

NEWSLETTER

August 2015

Perpetual usufruct

We would like to kindly inform you about the resolution of the Supreme Court published on the 13th of March 2015 (file no. III CZP 116/14). In this resolution, the Supreme Court analyzed the issue of the admissibility of the waiver of the right of perpetual usufruct by the unilateral legal action by authorized and possibility of independent division of land by perpetual usufructary, given him in perpetual usufruct.

Finally, the Supreme Court took the position according to which, the Court **refused to perpetual usufructuary the right to divide the land, on which perpetual usufruct was established, while pointing out that if the usufructuary is not entitled to the distribution of land given him in perpetual usufruct, it is devoid of consideration whether he could unilateralny waive to exercise his right of perpetual usufruct.**

The Supreme Court found that the right to the division of land given into the perpetual usufruct is granted only to the owner of the property, and assignment of the possibility of combining and division of property only to the person entitled to the right of ownership, rather than the perpetual usufructuary, is legislator's intentional aim.
