

# Recommendations for good practice in compulsory purchase and compensation

WG 9.1 – Compulsory Purchase and  
Compensations in Land Acquisition and  
Takings  
Eilat 2009

## Original task

- Identify the legal structures and practices in compulsory purchase and compensation in different countries. [Helsinki seminar?]
- Will the compensation statutes, valuation methods and manners lead to full and just compensation or are there shortcomings? [Helsinki seminar?]
- Find possible and effective solutions to solve the problems especially for developing countries.
  - What are the good ways to act and what principles, such as equality, you should take into to consideration, and on the other hand what are the bad examples that should be avoided?
- Give FIG recommendations for best practises and education in compulsory purchase and compensations in land acquisition and takings.

**Land Reform, Land Settlement and Cooperatives 2008/1**  
Themed edition on Compulsory Purchase and Compensation

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## Nordic Journal of Surveying and Real Estate Research

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## Steps

- Eilat May 2009
- First draft of the recommendation paper 9.09 ?
- Vietnam October 2009
  - Last papers which affect the recommendations
  - Discussion of the draft
- Final paper 1.2010 ?
- Sydney May 2010

## Tasks to do

- Subdivide the subject area into topics national and regional bases
  - Permission process
  - The purpose for the expropriation
    - Connection to the planning system
    - Purposes: 1) infrastructure, 2) protected areas, 3) business needs, 4) residential areas
  - Agreements
  - Other possibilities to avoid
  - Expropriation procedure
  - Compensations
    - Full ownership, other rights, informal rights
  - Appeals
  - Efficiency of the process (process economy)
  - Actors
  - Landowner's perspective
  - Society's perspective
  - SWOT analyses
- Recommendation to whom?
  - Inform experts, lawyers and politicians about good practices?

## Is it possible to define the good practice in expropriation?

- Global diversity of compulsory acquisition and compensation issues
- Principles in the process
- The benefits for society, for public purpose, for public uses and/or in the public interest
- To concentrate on the recommendations of good practice in the procedure and methods to determine compensation?
- Define the criteria and the procedural rights of good practice at different phases of the process

## Criteria

- How the expropriation process should be design or implemented?
  - » Respect for the human rights of the owners and occupants of the land to be acquired
  - » Minimize human costs
  - » Be efficient
  - » Fair (the principles of good governance)
  - » Legitimate (the principles of administrative justice)
  - » Transparent
  - » Fair compensation
  - » ...

## Procedure

- What are the procedural rights of people
  - » The right to legitimate process
  - » The right of notice
  - » The right to be heard
  - » The right to appeal
  - » The right for fair and transparent procedure
  - » The right to equivalent compensation
  - » ...

Criteria	Phases	Procedural rights	
Minimize human costs	Planning ?		
Transparent	Publicity / Disclosure	<ul style="list-style-type: none"> <li>• The right of notice</li> <li>• The right to be heard</li> </ul>	
Just compensation, fair compensation,	Valuation and submission of claims	• The right to equivalent compensation	International valuation standards?
	Payment for compensation		
	Possession		
Legitimate	Appeals		
	Restitution		

Stages from Keith *et al.* 2008

Application for expropriation Public hearing Permission for expropriation	Permit phase
Disclosure Valuation and submission of claims Appeals Registration	Expropriation proceeding
Payment for compensation Possession Restitution	Execution phase

The stages do not always follow this sequence and often run in parallel.

## How to find out what constitutes a good practice in expropriation?

- Design the Questionnaire
- Timetable and participants?
- Examine national good practice experience
  - » To ask about criteria and procedural rights?
  - » To ask about good/bad practice examples from each country, following the predefined phases?
  - » What kind of other information we need from different countries in order to be able to define the good practice?
  - » What are the important aspects (elements) which should be included into a good practice recommendation ? (based on the country and the point of view)
  - » How it should be written?

## Questionnaire

- What kind of examples of good practice can be distinguished at each phase?
- What are the criteria and procedural rights which should be taken into consideration in good practice at each phase?
- Why it should be taken into consideration?
- Are there more phases which should be emphasized? Why?
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## Examples of good practice in procedure

- *“An exercise in compulsory acquisition is more likely to be regarded as legitimate if land is taken for a purpose clearly identified in legislation” Keith et al. 2008*
- Landowner is informed about the procedure
- Compensation is paid before land is taken for a purpose clearly identified in legislation