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Comparative analysis of modern foreign legislation on the right to building

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Abstract
This article examines the characteristics of regulatory law in the countries of continental Europe and some countries in the post-Soviet area. Based on the conducted analysis some differences and similarities in the formation of this institution in the Romano-Germanic legal family are revealed. Theoretical recommendations on introduction of the positive experience of these countries are developed to improve national civil law.

Keywords: rights in things, real estate, limited real rights, servitude, right of ownership, contract, a plot of land, builder, building

Introduction

Rights in things are an integral part of the civil laws of any developed nation. In domestic civil law science and legal system, in general at least, all property rights referred to the right of ownership for a long time. Their present renaissance occurred in the last decade of the last century, when the newest codification of civil legislation became a complex and extensive system of property rights, consisting of a set of interrelated elements.

At the same time, the world and domestic practice of law enforcement suggests that the legislative formulation of property relations concerning possession, use and disposal of a plot of land cannot be reduced solely to the right of ownership. In this regard, in condition of development of market relations the institution of limited real rights to the land, providing the opportunity of realization of rights to land plots owned by the right of ownership to others is crucial.

In connection with the process of development and improvement of civil legislation of Uzbekistan at the present stage there is a need in studying experience of legal regulation of limited real rights to the land in foreign countries.

Features of regulation of limited rights in things in continental European countries are of great interest to us, due to the historical relationship of the legal system of Uzbekistan and the countries of the Romano-Germanic legal family. It should be noted that the development of the category of limited real rights to the land in continental Europe is the result of centuries of evolution of their legal system and this indicates complexity of the process of formation of the designated categories of rights.

Since the current civil legislation of the Republic of Uzbekistan does not provide the right to building as an independent property right to land, the experience of foreign countries in the field of regulation of relations connected with the right to building deserves a special attention in the research of the institute of rights to building, as it allows to reveal its legal entity, characteristic features of it.

In this paper, the following legislation of foreign countries was selected for comparative analysis:

- German law, the system of real rights to the land which is formed under the influence of pandect law in force in Germany in the xvi-xix centuries;
- Legislation of Austria and Switzerland on real rights to land, similar to the German system of real rights, as well as more Romanized legislation of France and Italy [1];
- Legislation of the former soviet socialist republics: Russia, Estonia and Ukraine, representing an independent direction in the formation of the real right systems [2].

It should be noted that the legal construction of rights to building in Germany is of great interest, since the legal tradition in Germany is especially close to our legal system.

In foreign legal systems provisions of the right to building are set as special laws (in Germany the Regulation on the Law of Succession of Building of 15 January 1919 [3], in Austria the Law on the Right to Building of 26 April 1912 [4], in Estonia, the Law of Property Act of 9 June 1993 [5]) and codified regulatory enactments (in Switzerland [6], Italy [7], France [8], Ukraine [9]).

The content of the hereditary rights to building under the laws of Germany is that the right to a plot of land can be limited, so that the one in whose favor the limitation is carried out enjoys alienable and hereditary right to have the structure above or below the surface of the land (§ 1 of the German Regulation on Succession of Building Rights).

Similarly worded definition of the right to buildings is provided in § 1 of the Law of Austria on the Right to Building and in paragraph 1 of Article 241 of Estonian Law on Rights in Things. It would be interesting to note that these features of the right to building, characteristic of Roman superficies as transferability and heritability, according to Swiss Law may be excluded by the parties while making an agreement on the establishment of the right to building. Paragraph 2 of Article 779 of the Swiss Civil Code states that if the contract does not specify otherwise, the right to building is an alienable and inheritable.

The mentioned provision, as I believe, is because that Swiss law considers the right to building as a kind of personal servitude along with such rights as usufruct, right to residence, right to access to drinking water sources. Personal servitude does not attribute alienability and the possibility of their transfer by inheritance, as traditionally, personal servitude belonged to a particular person individually [10], consequently, could not be transferred or pass to another person by inheritance. Perhaps, following the classical

principle of alienability and impossibility of transfer of personal servitude in a hereditary way, determining the right to building as a kind of personal servitude, the Swiss legislator provided contracting parties with the right to exclude the alienability and heritability of rights to building [11].

Unlike Switzerland, in other laws of foreign countries being investigated, the right to building serves as an independent kind of rights, and does not apply to other kinds of real right.

According to the legal nature of the law of considered states, the right to building is a limited real right to somebody else's land. At the same time for German researchers the right to building features dual building rights: on the one hand, this is a limited real right, on the other hand, the encumbrance of plot of land [12].

The grounds of emergence of the right to building and characteristic features of the right to building will be considered.

The basis for the initial establishment of the right to building in accordance with the legislation of all considered countries in this article is an agreement on the establishment of the right to building. The Civil Code of Ukraine and, in addition to the agreement on the establishment of the right to building, allows the possibility of introduction of the right to building on the basis of the will (Clause 1, 4, Article 413 of the Civil Code of Ukraine).

In most other countries the right to building is urgent. However, in Italy, Estonia and Ukraine the right to building could be granted for an indefinite period [13].

In characterizing the right to building an important issue is to determine the nature of the right to building constructed on the basis of the right to building [14].

Analyzing the nature of the right to building constructed on somebody else's plot of land, according to German law, first of all, it should be noted that in Germany, the only object of real estate is land [15]. At the same time as a general rule anything that is positioned above and under the site, follows the fate of the land (§ 93, § 94 of the German Civil Code).

Objects located above or under the land are in a legal relationship with the land, the content of which depends on the type of right, according to which an object on or under the land, nature and purpose of the construction of the object (permanently or temporarily) appear [16].

I.A. Emelkina refers to three categories of objects:

1) The essential components of land, which include things strongly bound to the ground, particularly buildings, as well as "land food" while they are connected with soil (it is important to note that these parts cannot be subject to separate rights); and the rights associated with ownership of the land, including the hereditary building rights;
2) Temporarily attached items, which include things related to the land only for temporary purposes ("the imaginary component"), as well as structures or objects, built on a land plot of by an eligible person while exercising the right to somebody else's land (in property law building obligations or lease right). The legal regime of "imaginary components" as a general rule is equal to movable things;
3) Belongings of land, which are movable things and not components of the main thing, serve its economic purpose and thus "are spatial relations with the main thing." the belonging of land should have a common destiny with the main thing.

Researching the limited real rights to land, and in particular the right to building, I.A. Emelkina indicates that the nature of the right to building, constructed on somebody else's plot of land, has long been a subject of discussion of German scientists. As the author notes, in Germany the following theory of a possible qualification for the right to building can be highlighted:

- Separated property;
- Right of use like a landed servitude;
- Rule of forced use of property;
- Special ownership of building [17].

According to the theory of property and shared ownership, the ownership of the land and the ownership of building are divided as follows: the supreme ownership belonged to the person who receives the rent, and the subordinate ownership belonged to the other person. With regard to the right to building shared ownership theory has been rejected due to the refusal of supreme and subject property by the pandectists [18].

The reasons for refusal of recognition of rights in things or personal servitude are as follows:1) a servitude is established if the dominant and official plot of land, which is not necessary in determining the right to building; 2) a servitude has a broader content, whereas on the basis of the right to building the land can only be used for the construction of the building and its subsequent exploitation; 3) a servitude – a strictly personal right that cannot be inherited, and it is not alienated, as opposed to inherited and alienated right to building [19].

Application of the theory of enforcement is impossible, as "the right to building grants the right to use the land, and the owner's requirements for the builder are provided by the other right – a pledge of property" [20].

The theory of the recognition of property rights was rejected because the grounds "that it is contrary to the state of changing of structure into a plot of land, accordingly, on the grounds of impossibility of presence of two rights for the owner" [21].

At the same time, the approach that the builder has a special ownership of the structure was the basis for the formation of modern theoretical design and building rights in Germany [22].

The essence of this construction is as follows: (1) constructing for the duration of the right to building is recognized an essential part of the right to building, which is an exception to the general rule, according to which the structure is an essential part of the land, and (2) the real estate regime extends to the law of building, which allows transferring the right to building to the mortgage.

It should be noted that some scholars differently explain the reasons for relating a construction, built on the basis of the right to building, by German law into a category with the essential part of the right to building for the duration of the right to building.

E.A. Leonteva points out that such a decision associated with the fact that the legislator gives preference to the interests of the owner of the buildings before the interests of the land owner [23]. Extension of the legal regime of a substantial part to somebody else's things connected with the plot of land would appear legitimate injustice [24].

According to I.A. Emelkinoy, structure erected on the basis of the right of the building is considered an essential part of the

right to building to eliminate the recognition of the structure of movable property, by virtue of the provisions of that building in a strange land acquires the status of movables (as happens when renting). The recognition of the structure as a movable property would prevent the possibility of transferring the structure to obtain a mortgage and construction lending [25].

E.A. Sukhanov justifies a rule provided by § 12 of the Law on the German Regulation on building succession saying that the building erected on somebody else's plot of land on the right to building, it is considered an integral part of the law, but not a plot of land as follows: "This exemption from the general rule was made intentionally in order to develop housing construction after World War I, in condition when the developers could not buy land plots in their property due to their high cost, but also did not want to pass their constructed houses in the property of landowners" [26].

Following the model of German law the fate of the building, which is built on the basis of the right to building, is determined in Austrian, Swiss and Estonian Law. Despite the fact that, unlike German Law, in these countries there is no clear division of objects located on the plot of land and under it, the significant components and temporarily attached things, nevertheless similar to German law:

- A plot of land is considered as a single real estate object;
- As an exception to the general rule, according to which the building erected on the land plot is a part of the land plot, during the period of the right to building a structure is considered to be an integral part of the right to building, but not the land plot (This exception causes another exception to the general rule, according to which everything that is located on or under the land plot, belongs to the owner of the land [27]);
- As a result of legal fiction of permitted by the legislator the real estate regime extends to the right to building [28].

Thus, according to the laws of Germany, Austria, Switzerland, Estonia, a structure, being a part of the right to building, follows its legal destiny and in the case of alienation, mortgage and civil circulation is not involved as a separate legal object.

On the contrary, according to the laws of France, Italy, Ukraine, a building erected on somebody else's plot of land on the basis of the right to building is an independent legal object. Moreover, being an independent subject of law, this structure is in the period of the effect of rights to building.

Upon expiry of the right to building, as established by a peremptory norm of clause 3, § 12 of the German Regulation on the hereditary right to building erected by builder, the building becomes a part of the land, and the owner of the land plot by the principle of increment the right to building ownership constructed on his land plot emerges. This imperative norm is also provided by the legislation of Austria, Switzerland, and Italy.

French legislation does not prescribe mandatorily transfer of ownership of the building erected on the right to building to the owner of the land at the termination of the right to building, and allows the parties to agree otherwise. This legislation does not specify what other variants of the fate of structure parties may provide. In the event that contracting parties do not set out the legal consequences of the termination of the right to building in the contract, at the end of the right to building, the building erected on the basis of the right to building, in my opinion, becomes the property of the land owner by virtue of the established increment principle in the legislation of France. As in other countries under consideration, the French rule establishing the principle of incremental makes it an exception for the period of the rights to building, without providing ownership of the building erected in the force of building law to the owner of the land.

Pursuant to Estonian law, the fate of structure is determined not by the two parties to the contract, but only one party - the owner of the land, which decides whether or not after the expiration of the right to building the structure is transferred to the owner of the land for appropriate compensation or structure is subject to dismantling and removal. As we can see, in Estonia options for possible legal consequences of the termination of the right to building are legally established.

It is interesting to note that neither of these two options of consequences of termination of the right to building does not allow for the transfer of ownership rights to the builder by the force of the right to building. The specified thing seems logical. Exceptions to the general rule, according to which the building located on the land is an integral part, as well as the rule that establishes that all located on or under the land is the property of the person who owns the rights to land, are allowed by Estonian legislation only for the period the term of the right to building. Upon termination of the right to building the building becomes a part of the land, and by virtue of the principle of incremental the owner of the building on the land can only be the land owner.

The fate of buildings upon expiry of building rights is ambiguously defined in the Civil Code of Ukraine. Parties have the right to determine the legal consequences of the termination of rights (Paragraph 1, Article 417 of the Civil Code of Ukraine), moreover, based on a literal interpretation of the rule, not at the conclusion of the agreement on the establishment of the right to building, and in the event of termination of the right to building [29].

It seems that the establishment by the law the consequences of termination of the right to building through a peremptory norm (like German, Austrian, Swiss, Italian laws) or through a dispositive norm, but with an indication of a closed list of possible legal consequences of the termination of the right to building (such as Estonian law) best meets the purposes of the stability of civil circulation and observance of the rights and legitimate interests of both the land owner and builder.

In cases when the building erected on the basis of the right to building, after the termination of the right to building becomes the property of the land owner, the question whether the owner of the land has to pay any compensation for the building to the builder arises.

In the legislation of Germany, mandatorily established obligation for the owner of the land to pay the builder at the termination of the right to compensation for the construction erected by them on the right to building of construction. Similar provisions are provided in the legislation of Austria and Switzerland. At the same time in Germany (for residential buildings) and Austria (in the case of buildings of any purpose) legislated even the minimum amount of such compensation.

The legislation of Ukraine and Estonia gives the parties an opportunity to determine the presence or absence of the obligations of the owner of land to compensate the builder for

the building on somebody else's plot of land at the termination of the right to building, as well as to independently determine the amount of such compensation [30] and the form of its payment.

Meanwhile, in Italy and France, there is no provision for compensation for the buildings constructed based on the right to building, the transition of ownership of the building to the owner of the land on the expiry of the right to building. It seems that the mentioned state, however, must not exclude the possibility of establishing such compensation by agreement of the parties.

Upon termination of the right to building in addition to the question of the fate of the buildings erected by virtue of the right to building the question whether the builder has the preferential right to sign the agreement on the establishment of the right to building for a new term arises. This problem is solved in different countries differently.

Thus, in German legislation, as well as in Estonian one, special laws on the right to building it is indicated that the parties can provide preferential right of the builder to make an agreement on establishment of the right to building for a new term. In Germany, the procedure of exercising a preference for the builder to make an agreement on the establishment of the right to building a new term is regulated at the legislative level in the Regulation on the law of building succession, and under Estonian law procedure of such a right is established by agreement of the parties.

The legislation of other countries considered in this paper contains no mention of the possibility of establishing a pre-emptive right of the builder to extend the right of building for a new term. This mentioned state, however, does not limit the possibility of parties to the agreement on the establishment of the right to building to provide a pre-emptive right and the procedure for implementation of the agreement concluded on the establishment of rights to building.

Taking into consideration the situation that the right to building is provided, as a rule, for a long term absence of the rules on preferential right to make an agreement on establishment of the right to building for a new term at the legislative level, as well as rules on the procedure of the implementation of this right can be explained as follows. Upon the expiry of the term of the right to building, often constituting 99 or 100 years, perhaps this kind of change of circumstances in which fulfillment of obligation of the owner to extend the term of the agreement could put it in a very disadvantageous position. This conclusion can be indirectly confirmed by the fact that, as previously noted, according to the legislation of most countries, the right to building is urgent, lest the land was burdened with the right to building indefinitely.

Permanent right to building almost always deprives the owner of the land of owning and using such a plot of land. However, it is not allowed to neglect that the urgency of rights to building, may also serve as not only a reasonable deadline for the encumbrance by rights to building, but also a term of service of buildings.

Summarizing the above sources, it should be noted that the model of rights to building in the legislation of Austria, Switzerland, Estonia, is provided in much the same legal bases of the hereditary rights to building in Germany.

The generality of the legislative provisions on the right to building in these countries is reflected in the following.

1) For the duration of the right to building the structure built through the power of the right to building is an integral part of the right to building and, accordingly follows its legal fate;
2) The regime of real estate is applied to the right to building which allows transferring the right to building, including its component – the building to the mortgage as an object of real estate.
3) Upon termination of the right to building, construction erected by virtue of the right to building, becomes a component of the land plot (in Estonia, however, the land owner may require the builder to demolish the building).

Legislation of France, Italy and Ukraine, in contrast to the legislation of Germany, Austria, Switzerland, Estonia, recognizes the building as an independent object of law during the period of the right to building erected on its base, allowing for the builder to have ownership of the building.

The conducted analysis of regulation of relations connected with the right to building in Germany, Austria, Switzerland, France, Italy, Estonia, Ukraine, leads to the conclusion that of the seven countries whose legislation was considered, the most detailed regulation belongs to Germany's, but the rules of the right to buildings in French law, on the contrary, have the character of guiding principles [31].

In modern current civil law institute of the right to building as an independent right to someone else's thing is not directly mentioned anywhere. As the researchers of property rights to the land rightly point out, the current Civil Code of the Russian Federation contains a separate entitlement to building on someone else's land, included in the content of other limited rights in things [32].

In particular, Paragraph 2, Article 266 and Paragraph 2, Article 269 of the Civil Code of the Russian Federation provide the right of individuals possessing and using someone else's land on the basis of the right of lifetime inheritable possession and the right of permanent (perpetual) use of land to erect buildings on it, gaining the right of ownership of them. Thus, A.A. Makovsky notes that of these two rights to somebody else's land really existed and one single right in things – the right of permanent (perpetual) use the land exists [33].

This situation was caused by the fact that by the time of the adoption of the first part of the Civil Code of the Russian Federation transition from a planned economy to a market had not ended. The legal regime and the civil circulation of land as an immovable on the Soviet tradition was due to the nationalization of the land and the abandonment of the category of rights in things [34].

In 2009, the Presidential Council for Codification and Enhancement of Civil Legislation approved the Concept of developing civil legislation of the Russian Federation, which declared the need for interconnected institutions of property law in the Civil Code of the Russian Federation, expanding the range of limited rights in things, including the right to building.

The draft law developed on the basis of the concept provides for the full perfection of the mechanism of legal regulation of real estate relations by making changes to the current version of the Civil Code of the Russian Federation. In particular, the article of this Bill contains a definition of the right to building. According to the bill the right to building is the right

of possession and use of someone else's land in order to build on it a building or structure and its subsequent operation.

Concluding the review of foreign legislation on the right to building, we note that currently this institution is not widespread in all countries.

German scientists say that the institution of hereditary building rights is currently undervalued by the state, despite the fact that, according to scientists, it could become an effective tool of the state to manage municipal land use [35], and achieve by the help of certain political and social purposes [36] (by meeting the housing needs of the needy category of the population with the provision of certain guarantees).

While the State is a major owner of land, it almost does not provide it for private individuals to possess and use based on the hereditary rights to building, the Church in Germany appears to be a significant figure in the market of the hereditary rights to building [37], making an agreement with the members on establishment of a hereditary rights to building. In German legal literature, one opinion is put forward that in Germany the common practice of presenting a plot of land to the church based on the hereditary right to building is due to the fact that churches have a huge territory and there is a ban on the sale of church lands.

The institute of Law on building in France now is not in demand. Modern researchers suggest that this situation is caused by French law providing unrestricted freedom of the parties on many issues which in other countries regulated by law. French lawyers believe that the norms concerning building rights in Housing and Communal French Code have the character of guiding principles of building [38]. The above mentioned state may be regarded by potential builders as a negative factor for long-term relationships.

In the 1990 in Italy, right of superficies was widespread for the construction with governmental support; however, as noted by the researchers of rights in things in Italy, currently Italy's public authorities are seeking to find other ways to provide housing for the needy category of the population [39].

While hereditary right to building in Germany and right to building in France and Italy are not widely used in modern civil circulation, in Estonia the institute of rights to building, on the contrary, has become one of the most popular institutions of civil law, resulting in some competition for the right to ownership, [40] which is confirmed by statistics of the Centre of registers and information systems of Estonia.

In our view, upon assessing the possibility of introducing the institute of the rights to building into national civil law, which has existed since the Roman law, and are used in various national legislation of the countries of continental Europe it should be noted that it is unacceptable to completely copy their legal structures. It is only necessary to use the principles on which this institution exist in the most developed European countries in order to improve the system of rights in things to a plot of land.

References

1. The main difference between these classifications, as I.A. Emelkina notes, is that pandectists are based not only on acquired from Roman law, but also on national institutions, created under the influence of the actual needs of life. French Italian system of real rights is based for the most part on the provisions of Roman law (see:. Emelkina I.A. The system of real rights to land in the Russian law and some foreign legal systems. // Законодательство. 2010; 12:24.
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7. The Cardozo Electronic Law Bulletin – Il Codice CivileItaliano. URL: http://www.jus.unitn.it/cardozo/obiter_dictum/home.htm. In Italy, the right to building is called the right of superficies.
8. Codes Pour Droit.org - Code de la construction et de l'habitation. System requirements: AdobeAcrobatReader.URL: http://perlpot.net/cod/construction_habitation.pdf. «Bail àconstruction» is translated Verbatim as «building lease». However, this right is not a lease in its classical sense (liability law) and it refers to rights in things (Real Property Law and Procedure in the European Union. GeneralReport - P. 22. System Requirements:. In connection with what has been said (in order to avoid no consistency in terms rated unit), author further uses the term "right to building" to mean «bail à construction».
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11. It is worth noting that this exception to the general rule of not alienability of personal servitude is established by the Swiss Civil Code in respect of this type of personal servitude, as the right to access to drinking water sources. As well as the right to building, according to Swiss law, the right to access to drinking water sources is transferable and inheritable, unless otherwise provided by agreement of the parties. At the same time the usufruct and according to the Swiss Civil Code, the right of residence cannot be alienated and transferred by inheritance under any circumstances.
12. Oertmann P. called the right to building, noting the property of its nature, the two-faced Janus (см. Oertmann P. Erbbaurecht und hypothekarische Belastung //Max-Planck-Institutsfür Europäische Rechtsgeschichte 2010-09-05T15:29:20Z. Archivfürbürgerliches Recht. Bd. 20. 1902, 184.
13. According to the legislation of Ukraine, a plot of land of state or communal ownership cannot be granted for an

indefinite period. These lands are given for the construction for a period not exceeding 50 years.

14. The problem of determining the legal nature of the right to building in laws of foreign countries is discussed in detail by I.A. Emelkina. (Емелькина И. А. Система ограниченных вещных прав на земельный участок. 2-еизд., исп. и доп. М.: Инфо тропик Медиа, 2013.С. 206–209; Емелькина И.А.Природа права на строение, возведенное на чужом земельном участке, в свете изменения гражданского законодательства о вещном праве // Вестник гражданского права.). 2012; 8:32.
15. It should be noted that the German Civil Code does not provide the concept of real estate or immovable property, but uses only such legal categories as "a plot of land and movables.
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17. Емелькина ИА. Система ограниченных вещных прав на земельный участок. 207.
18. Емелькина ИА. Система ограниченных вещных прав на земельный участок. 208.
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20. Ibid.
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22. Ibid.
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26. Суханов Е.А. Вещные права и права на нематериальные объекты // Вестник ВАСРФ. 2007; 7:12.
27. As a result, during the term of the right to building the legal fate of the land is broken in respect of which the right to building is established, and buildings erected on the basis of the right to building.
28. Austrian Law on the right to building clearly indicates that the legal regime of real estate extends to the right to building (§ 6). Article 655 of the Swiss Civil Code refers the following kinds of property to real estate: 1) plots of land and buildings on them; 2) registered independent and permanent rights to real estate; 3) mines; 4) share beyond movables. In Clause 3 of Article 779 of the Swiss Civil Code it is established that if the right to building has the character of an independent and permanent right, then it can be introduced in the land register as immovable property. Before making changes to Clause 4 of Article 241 of Estonian Law on estate, this article contained a direct indication that "the right to building is considered to be immovable." At the same time, Estonia's legislation has no provisions which would expressly provide that the right to building is real estate, but, the real estate regime is applied to the right to building in Estonia like hereditary building rights in Germany. In particular, according to Articles 123-126, paragraph 4 of Article 241 of Estonian Law on Real Estate the provision of real estate is applied to the right to building and also, the right under consideration is included to the land register along with the plot of land, the right to the apartment building and the ownership of the apartment (Article 5 of the Law on the Land Register).
29. Provision in Paragraph 1, Article 417 of the Civil Code of Ukraine stipulates that "in the event of termination of the right to use the land on which a construction is built, the land owner and the owner of the building determines the legal consequences of such termination, and if the parties fail to reach agreement, the owner of the land has the right to require the building owner to demolish the construction erected on the basis of the right to building and bring land back to the state in which it was granted. Moreover, Paragraph 2, Article 417 of the Civil Code of Ukraine establishes an exception to the general rule about the demolition of buildings unless the parties have agreed on the legal consequences of the termination of the right to building. Thus, in cases that demolition is prohibited by law (homes, places of interest of history and culture, and so on.) or significant excess of the cost of building value over the cost of the land to no purpose, the court, taking into account the grounds for termination of the right to building, can decide on the repurchase of the owner of the land where the building is placed, or the redemption of the building to the owner of land plot or determination of the conditions to use by the land owner of the building for a new term.
30. For residential buildings Estonian Law on Rights in Things Act sets a minimum limit of the amount of compensation equal to 2/3 of the cost of rights to building.
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