

日本防衛設施設置與管理對策之研究

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摘 要

在現今社會多元發展下，與環境權相關之問題越來越受重視，日本政府為了有效改善防衛設施及其周邊產生之各類問題，乃制定專法將環境法上各種障礙之因應對策予以法制化，期望透過行政措施進而落實環境保護作為。其次，在防衛設施周邊的環境整備方面，日本政府雖積極改善居民生活環境並提供補償措施，但隨著民眾意識抬頭，提起訴訟救濟之案件有逐年增加趨勢，而經法院審判後其判決結果大多以居民立場為核心，殊值我國借鏡。觀諸日本防衛設施之設置、管理及其對策，乃是歷經數十年間的發展與磨合而逐漸建構出平衡關係。本文主要以日本防衛設施為探討核心，針對防衛設施之取得、設置與使用現況及法制規範等面向加以剖析，並探討防衛設施之管理制度與因應對策，最後介紹補償措施及救濟管道，並援引訴訟案例，以考察日本司法實務之立場，俾供我國未來政策評估與參考。

A Research on the Strategies of Japan's Defense Facility Set-Up And Management

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Abstract

Under the pluralistic society development, the problems associated with the environmental rights are increasingly important. In order to improve surrounding facilities and the various issues arising from the defence, Japanese government has developed the specific provisions of the law to regulate all kinds of barriers of the Countermeasures on Environmental Law to be legalized, at the same time to expect to implement environmental protection as through administrative measures. Furthermore, in terms of defence preparedness of the environment around the facility, although the Japanese government has actively improved the living environment and compensation measures to the residents who still live in the surrounding neighbourhood, however, with the rise of public awareness, filed lawsuits relief has increased year by year, regardless of the trial verdicts mostly in favour of the residents. Residents are the core, which is worth learning by us. In viewing all the setting of defence facility management and countermeasures in Japan, it took several decades of development and adjustments gradually to construct a balanced relationship. This article will mainly focus and explore on the Japan defence facilities as the key point, as well as the made defence facility against, set up and used in the current situation and the legal norms for analysis to explore the management system and the Countermeasures defence facilities. Ultimately, we introduce the compensation measures and relief pipelines by citing litigation cases to examine the position of the judicial practice in Japan, to provide our country for future policy evaluation and reference.