

都市計画・国土整備行政における「公益性」の変容とそのコントロール手法に関する研究

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1995 Fiscal Year Final Research Report Summary

Public Interests and their Controls : Comparative Study of French and Japanese Laws in the Land Development Administrative Actions

Research Project

Project/Area Number

06620013

Research Category

Grant-in-Aid for General Scientific Research (C)

Allocation Type

Single-year Grants

Research Field

Public law

Research Institution

Kanazawa University

Principal Investigator

WATARI Tadasu Kanazawa University, Faculty of Law, Professor, 法学部, 教授 (30125695)

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1994 - 1995

Keywords

Land Development / Environmental Protection / Public Interests / Discretionary Powers / Judicial Control / "Bilan Cout-Avantages" / Participation of Citizens

Research Abstract

This research consist of two purposes : study of the tranformations of the "public interests" in the urban planning and land development laws and research of the judicial and non-judicial controls of the "public interests". From this research, of which one of the features is the comparative study between the French and Japanes laws, I have two new knowledges.

First, the French judicial control over the "public interests" of a development project, which is called in French "controle du bilan cout-avantages", is not other than a legal qualification of the facts as long as this control consist in drawing a concrete rule from a abstract legal rule regarding the

legislator's intention or the spirit of the legal system in totality. It means that the interpretation of a legal abstract rule is one of judge's proper functions, as long as he must interpret a legal rule, even if it is about the interpretation of a legally indetermined concept. This French theory must be useful when we reconsider the traditional doctrine of the judicial control over the administrative discretionary powers. Second, since the '70 years in France, the development of the judicial control by means of "bilan cout-avantages" is accompanied by much of legislations which have given to the citizens, to the inhabitants or to the nonprofit associations, the means of participating in the administrative actions for the urban palanning and land development. This French style of relation between the judge made laws and the new legislations is very useful for Japan, as long as it shows that a judge made law development has moved forward and accelerated new legislations.

Research Products (6 results)

All Other

All Publications (6 results)

- [Publications] 巨理 格: "林業基本法の三〇年-森林計画制度との関係を中心に-" 都市と農村をむすぶ. 45. 12-17 (1995) ▼
- [Publications] 巨理 格: "フランス行政裁量論における「費用便益衡量」型審査手法の存在意義-開発事業の「公益性」審査論を手がかりに-(一)" 金沢法学. 38. (1996) ▼
- [Publications] 巨理 格: "フランス行政裁量論における「費用便益衡量」型審査手法の存在意義-開発事業の「公益性」審査論を手がかりに-(二)" 金沢法学. 39. (1996) ▼
- [Publications] WATARI,Tadasu: "JAPANESE FUNDAMENTAL LAW FOR THE DEVELOPMENT OF THE FOREST INDUSTRY AND THE FOREST PLANNING SYSTEM" TOSHI TO NOUSON O MUSUBU. VOL.45. 12-17 (1995) ▼
- [Publications] WATARI,Tadasu: "COST-BENEFIT ANALYSIS TYPE JUDICIAL REVIEW IN FRANCE OVER THE ADMINISTRATIVE ACTIONS FOR THE LAND DEVELOPMENT (1)" KANAZAWA HOUGAKU. VOL.38. (1996) ▼
- [Publications] WATARI,Tadasu: "COST-BENEFIT ANALYSIS TYPE JUDICIAL REVIEW IN FRANCE OVER THE ADMINISTRATIVE ACTIONS FOR THE LAND DEVELOPMENT (2)" KANAZAWA HOUGAKU. VOL.39. (1996) ▼

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