

Abstract in the English language

The term of “public interest” in relation to the restriction of property rights - a comparison of approach in Czech and German law

The aim of this diploma thesis is to provide the reader with an insight into the issue of interpretation and application of the vague legal term “public interest”, in connection with the restriction of property rights. This diploma thesis compares the approach to this term within the Czech and German legal systems and analyzes the similarities and differences of both approaches.

The introduction outlines the motives for creating this thesis. It is stated how the thesis approaches the analysis of the given issue, what sources the thesis uses, why the approach is compared within these two legal systems and what key questions can be expected in this issue.

The first part deals with vague legal terms, including the term of “public interest”. Furthermore, the approach to this term in the Czech and German legal literature is shown. The doctrine and its development are described in more detail within the German legal literature.

The second part of this thesis is focused on the term of property rights and possible ways to limit it within both legal systems. The term “public interest” typically also appears in connection with the restriction of property rights. In analyzing the approach to this term, the thesis is limited to the relationship to the restriction of property rights, so there is a comparison of the entrenchment and possibilities of restriction of property rights within both legal systems.

In the third part of this thesis, the first two parts are connected in the analysis of how the Czech and German legal regulations use the term “public interest” in the legal regulation of restrictions on property rights. The entrenchment at the level of constitutional law and further entrenchment in individual implementing laws are discussed here.

The fourth part suggests examples of the approach to this term in case law on comparable examples. The approach to the public interest in connection with the regulation of rent, as a restriction of the property rights of apartment owners, is compared. The following are important legal conclusions of the courts in relation to the public interest as conditions for expropriation. And the last important issue discussed by the courts in both countries is the question of competence, i.e. which authorities are competent and to what extent for determining the public interest.

The conclusion then summarizes the most important conclusions that emerge from the previous sections and the author allows himself a brief evaluation and their significance for the future.