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PUBLIC NEEDS AS CONDITION FOR LIMITATING PRIVATE PROPERTY RIGHT TO LAND

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ABSTRACT

The article is devoted to the analysis of foreign legislation regulating the conditions for seizure of land plots to meet public needs. The evolution of approaches to understanding the private property right from Antiquity to Modern age as long as the specific character of property right to land including possibilities of its legal limitation for meeting socially prominent aims are explored. Special attention is paid to the Eastern European countries' legislation as their statutory regulation of private property out of the command economy is relatively young. Having analyzed the constitutions, land legislation and law enforcement practice of several foreign states a conclusion is made about a similar legal structure of land withdrawal where expropriation is allowed in favor of both public and private subjects if their activity meets socially significant needs of a wide range of people and achieving this goal by any other way is impossible. The American practice of "economic analysis of law" allowing to appreciate the public benefit by the economic tools is positively assessed. It is also stated that it is impossible to envisage a list of specific situations that fall under the concept "public needs" and it is necessary to assess the correlation of public and private interests in each specific case. At the same time, in order to protect the rights of owners such an assessment should be carried out before the seizure including by public hearings.

Key words: private property, public needs, expropriation, withdrawal, just compensation

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THE PRIVATE PROPERTY RIGHT AS A FUNDAMENTAL CONSTITUTIONAL HUMAN RIGHT: CONCEPT, MEANING, HISTORY OF REGULATION

The private property right is the basis of the modern economy. Thank to the effective tools of property rights protection, commodity-money relations develop, the state's social policy is formed and the citizens' welfare in general is provided. In the modern world the right to private property is considered as an inalienable and natural human right, it is enshrined in the constitutions of all developed countries and the state is responsible for its implementation by the citizens and protection.

Despite the fact that the idea of private property was formed at the dawn of mankind, the formation of the state and law left a significant imprint on its understanding. In ancient Rome there already was a system of allocating land plots from communal lands into private property to Roman citizens and this kind of property runs like a red thread throughout the Roman history. Under feudalism property relations were viewed in the context of numerous restrictions connected with relations of personal domination both within the class of feudal lords and in relations between the latter and peasants (Pisemsky 2016, p. 151–152). The absolutization of private property right in Europe happened at the end of XVIII century that is directly related to the bourgeois revolutions. In 1789 France adopted the Declaration of the Rights of Man and the Citizen which declared property to be an "inviolable and sacred right" and a little later, in 1791, this right was confirmed on the American continent – in the US Bill of Rights enshrining a number of personal, economic and political rights. Property is recognized as sacred, and at the same time, the idea of the right of private property as a natural, inalienable human right is strengthened (Andreeva 2008, p. 125). It is possible to say that property right is a part of the modern Western civilization's genetic code (Weber 1990).

Gradually, in the foreign countries legislation there appears an idea about a non-absolute nature of the property right and a necessity to create such a mechanism that could make a citizen's property serve the common good in special cases. Thus, the Fifth Amendment to the US Constitution directly provides for the possibility of alienating private property in favor of the state. "No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation".

Already in XIX century a persistent tendency of "socialization" of private property is developing which was expressed in the provisions about its service to public interests consolidated in legal acts. At the beginning of XX century this trend is found everywhere and is reflected in constitutional acts. For example, the German Constitution of 1919 (Weimar Constitution) contains an indication about the limitation of the content and size of private property by law as well as the possibility of its alienation for "the common good and on a legal basis".

It should be noted that not all of the first constitutions enshrined guarantees for the protection of the rights of the owner. G.N. Andreeva notes that the system of guarantees was often curtailed, for example, the Statute of the Italian Kingdom of 1848 does not provide for a preliminary nature of compensation, but is a prerequisite (Andreeva 2009, p.163).

The formation of the socialist system in Eastern Europe could not but affect the regulation of property relations. Initially from 1917 in the socialist regime countries private property was completely prohibited, it was condemned and considered a bourgeois relic. According to the apt expression of G. Chukayeva in 1917 in the history of mankind there began the first experiment to "uproot" private property which captured not only the means of production but also things belonging to individuals by their nature: works of creative labor, food products, etc. (Chukaeva 2006). Gradually it became obvious even to the socialism builders that such an approach was destructive for the economic system as a whole. The derogation was expressed in the emergence of a regime of the so-called "personal property" to household articles and later private property in its traditional understanding was

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allowed in a number of countries (of course its role was declared secondary in relation to the state one).

The collapse of the USSR marked the end of the socialism era for the Eastern European states. They returned to the capitalist path of development of social relations; consequently it became necessary to restore the institution of private property. The right to private property was consolidated in the newly adopted constitutions and acts of national legislation. In addition to the legislative consolidation of private property guarantees, it was necessary to transfer state property to private hands for the development of commodity-money relations. To solve this problem, the states used two methods: restitution (return of the nationalized property to its previous owners) and privatization (transfer of state property to private hands). Countries often chose both ways. Thus in the last 20–30 years in Eastern Europe countries there was a massive transformation of state property into private one. The relatively short history of capitalist relations in most Eastern European countries in comparison with Western Europe and America determines the particular interest of the questions connected with the correlation of public and private interests in property.

FEATURES OF PRIVATE PROPERTY RIGHT TO LAND REGULATION

The obvious at all times value of land as a special object of human relations could not but be reflected in legal acts regulating property relations. For example, in the days of Antiquity the right to own land was granted only to the city citizens; under feudalism the private property right to land was largely conditional but even this conditional right could belong exclusively to the nobles. As for Modern age it is characterized by the development of land law, detailed regulation of the sale and purchase relations, lease, exchange of land, the allocation of land plots to private hands, etc.

The heyday of legal regulation of land property relations fell on XIX century in the USA. The widespread seizure of land by colonists under the conditions of an undeveloped legal system led to a large-scale crisis in the country for whose solving the government needed to create a special mechanism for transferring land to private ownership. A kind of revolution in American land law was the Homestead Act of Congress 1862 allowing the US citizens to acquire large tracts of land for a symbolic payment. This law ceased to work only in the second half of XX century (Kuropyatnik 2005, p.155).

In the Spanish Constitution of 1978 the special status of land as an object of ownership is linked to the provision of citizens' right to decent housing. To implement this right Article 47 of the Constitution directly claims that the state regulates the use of land in the general interest and also takes all necessary measures to prevent possible speculation with land. For the countries of Eastern and Central Europe, where agricultural production is widely developed, the issue of land turnover is of a particular importance. So, the Constitution of Ukraine in Article 14 stipulates that land is the main national wealth of the country and the acquisition and implementation of land property right should be carried out in accordance with the law. The Constitution of the Republic of Belarus declares agricultural land to be the property of the state, only other categories of land can be privately owned.

POSSIBILITY OF LIMITING PROPERTY RIGHTS BY MEANS OF WITHDRAWAL FOR PUBLIC NEEDS IN FOREIGN LEGISLATION

While studying the institution of private land property, a special interest is given to the question of possibility of limiting the right of a person to the belonging to him land plot including the means of seizure for public needs. This problem is relevant everywhere but it acquires a particular importance for Eastern European countries. Legal consciousness influences the legal regulation of private property relations in post-socialist countries, since within one generation there was a rethinking of the role of this institution: from socialist ideas related to the socialization of property to understanding the protection

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of private property rights as a necessary condition for the development of society.

In most post-socialist countries the question about the seizure of private property for public needs is enshrined on the constitutional level and regulated by unified norms. No one can be deprived of property, except for socially useful purposes established by law upon just compensation (part 3 of article 41 of the Constitution of Romania; paragraph 2 of article 21 of the Constitution of Poland; article 58 of the Constitution of Serbia; paragraph 4 article 20 of the Constitution of Slovakia, etc.). Article 44 of the Constitution of the Republic of Belarus as a condition of alienation also enshrines the adoption of a corresponding resolution in court. At the same time in federal states (for example, the Russian Federation) the law on the basis of which the seizure of property can be carried out, i.e. restriction of the right, must be only federal.

This issue is similarly settled in the Basic laws of Western European states. According to the Italian Constitution the seizure of property, including land, is permissible only for purposes provided by law and having a public interest with the obligatory payment of a proportionate compensation. In Austria, in addition to the Federal Constitutional Law of 1920 which is considered the Austrian constitution, the Basic State Law of December 21, 1867 on the general rights of citizens of the kingdoms and lands represented in the Imperial Council remains in force. In its article 5 the inviolability of property is enshrined, however, it is noted that the alienation of property against the will of the owner is permissible only in cases established by law. It is noteworthy that, in contrast to Russia, in practice it is admissible to establish such cases not only in federal legislation but also in a legal act of any other entity of the federation.

The uniformity of constitutional consolidation of the seizure of land is largely determined by the well-established traditions of the constitutional and legal doctrine which had been formed over several centuries as mentioned above. Constitutional provisions are developed in the norms of national legislation and its application. Here, however, there is no uniformity, since the content of national legislation is determined by the historical development of each individual state, as well as its socio-economic and political development today.

In particular, in Hungary, the permissible purposes of property seizure, its procedure and features of compensation payments are regulated by a special legal act – Law CXXIII 2007 (Law on expropriation). This legislative act lists in detail the permissible cases in which the seizure is justified by public interest and, in addition, the conditions are indicated in the absence of which the seizure is impossible even if there is a socially significant goal (Andorko 2015, p. 56). In particular, the seizure initiator must prove that the achievement of the goal is impossible by simple limiting the owner's rights in relation to the property without alienation; there is no opportunity to purchase this plot by an ordinary civil law transaction; the benefits that the withdrawal will bring to society significantly exceed the harm caused to an individual; it is impossible to achieve this socially significant goal without the use of specific real estate. In order to assess the effect of the planned publicly significant projects accurately and relate it to the scale of harmful consequences for a particular private person, the law imposes on the public authorities of Hungary the obligation to take into account such factors as the number of persons who will be able to use this object or service, development prospects of this territory as well as the way the planned project will affect the employment of the population in this area (Andorko 2015, p. 57).

The issues of land plots seizure for public needs are regulated in sufficient detail in the legislation of the Scandinavian countries, which is explained by the social nature of the economy of these states, a broad focus on the development of social systems: education, culture, healthcare, environmental protection. Thus, nature protection zones are created on state-owned lands which are widespread in Northern Europe (Averina 2014, p. 72). Regarding legislative regulation in the Scandinavian countries several acts of legislation are in force as a rule. For example, in Norway, in addition to the special law on expropriation of private property – the Law on Expropriation

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of 1959, relations connected with the seizure of land plots for public needs are regulated in a number of other legislative acts. These include the Public Roads Act of 1963, the Planning and Building Act of 2008. It is noteworthy that the problem of the balance of private and public interests in the process of seizure of property in Norway practically does not arise; litigation related to challenging decisions of public authorities is also extremely rare (Steinsholt 2010). This is due to the fact that the court almost always takes the side of public law and satisfies the complaints of individuals only in the event of a large number of procedural violations committed during the procedure.

GENERAL CHARACTERISTICS OF SEIZURE CONDITIONS: PUBLIC NEEDS AND JUST COMPENSATION

The main problems that states face when confiscating property for public needs are, firstly, the definition of the concept "public needs" and the boundaries of its content and, secondly, the problem of determining the amount of just compensation.

As for the concept "public needs", first of all, it is worth noting the absence of a single definition in the legislation of different states. Despite the external similarity the terms used by foreign legislators differ. For example, the Constitutions of Italy of 1947, Liechtenstein of 1921 operate with the concept "in the common interests"; The Basic Law of the Federal Republic of Germany uses the wording "for the common good", the Danish Constitution of 1953 calls such goals "social necessity", the Polish Constitution of 1929 and the Basic Law of Hungary speak of "public goals", etc. We believe that the term "public" in this case should be understood as a social but not a state-significant goal – this is confirmed by the provisions of the legislation and law enforcement practice of the respective states.

Some researchers note the lack of a clear definition of "public needs", as well as a list of such needs as a gap in legal regulation leading to infringement of the rights of individuals and speculation of public interests (Afanasyeva 2010, p. 124). Some American legal scholars specializing in land relations suggest solving this problem by developing a unified legal act containing a lengthy definition of public needs including a list of all permissible cases that allow the seizure of private property. It seems that creation of such a normative act is out of question, since it is impossible to predict all possible examples of social needs. At the same time in our opinion the protection of private individuals' interests should be carried out not in the course of court proceedings but in advance before the decision on alienation is made. Mandatory public hearings could be a solution to the problem.

Another important condition without which the seizure of property from an owner is unacceptable is just compensation. An indication of the need to pay "just compensation", "just redemption" or "just market value" is contained both in the Constitutions and in the legislation of foreign countries which specifies the procedure for determining the amount of damage as well as specific losses to be compensated. Most countries have developed methods for calculating just compensation based on the market value (it is believed that the market is the most objective measure for determining the real value of the seized property (Edemsky 2009, p. 88).

THE PRACTICE OF DEFINING THE CONCEPT "PUBLIC NEEDS" IN FOREIGN LEGISLATION

In the United States after the victory of the revolution the concept "public needs" was perceived in a narrow sense. This provision was regarded as limiting the state on the seizure of private property making it possible only for the purpose of using by all members of society (for example, building roads). With the development of commodity-money relations situations began to arise when the use of land by one private subject brought more benefits to society than its use by another subject of private law. As a result there was a transformation of approaches to the concept "public use". Already in XIX century the doctrine of "public benefit" was formed according

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to which private individuals had the right to satisfy requests for the seizure of land plots from others. Later this practice was developed. It is not necessary that the whole society or even a large part of it directly benefit from the improvement to present public use. The US Supreme Court took the position that the seizure can be carried out even if public use is made in the future (Rindge Co. v. Los Angeles, 262).

Changes in the role of the state in economic activity associated with the policy of Roosevelt's "new course" led to another change in the approaches in judicial practice to the question of the private property seizure. New views led to the rejection of the principle of state "non-interference" in market relations and, as a result, a revision of approaches to the nature of private property. In XX century the United States adopted an approach according to which the public benefit is determined by public authorities. The latter began to carry out seizures of private property for the purpose of economic development of the territories. The economic analysis of law is becoming more widespread in the legal theory of the United States. The essence of this direction lies in the analysis of economic consequences when making legal decisions. Thus, the use of economic analysis of law makes it possible to assess the social benefits by economic tools (Posner 2003). And this leads to a revision of judicial practice on the seizure of private property. Now it is not enough to refer to the decision of the public authority justifying each specific case of the seizure of property for public benefit. For this, it is necessary to make an economic calculation.

If the courts of the Anglo-Saxon system of law can apply economic analysis of law to resolve specific cases then in the continental system of law the courts depend more on the existing regulatory legal acts. And the question of the court decision's fairness will be determined not by economic benefits for society but by the legal tradition enshrined (or not enshrined) in legal acts.

Being a country that has relatively recently left the socialist camp, Poland has a rather short history of formation the practice of expropriation of land plots in connection with public needs. At present the reasons for the compulsory seizure of property, as noted above, are enshrined on the constitutional level and the specification of these norms in relation to private ownership of land occurs in legislation: firstly, in the Civil Code and secondly, in a special Law on Real Estate Management of 1997. At the same time neither one nor the second legislative act contains a legal definition of the concept "public needs", although it is central to this procedure. In the Polish legal doctrine there is a point of view stating that it is not only impossible but also unnecessary to give a single definition for the concept "public needs" (Walacik and Źróbek 2010). It is explained by the fact that in each specific case it is necessary to evaluate the object being based on a combination of factors and such a generalization can lead to a violation of the private property subjects' rights.

At the same time the Law of 1997 establishes an indicative list of purposes that may serve as a sufficient basis for expropriation. In particular, these include the construction of highways, airports and other transport infrastructure facilities, maintaining their proper condition; construction and maintenance of the proper condition of structures for the transportation of gas, oil, electricity, etc.; construction and repair of water supply systems; construction and renovation of cultural heritage sites. In addition, the Polish law recognizes publicly significant goals related to the protection of monuments and cemeteries as well as objects intended for environmental protection.

Other laws may stipulate other public purposes that are temporary in nature, for example, the construction of sports facilities for the 2012 UEFA international sporting event was fixed as the purpose of land withdrawal by a special law on preparation for the UEFA final.

The existing law enforcement practice in Poland related to the expropriation of land for public needs shows that for the goal to be recognized as "public" it is not at all necessary to be funded by public entities. Of key importance is the nature of object's further use which should be available to meet social needs. For example, a private hospital, private school or kindergarten may be recognized as a public interest

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but a private airport used for personal purposes has no value to society (Źróbek 2010).

In Austria there is also a rather flexible understanding of the public interest as the basis for the seizure of land. Austrian legislation does not contain a single definition or a closed list of public needs forcing to assess each case being based on the degree of public utility of the planned activity and the degree of infringement of the rights of the land plot's owner. If the achievement of a socially significant goal is available in other ways than the expropriation of the owner's property, the seizure is considered unacceptable (Handbuch der Grundrechte 2014, p. 645).

As in Poland, according to Austrian legislation land plots can be alienated not only in favor of public entities (state authorities, municipalities) but also in favor of individuals and legal entities, if their activities are of a socially useful nature.

In Norway, as noted above, there is a special normative act – the Law on Expropriation of 1959 containing an indicative list of public purposes that allow expropriation of land from the owner. These goals can be conditionally divided into two groups: specific (construction of hospitals, highways) and undefined allowing discretion (for example, the implementation of state or municipal projects (Dyrkolboth 2015, p. 118).

As for the subjects in favor of which the Norwegian legislator allowed the possibility of property seizure, it is permitted to transfer to private persons; moreover, in most cases it is private companies that receive seized plots of land for use and the state acts as the acquirer only formally. Of course, in this case individuals need to justify the benefit for the state and it may be indirect (for example, the company receives direct income from the construction of apartment buildings and the state implements social functions and provides the population with jobs or housing, etc.).

In Spain the legal definition of "public needs" is not enshrined in law either. Moreover, the autonomous regions, which have the right to regulate relations in the sphere of urban planning, can determine the goals sufficient for the implementation of the withdrawal of private land from the owners. In practice this often leads to abuse by local authorities. Valencia's law on compulsory land withdrawal establishes the right of the developer to propose a land management scheme at his own discretion that can cover both publicly owned land and land that does not belong to the municipality or the state. Ultimately, the scheme must be approved by the central state bodies, but the fulfillment of this condition does not always guarantee the protection of citizens' rights due to the corruption component. Local town-planning laws have already caused criticism from the European Parliament recommended the Spanish authorities to suspend the consideration of town-planning schemes and provide decent compensation to those who have already suffered from the actions of local laws.

In addition to legislation an important role in defining the concept "public needs" is played by law enforcement practice, especially the practice of interstate bodies for the protection of human rights. For European countries such a body is the European Court of Human Rights.

In analyzing the issue of "public needs" the position of the ECHR fundamentally differs from the American model of economic analysis of law. According to the court the interpretation of the category "public needs" is the prerogative of the national authorities. The decision to enact property alienation laws is always based on political, economic and social issues which may differ in a democratic society (Khludneva 2013, p. 45). In most cases the court rejects the applicants' opinion that there is no public purpose for the seizure of property. Thus, this category is given a broad interpretation. Moreover, the Guide on Article 1 of Protocol 1 provides a list of situations in which the ECHR has already recognized the legality of withdrawal for public needs. For example, the Court classifies as such situations: the elimination of social injustice in the housing sector (James and Others v. The United Kingdom, §45); the nationalization of certain industries (Lithgow and Others v. The United Kingdom, §§9 and 109); adoption of land and city development plans (Sporrong and Lönnroth

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v. Sweden, §69; Cooperativa La Laurentina v. Italy, §94); seizure of land in connection with the implementation of local town plans (Skibińscy v. Poland, §86); prevention of tax evasion (Hentrich v. France, §39); measures to combat drug trafficking and smuggling (Butler v. The UK (December.); protection of the interests of victims of crime (Sheiko v. Lithuania, §31); measures to restrict alcohol consumption (Tre Traktörer AB v. Sweden, §62); protection of morality (Handyside v. The United Kingdom, §62); and even the transition from a socialist economy to a free market economy (Lekic v. Slovenia [GC], §§103 and 105). This is not a complete list of situations that have taken place in practice of the ECHR which recognized the existence of a public interest (need).

Thus, the European Court treats the decisions of the national authorities with great reverence and therefore there are practically no examples of satisfying the interests of the applicant and recognizing the absence of public needs in the implementation of the procedure for seizing a land plot in the practice of the ECHR.

CONCLUSION

Summing up it should be noted that approaches to the definition of the concept "private property", its content, legal regulation and characteristics of implementation have been changing throughout the history of human development. From a complete denial of private property, society moved to its absolutization and, finally, to understanding its social function, its subordinate nature in relation to public interests. Of particular importance here is the private property right to land as the main and most valuable resource. The legislation of all developed countries has enshrined certain mechanisms for the seizure of land plots from private owners in the event of public needs; however, legal scholars have not yet succeeded in putting an end to the dispute about the correlation of public and private interests. The main questions of this work are the following: what the "public needs" are, whether withdrawal should be made in favor of public entities and if it is possible to provide a specific list of situations falling under the concept "socially significant" goals.

An analysis of the legislation and practice of foreign countries has clearly shown that the adoption of a unified normative act that enshrines the legal concept "public needs" and a closed list of such needs is impractical and impossible. The law can only outline the legal framework of this mechanism, provide for the necessary conditions for withdrawal which serve as guarantees of the owners' rights. The establishment of the exact list is also impossible for the reason that in a number of countries (for example, in Norway) public needs are recognized as the indirect goals the public benefit of which is secondary and not obvious at first glance. The question about possibility of expropriation in favor of private entities should also be answered in the affirmative, since the main importance here is not the formal entity receiving the land plot but the real benefit for society as a result of the implementation of a particular object. It seems that borrowing the American system of "economic analysis of law", which makes it possible to assess the social benefits by economic instruments, can play a positive role here. Not to damage the rights of individuals, it is necessary to carry out an assessment in advance without waiting for an illegal and unfair decision. In addition, public hearings are an effective tool for preventive control.

REFERENCES

Afanasyeva, S.D. (2010). Seizure of land plots for public needs in Russia and the United States: some topical issues of protection of constitutional rights. Comparative constitutional review 1(74), 111–125.

Andorko, I. (2015). Expropriation law in Hungary. Expropriation law in Europe. Eds. J., Sluysmans, S., Verbist, E., Waring. Deventer 5, 54–60.

Andreeva, G.N. (2008). On the influence of theories of property on its constitutional regulation. Journal of Russian Law 10(142), 124–131.

Andreeva, G.N. (2009). Property in the constitutions of foreign countries of the XVIII–XX centuries. Institute for Scientific Information on Social Sciences RAS, Moscow.

✉yuginzbyrg@gmail.com, ✉ellenberns1408@gmail.com

Averina, K.N. (2014). Features of land relations in the Scandinavian countries. Legal Research 2, 47–77.

Chukaeva, G. (2006). Characteristics of the institution of private property law of the Soviet period in Russia (historical aspect). Bulletin of Bashkirskiy university, 3. https://cyberleninka.ru/article/n/harakteristika-instituta-prava-chastnoy-sobstvennosti-sovetskogo-perioda-rossii-istoricheskiy-aspekt, access: 31.07.2020.

Dyrkolboth, S. (2015). Expropriation law in Norway. In: Expropriation law in Europe. Eds. J., Sluysmans, S., Verbist, E. Waring. Deventer: Wolters Kluwer.

Edemsky, A.A. (2009). International practice of determining compensation for land plots seized for state needs. Izvestia of RSPU after Herzen A.I. 96, pp. 86–90.

Friedman, L.M., Scheiber, H.N. (1988). American law and the constitutional order historical perspectives. Cambridge, Harvard University Press.

Khludneva, Y. (2013). Constitutional consolidation of private property rights in Russia and the countries of the European Union: a comparative legal study (unpublished doctoral dissertation). Russian Academy of National Economy and Public Administration under the President, Moscow.

Handbuch der Grundrechte VII/1// Auflage 2. (2014) Österreich, Korinek in Merten/Papier (Hrsg).

Kuropyatnik, G.P. (2005). Homestead Act and Agriculture during the War with the South, 1861–1865. In: American Yearbook. Moscow, Science.

Pisemsky, V.A. (2016). Problems of feudal land ownership in teaching a course in economic history. Bulletin of the Moscow University, ser. 6. Economy 1, 151–152.

Posner, R. (2003). Economic analysis of law. Richard A. Posner. Aspen Publishers, New York.

Rindge Co. v. Los Angeles, 262 U.S. 700 (1923), http://supreme.justia.com/us/262/700/case.html, access: 20.07.2020.

Spain: land grab stories continue/ Overseas Property Magazine Prian.ru., https://prian.ru/pub/15879.html, access: 30.07.2020.

Steinsholt, H. (2010). Some aspects of Norwegian expropriation – input to comparative study of chosen expropriation issues: Germany, Norway and Poland. Sydney, FIG Congress, pp. 1–10.

Walacik, M., Źróbek, S. (2010). Chosen principles of land acquisition for public purposes and just compensation determination in Poland. Some aspects of compulsory purchase of land for public purposes. Olsztyn, pp. 19–32.

Weber, M. (1990). Protestant ethics and the spirit of capitalism. Moscow, Progress.

Źróbek, R. (2010). Some problems of compulsory acquisition of land for public purposes. Acta Sci. Pol. Administratio Locorum 9(4), 151–159.

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