

**NEWSLETTER**  
**January 2011**

**EXPROPRIEREA PENTRU CAUZA DE UTILITATE PUBLICA**

In considerarea necesitatii de a adopta o serie de masuri necesare accelerarii realizarii unor investitii prioritare cu finantare externa si finantare de la bugetul de stat, in Monitorul Oficial, Partea I nr. 853 din 20/01/2010 a fost publicata Legea nr. 255 din 14/12/2010 privind exproprierea pentru cauza de utilitate publica, necesara realizarii unor obiective de interes national, judetean si local (denumita in continuare Legea 255/2010). De asemenea, a fost publicata si Norma Metodologica de aplicare a Legii 255/2010.

Noul cadru legislativ adoptat in materie de expropriere pentru anumite categorii de lucrari care vizeaza in principal infrastructura – una din problemele majore cu care se confrunta Romania, creaza un sistem legal unitar aplicabil procedurilor de expropriere si prin abrogarea urmatoarelor acte normative:

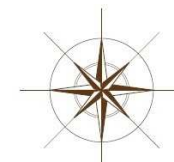
- Legea nr. 198/2004 privind unele masuri prealabile lucrarilor de constructie de drumuri de interes national, judetean si local;
- Legea nr. 407/2005 privind unele masuri prealabile lucrarilor de reabilitare si extindere a infrastructurii feroviare publice;
- Legea nr. 85/2007 privind unele masuri prealabile lucrarilor de dezvoltare a infrastructurii aeroportuare la „Aeroportul International Henri Coanda – Bucuresti”;
- Legea nr. 106/2008 privind exproprierea pentru cauza de utilitate publica a terenurilor necesare lucrarilor miniere pentru exploatarea zacamintelor de lignit.

**EXPROPRIATION FOR CAUSE OF PUBLIC UTILITY**

In the aim of adopting a series of measures in order to accelerate the execution of priority investments financed externally and by the state budget, within the Official Gazette, Part I no. 853 dated 20/12/2010 was published Law no. 255 as of 14/12/2010 on expropriation for cause of public utility, necessary for the realization of national, regional or local interest objectives (hereinafter referred to as Law 255/2010). Moreover, there were also published the Methodological Norms for the application of Law 255/2010.

The new legal provisions adopted in matters of expropriation for certain categories of works which mainly relate to infrastructure – one of the major problems Romania is facing nowadays, creates an unitary legal system applicable to the expropriation procedures also by abrogating the following regulations:

- Law no. 198/2004 on preliminary measures to the construction of national, regional and local interest roads;
- Law no. 407/2005 on preliminary measures to the rehabilitation and extension works of the public railway infrastructure;
- Law no. 85/2007 on preliminary measures to the development works of the airport infrastructure at the “International Airport Henri Coanda – Bucharest”;
- Law no. 106/2008 on expropriation for cause of public utility of the lands necessary for the mining works for exploitation of lignite deposits.



**1) Marirea sferei de aplicare a procedurii de expropriere si la alte categorii de lucrari considerate de utilitate publica**

Alaturi de lucrarile de constructie de drumuri de interes national, judetean si local care faceau obiectul procedurii de expropriere reglementata de Legea nr. 198/2004 au fost adaugate si alte categorii de lucrari considerate ca fiind de utilitate publica, cum ar fi: (i) statii de pompare, precum si alte constructii hidrotehnice realizate pe ape si (ii) lucrari de interes national de dezvoltare a producerii, transportului si distributiei de energie electrica si gaze naturale.

Normele metodologice detaliaza exact ce fel de lucrari include notiunea de „lucrari de utilitate publica enumerate de lege”, astfel: totalitatea lucrarilor prealabile, a lucrarilor executiei propriu-zise, precum si a celor ce urmeaza finalizarii operatiunilor de construire, reabilitare, dezvoltare, modernizare, deviere, extindere, amenajare, ecologizare.

De asemenea, notiunea de expropriator a fost extinsa si la alte ministere si autoritati publice. Sunt enumerate si indicate autoritatile competente sa reprezinte statul roman, in calitatea sa de expropriator pentru obiectivele de interes national, si unitatile administrativ-teritoriale, in calitate de expropriator, pentru obiectivele de interes judetean si local.

Legea 255/2010 stabileste bunurile care pot fi supuse procedurii de expropriere, respectiv bunurile imobile proprietate a persoanelor fizice sau persoanelor juridice si a oricar altor entitati, precum si cele aflate in proprietatea privata a comunelor, oraselor, municipiilor si judetelor, pe care se realizeaza lucrarile de utilitate publica de interes national, judetean si local.

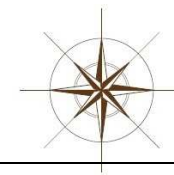
**1) Enlarging the applicability of the expropriation procedure to other categories of works considered of public utility**

Besides the construction works of roads of national, regional and local interest, which made the object of the expropriation procedure regulated by Law no. 198/2004, there were added several other categories of works considered as being of public utility, as follows: (i) pumping stations, as other hydro-technical constructions built over waters and (ii) works of national interest for the development of the generation, transport and distribution of electrical energy and natural gas.

The methodological norms detail exactly what kind of works are included in the notion of “public utility works enumerated by law”, as follows: all the preliminary works, the properly execution works, as those works which follows the termination of the operations of building, rehabilitation, development, modernization, deviation, extension, arrangement, greening.

Moreover, the notion of “expropriator” was extended to other public authorities. There are enumerated and indicated the competent authorities to represent the Romanian state, in his quality of expropriator for the objectives of national interest, and the territorial-administrative unities in their quality of expropriator for the objectives of regional and local interest.

Law 255/2010 establishes the assets which can be subject to the expropriation procedure, respectively the immovable assets property of natural or legal persons and of any other entities, as also those found in the private property of the communes, cities, towns and districts, where the works of public utility of national, regional and local interest are realized.



## **2) Etapele procedurii de expropriere**

Conform dispozitiilor Legii 255/2010, procedura de expropriere trebuie sa se desfasoare in patru etape, dupa cum urmeaza:

- Aprobarea indicatorilor tehnico-economici ai lucrarilor de interes national, judetean sau local;
- Consemnarea sumei individuale reprezentand plata despagubirii pentru imobilele care fac parte din coridorul de expropriere si afisarea listei proprietarilor imobilelor;
- Transferul dreptului de proprietate;
- Finalizarea formalitatilor aferente procedurii de expropriere.

## **3) Normele metodologice**

Conform Notei de fundamentare la Hotararea Guvernului nr. 53/2011 pentru aprobarea Normelor metodologice de aplicare a Legii nr. 255/2010 privind exproprierea pentru cauza de utilitate publica, necesara realizarii unor obiective de interes national, judetean si local, este intregit cadrul juridic pentru luarea masurilor de pregatire a realizarii obiectivelor de interes national, judetean si local si a obiectivelor de importanta strategica si securitate nationala, care, in forma simplificata, care stabileste modalitatea de aplicare a dispozitiilor Legii nr.255/2010 referitoare la:

- utilitatea publica a tuturor obiectivelor de interes national, judetean si local si desemnarea expropriatorului care va actiona in numele statului roman. Instituirea unei proceduri la nivelul administratiei pentru aprobarea indicatorilor tehnico-economici,

## **2) The steps of the expropriation procedure**

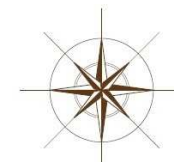
In conformity with the provisions of the Law no. 255/2010, the expropriation procedure is performed in four steps, as follows:

- The approval of the technical-economical indicators afferent to the works of national, county and local interest;
- Recording the individual amount representing the payment of the compensation due to real estate properties that are part of the expropriation corridor and the publishing of the list owners of the real estate properties;
- Property right transfer;
- Completion of the formalities relating to the expropriation procedure.

## **3) Methodological Norms**

In accordance with the Background Note to the Government Decision no. 53/2011 for the approval of the Methodological norms for the application of the provisions of Law no. 255/2010, it is completed the legal framework for taking measures regarding the preliminary steps necessary to achieve objectives of national, county and local interest and of important strategic and national security which, in simplified form, to establish the way for application of the provisions of Law no. 255/2010 referring to:

- Public utility of all the objectives of national, county and local interest and the designation of the expropriator that is going to act on the behalf of the Romanian state. Establishing a procedure at the administration level for the approval of



amplasamentului lucrării, sursei de finanțare și pentru declansarea procedurii de expropriere a tuturor imobilelor expropriate;

- instituirea unui mecanism de asigurare a dreptei și prealabilei despăgubiri prin consemnarea sumelor globale estimate stabilite pe baza rapoartelor de evaluare întocmite de evaluatori autorizați;
- stabilirea unui mod specific de executare a obligației de plată a contravalorii despăgubirilor pentru ocuparea imobilelor expropriate, prin constituirea unei sume echivalente cu totalul sumelor care urmează a fi achitate pentru imobilele expropriate, la o valoare stabilită prin expertiză de specialitate, la dispoziția expropriatorului;
- stabilirea unui mod de deblocare a sumelor cu titlu de despăgubiri convenite expropriatilor care îndeplinesc condițiile legale de primire a plății (au stabilită calitatea față de imobilul expropriat, potrivit legii, și au convenit un preț cu expropriatorul sau primesc despăgubirea stabilită în instanță);
- scoaterea definitivă sau temporară a terenurilor necesare pentru realizarea obiectivelor de interes național, județean și local și a obiectivelor de importanță strategică și securitate națională, din circuitul agricol și silvic fără plată a taxelor prevăzute conform legii;
- asigurarea condițiilor legale care să permită preluarea porțiunilor de plajă aflate în proprietate privată pe care au fost ridicate construcții fără respectarea reglementărilor legale.

technical-economical indicators, the work location, the financing source and for starting the procedure for the expropriation of all expropriated properties;

- Establishing a mechanism to ensure a lawfully and previous compensation by recording the global amounts estimated on the base of assessment reports prepared by certified appraisers;
- Establishing a specific way of execution the obligation to pay compensation value for occupying the expropriated properties, by establishing an amount equivalent to the total amounts to be paid for the expropriated properties, to a value established by professional expertise, at the expropriator's disposal;
- Establishing a means of unlocking the compensation sums due to the expropriated individuals/entities that fulfill the legal conditions for receiving the payment (they have the necessary quality to the respective expropriated real estate property and they agreed with the expropriator upon the price or receive the amount established by the court);
- Temporary or permanent removal of land needed for the achievement of objectives of national, county and local interest and of important strategic and national security, from agricultural and forest circuit without paying the fees provided by law;
- Ensuring the legal conditions that allow the taking over of beach sections which are under private and that were built on constructions, without compliance with legal provisions.

Yours sincerely,  
Almaj & Albu, attorneys at law