



Documentation Regional development instruments

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This project has received
European Regional
Development Funding
through the INTERREG III B
Community Initiative



Federal Ministry for the
Environment, Nature Conservation
and Nuclear Safety



Bavarian State
Ministry of the
Environment,
Public Health
and Consumer
Protection

Interreg III B

General Data	
Name of instrument:	Declaration of public utility (Déclaration d'utilité publique - DUP)
Country / region:	FR
Spatial level:	local
Type:	Laws and regulations
Subtype:	Legal codes
Description:	<p>The declaration of public utility (DUP) is the act by which the administrative authority declares, by decree (enacted by a Ministry or by the Préfet, who is the State representative in a Département) need for a procedure of expropriation. This declaration must obligatorily specify the time before the expiry of which expropriation must take place. The request for opening of investigation of public utility falls on expropriator. The applicant can be a public or private person. The Préfet is the only person having the capacity to start or refuse the application of opening of investigation. The applicant must accompany his request by specifying the nature of the project and its utility, and must comprise several elements, amongst others: the nature and the extent of the operation; the plots concerned; the works planned; and an impact study, which aims at preventing any project which can attack the environment in which the work will fit. The public can give its opinion on a possible expropriation.</p> <p>Thus, a commune can ask for an expropriation, even apart from its territory, when it does not have the land plots necessary which are intended for utility services, such as: a cemetery; a school; a water collecting; a road link. This procedure is more common for State authorities. For example, this procedure applies about operations with the aim of the installation of central services of the State or of services with national competence, and about establishing main transport infrastructure (creation of commercial airports, of highways and freeways, etc). restrictif list fixed by decree (for example, works of creation of aerodromes of category A, works of creation of freeways and highways etc.). Moreover, the concept of 'public utility' may be extended to 'interests of the environment' or 'safeguard monuments and sites having been the subject of protection measures'.</p>
General objectives:	Define rules where public authorities can expropriate the owner of a real estate (land piece, building, etc), in compliance with article 17 of the Declaration of the rights of the Man and the Citizen: " the property being an inviolable and sacred right, no can be deprived of it, if it is not when the public necessity, legally noticed, requires it obviously, and under the condition of just and preliminary one compensation)" .
General Objectives keywords:	expropriation ;
Responsible:	National authority
Stakeholder Involved:	Local authority/Municipal council

Stakeholder Involved:	Private individuals
Reference:	Code of the expropriation and Code of urban planning
General assessment of strength and weakness:	<p>Long lasting procedure, leading to juridical debates and disputes, including public consultation, which is a last recourse in the case there is no preliminary direct agreement with the owner, when the applicant is faced with the limits of other existing instruments, as for example:</p> <ul style="list-style-type: none"> . the Urban preemption right, which applies only in the case the owner intends to alienate the good, .the Constraints public utility which are administrative constraints which must be annexed to the PLU (constraints of protection of the heritage, constraints relative to the use of certain resources and equipments, constraints relative to the national defence). They are motivated by the public interest and establish, on the initiative of the administration, for public purposes, limits in the right of property and use of the ground, . the creation of a ZAC (Concerted development zones)
Metadata:	<p>Date of entry: 2007/03/14</p> <p>Contact: Ifuplan, Schleißheimer Str. 156, 80797 München</p>
Implementation	
Legal status:	not-mandatory for responsible body, BUT mandatory for end-user
Extension:	rarely (< 25%)
Comment:	some examples found in judicial chronicles fconcern Alpine municipalities, but in most cases these chronicles evoke transport infrastructures
Type of monitoring:	Qualitative / descriptive reporting
Assessment	
Relevance	
Status:	weak indirect relevance
Ranking:	1
Remark:	-
Acceptance	
Status:	-
Ranking:	0
Remark:	overall identification of accepting interest groups not possible, the acceptance is strongly dependent from the individual case (expropriation of private individuals may be judged different e.g. by NGOs when doing it for building a road than for safeguarding a natural site)
Implementation	
Status:	-
Ranking:	2
Remark:	-
Feasibility	
Status:	Legislation, political will
Ranking:	4
Remark:	Although ranked 4, the instrument represents a last resort in spatial planning due to its long process of implementation

Effectiveness	
Status:	Direction of effect, type of effect, perpetuity
Ranking:	3
Remark:	-