

France

Declarations of public utility



TYPE OF TOOL
*Methodology/
Guidelines/
Requirements*



MAIN SECTOR
All sectors



INFRASTRUCTURE GOVERNANCE PILLARS
*Fiscal sustainability, affordability and value for money;
Transparent, systematic and effective stakeholder participation*

In a nutshell



OBJECTIVE: Declarations of public utility are aimed at ensuring an adequate and sufficient assessment of a project's socioeconomic profitability. They are a specific type of permit required as part of an expropriation procedure.



Agency in charge
French Council of State (Conseil d'Etat)



Levels of government
National and sub-national



Year of implementation
1988



Current status
Fully operational

Overview

A very important stage in the planning and delivery of large infrastructure projects in France is securing the “declaration of public utility” (DUP). This administrative authorisation is required to expropriate the owners of the land on which the infrastructure is to be built. In order to secure a DUP for a project, its socioeconomic profitability needs to be assessed by conducting a cost-benefit analysis (CBA). In addition, the project has to be consulted on with different stakeholders. In matters of declaration of public utility, the French Council of State (Conseil d’Etat, highest administrative court in France) is in charge of controlling both the regularity of the procedure and the concept of public utility itself.

As a first part of the declaration process, the prefect (local representative of central government) launches a public inquiry to collect the views of all affected parties. On the basis of the file submitted to public inquiry, the prefect then issues the declaration. For projects of national significance, the declaration is issued by decree.

In case of legal challenge against the declaration, the assessment by the administrative judge of the public interest of the expropriation operation consists of an independent control of the CBA in three stages:

- check that the operation comports a goal of general interest,
- check whether expropriation is necessary to carry out the operation, and finally,
- check that the advantages of the operation outweigh its disadvantages, taking into account all of the public and private interests at stake.

REFERENCES:

- Government of France, *Code de l'expropriation pour cause d'utilité publique*, <https://www.legifrance.gouv.fr/codes/id/LEGISCTA000006159492/2009-04-08/>