

RA Law on Expropriation of Property for Public and State Purposes

Adopted on November 27, 2006

Article 1. Subject of the law

The current law envisages the base, regulation on expropriation of the property for public and state purposes, regulation of the compensation given for the alienated property, the definition of the exceptional priority public interest and the regulation of its affirmation.

Article 2. The scope of the law

This law applies to all objects (immovable and movable property, property rights, securities etc.) (hereinafter referred to as the Expropriated Property) that belong to the physical persons and legal entities as well as communities (hereinafter referred to as the Proprietors) by ownership right, which are situated in RA or are officially registered or recorded in RA in accordance with the law. This law is not applicable to the relationship on expropriation of property in case of emergencies and military situations.

Article 3. Constitutional bases and conditions for the expropriation of property for public and state purposes

1. The constitutional base for the expropriation of property for public and state purposes is the exceptional priority public interest.
2. Constitutional conditions for the expropriation of property for public and state purposes are:
 - a) Expropriation shall be provided within law regulation.
 - b) The equivalent compensation against expropriated property shall be provided in advance (hereinafter referred to as Compensation).

Article 4. Determination of exceptional priority public interest

1. The principles of the differentiation of exceptional priority public interest for the expropriation of property for public and state purposes are:
 - a) public interest must be superior over the interests of the owner of the expropriated property.
 - b) The productive realization of the exceptional priority public interest cannot be provided without the expropriation of the property,
 - c) taking into consideration the exceptional priority public interest, expropriation of property shall not beget unjustified damages for the owner
 - d) public interest is acknowledged exceptional by the government decision.
 - e) the fact of the presence of exceptional priority public interest may be disputed in court.
2. Exceptional priority public interest may pursue at:
 - a) maintenance of state protection, public and state security.
 - b) realization of the duties presupposed by international treaties of RA.
 - c) maintenance of historical and cultural values or monuments of international and republican importance, as well as creation and maintenance of special nature protection areas.
 - d) maintenance of protection of the environment.
 - e) maintenance of development of education, healthcare, sport as well as science and culture.
 - f) maintenance of projects of community or intercommunity significance in the field of the development of communication substructure, transport, energy, land use, land study, city construction, energy supply, water supply.

- g) protection of the property, health and private life of people.
- h) prevention of emergencies, decrease of possible effects in case of emergencies, abolition of emergency effects.

The aim of the additional income into the budget of state or local self-government bodies itself is not considered as an exceptional priority public interest.

3. Public and state purposes cannot be considered as an exceptional priority public interest, if the realization of acquisition aim is not applied within seven years, after the government decision on acknowledgement of exceptional priority public interest enter into force.

Article 5. Property expropriated for public and state purposes

1. In case a land is expropriated, the procedure involves whatever there is on the land, namely the real estate (blocks of flats, buildings, and other confirmed estates, etc.) as well as other improvements upon the land. If a block of flats or a building is alienated, then other lands needed for serving the building are also subject to expropriation.

2. If a part of the property is alienated, the owner shall be entitled to demand that the non-alienated part be alienated as well in cases below:

- 1) the non-alienated part of the property loses either the economic or functional significance it used to have to the owner before the expropriation of the alienated part, regardless of the proportion of the alienated and non-alienated parts of the property;
- 2) the non-alienated part of the property is insignificant in comparison with the alienated one.

The owner may present such a demand within two months after the government decree on approving the exceptional prioritized public interest becomes effective.

3. Paragraph 3 of Article 5 shall be declared void.

Article 5.1 Consideration Procedure for the Claim on Alienating the Non-Alienated Part of Property

- 1. If the owner demands that the non-alienated part of the property be alienated as well, in compliance with Article 5 of this Law, the Acquirer shall be under obligation to provide his/her position to the owner within 15 days upon such claim.
- 2. In the event the Acquirer refuses to obtain the non-alienated part of the property, the owner shall be entitled to bring his/her claim on alienation of the non-alienated part of property before a court of law within a month upon receiving the denial of the Acquirer or the expiry of the term fixed in Para. 1 of this Article.

The court shall examine and rule on the claim filed under the procedure under Para 2 of this Article within 2 months on its receipt.

Article 6. Acquirer of the Property expropriated for public and state purposes

1. Property may be expropriated for public and state purposes in favor of the state, community or the organization (hereinafter referred to as the Acquirer).

2. In case the state is the acquirer then the state governing bodies, RA citizens, non-governmental organizations and communities can submit to the government an application for the property acquisition in sake of the state or preliminary study of property subject to acquisition.

3. In case the state is not the acquirer, an application to the government for the property acquisition or the preliminary study of the property subject to acquisition can be submitted by the acquirer through the state governing body of the appropriate field.

4. The application on property expropriation for public and state purposes shall include the data required by the 2nd part of the 7th article of the current law, as well as,

a) the assertion of the exceptional priority public interest of property expropriation.

b) Information about necessary financial resources and guaranties for the realization of the process presupposed for exceptional priority public interest after property expropriation, as well as for the maintenance of property expropriation procedure, its compensation and for other expenses occurring as a result of property expropriation.

c) Other necessary material and documents left to the choice of the acquirer.

5. The expenses that occur in the process of property expropriation for society and state needs are covered by means of the acquirer.

Article 7. Government decision on exceptional priority public interest acknowledgement.

1. Property is expropriated for public and state purposes only when the government acknowledges expropriation aim an exceptional priority public interest.

2. The following points are included in the government decision on exceptional priority public interest:

a) the very exceptional priority public interest for which property must be alienated.

b) Acquirer of expropriating property.

c) Property rights' objects subject to expropriation (addresses or location or other data that distinguish the given property from any other one).

d) Final date of starting the process of property expropriation. The final date of starting property expropriation process cannot last more than a year and more than five years in case of property rights to real estate from the day the government decision on exceptional priority public interest enters into force

e) the coordinator of the realization of the functions of the given expropriation, if the acquirer is the state, then the state body which is responsible for the realization of the functions of property expropriation (hereinafter referred to as the authorized body).

f) other necessary data.

RA Government has a right to delegate the operations of the authorized body related to the alienated property situated in the area of Yerevan community to the Mayor of Yerevan, as a delegated authority, according to e) part of the current law.

3. If the acquirer is not the state, the contract signed between the acquirer and the competent state body of the relevant field shall be attached to the government decree on exceptional priority public interest acknowledgement. The contract includes the rights of the state and the acquirer in the process of property expropriation, their duties and responsibilities. If the acquirer is not Yerevan community and if the property subject to alienation is situated in the administrative area of Yerevan city, then RA Government has a right to delegate the authority of concluding a contract, which is envisaged by this part, as an ordered authority, to the major of Yerevan. The contract will be valid from the moment when the government decision on exceptional priority public interest enters into force.

If the acquirer is Yerevan community and if the property subject to expropriation is situated in the administrative area of Yerevan city, then the contract envisaged by this part is not signed with the community and the rights, obligations and responsibilities of the acquirer (Yerevan community) are defined within government decision on exceptional priority public interest acknowledgment.

4. If the land or other real estate, or other property subject to compulsory or voluntary registration is acknowledged exceptional priority public interest, then the confinements envisaged by the 15th article of this law are subject to registration within 15 days after the government decision enters into force.

5. Within 7 days after government decision on exceptional priority public interest enters into force the decision is sent to owner and to other people with property rights having state registration to expropriating property.

6. After government decision on exceptional priority public interest acknowledgement enters into force the state body makes a record on description of expropriating property within the terms and procedures assigned by the government. The acquirer, owner and persons with property rights over the property have a right to participate in the process of description recording. The owner of the property subject to expropriation and the one who factually owns the property shall enable the authorities to make a record about expropriating property description.

If the works of making the record of property description are hindered by the owner of the property subject to expropriation or by the one who factually owns the property, then the authorities make the record coming out of the possibility which serves a basis to assess the improvements. A sample of the record is sent to the owner and to other people having estate rights to property not later than during 3 days after it has been made. These following people have a right to dispute it to the authorities or in court during 10 days after getting the record.

7. Government decision on exceptional priority public interest acknowledgment is subject to indispensable announcement in Official Bulletin of RA and in a mass medium with a circulation of at least 3000.

(the article 7 is completed on 19.05.09 –ՀՕ-121-Ն)

Article 8. Preliminary study of the property subject to expropriation for public and state purposes

1. Prior to government decision about exceptional priority public interest the acquirer has a right to submit a suggestion to the government over preliminary study of the property subject to acquisition (hereinafter referred to as the property study);

2. The application for property study must include the details provided by the forth part of the following article and also:

a) information about assurances and financial resources necessary for expropriating property compensation, for ensuring property alienation procedure, for other expenses related to expropriation, and also for carrying out activities predicted for exceptional priority public interest.

b) the purpose of property study, the activities required for property study.

c) other related documents upon acquirer request.

The acquirer covers all the expenses related to the property study.

3. If the acquirer is not the state then the contract signed between the acquirer and the state body of the appropriate field is attached to the government decision on exceptional priority public profit acknowledgment. The contract includes the rights of the state and the acquirer in the process of property expropriation, their duties and responsibilities. If the acquirer is not Yerevan community and if the property

subject to expropriation is situated in the administrative area of Yerevan city, then RA Government has a right to delegate the authority of concluding a contract, which is envisaged by this part, as an ordered authority, to the mayor of Yerevan. The contract will be valid from the moment the government decision on preliminary property study enters into force.

If the acquirer is Yerevan community and if the property subject to expropriation is situated in the administrative area of Yerevan city, then the contract envisaged by this part is not signed with the community and the rights, obligations and responsibilities of the acquirer Yerevan community are defined within the government decision on exceptional priority public interest acknowledgment.

4. Government decision on preliminary study of property subject to expropriation must include the data provided in the second part of the 7th article of the current law and also:

- a) the addresses or the place of the estate properties subject to study,
- b) the time limits for the study which cannot be longer than two months started from the moment the government decision on preliminary property study enters into force,
- c) the activities supposed to be implemented in the process of study,
- d) and other necessary data.

Government decision can envisage partial advance compensation by the acquirer for damages caused to the owner because of study.

5. From the moment government decision on preliminary property study is in force the confinements envisaged by the 15th article of the current law can apply to the properties subject to study in accordance with government decision.

The study is executed by the acquirer. The representative of the authorized body has a right to participate in the study process. Specialists and experts can also be included by the acquirer in the study process.

6. In accordance with the seventh part of the following article of the current law, during the study process the property investigators have a right to enter the area of the property subject to study to investigate them, take samples, measure, take photos, carry out earth interior research work, make the record of property description subject to acquisition while maintaining the requirements prescribed in the seventh part of the following article.

The study of movable property can be carried out in a place defined by the government.

7. During the study the investigators are obliged to:

- a) not to hinder or to minimize the risks of preventing the owner to use and manage the property during the study,
- b) to carry out the study in conditions and time agreed with the owner,
- c) to keep in a secret the information found out by them during the study which is considered a juridical secret,
- d) before starting the study process to inform the owner of the property subject to be found out by them during the study about the purpose and importance of their operations and about the juridical consequences of those operations.

8. During the study the property owner and those having property rights towards property are obliged to:

- a) present all the documents related to the property they possess to the investigators,
- b) provide information about physical persons and legal entities having rights to the property subject to study,
- c) ensure the entrance of investigators to the area of property subject to study.

9. The acquirer is obliged to compensate the owner for the damages caused during study process.

10. In case government decision about exceptional priority public interest acknowledgment does not enter into force within three months after completion of study period, then the acquirer is obliged to compensate for the damages caused to the owner as result of confinements envisaged in the 15th article of the current law towards the property subject to study.

11. The state takes subsidiary liability for the damages caused to the owner by the acquirer as a consequence of study operations and also for damages caused to the owner by the acquirer as a consequence of restrictions towards the property subject to study.

(the article 8 is completed on 19.05.09 –ZO-121-Ů)

Article 9. Appeal of the government decision on exceptional priority public interest acknowledgment and government decision on preliminary study of the property subject to acquisition

1. The government decision on exceptional priority public interest acknowledgment can be appealed in the court by the owner of the property subject to expropriation or other interested persons within a month from the moment government decision on exceptional priority public interest acknowledgment entered into force.

2. The government decision on preliminary study of the property subject to expropriation can be appealed in the court by the owner of the property subject to expropriation or other interested persons within two months from the moment government decision on preliminary study of the property subject to expropriation entered into force.

Article 10. Property expropriation according to the contract

1. The acquirer is obliged to send the property alienation draft contract (hereinafter referred to as the alienation contract) in a proper way to the property owner and to those having property rights to property before the final date of starting property expropriation process envisaged by the government decision on acknowledgement exceptional priority public interest.

2. During a fortnight after receiving expropriation draft contract, the owner of the property is obliged to properly inform the acquirer about all those who have property rights towards property and who have not been registered in the state body or have not been subject to state registration. In case the owner has not informed the acquirer within the above-mentioned time limits about the non-registered people having estate rights, then if there occur damages as a result of property expropriation without the participation of those having property rights, it is the owner who bears the responsibility.

3. The owner and those who have property rights to alienated property have a right to submit written objections or suggestions over alienation draft contract. The acquirer has a right to hold negotiations with the owner and those having property rights to alienated property with the aim of signing the contract.

4. The property may be expropriated according to the contract signed between the acquirer and the owner of the property subject to alienation. In this case the amount, the order, the shape, the dates, the conditions of the equivalent compensation and the responsibility of the parties are confirmed by the agreement of the parties. If there are people having property rights towards expropriating property, then such parties are included in the contract as well.

Article 11. Compensation for expropriating property for public and state purposes

1. Equivalent compensation for the property is paid to the owner. Equivalent amount is considered to be one of fifteen percent plus to market price of expropriated property.

2. Market price of expropriating property in open and competitive market is generated through legal activities and fair trade conditions that are ensured by deliberate acts of seller and buyer and it is the most probable sale price. If there does not exist an open and a competitive market for the alienated property, then the market-price of the property is confirmed by an accumulation method which will be considered fair by the court.

3. The assessment of market-price of the real estate of the property right over the property is realized by RA Law on The real estate assessment function.

4. Market price shall not include any increase or decrease, which is connected with the following reasons:

- a) the aim the property is expropriated for.
- b) by circumstance on property expropriation for public and state purposes
- c) Any preliminary action of the acquirer connected with property expropriation (preliminary study including).
- d) existing property rights to property.

5. The acquirer compensates to the expropriated property owner all the financial responsibilities (taxes, mandatory fees etc.) related to property expropriation.

6. Compensation is paid from the amount given for the expropriated property.

Article 12. Property expropriation by depositing an amount subject to compensation

1. If during three months after sending expropriation draft contract to the owner and to those having property rights, a contract is not signed, then the acquirer is obliged to send the money subject to compensation to the account of the court (hereinafter referred to as deposit) and he ought to inform about it the owner and those having property rights. The compensation amount shall have been estimated not later than a week ago after depositing it.

2. While depositing the amount the acquirer is obliged to mention all the owners and those who have property rights to property. If the following point is missed the compensation is carried out by the acquirer.

3. In case the acquirer sends to the owner and the ones having property rights an information about the money being deposited before the court announces the verdict and the above-mentioned people get the deposited amount, then the contract is considered signed according to the conditions envisaged by the 6th part of the 13th article of the current law. Moreover, the judge or the notaries give a document about getting the deposited amount and that document is a basis for property expropriation.

4. In case more than one person are entitled to the deposited amount, the amount is released from the deposit only in accordance with the notarized contract signed between those people. The contract must include the sum of money paid to each person.

Article 13. Property alienation for public and state purposes by juridical order

1. If within seven days upon depositing the compensation amount by the Acquirer, an acquisition contract is not signed or the property is not expropriated in accordance with the conditions provided by Article 12 of this law, the acquirer is obliged to apply to court with property expropriation claim within one month. In this case, only the amount of compensation may make subject to consideration in court.

2. If after defining the compensation amount the court finds out that:

- a) the compensation amount deposited by the acquirer is equal or more than the compensation amount for property acquisition as of the day of the deposition, the property shall be expropriated by a court order by

compensation at the deposited amount, and the remaining excessive deposited amount shall not be returned to the Acquirer;

b) the amount deposited by the acquirer is less than the compensation amount for property acquisition as of the day of the deposition,, the compensation amount shall be estimated by the court as of that particular day. The additional amount to be paid to deposit account must be mentioned in the court verdict.

c) Subparagraph (c) of Para 2 of Article 13 shall be declared void.

3. The verdict announced by the court on the compensation for expropriated property serves as a basis in accordance with the conditions provided by the 6th part of the current law to compensate the alienated property with the amount of money defined by the court.

In case the deposited amount has to be given to more than one owner or more than one person who have property rights to the property, then the verdict must include the names of each person.

4. The owner's property rights to the property cease and the acquirer's property rights to the expropriated property enter into force as soon as court ruling becomes effective and the additional compensated amount (if any) defined by the court is transferred to the deposit account. The rights to the property subject to state registration shall arise only upon their registration by the state. The documents below shall serve as a basis for the state registration of property rights: the effective court ruling on the compensation amount for the alienated property and the court reference on transferring the additional compensation amount, if any, fixed by the court to the court deposit account.

5. In case more than one person have a right to get the deposited amount or more than one person have property rights to the property, the amount is released from the deposit only in accordance with the notarized contract signed between those persons.

The disputes among those who have property rights shall be settled in a court of law.

6. The property is considered expropriated under following conditions:

a) the acquirer is obliged to send the additional compensation money if defined by the court to the deposit account within seven days after court decision enters into force.

b) the owner is obliged to hand over the expropriated property to the acquirer, within five days, after entering into force of the court verdict and after sending the additional compensation (if such compensation is envisaged by the court) to the deposit account by the acquirer; and within time-limits provided by Article 14(2) of the current law if it is immovable property.

7. In case the previous owner does not hand over the expropriated property to the acquirer within the time limits provided in the point b) of the part six of this Article, the banishment of the previous owner from the area of real estate or taking the expropriated property from the previous owner and handing over to the acquirer is executed under the procedure provided by the law.

8. The court must examine and rule on fixing the compensation amount for the property alienated under this Article within 2 months upon receiving the claim.

Article 14. The rights and guarantees of the owner of the property expropriated for public and state purposes

1. The owner of the alienated property has a right to use and manage, also to make such improvements which ensure the purposeful usage of that particular property prior to its expropriation or registration of the rights coming up as a result of expropriation.

2. Owner of the real property expropriated within juridical procedure and also those having property rights to that property have a right of free usage of the expropriated property within two months started from the property expropriation day.

3. The owner of the property expropriated for public and state purposes shall be exempted from the responsibility to fulfill properly all duties and obligations confirmed by estate contract if their failure is related to the expropriation of the property.

All property rights to the property expropriated for public and state purposes shall cease to exist as soon as it is expropriated and if the expropriation contract does not consider other rights.

Article 15. The restrictions on the property expropriated for public and state purposes

Improvements, other than those prescribed under Article 14(1) of this Law, on the property alienated following the day of the expropriated property descriptive record under the procedure established by the Government as well as the rights granted to or received by third party shall not be subject to compensation.

Article 16. Invalidity of the decree on exceptional priority public interest acknowledgement

1. In case the acquirer does not send the property expropriation draft contract to the property owner and to those having property rights to property in accordance with the time-limits prescribed in Part 1 of Article 10 of the current law, or does not send the compensation amount to the deposit account within time-limits prescribed in Part 1 of Article 12 of the current law, or does not apply to court with property acquisition request within time-limits prescribed in Part 1 of Article 13 of the current law, or does not send the additional compensation amount defined by the court to the deposit account within time-limits prescribed in the Part 6 of Article 13 of the current law, it is considered that the acquirer refuses to obtain the property, and consequently all the juridical documents for the property to acknowledge it exceptional priority public interest become invalid.

2. The acquirer is obliged to compensate to the owner of the expropriated property and those having property rights to property for the damages coming up as a result of violation of the requirements provided in Part 1 of the following article.

The state takes subsidiary liability for the damages caused by the acquirer as result of violation of the requirements provided in Part 1 of the following article.

3. In case the expropriated property is not used by the acquirer or it is impossible to use for exceptional priority public interest, or if the government does not have decision to acknowledge another exceptional priority public interest for that particular property, then as per owner request, the expropriated property is alienated back to the previous owner with the price counted as prescribed in Parts 3 and 4 parts of Article 11 of the current law.

4. If the required property is expropriated and the acquirer within two years does not start the activities serving as a basis for acquisition, or commits violations which may serve as reason for contract termination between the state and the acquirer or for acknowledging the contract invalid, or acknowledging invalidity of the expropriated property by court, the government decree about exceptional priority public interest can be declared invalid in accordance with government decree or by judicial procedure in accordance with the claim submitted to the court by an interested person. Then the expropriated property is subject to acquisition by other people. In case the decision about exceptional priority public interest is declared invalid by government decree, the tender is carried out by order defined by the government, and if the decision about exceptional priority public profit is declared invalid by court, the tender is carried out by a court order.

Article 17. Proper implementation of documentation and notifications stipulated by current law

1. Delivery of notifications or documentation provided by current law (documentation, applications, proposals and others) to addressees is considered to be proper in case: it has been sent to them by ordered letter, with the note on delivery, or by other means providing assurance of communication, or by return receipt signed by addressee.

2. Notifications or documentation provided by this law shall be sent to the following addressees:

a) to state owners of real estate or to holders of property rights to real estate, shall be sent to address of real estate location.

b) to owner of movable property or to holders of property rights to movable property:

- to address of registration of physical person, and, in case there is no registration of physical person, to address of their residence for last three months,

- to address of the location of the organization as specified with the agency keeping the state registration or record of the organization

3. If a party to the property alienation process provided other party(ies) with an address for communications not stipulated by current law, the party shall be obliged to send communication to the address received for communications.

Article 18. Transitional provisions

1. Holders of property rights to apartments or residential houses that are subject to expropriation for public and state purposes until January 1, 2007, are considered to be also the holders, which obtain court decision on receiving property rights to apartments or residential houses before January 1, 2007, as well as the individuals, which are registered in enumeration list as inhabitants in given apartments or residential houses since January 1, 1999.

2. In case there was a governmental decision on awarding of given land plot or on land allocation for state purposes before entry into force of current law and expropriated proprietor accepted price terms within the procedure established by the governmental decision, or signed the agreement on alienation of given property, then compensation for alienated property will be issued within the procedure established by the governmental decision or as per agreement on alienation of given property.

The Republic of Armenia
President

R. Kocharyan

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Yerevan

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