

Abstract

Reasons for and legal forms of the restriction of land ownership rights

The purpose of my thesis is to analyse the reasons for and the legal forms of the restriction of land ownership rights. Because the land ownership rights relate to both the private law and the public law, this theme is linked with almost all fields of our legal order.

The thesis consists of four chapters. Chapter One is introductory and describes the content the paper is about.

Chapter Two defines basic terminology used in the thesis: the proprietary rights, the land, the allotment, the real property and the proprietary rights to land. The chapter is subdivided into three parts. Part One describes proprietary right as one of the human right, which is protected by international conventions and the Declaration of basic rights and freedom. Part Two deals with the land specialities – such as the multifunctional character, the indispensableness, the limited extent, the impossibility of multiplication, the impossibility of placing the land elsewhere, the everlasting existence, the impossibility of consumption and the natural, not human origin. This part also explains other related legal concepts. Part Three discusses the land ownership rights and is subdivided into three sections, which provide the knowledge of object, subject and content of land ownership rights.

Chapter Three concentrates on the essence of this text – the causes and the legal forms of restrictions in proprietary rights to land. The chapter consists of four parts. Part One engages in the explanation of the restrictions of proprietary rights to land concept. The restrictions embody in the duty to omit, the duty to suffer and rarely the duty to act for the benefit of the other land proprietor or of some other definite individual or individuals or of the public interest or finally for the benefit of everybody.

Part Two focuses on the causes of restrictions in proprietary rights to land. These causes flow from the land specialities as provided hereinbefore. The land specialities implicate the necessity of solving different disputes in social relations resulting from the land features. As far as the controversies, which must be settled, are concerned, there are collisions of individual interests, collisions of public interests and collisions of the

individual interest on the one hand and the public interest on the other hand in social relations. The legal regulations of these collisions focus in the restrictions in proprietary rights to land – whether it is voluntarily or unwillingly.

Part Three addresses to the legal forms of the restrictions of land ownership rights. This part includes four sections, which are designated after particular legal forms of the restrictions. The legal forms are namely the contractual obligation, the real burden, the legal regulations of neighbour's relationship and finally the restrictions arising from legal regulations and legal acts of administration governed by public law.

Last part characterises the compensations for the restriction in proprietary rights to land. The legal regulation of compensations for the restriction in proprietary rights to land is solved very inequably and it is the blind spot of the whole regulation of the restrictions in proprietary rights to land.

Conclusions are drawn in Chapter Four. I suggest that the skeleton law governing generally the compensations for the restriction in proprietary rights to land should be passed. There should be determined the common criteria for providing the compensation. The main criteria should be the reciprocity and the justice. Otherwise I think of the legal regulations of the restriction in proprietary rights to land as sufficient.