

The object of the project

The conflict between a landowner who wants to use his plot of land in any physically possible way which gives him benefits and a community which interests may be opposite to owner's plans, appeared long time ago. Since centuries economic, political, social and environmental background has changed radically, but the core of the problem remains the same. The idea of responsibility of public authority for damages is not controversial at present. Nonetheless, it was easier to accept an obligation of the public authority to pay damages for illegal action or nonfeasance than to form a legal norm entitling an owner to demand a reparation for issuing legally valid and binding law or decisions. As far as an owner has a legal title to land, law enacted in order to determine permissible usage of land could be a source of damage. The question is if and in what extend should we expect the owner to renounce his right to land in benefit for society. What should be the suitable scope of responsibility for limitation of the widest possible legal title? On what basis this responsibility should be established? How damage should be repaired? These questions are an essential introduction to analyse the structure of the ownership and the elements of the right to demand compensation for reducing a right to land. The aim of the project is to prepare an comprehensive and thorough analysis of the problem of liability for damage caused by spatial planning in the Polish law.

The description of the research

The research will be done from civil, administrative, constitutional point of view as well as be seen from the angle of historical development of regulation, axiology and comparative study. The legal norms will be examined both on the grounds of judicature and practice of the public administration and on achievements of branches of constitutional, civil and administrative law. As a part of the comparative studies solutions of the selected continental and Anglo-Saxon legal systems will be presented in the search for an answer for the question whether models of the responsibility for damage caused by spatial planning could be formed in the foreign legal systems.

The reasons for choosing the research topic

On the one hand the reason for choosing described issues of the research is lack of elaborated analysis of the problem of the liability for a damage resulted from town planning in the law science. There is a lot of articles or other larger publications about issues linked to this topic, but until now any comprehensive analysis of the liability for this kind of damage has not been undertaken. However, on the other hand a strong spur for conducting research in this scope are obvious deficiencies in actual regulation of the liability for damage resulting from a town planning in the Polish law.

The most important expected results

The results of research will serve not only as a stimulation of a development of the law science and judicature concerning the town planning and development, but most of all, will be useful during works on form and direction of the amendments of legal articles regulating this liability in the Polish law. The effect of the comparative analysis of this regulations in the German and French law should be implementing in the Polish law such solutions existing in the German and French laws which shall be assessed as efficient and appropriate, taking into consideration the conditions of the Polish spatial development. The further result of the research should be stabilization of the judicature in the area of the liability for damage resulting from town planning and better realization in practice the rule of the legal certainty in relation to an owners of a real estate. Finally, the result of the conducted scientific project could be an increase in the amount of a planning acts issued by the local authorities and enabling organization of the local land development plans, which would bring an order in the spatial planning practice of the public administration and courts. This should cause positive effects for environment and economy.