation applicant, starts to fulfil the realization of the direct notification procedures for

each owner or co-owner of the private properties, required to be expropriated or deprecated, as well as for the third persons, regarding their compensation. Along with the notification procedures, the competent minister realizes even the ones of the publication of the request for expropriation for the public interest.

2. The comprehensive rules on the way of notification, its content and the respective procedures are stipulated with a normative act of the Council of Ministers.

Article 15

Publication of the request for expropriation for the public interest

1. Simultaneously with the notification of the request for the expropriation for the public interest, according to paragraph 1 of article 14 of this law, in order to create the opportunity for the protection of the rights and interests of the third persons towards or because of the private property which is required to be expropriated, the competent ministry makes the publication of the request for expropriation in the Official Journal, in a newspaper which is delivered throughout the country as well as in a local newspaper for a period of one week.

2. The third parties, no later than 15 days from the date of the expiration of the publication time limits, according to this article, are entitled to present their allegations accompanied with the respective documents in the competent ministry.

3. In the case when the allegations of the third parties on the property as well as the provided conditions of expropriations, are verified that they are based on the law, the competent ministry proceeds with the expropriation, in compliance with these rights, too.

Article 16

Judicial conflicts and the submission of allegations

1. The competent minister cannot claim in the Council of Ministers the decision on expropriation before the time limit of one month from the day of the completion of the procedures and time limits of the direct notification of the owner who is expropriated and the publication of the request for expropriation according to this law.

2. Suing or the judicial reviewing of a civil case, related to the private property which is required to be expropriated, does not constitute a legal ground for the court to claim or to decide on the interruption or the suspension of the expropriation procedures according to this law. The court or the competent ministry shall notify each other immediately on these cases. The competent ministry is compelled, upon the completion of the expropriation procedure, to decide on the compensation measure of the expropriated or deprecated private property, in a special bank account. The compensation measure shall be paid or shall

be made available for the person, who is entitled to it according to the final decision of the court, after the competent ministry is notified.

3. Within 15 days from the date of the notification of this law or of the time limit of the publication of the request for expropriation, the owner, the co-owners or the third parties shall notify the competent ministry explaining if they accept the voluntary transfer of the ownership with the conditions provided by it.

4. The competent ministry, within 15 days from the receipt of the answer by the notified person, but in any case not earlier than a month from the last date of the time limit of the publication of the request on expropriation for the public interest, in the cases when the notified people have accepted the conditions provided by it or have found the allegations submitted by them as fair, in the framework of expropriation and with the authority of the body which conducts the expropriation, carries out with the notified people, accordingly, the actions for the transfer of the private property in the favour of the state towards a compensation or a payment of the compensation measure on deprecation of the private properties or of the rights of the thirds parties due to expropriation. Upon the completion of the mutual obligations, the expropriation procedure of these private properties shall be considered completed.

5. With the consent of the competent minister, the above actions can also be carried out beyond the above time limits even if the proposal for expropriation is submitted at the Council of Ministers, as long as the latter has not taken a decision for the expropriation.

Article 17

Evaluation of the objects that are expropriated

1. Upon the completion of the procedures provided for by articles 14 and 15 of this law, the special commission, established by the competent minister, carries out the actions for the identification of the final evaluation as well as for the calculation of the compensation measure for the objects that are expropriated.

2. In the evaluation of the private properties that are expropriated, of the other properties that are depreciated or of the rights of the third parties who shall be compensated due to expropriation, according to their nature, their initial value, amortization, destination, the location of the object, the indexes of changes of the market prices and of the currencies shall be taken in consideration.

3. The other technical criteria of evaluation and of the calculation of the compensation measure of the private properties that are expropriated, of the properties that are depreciated and of the other rights of the third persons, according to this law, shall be set out by the Council of Ministers.

Article 18

Compensation on the value of property deprecation

1. Compensation shall be awarded on the value of the property deprecation in the cases when expropriation for the public interest is accompanied with the depreciation of the part of the property that has not been expropriated or of the property which is located nearby the one that is expropriated.
2. The expropriation cases, ways and the calculations of the compensation amount shall be set out upon the instruction of the Council of Ministers.

Article 19

Compensation calculation

The measure of the respective compensation, at the same measure with its full value, is calculated based on the value which results from the final evaluation of the objects that are expropriated.

Article 20

Proposal on compensation

Upon the completion of the preliminary procedures of expropriation, the competent minister shall present to the Council of Ministers the proposal on expropriation accompanied with the following documentation:

- a) The summarizing report on the expropriation purpose, cause and need, on the time limit of the commencement and completion of expropriation as well as on the time limit of the commencement and completion of the works or of the realization of the purpose of expropriation.
- b) The documents required in letters "a" up to letter "dh" of article 10 of this law.
- c) The final list of the owners of the expropriated or deprecated properties, of the rights of the third parties that are related with them and of the compensation measure proposed with the respective arguments.
- d) The documents that verify the expenditures of the expropriation procedure.

Article 21

Decision on expropriation

1. The Council of Ministers decides on expropriation in the cases when the proposal on expropriation is found based on the law and on the fact.

2. The decision on expropriation shall contain:
- a) The expropriation purpose and legal cause;
 - b) The private properties that are expropriated and the respective owners;
 - c) The compensation measure for the owners that are expropriated, for the owners of the properties that are depreciated, for the third parties who are compensated for their rights because of ownership as well as their time limit and payment mode;
 - ç) the time limit of expropriation commencement and completion, as well as the body or the subject that takes for use the expropriated private properties;
 - d) the time limit of the works commencement and completion for the project and the investment, or for the realisation of the purpose of expropriation;
 - dh) the value of the expenditure of the expropriation procedure charged to the expropriation applicant.
3. When there are several objects and co-owners, the data required according to letters “b” and “c” of this article, shall be presented separately as an inseparable part of the decision.
4. In the cases when expropriation has been required by a private subject, the expropriated properties are transferred to the ownership of the state. The transfer of these properties in the favour of the private subject, who has required the expropriation, shall be done only when the latter has realized, according to the law, the expropriation purpose and cause for the public interest.
5. With the capacity of an implementing sublegal act, the decision of the Council of Ministers on expropriation enters into force immediately. Also, this decision shall be published in the Official Journal.

Article 22

Refusal of the request for expropriation

When the request for expropriation, which is accepted by the competent ministry, is rejected by the Council of Ministers, the competent ministry returns to the expropriation applicant all the funds deposited for the expropriation procedure.

Article 23

Payment of compensation due to expropriation

The compensation measure is given or is provided to the expropriated person, to the owner or to the damaged third person respectively, within the time limit set out in letter “c” of article 21 of this law, and in any case, not latter then 3 months from the completion of this time limit or from the date when the decision of the court became final, according to paragraph 2 of article 16 and article 24 of this law.

Article 24
Appeal on the decision

1. The decision of the Council of Ministers on the expropriation is notified by the competent ministry directly to the expropriated owners, to the owners of the properties which are depreciated by expropriation and to the third parties, whose rights are compensated because of expropriation, who have the right to appeal in the court only regarding the measure of compensation determined in this decision, within 30 days from the moment they are notified.
 2. The appeal against the decision of the Council of Ministers for expropriation does not dismiss the implementation of this decision and the respective procedure of the registration of the expropriated property.
 3. Regarding the measure on the compensation measure of expropriation, unless the appeal is made at the court within the thirty-day time limit, according to this law, the decision of the
 4. Council of Ministers on expropriation shall constitute an executive title.
- The judicial review is carried out in compliance with the legal provisions related to the adjudication of the administrative disputes of the Civil Procedure Code.

Article 25
New registration of the expropriated properties

In the cases when the expropriated properties shall be registered according to the law, this registration shall be carried out by the competent minister within 30 days from the date of the decision making of the Council of Ministers on the expropriation.

Article 26
Invalidity of expropriation

1. In the cases when the subject, in whose favour the expropriation is carried out, within 3 months from the date of the expiration of the respective time limits provided for in the decision of the Council of Ministers does not start or finish the works on the projects and the investments or on the realization of the purpose for expropriation, this expropriation is considered invalid. Within the above three-month time limit, ex officio or upon the reasoned request of the subject in whose favour the expropriation is carried out, the Council of Ministers may decide to postpone the time limit for the commencement and completion of the works or the realization of the purpose of expropriation.
2. In the cases when the subject in whose favour the expropriation is carried out, uses the expropriated private properties or carries out actions in contradiction to the cause and the

purpose of expropriation, as well as when the destination of these properties or projects and of the investments on them change before the expiration of the period of the preservation of the destination set out in the decision of expropriation and if the Council of Ministers, within a three-month time limit, does not decide that the realisation of the purpose and of the cause of the expropriation for the public interest shall be undertaken by the state, this expropriation shall be considered invalid.

3. Expropriation shall be considered invalid providing that within the time limits provided for in article 23 of this law, the payment or the provision of the compensation measure is not carried out, according to this law, for the interest of the expropriated owners and of the third parties damaged due to expropriation.

4. In the cases of the invalidity of expropriation, provided for in paragraphs 1, 2 and 3 of this article, upon the request of the respective owners, the expropriated properties shall be returned to those ones with full rights in the moment of expropriation, and on the other hand, the expropriated owners shall be compelled to return, preliminarily, the compensation measure that was paid to them due to the compensation in the value or by compensating this value in kind.

5. Apart from the provision in paragraph 4 of this article, the expropriated owners as well as the owners and the third parties damaged due to expropriation are entitled to require to the subject in whose favour the compensation is made, the compensation of the damages caused due to expropriation.

CHAPTER IV TAKING THE PROPERTY IN TEMPORARY USE

Article 27

Taking the property of the private legal and natural persons in temporary use shall be done for the needs of the works and of the services in the function of the public interest, in compliance with the conditions and the cases set out expressly in this law as well as to cover the needs and the emergencies due to the episodes of force majeure or of the situation of emergency or of the war.

Article 28

Taking the private property in temporary use may be done even for the need to realize the projects or the investments for the public interest, for which an expropriation decision has been taken, to ensure the necessary temporary ways of transportation for the establishment of the sites and of the storehouses, for the opening of the channels for the deviation of water,

for the instalments of the necessary engineering networks as well as for other necessary needs in the function of these projects and of the investments for the public interest.

Article 29

In the case of force majeure, of the situation of emergency or of the war, taking the property in temporary use is done only when their management cannot be guaranteed; or the time and the circumstances do not permit the use; or the means of the state or of the competent body or of the respective legal subject, who are responsible according to the law, are insufficient.

Article 30

Taking the property in temporary use is done for those objects and in that measure and for as long as the legal cause continues and, in any case, towards a certain, compensation.

Article 31

The request for taking the private objects in temporary use is done by the central or local state bodies respectively or by the interested legal person and is addressed to the mayor or chairman of the respective commune, who gives his opinion and sends it for approval to the prefect.

When taking in temporary use of the property is done by the need of the central state bodies or of the projects that are realized for the state at the national level, the respective request shall be presented to the minister in charge of it or to the minister competent for the realization of the construction, service or the management of the episode of force majeure, of the situation of emergency or of the war.

Article 32

The request for taking in temporary use of the property shall contain:

- a) The description of the property that is to be taken in temporary use;
- b) The cause and the time limit for taking in temporary use of the property;
- c) The provided compensation.

Article 33

Taking in temporary use of the private property cannot continue after the dismissal of the legal cause and in any case not longer than 2 years from the date of taking in temporary use of the objects.

Article 34

In case of a need and emergency and when the circumstances cannot wait, taking in temporary use of the private objects and their use for the grounds provided for in this law may be done immediately by the competent state body as well as by any state official but the request shall be submitted and the respective procedures shall be completed at the competent body within 24 hours.

Article 35

1. The act for taking in temporary use of the property that should contain the object that is taken in temporary use, its description, the legal cause, the time limit and the measure of the respective compensation.
2. The act for taking in temporary use of the property is the executive title.

Article 36

1. Accepting the objects and the return of the object is done in any case with a special act, where the legal basis is reflected, the characteristics of the object and its factual condition, with the signature of the owner. In his absence, these actions are carried out in the presence of two witnesses.
2. In the cases when the owner refuses to submit his private property, the rules for the execution of the titles are implemented and, in special cases, it is taken directly.
3. The owner, at the moment of the return of the properties taken for temporary use, is entitled to require their return in the previous condition or the countervalue for the damages that have been caused.
4. When the owner refuses the acceptance of the return, the private property taken in temporary use, is kept in preservation in the interest of the owner and the expenses remain in his responsibility.

Article 37

1. Against the decision of the competent body for taking in immediate temporary use of the property, according to article 34 of this law, as well as the compensation measure and the way and the condition of returning the object, his owner is entitled to sue in the court within 30 days from the day of being informed.
2. Regarding the other disputes which arise from taking in temporary use of the private properties, the owner is entitled to be addressed to the court within 30 days from the day of being informed.

CHAPTER V

TRANSITORY AND LAST PROVISIONS

Article 38

With regard to the procedures, for which, according to article 7 of Law no. 7848, dated 25.7.1994 "On the expropriations for public interest and taking in temporary use of the immovable property" the request for the announcement of the expropriation of the immovable property for public interest by the Council of Ministers is published, the provisions of law no. 7848, dated 25.7.1994 shall be implemented.

Article 39

Law no. 7848, dated 25.7.1994 "On expropriations for public interest and taking in temporary use of the immovable property", as well as any other provision which is on contradiction with this law, are repealed.

Article 40

This law enters into force on March 1, 2000.

Announced with the decree no. 2516, dated 11.1.2000 of the President of the Republic of Albania, Rexhep Meidani.