

Function and Significance of Reparcelling in Czech Republic

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Abstract

The law No. 139/2002 Col., on reparcelling and land offices can be consider as one of the most important tools of active land law in the CR. In frame of administrative procedure in public interest, the law enables to re-parcel lands and ownership relations to them in order to create conditions for consequential management. A property right to newly defined parcels is acquired by a decision of the appropriate land office which is an administrative authority. By means of reparcelling, also „modern“ ecological problems are solved. Reparcelling is necessary for renewal of statutory land registration, clearing and delimitation of borders in the landscape, and so it is a significant contribution for renewal of peace in land ownership in the CR shaken in 1948 – 1989. Reparcelling shows only secondary economic impact, it is more suitable to assess the effectiveness only from the point of view of effectiveness of the financial means expended for reparcelling.

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Key words

Land law, land office, reparcelling, ownership, real estate cadastre.

Anotace

Zákon č.139/2002 Sb., o pozemkových úpravách a pozemkových úřadech lze pokládat za jeden z nejvýznamnějších nástrojů platného pozemkového práva v ČR. Zákon umožňuje v rámci správního řízení ve veřejném zájmu znovu prostorově uspořádat pozemky a vlastnické vztahy k nim, tak aby byly vytvořeny podmínky pro racionální hospodaření. Vlastnické právo k nově definovaným pozemkům se nabývá rozhodnutím příslušného pozemkového úřadu, který je správním úřadem. Pomocí pozemkových úprav se řeší i "moderní" ekologické problémy. Pozemkové úpravy jsou nezbytné pro obnovu veřejnoprávní evidence pozemků, vyjasnění a vytyčení hranic v krajině a jsou tedy významným přínosem pro obnovení právní jistoty v pozemkovém vlastnictví v ČR, otřesené v letech 1948 – 1989. Pozemkové úpravy mají pouze zprostředkovaný ekonomický dopad, efektivnost je vhodnější hodnotit případně pouze z pohledu efektivity peněžních prostředků vynakládaných na pozemkové úpravy.

Poznatky prezentované v článku jsou výsledkem řešení výzkumného záměru 6046070906 "Ekonomika zdrojů českého zemědělství a jejich efektivní využívání v rámci multifunkčních zemědělskopotravinářských systémů".

Klíčová slova

Pozemkové právo, pozemkové úřady, pozemkové úpravy, vlastnictví, katastr nemovitostí.

Introduction

Reparcelling as it is understood by the active legal regulation is a relatively „new“ legal institute. It continues in agrarian operation known since 19th century whose purpose was to achieve a better arrangement of parcels from a view-point of their

consequent use. The agrarian operations „served for marking of various arrangement of land possession whose aim was to remove obstructions (diffuseness of parcels, unsuitable shape of parcels etc.) restraining to consequent land use. The main kinds of agrarian operations were: a) a land consolidation (comassation), b) a division of

community lands (agrarian associations) and adjustment of rights of use to common lands, c) a clearance of forests from foreign enclaves and straightening of forest boundaries” (Pekárek, 2003). In frame of agrarian operation also ownership rights to parcels were often exchanged. At time of “real socialism” a different conception was created which conformed to then official attitude to the land ownership. It was contained in the government regulation No. 47/1955 Col., on techno-economic adjustments, which was based on an exchange of rights of use to parcels. Owners of agriculturally cultivated land were legally detached from the possibility to use their land and the exchange of ownership rights should have not really solved the need of rational land use.

The adjustment dating back to a period before 1989 was cancelled in 1991 and a legal regulation followed, contained in the law of Czech National Council (CNC) No. 284/1991 Col., on reparcelling and land offices and attendant regulations. The law No. 284/1991 Col. was then, after more than ten years, replaced by the law still in force No. 139/2002 Col., *on reparcelling and land offices* (further LR). The need of a new law arose from the development of situation in area of reparcelling and connected also with a public service reform, i.e. the cancellation of district authorities to 31.12.2002. Their departments had been land offices by the time and there was a need to constitute a new system represented now by agricultural agencies of the Ministry of Agriculture (MA). Importance of this partial and functional arrangement of parcels, which is carried out in public interest according to statutes at large, is expressed also by the state support in form of various endowment titles to participants of procedure who can share in defrayal of costs for reparcelling, whereas, a principle is hold that reparcelling is reimbursed by the state.

A significant qualitative change occurred after 1990 when restitutions started and reparcelling gradually returned to its original function. The state undertook an important and responsible task partially in property restitution but also a facilitation of its use by owners (Procházka 2009).

A long-term aim of reparcelling is setting conditions for considerate treatment with landscape and sustainable farming on soil. This is a public interest declared by law and it is a duty of all

participating persons and administrative authorities to keep it (Mazín 2009).

Reparcelling is an immensely complicated process, and at present we are absolutely unable to predict in what way this legal procedure will develop in the future, when the problems connected with renewal of ownership relations to the land, arisen as a result of political changes after the year 1989, will cease to exist. The issue to what extent the ownership rights to land will be restricted in the future is very complicated, and it does not relate to the reparcelling only, but it relates also to procedure of the zoning, building permissions, or possibly expropriation procedures.

The issue of the suitable extent of limitation of private ownership of land by public authorities is a philosophical and political issue. It cannot be solved by economic methods, although it will have obvious impact on agricultural companies, and agricultural economists should be aware of importance of also such issues.

A simple quantification of economic impact, for example ecological measures or establishment of an access road for individual farmers may theoretically be calculated, although productivity of an agricultural company is influence by many other facts (it is generally well known that many agricultural companies achieve the profit thanks to subsidies only).

It shall be seen that renewal of ownership relations is unavoidable, but also that it cannot be an economic contribution as such. The setting (renewal) of borders of the nature and in cadastral maps is a costly activity without any immediate effect. It is well known that in the Czech republic farmers carry out business on leased land (87 % of agricultural land are leased. When compared with the EU countries, the percentage of leased land is almost double in the Czech Republic.) (Situational and perspective report Land, 2009).

As far as the extent of reparcelling in a concrete cadastral area is concerned, the results of negotiations between the cadastral authority and the land authority are very important (under section 64 of the cadastral decree and section 4 of the act No. 545/2002 Col (Janeček, 2009).

Reparcelling is carried out mostly in the form of a complex reparcelling (CR) comprising not only solution ownership rights to land included in the reparcelling, but also solution of antierosion measures, proposal of road network, improvement of ecological stability of the country, and measures of protection and creation of land are adopted generally. The complex reparcelling is usually made on the whole cadastral area. Simple reparcelling (SR) solves only some economic needs (for example a speedy unification of lands, making lands accessible), or ecological needs in the landscape (for example antierosion or antiflood measures), or it relates to a part of cadastral area only, or it makes land allocation more precise, or reconstructs such allocation; at a simple reparcelling, the formalities of proposal and realization of reparcelling may be regulated otherwise than as prescribed by a special legal regulation (Terminological vocabulary of land surveying and land register).

Aim and methodology

An aim of this paper is assessment of functions and significance of realized reparcelling in the Czech Republic. There is a hypothesis that the volume of spent financial means is not reflected in the accomplished and begun reparcelling made by the land authorities. This main monitoring line is then divided into a review from a view-point of legal adjustment and a review of selected indicators with extent of applied reparcelling. Methods of analyzing documents, comparing some relations in legal regulations and in correlations of the state endowment policy have been used. As information resources, legal regulations referring to the researched problems are used, as well as special literature and statistical data about realized reparcelling and its basic analysis in the sense of the given hypothesis.

Results

Functions of reparcelling

The existence of present legal regulation of reparcelling is substantiated by various facts. Above all it continues in authorization in § 19 of the law No. 229/1991 Col., on adjustment of ownership relations to the land and other agricultural property. It represents a crowning of the process of agricultural property restitution and further it has a cardinal importance from a view-

point of environment conservation. „*Since 90's of the 20th century by the help of land offices most of agricultural and forest property has been successfully restituted. However, it has to be usable for owners, therefore it is necessary to merge them, to assess and to make them accessible for farming...*“ *Important in the same way is in the landscape space to make accessible parcels by roads, to minimize erosion, to increase a share of scattered greenery in the landscape etc.*“ (Šarapatka et al, 2008).

The valid legal regulation of reparcelling far exceeds the importance of traditional consolidating laws. A traditional legal institute was used here to reach much more complex aims on historical connections of renewal of market economy and renewal of private ownership. The purpose of reparcelling can be derived above all from § 2 LR which according to an argumentative report contains a reparcelling definition. The reparcelling fulfills several tasks. First of all it arranges spatially and functionally parcels (i.e. it consolidates or divides) in public interest and the accessibility of parcels, their use and lining-up of their boundaries is secured. The purpose in principle is **to create conditions for rationale farming of land owners**. In this direction, reparcelling creates conditions for renewal of content of the ownership right in relation to agricultural and forest land, it means, renewal of connection of ownership right with the real possibility to use the land as property subject. In this context the law enables the land office, which is a bearer of public power, to arrange ownership rights and with them connecting real burdens to parcels. Other functions of reparcelling are according to LR **a security of conditions for improvement of the environment, for protection and fertilization of the land fund, for water management, for increase of ecological stability of landscape**, so „modern“ tasks in the area of environment conservation.

In connection with an emergent need of renewal of order in ownership relations to land and peace, other important function of reparcelling consists in that its results serve for renewal of cadastral documentation. Finally, also results of reparcelling should serve as an obligatory **data for landscape planning** (according to the law No. 183/2006 Col., on landscape planning and building regulations subsequently amended). However, by the above

mentioned the possibilities of administrative procedure on reparcelling are not spent. In frame of reparcelling it is possible to take measures of certain special legal problems which are a heritage after the foregoing historical period. In proceedings about reparcelling it is possible to solve **the problem of duplicate record of owners of one real property in a real estate cadastre, a reconstruction of land allotment** according to decrees of the president of republic No. 12/1945 Col. and No. 28/1945 Col. and the law No. 142/1947 Col. and No. 46/1948 (§4 article 2 and §13 LR) and **the problem of till tis time unfinished consolidating procedure** according to the law No. 47/1948 Col. and governmental regulation No. 171/1940 Col. (§ 14 LR).

In frame of the only administrative procedure about complex reparcelling it is real to solve up situations which otherwise would have to be solved even in several law suits as proprietary pleas and at the same time this solution is marked in the landscape an the decision of the land office is subsequently registered in the Real Estate Cadastre of the CR. Further the law counts on that the need of realization of reparcelling can be invoked by a **building activity** (§17 LR) which can be e.g. highway building, owing to which some parcels are separated from access roads.

A reason of concrete administrative procedure on reparcelling has to be determined by the land office in start of the reparcelling. The start of reparcelling is always considered as opening by virtue of office even when an application for the start went before, and even at that time when it was dealt with a qualified application of owners of more than one half of land in cadastral area on base of which the land office is obliged to start reparcelling.

The removal of reason for reparcelling will be the reason for discontinuance of proceedings. The reparcelling reason influences also the form of reparcelling which will be used (simple or complex reparcelling according to §4 LR).

Interconnection of reparcelling with registration of real estates

The reparcelling process has a complex impact on clarification and renewal of ownership relations in many directions. It is not dealt only with a measurement, a demarcation of parcels and making

accessible the parcels which were released to authorized persons according to the law No. 229/1991 Col., but the results of reparcelling serve generally for data renewal in the Real Estate Cadastre of the CR according to §13 and §15a of the Cadastral law No. 344/1992 Col. (further CL). **The renewal of cadastral documentation** represents an execution of new collection of geodetic information (in form of a graphical computer file) and a new collection of descriptive information of the cadastral documentation. Reparcelling has the importance of principle for all agricultural and forestry parcels, boundaries of which do not exist in terrain and are merged in bigger land complexes, and which were not registered in cadastral maps according to the law No. 22/1964 Col. These parcels are registered by simplified way (without depiction in a cadastral map) according to § 29 CL by the time of termination of reparcelling at the least.

LR and CL in force contain regulations in many places which interconnect the reparcelling process with registration of data on real estates in the cadastre. However, from a view-point of **acquisition of ownership right** it is necessary to know that ownership of newly spatially determined parcels in reparcelling is acquired by a decision of a state authority (a land office) and **an insertion of right in the cadastre** is not carried out (§132 the Civil Code). Nevertheless, from a view-point of a principle of honest belief in data registered in the real estate cadastre of the CR (§ 11 CL) it is necessary to secure the truth of registration of ownership right and other tenures in the real estate cadastre, and further it is necessary to solve „competitiveness“ of reparcelling and other possible transfers and transmissions of parcels. Reparcelling represents a relatively long process and during it a fundamental change of owners by reparcelling of the respective parcels can happen. The cadastre records the start of reparcelling (§ 9 article 7 LR) to be obvious what parcels will be or can be touched by the reparcelling. Further, a decision about approval of reparcelling proposal is recorded, which came in force („approved proposal“) according to § 11 article 5 LR. Eventually, also so called implementation decision of the land office is registered by which owners acquire the newly defined parcels.

Interconnection with landscape planning

The approved proposal of reparcelling impacts the area of building law rule. For changes of kinds of parcels, building of field and forest roads, protection and fertilization of land fund and other common arrangements included in the approved reparcelling proposal it is waived rendering of territorial decision on placement of the building and a of decision on the territory use.

Acquisition of ownership right to parcels included in reparcelling

The decision of land office on acquisition of ownership rights is sometimes marked as two-stage. However, it is not dealt with a decision making in two steps, i.e. a decision of authority of the first stage and a decision of a higher administrative authority on appeal. It is dealt with two different decisions consecutive in certain dosing interval. They are made by the same land office which will decide at first on approval of reparcelling proposal, and then, on base of the approved reparcelling proposal it will decide on an exchange or transfer of ownership rights, possibly on creation or cancellation of real burden to the respective parcels.

While participants of the proceedings can appeal against the decision on approval of reparcelling proposal (which is conditional on agreement of owners of $\frac{3}{4}$ of land), it is not possible to appeal against the decision on exchange or transition of ownership rights, possibly on creation or cancellation of real burden issued on base of the approved proposal.

This „second“ decision only formally crowns the process of changes in ownership relations which happen within reparcelling. In accordance with the Civil Code and the law No. 265/1992, the ownership rights are acquired to the exchanged parcels to the day of virtue of this („second“) decision of the land office, possibly to the date mentioned there and a subsequent record in the real estate cadastre is realized by a record, not by an insertion.

The approved reparcelling proposal has also other legal impacts on owners. The owner of particular parcels or their parts can not burden or steal after the approval of reparcelling proposal without agreement of the land office. The legal state according to the approved reparcelling proposal is

obligatory even for legal successor of land owners (§ 11 article 12 LR). In papers on acquisition of ownership or other possessory title to parcels (for example in a contract of buying, in a court ruling on acquisition of inheritance, in a mortgage contract) besides the acquired parcels also to them corresponding parcels according to the approved reparcelling proposal can be brought

A part of reparcelling is so called plan of common arrangements which creates the future skeleton of organization of the agricultural landscape and is a sort of form of landscape plan inside reparcelling. This plan includes technical and other measures for making the parcels accessible, flood-protection measures, water-management measures and measure for conservation and creation of the environment. Generally, the measures have a multifunctional character. For the common arrangement at first the land in state ownership is used and than of municipality. Other owners share in them possibly by an aliquot part according to the total acreage of their exchanged parcels (MA, Reparcelling, 2009).

Financing

An essential aim of the current LR was, according to the explanatory report to its proposal submitted in the Parliament of the CR, also clarification of financing of reparcelling by the state. The term of costs for reparcelling is determined in details by LR in (§ 17 article 4. The costs include not only own costs for preparation of the start of reparcelling, an identification of parcels, a local investigation, a measurement of the real state, elaboration of a proposal, a demarcation of parcels, an execution of geometric plans, records of detailed measurement of changes, a description of new collection of geodetic information, but also costs for creation of real burdens, a realization of common arrangements and technical help in creation of comprehensive economic units, and finally also cash compensations provided by the land office according to LR.

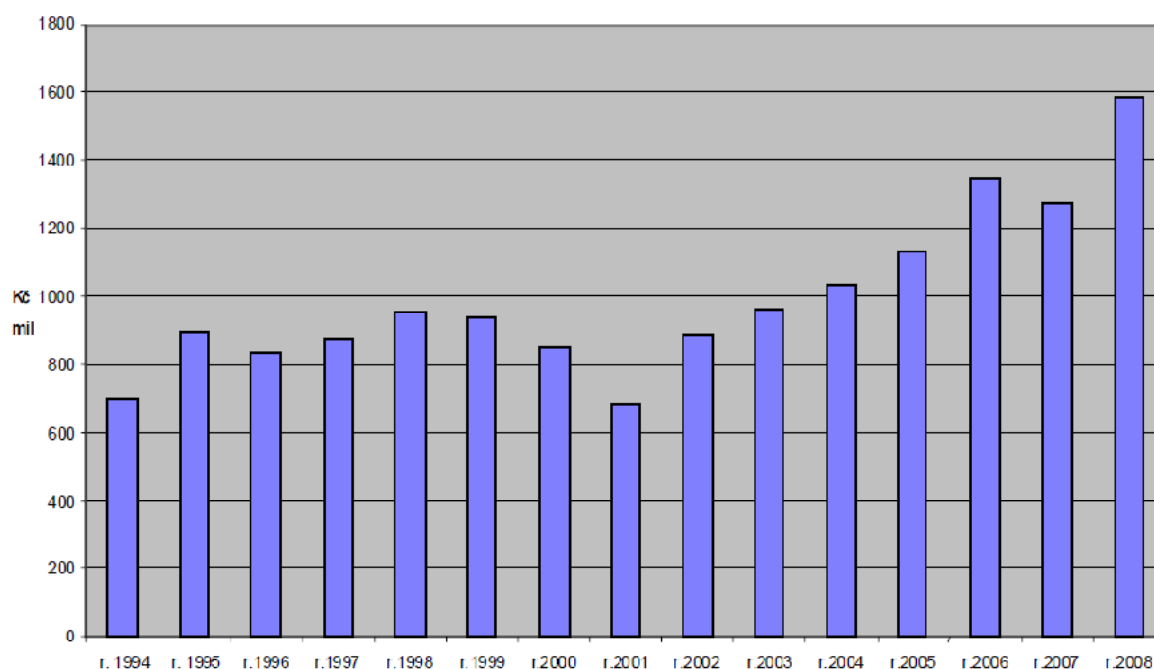
The reparcelling cost are covered according to § 17 LR by the state. It is dealt with a principle from which some exceptions are possible. Always it is possible to finance elaboration of financial projects, building inspections etc from the state budget. However, also the reparcelling participant themselves as well as other natural and legal

persons interested in its realization can share in covering of the costs. In these cases the state can provide subventions or grants to the persons according to special legal regulations. When the need of reparcelling is invoked by building activity, the builder is who pays the cost in principle in dependence on the extent of area touched by the building. The financing is crucial also for finishing of allotment and consolidation proceedings in more than one thousand cadastral areas determined by the Land Fund (it is required for c. 600 cadastral areas whereas the Land Fund does not have any problem with release of financial means for the reparcelling, rather there is an anxiety that land offices will not spend these means because of insufficient capacity of own and project sphere on base of experience from last years) in which reparcelling has to be carried out expeditiously mainly because of acceleration of privatization of land in the state ownership (agricultural land fund in the CR has approximately 16 mil. pieces of land, so, it is considerably fragmented). From view-point of land offices, the reparcelling is financially the most demanding activity, above all the realization of common arrangements and geodetic activities.

The resources of financing of reparcelling are differentiated (see in the text), the total resources used for reparcelling are shown in the graph 1.

Simple and complex reparcelling is so far realized on roughly 14,0 % of acreage of the agricultural land fund; other 13.0 % of this land is investigated now concerning the reparcelling. Expressed by concrete numbers, in 2008 in total 914 cases of complex reparcelling was finished (the acreage 386,770 ha) and 3,358 cases of simple reparcelling (the acreage 209,517). 998 cases of complex reparcelling with the total acreage 448,292 ha and 248 cases of simple reparcelling with acreage 99,504 ha were developed to the end of 2008 (SPR Land, 2009).

In frame of this programme it is possible to ask for a direct non-refundable grant for reparcelling. It is governed legislatively in the Council Regulation No. 1698/2005 on support for rural development from European Agricultural Fund for Rural Development (EAFRD). In the Rural Development Programme (RDP) for the period 2007 – 2013) this is in frame of measure I. of axis „1.4. Reparcelling“, which continues the support in frame of sub-measure 2.1.1. Reparcelling in frame of the Operational programme Agriculture in 2004 – 2006; further also pre-accession programme SAPARD. In frame of this measure it is possible to spend means in within following intentions: (i) a measurement of territory and all layout elements and other geodetic work for creation of reparcelling



Source: Situation and Perspective Report Land (SPR), Ministry of Agriculture 2009

Graph 1: Volume of financial means for reparcelling (mil CZK).

proposal (ii) demarcation of newly suggested parcels stemming from the approved reparcelling proposal; (iii) measurement of parcels according to §21a) of the law No. 229/1991 Col., and (iii) realization of plans of common arrangements of reparcelling. The endowment title is referred to the entire CR territory, except the area of the city Prague. The support receivers are land offices and it is possible to ask for these two groups of projects: (i) Realization of plans of common arrangements on base of the approved reparcelling proposal and (ii) Geodetic projects. The grant height can be from 300 thous. CZK to 50 mil. CZK (according to RDP („Rules...“ – see the literature review) the highest sum is a grant 25 mil. CZK) per one project to 100 % of qualified expenditures. The means are from 75 % covered by the EU contribution, 25 % is from CR public resources. The main aim of reparcelling carried out in frame of the agri-environmental common policy of the EU is improvement of life of rural inhabitants, conservation of culturally historical values and an increase of landscape biodiversity, resp. maintenance of settlement of the country as a social space. During the financing from EAFRD program for the current period there is a presumption that c. 180-200 proceedings on complex reparcelling will be started and finished annually which represents c. 100 thousand ha yearly. A proposal of simple reparcelling is realization of c. 120 proceedings, resp. c. 40 thousand ha yearly. EU resources in frame of RDP are focused first of all in the realization part of reparcelling (the building of common facilities, or technical measures) on the basis of approved proposals of reparcelling, therefore it is essential to proceed in elaboration of the proposals in such a way to be able to spend these means in maximal possible height (in total over the period 2007 – 2013 approx. 5.1 bil. CZK are available from

EAFRD means). Other financing resources are following: almost 1 bil. CZK yearly is provided from the state budget and over the period 2009-2013 the aggregate amount of 800 mil. CZK was granted from the state budget and the National Property Fund for flood-protection measures, approx. 700 mil. CZK from the Directorate of Roads and Highways, and originally approx. 400 mil. CZK from the Land Fund of the Czech Republic. The total need of financial means from different sources (the sources are: VPS is from state budget, PPEO is from National Property Fund for flood-protection measures, PRV is from RDP, RSD is from Directorate of Roads and Highways and PF CR is from the Land Fund of the Czech Republic) and the assumption of financial means for the time period 2010 – 2013 can be seen in the table No. 1 and in the table No. 2. This new data about financial means are based on the document „Activity plan of Land offices and financial means for the period 2010 – 2013“, which was prepared by the Central land office and was discussed in February 2010 in the Ministry of Agriculture.

From a point of view of the common arrangements in the period 2006 – 2008, it was dealt with realization of following concrete measures in frame of realized reparcelling: 1,227 field roads, 927 territorial systems of ecological stability and other greenery, 632 erosion-protection and other measures, and 310 water-management measures (Journal of the Land Office, 2006).

The list of cases of complex reparcelling to the 31.12.2008 is shown in the table No. 4. For idea on average financial costs per one projects it is possible to mention a case from 2009 when the State Agricultural Intervention Fund (SZIF)

Year	VPS	PPEO	PRV	RSD	PF CR	other	total
2010	928,210	478,645	644,083	152,858	282,293	2,662	2,478,832
2011	1,027,794	629,712	1,421,030	235,932	214,449	2,240	3,531,156
2012	1,078,585	491,710	1,599,511	225,605	203,723	33,080	3,677,214
2013	1,129,121	522,944	1,501,963	251,060	144,881	31,901	3,584,870

Source: Report of Ministry of Agriculture of the CR 2/2010, Ministry of Agriculture 2009

Table 1: Total need of financial means from different sources (thousand CZK).

Sources	2010–2013	only 2010
State budget (VPS)	3,600,000	700,000
State budget – PPEO	780,000	400,000
PF CR	1,000,000	350,000
RSD	900,000	180,000
PRV	2,580,000	700,000
Total	8,860,000	2,330,000

Source: Report of Ministry of Agriculture of the CR 2/2010, Ministry of Agriculture 2009

Table 2: Assumption of financial means for the time period 2010 – 2013 (thousand CZK).

Applications for grant in frame of the fifth and the second (from this round it concerned the originally disapproved applications) round of reception of RDP applications – the measure I.1.4. Reparcelling in the total support height 657,994,084 CZK – the average height of endowment amounted to 6,266,610 CZK, whereas the lowest asked sum was 341,382 CZK for reconstruction of a field road and the highest 20,638,891 CZK for a project of field roads (generally just the building or reconstruction of field roads are the most frequent in frame of the applied projects).

Problems - discussion

Regarding the scope of problems which reparcelling solves it is not possible so that this process would take place quite without conflict and so that question would not been put for which there are not immediate sufficient answers. For example, in a given area which represents a reparcelling district according to § 3 of the Act on Land Offices, there will be a possibility of various options of solution, of course, and then a compiler of the reparcelling proposal has in fact a very important position. The law tries to solve security of expertness of the compiler. However, in the same way important can be also a question of his/her objectivity and a possible „unofficial“ suggestibility from the seize of participants of the proceedings or other persons.

From the view-point of reparcelling realization, the position of reparcelling participants is unclear in relation to endowment titles. For example, in frame

of subsidies for reparcelling according to RDP there is a presumption that particular applicants (land offices) will ask a complete reimbursement of costs for the project – however, regarding a maximum limitation of the subsidy amount, reparcelling of more complex dimensions within the frame of one project are in such case realizable with more difficulties. (The cost can be paid by other particular participants (see above), nevertheless, from the view-point of the application character not as a co-sharing in the project – rather within the frame of other project which will supplement that for which is asked for a grant.)

Yet, the legislatively unsold issue of restitution to churches represents a certain (in some cadastral territories quite considerable) obstruction in the process of creation of functional units of land suitable for agricultural farming. Section 3 subsection 5 of the current Act on Land Offices should offer a partial solution. The property originally owned by churches, religious institutions and congregations which is currently in the state ownership and in administration of the Land Fund of the Czech Republic is not excluded from reparcelling. The law only prohibits its use for common facilities. However, in use of this property by way according to LR there can be felt an anxiety, logically, that results of reparcelling could be legally attacked in the future just from the side of church entities. There is still uncertainty regarding to the redress of property grievances caused churches and other church subjects. A bill proposed in this matter for discussion in the

Parliament of the Czech Republic has been negotiated for already more than one year (see www.psp.cz).

From view-point of **protection of owners**, it is obvious that the position of owners of bigger acreage of agricultural land is generally strengthened against the position of owners of smaller parcels. Whereas, the same protection in frame of constitutional law appertains also to owners of smaller parcels. A rehabilitation of incorrect administrative decisions in frame of reparcelling is a complicated question which can considerably complicate their realization. Even in issuing of own decision of a land office on an exchange or a transition of ownership rights a misconduct can happen, even a breach of the law and even if a regular legal remedy is not given, a possibility of rehabilitation of such a decision has to be given. Owners of parcels touched by reparcelling and decision making of a land office are provided with wardship, of course, in frame of court control of the public administration. However, in this area, many questions are let to court judicature without an express solution in the law which probably is not too transparent for land owners and it does not strengthen the peace (Sládeček, 2009). Regarding imprescriptibility of ownership right, the problems of parcels not quite without conflicts, marked as “pieces of land whose owner is not known” and which should fall to the state, are interesting. It is

also important to hold a discussion and negotiations referring to the task of security of land reserves for reparcelling needs, i.e. to decide which parcels the state will keep in its ownership in the given locality, if it owns still some land there, and so it will not privatize this land.

From the total area of agricultural land of the Czech Republic, 23 % of reparcelling have already been made or are in process, how it is possible to know in the table No. 3 - List of finished, planned and reparcelling in-process in the regional division on the date 1.1.2010.

It follows from comparison of the above tables No. 3 and No. 4 that in the area of reparcelling in the year 2009, there were less reparcellings than in the year 2008 (96 as against 126), and also the overall area decreased from 58,636 ha to 54,929 ha. From the point of view of commenced and unfinished reparcelling, there was again a lower activity in the year 2009, when compared with the year 2008. Whereas at the end of the year 2008 872 complex reparcellings were in process on the area of 389,656 ha, at the end of the year 2009 747 complex reparcellings were in process on the area of 395,446 ha. The structure of financial means for the years 2008 and 2009 is similar to other years shown in the table No. 2, total amount increased, but in the comparison with the activity of Land offices in the field of reparcelling, it does not look like the improvement of effectiveness of reparcelling.

Region	Finished CR		Finished SR		CR in-process		SR in-process		Planned CR		Planned SR			
	on the date 1. 1. 2010										2010	2011–2013	2010	2011–2013
	Count	Acreage	Count	Acreage	Count	Acreage	Count	Acreage	Count	Count	Count	Count		
Středočeský+Praha	162	65,314	83	9,221	108	50,082	17	5,812	54	106	2	0		
Jihočeský	155	59,083	104	27,050	109	45,793	36	11,819	32	62	10	10		
Karlovarský	43	13,138	461	43,663	26	8,202	3	32	7	23	1	0		
Plzeňský	98	34,303	138	21,337	101	41,019	11	192	17	42	2	0		
Liberecký	17	5,455	97	2,631	26	11,255	4	427	12	33	5	6		
Ústecký	44	17,500	139	23,602	45	25,857	16	3,709	22	27	0	0		

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Královéhradecký	80	30,781	125	9,391	46	25,133	12	3,690	23	62	3	1
Pardubický	65	29,460	23	10,362	50	34,707	12	10,836	30	51	1	0
Jihomoravský	146	91,485	445	37,938	65	48,212	39	25,144	10	41	10	8
Zlínský	27	11,617	90	2,995	36	20,173	15	1,023	7	40	1	1
Vysočina	90	41,199	70	4,349	40	21,555	5	160	7	24	2	0
Olomoucký	69	33,970	46	4,251	53	26,494	8	587	18	44	0	0
Moravskoslezský	14	8,393	158	7,505	42	36,966	18	3,231	13	47	4	6
CR total	1,010	441,699	1 979	204,294	747	395,446	196	66,662	252	602	41	32

Source: Report of Ministry of Agriculture of the CR 2/2010, Ministry of Agriculture 2009

Table 3: List of finished, planned and reparcelling in-process in the regional division (acreage in ha).

Land offices	finished				in-process and planned			
	in the year 2008	total on the date 31.12.2008	in the year 2008	total on the date 31.12.2008	in the year 2008	total on the date 31.12.2008	in the year 2008	total on the date 31.12.2008
	Count	Count	Acreage	Acreage	Count	Count	Acreage	Acreage
Středočeský kraj	25	164	12,754	66,221	22	140	10,052	52,777
Jihočeský kraj	11	128	5,192	48,565	21	137	5,897	39,750
Karlovarský kraj	7	40	2,236	12,223	7	29	1,687	9,949
Plzeňský kraj	11	78	3,871	24,706	16	120	6,557	47,166
Liberecký kraj	1	13	793	4,383	6	25	2,248	9,387
Ústecký kraj	10	45	4,840	17,559	15	58	5,307	20,057
Královéhradecký kraj	11	74	3,816	26,506	11	47	7,276	23,588
Pardubický kraj	6	56	2,102	24,967	17	48	10,489	28,750
Jihomoravský kraj	12	128	9,282	74,101	23	99	15,161	65,029
Zlínský kraj	5	24	3,128	10,242	7	32	4,347	17,913
Kraj Vysočina	12	89	5,497	39,909	2	34	1,143	11,968
Olomoucký kraj	10	62	2,213	29,881	15	60	7,549	27,302
Moravskoslezský kraj	5	13	2,912	7,505	12	43	9,179	36,021
CR total	126	914	58,636	386,770	174	872	86,890	389,656

Source: Ministry of Agriculture of the CR

Table 4: Complex reparcelling on the date 31.12.2008.

Conclusions

In the legal and factual respect, the reparcelling can be considered as one of the most important tools of land law in the CR. It represents an alive legal institute frequently used which helps not only to renew ownership relations to restored agricultural property but also to solve many other factual and legal problems connected with land ownership including renewal of boundaries of parcels in the landscape, a renewal of reliable statutory registration of parcels, and a renewal of disintegration of land fund.

Reparcelling is one of priorities in the department of agriculture in the CR at present. An evidence of it is for example that the Ministry of Agriculture initiated an amendment of act on the Land Fund of the CR (LF CR) which enables the Land Fund to provide financial means for reparcelling up to 400 million crowns annually (a press release from 21.12.2009). The Minister of Agriculture stated to that that „Reparcelling represents now and in perspective for next at least 15 years an answer to an intensive pressure of the society on a real termination of the restitution process, clearance and stabilization of ownership“. The proposal should be approved as soon as possible because its sense is so that the means which the Land Fund will generate „from the land“ would be also returned in it.

As it results from the mentioned release, the financial means for realization of reparcelling will

be the main problem in its faster course. Its shortage shows itself partly in limits, how many projects can be realized at the given time, and also in that it influences organizational size of appropriate land offices and their capacity possibility in realization of restructuring. Both these consequences of lack of financial means show themselves also at relatively long time for which according to presumptions an allocation of realized reparcelling is planned. The process is long-term; however, from the view-point of further use of agricultural land is purposeful to continue.

As a certain negative respect of reparcelling can be felt a fact that this legal institute undoubtedly strengthens an influence of centralized bureaucracy on arrangement of statutory relations to the land and at all on organization of all the territory. However, it seems that this is not felt much by the public because problems of uncertainty of ownership relations and functionless arrangement of agricultural land are very burning. In the relation of given hypothesis, it can be spoken that in spite of increasing of financial means in the last two years, the activity in reparcelling, expressed in the comparison of finished and started reparcelling in the years 2008 and 2009, does not make the proof for the increasing effectiveness, but positive is that the acreage of started and reparcelling in-progress is increasing and also, that the average need of financial means per hectare is decreasing (from 15,000 CZK to 7,000 CZK).

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