



THE UNIVERSITY OF WARMIA AND MAZURY
IN OLSZTYN
POLAND

Land acquisition for public purpose in Poland on example of public road construction

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INTRODUCTION

Investment in the real estate market requires land where investment projects could be executed.

Acquiring real estate may be effected in a number of ways, depending on the type of investment, the entity which is executing the investment project and the rights to the subject of investment with the specified restrictions.



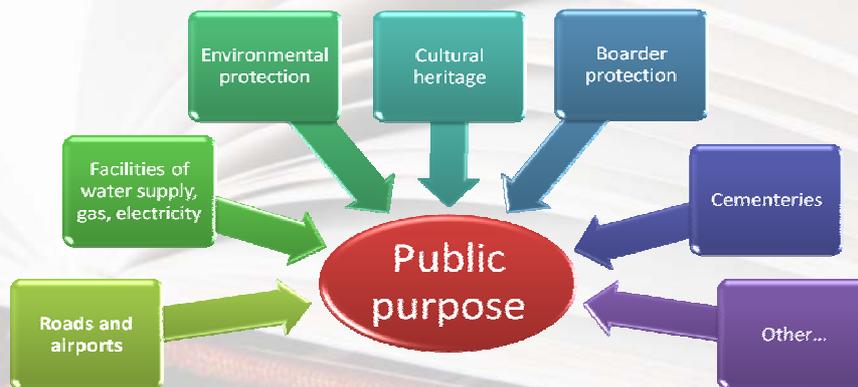
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PUBLIC PURPOSES

on the basis of the Act of Real Estate Management

The act of real estate management provides an open list of the major public purposes. The major ones are:



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EXPROPRIATION

LEGAL BASIS

The Constitution of the Republic of Poland

Everyone has the right to ownership, to other property rights and the right to inherit property.

Ownership, other property rights and the rights to inherit property are subject to legal protection equal for everyone.

Ownership may be restricted only by means of an act of law and only inasmuch as it does not violate the essence of the right of ownership.

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EXPROPRIATION

LEGAL BASIS

Expropriation is possible with regard to the real estates situated in the areas which in local plans are allocated for public projects or to such real estates for which a decision has been issued establishing the location of a public investment project.

In Poland a real estate may be expropriated only for the benefit of the State Treasury or of a local government unit.

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EXPROPRIATION

LEGAL BASIS

The act on real estate management

The following statute contains a number of conditions that have to be fulfilled in order to expropriate property, legal procedures for expropriation and methods of calculating the amount of compensation .

Directive of the Cabinet regarding real estate valuation and preparing the appraisal report

The following directive contains a number of rules regarding calculating the amount of compensation

The act on the principles of preparing and executing project investments in national road construction

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THE PROCEDURES OF LAND ACQUISITION FOR PUBLIC ROAD CONSTRUCTION

The act on the principles of preparing and executing project investments in national road construction

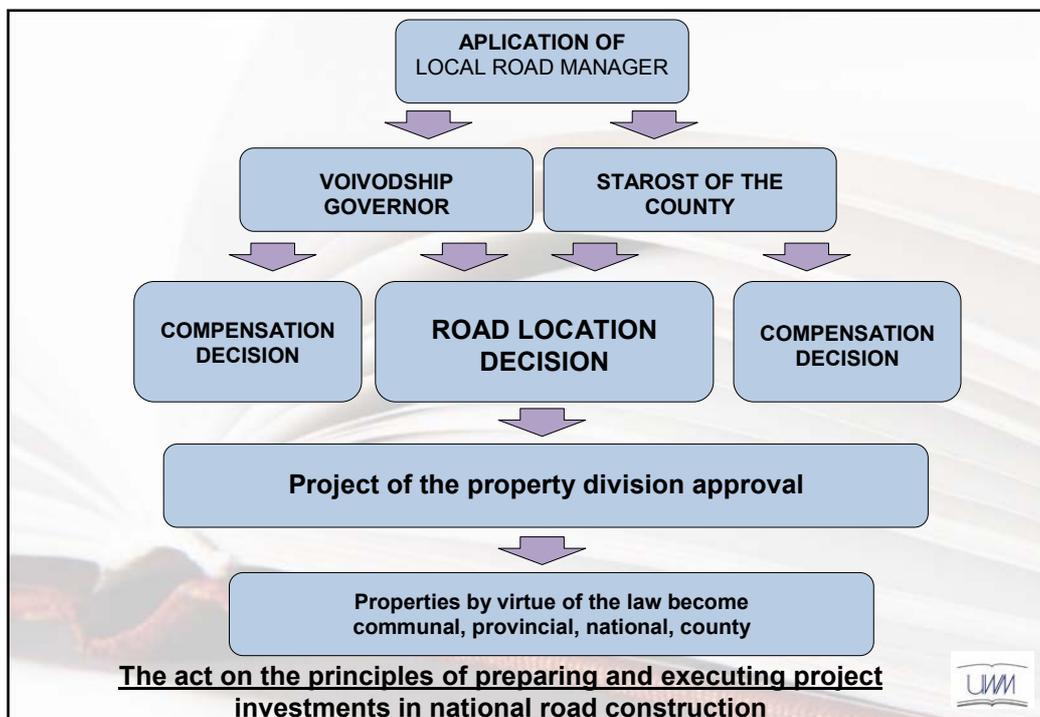
All the flaws of the procedures of acquiring land for road construction became apparent particularly after 2004

The biggest disadvantage was the excessively **long period** needed for **their completion**, which in many cases **delayed** the whole project.



CASE STUDY

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FAIR COMPENSATION

Payment of compensation for expropriated real estate in Poland is guaranteed by The Constitution of the Republic of Poland 2 April 1997

Compensation for the compulsory purchase of real estate has to be just.

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Principles of the assessment of compensation for real estate expropriation

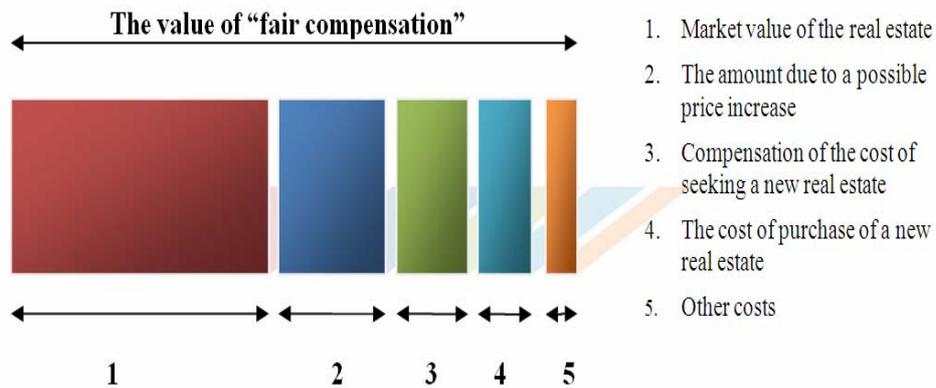
The amount of compensation is determined on the basis of the condition and the value of real estate as of the date of signing the expropriation decision

As a rule **the market value is the basis for calculating** compensation

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Components of the real just compensation



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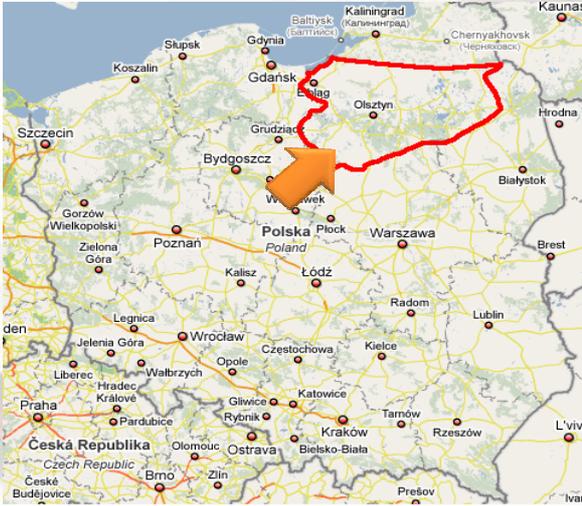


Warmia and Mazury Province CASE STUDY

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ROAD CONSTRUCTION IN THE PROVINCE OF WARIA AND MAZURY

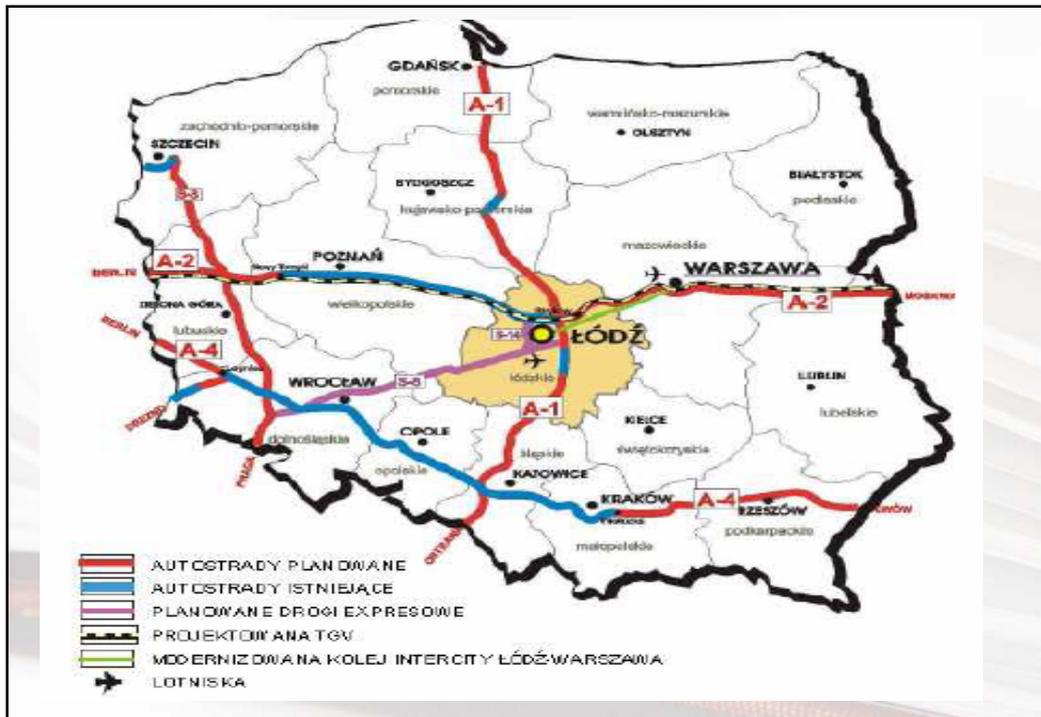


The 4th largest province in Poland

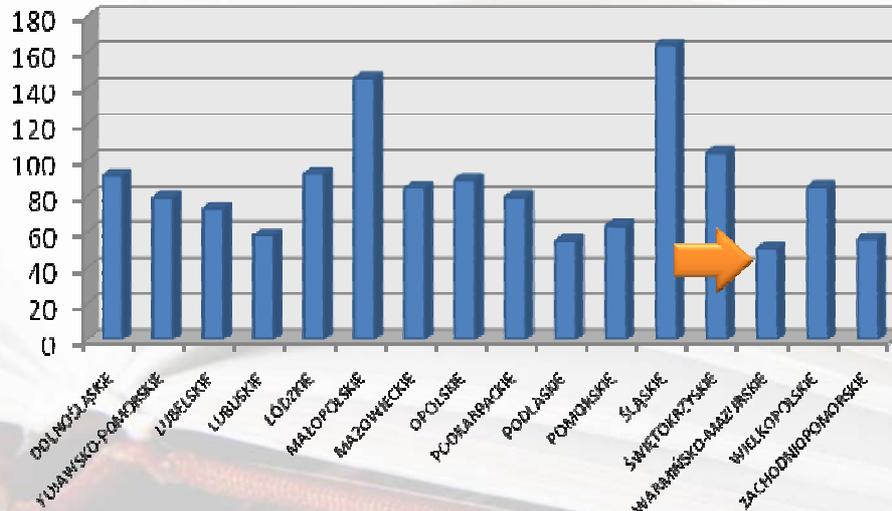
Area of 24 000 km²

7,7% of the country's area

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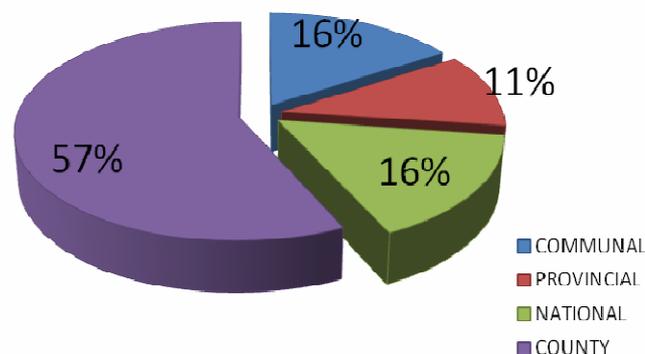
The density of the road network



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The road types in the Warmian and Mazurian Province



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Construction of the road network 2004 – 2006 (1st half)

During that period of time **36** investments were carried out in the Warmia and Mazury Province.

8 orbital roads constructions investments

5 bridges constructions investments

23 roads constructions/modernizations

2638 parcels  to be acquired

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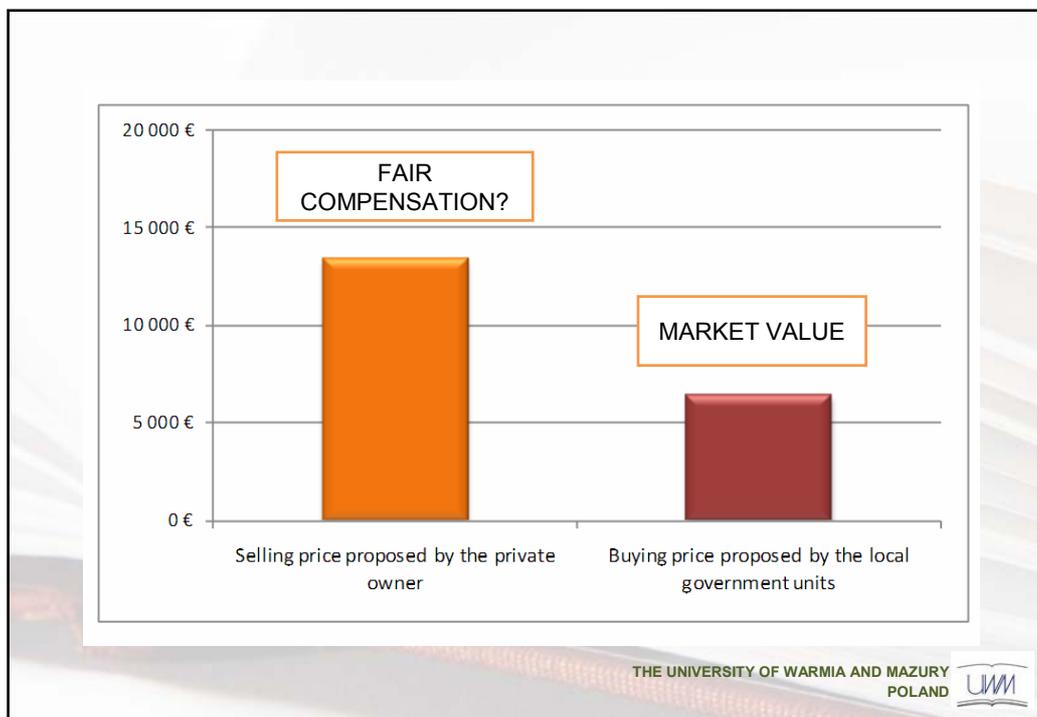
Construction of the road network



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No	STAGES OF THE PROCEDURE	2005			2006				2007				2008	
		Quarter			Quarter				Quarter				Quarter	
		II	III	IV	I	II	III	IV	I	II	III	IV	I	II
1	Road location decision (legally valid)	■												
2	Appraisal of real estate (market value)		■											
3	Negotiations (lack of compromise)			■										
4	Offer of purchasing real estate (market value) with explanation of its estimation			■										
8	Information about starting the compulsory purchase procedure (with additional time compromise in terms of purchasing the property)				■									
10	Lack of compromise				■									
11	Starting compulsory purchase procedure				■									
15	Court trial					■								
18	Expropriation decision						■	■						
19	Appeal against the expropriation decision								■					
22	Problems with entering the property, (private owner does not agree with leaving the property)									■	■			
28	Provincial Administrative Court in Warsaw (second trial)											■		
29	Provincial Administrative Court in Warsaw (expropriation decision is not against law)											■		
30	Expropriation procedure still in process (expected end of the procedure - second quarter 2008)												■	■





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