

Relationship Between Private and Public Law: Past and Present

Abstract

This dissertation addresses the dualism of private and public law from Roman times to the present. It focuses on developments in the content of these concepts in a historical context. The dissertation examines primary sources from Roman law and highlights the significant difference between the distinction between private and public law in Roman law and later misinterpretations of the same. Particular attention is paid to the approach legal science takes to private and public law through the various phases of reception of Roman law, noting the political circumstances that led to the use of the dual concepts of *ius publicum* and *ius privatum* from Roman law as well as the change in content of those concepts. The dissertation compares the main differences between modern society and the earlier social system, especially with reference to the socio-legal structure of relationships. It describes the modern ideological sources of values on which modern society is based and traces the ways these values are reflected in modern legal systems. Constitutionalism, emphasis on the legal code as the written source of law, the concept of natural rights, and the concept of the legal state (*Rechtsstaat*) all made their mark on private and public law in continental legal culture. The concepts of private and public law are used in modern law with different meanings than in former times, and even in several different meanings existing in parallel. This dissertation focuses on the individual differences in meaning of the concepts of private and public law, finding in their plurality of content the cause of the impossibility of defining the criteria for distinguishing between them. It undertakes a critical assessment of the use of these concepts in legal regulations where their definitions are left to jurisprudence. The dissertation also notes that the distinction between private and public law is connected with the values on which the Czech legal system is based, although this legal dualism is not a prerequisite for distinguishing between the private and public sphere. The idea that public authority is bound by law and the wide autonomy and equality of individuals form part of the rules encoded in the constitution and are not derived from the dualism of private and public law.

Klíčová slova: private law, public law, legal dualism