

Some disfranchisement and limitation of property rights of immovable things in Czech administrative law

Summary

This work deals with some disfranchisement and limitation of property rights of immovable things in Czech administrative law.

The work has three main points of interest.

First point is description substantive conditions disfranchisement and limitation of property rights.

I analyze difference between limitation property according to Art. 11 para. 3 and Art. 11 para. 4 of the Charter of Fundamental Rights and Freedoms. It was made „algoritmus intenzity“ „the algorithm of intensity“ for this difference.

There is description substantive conditions of disfranchisement and limitation of property rights according to Art. 11 para. 4: „in public interest under the rule of law and with compensation.“, according to Art. 11 para. 3: „under the rule of law, proportionality, general interest“ and look for difference of disfranchisement and limitation of property rights in international documents for example the European Convention for the Protection of Human Rights and Fundamental Freedoms from 1950. Specially the First Protocol to the European Convention, signed in Paris in 1952, includes the right to the peaceful enjoyment of possession in the Article 1 which are very important for Czech regulation For more detailed description of conditions.

I try to analyse the case-law of the Czech Constitutional Court and European Court of Human Rights and I present their opinions on these conditions.

There are described opinions of the Supreme Administrative Court too.

The second point of interest describes procedural substantiation mainly protection owner against measure of a general nature and administrative decision.

I deal with comments and objections, appeal against decision about objection and judicial protection.

Part of chapter deal with Judicature of the Supreme Administration Court and Constitutional Court, because it is very important for for judicial review of Public Administrations Activity.

The third point is about impact of disfranchisement and limitation. I deal with change of property rights after disfranchisement and limitation.

The work is divided to two main part.

The first part is general which is dealing with general attribute of limitation. The second part is divided to the four chapters. The first chapter is dealing with some limitation of property rights, which it is regulated in building act.

There are not every institutes, which can limited property rights but only limitation of property rights originate in land planing. There is discribed institutes of land planint and ixpain, how rights of owner can be limited.

The last part of this chapter is about compenzation. This part is not long, because the regulation is very brief in the act. There are some judgments, which are important for compenzation.

The second chapter deal with expropriation of buildings and land which it is regulated in Expropriation Act. The act became effective from 1 January 2007, but it was co amend and original regulation was changed. Because this act is one of several act, where expropriation is regulated.

One of part of this chapter deal with substantive conditions of expropriation which are included in expropriation act. There is text about provisions of expropriation purposes which is not regulated in expropriate act but in other laws for example in the Building Act or waters act. I analyze the competence of courts to negotiate the expropriation.

In the following chapter I deal with some of safety zones.

I deal with regulation, which is in act 13/1997 Sb., 266/1994 Sb., 49/1997 Sb., 254/2001 Sb., 20/1987 Sb., 189/1999 Sb., 274/2001 Sb., 458/2000 Sb. and 127/2005 Sb. Limitation is in order to make condition for transport airtransport, road transport, railway transport, fuel pipelines, hot water pipelines, gast pipelines, water pipelines, overhead line and monument.

The last part is dealing with concerning land. There is described regulation of decisions about approvals of proposal of simple land adjustments and decisions about approval of proposal of complex land adjustments and judicial review over decisions about approvals of proposal of land adjustments. Of course there is part deal with protection of owner and compenzation of disfranchisement property rights.