

Abstract

The aim of this thesis is to map and describe the law-history framework of legal regulations concerning paved and unpaved roads in the period from 1918 to 1992. The state of Czechoslovakia adopted the normative basis for the legal regulation of paved and unpaved roads from that of the Austro-Hungarian Empire in the year 1918. These Austro-Hungarian legal regulations were accepted into the legal framework of the state of Czechoslovakia by the receptional provisions of Law and Directive No 11/1918 Coll. of March 28th 1918 on the founding of the independent state of Czechoslovakia. This thesis draws from primary sources such as relevant legal regulations, as well as from specialist historical literature. An important source of information on the method of application of the laws focused upon is the jurisprudence of the law courts of the First Czechoslovak Republic. A surprising finding of this thesis is the fact that in 1938, the Ministry of Public Works put forward a so called Great Road Bill for approval by the National Assembly of the Republic of Czechoslovakia. This law and its details, which up to today has remained unrepeated, focused upon the unification of measures, which had until that time been divided into tens of norms, into one legal regulation. The forward to this law including the rationale set out in it became a unique source of information on the legal and factual context of this field despite, due to the political events of the time, never coming into effect.

It is possible to generalise that the field of law regarding paved and unpaved roads in the Czechoslovakia of the First Republic was given great attention, that this level of attention was not carried over into the legal regulation of the post-war period, the laws passed after 1945 being characterised by significant austerity and incompleteness leading to factual, interpretational, and applicational problems up to the present day. Further, there is the important conclusion that the theoretical viewpoint regarding the private land located under roads and its “dedication” to public use has not been approbated. The current court practices do not only acknowledge the right of the owner of land located under roads to buy the land, but also the right to the issuance of unjust enrichment, to which the owner of the road is liable. It is, therefore, possible to identify a regression from the progressive legal theory of the early 20th century to an absolutist interpretation of ownership in the decision-making practices of today’s courts.