

Land development rights and environmental protection requirements

An administrative and legal study

Abstract

The research problem of the dissertation was focused on the requirements of environmental protection in the field of land development rights. The analysis was carried out in the theoretical and practical perspectives, using intersectoral system institutions and legal instruments, applying mainly the conceptual apparatus and methodology of administrative law. The legal dogmatic method was used, being only supplemented by legal solutions from other countries. It was not a comparative legal method.

It was intended in the research to characterise, analyse and administrative and legal assess the conditions for the exercising of land development rights in the sphere of various legal forms of environmental protection, taking into account the legal nature of individual institutions and the legal consequences arising from them. Proving that the environmental protection model of the investment and construction process in special protection areas of natural character significantly limited-sometimes prevented- the exercising of land development rights, was the aim of the study.

These research hypotheses were verified within the study:

- Do environmental protection requirements affect land development rights in special protection areas of natural character within the framework of area-based and individual forms of protection; and if so, which of these;
- Does the commune, with the broadest powers to shape spatial development policy and regulate land development rights, appropriately take into account the environmental protection requirements in the study and local spatial development plans;
- Do land development rights constitute subjective and objective specification of the building freedom guaranteed by public land development rights in the absence of a consistent procedure for obtaining permits for the exercising of land development rights;
- Do the introduced environmental protection requirements, which are prescribed in the relevant statutory prohibitions, and deviations from them in the sphere of the exercising of land development rights, properly take into account the principles of sustainable development and proportionality.

The work includes an introduction, six chapters, a summary and a bibliography. Chapter 1 introduces the conceptual grid necessary for the correct presentation of the subjective and objective scope of land development rights, and the related environmental protection requirements.

Chapter 2 examines the relationship between land development rights and the general principles of environmental protection law. Shown that, these principles aim to ensure coherent and effective environmental protection within the framework of land development rights.

Chapter 3 analyses the planning authority of the commune within the scope of spatial development in the light of environmental protection requirements, and points out that the commune holds the broadest powers in shaping spatial development policy and regulating land development rights.

Chapter 4 addresses the issue of the so-called weighing of individual interests against the public interest, and analyses the interference with property rights when restricting land development rights within the sphere of environmental protection areas. Assesses the relationship between land development law and land development rights.

Chapter 5 analyses and assesses the various legal regimes introduced within the different forms of environmental protection and the occurrence of the overlapping of different legal regimes. Despite the lack of a coherent form of obtaining “permits” for the exercising of land development rights, each legal form must take into account the requirements which limit land development rights within the forms of environmental protection.

Chapter 6 analyses administrative liability for the violation of environmental protection requirements within the field of land development rights. The summary presents the verified research hypotheses and the final conclusions.

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