

Expropriation of land for building a Border Barrier Fence along Finland's Eastern border

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SUMMARY

To maintain a good border security level and as part of the national, NATO and European Union security Finland is building a barrier fence along the border against Russia. The fence is being built for approximately 200 kilometers along Finland's 1,300-kilometer-long eastern border. The construction is underway in 45 separate target areas, preferably near former border control stations, roads, urban areas etc. It would not be a sensible option to build a fence that extends along the entire length of the border. The intention is to complete the entire barrier fence in 2026.

In Finland, landowners own their property all the way to the nation border line, although there is a 5 m wide border zone closest to the border. Finland's and Russia's border zones together form a 10 m wide border opening, which is being held free from trees. With this new border barriers fence, the wideness of the tree-free area on the Finnish side of the border will expand to approximately 26 meters. The expanded area will be expropriated for this purpose. The expropriation is not being carried out by ownership, but by the right of use. The area will stay as the former landowner's property, but the state of Finland will get the right to build the border barrier fence as well as a road along the fence and to keep the area free from trees. In the expropriation process, the landowners will be compensated for the economic losses due to losing their right to use the land.

In Finland, all expropriations are being carried out by the National Land Survey of Finland. This is a quite unique system, in most countries in the world expropriations are carried out by courts. In the Finnish expropriation process, the establishment of the right of use, the measurement and building of border marks and the decisions on compensation for landowners will take place in the same procedure, led by a land surveyor from the National Land Survey of Finland.

The landowner has the right to be compensated for all economical losses. The compensation being paid is calculated as market value raised by 25 %. This is the case in all expropriations being done in the public interest in Finland. The raise by 25 % came into force 1st of August 2025, before that the compensation was equal to market value.

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SAMMANFATTNING

För att upprätthålla en god gränssäkerhetsnivå och som en del av den nationella, NATO- och EU-säkerheten bygger Finland ett gränstängsel längs gränsen mot Ryssland. Stängslet byggs på en cirka 200 kilometer lång sträcka längs Finlands 1300 kilometer långa östra gräns. Byggnationen utförs i 45 separata målområden, främst nära tidigare gränskontrollstationer, vägar, urbana områden etc. Det vore inte ändamålsenligt att bygga ett stängsel som sträcker sig längs hela gränsen. Avsikten är att hela stängslet ska vara färdigställt år 2026.

I Finland äger markägare sin egendom hela vägen till riksgränsen, även om det finns en 5 m bred gränsson närmast själva gränslinjen. Finlands och Rysslands gränzoner bildar tillsammans en 10 m bred gränsöppning, som hålls fri från träd. Med detta nya stängsel kommer bredden på det trädfria området på den finska sidan av gränsen att utökas till cirka 26 meter. Det utökade området kommer att exproprieras för detta ändamål. Expropriationen sker inte med äganderätt, utan genom nyttjanderätt. Området kommer att förbli den tidigare markägarens egendom, men finska staten får rätt att bygga gränstängslet samt en väg längs stängslet och att hålla området fritt från träd. I expropriationsprocessen kommer markägarna att kompenseras för de ekonomiska förlusterna på grund av att de förlorat sin rätt att använda marken.

I Finland utförs alla expropriationer av Lantmäteriverket. Detta är ett ganska unikt system, i de flesta länder i världen utförs expropriationer av domstolar. I den finska expropriationsprocessen sker fastställandet av nyttjanderätten, mätningen och byggandet av gränsmarkeringar samt besluten om ersättning till markägare i en och samma procedur, ledd av en lantmätare från Lantmäteriverket.

Markägaren har rätt att få ersättning för alla ekonomiska förluster som förorsakas till följd av expropriationen. Ersättningen som betalas räknas som marknadsvärdet förhöjt med 25 %. Detta är fallet vid alla expropriationer som görs i det allmännas intresse i Finland. Höjningen med 25 % trädde i kraft den 1 augusti 2025, innan dess motsvarade ersättningen marknadsvärdet.

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1. INTRODUCTION

The development of societies often requires the use of land for projects in the public interest. If the land in question is owned by private landowners, the acquisition of the land for carrying out the project is not always possible by voluntary measures. The landowner can resist the project itself, or it can be impossible to reach an agreement on the price of the property. In those cases, actors carrying out projects of public interest in most countries have the possibility to use expropriation or compulsory acquisition of land as a manner to take position of the land needed for the project.

This article will give you basic knowledge about expropriation in Finland in general and how this procedure is handled when it comes to land needed for building a Border Barrier Fence along Finland's Eastern border.

2. EXPROPRIATION IN FINLAND

According to the Finnish Constitution everyone's property is protected. However, the Constitution also states an exception from this basic rule. The exception says that expropriation for public needs is allowed against full compensation and must be regulated by law. There are several laws in Finland allowing expropriation. The general expropriation law is Act on the Expropriation of Immoveable Property and Special Rights (Expropriation Act, 603/1977). The Expropriation Act contains procedure rules, rules on formation of expropriated property and property rights, rules on compensation and so on. In addition to the Expropriation Act there are several laws regulating expropriation in certain cases or for certain purposes. The most important of these laws are the Land Use Law, Highways Act, Railway Act and so on.

In Finland, all compulsory taking of land for public needs is referred to as expropriation. The taking can consist of transfer of ownership, transfer of right of use or a combination of these. By expropriation it's also possible to abolish a third party's right of use to a property being expropriated.

In addition to expropriation for public needs, expropriation is also possible for private needs in certain cases. This article, however, will discuss only expropriation for public needs. As we will

see in the following, expropriation for public needs can also take place in favor of private companies (e.g. energy transmission companies).

2.1 Expropriation permit

To carry out an expropriation, an expropriation permit is needed. The permit is granted upon application by the Council of State (In practice, the permit is granted by the Ministry responsible for the administrative sector in question). The permit will be granted if the project is in public interest and there is no other measure to fulfill the purpose in question. From this point of view, the less intrusive method (e.g. voluntary agreement) should always be investigated before applying for an expropriation permit.

In some cases, the expropriation permit could be granted by the National Land Survey of Finland instead of the Council of State. This is the case for minor expropriations where the interests are small, and no landowner resists the expropriation. An example of a project when the permit is usually granted by the National Land Survey of Finland is replacing an existing power transmission line.

2.2 Local plan or construction plan as an expropriation permit

In some cases, there are no need for an explicit expropriation permit. This is the case when a construction plan for a public road or railroad is confirmed or when a detailed local plan has gained legal force. These plans serve as an expropriation permit themselves. Expropriation according to these plans are quite common, because a big number of especially public road projects are carried out every year.

2.3 Possibilities to oppose expropriation

Before the expropriation permit or construction plan/local plan is granted, the owners of property to be expropriated have the possibility to be heard, either in writing or in person. The owners can oppose the expropriation or propose a different location for the project.

An expropriation permit, a construction plan for a public road or a railroad or a detailed local plan can be appealed in the Administrative Court in the first instance and further in the Supreme Administrative Court.

2.4 Expropriators, numbers and statistics on expropriation

The most common expropriators are the state (roads, railroads, nature conservation areas etc), municipalities (urban streets and green areas etc.) and energy companies (power transmission lines, gas pipelines etc.). Energy companies are usually private companies, but by operating e.g. electricity transmission for societies, they fulfill an important public interest. In that role according to the Expropriation Act they are entitled to apply for expropriation.

Table 1: Number of expropriations and compensation decided by the National Land Survey of Finland

| | 2021 | | 2022 | | 2023 | | 2024 | |
|-------------|------|------|------|------|------|------|------|------|
| | Nr | M€ | Nr | M€ | Nr | M€ | Nr | M€ |
| Public road | 95 | 7,16 | 125 | 6,74 | 176 | 6,83 | 180 | 3,5 |
| Railway | 26 | 1,59 | 7 | 1,3 | 25 | 2,16 | 25 | 0,47 |
| Other * | 131 | 9,49 | 125 | 6,36 | 153 | 4,16 | 209 | 6,3 |
| | | | | | | | | |
| Sum | 242 | 18,2 | 257 | 14,4 | 354 | 13,2 | 414 | 10,3 |

* Urban streets and green areas, power transmission lines, gas pipelines, nature conservation areas etc.

The numbers of voluntary land acquisition for public needs are not so easy to estimate. Municipalities quite often buy land, at least until August 2025. Many municipalities are afraid it will get more difficult to buy land with voluntary agreements after the compensation in expropriations should be calculated as market value plus 25 %. One way to get a hint of the numbers is to check for how many areas of raw land has been bought. Raw land is defined as area surrounding existing urban areas and by buying raw land the municipalities can expand the urban areas by making new local detailed plans. For this reason, the category raw land is usually purchased by municipalities. If an agreement is not reached, the municipality could as an alternative apply for an expropriation permit to get the ownership of the property.

According to the Real Estate purchase register the municipalities in Finland altogether bought raw land in average 160 times per year during 2020-2024. The number is probably significantly higher, because the category of land is quite often registered incorrectly in the statistics. According to the same register, the municipalities bought all sorts of land (including raw land) in average 1000 times per year during 2020-2024. This number is not either comparable, because not all these areas could be expropriated. In addition to the municipalities also the State sometimes purchases property voluntarily to establish nature conservation areas etc. The amount though, is much smaller than the number of properties that the municipalities buy.

A rough estimate would be, that approximately 500 properties, which alternatively could have been expropriated per year are voluntarily purchased by expropriators. If you compare this to the number of expropriations, you must bear in mind that in each expropriation the number of

properties can be counted in tens or even hundreds. Especially line shaped expropriations (public roads and railways, power transmission lines etc.) usually affect very many properties.

2.5 Expropriation procedure

All expropriations in Finland are carried out by the Cadastral Authorities. Cadastral Authorities are The National Land Survey of Finland and some larger cities where the municipality keeps the Cadastre. In practice, the National Land Survey of Finland handles almost all expropriations for public needs. In Finland any court doesn't play any role in expropriations, except for being appeal instances. This is a quite unique system worldwide. In most countries different courts play at least some role when it comes to expropriations.

When the expropriation ground is at hand, the National Land Survey of Finland starts the expropriation procedure by appointing one of its cadastral surveyors who will be responsible for carrying out the expropriation. The surveyor calls two trustees to take part as additional decision makers in the procedure. This means that three persons are responsible for all decision-making connected to the expropriation. All decision-making is to take place during meetings, where the landowners have the right to attend. Decisions should be made *ex officio* i.e. even if the landowner doesn't make any claim but remain passive during the whole process. From this follows that the surveyor and the trustees are obliged to selflessly investigate for example all factors that affect the value of the expropriated property. This is a big difference to normal court procedure where the court can make decisions only regarding the parties claims without having to make any own investigations.

During the expropriation procedure decisions amongst other things are being made on:

- Determination of the object of the expropriation: Formation of the expropriated property to cadastral units or units of right of use (this could also include decisions on land consolidation),
- The moment for take over of the expropriated property, and
- Compensation for the economic losses due to the expropriation and the project.

This means that the surveyor's skills should consist not only of cadastral knowledge but also a broad knowledge in law, property valuation and economics is necessary.

When the expropriation procedure is finalized, the parties have the possibility to appeal all decisions made in the expropriation. The appeal is decided by a special court known as the Land Court. It is possible to apply to the Supreme Court for leave to appeal the decision of the Land Court. Leave to appeal is usually only granted when the court's decision acts as a precedent to guide legal usage.

3. SHORT ON COMPENSATION RULES

According to the Expropriation Act, all economic losses due to the expropriation and the project should be fully compensated. Compensation for lost property should be based on market value and since the beginning of August 2025, the market value should furthermore be raised by 25 %. In addition to full compensation for the expropriated property, compensation for detriment (value loss of the landowner's remaining property) and compensation for one-time damages should be paid as well as the landowner's reasonable costs for hiring a lawyer or other consultant. The compensation for detriment should also be raised by 25 %, but not the compensation for one-time damage or landowners' consultant costs.

Market value of the property could shortly be explained as "The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion". The market value should be calculated using the most reliable valuation method at hand. Mostly that means applying the Market Approach (local price method), but also the Income approach (yield method) or the Cost Approach (production cost method) could come into consideration.

The property should be valued according to its highest and best use. This means a use of the property that is physically possible, financially feasible, legally allowed and result in the highest value. The highest and best use may be its current or existing use when it is being used optimally. However, highest and best use may differ from current use or even be an orderly liquidation. If the use of the property can be developed to a more valuable use and it could be foreseen at the moment of the expropriation that this development will take place in the very near future, the compensation should correspond to the higher value. If this development on the other hand is uncertain or probably will happen in the vast future, the current use is usually the highest and best use.

A project for which an expropriation takes place often requires a quick take over. In other words, the expropriator needs to get possession over the property rapidly to start the construction works. For these cases the expropriator can apply for early take over. That means that the project can be built before the compensation is decided. For public roads, railways, power transmission lines etc. this is the main rule. As compensation for having to wait for the money, an interest rate of 6 % is added to the final compensation. The interest is counted from the moment of early take over until the compensation is paid. Furthermore, the landowner is also compensated for inflation in expropriations where early take over applies.

3.1 Taxation of the compensation

The compensation being paid to landowners in an expropriation is regarded as capital income. In Finland income tax of 30 och 34 % (depending on the total capital income during the tax year) applies for capital income. In the Income Tax Act however, there is a special rule on income tax regarding expropriation compensation. According to the that rule, the landowner can make a deduction of 80 %, which means that 30 or 34 % tax will be calculated on 20 % of the compensation sum. In practice, this means that the tax rate is 6 or 6,8 % of the compensation.

4. EXPROPRIATION OF LAND FOR BUILDING A BORDER BARRIER FENCE ALONG FINLAND'S EASTERN BORDER

Finland has a 1300 km long border against Russia. It is also the Eastern border for Nato and The European Union area. The Finnish government has decided to build a border barrier fence along parts of the border, mainly in the south-eastern parts of Finland and nearby existing border crossing points. Finland closed its entire eastern border including the border crossing points on 15 December 2023. The barrier fence will improve the efficiency of the border surveillance.

The landowners along the border will have to hand over the control over their land to the State of Finland for this project. Due to a recent change of the Border Guard Act the compensation for the land will be decided by the National Land Survey of Finland in a procedure following a normal expropriation under the Expropriation Act.

4.1 The cadastral situation at the border

The border between Finland and Russia and pragmatic matters concerning the border have been decided by international agreements during the decades. The border line between Finland and Russia was confirmed by a bilateral agreement in 2018. This agreement followed previous agreements made during the years. As part of the agreement process all the border marks defining the state border were measured, restored and documented. For each border mark there

is a signed document in both Finnish and Russian. The map attached to the documents is shown below in figure 1.

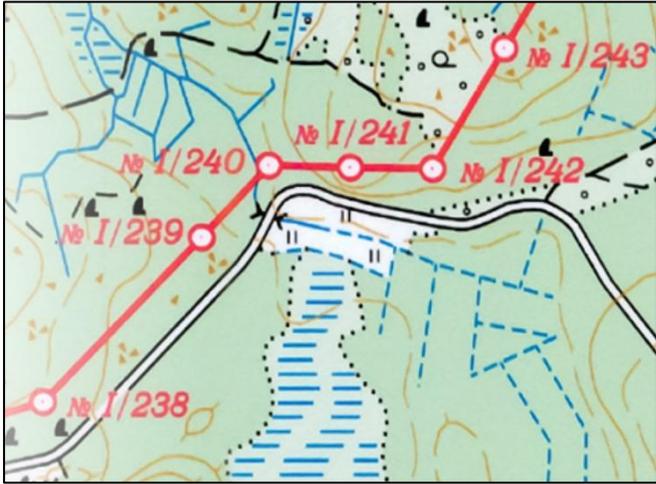


Figure 1: Border marks on the national border between Finland and Russia

From a cadastral point of view the cadastral units on the Finnish side extend to the state border. This means that landowners own the area all the way to the border line. Despite this there is an existing 5 m wide zone on both sides of the border, that is kept free from trees and other vegetation. Compensation for this 5 m wide zone has been dealt with according to older legislation (Act on Land Consolidation in the border zone municipalities). Due to this tree-free

zone, the border marks between property units have been built at least 5 m from the border, as shown in figure 2.

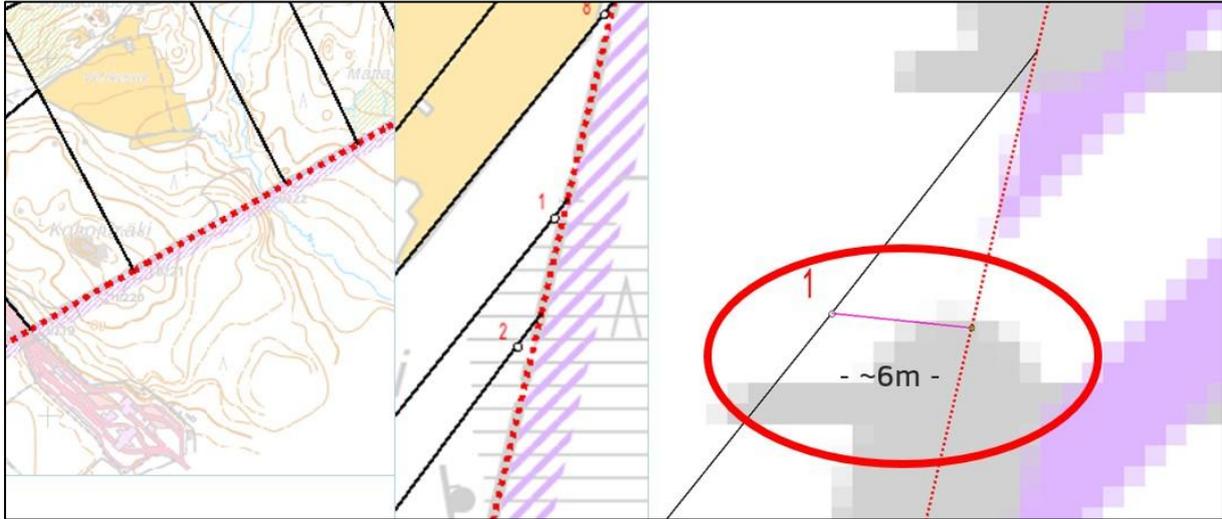


Figure 2: Extract from the Finnish cadastral map in different scales showing the borders between different cadastral property units and the border marks nearby the national border.

4.2 The eastern border barrier project

The border barrier fence will be built for approximately 200 kilometres along Finland’s 1,300-kilometer-long eastern border. The approximately 1000 concerned landowners in the project area have been heard, and they have been served the construction decisions, by which the right

to use the fence area is redeemed. The aim is to complete the entire fence by the end of 2026, while most target areas will be finished before the summer 2026.

The barrier consists of a 3,5 m high fence, the adjacent road, a deforested opening and a technical surveillance system as shown in figure 3 below.

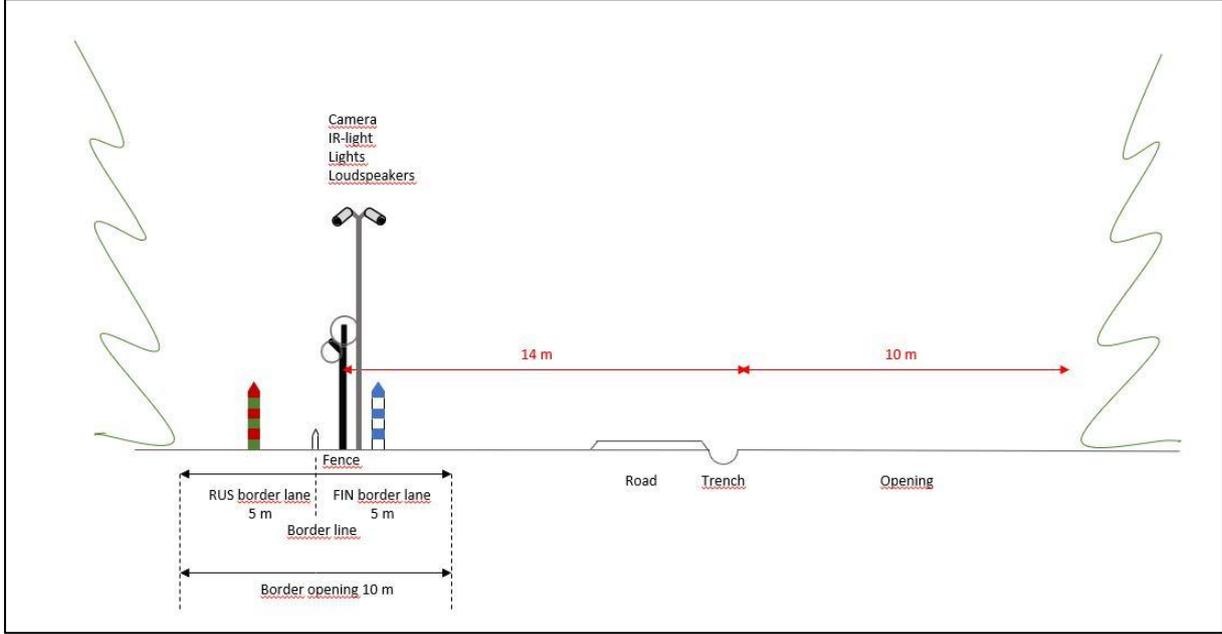


Figure 3: The border barrier fence consists of different type of constructions

4.3 Grounds for expropriation of the Border Barrier Fence

Expropriation for the Border Barrier fence differs from expropriations in general because no expropriation permit or construction plan is needed. The ground for expropriation is stated directly in the Border Guard Act (578/2005). According to section 50 of the Act “The owners and holders of land or water areas are obliged, in the border zone, to permit the construction of a fence or other barrier at the expense of the State if this is essential to maintain border security”. According to the same section “Compensation corresponding to the fair price shall be paid to the owners and holders of the land or water areas for any damage or inconvenience caused by a barrier built elsewhere than on a cleared area along the Finnish border or along the edge of such a cleared area. In the case of the construction of a permanent barrier, the decision on compensation is governed by the provisions of the Act on the Expropriation of Immovable Property and Special Rights concerning the expropriation procedure, conclusion of the expropriation, ordering and payment of compensation, ordering compensation after the fact, costs, request for review and interest.”

In addition to the border barrier fence, landowners are obliged to permit construction of a road or trail no more than 10 metres wide on the Finnish side of the fence and to remove trees and other vegetation from that area.

4.4 The procedure

The Finnish Border Guard has made construction plans over the constructions to be built. In the expropriation process, the right of use will be defined and measured according to the construction plans. Confirmation of the construction plan gives the state right to start the construction works. In other words, takeover of the area takes place immediately when the plan is confirmed. To be able to decide on compensation afterwards, the trees on the area as well as possible growing crops are documented before the construction works start.

The compensation should be calculated and decided as in any other expropriation, i.e. market value raised by 25 %. The landowners get the opportunity to make own claims about the compensation. Compensation will be paid also to landowners staying passive, every decision will be made *ex officio*. The expropriator has the possibility to comment on the landowners' claims before the land surveyor and the two trustees make the decision on the compensation.

The landowner will get compensation for the area of the right of use, for removed trees and destroyed crops. Although the expropriation takes place with a right of use instead of ownership, the landowners will practically lose all their rights connected with the area needed for the border barrier fence and the related constructions. Therefore, the compensation will be calculated as the whole market value for the lost area, even if the landowners' ownership stays. The market value will furthermore be raised by 25 %.

As part of the expropriation, new border marks between property units will be built further away from the border line, usually where the area of the right of use begins. Like in any another expropriation, these cadastral matters are being handled in the expropriation procedure. Compared to other expropriations, the Finnish state's right of use concerning the border barrier fence will not be marked in the cadastre or on the cadastre map. The area burdened with the right of use will appear in the maps and other documents of the expropriation matter. These will be sent to the landowners but as a difference from other expropriation matters, the documents will not be stored in the digital archive, due to national security. To put it short, in the procedure every step related to a normal expropriation will be taken, except for registering of the right of use in the cadastre and archiving of the documents.

In figure 4 is shown an extract of the expropriation map.

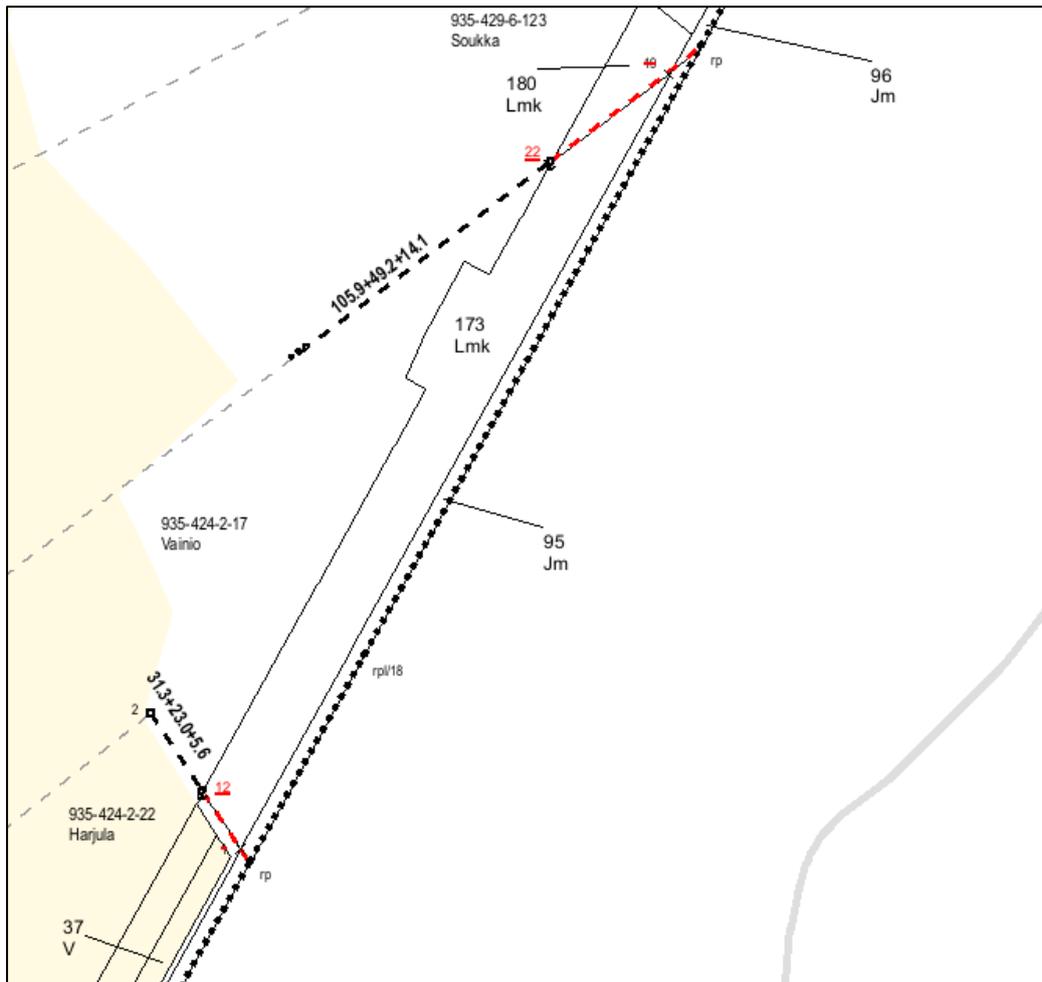


Figure 4: An example of the map made up in the expropriation matter. The number series (935-424....) is the property unit ID, red underlined border mark number is a new border mark, red crossed out border mark number is the old border mark, being replaced by the new one. The figure numbers (173 Lmk...) relates to the area and the type of land. The same number will be find in the compensation document. The white area is forestry land, the yellow is cultivated farmland.

As in any other expropriation every decision can be appealed to the Land Court. It is possible to apply to the Supreme Court for leave to appeal the decision of the Land Court. Leave to appeal is usually only granted when the court's decision acts as a precedent to guide legal usage.

5 CONCLUSION OF THE EXPROPRIATION PROCEDURE IN FINLAND

In the Finnish system all the cadastral matters and decisions on compensation are parts of the same process. This is quite simple for the landowners, who can get all the answers from one party. All decisions are made *ex officio*, which means that landowners don't need to hire any lawyer or other consultant to make claims. Especially in line-shaped expropriations the area and economic interest for each landowner is quite small. This means that the process is quite cheap for the expropriator and in the long run also for the society.

On the other hand, the landowners always have the possibility to get lawyer costs compensated, if there is a need to hire one, for example if the expropriation affects the landowner to a larger extent or if the economic interest is bigger.

The change of the compensation rules in the Expropriation Act 2025 has strengthened the landowners' situation which was a longed-for improvement amongst landowner organizations.

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