

LAW No. 8/2017

of 26 April 2017

EXPROPRIATION FOR PUBLIC PURPOSES

This law defines the legal regime applicable to the expropriation of immovable property and establishes rules and procedures for cases in which the State, with a view to pursuing an objective of public purpose, is compelled, in the absence of other viable alternative solutions, to take ownership of immovable property that was in the private domain.

Such prerogative of the State, considered as an important exception to the right to private property, is justified, from the outset, by the important social function that property fulfills, as a means with aptitude for the satisfaction of collective interests.

Under the terms of article 54, no. 3 of the Constitution of the Republic, expropriation for public purpose appears legitimated by the relevant social function of property, and it is imposed whenever collective needs require the allocation of private property for public purposes. However, it does not dispense with, but rather imposes, a whole set of guarantees that are part of the legal regime of expropriation itself, highlighting the right to prior and fair compensation.

In fact, the State, when it has to acquire for its public domain, real estate necessary for the realization of actions that benefit the entire community, must first exhaust all the avenues that the law grants it, including the contractual avenues proper to private law.

As a way to mark the possibility of the State expropriating real estate belonging to private individuals, the principles of exceptionality, legality, justice, equality, proportionality, impartiality and good faith of expropriation have been established.

The concept of public purpose was also densified, listing the cases in which expropriation is allowed, but always requiring the justification of the public purpose of each project.

Great importance was given to the requirements prior to expropriation. A rigorous planning of the projects is foreseen, in which it is demanded the accomplishment of cadastral surveys in the areas not registered, environmental licensing, studies of social impact and the accomplishment of a re-housing plan. Such planning, combined with a clear and comprehensive definition of those interested in expropriation, seeks to minimize the impacts that project implementation may have on local populations. The different alternatives studied in project planning are also subject to a public consultation process in order to give an active voice to those affected. Only after planning and consulting the projects, and when it is not possible to acquire the real estate through private law, can the State resort to expropriation.

Given the consequences of expropriation, it was understood that the Council of Ministers should have jurisdiction for the declaration of public purpose.

Private individuals are given the possibility to resort to arbitration with recourse to the court when there is disagreement over the value of compensation, and direct recourse to the court when they consider that the concept of public purpose is not fulfilled.

Since fair compensation is one of the main points of expropriation, criteria have been established as to the principles of the respective valuation, although priority has been given to compensation through the delivery of alternative real estate, as a way of avoiding the loss of means of subsistence for the populations affected.

Although it was theoretically possible to use the legislation previously in force in the country to fill this gap, based on Article 1 of Law 1/2002 and Article 3 of UNTAET Regulation No. 1999/01, in practice this is not compatible with either the Timorese constitutional principles or the institutional framework that has been established in Timor-Leste. It is therefore essential to approve this law so that, where necessary, the State can resort to this constitutionally provided for mechanism in accordance with a procedure established by law.

The drafting of this law has been informed by the knowledge accumulated over several years of studies and public consultations on issues related to property ownership. Given the impact of this law on the lives of the people, special care was taken to bring it into line with the instruments of international law to which Timor-Leste is a party, such as the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Thus, the National Parliament decrees the following under the terms of Section 95.1 and Section 96.1(k) of the Constitution of the Republic, to be enforced as law:

CHAPTER I GENERAL PROVISIONS

Article 1

Object

This law establishes the legal regime applicable to expropriations for public use.

Article 2

Definitions

For the purposes of this law, the following definitions shall apply:

- a) "**Arbitration**" means the first instance in the expropriation litigation process, with a view to attempting to conciliate the entity receiving the expropriation and the interested party with regard to the amount of compensation due as a result of the expropriation for public purpose, avoiding recourse to judicial proceedings;
- b) "**Contested expropriation**" means a lawsuit in which the value of fair compensation is determined, whenever there is no agreement with the interested parties as to the value of the latter;
- c) "**Declaration of public purpose**" means the constitutive act of the expropriation procedure, through which the State identifies a concrete purpose of public purpose to be pursued by the expropriation and determines the assets necessary for that purpose;
- d) "**DNTPSC**" means the National Directorate of Land, Property and Cadastral Services of the Ministry of Justice or any other entity of the State that, under the terms of the law, pursues its respective attributions;
- e) "**Entity benefiting from expropriation**" means an entity under the direct administration of the State, for the benefit of which the expropriation is made, so that in the expropriated goods the purpose established in the declaration of public purpose is pursued;

- f) **"Expropriation for public purpose"** means a lawsuit by which the Administration, in order to pursue an objective of public interest, restricts the rights of the interested parties over a certain immovable property, transferring that property to the State's assets, against payment of fair compensation.
- g) **"Friendly expropriation"** means the formal agreement between the entity benefiting from the expropriation and the interested parties, after the declaration of public purpose, on the value of the fair compensation of the goods to be expropriated;

Article 3

Admissibility of expropriations

1. Immovable property and the rights inherent to it may be expropriated for reasons of public purpose, subject to the payment of fair compensation in accordance with this law.
2. Expropriation shall include any legally permissible form of deprivation of private property or related rights or interests, regardless of the persons or entities to which they belong.
3. Community real estate may be subject to expropriation in accordance with this law.

Article 4

Public purpose

1. Expropriation is admissible only in cases where the property to be expropriated must pursue an objective of public purpose.
2. The public purpose must be included in the attributions, purposes or object of the entity receiving the expropriation.
3. For the purposes of expropriation, grounds of public purpose are considered:
 - a) National defense and security;
 - b) Public roads, highways, tunnels, railways and ancillary installations;
 - c) Public transport systems;
 - d) Reservoirs, dams, distribution structures, irrigation and water or sewerage disposal;
 - e) Ports, airports and terminals;
 - f) Exploration of oil, gas, minerals and geothermal energy infrastructures;
 - g) Public service for the production and distribution of electric energy;
 - h) Telecommunication systems;
 - i) Garbage collection and treatment;
 - j) Public hospitals, treatment centers, diagnosis and other infrastructures essential to the public health service;
 - k) Public firefighting and civil protection services;
 - l) Public cemeteries and Hero Gardens;
 - m) Public, social, cultural and green spaces facilities;
 - n) Preservation and conservation of historical and artistic monuments, isolated or integrated in urban or rural areas;

- o) Protection of landscapes and places particularly endowed by nature;
 - p) Protection structures against landslides, floods or other defense mechanisms against natural disasters;
 - q) Social housing;
 - r) Public education and teaching establishments;
 - s) Sports facilities and public markets;
 - t) Other cases provided for by special laws.
4. The completion of any of the foregoing subparagraphs shall not constitute a presumption of public purpose, which shall be justified under the terms of this law.

Article 5

Interested parties in the expropriation procedure

1. For the purposes of this law, the following shall be considered interested parties in the expropriation procedure:
 - a) The holders of rights in rem over the property to be expropriated;
 - b) The holders of compulsory rights whose object is the property to be expropriated, namely, the right to lease, rights of passage, pastoralism, planting and sharing of cultures or natural resources;
 - c) Those who occupy the property to be expropriated at the time of the publication provided for in Article 23.1.
2. The interested parties are identified through the National Property Cadaster or, if this has not yet been done in the area affected by the expropriation, through the cadastral survey, which may also be done during the social and environmental impact studies, the survey of the property or through the identification of the interested parties communicated to the expropriation beneficiary entity.
3. The proceedings provided for in this law shall be carried out with all those identified as being interested.

Article 6

Entity Receiving the Expropriation

1. The entity to which the property object of the expropriation is to be attributed in pursuit of the public purpose underlying the expropriation shall be deemed to be the beneficiary of the expropriation.
2. Only public entities under the direct administration of the State may be the beneficiaries of the expropriation, without prejudice to the fact that they may concession the property for the pursuit of the public purpose for which it was intended.

Article 7

Compulsory Cadastral Survey and Resolution of Cases in Dispute

1. In case the property to be expropriated is not yet included in the National Property Cadaster, the systematic cadastral survey of the area shall be obligatory, as provided in the Special Regime for the Definition of Ownership of Real Estate.

2. In the event of any doubts or cases in dispute over ownership or other rights over the property to be expropriated, under the terms established in the Special Regime for the Definition of Ownership of Real Estate, notification of all those claiming such rights is mandatory.
3. The cadastral survey and the resolution of the cases in dispute are made under the terms of the Special Regime for the Definition of Ownership of Real Estate.

Article 8

Principles of Expropriation

1. It is incumbent upon the expropriation beneficiary and the other parties involved in the expropriation procedure, to pursue public interest, with respect for the legally protected rights and interests of the interested parties, observing, in particular, the principles of legality, justice, equality, proportionality, impartiality and good faith.
2. When considering expropriation, special value shall be given to immovable property of high cultural and spiritual value to the interested parties.
3. Expropriation is always exceptional and should only be used when it is not possible to use other real estate for the purpose of pursuing or redesigning the project to be implemented in a manner feasible to its end.
4. The expropriation must leave the stakeholders defined in Article 5, affected by the expropriation, in a standard of living at least equal to what they were before the expropriation.

Article 9

Duty to inform

1. The entity benefiting from the expropriation or any other entity intervening in the process shall ensure that, during the expropriation process, all necessary measures are taken so that the interested parties are informed of all their rights, namely the right to be consulted, compensated, re-housed, represented by a lawyer or to administratively or judicially appeal against the decisions of the Administration.
2. All documents to be notified or presented to the interested parties shall be written in both official languages.

Article 10

Duty of respect for vulnerable groups

In implementing the procedures provided for in this law, the entity receiving the expropriation or any other intervening entity shall take into consideration the special needs of vulnerable groups, and shall be obliged to take necessary measures to ensure the adequate information, consultation and participation of these groups in order to promote the right to equality and non-discrimination.

Article 11

Limit of Expropriation

1. Expropriation shall be limited to what is necessary to carry out its purpose, but future requirements may be taken into account, in accordance with a phased and duly scheduled program of implementation.
2. The request for total expropriation provided for in this law shall constitute a limit to expropriation.

Article 12

Request for Total Expropriation

1. Where it is necessary to expropriate only part of a building, the interested parties may request total expropriation of their right:
 - a) If the remaining part does not ensure, proportionally, the same rooms as the whole building offered;
 - b) If the rooms provided by the remaining part are of no objective economic interest to the interested party.
2. The request for total expropriation shall be filed by the interested parties during the process of acquisition through private law.
3. If the expropriation procedure is initiated, the request for total expropriation may be filed by the end of the period provided for in Article 50(1).
4. In the absence of agreement between the entity receiving the expropriation, the DNTPSC and the interested parties on the need for total expropriation, the interested parties may appeal to the court of first instance of the location of the property.
5. Once total expropriation has been decreed, it is the entity receiving the expropriation notified to make a supplementary deposit of the amount of compensation, and the provisions of Article 50(3) shall apply accordingly.
6. The appeal referred to in paragraph 3 of this Article shall have merely devolutive effect in relation to the expropriation process.

Article 13

Expropriation in Special Cases

1. Where the need for expropriation arises from a public calamity or from internal security or national defense requirements, the State or the public authorities designated by it or legally competent by it may take immediate administrative possession of the assets intended to meet the need for intervention, without any prior formality, following, without further diligence, the provisions of this law regarding the determination of compensation in litigious proceedings.
2. Whenever possible, an inspection shall be carried out in order to prepare the evaluation report of the property, under the terms foreseen in articles 26 and 27, complying, with the necessary adaptations, with the provisions of those articles.
3. The expropriation provided for in subsection 1 shall require the authorization of the Minister of Justice.

Article 14

Transfer of ownership of the immovable property to be expropriated

1. Transfers of ownership or any other rights or interests shall not prevent the continuation of the expropriation procedure.
2. The new owner shall be considered as subrogated in the rights and obligations of the original owner.

Article 15

Burden and costs

1. The expropriated property shall be acquired free of any burden or expense.
2. Whenever the destination to be given to the property is not affected, some right in rem or binding on the expropriated property may be retained, provided that this is compatible with the new destination to be given to the property and there is an agreement between the entity receiving the expropriation and the holder of the right.

Article 16

Establishment of administrative easements

1. Administrative easements may be established over private real estate when they are necessary for purposes of public interest.
2. Compensation shall be due for the establishment of the easement, under the general terms of this law.

Article 17

Withdrawal of Expropriation

1. In the case of expropriation for public purpose, the entity benefiting from the expropriation shall be allowed to withdraw all or part of the expropriation.
2. In the case of withdrawal, the interested parties shall be compensated under the general terms of law, and for this purpose, the expropriation shall be considered to have started as from the publication of the declaration of public purpose in the Official Gazette.

CHAPTER II

EXPROPRIATION PROCEDURE

SECTION I

PRELIMINARY ACTS

Article 18

Formalities prior to the act of expropriation

Besides the exceptions provided for in this law regarding expropriation in special cases provided for in Article 13, the expropriation shall be preceded by the performance of the following acts, in the sequential order indicated:

- a) Project planning;
- b) Public consultation;
- c) Survey;
- d) Attempted acquisition through private law.

Article 19

Project planning

1. In the project planning that foresees the expropriation of real estate, the following steps are taken:
 - a) Cadastral survey, when the area covered by the project is not yet registered under the law;
 - b) Environmental licensing of the project, under the law;
 - c) Social impact study;

- d) Re-housing plan, in case the real estate in question is being used for housing purposes;
 - e) Analysis report of the various alternatives of the project;
 - f) Report justifying the public purpose of the project;
 - g) Other documents that may be required by law.
2. The cadastral survey provided for in subparagraph a) of the preceding paragraph shall be carried out by the DNTPSC at the request of the entity receiving the expropriation.
 3. The entity benefiting from the expropriation shall be responsible for carrying out the activities provided for in paragraphs b) to f) and shall inform the Ministry of Justice of the start of project planning.

Article 20

Identification of the real estate to be expropriated

The real estate to be expropriated is identified through:

- a) its administrative location;
- b) the identification of the plot confrontations;
- c) the geographical coordinates of the plot boundaries;
- d) the geometric sketch of the plot, georeferenced;
- e) the type of plot in accordance with the technical specifications;
- f) the updated information on its ownership and any other relevant data;
- g) the mention of any other existing cadastral descriptions;
- h) through the descriptions that may be created at the land registry office to which they belong.

Article 21

Social impact study and re-housing plan

1. The social impact study aims to identify the positive and negative consequences on the lives of the stakeholders caused by the expropriation.
2. The re-housing plan consists of an action plan in which the procedures to mitigate the adverse effects and compensate for the losses suffered by the stakeholders due to expropriation are established.
3. The re-housing plan shall be based on:
 - a) the results of the social impact assessment;
 - b) consultation with the persons concerned on viable alternatives to their compensation;
 - c) the principles set out in Article 8.
4. The re-housing plan shall contain:
 - a) the different alternatives to re-housing for the choice of the stakeholders;
 - b) the mechanisms for restoring the income and livelihood lost by the stakeholders;
 - c) the timetable for its implementation;
 - d) the estimated costs of implementing different alternatives;
 - e) the mechanisms for supervising the implementation of the re-housing plan.
5. Wherever possible, the social impact assessment and the re-housing plan should be carried out together with the environmental impact assessments.

Article 22
Public Consultation

1. Once the planning phase of the project has been completed, the respective public consultation shall be initiated, aimed at publicizing the options taken and discussing the various alternatives for their implementation.
2. The following activities shall take place within the framework of the public consultation:
 - a) Making the project available for consultation;
 - b) Public hearings;
 - c) Report of the public consultation.
3. The public consultation shall be open to all those who have an interest in participating in it.

Article 23
Notice on the opening of public consultation

1. The entity receiving the expropriation shall promote the publication in the Official Gazette of the Republic of a notice on the beginning of the consultation phase, which shall include the project, the identification of the entity receiving the expropriation, the identification of the property to be expropriated and its location, the period for the consultation, the dates and place of the public hearing sessions.
2. The notice referred to in the preceding number shall also be published in two national newspapers and, by means of a public notice, in the *suco* headquarters of the place of the real estate.
3. The project, together with the documents related to the planning phase of the project, must be made available for consultation, at the *suco* headquarters of the place of the property, for a maximum period of sixty days.
4. During this period, any person may submit to the expropriation beneficiary entity, in writing, any relevant comments regarding the project.

Article 24
Public hearing sessions

1. The entity receiving the expropriation is obliged to hold public hearing sessions at the place of the property to be expropriated, aimed at presenting the project and consulting the interested parties.
2. The holding of the public hearing sessions shall be announced at least ten days in advance, in accordance with the provisions of the previous article.
3. During the public hearing sessions, in addition to the detailed description of the project, the results obtained during the planning phase of the project must be presented, as well as other documents that are relevant for the complete information of the interested parties.
4. The information provided to participants should be presented in simple and appropriate language.
5. During the public hearing sessions, adequate time shall be allowed for participants to comment.
6. At the end of each public hearing session, minutes shall be drawn up.

Article 25
Report of public consultation

1. After the end of the public consultation period, the expropriation beneficiary shall prepare the report of the public consultation.
2. The report of the public consultation shall contain the following elements:
 - a) Description of the acts of public consultation carried out;
 - b) Description of the means and forms chosen for the publication of the project and participation of the interested parties;
 - c) Minutes of the public consultation sessions held;
 - d) Critical analysis of the proposals, comments and written and oral questions presented by the interested parties during the public consultation;
 - e) Description of the changes to the project as a result of the public consultation;
 - f) Identification of the real estate, rights and interested parties affected.
3. At the end of the public consultation, a copy of the report is made available at the *suco* headquarters of the place of the property to be expropriated for those interested in consulting it.

Article 26
Inspection of the property to be expropriated

1. After the public consultation report is released, an inspection of the property to be expropriated is carried out by the entity receiving the expropriation, the DNTPSC and the interested parties of the expropriation, in order to collect all relevant information about the property to be expropriated.
2. After the date for the survey with the DNTPSC has been agreed upon, the entity receiving the expropriation shall notify the interested parties at least fifteen days in advance of the time and place when the survey will begin.
3. The notification referred to in the preceding paragraph shall state whether the expropriation is total or partial.
4. The interested parties may attend the survey and formulate, in writing or orally, the questions they consider relevant, which shall be answered in the report of the property to be expropriated.
5. A record shall be drawn up of the survey describing all data collected.

Article 27
Report of the survey of the property to be expropriated

1. Within thirty days from the date of the survey, the entity receiving the expropriation, together with the DNTPSC, shall prepare a report that includes:
 - a) A concrete and individualized description of the property to be expropriated, in which it describes, in all its material and legal aspects, the goods and rights affected by the expropriation;
 - b) Evaluation report, in which the value of the rights of each interested party affected by the expropriation is determined, evaluated under the terms of Article 56 and following.
2. The report of the property to be expropriated shall be notified to the interested parties.
3. If the interested parties are unknown, the provisions of Article 28(5) shall apply.

Article 28

Attempted Acquisition through Private Law

1. Except in the cases of expropriation foreseen in Article 13, the entity receiving the expropriation, together with the DNTPSC, before requesting the declaration of public purpose, shall take the necessary steps to acquire the goods or rights through private law.
2. For the purposes of paragraph 1, the notification of the report of the goods to be expropriated referred to in paragraph 2 of the previous Article shall be compulsorily accompanied by a proposal for the acquisition of the goods.
3. The proposal for acquisition of the good shall indicate:
 - a) The value to be paid for the good to each interested party, which has as reference the value of the evaluation contained in the report of the good to be expropriated;
 - b) The real estate or rights that can be assigned as an alternative to the payment of the value of the good;
 - c) The place, date and time for a negotiation session with the interested parties.
4. The proposal for acquisition of the property shall be notified to the interested parties at least ten days before the date of the negotiation session.
5. In addition to its direct notification to the interested parties, the notification referred to in paragraph 4 shall be publicized by means of a notice to be posted in the place of the good's situation and in the respective *suco* headquarters and by means of a notice in two newspapers of national circulation.

Article 29

Negotiation Sessions

1. The negotiation sessions for the acquisition of the property through private law shall be public.
2. If there is no agreement during the first session between the interested parties and the beneficiary entity, new meetings may be scheduled.
3. The interested parties have the right to comment on the proposal presented, to request the total expropriation of the property under the terms of Article 12, to request clarifications or to present counter-proposals, indicating in a substantiated manner the value that they attribute to the property to be expropriated.
4. Minutes shall be drawn up of each negotiation session and signed by the interested parties and the beneficiary entity.

Article 30

Object of the Agreement

1. During the attempt to acquire the goods through private law, the entity receiving the expropriation, the DNTPSC and the interested parties may agree on:
 - a) The amount of the value to be paid for the goods;
 - b) The payment of the amount referred to in the previous paragraph or part of it in instalments, the respective interest and the period of payment of these;
 - c) The way of meeting the instalments;

- d) The compensation through the assignment of goods or rights under the terms of article 61 of the Agreement.
 - e) Total expropriation in the case of partial expropriation;
 - f) Other ancillary conditions.
2. The agreement shall only bind the State after approval by the maximum body of the expropriation beneficiary and the Minister of Justice, in the event that the compensation is paid through the transfer of property or rights of the State, as provided for in Article 61(2).

Article 31

Legal form to which the agreement must obey

1. The agreement between the entity receiving the expropriation, the DNTPSC and the interested parties must be contained in a public deed of acquisition through private law, drawn up before a notary public or other form established by law for the transfer of the rights in question.
2. The agreement entered into under the terms of the preceding paragraph, which has as its object only part of a building, whatever its area, constitutes sufficient title for the purposes of its disengagement and registration.

Article 32

Failure of the attempt to acquire through private law

1. Forty-five days after the first negotiation without agreement between the parties, the entity benefiting from the expropriation may request declaration of public purpose.
2. Without prejudice to the provisions of the preceding paragraph, the parties may reach an agreement for acquisition through private law at any stage of the expropriation process.

SECTION II

DECLARATION OF PUBLIC PURPOSE

Article 33

Opinion and submission of the request

1. The request for declaration of public purpose must mention the following elements:
 - a) The goods to be expropriated;
 - b) The reason for the public purpose, duly justified;
 - c) The intervention or use foreseen for the goods to be expropriated;
 - d) The identification of the interested parties and their rights regarding the property in question;
 - e) The need for the expropriation under the terms of paragraph 1 above.
 - e) The need for expropriation under the terms of paragraph 3 of Article 8, with an indication of the other alternatives studied and the proposals made during the public consultation;
 - f) The opinion of the Minister of Justice.
2. The application shall be instructed with the following elements:
 - a) Study of the environmental impact of the project to be implemented;
 - b) Study of the social impact of expropriation;
 - c) Replacement plan;

- d) Properties identified as possible alternatives to compensation;
 - e) Documents relating to the process of attempted acquisition through private law;
 - f) An estimate of the amount of charges to be borne with expropriation;
 - g) Other documents produced in the previous phases of the expropriation process;
 - h) Indication of the budget allocation that will support the expenses with the expropriation and the corresponding caption or guarantee or, alternatively, a statement issued by the governing body of the Real Estate Finance Fund confirming that it will support the payment of the compensation due.
3. The request shall be presented by the beneficiary entity to the Council of Ministers, preceded by the request for a reasoned opinion from the Minister of Justice.
 4. The Minister of Justice may request the expropriation beneficiary to attach any other documents or provide any clarifications he deems necessary.
 5. The Minister of Justice shall prepare the opinion within fifteen days from the receipt of the request and shall forward it to the Council of Ministers.
 6. The request for the declaration of public purpose shall be notified to the interested parties, containing the elements provided for in paragraphs (1) and (2).

Article 34

Declaration of public purpose

1. The Council of Ministers shall be competent for the declaration of public purpose of the expropriation of immovable property and the rights inherent thereto.
2. The declaration of public purpose shall be approved by Resolution of the Government and shall be duly substantiated and obey the other requirements established in this law.

Article 35

Publication of the declaration of public purpose

1. The declaration of public purpose and its renewal must be published in the Official Gazette and notified to known interested parties and must be registered in the National Property Register and, also, in the land register when this exists.
2. The publication of the declaration of public purpose must briefly identify the assets subject to expropriation, with reference to the cadastral and land description when this exists, mention the rights, encumbrances or charges that are levied on them and the names of their holders, and indicate the end of the expropriation.
3. The identification referred to in the preceding paragraph may be replaced by a plan, on an appropriate scale and graphically represented, that permits the legible delimitation of the property necessary for the purpose of public interest.
4. In the case of expropriation by zones or stretches, the publication of the declaratory act shall contain the total area to be expropriated, its division in accordance with the phasing, the deadlines and the order of acquisition.

Article 36
Duty of Communication

1. After notification of the declaration of public purpose, the interested parties shall communicate, in writing, to the entity benefiting from the expropriation, any change of their usual residence or headquarters.
2. The change of usual residence or headquarters of the interested parties that has not been communicated in the terms described in the previous paragraph shall not constitute grounds for the repetition of any terms or diligences of the expropriation procedure.

Article 37
Temporary Use of Neighboring Real Estate

1. The declaration of public purpose confers to the entity benefiting from the expropriation the right to temporarily use neighboring real estate and carry out the necessary works or taxes on it for the execution of the purposes for which the expropriation is intended, under the terms foreseen in the approved studies or projects or those defined in the declaration of public purpose.
2. The area to be used and the duration of the use shall be limited to that which is strictly necessary for the accomplishment of the purposes in question.
3. The temporary use of neighboring buildings gives the interested parties the right to compensation for damages caused, under the general terms of law.
4. The entity receiving the expropriation shall notify the interested parties affected by the temporary use, at least thirty days in advance, of the period in which it will take place and propose the amount of compensation provided for in the preceding paragraph.
5. If the agreement between the parties on the amount of the compensation fails, it shall be determined in the general terms of law.
6. Temporary use shall respect the principles laid down in Article 8.

Article 38
Expropriation by zones or hauls

1. Expropriation may be made in one go, by zones or hauls.
2. In the case of expropriation by zones or hauls, the act of declaration of public purpose shall determine, in addition to the total area, the division thereof and the order and time limits for commencement of the acquisition.
3. The goods covered by the second zone or haul and subsequent ones shall remain the property and possession of the interested parties until the date established in accordance with the preceding paragraph.
4. In order to calculate the compensation for buildings not included in the first zone defined under the terms of no. 2, the necessary improvements introduced in them during the period between the date of declaration of public purpose and the date of acquisition of possession by the entity receiving the expropriation of the respective zone or section shall be taken into account.
5. The declaration of public purpose referred to in this Article shall lapse, in the case of goods whose arbitration has not been promoted by the entity benefiting from the expropriation, within one year from the deadline set for the acquisition of the respective zone or section.

6. The interested parties shall be entitled to compensation for damages, directly and necessarily resulting from the fact that the property has been subject to expropriation.

Article 39

Expiry of the declaration of public purpose

1. Without prejudice to paragraph 3, a declaration of public purpose shall expire if arbitration is not initiated within one year of the date of publication of the declaration of public purpose.
2. The declaration of public purpose that has lapsed may be renewed in duly substantiated cases, within a maximum period of one year from the date of its expiry, taking advantage of the acts already performed.
3. In the case of continuous work, the forfeiture may not be invoked after it has been commenced at any place in the respective layout, unless the work is suspended or interrupted for more than two years.

Article 40

Administrative possession

The entity benefiting from the expropriation may take administrative possession of the property to be expropriated after publication and notification of the declaration of public purpose and all the requirements laid down in the following article have been met.

Article 41

Requirements prior to administrative possession

1. The administrative investiture in possession of the assets cannot take place until they have been previously:
 - a) Publication and notification of the declaration of public purpose and notification to the interested parties of the date and time on which the expropriation beneficiary takes administrative possession of the property;
 - b) The list of assets to be expropriated is drawn up with a view to establishing facts which are liable to disappear and knowledge of which is of interest for the trial of the case;
 - c) The re-housing plan has been implemented;
 - d) The replacement immovable property has been handed over free of charge as agreed with the interested parties;
 - e) The deposit of the fair compensation amount with a banking institution, at the order of the interested parties, if this and these are known and there is no doubt about the ownership of the rights affected.
2. The persons concerned shall be allowed a reasonable period of time to vacate the expropriated property, which may not exceed ninety days.
3. The period for vacating the property should be especially extended where re-housing or loss of means of subsistence is involved, always ensuring respect for the principles set out in Article 8.
4. The DNTPSC may resort to the police authorities to carry out administrative eviction in cases where the expropriated property is not free and unoccupied and the period for its eviction has expired.
5. Prior deposit shall be waived in cases of expropriation for special reasons as referred to in Article 13 and shall be effected as soon as possible.

Article 42

Eviction

1. The situations of eviction that take place by virtue of the application of this law shall be regulated by decree-law.
2. Eviction must take place in conditions that guarantee the dignity of the human person, the rights and safety of those affected by it, and respect the principles of proportionality, adequacy and non-discrimination.

SECTION III

FRIENDLY EXPROPRIATION

Article 43

Friendly expropriation

1. The notification of the declaration of public purpose by the entity benefiting from the expropriation to the interested parties shall be accompanied by the proposal for acquisition by amicable expropriation.
2. After the notification, the interested parties shall have twenty days from the receipt of the proposal to decide on the proposal submitted or to submit a counterproposal.
3. In the absence of agreement on the amount or terms of the compensation, the arbitration procedure shall be initiated.
4. If there is agreement between the parties, the provisions of Article 31 shall apply mutatis mutandis.

SECTION IV

EXPROPRIATION IN DISPUTE

SUBSECTION I

ARBITRATION

Article 44

Arbitration

1. In the absence of agreement on the amount of the compensation, it shall be fixed by means of arbitration, which shall be subject to appeal to the common courts.
2. Arbitration is intended solely to fix the amount of fair compensation due for expropriation.
3. The arbitral award shall always be subject to an appeal, which shall have only a devolutive effect, to the court of first instance of the place where the property is located or of its greatest extension.

Article 45

Promotion of arbitration

It shall be incumbent upon the Ministry of Justice, at the request of the entity benefiting from the expropriation, to promote the establishment and functioning of the arbitration, which shall be conducted by a sole arbitrator appointed for this purpose by the court of first instance of the location of the property to be expropriated.

Article 46

Appointment of the Arbitrator

1. For the purposes of the provisions of the preceding article, the Ministry of Justice shall request the appointment of an arbitrator directly to the court of first instance of the location of the immovable property to be expropriated, and shall immediately forward to it all the documents contained in the proceedings.
2. The order for the appointment of the arbitrator shall be made within ten days.
3. The court shall notify the expropriation beneficiary, the DNTPSC and the interested parties of the appointment of the arbitrator.

Article 47

Actuation

1. Expropriation proceedings shall be opened with reference to each of the properties covered by the declaration of public purpose.
2. Where two or more properties have belonged to the same owner or group of co-owners, the joining of the proceedings in which there is no agreement on the amounts of compensation shall be mandatory.

Article 48

Competence of the sole arbitrator

The arbitrator shall fix the amount of fair compensation in the event of lack of agreement between the parties, and may order the repetition of the steps that prove to be necessary in order to make a reasoned decision on the amount of compensation due.

Article 49

Arbitral award

1. The arbitrator's decision shall fix the amount of fair compensation and shall be duly substantiated and indicate the elements that shall serve as a basis for the calculation of the proposed compensation, as well as the justification of the calculation criteria adopted.
2. In addition to fixing the amount of fair compensation, the arbitrator may also answer any questions raised by the parties.
3. The arbitrator shall make his/her decision within a maximum of thirty days of his/her appointment and shall notify the parties of his/her decision within seven days.
4. In duly justified cases, namely due to the number of arbitrations, the decision period referred to in the previous paragraph may be extended up to sixty days, at the request of the arbitrator, addressed to the court that appointed him/her.
5. In the absence of a judicial challenge to the arbitral award under article 50, the entity benefiting from the expropriation shall diligently pay the amount arbitrated under article 62 or refer the arbitral award to the Real Estate Finance Fund, where applicable.

SUBSECTION II JUDICIAL CHALLENGE OF THE ARBITRAL AWARD

Article 50

Judicial challenge of the arbitral award

1. The judicial challenge of the arbitral award shall be filed within thirty days from the notification of the arbitral award to the parties.
2. The judicial challenge of the arbitral award shall have a merely devolutive effect regarding the progress of the expropriation.
3. In the event of a judicial challenge to the arbitral award, the judge shall immediately award the interested parties the amount on which there is an agreement and shall order for this purpose that the entity benefiting from the expropriation or the Real Estate Finance Fund deposit the amount in question with a bank within fifteen days, and shall notify the interested parties of such deposit.
4. Any person entitled to compensation may request, within fifteen days of notification of the decision referred to in the preceding paragraph, that the part of the amount on which agreement has been made and which falls to him/her, be handed over to him/her by means of a bank guarantee or insurance bond of the same amount.
5. The value of the process corresponds to the value offered by the entity receiving the expropriation or that requested by the interested parties if this is higher.

Article 51

Doubts as to entitlement to compensation

1. If the payment of compensation depends on a prior or preliminary question concerning entitlement to compensation, the compensation shall be decided in accordance with the Special Regime for the Definition of Ownership of Immovable Property.
2. Until the question of entitlement to compensation has been definitively resolved, no payment shall be made that depends on it, without the provision of a guarantee.
3. The security provided also guarantees the receipt of compensation by the person to whom, in the respective action, the right to compensation is definitively recognized.

Article 52

Appraisal

1. The performance of a new appraisal required by one of the parties follows the rules of the Code of Civil Procedure applicable to the appraisal.
2. The entity receiving the expropriation is responsible for the payment of the costs with the appraisal and judicial inspection.
3. There is no need for a second assessment.

Article 53

Decision

1. The judge shall set the amount of the compensation to be paid by the expropriation beneficiary by means of a duly substantiated judgment under the terms of the Code of Civil Procedure.

2. The judgment shall be notified to the parties and an appeal may be lodged against it with merely devolutive effect.
3. The provisions of Article 50(2) shall apply, with the necessary adaptations.

CHAPTER III

GUARANTEES OF THE INTERESTED PARTIES

Article 54

Complaint and Hierarchical Appeal

The complaint and hierarchical appeal of the administrative acts provided for in this law shall be made under the general terms of the administrative procedure.

Article 55

Judicial challenge to expropriation

1. Judicial challenge to the existence of a motive of public purpose or the violation of the principles of expropriation shall be made directly in the court of first instance of the location of the property to be expropriated.
2. Judicial challenge to the lack of compliance with the requirements for taking administrative possession of the expropriated property or the non-recognition of interested parties may be made directly in the court of first instance of the location of the property to be expropriated.
3. Challenges referred to in the preceding paragraphs shall be filed within ninety days of notification of the decision to expropriate, of notification to take administrative possession of the property, or of knowledge of the act in which the interested party is not recognized.
4. The judicial challenge shall have merely devolutive effect, except for a decision to suspend enforcement ordered by an unspecified protective order.

CHAPTER IV

FAIR COMPENSATION

SECTION I

DETERMINATION OF FAIR COMPENSATION

Article 56

Right to fair compensation

1. The expropriation for public purpose of any property or rights shall entitle the interested parties to receive the prior payment of fair compensation.
2. If the interested parties so agree, preference shall be given to the payment of compensation through the transfer of ownership of a State property.
3. In the expropriation of rights other than full ownership, the compensation is determined in accordance with the value fixed for that property.
4. Any liens or rights on the expropriated property shall be subrogated to the price.

Article 57

Principles of compensation

The determination of fair compensation shall take into account:

- a) The principle of compensation of the interested parties for financial costs resulting from expropriation, such as costs of re-housing, commercial or other losses;
- b) The principle of compensation of the interested parties for other non-pecuniary values.

Article 58

Calculation of the amount of compensation

1. Without prejudice to the principles established above, the compensation shall be calculated on the basis of the market value of the property, calculated on the date of the declaration of public purpose, taking into account the value of the soil and the replacement cost of any buildings or plantations.
2. In the event of renewal or the issuance of a new declaration of public purpose, the amount of compensation established shall be updated.
3. For the purposes of the application of this law, the value of urban and rustic real estate, taking into account its purposes, whether industrial, commercial, agricultural, housing or other, shall be subject to subsequent regulation by Government Decree.

Article 59

Advertising of the compensation

1. The values, real estate or any other rights transmitted as compensation shall be public.
2. The entity receiving the expropriation shall promote the publication in the Official Gazette of the Republic of the values paid or the real estate delivered as an alternative to the compensation, under the terms of this law.
3. The publication referred to in the preceding article shall be made no later than fifteen days after the payment of any sums.

SECTION II

PAYMENT OF COMPENSATION

Article 60

Means of payment of compensation

1. Compensation resulting from expropriation for public purpose shall be paid in cash, in one lump sum or in kind, through the assignment of an equivalent good, save as otherwise provided in the following paragraphs.
2. In the case of purchases by private law, the parties may agree to pay compensation in instalments or in the assignment of goods or rights in accordance with the following Article.
3. The provisions of the preceding paragraph shall apply to judicial or extrajudicial transactions pending expropriation proceedings.
4. The compensation to be paid for expropriations carried out under this law may be satisfied through the Real Estate Financial Fund.

Article 61

Assignment of property or rights

1. The parties may agree that the compensation shall be satisfied, totally or partially, through the assignment of property or rights to the interested parties.
2. In case of compensation through the assignment of property, the DNTPSC shall be responsible for the identification, from among the property in the State's private domain, of a property with characteristics similar to the expropriated property.
3. The transfer of immovable property complies with the provisions of the legislation applicable to property in the State's private domain.

Article 62

Form of Payment of the Compensation

1. Once the value of the compensation has been reached, the entity receiving the expropriation shall diligently pay the amount in question within a period not exceeding thirty days or shall request the Real Estate Finance Fund to pay it within the same period, where applicable.
2. The expropriation beneficiary shall notify the interested parties of the deposit made on its behalf with a financial institution.
3. The interested parties may withdraw the amounts deposited, without prejudice to their opposition in accordance with the following article and the provisions of Article 51(2).

Article 63

Challenging the Deposited Amounts

1. When the payment referred to in the previous article has not been made or is insufficient, the interested parties may judicially challenge the amounts received, specifying the amounts due, presenting and requesting all means of proof.
2. Once the challenge is admitted, the Real Estate Finance Fund or the entity benefiting from the expropriation is notified to respond within fifteen days and to present and request all means of proof.
3. Once the evidence that the judge deems necessary has been produced, a decision shall be handed down setting out the amounts due and determining the additional deposit that is due, within fifteen days.
4. If the deposit has not been made within the prescribed period, the judge shall order payment by virtue of the bonds given or the measures that prove to be necessary, namely notification of the department in charge of the State's guarantees, so that the State may make the deposit of the missing amount in place of the Real Estate Finance Fund or the entity benefiting from the expropriation.
5. In the case of acquisition by private law or amicable expropriation, thirty days after the agreed date for the payment of any instalment, without it being shown to have been made, the interested party may request the measures referred to in the preceding paragraphs, and must attach a copy of the agreement made.

CHAPTER V FINAL PROVISIONS

Article 64 List of arbitrators

1. The arbitrator appointed by the court of first instance of the location of the property to be expropriated shall be chosen from experts on an official list.
2. The Ministry of Justice shall promote the establishment of the official list of arbitrators, who shall be selected from persons with specific training for the evaluation of real estate.
3. Pending publication of the list referred to in the preceding paragraph, the appointment shall be made on the basis of a curricular evaluation from among potential candidates and shall seek to appoint experts with knowledge in areas such as engineering, architecture, economics or law or other relevant areas.
4. The appointment referred to in the preceding number may also be made by a natural or legal person with recognized experience in the valuation of real estate.

Article 65 Annual plan of expropriations and respective charges

1. For the purposes of the annual plan of expropriation procedures and respective charges, the Ministries concerned shall submit to the Minister of Justice, no later than sixty days before the date of presentation and discussion in the Council of Ministers of the Proposed Law of the General State Budget, a list of foreseeable expropriations for the year to which the Budget refers and the respective estimate of compensation.
2. Based on the data provided by the various ministries under no. 1, the Minister of Justice shall prepare an annual plan of expropriations, to be approved by Resolution of the Council of Ministers.
3. The data indicated under paragraph 1 of this Article and contained in the list referred to in paragraph 2 shall be used in the approval of the amounts to be allocated to the Real Estate Financial Fund for the purpose of payment of compensation resulting from expropriation or acquisitions through private law.

Article 66 Property Financial Fund

1. The Property Financial Fund is hereby established as an autonomous fund with own assets, administrative and financial autonomy and legal personality.
2. The purpose of the Real Estate Financial Fund shall be to finance:
 - a) Compensation to be paid by the State under the terms of the Special Regime for the Definition of Ownership of Immovable Property, regardless of who will actually bear the cost of the compensation, constituting the obligation to reimburse the State;
 - b) Other financial costs arising from the implementation of the Special Regime for the Definition of Ownership of Immovable Property;
 - c) Acquisition, development and implementation of social housing projects under the terms foreseen in the Special Regime for the Definition of Ownership of Real Estate;

- d) Payment of indemnities due by the State and the financing of re-housing operations arising from the application of the Legal Regime of Expropriations.
- 3. The entity responsible for the Real Estate Financial Fund operations is the Board of Directors, which is appointed by the Government.
- 4. The following constitute the revenue of the Real Estate Finance Fund:
 - a) The budget allocated annually by the law approving the General Budget of the State;
 - b) Other revenue allocated by law or by contract.
- 5. The Real Estate Financial Fund is regulated by Decree Law.

Article 67

Application of the Law to Previous Projects

This law shall not apply to projects initiated before its entry into force.

Article 68

Repeal

All rules that are contrary to the provisions of this law shall be repealed.

Article 69

Entry into force

This law shall enter into force on the day following its publication.

Approved February 27, 2017.

The President of the National Parliament,

Adérito Hugo da Costa

Enacted on April 17, 2017.

Be it published.

The President of the Republic,

Taur Matan Ruak