

Principle of superficies solo cedit in historical context

Abstract

This diploma thesis deals with the principle of *superficies solo cedit*, which expresses the principle that all things, especially built structures, which are located on land and are firmly connected to the land, belong inseparably to the land and are part of it. The first part of the thesis aims first to give an overview of the understanding of rights in rem in Roman law. It then focuses on the origin of this principle and its expression in various Roman law sources and texts. For these sources, a brief outline of their origin, dating and general characteristics is always given. The Roman law tradition is deeply rooted, particularly in continental Europe. It is therefore not surprising that the superficies principle was included in the General Civil Code from 1811. The Czech legal system is, however, one of those in which the Roman law tradition was abandoned and the superficies principle denied for decades. For that reason, the second part of the thesis focuses on the various civil law codes in the Czech territory, their basic characteristics and a comparison of their attitudes towards property rights, construction and land. The third part of the thesis deals with the origin of the Civil Code, the return of the principle of *superficies solo cedit* to the current legal system, its interpretation, the concept of property and rights in rem. The individual concepts related to the superficies principle are described, from which roots this regulation is based, what was the inspiration of the legislator and, last but not least, the influence of Roman law on the current legislation is presented. The thesis also examines the legal problems that arose during the communist regime, some of which persist to this day. A completely separate chapter is devoted to Roman *superficies* and the law of construction, where these two institutes are compared and the development of the legal regulation of the law of construction in the Czech territory is described. The last section looks at the German legal system, specifically the German Civil Code, and examines not only its concept of the superficies principle, but also the fundamental influence that this code had on the Czech Civil Code.

Keywords:

superficies solo cedit, building, roman law