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Monographs

Property - Development and Perspectives, Influence of Constitutional and European Judicial Practice, Ciela, 2019, 416 pp. ISBN 978–954–28–2783 - 2.

The monograph examines issues related to the development of property rights in historical and legal perspective. Some main conclusions of the research, which were reached in the course of the work, will be briefly stated. In view of the historical development of property, it can be stated categorically that it is constantly evolving under the influence of economic, social and political reasons. Lawyers should take into account the new realities, not forgetting the historical conditionality for one or another legal framework, for one or another interpretation of the law. Here we can make a bolder, for some controversial statement, which is more related to Chapter Two, but also has to do with historical development. It is noted that the concept of property in the Roman Empire is close in its breadth to the concept of property in modern United Europe. These are two indisputable historical associations in which the same tendency is observed, namely the creation of broader legal concepts in order to satisfy many different interests. From this point of view, today's European law is reminiscent in some of its property-related characteristics of the law of the ancient Romans.

With regard to the concept of property, we could conclude that modern European law is rethinking the boundaries of this concept in the direction of their expansion. They have been the subject of a detailed examination as objects of property rights. There have been changes under the influence of European law, both in terms of traditional classifications of things, and an exceptional expansion of their concept in the direction of new objects. It can already be argued that there is an autonomous European concept of property, which differs from the concept in the domestic law of the countries of the continent. Many new objects that have an intangible nature are equated with things to get protection. But despite the lack of corporeality,

in order to be protected by the European institutions, they must represent "significant property value" for their owners. In European law, intellectual property is protected by the same text of Protocol 1 to the European Convention as tangible property. They receive protection as possessions and other specific objects such as clients, social benefits, administrative permits, reasonable expectations, the right to work, the human body, etc. This trend has been criticized in practice for leading to a "hyper-proprietary" that will move away from the classical understanding of property. We share the vision of the need for balance in this direction.

With regard to the topic of the European and constitutional powers of the owners, the exhibition attempted to consider and present the classical powers of possession, use and disposal through the prism of the relevant case law. Many common features have been taken into account in the case law of the Constitutional Court and the European Court of Human Rights when ruling on similar issues, such as restrictions or breaches of any of the owners' powers. Enrichment of the content of both the power of disposal and the power of use has been established. These powers receive a broader protection than the classic domestic law protection.

With regard to the guarantees of property rights in Chapter Four, the relevant conclusions were made, which we will only summarize here. Violations of the right to property are subject to protection and control both in domestic civil law and by the Constitutional Court and the European Court of Human Rights. The latter two jurisdictions have increased their control by including proportionality as a criterion. The latter concept is generally understood as the search for a balance between two interests - the public interest and the interest of the individual owner.nce between two interests - the public interest and the interest of the individual owner.

As another important conclusion, it can be said that in today's dynamic world, property rights are in the field of various protection systems, both domestically and internationally. It is good if there is harmony and a closer connection between these systems. And all this must comply with the principle of protection of fundamental rights. This is especially important for the societies of the countries of Eastern Europe, to which our country belongs. In these countries the antagonistic division of property into socialist and capitalist has disappeared, and the priority of state property over other forms of ownership has disappeared. However, a return to the principles of "inviolable private property" in these countries cannot escape the development of the social function of property in the modern world.

Next, as a conclusion, it can be said that the European Court of Human Rights is developing an evolutionary case law that aims to respond to social change in a rapidly evolving world. These

changes necessarily affect the right to property as a general concept. Two processes are observed in this connection. On the one hand, the scope of Art. 1 of Protocol No. 1 to the Convention extends to the regime and content of protection. On the other hand, European practice influences the traditional understanding of property law and property.

One of the most significant phenomena observed is the so-called "socialization of property". Extended case law is giving more and more personal importance to property. The European Court of Justice emancipates itself from the national rights of the Member States and goes beyond the traditional framework of protection. There are numerous cases under Art. 1 of the Protocol, which also protects non-property rights inextricably linked to individual citizens. From these processes it is necessary to rethink the division of rights into material and personal. A right can be protected under the Convention only because it sees a property interest worthy and important to the person, without necessarily requiring the right to be a property right.

The multifaceted vision of ownership also affects the quality of protection. The court strengthens its discretion when specifying the concepts and norms applicable to different situations. Except with Art. 1 of the Additional Protocol, property is already protected by other texts of the Convention, which operate in parallel. All this strengthens protection and allows property to be seen as a fundamental right

The modern protection of property that the European Court provides can be seen as pluralistic. This affects the objects of protection and the applicable regimes. But in this connection it should be mentioned that the doctrine notices a phenomenon called the crisis of property law in "its identity, unity and coherence." This is a specific postmodernism in property law, which opposes the monolithic concept of modern property.

But on the other hand, the establishment of property as a fundamental right goes through the process of distinguishing from traditional property and non-property elements. And also through the processes of increasing European control. The case law of the European Court of Human Rights seeks to impose the protection of a supranational property that is different from the protection of national property rights. And all this is done with a clear vision for the protection of human rights in the modern world.

A new epoch is coming in property law, which can no longer be ignored. We do not live in an isolated world, we are part of the European family. As has been commented more than once, despite the European Court of Human Rights' dependence on the national designation of "defensible possession", national systems can no longer ignore the existence of such a different

practice. It should be respected and included in the courses in property law at the Law Faculties of our country.

II. Articles

The compensation - guarantee against arbitrary actions regarding the ownership right, Ownership and Law, issue 1/2019г., с. 8. ISSN 1312 – 9473.

The article deals with the issue of ownership compensation right considering the practice of the Bulgarian Constitutional Court and the Human rights European Court in Strasbourg. The compensation of owners appears to be acknowledged explicitly enough in cases of deprivation of ownership or, in other words, when it comes to extremely serious and drastic violations in exercising of this right. A review of various practices is prepared aimed to contribute to outline a more complete picture as a whole in the field of compensations, and this subsequently contributes to outline general conditions, but differences as well. As a result of the analysis is made an attempt to extract some general characteristics of the compensation. However, the compensation for damage caused due to deprivation of the right of ownership cases is a subject of different interpretations in the practice of the Human rights European Court. Traditionally a transmission to the general principles of the international law could be observed. According to these principles the issues, related to the private property of the foreigners and the foreign legal entities are decided unambiguously, namely every nationalization or expropriation is legal only in case it corresponds to a public interest, doesn't contain any discrimination and is accompanied by compensation. In the Court practice are stated the issues of compensations both in cases of expropriation of property and nationalization of property. The requirements of the Human rights European Court are also extracted and compared to the internal jurisdictional requirements considering the compensations.

The specifics of co-hereditary relations at application of the presumption of art. 69 3C, B: Collection of scientific research in memory of docent Cristian Takov, University Publishing house "St. Kliment Ohridski" C., 2019, p. 192 – 198, ISBN 978-954-07-4746-0.

The subject of the article is to outline the specifics of relations between the co-inheritors in cases of application of the presumption of art. 69 3C, B. At the same time a critical analysis of the court practice is made stating some issues for interpretation. The aim of this reasoning is to observe the issues of intention of acquisition prescription and the presumption of art. 69 3C from one more point of view as well as to consider the existence of life hypotheses which

impose a different attitude towards the owners. Of course under no circumstances should the co-inheritors suffer. Eventually the successful justice has always sought the rightful balance. When it comes to acquisition prescription of co-hereditary properties what counts more is not the factual behaviour nor the internal intention but the leading principles are different - guarding and protection of the status quo and the hereditary properties. Close relative relations between the co-inheritors and the awareness that the common object is acquired from a common heir, assume a moral behavior, namely not to engross undivided shares of the rest co-inheritors. These are the leading principles imposed by the hereditary law. The establishing of co-ownership in another way obviously misses this specific of relations. The interpretative decision and general courts are not supposed to declare a presumption rebutted only by the assertion of the fact of co-inheritance.

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Panayotova-Chalakova, L. Cultural values of material and intangible character. Comparison and relation with the objects of intellectual property. - Property and law, 2019, b. № 10, ISSN 1312 – 9473, p. 81-87.

The introductory words predefine the structure of the current article. It aims at reviewing kinds of cultural values in the light of the fact that they are not similar as objects. They could both have material and intangible character. The tangibility also being subject of the property law are subjected to ownership regime and limited property law with the corresponding strictly appointed exceptions. The intangibilities by necessity are also objects of intellectual property and have in common with the copyright law and similar rights again with the respective exceptions. The tangibilities themselves in the light of the law are subdivided into movable property and immovable property. What unites them is that they all are featured as cultural values and are specially protected by law. But the characteristics of the object itself affects the ownership regime and disposal of real rights. With movable cultural values some kind problems occur in practice, with immovable properties - other kind. For archeological objects and collections the law dictates special rules although they belong to the corresponding groups of immovable and movable cultural values. The topic of research in the article is the factors that impose different treatment of these objects by the legislator.

The control on proportionality and right to property /the influence of the European and the Constitutional . In : Collection „Scientific readings devoted to 140th anniversary of the

adoption of the Tarnovo Constitution“, organised by the Law faculty of Plovdiv University Paisii Hilendarski, Siela, 2019, ISBN 978-954-28-3043-6, p. 389-409.

This article is reviewing the issues of control on proportionality related to the right to property. In the article this notion comprises seeking of balance between the common interest and that of the particular owner. The European and Constitutional judges in their practice rely on objective elements, legal basis and the qualities of the legal acts. In many of decisions could be noticed tracing of procedures of deprivation of property rights and the availability of sufficient procedural guarantees for the complainants. A very important issue related to the control is the availability of relevant compensations. If the above mentioned circumstances are missing, the court doesn't hesitate to assume arbitrary intervention in the right to property and the subsequent sanction. Summarised this forensic examination is called control on proportionality. In the jurisdictional assessment is decided whether a relation between the damaged right to property and the public interest exists where the second interest prevails. However when the particular aim of the intervention in the property is examined, the judges remain cautious in their decisions. The European Court in Strasbourg avoids direct intervention in the judgements of the particular countries because they reflect their national sovereignty and define the national aims. In such cases it requires from the countries to provide sufficient justification leading to property intervention. And the Constitutional Court on its side requires from the legislator to state the precise public interest satisfied by a particular measure in relation to ownership. In many cases however the judges avoid imposing in the decisions their own judgement about the facts of the countries. The article comes to the conclusion that however renovated the defense of the property right is, it still remains relative and incomplete. And the situation is this way because regarding this issue both European and Constitutional courts abstain from a more serious control related to the aims. In fact they announce as invalid only the extremely serious property interventions exceeding all the normality.

Features in ownership regime of cultural values in Bulgarian law. Siela norm, issue. 9-10, 2019, ISSN 1314 – 5126, p.5 – 33.

This article aims at examining the kinds of cultural values according to their different classifications. First of all attention is paid to the fact that the cultural values are not homogeneous as objects. They could be of both material and intangible character. The material objects are objects of the property law as well thus subjected to the ownership regime and limited property law with the corresponding explicitly appointed exceptions. The intangible objects are by necessity objects of the intellectual property as well and they have in common

with the objects of copyright and its similar rights again with the respective exceptions. The material objects themselves within the meaning of the law are subdivided in movable objects and immovable property. What unites them is that they all are featured as cultural values and are specially protected by law. But the characteristics of the object itself affects the ownership regime and disposal of real rights. With movable cultural values some kind problems occur in practice, with immovable properties - other kind. The article also pays attention to disputable regulations in the law like for example paragraph 5 (2) from the transitional and final provisions of the Cultural Heritage Act which was declared unconstitutional. The decision of the Constitutional Court is directly related to the movable cultural values and the development of our legislation in the time. The above paragraph used to assume that during the process of identification and registration as cultural values - national heritage, the ownership right upon them is only established with an official document. The people who have established actual possession of movable archeological objects or movable archeological monuments of culture until the entering into force of Cultural Heritage Act, during the process of their identification and registration as archeological movable values - national heritage, cannot establish their property right, referring to the expired acquisition by prescription. It is obvious that the text of the provision is in contradiction with some general institutions for Bulgarian civil law like those of inheritance and acquisition by prescription.

Non traditional views of ownership in the practice of the European Court of Human rights /Protocol № 1 of the European Human Rights Convention/, magazine. Norm, issue.2/2018, /February/. /. ISSN 1314 – 5126.

In the article is examined the issue that the European Court of Human rights imposes a radically different notion of ownership. However this notion could possibly lead to confusion among those scholars who support the classical understanding of ownership in the property right. The confusion has even deeper roots because it affects classical postulates of the the general theory of civil law, namely the division between the property and no property rights. No property elements by nature represent trends within the defense, established in art. 1 of the Additional Protocol of the Convention. This is necessary because the European Court discovers in them significant property interest requiring defense. To be more detailed here should be stated the reasonable expectations, copyright, social rights, personal data and even the human body. All the above listed by their nature are no property rights, but containing property interests they lead to a hyper-properitation in the European jurisdictional practice. All this goes beyond the classical understanding of property and ownership. The Civil lqa doctrine is supposed to take

into account this new trend, which is developing and enriching the property right. The ownership is treated nowadays as a aggregate of property assets bringing benefits to the legal entities. This new concept of the ownership is not random - it is a result of an evolution on internal and European level. This evolution leads to a very different and independent practice from the practice of the courts on internal level in different member-countries. In this line of thinking it could be claimed that there will be a future influence of this practice on the law of the separate countries.

The objects and the intellectual property. Ownership and law, is. 3 /2018.,p. 75. ISSN 1312 – 9473.

The article is an attempt to trace the common grounds between the property law and the intellectual property in the nowadays reality, influenced by the current practice of the European Court of Human Rights. Traditionally the property law and the intellectual property have their own independent field and significance in the civil law. the development of the property law is dating far back in the ancient times and the intellectual property has started its existence and development just since the beginning of the 15th century. The Roman law wasn't familiar with the intellectual property in the contemporary sense of the notion, but even then the existence of intangible objects was acknowledged and they were defined as objects. The article comes to conclusion that if a deep analysis of this development should be made the attention should be focused on a short historical and theoretical review of these notions in Europe, including Bulgaria. Next the article puts an emphasis on the contemporary trends in the practice of the European court which inevitably influence the separate member-countries. From the historical and legal juxtaposition some conclusions and cross-relations are outlined.

Some reasoning related to the lease contract in the agriculture /in relation to interpretative case № 1/2018, изх. № Joint meeting of Civil and Commercial Commissions. Ownership and law, is. 6/2018г., p. 53. ISSN 1312 – 9473.

It is indicated in the article that the lease contract in agriculture raises a lot of specific issues both for law enforcement and the judicial practice. The statement pays attention to only one specific problem related to this contract, namely the issues raised in interpretative case № 1/2018, изх. № Joint meeting of Civil and Commercial Commissions /. In relation to the constituted interpretative case in the Supreme Court of Cassations is raised the question if the scope of the due inspection of the Judge Registry includes the substantive prerequisites of art. 3,/4/ of Agricultural Lease Act/ State Gazette, is. 13/2017, effective from 07.02.2017/, when

registering an annex to a lease contract in agriculture or a new lease contract in agriculture, signed after the change of norm. The article comments that the interpretation of the of the norm of art. 3,/4/ of Agricultural Lease Act could lead to unification of practice but it should be interpreted in the context of the whole registry regulation and the functions of judges registry according to registry rules and Provision № 2/2005. From the analysis of art.3 of Agricultural Lease Act can be concluded that it is a norm which settles the competition between two or more lessors in case of availability of land co-ownership. A position is expressed that in the concrete hypothesis of art.3 of Agricultural Lease Act /effective from 07.02.2017/, a preliminary inspection by the Judge Registry would not overload their work but would guarantee better the rights of the co-owners - farmers. This interpretation would be better synchronized with the new real registry system prevailing in the country and gives opportunity to judges registry not only to registry rights but to decide upon their validity.

The application of Presumption under art. 69 of Property Act towards relations between co-hereditors/a comment related to interpretative decision № 1 from 06.08.2012., Joint meeting of Civil Commissions на Supreme Court of Cassation/. , is. 7 /2018, p. 44. ISSN 1312 – 9473.

The article makes an attempt to look from a different point of view on the expressed positions in the interpretative decision № 1 from 06.08.2012., Joint meeting of Civil Commissions на Supreme Court of Cassation about the application of Presumption under art. 69 of Property Act towards relations between co-hereditors. SCC treated two important for the legal practice issues, namely :1. Is Presumption under art. 69 of Property Act towards relations between co-hereditors applicable when their co-ownership arose from a juridical fact different from inheritance? 2. Does the co-owner who is referring to possessory title of an undivided share have to prove in an ownership argument that he/she had completed actions to objectify to co-owners his intention to own their undivided shares or his intention is suggested on the grounds of art. 69 of Property Act and it is enough for him/her to prove exercising factual possession of the whole property in the term stated in art.79 /1/ of Property Act? As an outcome it is highlighted in the article that the relative ties between the co-owners and the awareness that the common object is received from a common hair suggests a moral behaviour - not to engross the undivided shares of the other co-owners. Hence the establishment of co-ownership in another way obviously lacks such specifics of the relations. The argumentation of the court is supposed to state this sense of the interpretative decision, not the sense of declaring a presumption rebutted only by the constatation of the co-inheritance.

Development of object classification within the civil circulation /res in comercio/ and objects out of civil circulation /res extra comercium/. Studia iuris, is. № 1/2018, http://studiaiuris.com/en/14;jsessionid=2655D7E5E16D9D837F68EE8614DFA748, ISSN 2367 – 5314.

The article is viewing the well-known classification of objects res in comercio and res extra comercium of the Roman private law, but taking into account the modern development and trends. The conclusion is made that in Roman law this division had a different meaning because it applied to a rather different categories of objects compared to the present day.Thus according to the ancient Romans the category res extra comercium included res omnium communes, res divinis juris, res publicae. The first category from the above listed objects in the contemporary law as it is generally accepted are objects for common use. The article is commenting various multilateral international agreements in the field of environment protection in relation to some specific objects such as the air, the water, the sea, the running waters. The two other categories /res divinis juris и res publicae/ which are extracted from civil circulation because in the Roman law they were subjected to the sacral and public law are also reviewed. Nowadays it is accepted that it is not necessary to distinguish the category res divini juris because the sacral low superior to the law established by the state does not exist any more. The division of law into private and public also does not impose different treatment of private and public objects. At present day all objects could be included in the circulation but for different purposes and adhering to different procedures. The issues of general conditions related to the ownership in different religions are reviewed as well. The state acknowledges and sanctions a relative independence in the property management and disposal in different religions regarding property and object disposal transactions. The article analyses as well the public and private property of the state and municipalities and the condition of so called res nullius. These are objects belonging to no property but they could be conquered. This division matters in studying of particular ways of property acquisition through conquering in the matter of possession.

The notion of objects – B : collection „Law – traditions and perspectives“, Anniversary scientific conference devoted to 25th anniversary of the establishment of Law Faculty in Plovdiv University Paisii Hilendarski, Siela norm, 2018., p. 135 – 151. ISNN 978 – 954 – 28 – 2625.

the article is examining the development and trends of the general notion of objects. It is appointed that it is a basic notion for the civil law in a broad sense and for the private law at all. Currently it is studied mainly in two civil law disciplines– civil law – common part and property

law. An attempt is made to extract from these disciplines general definitions about objects to be applied not only in the in the private law but almost in all fields as well - constitutional, criminal, administrative, environmental, medical law etc. Recently the European Union law acquired an exceptional significance. The article highlights the fact that the European law has a crucial impact on the matter of objects. Some similarities and differences about objects in the court practice on the internal and European level are revealed. The article briefly traces the development of the notion of objects from the Roman private law through the bourgeois epoch to the contemporary condition of the united Europe. It emphasises the influence of this development on Bulgarian law which is already a part of an united European law system.

European and constitutional aspects of the owners' powers – magazine Legal thought, is. 1/2017г., p. 28. ISSN 1310-7348.

The article is making an attempt to examine the notion of the property right in a broader context than the traditionally accepted one in our real right literature, namely just as a real subjective right. Its constitutional and European dimensions have remained underestimated so far and in the modern world the ownership is defended not only by civil law means but it is also present as issues both in the constitutional and European court practice. This global view could bring the corresponding changes in the perception of that law and the outlining of its new content ; the big issue of the human rights is entering more sensitively in traditional fields of internal law and affects more and more institutes of the private law. The analysis in the article is expected to contribute for broadening horizons towards this real law and abandoning the idea as well that it is a subject of regulation mostly in the internal law.

The fees for attachment of the bank accounts assets of the debtor – magazine Norm, is. 1/2017, in co-authored with Ivaylo Vasilev, p.43. ISSN 1314 – 5126.

The article is making an attempt to give a solution to an arguable issue in interpretative case № 3/2015 in the inventory of Joint meeting of Civil and Commercial Commissions of the Supreme Constitutional Court. The arguments are that the issue is of a significant social value in the regulation of relations between the creditor and the debtor. The question is „does the distraint message to a bank constitutes an act of seizure in the hypothesis the bailiff received an answer on the grounds of art. 508, / 1/ Civil Procedure Code that the debtor does not have an account in the respective bank?" In our view the responsibility for enforcement cases expenses is times higher than the the amount due in the execution writ. This is because of the disproportionate enforcement actions taken. Therefore we conclude that in case the debtor of the enforcement

case lacks bank account to which is the incumbent, the subject of the enforcement actions is not available and the debtor should not take responsibility for this fee. It should remain chargeable to the creditor.

Development of the classification of objects as movable and immovable. The influence of the European law and court practice. Property and Law, is. № 9/ 2017 г., p. 13. ISSN 1312 – 9473.

The article raises the question that within the most classical classification, studied in the Property Law - division of objects to movable and immovable some changes are noticed over time. Different reasons lay at the base of these reasons. On the one hand exist purely historical reasons because of the adoption of the object notion in our country from the European Civil codes. On the other hand the reasons are of socio-economic and political character. A particular contribution in this sense had the admission of our country in EU and the application of the European Convention of the human right, the Additional Protocol № 1 to it and the practice of courts in Strasbourg and Luxembourg. Although the above cited Convention defends mainly violated civil and political right,s the economic rights of the individuals such as the right to property are no more excluded from its scope. It happened through the adoption of Additional Protocol № 1 in 1952. But only in 1979 the European judge formally recognised the provision of art.1 of the Protocol guarantees in its essence the property right. These circumstances led to alteration in understanding of property objects and a new look upon to already established qualifications. To the present date is observed development in the kinds and meaning of both movable and immovable objects. In the analysis is observed also a trend – through all times the significance of land understood in its different funds, does not decrease. It remains the main symbol of immovable property and it could be seen in the decisions of different jurisdictions. The article is reviewing the decisions of the court in Strasbourg referring to particular objects such as works of art, energy natural resources, family memories and others.

The ownership - historical and legal aspects – Studia Iuris, is. № 2 /2014 http://studiaiuris.com/en/14;jsessionid=2655D7E5E16D9D837F68EE8614DFA748, ISSN 2367 – 5314.

In the article the ownership is presented as an occurrence observed by different sciences. It is assumed that to cover the property issue as a whole it is necessary to pay attention at least to three different directions in its study. Firstly - as pure historical perspective of origin and development, secondly – as existing in the contemporary world jurisdictional systems of property and thirdly – as theoretical formulation which shows the ideas standing behind one or

another legislative definitions of property. The article does not suggest a whole analysis in the three directions because of the limited volume. The aim is rather to outline the frames and to indicate some interesting facts and ideas. It traces the property development in the ancient world, Roman private law, feudalism and the modern times. To be more complete it shows the end of the existing property systems in the modern world - the anglosakson, continental, and of the former socialist countries. Some features of the Bulgarian property systems are also indicated.

Changes, which appeared in real estate in the course of initiated enforcements – Order and law, is. 6/2015г., p. ISSN 1312 – 9473.The article presents some problems arising in practice due to changes in real estate cases.

It was provoked by questions and comments faced by debtors and judicial authorities in particular cases. The aim of this report is to analyse the existing judicial practice and theoretical solutions up to now. It is indisputable that the real estate, similarly to people, does not remain the same in time, changes of different character happen with them. The article is interested not in the changes in general but in those which appeared after the enforcement proceedings provided by law started. Exactly then the change could affect the rights and interests of different legal entities - bailiffs, debtors, third parties, banks and others. The first group of problems refers to a change of the purpose of the property, which is under creditors' demand and in an enforcement procedure. The second group of issues refers to the changes in property after creating a mortgage upon it. More often the problems in these cases refer to the development of the property and spreading of mortgage over the construction subsequently. The construction could be performed by the owners themselves or it could be a consequence of the creation and implementation of right in rem /the surface right of art. 66 and Property law/ in a property already a subject of enforcement proceedings .