

Expropriation and Good Governance

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The principle of good governance is difficult to define. The principle is sometimes described as a set of administrative safeguards which are at the basis of the rule of law, such as the principle of legitimacy, transparency and legal certainty.

Perhaps it is too early to say that the principle can be regarded as a human right in itself, but nevertheless, the principle has become increasingly important in the case law of the European Court of Human Rights. The ECtHR already addressed the principle in the framework of the rights connected to a fair procedure (article 6 ECtHR) and fairly recently the principle has also been introduced in the field of the right to property (article 1 of the First Protocol to the ECHR).

The ECtHR has defined the principle of good governance in this latter context as follows: “where an issue in the general interest is at stake it is incumbent on the public authorities to act in good time, in an appropriate manner and with the utmost consistency”. The principle thus offers a new framework to assess whether or not a deprivation of property is fair. It is this framework – and its implications – that I would like to explore further in my contribution to the colloquium.