Artículo de investigación

International experience of judicial protection of land rights and land courts in Russia[92]

Международный опыт судебной защиты земельных прав и урегулирования споров: перспективы развития экологических и земельных судов в России

Experiencia internacional de protección judicial de derechos territoriales y tribunales de tierras en Rusia

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Abstract

The article examines international experience in the field of judicial protection of land rights and settlement of land disputes. The author analyzes the legal structure of a series of countries of the world and the practice of the specialized judicial agencies. The positive experience of the work of land courts, achieved by different States, is summarized. The analysis of the jurisdiction of land and environmental courts of Australia, Scotland, Sweden, the USA, the Dominican Republic is conducted. On the basis of the conducted research the author gives reasons for a set of proposals concerning the organization of work of the specialized land courts in the Russian Federation.

Keywords: Judicial system, land disputes, judicial protection of land rights, land courts, environmental courts, land legislation.

Resumen

El artículo examina la experiencia internacional en el campo de la protección judicial de los derechos sobre la tierra y la solución de controversias sobre la tierra. El autor analiza la estructura legal de una serie de países del mundo y la práctica de los organismos judiciales especializados. Se resume la experiencia positiva del trabajo de los tribunales de tierras, lograda por diferentes Estados. Se lleva a cabo el análisis de la jurisdicción de los tribunales de tierras y medioambientales de Australia, Escocia, Suecia, Estados Unidos y República Dominicana. Sobre la base de la investigación realizada, el autor da razones para un conjunto de propuestas relativas a la organización del trabajo de los tribunales de tierras especializados en la Federación de Rusia.

Palabras claves: Sistema judicial, disputas por la tierra, protección judicial de los derechos sobre la tierra, tribunales de tierras, tribunales ambientales, legislación sobre tierras

Аннотация

В статье исследуется международный опыт в сфере судебной защиты земельных прав и разрешения земельных споров. Анализируется структура законодательства ряда стран мира и практика специализированных судебных органов. Обобщается положительный опыт работы земельных судов, достигнутый различными государствами. Производится анализ практики земельных и экологических судов Австралии, Шотландии, Швеции, США, Доминиканской Республики. На основе проведенного исследования автором производится аргументация ряда предложений относительно организации работы специализированных земельных судов в Российской Федерации

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Ключевые слова
Судебная система, земельные споры, судебная защита земельных прав, земельные суды, экологические суды, земельное законодательство

Introduction

In any country of the world the enforcement of law is organized by the state through the adoption of legal norms that ensure good behavior of entities exercising their rights and performing the necessary duties. The ideas of the supremacy of law enshrined in the Constitution of the Russian Federation call on the state to create certain objective conditions in the form of an adequate legal framework and other institutional arrangements in their entirety aimed at ensuring guarantees of legitimacy and real law and order. Without these mentioned guarantees and state law and order it is impossible to protect the rights and legitimate interests of individuals and legal entities in private- and public-law relations. The institutions and public officials that are obliged to ensure enforcement of the rights of man and citizen are mentioned in the Constitution of Russia.

Establishing the regime of legal order in Russia, the Constitution of the Russian Federation imposed the duty of law enforcement on: the President of the Russian Federation as the guarantor of the Constitution (p. 2 art. 80); implementation of measures aimed at enforcement of law, rights and freedom of citizens, property protection and public order protection, and crime prevention – on the Government of the Russian Federation (p. 1 art. 114); responsibilities in the field of human rights activism are placed on human-rights ombudsman (p. 1 art. 103). However, the central place in the mechanism of real enforcement of law and order belongs to the judicial power (Chapter 7 of the Constitution of the Russian Federation).

The Constitution of the Russian Federation does not reveal the concept of judicial power, but only proclaims its independence and equates it with the legislative and executive powers. In the scientific literature, much attention is paid to the content of judicial power, the analysis of special scientific sources devoted to the judicial power, consideration of its problems. Such a "complex legal phenomenon as the judicial power" embodies "institutionalization of public expectations of the fact that necessary attention will be given to the resulting social conflicts and their resolution in accordance with the laws and based on them" (Lazarev L. V., Morshchakova T. G., Strashun B. A., 2005 p. 172).

At the moment, the Russian Federation continues global reformation of the judicial power and the judicial system, aimed at proper enforcement of the right of citizens to judicial protection. There are already some results. For example, the Supreme Commercial Court of the Russian Federation ceased to exist and became a part of the Supreme Court of the Russian Federation. Besides a specialized court – Intellectual Property Rights Court – appeared in the current system of commercial courts. All this shows that the judicial system is developing dynamically, and disputes settled in the courts are sometimes complex.

This aspect relates to the settlement of land disputes, as well as to exercising high-quality judicial protection of land rights in the Russian Federation. It is necessary to mention that land, natural resources and environmental legislation at this stage is far from ideal. So far, it presents a huge corpus of regulatory legal acts that have their own specifics, and, as a rule, are difficult to understand by the executors of law (Ivanova S.V., 2018 pp. 237-250, Anisimov A.P., Ryzhenkov A.J., 2017 pp. 1-12, Sukhova E. A., 2014 pp. 164-168.).

Land disputes are complex. They are settled not only by civil or commercial courts, but also considered in the Constitutional Court of the Russian Federation. Judicial protection of land rights has both property and environmental sides, while providing protection of a huge range of rights, from property right to land plot to the right to a favorable environment.

This complex legal nature suggests that it is long past time to have a good look at the issue of land disputes as a separate category of cases. Including such cases in a separate category will create an effective mechanism for the realization of the right to judicial protection in the field of land disputes (Chikildina A.Yu. 2014). At the same time, many scientists note that the experience of various countries in this issue has years-long practice and can be useful for its consideration and application in the realities of Russia and other republics of the former USSR (Anisimov A.P., Ryzhenkov A.J., 2013 pp. 441-458. Kayushnikova Yu. E., 2016 pp. 226-231).

Thus, for the first time in the post-Soviet land and legal science this study considers the right to judicial protection of land rights in its entirety, and based on the experience of a number of countries of the world it gives reasons for the necessity of further development of the Russian judicial system by creating specialized land courts in Russia. Such courts specializing on settlement of environmental and natural resources disputes exist in many countries of the world, which proves the validity of their establishment. It is interesting to consider some of them.

Methodology

The dialectic method of scientific research is the basis for work. The dialectic method (G.F.W. Hegel, F. Engels) predpolagt any phenomenon to consider in duality of its properties and characteristics, to find their contradictions and interrelation (conditionality, unity, dependence). Properties of any phenomenon are split on contrast and appear at the researcher in the form of the general and special, qualities and quantities, the reasons and a sledstkviya, contents and forms, etc.

Use of dialectic tools allows us to consider more boldly features of emergence of land disputes in their development, to designate the directions of judicial protection of land rights.

Also system approach (L. Bertalanfi) who allows to consider variety of the reasons and subjects of judicial protection of land rights as a slozhnosostavny and multilevel system and also most effectively and comprehensively to analyse structure and operation of the mechanism of judicial protection of land rights acts as one of the teoretiko-methodological bases of a research.

Considering features of judicial protection of land rights in the foreign states, it is expedient to address comparative legal method also. The comparative method – based on comparison of statistical data, legislative establishments and concrete measures, and actions of vessels of the countries considered by us - allows to estimate most objectively degree of readiness of the foreign legislation and to make use of the international experience in the Russian legislation.

Act as other methodological bases of work as general-logical methods (the analysis, synthesis, induction, deduction), and theoretical methods (historical, sociological).

1. **Practice and experience of land and environmental court of New South Wales**

New South Wales was the first of the Australian states to take a step towards establishing a court dealing with land and environmental disputes as a separate category of cases. The reason for this is that the state is the most industrialized and most densely populated of all the states that make up the Commonwealth of Australia (Preston B.J. and Smith J., 1999 pp. 104-107).

In the 1970s Australia faced unprecedented pressures from growing industrialization and widespread dissatisfaction with the existing judicial system. The state government was ready to carry out radical reforms and establish a united appeal body, which, according to the then Minister for environment and planning, was "… a completely innovative concept that combines the best attributes of the traditional judicial system in one body" (Bates G., 2006 p.124).

The land and environmental court was established on the 1st September 1980 according to the Land and Environment Court Act 1979 (the "LEC Act") as a court of superior jurisdiction for settlement of land disputes. It became a specialized court with complex jurisdiction. This court establishment was a part of the legislative reform, which included the Environmental Planning and Assessment Act 1979 (the "Environment Protection Act") and the Heritage Protection Act 1979. The Environment Protection Act introduced procedures for environmental impact assessment with the participation of the governmental and non-governmental authorities during the activities which could significantly affect the environment condition. This law also reformed the land-use planning system by defining three types of plans for development: public policy, regional planning instruments and local planning instruments. This structure is still in operation today. The laws of 1979 also regulated in detail the issue of public participation in other significant environmental decisions (Preston B. J., 1991).

The specialized Court by itself was founded to adjudicate on disputes arising according to all array of environmental and natural resource legislation. It included such laws as the Waste Disposal Act, the Clean Air Act, the Clean Water Act and the Chemicals Act. These laws systematized various fragmented environmental requirements. The court was given the powers of the State Supreme Court in terms of judicial

review of the enforcement of environmental legislation. Thus, this court has become a united centralized judicial authority that settles all disputes connected with application of land, environmental and natural resource legislation, while providing judicial protection not only through specialized, but also through civil, administrative and criminal proceedings.

2. Practice of environmental courts of Sweden

Sweden has wide experience in the sphere of environmental management and the most developed environmental legislation compared to any of the countries considered in this study. At the same time, its legal system was modified after the country's accession to the European Union, which was reflected in the adoption of a new Environmental Code in 1998 that, in particular, incorporated several significant changes in the organization of work of specialized environmental courts. These courts replaced the National Licensing Committee for Environmental Conservation and the Water Courts. They have the jurisdiction of the first-instance and appeal courts. The Environmental Court at first instance settles disputes related to handling of environmentally hazardous facilities, as well as disputes over natural resources, including water disputes. The court also considers claims for compensation for environmental damage (The Swedish Environmental Code., Online).

The court is headed by the court chairman and consists of the technical advisor on the issues related to the environment and two experienced judges knowledgeable in the issues of the state structure and industry. The involvement of domain experts seems to be the right solution for settlement of land and environmental disputes, as these disputes are complex not only in legal terms, but also technically.

3. Land courts of the Dominican Republic and their practice

The system of land court procedure in the Dominican Republic consists of three Superior Land Courts (Tribunales Superiores de Tierras) in Santo Domingo, Santiago and San Francisco de Macoris and thirty-one land court of first instance (Tribunales de Tierras de Jurisdicción Original). In accordance with the Rules of the Superior Land Courts and the courts of first instance of the Dominican Republic dated 12 July 2007, the jurisdiction of this land court is similar to that of the land court of Massachusetts in terms of the procedures related to transfer of rights to property, registration of real property (administrative procedure), and in some other questions concerning real estate (civil disputes). According to territorial jurisdiction, five main tribunal land courts (of Central, Northern, North-Eastern, Eastern and Southern lands), where decisions of the courts of first instance can be appealed, are subordinate to Superior Land Courts (Chikildina A.Yu., 2014).

The judges of the land court are appointed by the Supreme Court of the Dominican Republic. The system of forming the panel of judges of the Superior Land Court, which will hear the case and award judgment, is very interesting: the panel of judges is formed no later than within 5 days after the date of filing of the case or application for change of the registration record. The President of the Superior Land Court selects three judges – the chief judge and two judges who are ready to replace him. The decision in the case is taken by a majority, if one judge does not agree he must place on record his "special opinion" and familiarize other members of the panel with it via their signatures. The decision of the land court is signed by all members of the panel of judges on each page.

The above-mentioned rules state the requirements for the form and content of any decision of the land court. It must contain the file number, the name of the jurisdiction of the court, the names of the chief judge and the judicial panel, the date of issue of the decision; the names of the parties and their representatives; conclusions – the requirements of the parties; references to documentary evidence of the parties; information on property; list of facts; signature of the chief judge and judges of the tribunal, signature of the law clerk.

4. Practice of settlement of land disputes in the United States

Most land disputes in the United States are settled by the state courts of general jurisdiction (county, district, appeal, superior courts). The cost of the claim, but not the category of the dispute, is taken into account in separation of powers between them. Disputes with a higher price of the claim are resolved in the courts of the highest level. Another special feature of the courts is that, for example, the court of appeal can be both appellate and first instance, which leads to the fact that complaints about judicial decisions on some land disputes can be filed in two courts, and in respect of others – only in one. Some states have established special courts to

settle land disputes (About special courts for land disputes in the United States. O specialnyh sudah po resheniyu zemelnyh sporov v SSHA., Online).

Thus, in Hawaii there is a Hawaiian state land court, which has exclusive jurisdiction in the state judicial system in cases related to acquisition, termination, transfer of title to land. The main purpose of such a court is check and transfer of the title of the landowner. The Massachusetts land court, established in 1898, is still functioning. This structure started to operate, as in the case of many other land courts, with the implementation of the Torrens system. Sir Robert Torrens lobbied legislation aimed at enshrining information about the land owner in the form of the system of registration of rights to land, which was adopted and is still functioning (Chikildina A. Yu., Levashkina K. S., 2014). That is why starting in 1900 this court was officially called the Court of land registration. Property rights registration takes place only after finding information about the land and clarifying claims of interested parties during the court hearing. The court pronounces a decision, which is then embodied in the certificate of title, which is a guarantee of protection of land rights by the State.

Thus, through a court decision, the rights of property owners are confirmed and this particular document is a title certificate. At the same time, on the one hand, the court is a judicial authority; on the other hand, the court exercises administrative powers and involves administrative and technical personnel (clerks, engineers, real estate specialists) in judicial work. This means that this court has a special legal status due to additional powers to register rights to real estate: initially, the court was a jurisdictional body, acts of which can be appealed to the Supreme court, but since 1978, the land court has become one of the seven departments of the court of first instance of Massachusetts and now it is known as the Department of the Land Court – the court of first instance. The interesting fact is that the beginning of the history of the court is not connected with the increase in number of those who wanted to assert their rights to land, because in the first year the court heard a little more than 20 cases. But initially created for managing land registration, the court expanded jurisdiction through other forms of activity affecting the emergence of land title.

The land court of Massachusetts is unique not so much for the world system, but for the judicial system of the United States. It provides interaction of experts of all kinds in the process of land conflict settlement, so it is both a judicial and an administrative body. In addition to its exclusive jurisdiction concerning registration of land title, confirmation of tax collection for land use, the court currently has concurrent jurisdiction in a wide variety of related issues in the sphere of real estate operations, including zoning, division of plots, apportionment of participatory share, etc. The judicial proceedings are conducted in the frame of civil process. The court issues not only acts containing decisions on specific cases, which include information on registration, but also instructions for engineers and land surveyors, one version of which is called "guidelines for land survey and plan development" (approved by the Land court and came into effect on 2 January 2006) (Massachusetts Court System. Online).

In the United States legal process adjudicates disputes related to the protection of natural resources, favorable environment and the rights of land users, as well as other cases involving environmental, land and natural resources issues. They are settled by specialized judges who, in addition to basic legal education, are highly qualified in environmental, natural resources and land use questions. It must be noted that, besides the above-mentioned judges, the judicial system of district courts of the USA also has specialized judges for tax and foreign trade disputes (About Federal Courts. Online). The similar system is used in Scotland as well.

5. Practice of settlement of land disputes in Scotland

The Scottish land court has a long history. It is remarkable that its composition includes the court chairman, vice chairman and three permanent expert members, experienced in the field of land use and agrarian issues (Scottish Land Court. Online). This court was formed from the committee established in 1886 for the purpose of implementation of the law of Scotland on small landowners. The main objective of the committee was fixing of rents for small land users, defining their rights to land use, establishment of the site boundaries of land plots. The law ensured the rights of smallholders (crofters) to justified rent, restructuring of rent arrears, to prolongation of land lease if they paid their rent, and the right to compensation of the value of the improvements made to the land plot. Although this law was originally applied to a restricted number of farmlands, after much political debate of the smallholders in 1911, these

rights were extended to small rented farms throughout Scotland.

The role of the court in these years was insignificant, and it required a lot of effort to protect interests in court. In fact, the court was established to protect the interests of a very narrow group of citizens – land tenants, who ran farms. Since 1976, due to the fact that the tenants legally acquired the right to purchase the land they used, the court was empowered to realize this right in order to determine all the necessary conditions and the price on the basis of the rent paid by the tenant. Also in the modern jurisdiction of the Scottish land court it has only recently become possible to hear the appeals against the decisions of Scottish Ministers concerning grants and subsidies for support of agriculture provided by regulations of the various European rules. Thus, there is a tendency of extension of jurisdiction of the court (About the court. Online).
The experts work closely with the chairman and vice chairman clarifying not only the legal issues but also the technical side of the process. However, the Scottish land court does not consider all land disputes. As a rule, disputes under the jurisdiction of the court are related to the agricultural aspect of land use. Property issues related to land are considered by the courts of general jurisdiction.

6. Legal regulation of land disputes in Russia

The right to judicial protection is a universal opportunity guaranteed by the Constitution of the Russian Federation and provided by the state for everyone to restore their violated or disputed rights and freedoms by applying to the court for the purpose of rendering and execution of a judicial decision, as well as to prevent unjustified and illegal restriction of constitutional rights and freedoms in court proceedings secured in legislation. Part 1 of Article 46 of the Constitution of the Russian Federation states that everyone is guaranteed judicial protection of their rights and freedoms. With regard to the right to judicial protection, the above-mentioned constitutional provision uses the term "to be guaranteed" that has a great semantic and legal content. The French word "garantie" means a warranty, surety and a condition for implementation of something (French-Russian and Russian-French dictionary: manual for students, 1992).

Unlike other rights set by Chapter 2 of the Constitution of the Russian Federation, the right to judicial protection does not grant any specific right, such as the right to labor, to education, etc. to the citizens and therefore has a different meaning. The right of everyone to judicial protection of rights and freedoms is multidimensional and can be presented as a principle, as a right and as a guarantee (Kolosova N. M., 2012). Other scientific men believe that security of rights and freedoms, which means the creation by the state of the necessary conditions for their full implementation, is a principle of legal status of the individual (Dzidzoev R.M., Tsaliev A.M., 2011). In our opinion, this right is a constitutional guarantee of protection of other constitutional rights and freedoms. Constitutional guarantees present a set of social, economic, political legal techniques, mechanisms and methods to exercise and ensure in practice the rights and freedoms of man and citizen set by the Constitution. This right corresponds to the provision of Part 1 of Article 45 of the Constitution of the Russian Federation according to which state protection of the rights and freedoms of man and citizen is guaranteed.

Based on this constitutional provision in conjunction with the provision norm of Article 2 of the Constitution of the Russian Federation, the state has the duty to recognize, respect and protect the rights and freedoms of man and citizen, for this the state guarantees for providing realization of the civil rights and freedoms in full should be legislatively established.

In paragraph 1 of Article 45 of the Constitution of the Russian Federation the state guarantees the protection of the rights and freedoms of man and citizen in the Russian Federation, including the rights to land. This means that the citizen has the right not to ask, but to demand the protection of his rights, which the state has recognized as natural and inalienable. The powers of legislative bodies to enforce land rights of citizens and their associations are included both in the jurisdiction of the Russian Federation (regulation and protection) and in the joint competence of the Russian Federation and its subjects (protection). The President of the Russian Federation is the guarantor of rights and freedoms of man and citizen. The obligation to implement measures to ensure rights and freedoms is one of the powers of the Government of the Russian Federation. This function is the main purpose of the judicial system. Therefore, the entire mechanism of the state, all public authorities are involved in guaranteeing the land rights of citizens and legal entities (Oziev, T. T., Ebzeev B. S., 2012).

On the basis of Article 120, Part 2 in conjunction with Articles 76, 118, 125, 126 and 127 of the Constitution of the Russian Federation it can be concluded that the courts are free to decide which norms are to be applied in a particular case. At the same time, in judicial practice constitutional explanation of applicable regulations should be provided. Therefore, in the cases where equivocation and inconsistency in the interpretation and application of legal norms leads to a conflict of constitutional rights implemented on their basis, the question of eliminating such a contradiction acquires a constitutional aspect, and, consequently, falls within the competence of the Constitutional Court of the Russian Federation, which, assessing both the literal sense of the regulatory enactment under consideration and the meaning given to it by the established law enforcement practice, as well as its place in the system of legal acts, provides revealing of the constitutional sense of the current law in these cases.

Along with the duty of the state to protect rights and freedoms, there is also a human right to defend rights and freedoms by all means not prohibited by law. Such methods of protection are varied: the appeal of actions of executive officers, contacting the media, the use of human rights organizations and public associations, etc. In 1966, the UN General Assembly adopted the International Covenant on Economic, Social and Cultural rights and the international Covenant on Civil and Political Rights. These acts provide an itemized list of human and civil rights. The Covenant on Civil and Political Rights includes the establishment of the Human Rights Committee responsible for compliance with and adoption of the measures aimed at enforcement of the rights recognized in the Covenant. An important international legal act of human rights is the Convention for the Protection of Human Rights and Fundamental Freedoms, adopted in Rome on 4 November 1950 (ratified by Russia on 30 March 1998) (hereinafter the European Convention).

The European Convention enshrines fundamental rights and freedoms, criminal procedural guarantees, property and other rights. To protect these rights, the European Court of Human Rights was established in 1959, with jurisdiction over all the cases concerning the interpretation and application of the European Convention. The members of the Council of Europe, which is an intergovernmental organization, are parties to the European Convention. Any European state which is considered capable of and aiming at complying with the provisions of Article 3 may become a member of the Council of Europe (in this status, set out in Article 4 of the Charter, Russia was accepted in the Council of Europe in 1996).

The Organization for Security and Cooperation in Europe (OSCE) is also a way of asserting human and civil rights and freedoms. In the Final Act of the Conference on Security and Cooperation in Europe (1975), one of the sections was devoted to human rights and freedoms and contained obligations of participating states to respect and uphold these rights and freedoms. These international legal acts served as the basis for the formulation of the norms of Chapter 2 of the Russian Constitution. In particular, Part 1 of Article 17 of the Constitution of the Russian Federation states: "In the Russian Federation, human and civil rights and freedoms are recognized and guaranteed in accordance with generally recognized principles and norms of international law and in accordance with this Constitution."
Therefore, after a refusal in all courts of the Russian Federation, a person may file a complaint with international organizations, including the Human Rights Committee. The procedure for protection of the violated right is that the complaint is brought to the notice of the state concerned, and the state is obliged within six months to submit to the Committee written explanations or notifications clarifying the point in question and informing it of the measures taken. The Committee does not pronounce binding decisions, but publishes an annual report on processing of complaints.
Legal methods of protection of land rights are also set out in Chapter IX of the Land Code of the Russian Federation. In Russia, as a rule, land disputes are considered in courts of general jurisdiction. According to the statistics presented on the website of the Supreme Court of the Russian Federation, in 2017 alone, about 200,000 cases related to land use were submitted to the proceedings of justices of the peace and courts of general jurisdiction (Report on the work of courts of general jurisdiction on the consideration of civil and administrative cases at first instance. Otchet o rabote sudov obshchej yurisdikcii o rassmotrenii grazhdanskih, administrativnyh del po pervoj instancii. Online). It should be noted that the Federal legislator, having sufficient margin of appreciation in regulating the methods and procedures of judicial protection of land rights, is obliged to provide the participants of the proceedings with such a level of guarantees of the right to judicial protection that would ensure its completeness and promptness, effective restoration of rights through justice complying

with the requirements of fairness, inadmissibility of replacement of the judicial form of protection of the right to another one and arbitrary termination of the proceedings initiated. First of all, this is demonstrated in the fact that the procedural order of realization of the right to judicial protection is a special kind of activity regulated by procedural legislation, providing the participants of the process with special (procedural) rights and obligations that create the most favorable conditions for them, giving a real opportunity to obtain legal protection (Andreev Yu.N., 2010).

Thus, implementation of subjective procedural rights and their enforcement can be understood as a form of expression of the right to judicial protection of land rights, and as elements of its mechanism, which allows us to consider these concepts as relatively independent values, i.e. as elements of the general mechanism of enforcement of the right to judicial protection of land rights. However, protection of land rights is not limited to civil or commercial court proceedings, but it is also carried out by the Constitutional Court of the Russian Federation. Often land disputes have a public law nature, which implies a different mechanism for implementing procedural rights compared to private disputes.

This complex legal nature makes it possible to suggest that the necessity of considering land disputes as a separate category of cases is long overdue. If the legislator allocates such cases to a separate category, it will be possible to create an effective mechanism for realization of procedural rights to judicial protection in the field of land disputes.

Conclusion

As can be seen from the above, the issue of the specialized judicial body in the field of environmental protection and use of natural resources in Russia is long overdue. The positive experience of a series of foreign countries in the organization of considering land disputes may be of interest to the Russian judicial system (Ali Reza Anabi, Mahmoud Jalali, 2018), which follows from the following.

First, settlement of land disputes and judicial protection of land rights are of a complex nature. This is due to the fact that the land is considered in the law not only as a subject of property relations, but also as an important natural resource that ensures the stable functioning of the state. Of course, the model of the Land and Environmental Court of New South Wales looks ideal from the point of view of organization of a specialized body capable of resolving land disputes and implementing qualified judicial protection of land rights. The special aspect of the court, which is that land and environmental disputes fall only within its jurisdiction, makes it a stable, qualified body in this field and gives a high level of judicial protection of land rights. However, introduction of such a model into the judicial system of Russia, of course, looks like an ideal future, rather than the present situation.

It seems that, by analogy with the above-mentioned court, it would be appropriate to establish as a part of the Supreme Court of Russia a special judicial panel that would deal only with the consideration of land and environmental cases. In this case, foreign experience could significantly help the development of land rights protection. However, such a reform already has the opponents who argue that it will lead to an increase in the number of judges and will require considerable financial expenses. Despite this, in the Russian Federation the issue of creating specialized courts (the Intellectual Property Rights Court in the system of commercial courts that I mentioned proves this) is long overdue. However, modernization of the existing system of courts should be gradual.

Secondly, I would like to draw your attention to the fact that this study has analyzed the settlement of land disputes in the United States, Sweden and Scotland, and in all these countries it is possible to identify a common characteristic - specialized judges are involved in the settlement of land and environmental disputes. This approach seems more real for the modern judicial system in Russia as well. Indeed, the resolution of land disputes sometimes concerns not only property matters, but also matters related to natural resources and environmental activities. Almost always, these issues are complex not only in legal terms, but also in technical and practical aspects. Therefore, the emergence of specialized judges in environmental and land legislation in the system of courts of general jurisdiction seems to be a right step towards improving judicial protection of land rights and resolution of land disputes. Perhaps this step will lead to establishment of the land and environmental court in the Russian judicial system.

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