

Law and Valuation of the Compulsory Purchase in the Republic of Cyprus and Recommendations for Improvement

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SUMMARY

The Compulsory Acquisition Law has a very significant role to play in our economic environment and the efficient and effective functioning of this law as a land management tool, enables the governments to acquire land compulsorily so as to provide major infrastructure projects for the general public and to promote sustainable development.

The aim of this paper is to outline the main principles of the current compulsory acquisition and compensation law provisions in Cyprus, including the fundamental rules of assessment. Thereafter, the specific recommendations are identified and analyzed in order to improve the current legislation.

Specifically, the presentation is divided into three basic sections which are described below:

- Outline the major provisions of International and European Law as regards property rights. These include the rights of ownership and the prerequisites for proceeding with a compulsory purchase. Some violations of the property rights are described in this section, which have been extracted from Court Case decisions, in order to demonstrate the extent to which, such rights in property are safeguarded.
- Outline the major provisions of the Cyprus Constitution and Compulsory Acquisition Law. Also, this section covers the principle rules that are applied to assess the compensation.
- In the last part, specific recommendations are identified in order to improve the inefficiencies of the current law. Some of these recommendations are drawn from other European Countries practices and the European Court of Human Rights.

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1. INTRODUCTION

Geography: Cyprus is situated in the northeastern corner of the Mediterranean basin at the crossroad of Europe, Asia and Africa. It lies at a distance of 800 km from mainland Greece to the west, 96 km west of Syria and 65 km south of Turkey. With an area of 9.251 sq. km, Cyprus is the third largest Mediterranean island after Sicily and Sardinia. It has a maximum length of 240 kms from east to west and a maximum width of 100 kms from north to south. (Geographical map of Cyprus, Fig. 1)

Fig. 1



Cyprus' population at the end of 1995 was 735.000. Population distribution by ethnic group is 84,7% Greek Cypriots, 12,3% Turkish Cypriots, and 3% foreigners residing in Cyprus. The Capital of the island is Nicosia and its major towns are Limassol, Larnaca, Paphos, Famagusta, Kyrenia and Morphou.

The Cyprus Tragedy: On July 15, 1974 a coup was staged in Cyprus by the Greek military Junta, then in power, for the overflow of President Makarios and Turkey used this pretext to launch an invasion on July 20, with a full-fledged army against defenceless Cyprus. Eventually, the Turkish Troops occupied the 37% of the territory of Cyprus, since 1974. Two hundred thousands Greek Cypriots, 40% of the total Greek Cypriot population, were forced to leave their homes in the occupied area and were turned into refugees. 1619 Greek Cypriots are missing since 1974. Thousands of Cypriots, many of them civilians, were killed, raped and maimed during the invasion. Turkey continues to occupy part of Cyprus in utter disregard of repeated UN resolutions, and maintains an occupation army of 35.000 soldiers, colonizing the occupied part of Cyprus with 80.000 settlers from Anatolia. Despite a

humanitarian agreement (known as the Vienna III Agreement) reached in 1975 that would have allowed 20,000 Greek Cypriots and Maronites to stay and live a normal life in the occupied Karpasia Peninsula and the Maronite villages, less than 500 enclaved Greek Cypriots and 160 Maronites remain in the occupied area today. This is the result of a systematic campaign of harassment and intimidation and continuing massive violations of their most basic rights and freedoms, including those guaranteed by Turkey in the Vienna III Agreement. In addition, since the invasion there is a systematic destruction and alteration of the historic and cultural character of the part of Cyprus under Turkish occupation. Administrative map of Cyprus, see Fig 2.

Fig. 2



Modern Times: Nicosia the capital of Cyprus is the only divided city in Europe. The Republic of Cyprus is a member of European Union as from May 1, 2004 and has entered the eurozone as from January 1st of 2008. Some economic indicators are shown below:

Cyprus in Figures:

Economic Indicators	2008	2009	2010f
GDP Growth	3,7%	-1,4%	0,5%
Inflation	4,7%	0,7%	1,5%
Unemployment	4,2%	6,1%	6,6%
Budget Deficit (% GDP)	+1%	-3,5%	-5,7%
Public Debt (% GDP)	49,3%	53,2%	58,6%
Current account deficit (% GDP)	-11%	-8,%	-9%
Income from Tourism	-0,5%	-16%	-2%
Tourist Arrivals	-0,5%	-12%	-3%

2. PROPERTY RIGHTS UNDER INTERNATIONAL AND EUROPEAN LAW

The History of the United Nations as an international organization has its origins in World War II. On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 17 is the fundamental part that deals with property rights and provides that

- (a) Everyone has the right to own property alone as well as in association with others.*
- (b) No one shall be arbitrarily deprived of his property.*

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10 December 1948, the governments who were members of the Council of Europe on 4.1.1950 agreed and signed a number of Protocols, as one step further to implement the universal declaration of Human Rights of UN. The first Protocol, namely, the Enforcement of certain Rights and Freedoms not included in Section I of the Convention, was signed in Paris on 23.3.1952 and under this protocol, Article 1 has laid down the following fundamental declaration:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law”

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

It is evident from the above declaration, that deprivation of property rights is only possible for the public interest. Further, Article 60 of Section 5 the Convention provides that

“Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party”

The meaning of the above article is that the laws of country members can secure much more rights but not less of those in any circumstances.

Cyprus is a member of United Nations Organization as from 23 August 1960 and has confirmed the European Convention of Human Rights under Law N. 39/1962.

An example of those property rights that have been protected by UN Charter and Resolutions, is the case of Cyprus. The Turkish Cypriot Authorities under the encouragement of Turkey, on 15th November 1983, declared the creation of an independent state in “northern Cyprus”. Further, the illegal authorities of the occupied area of Cyprus drafted their own constitution. The proviso of Section 159(1)(b) of their constitution stated that,

“..All immovable properties, buildings and installations which were found abandoned on 13th February, 1975 when the Turkish Federated State of Cyprus was proclaimed or which were considered by law as abandoned or not being owned after the abovementioned date, or which should have been in the possession or control of the public even though their ownership had not yet been determined, ***shall be the property of the “Turkish Republic of Northern Cyprus”*** notwithstanding the fact that they are not so registered in the records of the Land Registry Office; and the Land Registry Office records shall be amended accordingly, even though their ownership had not yet been determined...”

The UN Security Council issued a Resolution 541(1983) on the above action, stating that

- The declaration is incompatible with the 1960 Treaty of Establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee.
- The attempt to create a Turkish Republic of Northern Cyprus is invalid
- Deplores the declaration of the Turkish Cypriot Authorities of the purported secession of part of the Republic of Cyprus
- Considers the declaration referred to above as legally invalid and calls for withdrawal

The above resolutions, reaffirmed that property rights cannot be expropriated as regards the political situation in Cyprus. This was also reassured by the European Court of Human Rights, in its judgment of 18 December 1996, on the individual application of the Greek Cypriot displaced owner from Kyrenia, Mrs Titina Loizidou, against Turkey, and the Fourth Interstate Application of Cyprus against Turkey on May 2001, upheld the rights of the refugees to their properties. In Loizou case, the Court ordered the government of Turkey to compensate the applicant for the time period of deprivation of the use of her property and to provide full access and to allow peaceful enjoyment of her property in Kyrenia. Further, a very interesting case law came up and was a matter of discussion of the legal world society. In its judgment of 15 November 2004, in the case of Meletios Apostolides v David and Linda Orams (British couple), the Nicosia District Court found the Defendants liable for trespass in the property of the Plaintiff, ordering them to demolish the villa and other buildings erected on the property in the occupied area of Cyprus, surrender vacant possession to the Plaintiff and pay damages. Pursuant to EC Regulation 44/2001, the judgments of the Civil Courts of the Republic of Cyprus can be enforced in any of the Member States of the European Union against the assets of the Defendants in that state.

In conclusion of the first part of this paper, an attempt was made throw more light as regards the right of ownership in the international arena. No owner can be expropriated or displaced from its property or home as regards illegal enforcements, violations or military operations in the political arena. This is supported by UN Charter, Resolutions and substantial case law of the European Court of Human Rights.

3. PROPERTY RIGHTS AND COMPULSORY ACQUISITION PROVISIONS OF THE CYPRUS CONSTITUTION

At country level, the Cyprus Constitution is considered as the highest legal precedence of any legislation and regulation of property rights and compulsory acquisition provisions. Section 1 of Article 23, provides that

“every person, alone or jointly with others, has the right to acquire, own, possess, enjoy or dispose of any immovable property and has the right to respect for such right”

Section 3, provides that restrictions or limitations, which are absolutely necessary to the promotion of the public benefit or for the protection of the rights of others, may be imposed by the law on the exercise of such right. Just compensation shall be promptly paid for any such restrictions or limitations which materially decrease the economic value of such property; such compensation to be determined in the case of disagreement, by the civil court.

Section 4, provides that any property can be compulsorily acquired by the Republic or by other bodies which such rights have been conferred by law, and only

- (a) For the purpose which is to the public benefit and shall be specially provided by the general law for compulsory acquisition.
- (b) When such purpose is established by the decision of the acquiring authority and made under the provisions of such law, stating clearly the reasons for such acquisition
- (c) Upon the payment in cash and in advance of just and equitable compensation to be determined in the case of disagreement by the civil court.

4. LAW AND VALUATION OF THE COMPULSORY PURCHASE AND COMPENSATION OF IMMOVABLE PROPERTY

In this part of the paper the major provisions of the compulsory purchase law are described below:

The law is cited as the Compulsory Acquisition of Property Law N.15/1962. A brief summary of the major provisions is described below:

4.1 Immovable Property {S.2(1)}

The term “Immovable Property” includes land, buildings and other erections, trees and any other thing planted or growing upon any land, springs, wells and water rights, an undivided share in any property, privileges, liberties, easements and any other rights appertaining to any land and over any immovable property and rights restrictive of the use of any immovable property which either lawfully subsist at the time of the acquisition or, though not subsisting at such time, are required to be created for the purposes of acquisition.

4.2 The Acquiring Authority (A.A) {S.2(1)}

The A.A authorized by law to carry out a compulsory acquisition is the Republic, the Municipal Corporations, the Communal Chamber, Public Corporations and Public Utility Bodies.

4.3 Purpose of Acquisition {S.3}

A list of the purposes for which properties may be acquired is fully described in Section 3. (e.g defence, security, agricultural reform, town planning, transport etc). If the purpose of the proposed compulsory acquisition is not described in this section, any compulsory acquisition is illegal.

4.4 Notice of Acquisition {S.4}

The A.A authority shall cause a notice of the intended acquisition to be published in the Official Gazette of the Republic, containing the description of the property, the purpose of acquisition, the reason of acquisition and calling upon any person interested in such property to submit to such authority not less than 30 days of the date of publication, an objection which may wish to raise. Where the A.A is a Municipal Corporation or a Communal Chamber, no notice of acquisition shall be published, unless 15 days notice of the proposed publication has been given to the Council of Ministers. A copy of the notice is also posted to the last known address of every interesting party.

4.5 Preliminary Investigation {S.5}

Any officer of the A.A or any other person may, if duly authorized by the A.A in this respect, enter and survey the property and do any other act that may be necessary to ascertain whether it is suitable for the purpose for which it is proposed to be acquired or estimate the value provided that no such officer or person shall enter:

- Any dwelling house without a judicial warrant duly reasoned
- Any building or other than dwelling house, without previously giving the occupier 8 days notice of his intention
- Any other immovable property, without previously giving the occupier 1 day notice of his intention

The A.A shall pay for any damage done and in case of dispute as to the amount to be paid, that amount shall be determined by the Court.

4.6 Order of Acquisition {S.6}

On the expiration of the period of 30 days specified in the notice of acquisition, where the A.A is the Republic, the appropriate Minister shall examine the objections to the acquisitions made and unless the A.A is a Municipal Corporation or Communal Authority, shall forward to the Council of Ministers. Having regard to all the circumstances, that the property shall be acquired, the acquisition of such property, be authorized by an Order published in the Official Gazette of the Republic. The Order shall not be published if more than 12 months have elapsed, since the date of publication of the Notice of Acquisition.

The Order of acquisition shall be made:

- Where the A.A is the Republic, by the Council of Ministers

- Where the A.A is not the Republic, by the A.A. If the A.A is a Public Corporation or Public Utility Body, no Order of acquisition is made by the A.A, without the sanction of the Council of Ministers previously obtained.

4.7 Revocation and Abandonment of Acquisition {S.7}

At any time after the publication of the notice of acquisition and before the payment or the deposit of compensation, the A.A shall by an order published in the Official Gazette of the Republic, revoke such notice and any relative order of acquisition, either generally or in respect of any particular property or part of property referred and consequentially the notice and order shall abate and the acquisition is considered abandoned, either generally or in respect of such particular property or part of property as the case maybe.

If the order of acquisition is not published within 12 months from the date of publication of the notice of acquisition or if the estimated amount of compensation is not offered within 14 months from the date of the notice of acquisition, the date after of the intended notice of procedure is rendered void and the acquisition is considered abandoned.

Any property that is deemed to have been abandoned, the acquiring authority shall pay to any person interested in the property any costs or expenses reasonably incurred and compensate him for any loss suffered, since the date of publication of the notice of acquisition. In case of dispute as to the amount to be paid, the matter is determined by the court.

4.8 Obligation of the A.A to Enter into Negotiations {S.8}

The A.A has the obligation within 12 months from the date of publication of the notice of acquisition to enter into negotiations for the acquisition of the property, by a private treaty and the determination by agreement of the compensation. If no agreement is reached within 12 months, the A.A shall promptly offer the amount of compensation assessed.

The owner may choose to accept the compensation offered by the A.A and by his consent in writing that the acquired property be promptly registered in the name of the A.A. In such a case, the owner has the right within the period of 75 day, from the date of receiving the compensation to apply to the court for the determination of the compensation. If the period of determination has lapsed, it is deemed that an agreement has been reached.

4.9 Reference of Compensation to Court {S.9}

Without prejudice of Section 8, if until the date of the publication of the order of acquisition, no agreement has been reached, the A.A or the interesting parties shall apply to the court for the determination of the compensation.

4.10 Rules of Assessment of compensation {S.10}

This section applies to both immovable and movable properties as follows:

- (a) the value of the property shall, ..., be taken to be the amount which the property, if sold in the open market on the date of the publication of the relative notice of acquisition by a willing seller, might be expected to realise;
- (b) no allowance shall be made on account of the acquisition being compulsory, except where such acquisition is made for mining purposes;
- (c) in the case of immovable property which, at the date of publication of the notice of acquisition, was in the possession of the acquiring authority under the provisions of any law relating to the requisition of property, compensation shall be estimated without regard to any increase in value on account of works made or constructed on, or development or improvement of, or additions to, the immovable property aforesaid during the period it has so been taken possession of;
- (d) the special suitability or adaptability of the property for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers or for which there is no market apart from the special needs of a particular purchaser or the requirements of any acquiring authority;
- (e) where the value of the property increased by reason of the use thereof in a manner which could be restrained by any court, or is contrary to law or is detrimental to the health of the occupiers or to the public health, the amount of the increase shall not be taken into account;
- (f) In the case of property of which part only is acquired ... account shall be taken of the increase or decrease,...in the value of other property held by the owner...;
- (g) Account shall be taken of the damage...by reason of the severance of the property...;
- (h) in the case of compulsory acquisition of immovable property whose value has been affected by the imposition of any restrictions under the provisions of the Ancient Monuments Law or any other Law, every compensation payable according to s. 23 of the Constitution is also calculated (s. 6a of Amendment Law N.25/83);
- (i) In the case of immovable property and with a view to the avoidance of the payment of double compensation, every compensation is calculated ...under ... the Rent (Control) Law...;
- (j) in the case of immovable property which at the date of publication of the notice of acquisition was, and but for the acquisition would continue to be, devoted to a purpose of such a nature that there is no demand or market for immovable property

for that purpose, the compensation may, if reinstatement in some other place is bona fide intended, be assessed on the basis of the reasonable cost of an equivalent reinstatement;

- (k) In the case of an easement, privilege or liberty over any immovable property or ... account shall be taken of any diminution of the value...;
- (l) where, at the date of the publication of the notice of acquisition, the property referred to therein was, and but for the acquisition would continue to be used for the carrying on of any business, trade, profession or vocation, account shall be taken of the loss, if any, directly sustained by any person interested by reason of his being dispossessed of the property under this Law;
- (m) the provisions of paragraph (a) shall not affect the assessment of compensation for any other matter not directly based on the value of the property acquired;
- (n) on the payable compensation it is calculated yearly interest at 9% from the date of publication of the notice of acquisition until the time of payment of the compensation (s. 6b of Amendment Law 25/83);

For the purposes of calculating the compensation under paragraphs (f) and (g) of this section regard shall be had to the existing facts at the time of the publication of the notice of acquisition (s. 6c of Amendment Law 25/83).

All the provisions above are important in calculating the amount of compensation. However, the basic principle used is the market value of the property under valuation at the date of the publication of the notice. This value is then adjusted accordingly to consider any betterment or injurious affection on the remainder of the property, or other adjoining property belonging to the same owner of the acquired property. Any other limitations imposed on the property are also taken into account, as well as any damage caused to any business carried out on the property acquired.

4.11 Persons Entitled to Compensation {S.11}

According to this section, the person entitled to compensation “is the owner of such property ...” and

- (a) where the property “is pledged or charged with the payment of any sum secured by a mortgage, registration of judgment or any other encumbrance or charge...there shall be paid to the respective pledge, mortgagee, judgment creditor or other person in whose favour such encumbrance or charge operates ... the whole or such portion of the compensation to satisfy, in whole or in part, the sum due thereunder, ...;

- (b) Where any property ...is under any lease, hiring or hire-purchase agreement, there shall be paid to the lessee, tenant, hirer or hire-purchaser such portion of the compensation payable as shall be sufficient to compensate him for the termination of his lease, tenancy, hiring or hire-purchase agreement, as the case may be.

There are also relevant provisions for application to Court or the determination of a right or an interest on the property and to be eligible to compensation (s.11 (2)).

4.12 Payment of Compensation {S.12}

This section provides that the payment is made promptly and in cash to the person interested. Subsection (2) provides that “if any of the persons interested does not consent to receive the compensation ... or if on account of disability or absence from the island of Cyprus the payment of such compensation ... cannot be effected, the A.A may, subject to any directions of the Court, deposit the amount of such compensation with the Accountant – General of the Republic.

No taxes are levied on the compensation amount, for example Capital Gains Tax. However, the taxes owed prior to the compulsory acquisition are deducted from the compensation (s.12 (3)).

4.13 Vesting of Property {S.13}

On payment or deposit with the Account General of the sum agreed or determined to be paid as compensation for the acquisition of any property, such property shall vest in the acquiring authority free from any encumbrances; and where the property is immovable, production of satisfactory evidence of such payment or deposit shall be sufficient authority of the Chief Lands and Surveys Officer of the Republic to cause registration of the property, in the name of the A.A. In the case of small amounts of compensation, where the value of the acquired property does not exceed the amount of €1.700, or the amount of compensation does not exceed the amount of €854, the compensation may be deposited with the Accountant – General of the Republic. This gives the right to the Acquiring Authority to proceed with the registration of the property in its name. The owner continues to have the right to apply to Court within 75 days from the date the compensation is actually paid (s.13 and 13A).

4.14 Purpose for which the property Acquired may be used {S.14}

Any property acquired under this law can only be used for the purpose for which it has been acquired.

4.15 Disposal of Immovable Property Acquired {S.15}

Within 3 years of the date on which such property has vested in the A.A, the purpose of which it has been so acquired

- is not attained, or
- the attaining of such purpose is abandoned by the A.A , or
- the whole or part of such property is found by the A.A to be in excess of its actual requirements the following provisions apply:

- a) the A.A, by a notice in writing, offer the property acquired to the owner which the property acquired or his personal representatives or heirs, who within 3 months of receiving the notice, shall reply within 3 months signifying acceptance or non acceptance of the offer. If no reply is made within 3 months, to the offer such offer is deemed not to have been accepted
- b) If the person to whom a notice under the previous paragraph has been given significance of acceptance of the offer, such person shall within another 3 months of the date of which the price of the property shall be returned to him is agreed between him and the A.A or determined by the court.

In any of the following circumstances:

- a) Where a person to whom a notice was given, does not accept the offer of any immovable property or
- b) Where the person has accepted the offer but fails to pay the price within 3 months of the period specified or
- c) Where the whole or part of any immovable property acquired under this law is, at any time after the attainment of the purpose for which it has been so acquired, considered by the A.A to be no longer required for such purpose, the A.A shall sell the property at public auction.

The above three provisions shall not apply where the property whole or part is required for another purpose of the A.A, if such purpose is to the public benefit, the A.A shall cause an Order of Retention, to be published in the Official Gazette of the Republic, containing the description of the property intended to be retained and the reasons for the retention and authorizing such intention. Where the public is a public corporation or public utility body, no order of retention is shall be made, by such A.A, without the sanction of the Council of Ministers previously obtained.

4.16 Notices {S.17}

Notice or communication may be served personally or sent by registered post addressed to the last known place of residence of the person for whom the notice is intended.

If the person has a guardian the notice has to be sent to the guardian. If the person is absent from the island of Cyprus, additionally to the above provision, a copy of such notice or communication shall be published in a newspaper circulating in Cyprus and also posted up at a conspicuous place in the town or village in which the person to whom it is addressed had his last known place of residence in the island of Cyprus.

Additionally, if the notice is addressed to a person whose address is not possible to establish or it regards property under dispute and the owner of the property is not possible to be found and if it is addressed to a person with whom it is not possible to have unobstructed communication, as a result of the emergency «ekrythmos» state, notice is given by its publication in a newspaper circulating in the Republic of Cyprus and also posted up at a conspicuous place in the town or village in which the immovable property concerned lies (Amendments 17.1.b). It is an offence to destroy or damage property between the date of the notice of acquisition until the date of its completion or abandonment (s.19).

5. RECOMMENDATIONS TO IMPROVE THE INNEFICIENCIES OF THE CURRENT LAW

5.1 Acquiring Authority

Introduce a new acquiring authority type, namely “Communal Authority”, in order to be able to implement compulsory acquisitions, as per Communal Authority Law 86(I)/1999

5.2 Purpose of Acquisition

Introduce a new paragraph under the purposes that a property can be acquired for the public interest. This provision is giving powers to the Council of Minister to issue an Order in the Official Gazette of the Republic, which shall cover purposes which are not in the current law.

5.3 Improve the transparency of information to the affected owners

That is to inform the owners of the affected and remainders areas of the acquired properties and these are to be shown on a cadastral plan. A future development is that the affected owners could have access to this information through the website of the Department. Also, a leaflet is proposed that could be issued and attached to the formal offer of any affected owner as regards their rights.

5.4 Purchase Notices

A new proviso is recommended similarly with the purchase notices in UK. There are instance, where the remainder of the property acquired can no longer be used (small size, shape, etc), thus the affected owners shall have the right to serve a notice to the A.A requesting the acquisition for the whole of their property.

5.5 Formal Offers, Payment Procedure and Time Limits

The existing process of formal offers, payments and time limits is very problematic and cost consuming. It is suggested that after receiving the formal offer, the owner has the right to object by submitting a reasoned valuation report within 3 months from the date of receiving the formal offer. The A.A has the obligation to examine the objection within a further period of 3 months and to inform the owner of the findings of the examination. The compensation, which has been determined after the examination of the objection is paid to the owner or deposited to the Accountant General in the name of the owner. The owner reserves the right to apply to the court for the determination of compensation payable within 75 days from receiving the amount of compensation.

5.6 Purchases by Private Agreement

A radical recommendations to improve the code, is that of the right of the A.A to enter into an agreement by a private treaty to acquire the property. This is only possible, if the property is required to be acquired for the public benefit. In such cases, the provisions of Section 12 as

regard tax exemptions will be valid as well. At any point in time and prior to the payment or deposit of the compensation to the owners, the parties are free to negotiate and if possible to reach an agreement for the determination of compensation. The owner's right to refer the case to the court for the determination of the compensation has to be made within 1 year from the date of receiving or depositing the compensation to them.

5.7 Interest Rate Changes

Paragraph (n) of Section 10 of the current law is recommended to change. On the compensation to be paid to the owner, interest is calculated at the rate of 9% from the date of the notice of acquisition to the date of payment. The amendment provides that after the payment or deposit of the compensated amount to the owner, the rate shall be calculated at the legal rate as determined by Courts Law.

5.8 Disposal of the Immovable Property Acquired

Section 15(1)(a) is recommended to change as follows. The purpose for which the property has been acquired and vested in the name of the A.A, is not attained, the A.A shall offer back the property to the previous owner. The owner has to pay back to the acquiring authority, the amount of compensation paid to him, plus legal interest from the date of payment of the compensation to the owner until the date payment to the A.A. There is no provision for the legal interest in the existing law. In addition, it is recommended that in cases where surplus land which has to be returned back to the previous owner is so small to be developed in its own right and the previous owner has sold its remainder adjoining property, which has been affected by the acquisition, therefore the right to exercise the option lies to the person who has purchased the property adjoining the returned property at the date of return, and the purchase price of that property should be calculated at the current market prices.

5.9 Home Loss Payment

Section 10 of the Compulsory Purchase Law, does not provide for the payment of any home loss payment, however, a recent verdict against the Republic of Cyprus by the European Court of Human Rights, in Kolona V Cyprus Appl. 28025/03, dated 27.9.2007, it was found to have violated Article 8, because it entered the owner's home (holiday home), without prior written consent. The ECHR therefore, ruled that in addition to the payment of compensation given in the first place for the compulsory acquisition, a further amount was awarded as compensation for loss of home. After this judgment and having in consideration that the legislation in UK and N. Zeland, provides compensation for such loss, it is recommended that a new paragraph should be inserted in Section 10, to provide for such loss.

5.10 Mediation

It is recommended that the mediation process should be incorporated into the law, thus decreasing the cost of resolution, reducing the time to award compensation. The right to refer the case to the court will be a last resort action.

5.11 Comparable Sales

The Valuation Section of the Department of Lands and Surveys should improve the quality of the comparable sales, thus ensuring that the information used to award compensation, reflectes the real market values of the acquired properties.

5.12 Establishment of Specialized Valuation Courts

No such kind of courts exists in Cyprus. This can bring about more quality to the judgments, speed the process of adjudication and minimize the administration and other costs. Two Valuers could stand as permanent members with one judge (e.g Lands Tribunal in UK).

6. CONCLUSIONS

An attempt has been made in this paper to outline the property rights at International and European level and thereafter to describe the major provisions of the Cyprus Constitution and especially the Compulsory Acquisition Law. Finally, a number of recommendations are put forward, having into consideration the best practices and experiences all over the world, which it is believed that can improve significantly the quality of this code in the Cyprus Republic, when introduced.

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