

Resumé

Public interference with the right of real property ownership in the course of arrangements and operation of technical infrastructure

Truly exclusive in the meaning of absolute and unqualified property rights would be contradiction in terms. The technologic and mostly social development implies continually higher demands on real property owners. A legal possibility of the public interference with the right of real property ownership is clearly necessary in the course of arrangements and operation of technical infrastructure which forms an essential physical back-bone of energy, electronic communications and water management industries. Specific technical infrastructure and construction laws need to reflect both the already existing property relationships between real property owners and technical infrastructure operators and the emerging ones. The private settlement of those relationships in compliance with Civil Code is generally preferred. Because of the obvious public interest on technical infrastructure development the public law supports technical infrastructure operators with respect to real property owners' rights to gain and exercise the right of way which is necessary to arrange and operate relevant elements of technical infrastructure.

The thesis identifies various forms of public interference with the real property rights in the course of arrangements and operation of technical infrastructure. It focuses most of all on the public interference in the form of expropriation as an utmost intervention in the property right. The expropriation is principally regulated both on international level and in Czech constitutional law followed by statutory laws. Any expropriation in order to arrangement and operation of technical infrastructure is legally acceptable when it is proportional to the public interest it serves, preserves adequate procedural safeguards and compensates the affected real property owners. Other public interferences in the form of public law limitations are legally acceptable in the course of arrangements and operation of technical infrastructure unless the real property owners personally bear an individual and excessive burden. These public limitations of real property ownership, sometimes generally called 'legal easements', also help to achieve the public interest connected with technical infrastructure development. There is variety of such public limitations fixed by statutes which historically evolved. Public interferences accordant with these limitations differ from expropriation and also real easements under civil law in many aspects. Specific public

interference with the right of real property ownership in the course of arrangements and operation of technical infrastructure form the protection and safety zones. These interferences have important territorial aspect which variously affects any relevant real property owner in the public interest of technical infrastructure safe and proper operation.

The fair balance between the demands of the general interest of the community represented by technical infrastructure operators and the requirements of the protection of the individual's fundamental rights has to be assessed and secured in case of any public interference with the right of real property ownership in the course of arrangements and operation of technical infrastructure.