

F) Building and Property Law

1. Federal Building Code (*Baugesetzbuch - BauGB*)

of 23 June 1960 (Federal Law Gazette [BGBl.] Part I p. 341), in the version of the proclamation of 27 August 1997 (BGBl. Part I p. 2141, corr. 1998 I p. 137), last amended by Act of 15 December 2001 (BGBl. Part I p. 3762)

Chapter One: General Urban Planning Legislation

Part One: Urban Land-Use Planning

Section 1 The Scope, Definition and Principles of Urban Land-Use Planning

(...)

(5) Land-use plans shall safeguard sustainable urban development and a socially equitable utilisation of land for the general good of the community, and shall contribute to securing a humane environment and to protecting and developing the basic conditions for natural life. In the preparation of land-use plans, attention shall be paid in particular to the following:

(...)

6. the requirements of churches and religious societies under public law for worship and cure of souls,

(...)

Section 5 The Content of the Preparatory Land-Use Plan

(1) The preparatory land-use plan shall represent in basic form the type of land uses arising for the entire municipal territory in accordance with the intended urban development which is proposed to correspond to the anticipated needs of the municipality.(...)

(2) The preparatory land-use plan may in particular show:

(...)

2. the existence within the municipal area of facilities and infrastructure for public and private provision of goods and services, in particular buildings and amenities serving the community and institutions for public needs, and in addition schools and churches and any other buildings or amenities which serve church-related, social, healthcare and cultural purposes, and sports areas and playgrounds;

(...)

Part Two: Safeguarding Land-Use Planning

Section 19 Permission to Subdivide Plots

(1) The municipality may adopt a resolution to determine in respect of the territory covered by a binding land-use plan within the meaning of section 30 subsections (1) and (3) that permission shall be required for the subdivision of a plot to be rendered effective. (...)

(...)

(4) Subdivision shall not require permission where

(...)

4. a public agency, institution or foundation of an exclusively religious, scientific, charitable or non-profit nature, a religious society which has been granted the rights of a corporation under public law or a legally competent institution, foundation or association of persons serving the purposes of such a religious society is involved as purchaser or property owner, or (...).

Section 26 Exclusion of the Right of Pre-Emption

The right of pre-emption may not be exercised where

(...)

2. the property

(...)

- b) is being purchased by churches or religious societies under public law for the purposes of worship or cure of souls,

(...)

Part Five: Expropriation

Section 90 The Expropriation of Land for Purposes of Compensation in the Form of Land

(...)

(2) Plots shall not be subject to expropriation for purposes of compensation in the form of land where and to the extent that

(...)

2. the land or proceeds therefrom directly serves or is intended to serve public purposes or public welfare, or purposes of instruction, research, medical and healthcare, education, physical training or the work of the churches and other religious communities under public law and their institutions.

(...)

2. Act on Measures to Improve the Agricultural Structure and to Secure Agricultural and Forestry Operations - Property Dealings Act (Gesetz über Maßnahmen zur Verbesserung der Agrarstruktur und zur Sicherung land- und forstwirtschaftlicher Betriebe - Grundstücksverkehrsgesetz - GrdstVG)

of 28 July 1961 (Federal Law Gazette [BGBl.] Part I p. 1091), last amended on 8 December 1986 (BGBl. Part I p. 2191)

Section 2 [Approval]

(1) The legal commercial sale of a plot of land and the contract there regarding shall require approval. If a contract has been approved, conveyance by agreement effected in executing the contract shall be deemed to be approved. Approval may also be granted prior to certification of the legal transaction.

(2) The following shall be deemed equivalent to the sale in a plot of land

1. the granting and the sale of a co-ownership share in a plot of land;
2. the sale of an inheritance share to persons other than a co-heir if the estate largely consists of an agricultural or forestry operation;
3. the appointment of a usufructuary right regarding a plot of land.

Section 4 [Transactions Not Requiring Approval]

Approval shall not be necessary if

(...)

2. a religious society with the rights of a public-law corporation acquires a plot of land, unless it is an agricultural or forestry operation; (...)

(...)

3. Federal Benefits Act (Bundesleistungsgesetz)

of 19 October 1956 (Federal Law Gazette [BGBl.] Part I p. 815), last amended by Act of 20 December 2001 (BGBl. Part I p. 3987)

Section 1 [Purpose of the Payments]

(1) Payments may be required

1. in order to avert an immanent danger to the existence of the free, democratic basic order of the Federation or of a Land, or to avert or remedy a disturbance of public order in the border area endangering the security of the borders;
2. for purposes of defence, in particular to avert a danger by means of which the existence of the Federation is endangered either indirectly or directly from outside in the framework of its classification in a system of mutual collective security;
3. in order to meet the Federation's obligations under bilateral agreements regarding the stationing and legal position of forces from other states on Federal territory;

4. to accommodate persons or to transfer operations and public facilities which are necessary because of use of plots of land for purposes under Nos. 1 to 3.

(...)

Section 4 [Limits of Personal Obligation to Pay]

(...)

- (2) The following may not be obliged to pay

(...)

4. churches and other public-law religious communities, as well as their associations regarding the things and rights serving ecclesiastical purposes or which are indispensable to carry out their administrative activities;

(...)

Section 68 [Burden of Manoeuvres for Plots of Land]

- (1) Troops may cross, temporarily occupy or block plots of land.

- (2) Troops may not exercise the rights to which are vested in them under subsection (1) without special permission of the right-holder in respect of the following

(...)

4. places of religious, cultural or historical significance;

(...)