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GENERAL CHARACTERISTICS OF PROPERTY PROTECTION

Abstract: The right to property is one of the fundamental subjective rights in modern legal systems, playing a key role in ensuring economic stability and social order. In the context of dynamic social, economic, and technological changes, increasing questions are being raised regarding the law and the protection of this right, the answers to which require careful analysis and adaptation of existing legal mechanisms. This article examines the protection of the right to property as a fundamental principle of the rule of law. It explores the general characteristics and diverse mechanisms for safeguarding property rights, including civil, administrative, and criminal legal protections. The study aims to identify and classify the primary methods of protection, analysing the normative framework, judicial practice, and legal scholarship, with particular emphasis on the jurisprudence of the Constitutional Court of the Republic of Bulgaria. The study demonstrates that property protection constitutes a dynamic legal domain, continuously adapting to socio-economic transformations that inherently impact the substantive right to ownership. In the contemporary context, the need for further legislative measures and refinement of protective mechanisms remains critically relevant. The author concludes that property protection is a dynamic legal figure whose effectiveness depends on the ability of the legislator and law enforcement bodies to integrate traditional principles into new realities, ensuring both the stability of legal relationships and compliance with international human rights standards.

Keywords: property, property law, protection of property, petitory claims.

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ОБЩА ХАРАКТЕРИСТИКА НА ЗАЩИТАТА НА СОБСТВЕНОСТ

Резюме: Настоящата статия анализира защитата на правото на собственост като основен принцип на правовата държава. Изследват се общите характеристики и различните механизми за защита на собствеността. Целта на изследването е да идентифицира и класифицира основните методи за защита, включително гражданскоправната, административноправната и наказателноправната защита. Основният подход включва анализ на нормативната уредба, съдебната практика и научната доктрина, с поглед върху практиката на Конституционния съд на Република България. Изследването показва, че защитата на собствеността е динамична правна материя, която непрекъснато се адаптира към социално-икономическите промени, тъй като те влияят изначално

на вещното право на собственост. Необходимостта от допълнителни законодателни мерки и усъвършенстване на механизмите за защита е особено актуална в съвременния контекст.

Ключови думи: собственост, вещно право, защита на собствеността, петиторни искове.

Abbreviations:

ALO&UA is Agricultural Land Ownership and Use Act
APC is Administrative Procedure Code
C&PRA is Cadastre and Property Register Act
CC is Criminal Code
CCt is Constitutional Court
CiPC is Civil Procedure Code
CRB is Constitution of the Republic of Bulgaria
CrPC is Criminal Procedure Code
EU is European Union
HR is Human Rights
MPA is Municipal Property Act
OU of ALA is Ownership and Use of Agricultural Land Act
PA is Property Act
PC is Penal Code
SDA is Spatial Development Act
SPA is State Property Act

Introduction

The right to property is one of the fundamental subjective rights in modern legal systems, playing a key role in ensuring economic stability and social order. In the context of dynamic social, economic, and technological changes, increasing questions are being raised regarding the law and the protection of this right, the answers to which require careful analysis and adaptation of existing legal mechanisms.

This study focuses on the general characteristics of property protection, analysing the various legal instruments and mechanisms that guarantee the effective safeguarding of this right.

The study aims to identify and classify the main methods of property protection, as well as to analyse the contemporary challenges faced by this legal institution.

The study also examines the international legal aspects of protection.

The methodological approach includes a comparative analysis of legislation, case law, and legal doctrine, with particular attention to the practice of the Constitutional Court of the Republic of Bulgaria.

Concept

The right to ownership occupies a central place within the system of property rights and is a key element of the legal order in modern societies.

Art. 17, para. 3 of the CRB stipulates that private property is inviolable. It is the duty of the state to guarantee and protect the right of ownership and to ensure the inviolability of private

property, which obliges the legislature to refrain from adopting legal measures that contradict the constitutional requirement for the protection of the inviolability of private property (*Decision, 2021*).

Art. 2, para. 2 of the PA establishes the principle that all forms of property enjoy equal opportunities for development and protection. According to Art. 86 PA, property that is publicly owned by the state or municipality cannot be acquired through prescription.

Bulgarian legislation does not contain a legal definition of the right of ownership. According to the classical Roman law definition, the right of ownership consists of three components (powers): ius utendi (use), ius fruendi (enjoyment/fruition), and ius abutendi (disposal) (*Andreev, 1993, p. 237*).

Other definitions also exist, deriving from Bulgarian legal scholarship. The right of ownership is defined as the right by which a person may require all others to refrain from any actions regarding a particular object (*Venedikov, 1991, p. 86*); as a legally recognised possibility for a person to exercise direct power over a specific object to satisfy their interests and to demand that all other persons refrain from interfering with it, to the extent permitted by law or the rights of third parties (*Tadjer, 1975, p. 35*); as an absolute subjective right, characterised by complete factual and legal authority over an object, enforceable against all other legal subjects, and including the powers of disposal, possession, and use, insofar as these powers are not limited by the legal order (*Dzherov, 2010, p. 85*); as a legally recognised and guaranteed opportunity for a person to possess, use, and dispose of a specific object and to require all others to refrain from interfering with it (*Boyanov, 2014, p. 107*); and as a subjective right that allows its holder to possess, use, and dispose of a specific object within the boundaries of the law, and to require all other subjects to refrain from interfering with that object (*Stoyanov, 2024, p. 73*).

In all the definitions mentioned, it stands out that, in addition to the owner's powers of possession, use, and disposal, the right of ownership is an absolute subjective real right. Corresponding to this right are the legal obligations of all other subjects not to violate it. For this reason, these rights can be asserted against all other persons. These legal obligations entail refraining from interfering with the holder's exercise of their subjective right. In this sense, infringements of the real right of ownership may be committed by any subject who, in any way, challenges, denies, or breaches the right of ownership, or otherwise obstructs the exercise of any of the powers of the titleholder. Since any subject may interfere with its exercise, the absolute nature of the right of ownership makes it vulnerable. Therefore, effective legislative mechanisms must exist to protect it against any encroachment.

Although the right of ownership is absolute, it is not unlimited and may be restricted either voluntarily by the will of its holder or compulsorily, when such limitation is provided for by law. The CRB and the legislation allow such restrictions, balancing the rights of the owner with higher legal values or public needs. These interventions, whether voluntary or compulsory, affect the substance of the right but do not provide grounds for protection when performed in accordance with procedures laid down by law. With regard to compulsory restrictions, such as the expropriation of property under Art. 17(5) of the CRB and further developed in the Expropriation of PA and the MPA, it should be emphasised that such encroachment on ownership hinges on a key balance between individual rights and the public interest, which is precisely why it is regulated at the constitutional level.

The right of ownership is the most fundamental and comprehensive of all subjective real rights. In the context of dynamic social, economic, and technological changes, it faces numerous contemporary challenges. From the regulation of urbanised territories to the management of virtual assets, its content and applicability are evolving and require adaptation to respond to new realities. The legal system follows the development of the world around us and seeks to regulate it. Inevitably, changes in social relations lead to changes in property law. The ways in which ownership is protected are also subject to change. At a more abstract level, the core of the classical doctrine of ownership retains its essence, yet the changes in our surrounding world generate developments in certain aspects of material property law. In view of this, changes in the legal framework and methods of protection are inevitable. The needs related to the existence and exercise of the subjective right of ownership cannot evolve without triggering changes in the mechanisms for its protection. These very changes introduce new, or pose challenges to, classical protective mechanisms. The resilience and adaptability of the so-called classical means of ownership protection are considerable, but insufficient. It is therefore inevitable that new mechanisms be introduced—specific means for the protection of property. In this way, the emergence, existence, and exercise of the subjective right of ownership remain guaranteed by the legal order for its holder in the event of potential disputes or violations by other subjects.

The genesis in the field of protecting the right to property stems from the fundamental postulate set forth in the CRB, namely that the legal system guarantees the protection of all subjective rights. The right to protection is constitutionally enshrined in Art. 56 of the CRB. It serves as a means to safeguard other violated or threatened rights or legitimate interests (Decision of the Constitutional Court No. 3 on Case No. 1/1994). The constitutional right to protection is an autonomous, fundamental, personal, universal, and complex right of citizens. On the other hand, the right to protection is directly linked to every other right or legitimate interest. It gives rise to obligations for the state.

First and foremost, the state is obliged to ensure the individual exercise of the right to protection, and it must not hinder its realisation—this highlights its absolute nature. Secondly, the state has the duty to provide legal guarantees and various forms of safeguarding the fundamental rights established in the CRB at all levels of state authority. Thirdly, there is the obligation to ensure the state's protective function, which should reinforce institutions as democratic, public, and fair (*Cherneva et al., 2023, pp. 52–53*).

The right to property is fundamental to the existence and development of any legal system, yet it is simultaneously vulnerable to a range of factors that may threaten it. The voluntary fulfilment of legal obligations by all other parties in the legal relationship with the property owner is a legislative priority and aligns with the interests of the right holder, as well as with public interests more broadly. Voluntary fulfilment represents the most desirable development of the legal relationship. If the exercise of subjective rights were left solely to the goodwill of obligated parties, the very notion of legal order would become meaningless, as the defining characteristic of a legal system is that it contains mechanisms of coercion when voluntary compliance is absent. Coercive enforcement is a substitute for missing voluntary fulfilment (*Stalev et al., 2020, p. 897*). One of the essential attributes of law—coercion—means that it guarantees the subjective right to property (as well as other rights), and, when necessary, the holder may use the lawful means available to seek protection.

Property is not only a personal value but also an economic foundation. Without its legal protection, investments, transactions, or economic activity in general would be insecure. Historically, property has often been subject to unlawful expropriation or excessive state interference, which necessitates clearly regulated mechanisms for protection and for limiting such practices. The need to protect property arises from its role in guaranteeing individual freedom, economic stability, and public order. Violations of property rights may include disputes, theft, fraud, or other unauthorised actions of any kind, all of which require effective legal protection.

In this sense, the protection of the right to property is of essential importance both for the individual and for society. The free exercise of this right is in line with the principle of the rule of law—in both its formal and substantive sense. A classical component of the rule of law in the formal sense is the principle of legality, which serves to prevent arbitrariness. In the substantive sense, the rule of law is a state of justice, which, through principles such as the separation of powers, the inalienability of fundamental rights, and others, guarantees the free exercise of fundamental rights—among which the right to property undoubtedly belongs—and, consequently, their protection as well (*Drumeva, 2018, pp. 132–133*).

The protection of the right to property is of a complex nature. It is performed, on the one hand, through substantive legal norms that regulate the legal consequences which acts of law enforcement bodies have on the material civil legal relationship, and on the other hand, through procedural legal norms that regulate the procedural means and order for the realisation of such protection, as well as the procedural legal consequences of the acts of the bodies through which protection of the right to property is effected (*Pavlova, 2002, p. 215*).

The legal regulation of property protection is not systematised in a single legislative act. Substantive provisions can be found in numerous laws—not only in civil law, but also in administrative and criminal law—more specifically, in the CC and the CrPC. A comprehensive enumeration would be difficult, but rules for the protection of property in one form or another can be found in the PA, the SPA, the MPA, the SDA, the C&PRA, the restitution laws, among others.

The principal means of protection are legal claims—more specifically, proprietary claims. The classical claims for the protection of property are regulated in the PA. These include the reivindicatory claim under Art. 108 PA and the negatory claim under Art. 109 PA. Additionally, Art. 109a of the PA regulates the claim for determination of property boundaries. Other petitory claims can be found in special laws such as the C&PRA and the OU of ALA. The role of administrative protection of property is also increasing. There are numerous administrative legal means for the protection of property. These are often also regulated by civil laws—e.g., Art. 52 of the PA, Art. 80 of the SPA, and Art. 65(1) of the MPA. The CC also provides for offences against property, regulated in a separate Chapter V of the CC. Procedural laws determine the procedures by which protection is exercised. The primary one is the CiPC, though in many cases the APC applies. Proceedings in cases of offences against property are performed under the CrPC. In addition, international legal mechanisms, such as the protection guaranteed by the HR European Convention and the case-law of the HR European Court, further reinforce property as a fundamental right of every individual (*Panayotova-Chalukova, 2019, p. 163*).

It is worth noting that the means for the protection of property are applied as a general rule also to limited real rights, unless otherwise provided by law or if the nature of the remedy renders it inapplicable to limited real rights. This is particularly true for petitory claims, which is why they are considered a generic category of claims (*Stoinov, 2021, p. 103*).

Despite possible limitations, property protection is of a universal nature, as it is applied in all cases—whether in relation to private or public, movable or immovable property. Although there are differences depending on the criteria for protection, the law provides mechanisms to prevent and sanction unlawful infringements.

For property protection to be exercised, three general prerequisites must be in place. First, the claimant must be the owner or holder of a limited real right. In certain cases, where the public interest is affected, state intervention through its bodies is also possible, such as in the case of an offence against property within the meaning of the CC. Second, there must be a violation or infringement of the right, manifested in its contestation, denial, or direct breach. Third, the legal ground for protection must be provided by law, ensuring legal legitimacy and the possibility of protection through an established procedure.

The regulated means of protection contribute to the prevention of conflicts and self-redress, as the legal system guarantees the peaceful and just resolution of disputes. However, it is also necessary to adapt legal protection to the conditions of dynamic social, economic, and technological changes. New challenges require the improvement of existing mechanisms and the introduction of innovations for the effective protection of owners' rights.

In conclusion, the protection of property (and of limited real rights) represents a system of legal norms and principles by virtue of which the owner (or holder of a limited real right) may, according to an established procedure, protect their right against denial, contestation, or direct violation of any of its powers.

Results

The right of ownership is protected through various means. The methods for protecting ownership are classified according to different criteria. These distinctions have significant practical importance, as noted in the preceding lines, since the right of ownership (as well as limited real rights) is fundamental to any modern legal system, and its protection must be comprehensive and complete to guarantee it in its entirety.

In a Broad and Narrow Sense

Given that there are various means of protection, it is necessary to distinguish the usage of the phrase "protection of property", as it is often used synonymously with petitory claims. Although these are among the fundamental and specialised legal remedies for the protection of property rights, they represent only one category of such means. This is because they constitute the proprietary aspect of protection, but do not exhaust the possibilities for safeguarding subjective property rights. Depending on numerous factors, different branches of law provide different mechanisms. Therefore, for a comprehensive interpretation of the term, one may conclude that a distinction must be made between protection of property in a broad sense and protection of property in a narrow sense.

In the narrow sense, protection of property encompasses all petitory claims. These claims also serve to protect limited real rights. They are considered the principal legal remedies, as they involve claims aimed at defending ownership and other property rights. Petitory claims are the typical legal instruments for the protection of property rights. This category includes classical remedies such as the rei vindicatio and the negatory action, but also more modern and specific claims, such as claims for the rectification of errors and omissions in the cadastral map under the CPRA, among others.

In the broad sense, protection of property includes all legal remedies provided by domestic and international law, as well as by EU law. This category naturally includes protection in the narrow sense but extends beyond it. Broadly speaking, it also encompasses all administrative and criminal law remedies, and all sources outside the domestic legislation of the Republic of Bulgaria—essentially, all mechanisms designed to safeguard property. These can be found, for example, in the CC under the chapter on protection of property, in the SPA and the MPA as examples of administrative protection, in the European Convention on Human Rights as a key source of international legal provisions, and others.

Classical and Specific

Legal remedies for the protection of property can also be divided into classical and specific. The distinguishing criterion between these two categories lies in the nature and legal characteristics of the protective mechanisms provided by law.

Classical remedies are characterised by general, abstract protection of the right of ownership. Most of them originate from earlier periods, dating back to Ancient Rome. Their abstract nature renders them enduring over time and adaptable through the ages. These remedies are based on the absolute nature of property rights. The main classical remedies include:

- the rei vindicatio, used by a non-possessory owner to claim an item from a non-owning possessor;
- the negatory action, brought by the owner against interferences that do not involve deprivation of possession but affect their right and hinder its exercise;
- the action for declaration of ownership, used when the owner seeks to establish their right against a third party.

Specific remedies, on the other hand, involve more concrete, specialised mechanisms applicable to particular situations. They introduce diversity in the methods of protection, since infringements may vary depending on several factors—the nature of the violation, the object of protection, the type of ownership, etc. Specific remedies also diversify the way protection is implemented. There is a notable increase in the use of administrative mechanisms for protection.

Civil, Criminal, and Administrative Protection

The protection of property rights is divided into civil, criminal, and administrative protection.

Civil protection consists of civil claims established by the legislator, which are granted to the holder of a property right to defend it against unlawful interference. Civil protection should not be equated solely with petitory claims. It includes proprietary claims but is not limited to

them. Therefore, civil protection may be classified into petitory claims and other civil-law methods of protection.

The category of petitory claims includes all proprietary claims—vindicatory (Art. 108 of the PA), negatory (Art. 109 of the PA, declaratory actions for determining boundaries (Art. 109a of the PA), claims concerning omissions or errors in the cadastral plan (Art. 54, para. 2 of the C&PRA), and others.

Petitory claims must be distinguished from possessory claims, also referred to as possessory remedies. Possessory protection comprises legal means for remedying disturbed possession (*Tadjer, 2001, p. 81*). The claims for such protection are regulated under Arti. 75 and 76 of the PA. The key difference between the two types of protection lies in the fact that possessory protection does not safeguard rights but rather defends possession as a de facto state, as well as detention in the cases outlined in Art. 76 of the PA. A specific distinction must be drawn between possessory and proprietary claims, as they share many similarities. Since the former concerns the protection of a factual situation and the latter involves the protection of property rights, including limited real rights, they are referred to respectively as possessory and petitory claims.

As possessory claims aim to protect possession (and detention under Art. 76 of the PA), and petitory claims serve to protect property rights, the two types of claims may not be joined in a single legal proceeding. However, this does not prevent an owner or the holder of another real right from filing a possessory claim to defend their right to possess the item. A person who has brought a claim of ownership over immovable property may not file a possessory claim against the same defendant for the same property while the ownership case is pending, unless the possession was taken away after the filing of the ownership claim—either by force or clandestinely (Art. 359 of the CiPC).

Possessory protection is provided through a special legal procedure for the protection and restoration of disturbed possession (Arts. 356–361 of the CiPC). In such cases, the owner does not need to prove that they hold a real right, but merely that they exercised de facto possession and that this possession was disturbed, as the court in these proceedings examines only the fact of possession and its disturbance (Art. 357, para. 1 of the CiPC). The existence of a property right is not necessarily examined. However, documents certifying ownership are taken into consideration only insofar as they establish the fact of possession. In contrast, in a proprietary claim, firstly, no special procedure is provided, and secondly, the claimant must prove that they possess a property right. The burden lies on the claimant to prove their ownership or another real right over the item.

Another difference is that petitory claims are not always condemnatory in nature, while possessory claims always aim for the defendant to be ordered to act or refrain from acting. Claims for the protection of property rights may also be declaratory. Possessory claims must be filed within a six-month limitation period, whereas no such period exists for petitory claims; they are not subject to limitation.

Other civil-law methods of protection include contractual claims, such as claims by a borrower for the return of a loaned item, by a tenant, by a depositary, for tortious damage, unjust enrichment, and others, most of which are based on an existing legal relationship between creditor and debtor.

Criminal protection of property rights can be achieved by criminalising certain types of encroachments on property. Crimes against property are regulated in Chapter V of the Special Part of the CC. Criminal protection may be divided into two main groups:

Protection against deprivation of possession from the owner. This group includes theft, robbery, embezzlement, and concealment of property.

Protection against damage to another's property, such as destruction, damage, and abuse of trust.

These can also be classified based on whether the perpetrator exercises possession at the time of committing the act. In one case, the perpetrator removes possession and the act of removal is part of the criminal conduct—e.g., theft and robbery. In the other, the perpetrator already exercises possession prior to the act—e.g., embezzlement.

The protected legal interest comprises two groups of societal relations: property relations and those ensuring the normal exercise of property rights (*Stoinov, 2021*). The object of these crimes may be both movable and immovable property, but certain offences involve the unlawful taking of only movable items—such as theft and robbery. In all such cases, the offence must involve a tangible object or property right assessable in monetary terms. In other words, there is always a property interest, which is a key characteristic of property rights.

Administrative protection is that which is implemented through administrative procedures. Its significance has increased over time. A classic example is the protection of state and municipal property under Art. 80 of the SPA and Art. 65, para. 1 of the MPA.

Properties owned by the state or municipalities that are held or used without legal grounds, used contrary to their intended purpose, or no longer needed, are subject to repossession by order of the regional governor, based on a substantiated request by the relevant minister or head of an institution—or by the mayor, in the case of municipal property.

Another example is the protection provided in Art. 52 of the PA, which prohibits planting trees closer than 3 metres for tall trees, 1.5 metres for medium ones, and 1 metre for low ones from the boundary of a neighbour's property. The neighbour may request permission from the mayor of the municipality, district, or settlement to have overhanging branches or roots extending into their property cut. They may also request the relocation of trees planted closer than the specified distances.

A further example is provided in Art. 34, para. 1 of the ALO&UA, according to which, at the request of owners or legal users of agricultural land with restored ownership, the land may be repossessed by order of the mayor of the municipality where the property is located from persons who use it without legal grounds. The land is then handed over to the rightful owners or legal users. To establish the unlawful use, the mayor may officially request information from the State Fund "Agriculture"—Paying Agency, or from its regional structures and/or the municipal agricultural office or the geodesy, cartography, and cadastre office.

Judicial and Extrajudicial Protection

The distinction between judicial and extrajudicial protection is based on whether the protection is performed with the assistance of a court.

Extrajudicial protection may be exercised by administrative authorities through administrative procedures. Such protection does not require court involvement. To some extent,

extrajudicial protection corresponds to administrative protection, which was discussed earlier, but not all extrajudicial means of protection are examples of administrative protection. Viewed more broadly, extrajudicial protection also includes certain limitations established by law itself. An example can be found in Art. 86 of the PA, which stipulates that property that is public state or municipal ownership cannot be acquired by prescription. The rationale is that public state and municipal property serves to satisfy public interest. More importantly, this type of property is protected against acquisition by prescription directly by law.

Judicial protection is that which is performed with the assistance of a court. In all cases, protection provided by criminal law is judicial—criminal law protection. Civil law protection is also judicial—all claims brought by the owner, whether they are contractual or property law claims.

Protection According to the Subject Matter

There are cases where the state and municipalities are placed in a privileged position regarding the protection of their property compared to citizens and legal entities. With this in mind, protection can be classified as protection of state and municipal property and protection of ordinary private property of citizens and legal persons.

This is the case in the scenarios of Art. 80 of the SPA and Art. 65, paragraph 1 of the MPA. Properties that are state or municipal ownership, which are held or possessed without legal basis, used improperly, or whose necessity has ceased, are confiscated by order of the regional governor, based on a reasoned request from the respective minister or head of the relevant department—in the case of state ownership—or from the mayor of the municipality when the property is municipal. In this case, the order results in compulsory confiscation of property by administrative means.

For private property, this is not possible; if there is unlawful possession or holding, the citizen or legal entity—the owner—must file a claim under Art. 108 of the PA or a contractual claim if a contract exists, to oblige the defendant to return the item. The difference is that the protection provided under the SPA and MPA applies only to immovable property, whereas a claim under Art. 108 of the PA may be filed for both movable and immovable property. If a movable item—state or municipal property—is unlawfully held or possessed, the state or municipality must file a claim under Art. 108 of the PA.

In private law, the leading principle is equality and, specifically, equality of the parties. In exercising private ownership, all legal subjects, including the state and municipalities, are equal. Therefore, the scope of rights and obligations of the state and municipalities as holders of private ownership cannot fundamentally differ from those of any other private law subject regarding the property owned (*Decision, 2010*). One might question why differences are drawn between private state and municipal ownership and the general regime of private ownership. On one hand, the legislator achieves an equalisation of the protection of private with public state and municipal ownership, which is inadmissible under Art. 17, para. 2 of the Constitution. Additionally, different regimes of protection are established for private state and municipal ownership compared to the general regime of property protection.

On the other hand, the Constitution does not prohibit establishing a different regime regarding private state ownership compared to the general property regime, nor does it forbid

providing an identical means of protection as for public property. It is a fact that Art. 17, para. 2 divides ownership into public and private, but this does not oblige the legislator to introduce a completely different protection regime. Moreover, this permission does not apply to all types of protection. An example is the Supreme Court of Cassation Decision No. 3 of 24 February 2022, case No. 16/2021, which declared unconstitutional the provision of §1, paragraph 1 of the Supplementary Law to the PA, which stated that "the prescription period for acquiring property—private state or municipal ownership—shall be suspended until 31 December 2022 inclusive for the acquisition of agricultural land owned by or whose ownership has been restored under the Property and Use of Agricultural Land Act to state or municipal schools or other state and municipal institutions within the pre-school and school education system." This highlighted the difference between private state and municipal ownership in terms of acquisition by prescription, as the prohibition of acquisition by prescription applies only to public ownership.

In summary, taking all of the above into account, it may be concluded that it cannot be absolutised that there is an equalisation of private state and municipal ownership with public ownership on the one hand, and a significant difference from ordinary private ownership on the other. It may be summarised that the measures provided in Art. 80 of the SPA and Art. 65, para. 1 of the MPA emphasise a specificity in the protection regime of private ownership according to its holder, but this in no way means equalisation with the regime of public ownership.

Domestic and International Protection

Protection of property is divided into domestic and international based on the criterion of where the method of protection is regulated.

When the regulation is found in domestic legislation, the protection is classified as domestic. Domestic protection can be found in the provisions of the Property Act, Spatial Development Act, Plant Protection Act, State Property Act, Municipal Property Act, Corporate Income Tax Act, etc.

On the other hand, protection is international when it is regulated not by domestic sources but by international sources and EU law. In a global context, property rights are protected by international instruments such as the Universal Declaration of Human Rights (Art. 17), which recognises the right to property as a fundamental human right; the European Convention on Human Rights and Fundamental Freedoms (Art. 1 of Protocol No. 1), which guarantees protection against unjustified deprivation of property. The case law of the HR European Court in Strasbourg also plays an important role (*Panayotova-Chalkova, 2019*).

EU law also provides protection of property. Art. 17 of the Charter of Fundamental Rights of the EU states that everyone has the right to own, use, dispose of, and bequeath lawfully acquired property. No one may be deprived of their property except in the public interest, in cases and under conditions provided for by law, and against fair and timely compensation for the loss incurred. The use of property may be regulated by law to the extent necessary for the general interest.

Preliminary and Subsequent Protection

The protection of property can be distinguished with regard to whether there is an infringement upon the real right or not, into preliminary and subsequent protection.

In preliminary protection of property, there is no infringement upon the subjective right of ownership. Its aim is to entirely prevent the violation of the right. This is what defines its preliminary nature. This category of protection serves as a prevention against violations. Therefore, preliminary protection can also be described as preventive. It functions as a preventive mechanism that minimises the risk of infringement and creates a stable legal basis for the exercise of the real right. An example of this is the protection of the legal prohibition on acquiring public property by prescription. Another example is the prohibition on acquiring movable property whose possession was obtained through a criminal offence. More broadly, registration (entry in a public register) also provides preventive protection as it ensures publicity.

In contrast, subsequent protection involves an actual violation of the real right. The infringement may also take the form of contesting or denying the existing real right. The essential point is that there is an obstacle to the free exercise of the real right, which gives rise to the need for protection. It can also be defined as substantive protection, since it is applied after the violation has already occurred.

These two categories are mutually complementary. Preliminary protection aims to prevent violations, while subsequent protection is applied to remove violations once they have occurred. In this way, a comprehensive legal framework is ensured, which not only protects the right of ownership but also guarantees its free exercise.

Lawful and Unlawful Protection

Types of protection can also be divided into lawful and unlawful, depending on whether the law permits protection through the respective actions taken. All means of protection regulated by law are performed according to the procedure also stipulated by law, and are therefore lawful. These are the permitted and lawful ways to protect rights. In all cases, protection of property is worth performing through this group of methods.

Opposite to lawful protection are unlawful types of protection. One of the reasons why there are multiple different methods for protecting property is to avoid self-help (vigilantism), which is criminalised under Art. 323 of the PC and is a classic example of unlawful protection. Through self-help, in practice, the rights of the owner may also be protected, but it crosses a different boundary—that of the law. It protects ownership but at the cost of committing a crime. Therefore, this is unlawful protection of property. It is prohibited by law, specifically by the PC. The legislator has determined that the degree of social danger is so high that self-help must be criminalised. In this case, priority is given to order and public peace rather than allowing the rights-holder to take unilateral actions that do not correspond with the order established by law. Self-help, besides affecting order and public peace, also undermines the established public order for legitimate dispute resolution between citizens and legal entities. This is done through the assistance of competent authorities. Any unilateral action performed in violation of the legally established procedure also constitutes an attack on the authority of justice, as it is not permitted to usurp the functions of the judiciary in resolving legal disputes.

Discussion

The legal protection of the right of ownership remains a central topic in legal discourse, especially in the context of dynamic socio-economic changes and the growing influence of

international law. The present study shows that existing legal mechanisms provide a solid foundation for the protection of property. Nevertheless, emerging challenges require the modernisation of the legal framework to ensure its effectiveness in conditions of digitalisation and globalisation.

One of the key aspects of the discussion is the balance between private property rights and the public interest. This requires careful analysis of legal measures that restrict the right of ownership to ensure they are necessary and proportionate to the objectives pursued. In this regard, future research should focus on developing criteria for assessing the proportionality of such measures.

Another important aspect is the protection of virtual assets in the context of digitalisation. Traditional legal mechanisms, such as vindicatory and negatory claims, are not always suitable for resolving disputes related to digital assets. This necessitates the development of new legal instruments tailored to the specifics of the digital environment. At the same time, it is necessary to ensure that these new mechanisms do not infringe owners' rights or create additional barriers to access to legal protection.

The efficiency of the judicial system is also a subject of discussion. Lengthy and costly court proceedings may hinder citizens' access to legal protection, highlighting the need to introduce alternative dispute resolution methods, such as mediation and arbitration. These methods can contribute to quicker and more effective resolution of conflicts related to property while reducing the burden on the judicial system.

International standards, particularly those of the HR European Convention and its protocols, as well as EU law, play a key role in the development of national legislation. They promote compliance with the principles of fairness, proportionality, and protection of owners' rights. However, harmonising national legislation with international standards requires a careful and professional approach.

In conclusion, the protection of the right of ownership is a dynamic and multifaceted process that requires continuous adaptation to changing social, economic, and technological realities. Future research should focus on developing new legal mechanisms that respond to contemporary challenges, as well as on improving the effectiveness of existing tools for property protection.

Conclusion

The protection of the right of ownership, as a fundamental element of the rule of law, is implemented through a complex system of legal mechanisms reflecting both historical context and contemporary challenges. The constitutional principle of inviolability of private property (Art. 17, para. 3 of the Constitution) and guarantees of equal treatment of all types of property (Art. 2, para. 2 of the PA) form the basis of the legal framework protecting the absolute character of this right. However, the right of ownership is not absolutely unlimited—it may be restricted voluntarily or compulsorily, provided that this is necessary to protect higher legal values or public interests (Art. 17, para. 5 of the Constitution).

Analysis of legislation and judicial practice, including Constitutional Court decisions, demonstrates that property protection is performed through various groups of mechanisms classified into different categories.

The dynamics of socio-economic and technological changes necessitate adaptation of traditional mechanisms. The increasing role of digital assets and virtual property requires the development of specialised legal tools that respond to new developments in various forms of ownership without compromising established principles. International legal standards, notably the HR European Convention, including the European Court of Human Rights' practice, and EU law contribute to the harmonisation of national legislation by emphasising proportionality and fairness in restricting rights.

Despite the resilience of classical methods (such as vindicatory and negatory claims), modern conditions demand improvement of judicial procedures and introduction of alternative dispute resolution methods. The balance between protecting private interests and public needs remains a key challenge, especially in the context of public ownership and compulsory expropriations.

In conclusion, property protection is a dynamic legal figure whose effectiveness depends on the ability of the legislator and law enforcement bodies to integrate traditional principles into new realities, ensuring both the stability of legal relationships and compliance with international human rights standards.

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