

Changes to returns of expropriated real estate

The Ministry of Investment and Development has put forward a bill amending the Real Property Management Act regarding the return of expropriated real estate, which was subsequently adopted by the government. The bill is based on the rulings of the Constitutional Tribunal of 14 July 2015 (SK 26/14) and 12 December 2017 (SK 39/15). In the first of the rulings, the Tribunal stated that the requirement to obtain the consent of property co-owners for the return of an interest in expropriated property was unconstitutional. The other ruling allows former owners and their heirs to seek the return of the property acquired through negotiations.

Following the adoption of the proposed amendment, co-owners will no longer be able to block the return of the property indefinitely. Each and every co-owner will be entitled to file the relevant request on their

own. The other interested parties will be notified of the instituted proceedings by way of an announcement. If the parties do not join the proceedings within a specified time limit, their right to seek the return will expire.

Another new measure stipulated in the bill allows for a return of the expropriated property which is unnecessary to accomplish a public purpose project also in the event expropriation pursued otherwise than on the basis of a decision – accordingly, the return will be possible regardless of the property right deprivation manner. The Constitutional Tribunal stated that the form of taking ownership was of secondary nature. In the event of absence of reasons of public purpose, the obligation to return the property to the former owner (or their legal successors) has been restored.

Moreover, the bill calls for a statute of limitations beyond which it would be impossible to bring a claim for return of the property,

setting it at 20 years of the expropriation decision becoming final, provided that the entitled party does not file a relevant request within the prescribed time limit. The provision is aimed to improve legal certainty. This solution should be of particular benefit to tenant organisations and local government institutions. If the right to seek return of expropriated property expires, the property which is no longer necessary to pursue a public purpose project stated in the expropriation decision can be used for a different purpose.

The bill amending the Law has already been passed by the Council of Ministers, and it has been forwarded to the lower chamber of the Polish parliament for debate.

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