

Summary

Usucaption in the Context of the Civil Law Recodification

This master thesis analyzes the concept of usucaption in the context of the recodification of civil law. Its aim is to describe this institute both in its historical context and in the current legislation. It also aims to compare these codifications with each other and try to resolve some of unclear points of interpretation.

Usucaption is a legal concept pursuing harmonization of possession as a de facto state with ownership as a legal status, after a specified period of time expires. It is a traditional civil law concept, however it is still relevant today. The master thesis analyzes significant changes in relation to the concept of usucaption, which were introduced by the Czech Civil Code No. 89/2012 Coll.

The thesis begins with an introduction, then it proceeds with four main chapters, which are further subdivided into subchapters, and it ends with a conclusion.

In the first chapter, I lay out general definitions which are fundamental to the following analysis, namely, I provide a definition of possession, detention and usucaption itself.

The second chapter introduces the historical background, starting with a brief description of the concept of usucaption in Roman law, continuing with the codification of usucaption provided by ABGB and with a description of the socialist legislation, dealing with both the Civil Code of 1950 and with the Civil Code of 1964 in its original version. In this chapter, I also describe the revision of the concept of usucaption after the amendment effective since 1983. Attention is also given to the version of the Civil Code of 1964 effective after the amendment from 1992 to 2013.

The crucial part of the thesis is the third chapter, which is dealing with the concept of usucaption after the recodification of private law by the Civil Code No. 89/2012 Coll. In this chapter, I analyze in more detail the individual conditions for usucaption, namely

subject, object, proper possession, honest possession and right possession, as well as lapse of the usucaption period and the legal concept of extraordinary usucaption, which returns to the Czech legal order after a long period of time.

The fourth chapter comprises of a comparative excursion to the German law. In this chapter I describe the basic features of the German codification of usucaption and I compare it with the Czech codification.

Finally the conclusion of the thesis provides a synthesis of the acquired knowledge and partial conclusions.