

ABSTRACT

Charter of Fundamental Rights and Basic Freedoms of the Czech Republic guarantees each person a right to own property. However, to protect this fundamental right, a secondary legislation must state which things can be referred to as property and which ways to create the ownership are legally relevant. Civil law of the nowadays Czech Republic has gone through a significant history.

As to a part of the Austrian Empire, the later Austro-Hungarian Empire, the austrian legislation had been applied in the lands of former Kingdom of Bohemia and here it remained in force even after the fall of Austro-Hungarian Empire, when a new country, the Czechoslovakia, was formed. The regulation contained in the Allgemeines bürgerliches Gesetzbuch (ABGB), in other words the austrian Civil Code of 1811, was built mostly on Roman law basis. Such an influence can be exhibited e.g. on the provisions about things in legal sense and their divisions or about the ownership of things and means of its creation. In the lands of former Kingdom of Bohemia, the ABGB stayed in use until 1950, when it was succeeded by a new Civil Code.

The Civil Code of 1950 was a result of only two year long process of recodification, that should create new rules for a new system based on the idea of socialism, leaving the Roman law principles behind. For example, newly the principle *superficies solo cedit* was abandoned as buildings became – in legal sense – an individual things distinct from lands and therefore they could constitute an object of Real Estate ownership. Also, the character of ownership had undergone essential changes as its construction distinguished among various types of ownership with different levels of their protection. About these changes and many others, I write in my thesis in more details. The regulation of the Civil Code of 1950 was not much changed by the later Civil Code of 1964, which is in force until today – of course with some changes reflecting new political system after 1989.

In 2012, after more then ten years long recodification process, a brand new Civil Code was adopted. The Code brings many changes to the Civil law, while it returns to many of the Roman law principles. In my thesis, I try to give an insight to the past, recent and future regulation of ownership of realties.