

Antoniuk O. Three-Component Test» on Assessing the Legality of Interference in the Right to Ownership

The author of the article has studied the criteria for the admissibility of state's interference in the right to ownership developed in the practice of the European Court of Human Rights.

The content of the «three- component test» on assessing the legality of interference in the right to ownership has singled out the following criteria: 1) the legality of interference; 2) legitimate purpose (justification of interference by general interest); 3) a fair balance between the interests for the protection of property rights and general interests (observance of the principle of proportionality between the used means and the persecuted purpose and avoiding the imposition of excessive burdens on the owner). Based on the analysis of the decisions of this court, the author has revealed the content of such conditions as the legality of interference in the right to ownership, the legitimacy of the purpose of such interference and a fair balance between the interests for the protection of property rights and general interests.

It has been established that these criteria should be assessed collectively, the discrepancy of interference with at least one of the specified criteria indicates on a violation of the right of ownership, even if such interference is complied with national legislation and / or the imposition of the compensation to the owner.

Special attention has been paid to the application of the principle of «proper governance» while assessing the proportionality of state interference in the property sphere of a purchaser of property in good faith. In case of the abolition of the erroneously established cause of the right to ownership for the property in accordance with this principle, the government may be obliged not only to promptly correct the mistakes made, but also to pay appropriate compensation to a purchaser of property in good faith, since the risk of a mistake of a state agency should be relied upon the state, and the errors can not be corrected at the expense of those persons they relate to.

Key words: right to ownership, three-component test, legitimate goal, legality, proper governance, proportionality of intervention, public interest.