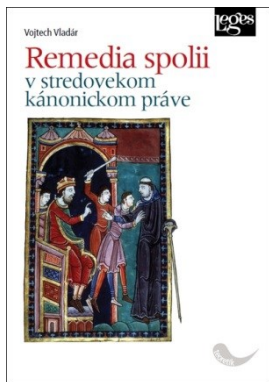


Vladár, Vojtech:
Remedia spolií v stredovekom kánonickom práve
[Remedia Spolií in the Medieval Canon Law].
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Miriam Laclavíková
Štefan Siskovič

Abstract: *Reviewing the monograph Vladár, Vojtech: Remedia spolií v stredovekom kánonickom práve [Remedia Spolií in the Medieval Canon Law].*

Key Words: *Review; Monograph; Remedia Spolií; Medieval Canon Law.*



Presented monograph, written by the Trnava colleague doc. JUDr. Vojtech Vladár, PhD., offers an interpretation of the legal-historical foundations of development of the possession protection in the continental legal system. His analysis of the possession protection development is based on the research of application of the middle age Canon law procedural institutes: *exceptio spolií* and *actio spolií* (called together as *remedia spolií*). Author focuses his research chronologically on the period between the 9th Century and the 15th Century, with multiple overlaps to later periods.

The book as a whole is worked up as a historical and legal-historical analysis (because of what it gets a wider meaning and determination) oriented especially on characteristics of the major milestones of relationship between the Catholic Church and the medieval State. The book's first chapter is devoted to development of the law institute *exceptio spolií* during the 5th – 9th Centuries (i.e. period of the nation migration, formation of the Germanic Kingdoms and of the Holy Roman Empire). Author's analysis of relations between the State and the Church in the Western Europe confirms the dominance of the State and its power over the Church in

those times which led gradually to close cooperation between them. A strong central power, the concept of the Church property as property of the State (Imperium), and frequent seizing of the Church beneficium were, from the historical point of view, the main causes of formation of the procedural objection *exceptio spoli* which has been influenced by the Pseudo-Isidorian falsifications that were based on the Roman law (the interdiction *Unde vi*). The logical structure of the second chapter is similar to the first one. It begins with the characteristics of the legal-historical development of relations between the Church and the State during the period of the 9th – 12th Centuries on the background of the Holy Roman Empire creation (the coronation of Otto I in year 962), the Investiture controversy, and the Gregorian reform which ended in the Concordat of Worms (1122). After a period of the State dominance over the Church during the reign of the Carolingian and Ottonian dynasties became the period of the high Middle Ages a period of the papacy superiority over the Empire. The new relations between the State and the Church have created opportunities for development and enforcement of new legal concepts that were protecting not only possession of priests, but also, in general, the whole ecclesiastical property. A major development can be observed in the area of the Canon law. The top work of that period became the *Decretum Gratiani* (year 1140) on basis of which a separate charge called *actio spoli* was formulated. The third chapter of the monograph begins with an interesting analysis of creation and development of legal science and legal professions in connection with the advancement of legal studies at the medieval universities, with particular regard to the development of the Canon law. Afterwards, the author devotes his attention to the *ius commune* that is a compact and universal law of the European Middle Ages that consists of the Justinian Roman and Gratian as well as the Papal Canon laws. In this chapter we can find also an analysis of development of the *remedia spoli* institutes and their influence on application of possession procedural protection in medieval England, France, the Netherlands, and Germany. The fourth chapter presents an outline of the *remedia spoli* impact on the modern civil law codifications.

In conclusion it can be stated that the monograph tried to analyze a wide range of factors and assumptions that are connected with formation of the *remedia spoli* institutes which corresponds with the author's inventive work (a complex problem elaboration, new insights, and contextualization of the known facts within the general framework). A certain caution could be useful by generalization of statements that de-

scribed the development of the Europe, because the analyzed data and author's formulations are valid only for the development of the Western Europe, but not for the Eastern Europe or Hungary which included also the territory of Slovakia. The monograph as a whole is written in an engaging, attractive, and understandable language. Presented title is a very pronounced work that can be interesting not only for the scientific, but also for the lay publics.

Doc. JUDr. Miriam Laclavíková, PhD.

Faculty of Law
Trnava University in Trnava
Kollárova 10
917 01 Trnava
Slovak Republic
miriam.laclavikova@truni.sk

JUDr. Mgr. Štefan Siskovič, PhD.

Faculty of Law
Trnava University in Trnava
Kollárova 10
917 01 Trnava
Slovak Republic
ssiskovic@gmail.com