

Criteria for Distinguishing Legitimate from Illegitimate Expropriation and the Legal Consequences of Each (Based on the practice of the ICSID Arbitration Court and the Iran-US Disputes Court)

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This paper examines the criteria for distinguishing between legitimate and illegitimate expropriation in international law, focusing on the practice of the ICSID and the Iran-US Tribunals. The aim of this research is to provide a clear framework for distinguishing legitimate from illegitimate expropriation and determining the legal consequences of each. The research methodology includes an analysis of the jurisprudence of international arbitral tribunals and a comparative study of relevant judgments and decisions. The results of this study show that expropriation is considered legitimate if it meets four basic criteria: 1) it is in the public interest, 2) it is non-discriminatory, 3) it is carried out in accordance with the legal process, and 4) it is accompanied by the payment of full and effective compensation. The importance and innovation of this research lie in the precise explanation of these criteria and the provision of a comprehensive analysis of the legal implications of the distinction between legitimate and illegitimate expropriation, especially in the context of the ability to claim disbenefit and the amount of compensation paid.

Keywords: expropriation, criterion of legitimacy, legitimate expropriation, illegitimate expropriation.

