

## Conclusions of the summary report on the courts' jurisprudence on expropriation cases

The examination of the courts' jurisprudence on expropriation cases encompassed the entire expropriation process and took into account the procedural rules of expropriation lawsuits as well as the methods applied by experts in determining the amount of compensation for an expropriated property. The working group's extensive questionnaire-based survey and the analysis of the professional papers delivered by the group members led to the following findings:

The key issue of expropriation lawsuits is the determination of the amount of compensation which shall be done by the court on the basis of an expert opinion given in accordance with the general rules governing the taking of expert evidence within the framework of the Code of Civil Procedure. The Expropriation Act imposes the obligation of the use of a forensic expert by the administrative authorities in their proceedings, this obligation, however, presents multiple problems in the court proceedings. The current procedural rules of the Code of Civil Procedure do not allow an expert who has been appointed by the administrative authority and whose expert opinion is taken into consideration by the court among the other evidence to elaborate on the substance of his expert opinion before the court. The expert opinion of a forensic expert appointed by the administrative authority does not qualify as a forensic expert opinion ordered by the court, even if the expert appointed for the duration of administrative proceedings also acts as a court-appointed expert in other court cases. This problem should be addressed by the adoption of a new procedural rule that could provide for the opportunity to hear an administrative authority-appointed expert by the court in the same way as a court-appointed expert would be heard.

The jurisprudence analysis showed that, in expropriation cases, the use of the several-decade-old expert method of data comparison is still a standard practice, however, this method is difficult to apply in the context of assessing the specific characteristics of the expropriated property, moreover, the method is even impossible to employ in the case of certain types of real estate in the absence of any relevant data. The jurisprudence-analysing working group therefore deemed it necessary to increase the diversity of expert methods, extend their scope of application and introduce new methods of real estate valuation. The use of the comparative data-based valuation method as the main expert approach still needs to be maintained, in particular for the types of real estate that are characterised with a sufficient number of comparable basic data. The comparative data-based valuation method can mostly be applied in the case of peripheral agricultural lands, forest areas and urban built up residential properties. On the other hand, it is possible and suggested to appraise the value of these three types of property by the additional use of one of the international standard methods of real estate valuation as well.

The aforementioned international standards of valuation and the valuation of collateral security specified by law may also be taken into account as supplementary methods in the assessment of a real estate's value, nonetheless, the application of these methods and their impact on the outcome of the assessment have to be indicated in each particular case. This may, in practice, require the identification of adjustment factors the use of which could ultimately be a means of helping to justify the base assessment's reliability. In light of the above, the issue of whether the procedural rules on authorised expert methods within the Expropriation Act should be liberalised with the aim of entitling experts to apply international standards of valuation was also raised.

In addition to being entitled to access the tax authorities' databases, forensic experts should be given access to other databases as well (e.g. the databases of real estate companies). Furthermore, they should be given authorisation to search in the tax authorities' databases on the basis of their own search criteria in order to find the best possible data for comparison which they would need to have for the delivery of their expert opinion.