



Estimation of the Compensation Amount in the Process of Expropriation of Real Estate in the Republic of Moldova

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How to cite this paper: Albu, S. and Leșan, A. (2021) Estimation of the Compensation Amount in the Process of Expropriation of Real Estate in the Republic of Moldova. *Open Access Library Journal*, 8: e7309. <https://doi.org/10.4236/oalib.1107309>

Received: March 14, 2021

Accepted: April 13, 2021

Published: April 16, 2021

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Abstract

Expropriation is the transfer of assets and ownership rights from private to public property, after a fair and previously determined compensation. The Constitution of the Republic of Moldova, the Civil Code and the Land Code stipulates a “fair and previously determined compensation” in case of ownership transfer. The existing legislative acts in the Republic of Moldova explain the expropriation procedure, but do not cover the estimation process of the compensations and damages caused by the expropriation. In the present study, the authors examine the existing legislative and methodological framework used in the process of estimation process of the compensations amount. The notions of “normative price” and “market price” as “fair compensation” are examined. The challenges and legislative gaps that exist at each stage of the compensation assessment process in case of expropriation of real estate are analyzed. It has been found that the national practice of estimating the damage in case of expropriation for public utility does not ensure the compliance with the principles of equivalence and fails to achieve equitable treatment of the interests of both the private owners and the public administration bodies. It has been observed that the state is damaged by the lack of certainty regarding the valuation date for the assessment of compensation, the owners by not considering some categories of losses, and both parties by the lack of methodological provisions on assessing compensation for expropriation. Based on the research carried out, the authors propose their own methodology for assessing the compensation amount in case of expropriation for public utility in the conditions of the Republic of Moldova.

Subject Areas

Economics of Law

Keywords

Methodology, Real Estate Valuation, Patrimonial Damage, Moldova

1. Introduction

The expropriation represents the transfer of assets and property rights from private to public ownership; the transfer to the State of public property belonging to an administrative-territorial unit; or, where appropriate, the transfer to the State or to an administrative-territorial unit of property rights for the purpose of carrying out public utility works of national or local level, under the conditions provided by the law, after a fair and prior compensation ([1], art.1).

The Constitution of the Republic of Moldova [2], the Civil Code [3], and the Land Code [4] stipulates a “fair and previously determined compensation” in case of property transfer. Some gaps were found in the legislative framework after carrying out an analysis. The existing legislative acts explain the expropriation procedure, but do not cover the estimation process of the compensations and damages caused by the expropriation [5]. Various methods have been applied during the research of this aspect, such as elements of the systemic approach, the method of analysis and synthesis, deduction and analogy, comparative analysis, and modelling.

In this article, the authors analyse the current methodological framework (Section 2), emphasize the challenges and legislative gaps (Section 3) and propose their own Methodology for estimating the amount of compensation in the event of expropriation for public utility in the conditions of the Republic of Moldova (Section 4).

2. Current Methodological Framework

Currently, the estimation of compensations in the Republic of Moldova is subject to the provisions of Law No. 1308 of 25.07.1997 on normative price and procedure of sale and purchase of land, Article 17: *Compensation of the losses caused by the forced alienation of lands*, which stipulates that: “Compensation of the losses caused by the forced alienation of land shall be done at market price, but not less than the *normative price* calculated according to the tariffs indicated under heading II of the annex” [6].

The normative price of the land is calculated according to the Equation (1):

$$NP = T \times SF \times S \quad (1)$$

where: T —tariff (coefficient), SF —soil fertility, S —land area.

The tariff for calculating the normative price of land for the forced alienation of agricultural land, plots of land next to the houses, and fruit plots constitutes 1242.08 Moldovan lei for one degree/hectare.

The normative price of agricultural land is calculated depending on the aver-