

The court is the court, but justice must be ours!

If your property was taken over for public purposes, e.g. for road construction, there are chances that you received compensation based solely on its previous use. Without taking into account the fact that... its value was actually increased by designating it for a road investment. Sounds absurd? It does – but so far, this was the standard. Was – though it may no longer be.

In a resolution dated 27 May 2025 (ref. I OPS 1/24), the Supreme Administrative Court (NSA) held: the benefit principle must be applied. In theory, this means that if your plot of land increased in value due to being designated for a road as a result of expropriation – this higher value should form the basis for calculating compensation.

From the property owners' perspective, this is a decidedly favorable development. From a practical standpoint, however, the effects of this resolution may depend on how it is applied in individual cases and how the administration responds. It is possible that existing practices will need to be reconsidered – but that's not a given yet.

What is the benefit principle about? According to the Real Estate Management Act, if the purpose of the expropriation increases the value of the property – this increase should be taken into account when determining the amount of compensation. The problem was that executive regulations (ordinances) said quite the opposite – specifically, that transaction prices of comparable “road-type” properties should be used. But what if such properties don't exist? Or if they do, but are more expensive? Exactly.

The NSA clearly stated: an ordinance cannot restrict the content of a statute, and a lower-ranking act cannot override the statutory right to fair compensation. Moreover, the resolution has not only practical but also constitutional significance – because it concerns the protection of property rights, their proportional limitation, and the real compensation for the loss of property.

What might this mean in practice? Potentially – benefits for owners who were expropriated under the so-called special road act (e.g. for CPK investments, bypasses, expressways). Especially if their compensation did not reflect the purpose of the property acquisition or was calculated automatically based on an unfavorable formula. This may involve claims for additional payments, new valuation reports, or even the reopening of administrative proceedings – but everything depends on how the NSA resolution is interpreted and implemented in practice.



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PRACTICE IN LAWYERS VIEW

Will this spark a wave of new applications? That remains to be seen. But one thing is certain: owners now have a stronger argument. And it might be worth considering – especially in the context of reviewing past administrative decisions.

Do you want to know more? Contact us!

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