

## ABSTRACT

of the dissertation for the degree of Doctor of Philosophy (PhD)  
in the specialty «6D030100-Jurisprudence»

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**Legal regulation of withdrawal a land parcel from the owner and land use rights from the land user (Comparative analysis of the legislation and practice of its application in the Republic of Kazakhstan and foreign countries)**

**General description of the work.** The dissertation is devoted to the legal problems of compulsory land alienation in the Republic of Kazakhstan. Development of the legislation of Kazakhstan in terms of withdrawal a land parcel from the owner and land use rights from the land user in the historical and legal aspect was studied in order to establish the experience of the law continuity, the analysis of the concept and essence of withdrawal a land parcel from the owner and land use rights from the land user was conducted. The conceptual and terminological system of withdrawal the land from the owner and land use rights from the land user was worked out, and the place of rules on withdrawal the land from the owner and land use rights from the land user in the system of land rights was defined. Also the review of the law enforcement practice of the Republic of Kazakhstan in the field of seizure of the land from the owner and land use rights from the land user was performed, the peculiarities of the model of land withdrawal in the EEU, the EU and the USA were revealed, the analysis of the problems of improving the legislation of the Republic of Kazakhstan in the field of seizure of land from the owner and land use rights from the land user was carried out, and finally, the proposals and recommendations of theoretical and practical nature were developed.

**Relevance of the topic of the dissertation.** In modern society, the issue of land use used to be and still is a burning problem and not only citizens, but also the state concern with it. It is driven by political and state priorities. It is stated in the Message of the President of the Republic of Kazakhstan K. K. Tokayev, “Constructive public dialogue is the basis of stability and prosperity of Kazakhstan”. The President spoke separately about the land issue of concern to the society and noted that “the issue of inefficient use of land resources is becoming more and more urgent”. He pointed to the formed “whole layer of so-called “latifundists” who received the right to lease land for free and do not use the land, although the problem of “lack of land for farmers to grow forage crops” arisen. “It is time to start withdrawing of unused agricultural land”, the President stated.” Land is our common wealth and it should belong to those who work on it”. The President also instructed the Government and the Parliament to develop and “propose the appropriate mechanisms”.

The President’s words are proved in practice. Only in the Almaty Region 576 unused land parcels were revealed (Karasay district-40/900 ha, Aksu district- 27/1,1 thousand ha, Balkhash district-400/90 thousand ha, Yenbekshikazakh district-39/9,4 thousand ha, Sarkan district- 26/12,5 thousand ha, Panfilov district-44/11,3 thousand ha), total area 125,2 thousand ha. In Almaty 332 undeveloped parcels of this category was revealed, total area 2596 ha (Medeu, Alatau, Nauryzbay and Turksib districts). All in all, the authorized agencies found 1852 undeveloped plots over Almaty city, their area is 5581 ha (commercial area-1376 plots with the area 2737 ha, for agricultural use-332 plots, the area is 2596 ha, residential area-144 plots, 248 ha). Implementation of this task will lead to an increase in cases of detection and seizure of unused or irrationally used land parcels.

The analysis of the reasons for lands non-development found the following problems:

1) non-compliance of the intended purpose of the inhabited localities with the plans of detailed planning. Almost half of land users faced this problem. A significant part of these lands are located in the center of Almaty city (Bostandyk district – 399, Medeu district-378, Auezov district-87, Almaly district-26, etc.). They cannot get permits and various architectural approvals (architectural and planning assignments, approval of draft and working projects, etc.). As a result, the land has been idle for years without development. Courts under these grounds refuse to withdraw lands due to insurmountable circumstances;

2) lack of infrastructure, engineering networks. Many of the given plots cannot be developed for several years, due to the lack of engineering networks and the ability of designing the object. According to the current legislation, such plots are not returned to the state if they are forcibly withdrawn, but they are sold by judicial authorities at auctions, where the land can be purchased by a new owner (including an affiliated person of the former owner). In such circumstances, they will still not be developed in the future until the above-mentioned problematic issues are resolved, and all the procedures will be repeated again, negating the efforts of the authorized body;

3) presence of land parcels with inaccurate status on urban lands, for example, land with a purpose “for agricultural production”. According to some general development plans, agricultural production is not provided for in the city. In this case, the purpose of these lands is subject to change to civil-industrial one. Respectively, if the purpose of these lands is changed, they will also not be developed in the future for several years until the above-mentioned problem is resolved. Due to the above mentioned circumstances, bona fide land users are not able to develop their land in a timely manner. The stipulated status of these land plots leads to increase in the time of the land non-development. In accordance with clause 2 of Article 92 of the Land Code, if a plot intended for construction is not used for its intended purpose within 3 years from the date of the decision to grant it, then such kind of plot is subject to withdrawal (after 1 year from the date of the order receiving). At the same time, for agricultural land, clause 3 of Article 92 of the Land Code provides for periods of time during which the plot could not be used for its intended purpose due to force majeure, and accordingly, in such event, the plot may not be forcibly withdrawn for its non-use. The same clause of the Article of the Land Code is applied in practice regarding the plots intended for objects construction (commercial purposes), if their owners have objective and indisputable reasons and circumstances that do not depend on them and exclude the opportunity of using the parcel for its intended purpose (lack of an approved road map, engineering networks, arrest, bankruptcy, litigation, etc.);

4) low degree of administrative responsibility for lands non-development. For some time, this was due to the fact that since May 2018, the competence to take administrative measures for agricultural lands non-use from the Central vertical was transferred to local councils, and since then land inspections were deprived for some time of legal grounds to check and respond to the facts of such lands non-use. There was not a corresponding legal regulation;

5) the mechanism of land seizure through the court is not effective enough. In accordance with Article 94 of the Land Code of the Republic of Kazakhstan, the withdrawn land parcels is not delivered to the state fund, but is sold, as specified above, by judicial custodians through an auction. In this case, the proceeds are returned to the land owner. Moreover, the land user himself/herself can participate in these auctions, or even straw persons too. As a result, the land is returned to the same owner and continues to be undeveloped. Thus, the authorized body wastes a huge amount of time and resources, and the taken measures do not achieve their goal in the end;

6) legislative gaps. For instance, there is no concept of an unused land parcel in the legislation. According to the Land Code, the land parcel allocated for construction is subject to seizure if it is

not used within 3 years from the date of the decision to provide it (unless a longer period is provided the design documentation)(item 2 of Article 92). Non-use is interpreted differently by both theorists and practitioners. In some cases, the fact of intended use is recognized only if there is a construction, an act of commissioning of the object, in others-it is enough to establish a fence, dig a pit, pour concrete for foundation or build a frame. This may take several years. Such circumstances also impede seizure, although the land is not actually used.

Implementation of the task specified in the Message of the President of the Republic of Kazakhstan will lead to increase in cases of detection and seizure of unused or irrationally used land parcels. And this is a very serious issue, as it concerns deprivation of property rights of individual citizens and non-state legal entities, which will lead to lawsuits and dissatisfaction of lots of them.

The accumulated experience of land withdrawal has shown many gaps and contradictions in solving this issue. Judicial practice shows that many citizens remain dissatisfied with court decisions. There are lots of claims and appeals to the relevant state bodies. And judicial practice is very provocative at resolving land disputes related to the seizure of land parcels and land use rights, determining the amount of compensation, and other issues.

The chosen topic is also relevant from a political point of view. In some cases, especially in terms of social and economic tension caused by the ongoing economic crisis and complicated epidemic COVID-19, introduction of the state of emergency in the country and quarantine, disloyalty to the state bodies in the procedure of seizure of land may lead to organization of unsanctioned meetings, pickets, heighten the tense social and political situation. Moreover, as practice has shown, the population of Kazakhstan is very sensitive to the wrong solution of land issues.

In the international political aspect, the problem of land withdrawal from the owner and land use rights from the land user is also very important. The world community is actively discussing the situation in Kazakhstan, including its numerous ratings, also the corruption perception Index, and the sphere of granting and withdrawing the land is thought to be very corrupt. Unfortunately, even land owners and land users have to avoid possible land seizures in every possible way due to protracted nature of this process and extremely low monetary compensation, which also generates various forms of corrupt relations between the first and authorized state bodies.

The relevance of the chosen topic is explained not only by practice of regulating land relations, but also by the theory too. The main theoretical problems in the Sciences of land and civil law relate to defining the concepts “state needs”, “public needs”, “redemption price”, “equivalent compensation”, “property right to the land parcel”, as well as their differentiation, establishing the optimal list of exceptional cases of land seizure, etc. This discussion began in Soviet period. Even then, the issues were raised about compensation for land seizures, losses to land users and losses of agricultural production during land seizures, and the civil consequences of this process.

Withdrawal of land parcels and land use rights became the subject of discussions throughout the post-Soviet territory. For example, such scientists of Kazakhstan as L. K. Yerkinbayeva, V. P. Borissov, A. S. Doshchanova, E. K. Serekbayev and others were engaged in the problems of land parcels withdrawal.

Well-known Russian scientists are also actively discussing this problem. A lot of dissertations and textbooks were devoted to land withdrawal and related issues. These are the works of Yu. V. Gritskova, N. A. Dedova, A. I. Dichtyar, Ye. S. Kleimenova, O. V. Oreshkina, D. D. Sonina.

Also, the issues of land seizure in the civil-legal aspect were considered in the dissertations by R. G. Arakelyan, D. V. Vereshchagina, E. A. Grin [19], and in the administrative-legal aspect by N. V. Makarchuk.

In the constitutional and legal, comparative-legal aspects, the experience of land seizure in Russia and the United States was studied by S. D. Afanasyeva, in Russia, the United States and Great Britain – by S. A. Rukhtin.

Consideration of ensuring protection of citizens rights during land seizure was the goal set in the dissertations of I. S. Ilyukhin and Ye. L. Sidorova.

In the post-Soviet countries, scientists have also studied this problem. The thesis of A. S. Azimzada was devoted to the specifics of this process in the Republic of Tajikistan.

A brief review of scientific research shows their multi-aspect, but also the profile and industry orientation. Lack of complexity in the studied dissertation researches is another argument in favor of the chosen topic.

**The degree of the topic development.** Despite frequent reference to the topic of land withdrawal, researchers usually focused on one side of the issue. In the works of B. Zh. Abdraimov, the main focus was study the civil procedural side of the land process, A. E. Bekturganov studied in general land legal relations, E. Sh. Dussipov considered the basics of private ownership of the land, L. K. Yerkinbayeva paid special attention to the issues of compensation for damage caused to land parcels, problems of agricultural land development, A. T. Dzhussupov and Zh. Kh. Kossanov devoted their works to study land ownership and land use rights, Ye. Sh. Rakhmetov-protection of land rights. A.Kh. Khadzhiyev studied theoretical aspects of the land law as a field of land and science.

The younger generation of domestic scientists paid more of their attention to other problems: G.T.Aigarinov to the problems of legal regulation of the fee for lands use and protection, especially defining market value of the land parcel and estimation of the land parcel (it was useful in our research, as fair compensation for land parcel withdrawal assumes this precise price). General issues of the land law were also studied. B. R. Alimzhanov considered legal regulation of the land market, B. B. Begaliev-land reform in the Republic of Kazakhstan, A. S. Doschanova-provision of land parcels for housing construction, Yerali Abdikarim – legal basis of land ownership, G. G. Nurakhmetova – land transactions.

As we can see, in most researches study of land withdrawal is fragmentary.

Of the above-mentioned works, doctoral dissertation of Ye.Sh. Rakhmetov on the topic “Theoretical and legal problems of the institute for implementation and protection of land rights in the Republic of Kazakhstan” paid the largest amount of attention to the problem of land withdrawal. This study is more conceptual, since it generally covers the issues not only of land seizure, but also state-legal enforcement, protection of land rights, their implementation, and state control over the land use and protection.

The presented work differs from the above mentioned doctoral work as it further analyzes the land legislation of the Republic of Kazakhstan over the past ten years, offers a number of definitions of the basic concepts of the institution of land withdrawal, determines the place of norms on withdrawal of the land parcel from the owner and land use rights from the land user in the system of land law.

The works of P.K. Umirzakov and Ye. K. Serekbayev from candidates dissertations are devoted to the issue of land withdrawal.

In the research of P. K. Umirzakov “The issues of legal regulation of land parcel withdrawal for state needs in the Republic of Kazakhstan” (in the state language), a number of problems are considered, which are also studied in our work.

This author studied the legal nature and scope of the land parcel seizure for state needs, proving that it is regulated in complex by land legislation, as well as housing, administrative and civil legislation. In our work, this goal was not set, since this thesis no longer requires proof, but we tried to focus on another aspect—a comparative legal analysis of not only the branches of law and legislation, but also law of Kazakhstan and foreign law, having studied the best methods of land seizure in modern states.

We also do not propose to replace the concept of “withdrawal for state needs” with the word “redemption”, since we believe that the essence of withdrawal is in carrying out administrative and judicial procedures, and compensation is a concomitant condition. At the same time, we propose a new one – to introduce a mechanism for fair compensation for land withdrawal in Kazakhstan when land parcels are withdrawn for state needs.

In addition to the proposal of P. K. Umirzakov to fix in the law the documents and their certificates that served as the basis for the land seizure for state needs, we propose to fix mandatory provision of relevant documents by state bodies as proof of absence of alternative options for placement, construction and reconstruction of the objects of important state significance.

In contrast to the work of this author, we do not pay attention to the main principles of land withdrawal within the whole subsection, but we propose to supplement Article 84 of the Land Code with the principles of compulsory alienation of the land parcel.

When studying the grounds for seizure the land parcel for state needs, in contrast to P. K. Umirzakov, who defended his thesis in 2008, we studied new grounds for seizure, which appeared later, such as creation and functioning of special economic zones, meeting the needs of the population in pasture lands, ensuring the needs of the population in land plots for individual housing construction, etc., and concluded that it is not appropriate to separate some of them as grounds for land seizure.

Innovations that also distinguish our work from the work of the above-mentioned author are the development of a number of definitions that characterize the institution of land withdrawal for state needs – “development of the land parcel”, “rights stating document for the land parcel”, “rights altering document for the land parcel”, “rights terminating document for the land parcel”, rights stating (rights altering, rights terminating) documents, determining the place of norms on land parcel withdrawal from the owner and land use rights from the land user in the land law system.

The only research directly devoted to the procedure of land withdrawal was the dissertation research of Ye. K. Serekbayev. This study examines the concept and essence of land withdrawal, its place in the system of forced alienation of land rights, the grounds and principles of land withdrawal, the features of land acquisition for state needs, as well as agricultural land and forest lands fund, analyzed judicial practice of land withdrawal.

In contrast to this research, our study is characterized by the following points:

- the analysis of the legislation of Kazakhstan is carried out by taking into account the last ten years, which were not covered by the study of Ye. K. Serekbayev. During this precise period, the land

legislation undergone significant changes and made a number of additions, not only in the fundamental articles of the Land Code of the Republic of Kazakhstan, but also in rules relating to withdrawal lands, in particular, significantly expanded the list of grounds for forcible withdrawal of land parcels for state needs;

- development of the conceptual apparatus was carried out in more depth, not only an updated version of the concepts such as “withdrawal of the land parcel for socially important objectives”, “purchase of land parcel for socially important purposes” was offered, but also new definitions were proposed, such as “development of the land parcel”, “rights stating document for the land parcel”, “rights altering document for the land parcel”, “rights terminating document for the land parcel”, rights stating (rights altering, rights terminating) documents;
- a detailed analysis of the concepts “development of the land parcel” and “use of land for its intended purpose” was made and their correlation was carried out;
- in addition to the principles and conditions for land parcels withdrawal established by Ye. K. Serekbayev, it was proposed to make a mandatory condition for state bodies to provide supporting documents as proof of absence of alternative options for placement, construction and reconstruction of objects of important state significance;
- the thesis is based on the comparative analysis of the domestic, American and European models of land withdrawal and also the post-Soviet countries;
- the place of rules on land parcel withdrawal from the owner and land use rights from land users was considered in the system of land rights and preconditions to formation of sub institution “Withdrawal the land parcel from the owner and land use rights from the land user” were defined.

**The object of the dissertation research.** The object of the dissertation research is social relations arising in connection with withdrawal of land parcel from the owner and land use rights from the land user.

**The subject of the dissertation research** are the norms of current legislation of the Republic of Kazakhstan and foreign countries in the field of land withdrawal, the analysis and comparison of legislation and law enforcement practice in the framework of domestic and foreign institution of land parcels withdrawal, as well as materials of judicial practice.

**The purpose and objectives of the dissertation research.** The main goal of this work is to carry out comprehensive analysis of laws of development social relations arisen due to land parcel withdrawal from the owner and land use rights from land users, scientific study the problems of law enforcement of the land withdrawal institution, to develop proposals and recommendations of theoretical and practical plan based on a thorough analysis of legislation, practices of state bodies on land withdrawal, and foreign experience of the considered processes.

The following tasks will contribute to achieving this goal:

- study of the development of Kazakh legislation in terms of withdrawal the land parcel from the owner and land use rights from the land user in historical and legal aspect to establish the experience of continuity of law and establishment the place of norms on land parcel withdrawal from the owner and land use rights from land users in the system of land law;
- analysis of the concept and essence of land parcel withdrawal from the owner and land use rights from the land user;

- study the procedure of withdrawal the land parcel from the owner and land use rights from land users, establishment the connection and correlation of the concepts “development of the land parcel” and “use of the land parcel according to its purpose”;
- study the grounds for land parcel withdrawal from the owner and land use rights from land users, development of the criteria for such withdrawal;
- identification of features of the land acquisition model in the EEU, EU and US countries and study the possibility of application in Kazakhstan some of the elements;

**Methods of scientific research** are such general scientific methods as dialectical, historical, system analysis, logical, comparison, generalization.

The historical and legal method was used in the first section of the history of formation and development of norms on land withdrawal, comparative law-in the study of foreign experience, logical analysis and synthesis – in the study of the concept and essence of land acquisition, Kazakh legislation, points of view of scientists-theoreticians regarding the considered problem. In the study of the relationship between norms and practice, the methods of empirical observation, interviewing, statistic method were used.

**The theoretical basis of the dissertation research** was made up of the works of famous scientists-G. A. Aksenenko, B. Zh. Abdraimov, A. E. Bekturganov, S. A. Bogolyubov, G. E. Bystrov, A. T. Dzhussupov, E. Sh.Dussipov, A. E. Yerenov, L. K. Yerkinbaeva, B. V. Yerofeyev, Yu. G. Zharikov, I. A. Ikonitskaya, Zh. Kh. Kossanov, E. Sh. Rakhmetov, A. S. Stamkulov, A. Kh. Khadzhiyev.

**The normative framework of the dissertation** is the Civil code of the Republic of Kazakhstan, the Land Code of the Republic of Kazakhstan, the Law of the Republic of Kazakhstan “On architectural, urban planning and construction activities in the Republic of Kazakhstan”, the Law of the Republic of Kazakhstan “On state property”, the Forest Code of the Republic of Kazakhstan and the legislative norms of foreign countries.

**The empirical basis of the research** are the materials of judicial practice, in particular, the practice of the Supreme Court of the Republic of Kazakhstan and other courts, practice of the authorized body in the field of land relations and its territorial subdivisions, as well as facts published in the media and the Internet.

**Scientific novelty of the dissertation research.** The novelty consists in the fact that the work is one of the first works in which a comparative legal analysis of the sources of law and factual material in various aspects is carried out – 1) in the historical study of the evolution and current state of the institution of land withdrawal from the owner and land use rights from the land user; 2) in the complex of norms of a number of branches of law, directly dedicated to the institution of seizure of land from the owner and land use rights from the land user – land, civil, administrative law; 3) when identifying problems in modern domestic and foreign models of legal regulation of the institution of seizure and searching for possible ways to resolve them.

It also takes into account the practice of applying the rules on land withdrawal over the past ten years, which identifies modern problems of land seizure that did not exist more than a decade ago, and for which new solutions have been proposed that were not previously proposed in Kazakhstani dissertations.

The candidate for a degree proposed the revised definition a number of terms that characterize the legal institute of lands withdrawal “rights stating document for the land parcel”,

“withdrawal for state needs”, as well as the developed by the author definitions of the terms “rights altering document for the land parcel”, “rights terminating document for the land parcel”, “purchase of the land parcel”, “purchase of the rights for lease the land parcel”, “development of the land parcel”.

In the procedure of land parcel withdrawal the following stages were separated as “development of the land parcel” and “use of the land parcel according to the purpose”, their correlation was considered and accurate criteria for their designation were identified.

The place of norms on land withdrawal from the owner and land use rights from the land user in the system of land law was considered.

The updated reduction of Article 84 of Land Code of the Republic of Kazakhstan was presented.

The proposals and recommendations of theoretical and practical plan directed on solution the problems of improvement the legislation of the Republic of Kazakhstan in the sphere of withdrawal the land parcel from the owner and land use rights from the land users were developed.

The thesis is based on a comparative analysis of domestic, American and European models of land withdrawal, as well as post-Soviet countries.

### **The main provisions submitted for protection:**

1. Development of domestic land law has led to emergence of prerequisites for formation of a legal sub-institution “Withdrawal the land parcel from the owner and land use rights from the land user”. This sub-institution is an integral part of the wider institution for termination of land rights and other land rights. It is in the general part of the Land Law. Separateness of sub-institution “Withdrawal the land parcel from the owner and land use rights from the land user” is confirmed by a single subject of legal regulation – relations on forced alienation of the land plot from the owner and land use rights from the land user, relative uniformity of norms (almost all of them are mandatory), presence of sufficiently independent principles, increase in the number of norms contained in both laws and by-laws.

2. The conceptual framework of the legal sub-institution “Withdrawal the land parcel from the owner and land use rights from the land user”, as well as related land law institutions requires clarification of some terms, as well as development of definitions that are actively used in business, but are not reflected in the legislation of the Republic of Kazakhstan. To this aim, the proposed author’s definition of concepts such as “withdrawal the land parcel for socially important objectives”, “purchase of the land parcel for socially important purposes”, “development of the land parcel”, “rights stating document for the land parcel”, “rights altering document for the land parcel”, “rights terminating document for the land parcel”, rights stating (rights altering, rights terminating) documents were worked out. The developed definitions are recommended to include in article 12 of the Land Code of the Republic of Kazakhstan, and the last term - in clause 16 of Article 1 of the Law “On state registration of rights to immovable property” dated July 26, 2007

3. In theory of land law and in application of land law there is no uniform approach to understanding the term of “development of the land parcel”, which leads to making decisions, in one case about withdrawal the land plot, in another one-to dismiss the court claim of the authorized body on withdrawal the land plot. The reason is identification of the concepts “development of the land parcel” and “use of the land parcel for its intended purpose”.



In order to ensure a uniform understanding and eliminate contradictions on this issue, both in theory and in practice, it is proposed to differentiate these concepts and processes by determining that development of the land plot is a stage preceding the stage of using the land plot for its intended purpose.

4. There is an unjustifiably increased number of “exceptional grounds” for withdrawal land plots from owners and land use rights from land users, which is not always a reflection of state and public interests, and as a result, this leads to infringement of the rights and legitimate interests of citizens and legal entities.

In order to establish clear criteria for withdrawal land plots from the owners and land use rights from land users really for public interests and it is proposed to include some adjustments in clauses 1, 2 and the title of Article 84 of the Land Code of the Republic of Kazakhstan, where it should be specified as withdrawal for socially significant goals, also add the Article by principles of compulsory expropriation of land and the number of reason for this withdrawal should be limited (draft Article 84 of the Land Code of the Republic of Kazakhstan is attached – Annex A).

Moreover, in order to regulate cases of forcible land plots withdrawal from owners and land use rights from land users and reduce corruption risks, it is proposed to add some amendments to Article 84 of the Land Code of the Republic of Kazakhstan and Article 62 of the Law of the Republic of Kazakhstan “On state property”, where the principles and conditions of land plots withdrawal from the owner and land use rights from land users are established, and to fix a mandatory condition for provision by state bodies of relevant documents as evidence of absence of alternative options of placement, building and reconstruction of objects of great public importance.

5. In order to limit unjustified seizures of land from the owner and land use rights from the land user, it is proposed to introduce a number of novelties into the legislation of the Republic of Kazakhstan, which have found their approbation in countries both far and near abroad. In particular, it is proposed to:

- establish minimum standards of fair compensation for the land parcel withdrawal for socially significant purposes according to the US experience (at least 125% of the market value of the alienated property in the case when land plots are seized for construction of public infrastructure, at least 200% - if for economic development (for example, for creation and operation of special economic zones) in the interests of private enterprise;
- provide targeted compensation, i.e. when land plots are withdrawn for economic development in the interests of private enterprise or public-private partnership, according to the experience of the Russian Federation, equivalent compensation will be paid by interested organizations.

**Theoretical significance of the research** is that it develops and gives new impulses to the legal institution “Termination of rights to land parcels and other land rights “ of the Special part of the Land Law of the Republic of Kazakhstan, complements the theory of land law, contributes to development of the interest in the issues under consideration by new researchers, scientists, students and other interested parties.

**Practical significance of the results of the dissertation research.** An analysis of the positive and negative experiences of law and legal practice of the Republic of Kazakhstan, the Russian Federation, European countries, the USA in formation and development of the institution of withdrawal land parcels from the owner and land use rights from land users might be used in development of the model for withdrawal the land parcel in the Republic of Kazakhstan. The recommendations developed in the course of the study might form the basis of a draft law that will

help to improve legal regulation of withdrawal land from the owner and land use rights from the land user, including achieving a balance between private and public interests that meets the urgent need to improve protection of private property rights.

**Approbation the results of the dissertation research.** The dissertation was prepared at the Department of civil law disciplines, of the faculty of law and economics of Zhetysu state University named after Ilyas Zhansugurova, where it was reviewed and discussed. The main provisions and conclusions are presented in published scientific papers on the topic of the dissertation and disclosed in reports at scientific and practical conferences.

**The structure and content of the work** are determined by the goals and objectives of the dissertation research. The dissertation consists of an introduction, three sections including subsections, conclusions, a bibliographic list of used normative acts and literature.