

Expropriation in environmental protection

Abstract

This diploma thesis deals with the issue of the institute of expropriation and its possible use in the context of environmental protection. Expropriation is a legal instrument that interferes with the property right to achieve a specific purpose in the public interest. It is the instrument ultima ratio, which is only used subsidiarily, unless other tools lead to achieve the desired purpose. The aim of this work is to analyze the legal regulation of expropriation and answer the question of whether the czech law provides legal support for the use of this institute for environmental protection.

In addition to the introduction and conclusion, the diploma thesis is divided into two main parts. The first part is paid to the definition of the concept of expropriation and its general regulation contained in the Expropriation Act. Greater attention is dedicated to the constitutional and legal conditions of expropriation, which must be fulfilled for the possible interference with the right of property. The constitutional conditions are the public interest, legal basis and compensation. It is the public interest that is the interconnection of expropriation and environmental protection, because it is undoubtedly a public interest. In the second part there are discussed expropriating titles that can be used to protect the environment. Gradually, are analyzed expropriation titles in the Nature and Landscape Protection Act, in the Building Act, in the Water Act, in the Spa Act and in the Act of State Monument Preservation. Attention was also paid to the regulation in the new, not yet effective Building Act.

In the end, the knowledge gained by the analysis of the legislation is summarized. Legislation shows conceptual inconsistency in the basic terms, such as the concept of immovable property or the term expropriation itself. The most suitable legal basis for the use of expropriation for environmental protection is provided by the Building Act, which is for its generality capable to cover the most potential situations, in which expropriation for environmental protection could be used.

Keywords

expropriation, environmental protection, legal instruments