

14. EXPROPRIATION OF OWNERSHIP TITLE TO LAND AND BUILDINGS

This work is titled “Expropriation of ownership title to land and buildings“. An expropriation is one of the special interference of the state to the property right. It not allows only to the deprivation of the ownership title but also the restriction thereof.

In the Czech Republic there are legal bases of expropriation established in the Bill of Fundamental Rights and Freedoms, which is part of constitutional system. Based on the article no. 11 this constitutional law the expropriation and limitation of property rights is possible only in public interest, under the rule of law and with compensation. The specification of these conditions of the article No. 11 of the Bill of Fundamental Rights and Freedom contain Czech Civil Code and the Commercial Code, which determines conditions for the expropriation of property owned by foreigners. The general rule for expropriation is Act No. 184/2006 Coll.(Expropriation Act), governing expropriation of the ownership title to land and buildings, including the next condition of expropriation, compensation for expropriation and special administrative procedure. One of the main legal conditions of expropriation is existence of purposes of expropriation. The Expropriation Act itself does not determine the purpose of expropriation, but refers to special legal regulations set by the purpose upon which expropriation can be executed, for example it is in the Building Act, Mining Act, Road Act, Energetics Act, Electronic connection Act, Nature and Country Protection Act, Spa and Water Act ect.

In the first chapter after the introduction, I deal with analysis of the property right including definition of comprehension, features and specifics of landed property and the next concepts of law, which relate to expropriation.

Chapter tree gives a brief view of the history of the expropriation in Czech Republic. The origin of the expropriation and its evolution were connected with the industrial development in the nineteenth century. The industrial progress was conditioned by new extensive constructions demanding new land, which were in private possession. For these reasons the first legal regulation was in ABGB in 1811.

In the fourth chapter I feature the sources of the actual legal adjustment of the expropriation. This legal adjustment includes the constitutional regulation represented by the Bill of Rights, legal regulation, for example in Civil Code, Commercial Code, Expropriation Act and next relevant legal enactment.

The next chapters are main aims of submitted work. In these chapters, I concern with the analysis of the Expropriation Act. In the fifth charter, I deal with object of expropriation, the aim and right of aggrieved person by expropriation. In the followingt part, I deal with legal conditions in detail, when expropriation is possible. It is concerned conditions that expropriation must be proved the public interest, there must exist legal purposes, there must be given compensation in money or in natural asfor example other land or building structure. The redress is given to the proprietor who is expropriated. New Expropriation Act should better reflex the principle of reasonable and fair redress. The next legal compensation is the fact, that property can be expropriated only within the scope that is really necessary. The principle of an adequacy and principle of a minimum restriction must be respected in these cases. . It is not allowed to deprive somebody ownership, if there is possibility to achieve the aim of expropriation by only limitation of the owner's rights. The expropriation must be in accordance with the local land planning. The final legal compensation is that who is expropriated must know the purpose, why his rights will be deprive in minimum term of six months.

I described individual purposes of expropriation, which are determine in special legal regulations in the seventh chapter.

The other chapters deal with the analysis of expropriation process. The procedure of the expropriation is guided by the standard administrative procedure, which is modified by The Expropriation Act.

In the ninth chapter I am engaged in possibility to revoke the decision on expropriation.

Chapter ten deals with competence of the courts to hear the action against the decision on expropriation. The Expropriation Act gives the jurisdiction to hear the action to civil courts instead of administrative courts as it was in the past.

A separate eleventh chapter describes a special expropriation procedure, represented by a Czech Republic Defense Assurance Act. According to the Act, it is possible to expropriate under the country emergency state or war state and a seven day short cut expropriation process is used here.

The final chapter aims to give the notice about some problems of the current legal regulation in Expropriation Act and to summarize questions about the expropriation of ownership title to land and buildings.

Klíčová slova:

Vlastnické právo – Property right

Vyvlastnění – Expropriation