

In the Western Roman Empire in the early Middle Ages, The Justinian codification was not used widely, instead of the collections of separate kingdoms (especially *lex Romana Wisigothorum*). Only in Italy after the destruction of the Ostrogoth kingdom the Institutions, the Code and the Novels were used. Digests were applied up to the middle of the XI century and were unknown in the Western Roman Empire. Around the mid-19th century was found the Digest manuscript, later called Florentine. This finding gave impulse to the revival of Roman law (especially in outstanding law school of Bologna) [5].

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Bilai Vladislav,

*Student of the 1st course of the Institute of Criminal Justice
of the National University «Odessa Law Academy»
Research advisor: PhD, associate professor Nekit K.G.*

INFLUENCE OF ROMAN LAW ON MODERN UKRAINIAN CIVIL LAW SYSTEM

Modern Ukrainian law system is mostly based on civil law system of Ancient Rome. Current Civil Code of Ukraine states and broads main principles of Roman private law. These principles are equality before the law (*aequitas*) , justice(*iustitia*),*bona fides*, freedom of will(*libertas voluntatis hominis*).

It's hard to name all the clauses of our Civil Code which are borrowed from Roman law. This applies as a general rule of law, and the status of persons, the limitation period, the substantive and binding rights of certain types of contracts, inheritance law, etc.

Our Civil Code is built according to the Gaius and Justinian statements: person – item – obligation. The system of legal capacity in comparament with Ukrainian is slightly the same. The difference is goals of those actions. Ukraine have the institution

of guardianship and trusteeship too but the goal of this institution is to protect the rights of the person according to the article 6 of Civil Code of Ukraine while in Rome the goal was to protect the property of juvenile person.

Classification of items was also influenced by Roman law. Items are split on material and immaterial (*res corporales* and *res incorporales*), movable and unmovable (article 181 of Civil Code). We still have the same ways of pledge like hypothec (article 575 of Civil Code) [4].

It is established that the existing norms of easements are a partial reception of Roman law. The difference lies in only a few minor ones provisions, in particular: the presumption of payment of servitude, mandatory state registration of land servitude, expansion of the court's ability to establish and stop servitude, and also establishing a special type of personal servitude, similar to *habitatio* – the rights of family members of the owner of the dwelling for the use of this dwelling (chapter 32 of Civil Code) [3].

But not all of the roman norms can be properly used now. Like the *Superficies* as during the Soviet times all of the items were common. When the new Civil Code was issued it was necessary to make a system of using the other people property. In accordance with Part 5 of article of 413 of the Civil Code of Ukraine the term of land usage of state or communal property for construction not may exceed 50 years. Of course, such regulation, whatever it was called, generates a lot of problems associated with the term of construction (the construction of the object) and operation of real estate, as these terms can not be short. And for the real estate 50-year term called long – is inappropriate, because it is unlikely you can count on modern realities that real estate is reduced fast and should serve less than 50 years. Inevitably, in this connection, there will be a question about what will happen next to this real estate in case of termination of the *superficies* and not renewal of this right to the second term or with this right itself.

Chapter 34 of the Civil Code of Ukraine does not contain pre-emptive right *superficiary* to extend the term of his right use of someone else's land in case of normal condition real estate and the inexpediency of its destruction (demolition). Obviously, in this in the sense of the right *superficiary* is narrower than the rights of the tenant, which is pre-emptive right (Article 777 of the Civil Code of Ukraine) [1]. Thus, Ukrainian law does not the stability of legal relationships is ensured during construction, which does not allow proper use *superficies* for these purposes.

On the other hand, article 417 of the Civil Code of Ukraine guides the sides of the *superficial* relationship to reach an agreement on the legal consequences of their termination the line. Otherwise, the owner of the land plot has the right to demand

from the owner of the building (structure) of its demolition and bringing the land to a pre-rental state [5].

It feels that the authors of the Civil Code of Ukraine has attracted the roman-German legal system to which it is approached Ukrainian modern legal system, although it has certain peculiarities. The creators of the Civil Code of Ukraine also studied other existing Civil Codes of Western European States and used all the valuable things that have come into the treasury of world civilization. The expediency of using the ideas is also clear [2].

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