



# THE BRIEFING NOTE



**Theme: Expropriations and Compensations  
in the Framework of Major Development  
Projects: The Missing Governance**

**March 30, 2022**

# INTRODUCTION

The NELGA'S Knowledge Exchange (NEX) forum is a platform that was created by the African Land Policy Centre (ALPC), the nodes of the Network of Excellence for Land Policies in Africa (NELGA), in partnership with the German International Development Cooperation Agency (GIZ), with the aim of fostering exchanges, information sharing and knowledge transfer on land governance in Africa among academics, researchers and other land stakeholders .

The areas of interest are wide-ranging, from current concerns to lessons learned, new working methods, new areas of research, successes and challenges related to land issues. The aim is to inspire the work being done in our different environments on land issues and thus better respond to the AU's land agenda.

Today's forum hosted by the NELGA node in Central Africa was the second of its kind, following one organised in September 2021 by PLAAS, a research institute based at the University of the Western Cape, South Africa.

In her welcome remarks, Joan Kagwanja, the Head of the ALPC encouraged deep dive conversations on the challenges of Large Scale Land Based Investments (LSLBI), the implementation of the AU endorsed LSLBI guidelines within regional and national structures of research and governance and other AU endorsed structures on land issues. She hopes that the discussions look beyond financial compensation when expropriations occur and apply policies that propose more viable and sustainable solutions for the beneficiary communities. Finally, she said she was happy to have the opportunity to learn from what is happening in Central Africa, which, because of its strategic position, influences the entire continent.



# PRESENTATION

Professor Paul Tchawa, Secretary-General of the Ministry of Environment and Nature Protection and Coordinator of the NELGA Central Africa node, was the lead speaker of the NEX and identified the following governance problems in the Cameroonian context:

**1. At the institutional level:** He pointed out the inconsistency between the current Expropriation Code and the Environmental Code of August 17, 1996. The inconsistency thus highlighted is because the two texts designate two different entities as the responsible parties for compensating for the socio-negative impact. While the Expropriation Code designates the President of the Republic as the authority in charge of the compensation decree, the Environmental Code designates the project promoter as being in charge of compensation within the framework of the implementation of the Environmental and Social Management Plan (ESMP), which remains a contractual document between the promoter, represented by the project owner, and the State, represented by the Minister for the Environment. The latter is the one who approves the consultants who draw up the ESMPs, thus creating duplication of responsibilities between the public bodies, which leads to divergent assessments in the procedure.

Clearly, it is the Minister of Lands and Property Affairs who is responsible for deciding on the composition of the commission to establish and evaluate the properties in question; but it is the Minister of the Environment who coordinates all impact studies and approves the consultants in charge of the ESMP. These two approaches can arrive at two different conclusions for the same problem, with different assessments of the assets on each side, and this is where the problem begins.

**2. At the level of information: Asymmetry in information, insider trading and misrepresentation:** In most African countries, people have lived for decades on land that the State manages. The reality is that these lands are customary lands that the State has, since the 1974 law, transferred to its national domain. The communities who live there know that they are the owners of this land until there is a major project and they are asked to vacate. In such circumstances, it turns out that only their investments on the land in question are compensated. Taking advantage of their position or their proximity to the teams in charge of conducting expropriations and compensation, the elites have first-hand information about the implementation of large projects in given areas. They do everything possible to hide the information from the village populations living on the sites of future projects and use their influence to buy the spaces targeted by the state for the realisation of future large projects at a low price and to title them in their names.

When the expropriation and compensation procedures are set in motion, these elites present the land titles to benefit from the compensation that would have been beneficial to the victimised populations, had it not been for the deception of these corrupt elites.

# PRESENTATION

**3. At the rate and the format applied to compensation:** In many countries, the rates applied by the state are considered too low by the populations affected by displacement. The case of Cameroon presents a precedent on which the populations most often rely to claim a better rate. This case concerns the Chad-Cameroon pipeline project. In the context of this project, the rate applied was that defined by the World Bank, which is higher than the rate applied by the state in compensation for projects that it has fully implemented. Since this precedent, the number of disputes over the amount of compensation by the victimised populations has increased, slowing down the implementation of major projects within the given time.

The format for compensation is the distribution of cash to people who are victims but who are not used to handling large amounts of money. This format proves to be detrimental to the populations in that it plunges them into more serious social problems or lowers them further in terms of the poverty level. For example, cases have been reported of families who, as a result of disputes over the appropriation or management of this money, have led to the breakdown of family fabrics, murders, the inability to provide an alternative lifestyle with the money received and abuses of all kinds.

**4. In the design of development projects and respect for human rights: injustice, corruption, poorly designed/planned projects, compensation debt:** The state claims the right to evacuate before paying compensation. This is a backwards procedure because, in a normal procedure, the state must pay the victims who, with the money received, will have to resettle elsewhere using the means received. Sometimes the time between the signing of the compensation decree and the actual compensation is extraordinarily long (10, 15 or 20 years), which poses a real social and governance problem. The consequence of this reversed procedure and the slowness of the compensation process is that the victimised populations block the realisation of projects for fear of not being compensated once the project has been completed. The State also neglects or forgets to provide for the percentage of compensation to be paid to the affected populations when setting up major development projects (as in the case of the Douala-Yaoundé autoroute) and this kind of thing leads to projects being blocked.

# OBSERVATION

- 01** Differential treatment depends on whether the victim holds a land title
- 02** Contradictions in the provisions of the texts
- 03** Asymmetry on access to information
- 04** Lack of information on the governing expropriation and compensation
- 05** Poorly prepared projects, documentation and training of public officials involved in the expropriation and compensation processes
- 06** Contestation in the value of the site
- 07** Contestation of compensation measures
- 08** Lengthy expropriation investigations for compensation measures
- 09** Compensation evaluation dysfunction
- 10** Technical issues and barriers



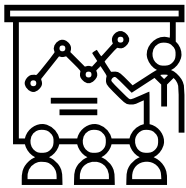
# RECOMMENDATION

The discussions provided an opportunity to shed light on the grey areas and questions raised in relation to the expropriation. Questions such as the compensation calculations and the estimation of long-term products were discussed with a call for a review of the rules governing estimates and calculations and the role of the Divisional Officer in expropriation procedures. Other recommendations include:



## **No. 01**

Improved inclusion and participatory planning would give citizens and the population time and space to express themselves and contribute to the process.



## **No. 02**

Better training for those responsible for the assessment and evaluation of the properties involved



## **No. 03**

States must take the time to mature the projects better and set up bodies to monitor and evaluate the expropriation and compensation processes

**In Conclusion**, the discussion acknowledged that there was work to be done to harmonise the compensation grids and to run a proper evaluation of intangible assets which requires further discussions in coming up with appropriate best practices for Cameroon and the region as expropriation is not only jurisdictional but has huge administrative components. The meeting ended with a call for further exchange on the topic to examine other facets of land compensation and expropriation.