

Article

The Valuation of Land in Land Consolidation and Relevant Administrative Procedures in the Conditions of the Slovak Republic

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Abstract: This scientific study focuses on the assessment of the legislation on land valuation, which takes place in the framework of selected administrative procedures in the Slovak Republic. The issue of land valuation is regulated in several pieces of legislation and, in terms of content, is their unifying feature of the valuation of land for public purposes. The reason for examining the determination of the so-called “administrative price of land” is the fact that, in practice, the administrative procedures analyzed are extremely time-consuming and considerably inefficient compared to other administrative practices. Another reason for analyzing the legislation on land valuation is the fact that they also have a direct impact on the speed of the related administrative procedures and on the use of land for private purposes and, therefore, on the actual exercise of the property rights to which the parties to those proceedings are legally entitled. The main objective of this study is to examine the quantity, quality, and differences of legislation allowing land valuation for land consolidation purposes and to compare it with land valuation for restitution and expropriation purposes. In the processing of the topic, we primarily used the method of critical legal analysis and suitable and available scientific methods designed for law examinations, such as description or synthesis. In the context of the examination, we also applied a comparative method to compare the development of the legal situation of the Slovak Republic with the Czech Republic. We also used scientific and doctrinal interpretations associated with the application of case law on Slovak and Czech legislation, as well as professional and scientific literature contained in the Web of Science and Scopus databases. The results of the study indicate that, despite the multi-annual effectiveness of the legislation, it would be appropriate to resolve the problems encountered in the Slovak Republic by adopting a new code regulating the issue of land consolidation.



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1. Introduction

The right to property, as one of the fundamental values, is protected by international law and, at the national level, primarily by constitutional norms. The stability and protection of property relations are at the forefront of their subject matter, such as real estate and, in particular, land. As Illáš (2019) pointed out, the importance of examining the regulation of land management, and above all, those defined as land, could be best demonstrated by the fact that this type of property constitutes an essential basis for food production in the state and needs to be protected as a strategic and non-renewable natural resource. Also, for this reason, according to Cirliĝ (2016) and Fedchyshyn and Ignatenko (2018), the ownership right to land is also among the basic human rights protected by generally binding international documents.

There are many roles of the state including, on the one hand, the right to property and, on the other hand, the state may interfere with the right to property under strictly

defined conditions. The reason for the state's entry into the regulation of the property relations with the land is the public interest in the context mentioned above. According to [Vrabko and Papáčová \(2019\)](#), in both administrative and judicial decisions, the public interest must always be assessed on a case-by-case basis according to the specific legislation and for each case on a case-by-case basis. In relation to land consolidation, the term "public interest" is more precisely defined by the judgment of the Supreme Court of the Slovak Republic, according to which "... public interest can also be seen in the interest ... in qualitatively new spatial and functional arrangements of property relations with land ...", which allows for the real exercise of property rights and thus the strengthening of the legal status and legal certainty of the parties to land consolidation ([Supreme Court of the Slovak Republic 2011](#)). As a rule, we see it as an interest beneficial to society as a whole. Our scientific study focuses on the public interest in the efficient use and protection of natural resources, the construction and development of strategic infrastructure, and the mitigation of some assets. However, as stated by [Vačok \(2021\)](#), this administrative procedure is fully subject to the review authority of the administrative judiciary in the Slovak Republic, which strengthens the protection of the rights of the participants.

Although the issue of land valuation has been discussed for a long time, the legislative side remains "sometimes behind the door". The specific problem is, in our opinion, the lack of interest of legal theorists in comprehensive research of this nature, which is a particularly topical topic. This deficiency also stems from the reason why we decided to fill this space at least partially in this scientific study. In terms of systematics, our scientific study is divided into several parts ([Syerov et al. 2021](#)). As part of the introduction, we consider it necessary to explain the reason for the choice of the topic. In the theoretical review, we point to the opinions of several authors on the issue under investigation. In the methods and materials chapter, we characterize the scientific methods used and the method of processing the materials necessary to master the topic successfully. However, the main focus is the results chapter, which is divided into four sub-chapters. Each one focuses on one question. The first one is the settlement of money or replacement of land, while the second sub-chapter is focused on the valuation of land for the purpose of resolving restitution claims, and the third sub-chapter is dedicated to the valuation of land for expropriation purposes. Lastly, the fourth sub-chapter analyzes the legal state of land valuation in the Czech Republic. In the conclusion section, we present the results of our research and suggest the subject of future research.

Several private relations are limited to a certain extent by the protection of the public interest. Therefore we are looking for an answer to the question of how the legislation regulating the state's entry into the freedom to dispose of land in the conditions of the Slovak Republic corresponds to the needs of society and the rights of the parties to administrative proceedings. The subject of our critical analysis is the legislation on land valuation. For our research, the core term "land", a real defined part of the earth's surface, is intended for agricultural or construction purposes.

2. Literature Review

The intervention of the state in legal relations with the land is implemented through the administrative procedures of competent administrative authorities, particularly in the case of land consolidation, restitution, and expropriation. According to [Dudić et al. \(2020\)](#), the administrative authority competent for land consolidation and restitution proceedings is the land and forestry department of the district office and the expropriation proceedings at the county's headquarters. In addition, the officially determined value of the land must be determined, for example, to determine the basis of assessment for real estate taxes or local taxes and charges ([de Vries 2022](#)). In practice, the selected procedures are both professional and time-consuming. This view is shared by [Bodea and Purnus \(2018\)](#), who added that the legislation governing it, given its social gravity, was designed with high demands for chain-of-procedural actions. The public interest characteristic of the administrative proceedings under [Žofčinová et al. \(2022\)](#) required that the procedural steps be efficient

and reasonably rapid. However, according to practical knowledge, the legislation on land valuation, as a regular part of the procedures analyzed, does not correspond. According to [Bahar and Kirmikil \(2021\)](#), the determination of the official price of the land depends on the purpose for which the valuation is carried out and is regulated by several pieces of legislation. They are mainly perceived as opaque and unsystematic by the participants in the administrative procedures examined. This creates an inequality between landowners.

These processes are, therefore, often prolonged in practice by bringing legal remedies and actions. There are also opinions that the state of heterogeneous land valuation legislation may be unconstitutional. The fact that this is a long-term and unresolved problem is illustrated by two facts. The first is the judgment of the European Court of Human Rights in 27 November 2007 in the case of *Urbárska obec Trenčianske Biskupice against the Slovak Republic*, complaint No 74258/01, which dealt with the issue of adequate compensation for the deprivation of the ownership of land in a garden settlement. In this case, the European Court of Human Rights found that cash compensation did not correspond to the market value of real estate ([European Court of Human Rights 2007](#)). According to [Jankelova et al. \(2021\)](#), the legislation on one of the areas of land valuation in horticultural settlements responded to that judgment. It was an amendment to Act No 64/1997 on the use of land in established gardening settlements and the settlement of ownership thereon, as amended ([National Council of the Slovak Republic 1997](#)) and amending Decree No 492/2004 of the Ministry of Justice of the Slovak Republic on the determination of the general value of the property, as amended ('Decree No 492/2004') ([Ministry of Justice of the Slovak Republic 2004](#)). The fact that this was not a conceptual solution implies the return of the amendment to the Land Adjustment Act 2019 by the president of the Slovak Republic, referring to the judgment mentioned above of the European Court of Human Rights, on the understanding that such significant legislation, which is created only once in many decades, should be properly prepared and must respect all the constitutional principles. [Pavlovič and Michalovič \(2021\)](#) stated that the main reason for the president's sentence was that they had doubts about the conformity of the returned amendment to the Constitutional Act on the Slovak National Council Act No. 460/1992 Coll. The constitution of the Slovak Republic, as amended (hereinafter referred to as the "Constitution of the Slovak Republic"), in particular concerning the principle of the legal protection of ownership.

According to [Maslák \(2020\)](#), the amendment would adversely affect small and medium-sized farmers directly managing land, in particular concerning the principle of the legal protection of ownership. [Funta and Králiková \(2022\)](#) pointed out that the Slovak Republic had to amend in the past similar legislation on the use of land in horticultural settlements, following decisions of the European Court of Human Rights. The main focus is the part of the justification for the return of the act, which states that according to Section 3(2) of Act No 400/2015 on the drafting of the legislation and on the Collection of Acts of the Slovak Republic, the legislation must be terminologically correct, precise, and generally understandable. Furthermore, the legislation must be concise, internally irreconcilable, and contain provisions with normative content which are systematically and substantively interlinked. The legislation establishes rights and obligations so that they complete or develop a system of rights and obligations in accordance with their existing structure in the legal order and do not become contradictory ([National Council of the Slovak Republic 2015b](#)). The same should apply to the legislation that is related to each other.

3. Methodologies

As noted by [Šáraru \(2019\)](#), public administration is an activity carried out by state authorities, self-governments, and public institutions in the performance of public tasks. Its main objective is to work for the public good through the strengthening of civil society and social justice. In our scientific study, we focus primarily on a critical analysis of the current legal situation governing the valuation of land in land consolidation, which is the main objective. In order to achieve the main objective, we have also identified milestones, namely:

- The analysis of selected Slovak legislation;
- The identification of the main legislation;
- The development of Czech legislation in the field of land valuation.

At the end of our study, we critically evaluate the results of our examination, compare the development of land valuation of the Slovak and Czech public administrations, and propose possible options for improving the legislation in this area.

We aim to achieve the stated main objective and milestones by carefully examining the relevant European, Slovak, and Czech legislation. Another key source of knowledge is the formal sources of law. These are laws of different legal powers, ranging from the Constitution of the Slovak Republic to sub-legal legislation, such as the decrees of ministries and other central state administration bodies. We also do not forget the formal sources of European law, such as the Council Directive 2006/112/EC of 28 November 2006 on the common system of value-added tax, which regulates the determination of the price for tax purposes or decisions of both the Slovak and European courts ([Council of the European Union 2006](#)). Another source of knowledge is the professional and scientific literary resources contained in the Web of Science and Scopus databases. From the concept of a method as a certain organized operational procedure, it is clear that, according to [Knapp \(2003\)](#), in order to handle the solution of the given problem successfully, the procedure must be organized from the beginning to its completion. It is necessary to determine a system of rules for the procedure by which certain knowledge should be reached, and the methods used should be chosen appropriately, properly combined, and supplemented. Pointing to the fact that it is not possible to use every method, it is necessary to choose those that are suitable for the given science and which would then lead us to the intended result because the choice of the methods is conditioned by the subject of knowledge.

Due to the nature of the scientific study, we applied scientific methods of knowledge. According to [Knapp and Gerloch \(2012\)](#), scientific methods of knowledge are “methods immanent in science as a highly qualified human activity aimed at obtaining scientific knowledge, to penetrate from the phenomenon to the essence. The result of this activity is new knowledge that is organized into a certain system”. Due to the nature of the scientific study, we used several scientific methods of knowledge suitable for the knowledge of the law. This includes, in particular, the use of a critical analysis method to examine the legal situation and regulation, as well as methods of abstraction or synthesis. The results of the critical analysis of the legislation are supported by the results of related research by relevant researchers. Since the Slovak Republic was part of the Czech and Slovak Federal Republic until 1993, we paid due attention to the development of land valuation in the Czech Republic to improve the quality of work. At the end of our scientific study, using a comparative method, we compared the development of both regulations.

4. Results

According to [Sombati \(2019\)](#), land consolidation in the Slovak Republic is the result of historical conditions and the persistent fragmentation of land ownership. This situation is a serious obstacle to the effective exercise of land ownership rights, the development of agriculture, and the management of forest land. The central legislation for the implementation of land consolidation is Act No 330/1991 of the Slovak National Council on land consolidation and the arrangement of land ownership, land offices, land funds, and land communities (hereinafter referred to as “the Land Adjustment Act”) ([Slovak National Council 1991](#)). The content of land consolidation and, at the same time, the determination of the public interest is a rational spatial arrangement of land ownership in a particular territory and other immovable agricultural and forestry property associated with it, carried out in the public interest. Another condition for land consolidation is, according to [Sararu \(2017\)](#), compliance with the requirements and conditions of environmental protection and the creation of a territorial system of ecological stability, the functions of the agricultural landscape, and the operational and economic aspects of modern agriculture and forestry and support for rural development.

In addition to the Act on Land Development, the basic legal framework in this area is the Constitution of the Slovak Republic ([Slovak National Council 1992](#)), Act of the Federal Assembly of the Czech and Slovak Federative Republic No. 229/1991 Coll. adjustment of ownership relations to land and other agricultural property as amended (hereinafter referred to as “Act No. 229/1991 on Adjustment of Ownership Relations”) ([Federal Assembly of the Czech and Slovak Federal Republic 1991](#)), further Act No. 180/1995 Coll. on certain measures and arrangement of land ownership as amended ([National Council of the Slovak Republic 1995](#)), Act No. 64/1997 Coll. on the use of land in established horticultural settlements and settlement of ownership of them as amended ([National Council of the Slovak Republic 1997](#)) and Act No. 66/2009 Coll. on certain measures in the property-law arrangement of land under buildings that have passed from the ownership of the state to municipalities and higher territorial units, as amended ([National Council of the Slovak Republic 2009](#)).

According to [Strokov et al. \(2022\)](#), the object and purpose of land consolidation is the realization of a new, rational arrangement of land ownership for all agricultural and forest land as well as related immovable property. Such a new arrangement is to be implemented on the basis of a reliable finding of ownership and usage and related property rights. A new arrangement of plots is achieved by splitting, consolidating, separating, or another type of change of plots. In this context, a number of legal, economic, technical, and other measures need to be implemented in the territories concerned. One of them is the valuation of land carried out by several entities and is carried out on a regular basis in the land consolidation processes. Depending on them, the valuation takes place on the basis of the market price or the so-called “official land price”, which is essentially at the heart of the problem ([Jancikova and Pasztorova 2021](#)).

In the Land Adjustment Act, the issue of land valuation is regulated in Section 11 as a “settlement”. According to that provision, not only the owner but also the co-owner of the land subject to land alterations is subject to an arrangement corresponding to the value of their land and permanent crops thereon. In doing so, an account must be taken for the losses required for the joint facilities and measures, as well as for the benefits obtained by carrying out land consolidation. Under Paragraph 9(3) of the Act on land consolidation, the value of the land in the perimeter of the land consolidation project is to be determined according to the type of land as recorded in the land registration system. This value must be specified by the commission investigation in the preparatory procedure and according to the land registers that are mapped, and the land register is kept by the land register. This is the basis for the creation of a land value map for land consolidation purposes. A settlement could be acquired via land or money. However, as [Mucha 2021](#) stated, it is clear from the law’s diction that settlements over cash settlements always take precedence over other lands.

4.1. Settlement in Land and Money

When the land is settled, the owner receives a significantly smaller number of new plots, mostly in its entirety, for the co-ownership of the original land. This is also the goal of land consolidation. According to [Šindleryová \(2022\)](#), the administrative authority is obliged to take account of the operational and economic circumstances of all the participants and of the circumstances affecting the use, recovery, and income from the land. These shall be appropriate to the original land by the second area, demonstrate creditworthiness, and have a good location and economic condition. Taking into account the need to build common facilities and measures, parcels whose value differs from the value of the original land is not more than five percent, after the deduction of the share of the joint facilities and measures, shall be considered appropriate. The deviation from the area for new parcels shall be adjusted so that the owner’s new land parcels are appropriate if the difference in the area of the original parcels and the new parcels does not exceed 10 percent of the area of the original parcels, including the parcels or parts thereof necessary for the joint installations and measures ([Masárová 2018](#)). The variation in the permissible difference in

value or area may be exceeded to the detriment of the owner only with the written consent of the owner but without the right to balance money.

A settlement could also be provided in money. In practice, this is primarily a settlement for land in which the owner has extremely minimal co-ownership shares of a maximum of 400 m², the use or sale of which would not be of financial interest. According to Section 11(8) of the Land Adjustment Act, a settlement for land (excluding forest land) in the perimeter of the land consolidation project with a total area of up to 400 m² shall be provided in money. The settlement in the money is carried out between the Slovak Land Fund and the owner of the land.

Some authors ([Čajková et al. 2021](#); [Handrlica 2019](#)) referred to Section 11(10) of the Land Adjustment Act in cases where the land is located in the third to the fifth level of protection and is not owned by the state. In this case, the application by the owner for a cash settlement pursuant to Act No 543/2002 on nature and landscape protection, as amended ([National Council of the Slovak Republic 2002](#)), is mandatory. According to [Maslen \(2018\)](#), these are often urban pastures and forests. Section 61c of this Act provides, in the context of compensation for limiting normal management, for the purchase of land into state ownership. According to them, qualified entities representing the state could redeem land in protected areas at the maximum price according to the Decree of the Ministry of Justice of the Slovak Republic No 492/2004 Coll. on the determination of the general value of the property, as amended. However, the basis for determining the price, in this case, is an expert opinion. The determination of the official price of the land is also carried out under the Land Adjustments Act, according to which the state may, through the Slovak Land Fund or the trustee, purchase land that the owners offer for sale.

The valuation of land for the purposes of land consolidation is governed by the Decree of the Ministry of Agriculture of the Slovak Republic No 38/2005 Coll. on the determination of the value of land and stands on them for the purposes of land modifications implementing the Land Adjustment Act, as amended (hereinafter “Decree No 38/2005”) ([Ministry of Agriculture of the Slovak Republic 2005](#)). However, the consent of the owner is required for the settlement of the money. Here, however, we return to the veto amendment of the act on land consolidation. It proposed that the amount of compensation be adjusted to the owners of land under construction transferred from state ownership to municipalities and higher territorial units. According to the applicant, the value of the land on which the building stands should have been determined as 10 times the highest value of the soil-ecological units in conformity with the special legislation of the highest quality soil-ecological units in a given cadastral area, in accordance with a special regulation. In order to determine the type of land, the type of land was proposed at the time before it was built. The values of the banished soil-ecological units are laid down in Annex 1 to Decree No 38/2005. As further stated by [Matusova and Novacek \(2022\)](#), the highest quality soil-ecological units are identified in Annex 2 of Slovak Government Regulation No 58/2013 Coll. on levies for removal and ineligible use of agricultural land ([Government of the Slovak Republic 2013](#)). [Maslák \(2020\)](#) considers that the mismatch between the official land price determined under the above legislation and the market value of the land is significant.

4.2. Appraisal of Land for the Purposes of Settling Restitution Claims

The legislation on the implementation of restitution in relation to land is still binding on the territory of the Slovak Republic for the period of existence of the Czech and Slovak Federal Republic. It is implemented by Act No 229/1991 on the regulation of property relations and on its basis by the Slovak National Council of the issued Land Adjustment Act, which also regulates restitution claims. Consequently, the restitution of agricultural property of natural persons was carried out pursuant to Act No 503/2003 Coll. on the return of the ownership of land and amending Act No 180/1995 on certain measures for the arrangement of the ownership of land (“the Restitution Act”) ([National Council of the Slovak Republic 2003](#)).

According to [Sombati \(2019\)](#), the acts governing restitution provided the possibility to affect them either as restitution or monetary compensation. Land must, therefore, also be valued in restitution proceedings. They are linked to land consolidation proceedings by an identical administrative body which acts as time-consuming and frequent appeals, as the parties do not share the procedure for valuing the land.

As part of our research, we focused on a selected problem from practice. This is a 2004 case. This is not an isolated case, and problems with restitution and, in particular, with the determination of the official price were registered in the Slovak Republic since the first proceedings under the legislation of restitutions. In this case, the beneficiary applied in 2004 for financial compensation under the Restitution Act, which provided for the return of the ownership of land not issued under the Czechoslovak Act No 229/1991 Coll. on the regulation of the ownership of land and other agricultural property. In the present case, this was land in which it is not possible to return ownership. As with land consolidation, compensation in other parcels takes precedence over the grant of compensation in money. Therefore, under the Restitution Act, in such cases, the beneficiary would be transferred free of charge to other land owned by the state in the area and quality appropriate to the original land. The priority is given to the land in the same cadastral area. If this is not the case, then the priority would be land in the cadastral areas of neighboring municipalities or in the district where the original land was located. A condition for such a procedure is the consent of the restitution. However, if the beneficiary does not agree with the replacement land thus designated, he shall be compensated in money. Compensation in money shall also be granted if the land has an area of less than 400 m² or the right in money is not more than EUR 166. However, in this case, it was also found that the restitutions were not satisfied with the financial compensation awarded on the basis of an official valuation by the administration and requested a valuation under other legislation.

However, the current position of the acting district office was based on Section 8a of the Restitution Act, which shows that the price regulation for the granting of financial compensation is Decree No 205/1988 of the Ministry of Finance, Prices, and Wages of the Slovak Socialist Republic on the prices of buildings, land, permanent crops, payments for establishing the right of personal use of land, and on compensation for the temporary use of land, as amended ([Ministry of Finance, Prices and Wages of the Slovak Socialist Republic 1988](#)). On the basis of Section 8a of the Restitution Act, when granting financial compensation to a person entitled under Section 6(2), the district authority had to comply with the non-compliant price regulation in force on the date of entry into force of Act No 229/1991 on the regulation of the ownership of land and other agricultural property.

The legislation on the basis of which the parties to the restitution proceedings require the land to be valued is the aforementioned Decree No 492/2004. This decree is also referred to as the correct price regulation by the methodological guidelines of the Ministry of Agriculture of the Slovak Republic and the Slovak Land Fund of 2004. The difference with the 1988 decree is mainly the entity that appreciates the land. According to the 1988 decree, it is an administrative body acting, but according to the 2004 decree, it is an expert who performs a valuation in the same way as in the case of Act No 503/2003 Coll. on restitutions, thus at market value. It often moves in hundreds of times the official value. The problem is, therefore, a frequent difference between the market value and the officially determined value of the land. However, we have also encountered cases, especially in the less developed areas of Slovakia, where the differences between the market and official prices are negligible. In the most productive areas of the Slovak Republic, with a high purchasing power of the population and entrepreneurs, the market prices are several times higher.

4.3. Valuation of Land for Expropriation Purposes

In the legal order of the Slovak Republic, the expropriation of land and buildings regulates a number of acts with specific legislation. The role of “lex generalis” is currently fulfilled by Act No 282/2015 on the expropriation of land and buildings and the forced

limitation of the right to property therein and amending certain acts (hereinafter referred to as the “Expropriation Act”) ([National Council of the Slovak Republic 2015a](#)). According to them, strategic structures carried out in the public interest are expropriated, the purpose of which is to be expropriated from the planning documentation. These are works in the public interest, specifically defined by the competent authority in the planning documentation. In addition to the Expropriation Act, part of Act No. 50/1976 Coll. on Land Planning and Construction Regulations (hereinafter referred to as “the Building Act”) ([Federal Assembly of the Czechoslovak Socialist Republic 1976](#)) applies to other cases of expropriation in the public interest. Until 2016, the *lex generalis* acted as a building act. In parallel with the new expropriation law, the legislator intended to adopt a new building act. However, this was not the case, and there are currently two effective expropriation laws, the relationship of which, according to the professional literature ([Vrabko and Papáčová 2019](#)), could only be dealt with by the interpretative rule of “*lex posterior derogating legi priori*”.

The conditions of expropriation are the public interest, expropriation for the purpose laid down by the act, only to the extent necessary, and in return, for reasonable compensation. Similar to land consolidation and restitution, the expropriated fair compensation provided in money ([Sararu 2016](#)) is included. If it is possible to settle for expropriated land or construction by allocating a replacement land or building and the expropriated consents to it, this method of settlement shall take precedence over compensation in money. The determination of compensation for expropriation is laid down directly by the Expropriation Act. The basis for determining the compensation for expropriation under the Expropriation Act is the general value of the land or building determined in accordance with Decree No 492/2004, that is to say, the determination of the price at the market value. The use of the decree results from the explanatory memorandum to the expropriation act without direct reference to the expropriation act.

The compensation shall be determined on the basis of an expert opinion which shall not be older than two years. However, according to [Grygar \(2021\)](#), the compensation for expropriation may not be lower than the general value determined by the expert opinion. The issue of compensation for expropriation was solved in a current way already in 2003 by an amendment to the Construction Act, according to which the compensation in money began to be determined according to the market price determined by the expert opinion. Until then, the Construction Act referred to the Decree of the Ministry of Finance of the Slovak Republic No. 465/1991 Coll. on the valuation of land and other real estate. Prior to the adoption of the current legislation, the practice of expropriation was criticized mainly because of the time-consuming nature of the whole process and also the insufficiently regulated issue of determining the compensation for expropriated property ([Ministry of Finance of the Slovak Republic 1991](#)). For example, according to ([Nováčková and Vnuková 2021](#)), the legislation in force was broken down by an ad hoc resolution of the government in the expropriation of land in 2005 and 2006 for the realization of significant foreign investments linked to the construction of a plant for the assembly of cars and automotive parts and modules of Žilina and in the purchase and expropriation of land in the PSA Peugeot Citroën investment project.

Of the administrative procedures analyzed, the legislation on expropriation is the most recent, but nevertheless shows the shortcomings mentioned above. The legislator’s ambition was to unify expropriation legislation, streamline expropriation practices in practice, and eliminate inconsistencies in fixing the amount of compensation. However, a comprehensive amendment of the expropriation regulations and, in particular, of the building law would be necessary for such an objective. The new building act was intended to constitute a “*lex specialis*” for all works carried out in the public interest, with the exception of those whose purpose of expropriation stems from the zoning documentation, i.e., buildings in the public interest, specifically defined by the competent authority in the planning documentation. It is well known that, however, the reform of expropriation remained unachieved due to the failure to adopt a new building act, to which, in its original

version, a number of specific legislation regulating the issue of expropriation in several sections of the administration are thus referred.

As with land consolidation and restitution, the administrative procedure for the implementation of expropriation in practice shows several shortcomings, not only in the conditions of the Slovak Republic, according to [Janus and Ertunç \(2022\)](#). However, the expropriation procedure is relatively fast compared to the previous two administrative procedures. During the time of use of the Building Act as a *lex generalis*, the expropriation procedures took approximately one year. Expropriation is the fastest procedure compared to land alterations and restitutions in real estate valuation using the text of the Expropriation Act and Decree No 492/2004.

4.4. Appraisal of Land in the Czech Republic

The land consolidation process is primarily governed by Act No 139/2002 Coll. on land consolidation and land offices, as amended (hereinafter referred to as “the Act”) ([Parliament of the Czech Republic 2002](#)). Nevertheless, the Act of the Federal Assembly of the Czech and Slovak Federal Republic No. 229/1991 Coll. is still in force in the Czech Republic to adjust the ownership of land and other agricultural property. With regard to the definition of the basic legal institutes, reference should be noted to the amendment of the key rule of private law, which is Act No 89/2012 of the Civil Code in force since 1 January 2014 ([Parliament of the Czech Republic 2012](#)). This legislation, in the position of the “*lex generalis*” of private law in Section 3080(1) of the Czech Civil Code, was repealed by the Czechoslovak Civil Code of 1964 but which, as we have already mentioned, is still in force in the Slovak Republic ([National Assembly of the Czechoslovak Socialist Republic 1964](#)). The definition of immovable property is found in Section 498 of the Civil Code of 2012. According to it, immovable property is “land and underground buildings with a separate purpose, as well as rights in rem over them, and rights proclaimed as immovable property by law. If another law provides that an item is not part of the land, and if such an item cannot be transferred from place to place without infringing its substance, it shall also be immovable.” From the above, according to [Števíček and Ivančo \(2021\)](#), it is seen that they have fully departed from the Czechoslovak definition of real estate, which is still understood in the conditions of the Slovak Republic “land and buildings linked to the ground of a solid foundation”.

As stated by [Matějková et al. \(2022\)](#), the new Czech Civil Code returned with this new definition to the traditional superficial principle already known from Roman law, which applied in the territory of former Czechoslovakia until 1951, when the construction became a separate matter (the land under construction and the construction could have different owners). The Latin principle of “*superficies solo cedit*” means that the construction is part of the land. That principle is enshrined in Paragraph 506(1) of the Civil Code, which reads as follows: “A part of the land is space above and below the surface, buildings established on land and other facilities, with the exception of temporary buildings, including what is embedded in the land or fixed in the walls.” The consequence of the reintroduction of this principle was that, on the date of entry into force of the Civil Code, the buildings became part of the land and were no longer separate items if the property right was held by one person. In the event that, according to [Matějková and Pavelek \(2019\)](#), the owner of the land was different from the owner of the civil code on the date of entry into force of the civil code, both the land and the building were separate items and only a two-way legal right of pre-emption arose (the owner of the land for construction and the owner of the building on the land). An explicit exception introduced in this regard by the Civil Code is the Institute of Construction Law. The right of construction is a special kind of immovable property that burdens the land and the essence of which is always a time-limited authorization to build and use the building on or below the surface of a foreign land.

The new civil code also contains the legal basis for determining the price ([Matějková et al. 2022](#)). The price of a thing is the monetary value of a thing. Unless otherwise agreed or stipulated by law, the usual price is determined. However, for the purposes of valuation,

the definitions contained in two public law regulations, Act No 151/1997 on the valuation of assets and amending certain acts, as amended (hereinafter referred to as “the Asset Valuation Act”) (Parliament of the Czech Republic 1997) and Act No 526/1990 Coll. on prices, as amended, are essential/Federal Assembly of the Czech and Slovak Federative Republic (1990). To implement the Act on Asset Valuation, the Decree of the Ministry of Finance of the Czech Republic No 441/2013 Coll. was adopted to implement the Act on Asset Valuation, as amended (Ministry of Finance of the Czech Republic 2013). The Asset Valuation Act shall apply in cases where “specific regulations refer to a price or special regulation for the valuation of assets or services for purposes other than sale”. The Act on Asset Valuation also “applies for the purposes set out in the special regulations listed in Sections Fourth to Ninth of this Act, and if so determined by the competent authority within the limits of its authorisation or if the parties so agree”. The Act on Asset Valuation is not used in the context of price negotiation under the Price Act, for the valuation of natural resources (excluding forests) or in other cases (another method of valuation under a special regulation or transfer of property under a special regulation). The changes introduced by the recasting of private law also had to reflect the Act on Asset Valuation. It does not separate things identical to the Civil Code, but had to adapt its provisions to the new definition of immovable property. The Act on Asset Valuation is divided into titles governing the valuation of individual items. Title two (the first contains basic provisions) and for this work, the most important chapter deals with immovable things and is further divided into three parts: buildings (their breakdown, valuation, and valuation of units), land (their breakdown and valuation of different types of land), permanent stands (their breakdown and valuation of different types), and rights in immovable property (the valuation of building rights and the valuation of burdens in rem). Land is divided for valuation purposes according to Section 9 of the Act on the valuation of property into building land, agricultural land, forest land, land registered in the land register as water areas, and others.

5. Discussion and Conclusions

The price of land in the Slovak Republic is set for different purposes. Only private interests are decisive in private relations, and the market price is decisive, based on the quality of the land, supply, and demand. In public relations, the determination of the price of land is aimed not only at protecting the privacy rights of owners and users but also at protecting the public interest. Therefore, in the Slovak Republic, but also in other countries, subjective rights and private interests are restricted in the cases laid down by the law and by legal rules regulated by procedures. In our conditions, administrative procedures are extremely time-consuming and inefficient in the long term. In many cases, the participants await the exercise and realization of property rights and other rights for several years.

We have therefore examined the rules governing the determination of the official price of the land. We found that the legal situation up to 2004 in relation to the determination of the price of land and other real estate by the state was only unsatisfactory and to market changes by a decree of the Ministry of Finance of the Slovak Republic of 1991. The uniform legislation applied not only to the valuation of land in the context of land consolidation, restitution, and expropriation, but also, for example, to the determination of the amount of taxes applicable to immovable property.

Since 2004, the valuation of land has been regulated by several pieces of legislation. In that year, the Decree of 2004 on the determination of the general value of assets also entered into force. This decree sets out more comprehensively the methods and procedures for determining the general value of assets by experts and is also followed in cases where it is necessary to determine the general value of the property at the request of a state authority and also for proceedings under several special regulations. The basis for the valuation of the land is, according to this legislation, an expert opinion. However, in our opinion, it is important that this decree establishes binding procedures for all experts on the lists of the Ministry of Justice of the Slovak Republic.

On the basis of further examination, we found that, however, the valuation of land for land consolidation purposes is carried out under the 2005 Decree implementing the Land Adjustment Act. The exception is land located in the third to the fifth level of protection, which is also valued under the 2004 Ordinance. However, in the practice of valuation, we encounter the application of two decrees in restitution. Since the beginning of the restitutions, a number of controversial issues have been dealt with in proceedings under the Restitution Acts. Even after the adoption of Act No 503/2003 on the return of the ownership to land, the situation was not stabilized. From our point of view, the situation in the valuation of land within the framework of restitutions is complicated mainly because the Act on Restitutions is appropriately applied to Act No. 229/1991 Coll. on the regulation of property relations and also the situation in the case where implementing regulations is inappropriate. The legislation on expropriation is based directly on the wording of the expropriation law from the point of view of the valuation of expropriated land. The basis for determining the compensation for expropriation under the Expropriation Act is the general value of the land or building under the 2004 Decree.

When comparing the developments with the Czech Republic, we also considered it necessary to refer to the adoption of the new Czech Civil Code, which completely deviated from the common definition of real estate. We also found that even during a common state up to a year, we had only one common act governing the issue of land ownership, which is still in force in both states, Act No. 229/1991 on the regulation of property relations. Interestingly, the difference in the valuation of land was already paid for by socialism because the valuation of land was regulated by the decrees of the Republic Ministries of Finance.

It is clear from practice that without an efficient administrative procedure, an efficient and, in particular, fair valuation of land cannot be carried out. Even without the time-consuming correction procedures for land valuation, the administrative procedures analyzed are extremely time-consuming. Their postponement is followed by serious social and economic problems. In the final summary, we could express, on the basis of our examination, the need for a uniform and comprehensive solution to land consolidation, including expropriation and official valuation of land as well as other real estate. In our view, modern, effective, and constitutionally conforming legislation in the form of a code following the model of the civil code is needed. Individual legislation would form a compact whole, internally irreconcilable, systematic, and substantively interlinked.

We did not deliberately examine the issue of determining and calculating the cash compensation itself in land consolidation, restitution claims, and expropriation. These topics are extensive and would be the subject of our further examination since their legislation is socially serious and extremely sensitive. It includes, on the one hand, the need to promote the public interest and, on the other hand, the need to protect private interests.

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