

Expropriation of rights to land

Abstract

This diploma thesis deals with the legal institute of expropriation. As defined in the Act No. 184/2006 Sb., Expropriation Act, expropriation is forced withdrawal or restriction of ownership to land (or structure) and of right corresponding to servitude to that land (or structure) and subsequent transfer of ownership or acquirement of right corresponding to servitude by someone else. Therefore, at the beginning I am introducing land (including all its components, particularly structures, and closely related terms – ground and plot), which is the most common object of expropriation. Essential part of this thesis however presents each requirement for lawful expropriation, expropriation proceedings and related judicial review of expropriation decision in order to assess statutory regulation of this complex topic on the basis of suitability, conformity with the constitutional order of the Czech Republic and case law of the European Court of Human Rights and the ability to fulfil its purpose – timely execution of projects that are beneficial to the public good (while also keeping essential rights of the expropriated unaffected by such execution). If necessary, I am also proposing possible changes to statutory regulation.

Expropriation however is not covered only by one single statute, therefore I am focusing also on two special statutory regulations – Act No. 222/1999 Sb., on ensuring defence of the Czech Republic, which deals with expropriation separately from general statutory regulation, and Act. No. 416/2009 Sb., on acceleration in construction of transport, water and technical infrastructure and electronic communications infrastructure (Linear Infrastructure Act), that only deals with selected topics regarding expropriation in order to accelerate construction of infrastructure, that the Czech Republic considers as the most important. I am especially focusing my attention on the so-called interlocutory decision regulated by the Linear Infrastructure Act, that was recently reviewed by the Constitutional Court of the Czech Republic. In this part of the thesis, I am taking the opportunity to compare general a special statutory regulation and ascertaining, whether the statutory regulation is headed in the right direction, which rules infringe on the fundamental principles in this field and which rules are so useful, that we can consider applying them on every project that is beneficial to the public good.

Klíčová slova: expropriation, land, Linear Infrastructure Act