

# **The Substance of the Right of Usufruct**

## **Abstract**

This thesis deals with the content of the right of usufruct, i.e. its substance. It defines it on the basis of an analysis of the rights and obligations of both the usufructuary and the bare owner. It looks more closely at the issue of the principle of *salva rerum substantia* and its significance for usufruct as such. It shows that this principle applies as a limitation on the usufructuary's enjoyment of the thing. The thesis then turns to the duty of the usufructuary to maintain the thing and puts it in context with the duty to maintain the thing. The present work defines the individual rights of the usufructuary and also his obligations under the law. It also looks in more detail at the duty of the usufructuary to hand over the thing after the usufruct is over. It does not overlook the special position of the usufructuary in the case of a usufruct over fungible things and principal deposited at interest. It also deals similarly with the rights and obligations of the bare owner, particularly in relation to the subject-matter of the usufruct and the usufructuary.

In many respects, the work brings new insights into Czech legal scholarship regarding the institution of usufruct. It defines in more detail the terms substance and form in relation to usufruct, it deals with the issues of detention in relation to usufruct. It defines the scope and content of enjoyment and imposes limits for the user which he must not exceed in enjoyment.

The paper defines the different types of usufruct and characterises their features. It shows that there are certain types of usufruct which have different characteristics from the basic usufruct, for which different rules apply by their nature. It also points out the existence of three special types of usufruct: usufruct of the usufruct, usufruct of the subject of a contribution to a silent partnership and usufruct of bare property.

The work draws on the existing knowledge of Czech legal science and also builds on more extensive foreign doctrines, especially German and Spanish legal doctrine. It refers to the jurisprudence of the interwar Supreme Court of the Czechoslovak Republic and to the jurisprudence of the Supreme Court of the Czech Republic. It develops these findings into a more extensive analysis of the basic aspects of usufruct law in Czech law.

**Klíčová slova: rights in rem, usufruct, substantive civil law, fructus**