Problematic case-law of the Constitutional Court of the Czech Republic on the legal nature of the pavement - is it a separate immovable thing or part of the land? Commentary on the decision of the Constitutional Court of 25 June 2019, no. III. ÚS 2280/18 (iThenticate Similarity Report)

WORD COUNT	6506	TIME SUBMITTED	11-JUN-2023 07:38PM
		PAPER ID	100415753

Faculty of Law and Administration

STUDIA IURIDICA LUBLINENSIA

Problematic case-law of the Constitutional Court of the Czech Republic on the legal nature of the pavement - is it a separate immovable thing or part of the land? Commentary on the decision of the Constitutional Court of 25 June 2019, no. III. ÚS 2280/18.

Problematyczne orzecznictwo Sądu Konstytucyjnego Republiki Czeskiej w sprawie charakteru prawnego chodnika - odrębna nieruchomość czy część składowa gruntu? Komentarz do wyroku Sądu Konstytucyjnego z dnia 25 czerwca 2019 r., sygn. akt III. ÚS 2280/18.

ABSTRAKT

The legal nature of construction is a popular topic in Czech case-law practice and legal literature. The basic problem of the whole concept of determining what is and is not a building is the prevalence of private law thinking and the disregard of building as a public concept, especially construction and, law. The legal nature of pavements has been highly debated. The legal nature of a pavement has already been the subject of some debate in the past, and it is not possible to decide whether it can be regarded as an immovable property under Czech law without knowing specific facts. According to the judgment of the Supreme Administrative Court of the Czech Republic of 24 January 2018, no. 6 As 333/2017, the character of a pavement is determined by the factual situation on the ground. The Constitutional Court of the Czech Republic also raised the question of the legal nature of the pavement in the context of the dispute over ownership. The commentary rejects the legal opinion adopted in the commented judgment, according to which the pavement constitutes a separate thing, not a part of another thing, in this case, the land.

Keywords: pavement; ground road; thing; construction; structure; building

SOURCE

On 25 June 2019, the Constitutional Court, composed of President Josef Fiala and Judges Radovan Suchánek and Jiří Zemánek (Judge-Rapporteur), decided on a constitutional complaint filed by the municipality of Staré Město under no. III. ÚS 2280/18, concerning the legal nature of pavements. By this judgment, the Constitutional Court upheld the constitutional complaint of the municipality of Staré Město ("the complainant") and annulled the resolution of the Supreme Court of the Czech Republic of 27 March 2018, no. 22 Cdo 4330/2017 (as well as the judgment of the Regional Court in Ostrava of 9 March 2018, no. 56 Co 65/2017-238) on the grounds of alleged violation of the complainant's fundamental rights to judicial protection and protection of property under Article 36 (1) and Article 11 (1) of Constitutional Act No. 2/1993 Coll. Charter of fundamental rights and freedoms as components of the Czech Republic's constitutional order.[1]

[1] Header of the operative part of the decision no. III. ÚS 2280/18.

In the judgment the Constitutional Court reached a conclusion that completely "denied" the long-standing and constant case-law of the Supreme Court regarding the legal nature of the sidewalk, thereby introducing fundamental legal uncertainty into legal practice.[2]

Equally cautionary is the fact that the conclusions of the Constitutional Court are, in contrast to the conclusions adopted on this issue by the Supreme Court, dogmatically incorrect, as they do not respect the premises of Act No. 89/2012 Coll. the Civil Code as amended (hereinafter referred to as the "Civil Code") and its relationship to Act No. 13/1997 Coll. On the Road Network as amended (hereinafter referred to as the "Road Act"). From a formal point of view, the judgment in question can be criticised for being wholly inadequate in reasoning.[3]

DECISIONS OF THE GENERAL COURTS

The essence of the dispute was the determination of ownership rights to a pavement located on a plot of land in the cadastral area of Staré Město u Frýdku-Místku owned by the company LEKOS, spol. s r. o. ("the complainant"). The complainant disagreed with the appellant's intention to connect its land plot no. 1972/89 and others in the cadastral area of Staré Město u Frýdku-Místku by an exit to the regional road no. II/477 Ostrava - Frýdek - Baška. The establishment of the exit also includes the relocation of the pavement in question, for which the appellant has issued the relevant permit by the Frýdek-Místek Municipality.[4]

The judgment of the District Court in Frýdek-Místek of 11 November 2016, no. 16 C 72/2016-16, established that the complainant is the exclusive owner of the pavement on plot no. 1972/89 registered on the ownership certificate no. 756 for the cadastral area of Staré Město u Frýdku-Místku, municipality of Staré Město, registered at the Cadastral Office for the Moravian-Silesian Region, Cadastral Workplace in Frýdek-Místku[5], as it is an independent thing in the legal sense.[6]

An appeal against this decision was filed with the Regional Court in Ostrava, which found in favor of the complainant and overturned the judgment of the District Court in Frýdek-Místek. The District Court in Frýdek-Místek incorrectly assessed the established facts,

[2] On this, cf. the text below.
[3] The main part of the reasoning of the judgment is concentrated in Part V. "Assessment of the merits of the constitutional complaint", specifically in paragraphs 13-15.
[4] Decision of the Constitutional Court of the Czech Republic no. III. ÚS 2280/18, pp. 3, paragraph 9.
[5] Cf. ibid., pp. 1-2, paragraph 2.
[6] The case-law on the definition of whether a road is a separate thing is inconsistent (cf. the Constitutional Court's resolution of 20 May 2014, no. III. ÚS 2128/2013).

according to the Regional Court in Ostrava. The Regional Court in Ostrava subsequently assessed the facts in such a way that the pavement in question is essentially a paved asphalt surface, the substrate of which originally consisted of slag, later gravel, or other rubble, and the top layer was finished with a several-centimeter-thick asphalt surface. There is an exception to the rule that a construction consisting of only a certain type of land improvement is not, in principle, a separate matter, and the Regional Court in Ostrava does not consider that the pavement under consideration constitutes such an exception in the facts of the case. The Regional Court in Ostrava therefore automatically took the view that the pavement in question cannot be regarded as a building in the civil law sense and is therefore not a separate thing in the legal sense, but is instead part of the land and belongs to the company as part of the land.[7]

The applicant sought to enforce its rights before the Supreme Court of the Czech Republic. Although the dispute was primarily about the determination of ownership, the reasoning of the Regional Court in Ostrava overlooked the fact that throughout the proceedings, the question of whether it was a separate case was completely resolved. The applicant also requested an expert report to assess the construction design of the pavement in question and determine its legal nature on that basis. However, the Supreme Court held that the appeal was inadmissible and further reasoned that the Regional Court in Ostrava had explained in a sufficient and logical manner what considerations had led it to not regard the pavement in question as a separate matter. The Supreme Court acknowledged that the case was, to a large extent, a borderline case and that, in general, in similar disputes, the courts use expert evidence, but in the present case, the decision was not conditional on the taking of such evidence, inter alia, because there was no disagreement between the parties regarding the technological method of construction of the pavement.[8]

The applicant, therefore, had no choice but to turn to the Constitutional Court, which was found in her favor.[9]

LEGAL ISSUE OF CONSTRUCTION

[7] Op. cit. sub. 4, pp. 2, paragraph 3.
[8] Op. cit. sub. 4, pp. 2, paragraph 4.
[9] Cf. operative part I. and II. of the Constitutional Court's decision no. III ÚS 2280/18, pp. 1.

For many years, the prevailing principle has been that the assessment of a building is different from the point of view of public and civil law has been in force, where the legislator has not defined this concept and it is not even evident from the law that he wanted to define it at all; there is only a considerable amount of case-law[10] and legal literature[11] that has explained this concept from the point of view of private law and at the same time has given this interpretation priority over the statutory concept. The legal definition of a building is regulated in Section 2 (3) of Act No. 183/2006 Coll. on town and country planning and building code (Building Act), as in force until 1 July 2023 (hereinafter referred to as the "Building Act"): "As a structure it is understood all the built structures, which are made by building or assembly technology, without respect to their building technical execution, applied structural products, materials and structures, for the purpose of utilization and duration period".[12]

It follows from the judgment of the Supreme Court of 28 January 1998, no. 3 Cdon 1305/96, that "in cases where civil law operates with the term building, its content cannot be interpreted only in the context of building regulations. Building regulations understand the term construction dynamically, that is, as an activity aimed at the realisation of a work (sometimes, of course, as the work itself), but for the purposes of civil law the term construction must be interpreted statically, as a thing in the legal sense."[13] Relevant reasoning for the distinction between the public law and civil law concept of construction can also be found in legal provisions such as the second sentence of Section 1 (1) of the Civil Code, which states "[...] the application of private law is independent of the application of public law."[14]

I believe, however, that there is no reasonable reason to perceive one phenomenon (social reality), that is, building, *a priori* differently through the prism of private and public law. In any event, I do not question the sensibility of the division of law into private and public or the reasons for the division into these parts. However, this division is always understood in terms of the interests that dominate the area in question, that is, public law as the protection of

[10] For example, the judgment of the Supreme Court in no. 22 Cdo 2106/2009.
[11] LAVICKÝ, P. a kol. *Občanský zákoník I. Obecná část (§ 1-654). Komentář.* [in:] *C. H. Beck*, Praha 2014, pp. 2292.
[12] According to RŮŽIČKA, P. *Obrana rozhodnutí ÚS k právní povaze chodníku, zvláště sjednocení výkladu pojmu stavby*. [in:] „Advokátní deník" (online), 2021.
[13] Cf. also on this ADAMOVÁ, H., BRIM, L. a kol. *Pozemkové vlastnictví*. [in:] *Wolters Kluwer*, Praha 2019, pp. 40 et seq.
[14] The conceptual delineation of private law has contemporary critics who deny its practical significance and the possibility of drawing precise boundaries, as well as the fact that the legislator took the dualism of law into account at all, e.g., PELIKÁNOVÁ, I. *Návrh občanskoprávní kodifikace.* [in:] „Právní fórum" 2006, vol. 10, pp. 347.

the interests of society as a whole, whereas private law is understood as the protection of the rights and interests of individuals.[15]

Such a procedure would make sense if there was an obvious social need for it; in other words, if the definition of the Building Act in the civil law regime could not be reasonably applied.

An imaginary pebble was thrown into stagnant water by the Third Chamber of the Constitutional Court, which in the case under no. III. ÚS 2280/18 considers the legal nature of pavements.

CONSTITUTIONAL COMPLAINT; DECISION OF THE CONSTITUTIONAL COURT

The applicant filed a constitutional complaint against the Supreme Court decision. At its core was the claim that this decision violated her right to a fair trial "when the Regional Court did not carry out the proposed expert opinion on the composition of the pavement and instead merely stated its individual layers without further analysis as allegedly undisputed between the parties. According to the complainant, the courts failed to recognise that throughout the proceedings, the issue of whether the pavement was a separate matter was considered to be settled; therefore, no special evidence was taken on that issue, which focused exclusively on the determination of the ownership right, that is, on the questions of how the pavement was constructed and under what circumstances it was transferred to the complainant. Therefore, if the court assessed the constructional and technical nature of the pavement on its own, without expert evidence, it committed a defect in the proceedings. The applicant also disagrees with the order of the Supreme Court, which, although it acknowledged that the case was borderline, deprived the applicant of the possibility of a fresh assessment of the case by the Regional Court."[16] It is apparent that the constitutional complaint primarily challenged the procedural procedure of the Supreme Court (or the Regional Court in Ostrava).

On the basis of the file material, including the photographic documentation contained therein, the Constitutional Court concluded that the pavement in question "is not a mere paving of the surface of the land by layering natural materials or a paved asphalt surface, but a separate

[15] Cf. closer to this ELIÁŠ, K. *K justifikaci pravidla o nezávislosti uplatňování soukromého práva na uplatňování práva veřejného*. [in:] „Právník" 2014, vol. 153(11), pp. 1007-1033.
[16] Op. cit. sub. 4, pp. 2-3, paragraph 5.

(construction) object in the civil law sense, and as such is part of a local road pursuant to Section 12 (4) of Road Act the municipality on whose territory the local road lies is the owner pursuant to Section 9 (1) of that Act. This is a case provided for by law where a local road structure (of which the pavement is a part) is located on someone else's land [Section 17 (2)]."[17]

It is interesting that in its judgment of 23 March 2015, no. I. ÚS 3143/13, the Constitutional Court expressed the following opinion when assessing the legal regime of the airport runway: "The Constitutional Court is not part of the system of general courts and is therefore not in principle entitled to pronounce on the interpretation of the private-law nature of the construction of an airport runway. However, the deficiencies in the reasoning of the Supreme Court's judgment, which did not take sufficient account of the construction of the airport runway, even in the light of the existing case-law on transport structures, entitle the Constitutional Court to interfere in the decision-making activities of the ordinary courts".[18] The Constitutional Court annulled the previous decision of the Supreme Court by this judgment, but only on the grounds that it was not properly reasoned (which meant interference with the right to a fair trial)[19], not perhaps on the grounds of its substantive incorrectness. However, this was not the case in the decision under review since the decisions of the Regional Court in Ostrava and the Supreme Court were properly reasoned. Therefore, the Constitutional Court reconsidered the Supreme Court's opinion on the legal nature of the pavement.

CRITICAL EVALUATION OF THE CONSTITUTIONAL COURT'S DECISIONS

The legal nature of pavements can be viewed in two ways. The first possibility is that a pavement is a building in the sense of civil law. The second possibility is that this is not such a structure.

Furthermore, the first option may have two variants. If the pavement is a building, it can be either a separate object[20] or part of the land[21].

Tégl and Melzer state that the methodologically correct procedure is to first determine from a civil law perspective whether a certain result of a construction activity (a pavement) is

[17] Op. cit. sub. 4, pp. 5, paragraph 15.
[18] Decision of the Constitutional Court of the Czech Republic no. I. ÚS 3143/13, pp. 7, paragraph 32.
[19] Cf. ibid., pp. 6-7, paragraph 28-32.
[20] Cf. Section 3 (4) of Decree of the Ministry of transport and communications No. 104/1997 Coll. implementing the law on road traffic.
[21] Cf. Section 12 (4) of Road Act.

a building. If we can answer the question affirmatively, then we can decide whether the construction is a separate thing or merely part of the land. However, if the answer to the first question is negative, that is, the pavement is not a building, then the conclusion is automatically that the result of the construction activity is simply a representation of the surface of the land, which will always be part of it. However, the conclusion on the legal nature of the pavement must be drawn not only from private law (cf. in particular Sections 505[22], 506[23], and 509 of the Civil Code)[24] but also from public law (in particular, the Road Act).[25]

According to Section 2 (1) of the Road Act, a road is defined as "a thoroughfare intended for use by roads and other vehicles and pedestrians, including fixed installations necessary to ensure such use and safety". However, this definition does not mention the nature of private law on the road. It is notable that the Road Act divides roads into four categories, namely "motorways, roads, local roads and special purpose roads", in Section 2 (2). For motorways and roads (and, to a certain extent, local roads) the law provides for a clear regime (it can be inferred that these roads are distinct from land and have, or may have, an owner distinct from the owner of the land on which they are located); the situation is more complex for special purpose roads. The nature of special purpose roads can be inferred only under general rules.[26]

The clarity of the legal regulation, and hence of the Road Act, is not helped by the fact that "pavement" has no definition in Czech law[27] and is intertwined in the Road Act with the term "local road" in Class IV. pursuant to Section 6 (2) (d) of Road Act. From the point of view of traffic doctrine, it is a lane intended for non-motorised transport (pedestrians, or, according to special traffic regulations, for the mixed movement of bicycles or other designated means).[28]

---

[22] Section 120 of Act No. 40/1964 Coll. Civil Code in force until 31 December 2013.

[23] According to Section 506 (1) of the Civil Code, such buildings are considered to be "part of the land, with the exception of temporary buildings, including what is embedded in the land or fixed in the walls," taking into account the respected private law principle of *superficies solo cedit* (the surface gives way to the ground) - see TÉGL, P., MELZER, F. *Superedifikáty a nový občanský zákoník*. [in:] „Právní rozhledy" 2014, vol. 4, pp. 132.

[24] e.g., the commentary to the Civil Code in footnote 29.

[25] TÉGL, P., MELZER, F. *Problematické rozhodnutí Ústavního soudu k právní povaze chodníku*. [in:] „Bulletin advokacie" 2020, vol. 27(11), pp. 68.

[26] It can be noted that special purpose roads represent one of the most controversial cases of the legal regime of a certain entity as a thing (or a building in the civil law sense). Cf. e. g., TÉGL, O., ČERNÍNOVÁ, M., ČERNÍN, K., GABRIŠOVÁ, V. *Veřejné cesty: místní a účelové pozemní komunikace*. [in:] *Kancelář veřejného ochránce práv*, Brno 2007, pp. 11-16, či SPÁČIL, J. *Cesty a pozemní komunikace v praxi civilních soudů*. [in:] „Právní fórum" 2006, vol. 3(7), pp. 225 et seq.

[27] The absence of a legal definition of the term "pavement" is not a problem in case-law, cf. e.g., the judgment of the Supreme Administrative Court of 11 September 2013, no. 1 As 76/2013-27, or the judgment of the same court of 31 July 2008, no. 2 As 48/2008-58.

[28] On the pavement from the point of view of traffic construction, cf. ČERNÍNOVÁ, M., ČERNÍN, K., TICHÝ, M. *Zákon o pozemních komunikacích. Komentář*. [in:] *Wolters Kluwer*, Praha 2015, pp. 269.

This conclusion follows indirectly from Section 12 (4) of the Road Act, according to which "If they are not separate local roads, adjacent sidewalks, sidewalks under arcades, public parking lots and turnarounds, underpasses and facilities for securing and protecting pedestrian crossings are also parts of local roads."

The adjacent pavement is generally a part of the road, both in terms of public law and civil law. The problem with civil case-law in understanding the pavement is that instead of logically subordinating it as part of the main thing (i.e., the road to which it functionally belongs), it first determines whether it is a building in the civil law sense and if it finds that it is, then it considers whether it is a thing in the legal sense. If not, then it considers that it is merely a representation of the surface of the land and therefore part of the land. This very complicated procedure (often using expert reports ascertaining the structural layers) leads to two possible solutions: either it is a separate building that does not share the fate of the adjacent road or it is just part of the land.[29]

Section 9 (1), the second sentence of the Road Act, as amended by Act No. 268/2015 Coll. states that "the municipality in which the local roads are located is their owner". The fourth sentence of the same paragraph then states that "the construction of the motorway, road, and local road is not part of the land". It is therefore clear that motorways, roads and local roads will not form part of the land (and will therefore be a separate thing in the legal sense), but only if they are also a building in the civil law sense. While this assumption is almost always met for motorways and roads, this may not be the case for local roads (and even less so for dedicated roads).

In relation to the legal nature of local roads, it is first necessary to note the development of views on the legal nature of the Supreme Court case-law. In its judgment of 31 January 2002, no. 22 Cdo 52/2002, the Supreme Court stated that "local and special purpose roads represent a certain quality of land, are names for a type of land, and represent a certain representation or

[29] The case-law of the Supreme Administrative Court has undergone a certain development, which the Court summarised in detail in its judgment of 11 September 2009, no. 5 As 62/2008-59, in which it stated that „[...] The decisive factor in determining whether a building is connected to the ground by a solid foundation or whether it is part of the land cannot therefore be merely whether the building can be the question of whether or not a structure can be separated from the ground, but also whether the first condition laid down in Section 120 (1) of the Civil Code is fulfilled, i.e., whether or not it is a part of the land which belongs to the land (as the main thing) by its nature. [...]. If the doctrine concludes, when assessing whether a local road is a building or a piece of land developed in a certain way to serve as a road, that if the surface of the local road is so developed that its removal will not be possible without destroying it or at least substantially impairing its possibility or navigability, it can be qualified as a separate subject of civil law, then there is no reason not to apply those criteria to the case of special purpose roads."

treatment of its surface. Therefore, they cannot be both land and building in the civil law sense as two different things that could have different legal regimes or fates; they cannot be separated from land, e. g., transferred separately (one from the other)." Thus, the Supreme Court inferred the nature of part of the land for both local and special purpose roads.

A certain modification of this view was brought about by the judgment of the Grand Chamber of the Civil Law Division of the Supreme Court of 11 October 2006, no. 31 Cdo 691/2005, in which the court, on the contrary, took the view that "A local road could be a separate thing distinct from the land on which it was located if it were a building within the meaning of civil law that is, a building within the meaning of Section 119 of Act No. 40/1964 Coll. Civil Code, which, as a separate object of ownership, can be the subject of civil law relations. It cannot be ruled out that a local road may be a building and therefore a separate object within the meaning of civil law, and that the legal relations in respect of it may not be identical to those in respect of the land on which it was built." The decision of the Grand Chamber thus relaxed the previously absolute view of the legal nature of a local road by accepting that that type of road may be a separate thing, provided that it is a building within the meaning of civil law. Therefore, that decision cannot be understood as taking a completely contrary view of the nature of a local road compared with the previous case-law.

This line of reasoning (as adopted in the Grand Chamber's decision) was also suggested by the subsequent case-law of the Supreme Court. For example, the Supreme Court's judgment of 10 June 2014, no. 28 Cdo 3895/2013, states as follows: "On the contrary, the Supreme Court has also emphasized in its subsequent decision-making practice that Road Act only implies that a local road may be viewed as a separate matter (cf. e.g., the Supreme Court judgment of 17 October 2012, no. 22 Cdo 766/2011). Even if the car park in question was categorised as a local road, this does not necessarily mean that it could be regarded as a building representing a separate subject of civil law (in accordance with Section 12 of the Road Act, a car park may also fall within the category of special purpose roads). The conclusion that a car park, which is a plot of land the surface of which has been paved for the purpose of parking cars, is not a civil law building, which was already expressed and justified in the Supreme Court judgment of 26 October 1999, no. 2 Cdon 1414/97 (published in the journal "Právní rozhledy" no. 1/2000, pp. 35), was also accepted by the Constitutional Court (cf. e.g., the Constitutional Court's judgment of 17 April 2002, no. IV. ÚS 42/01), the case-law does not deviate. It continues to emphasise that in the case of a car park it is extremely problematic that, as a paved area, it should meet the

conditions of structural-technical and purposeful autonomy, which are necessary for it to be regarded as a building that does not share its legal regime as part of the land (cf. e.g., the Supreme Court Resolution of 23 July 2012, no. 22 Cdo 1928/2010). The Supreme Court has repeatedly held that the mere development and shaping of the land's surface in order to pave it, which is necessary for the intended use of the land, is not sufficient for such a structure to be regarded as an independent thing in the legal sense (e.g., Supreme Court judgments of 28 February 2006, no. 22 Cdo 1118/2005, or 30 July 2013, no. 22 Cdo 2417/2011). The appellants do not point to any facts (apart from the fact that the car park is classified as a local road) for which it would be possible to accept their claim that the car park in question is a separate building owned by an entity that is different from the appellants as owners of the land on which it is located. A building constituting a separate aspect in the civil law sense is considered to be the result of a construction activity, as understood by the Construction Act and its implementing regulations, if the result of that activity is a thing in the legal sense, that is, an eligible object of civil law relations, including property rights, and not part of another thing (e.g., the judgments of the Supreme Court of 31 January 2002, no. 22 Cdo 52/2002, published in the Collection of Civil Decisions of the Supreme Court of Justice under C 2901, Book 30/2004, of 28 February 2006, no. 22 Cdo 1118/2005, or of 27 May 2010, no. 22 Cdo 2682/2008). To assess whether a building is separate, it is necessary to take into account all the circumstances of the case, in particular the legal practice, and to consider whether it is expedient to make the building a separate object of legal relations, including whether it is possible to define where the land ends and the building begins (cf. e.g., the Supreme Court's judgments of 26 August 2003, no. 22 Cdo 1221/2002, and of 6 January 2004, no. 22 Cdo 1964/2003, as well as the Supreme Court's resolutions of 28 April 2011, no. 22 Cdo 2569/2009, and of 27 November 2008, no. 22 Cdo 3510/2007)."

It is worth noting that a local road will be a separate thing in the legal sense (distinct from land) only if it meets the nature of a building in the civil law sense. Thus, the assessment of whether the construction work on the land is a separate object of legal relations or part of the land in question depends on the individual assessment of the legal question (cf. the Supreme Court's judgment of 16 May 2013, no. 22 Cdo 3851/2012, the Supreme Court's resolution of 25 September 2012, no. 22 Cdo 4378/2010, and the Supreme Court's resolution of 26 November 2013, no. 22 Cdo 835/2012). However, to reach a correct legal conclusion in the case of pavements under consideration, it is necessary to have sufficient knowledge of their structural

and technical design, or their functional interconnection with other components (buildings, other roads, etc.).

When it comes to defining the concept of a "building" in the civil law sense, legal theory[30] and case-law[31] agree that this term includes five defining features. It must "be (1) the result of man's building activity, which has (2) material substance, is characterised by (3) relative compactness of material, is (4) definable in relation to the surrounding land and has (5) an independent economic function (purpose)".[32] The characters listed in Subsection (1) and (2) will generally be satisfied for a pavement, the features listed in sub. (3), (4), and (5), this may not be the case.[33]

With regard to the condition of relative compactness of material (3), it may be noted that the pavement, or surface thereof, is most often composed of asphalt, paving stones, conventional, concrete, garden paving or other surface-enhancing materials. However, it should be noted that this concept has no support in civil engineering theory. To describe buildings in terms of their construction, civil engineering terminology should be used.[34] The case-law states that the condition of compactness will generally be met by an asphalt surface covered by certain underlying layers, but not by a surface made up of any paving embedded in a dry subsoil (cf. the judgments of the Supreme Administrative Court of 11 September 2009, no. 5 As 62/2008-59 and 29 May 2009, no. 4 Ao 1/2009-58).

With regard to the condition that defines the concept of a pavement in relation to the surrounding land (4), that is, a clearly separable part of the outside world, in other words, the definiteness of the beginning and end of the pavement, it is necessary to assess each situation separately, since this concept is debatable from a structural engineering point of view. This condition is considered to be fulfilled if the pavement is clearly delimited on both longitudinal sides by a solid structural element such as concrete or stone kerbs. However, if it is just a layer of compacted gravel or other similar material, it will be difficult to determine where the

---

[30] MELZER, F., TÉGL, P. *Občanský zákoník – velký komentář. Svazek III. §* 9-*§ 654*. [in:] *Leges*, Praha 2014, pp. 262, Commentary to Section 498, 49 et seq. or KRÁLÍK, M. § 1083 [Užití cizí věci pro stavbu na vlastním pozemku a nároky s tím spojené]. In: SPÁČIL, J. a kol. *Občanský zákoník III. Věcná práva (§ 976-1474). Komentář*. [in:] *C. H. Beck*, Praha 2021, pp. 300 and the literature listed there.

[31] The decision-making practice of the Supreme Court expressed e.g., in the judgment of 27 October 2020, no. 22 Cdo 1238/2020.

[32] Op. cit. sub. 30, pp. 262-269.

[33] Cf. also op. cit. sub. 25, pp. 69.

[34] Op. cit. sub. 12.

pavement ends, and the surrounding land begins. Finally, with respect to the purpose of pavement (5), this is essentially the same as the purpose of the land (the surface portion).[35]

In the case at hand, the Constitutional Court does not argue whether, and if so, to what extent, it finds the above-mentioned features of a building in the civil law sense to be fulfilled. I draw your attention to the Constitutional Court's ruling in the case under no. I. ÚS 3143/13, in which the Court stated that it is "not entitled in principle to pronounce on the interpretation of the private law character of a building". On the contrary, in the case under review, the Constitutional Court had expressed its opinion on the private-law nature of the building, it should either have justified the exceptional nature of the case in which it departed from this principle, or it should not have respected this principle at all in which case, of course, it departed from the legal opinion of the Constitutional Court expressed in the previous ruling and should have left the question in question to be examined by the plenary of the Constitutional Court.[36]

The Constitutional Court concluded in its decision that the pavement under review "is not a mere paving of the surface of the land by layering natural materials or a paved asphalt surface, but an independent (building) thing in the civil law sense. As such, it is part of a local road pursuant to Section 12 (4) of the Road Act, the owner of which, pursuant to Section 9 (1) of this Act, is the municipality on which the local road lies. This is a case provided for by law where a local road structure (of which the pavement is a part) is located on someone else's land (Section 17 (2) of the Road Act)."[37] However, this conclusion cannot be made for the reasons outlined below.

The Constitutional Court presumably assumes that a local road[38] is thing in a legal sense, but it is not. It is always necessary for the results of a construction activity to meet the characteristics of a building in the civil law sense. If this is not the case, it cannot be a construction that can be legally independent, even in the form of a linear construction. Nor can the construction of the footpath be regarded as a building in the civil law sense because of the absence of certain defining features.[39]

---

[35] Op. cit. sub. 25, pp. 69.
[36] Cf. Section 23 of Act No. 182/1993 Coll., on the Constitutional Court.
[37] Op. cit. sub. 4, pp. 5, paragraph 15.
[38] A local road is made up of three features, including the administrative decision to classify it (a formal feature under Section 3 (1) of Road Act), its traffic significance (a material feature under Section 6 (1) of Road Act) and finally its ownership (a material feature under Section 9 (1) of Road Act) - cf. SLOVÁČEK, D. *Místní komunikace*. [in:] „Právní rozhledy" 2014, vol. 20, pp. 693.
[39] Op. cit. sub. 25, pp. 70.

In the reasoning of the decision, the Constitutional Court also impermissibly confused the term "part of a local road" in the regime of the Road Act with the civil law term "part of a thing". However, the term "part of a local road" has a completely different meaning and is constructed for completely different purposes than the definition of the term "part of a thing" under the Civil Code.[40] While the definition of "part of a thing" in the Civil Code is practically relevant mainly for the purposes of property dispositions of a thing[41], the Road Act uses this term in completely different contexts, such as: Section 18g (9) in the context of the assessment of the construction of a road and its effect on the surroundings, including the effect of its components and accessories on the surroundings;[42] in Section 19 (2) in the context of the definition of the general use of roads (here, inter alia, the prohibition of polluting or damaging roads, including their components and accessories);[43] in Section 26 (3), in connection with the definition of the construction status of the road (the construction status includes, inter alia, the provision of the road with components and accessories);[44] and in connection with the formulation of the facts of certain offences.[45]

It follows from all the above provisions of the Road Act that this institute is important not in terms of property disposition, but for other reasons, which are primarily to ensure that, in addition to the roads themselves, their functionally related entities, specifically defined in the Road Act, meet specific criteria (technical, safety, quality, etc.). Similarly, there is a clear effort to take into account the components of the road when defining the "construction status of a road", etc. After all, already *prima vista*, some cases of "component parts of a land road" cannot be civil law "component parts of a thing". An example of this is Section 12 (1) (a) of the Road Act, which declares, inter alia, all structural layers of the road to be part of the road;

[40] This conclusion is undoubtedly valid despite the fact that the explanatory memorandum to Road Act itself refers to the components of things and accessories of things under the Civil Code of 1964 in connection with the definition of this concept (as well as the concept of "accessories of the road"). However, a cursory glance at the individual examples of parts of the road and accessories of the road shows that these institutes are built on completely different foundations from those of the parts of the thing and accessories of the thing under the Civil Code (or earlier under Act No. 40/1964 Coll.).
[41] Cf. ADAMOVÁ, H., BRIM, L. a kol. *Pozemkové vlastnictví*. [in:] *Wolters Kluwer*, Praha 2019, pp. 35 et seq.
[42] Read more KOŠINÁROVÁ, B. *Zákon o pozemních komunikacích. Komentář*. [in:] *C. H. Beck*, Praha 2021, pp. 118-119.
[43] Read more cit. sub. 42, pp. 136-138.
[44] Read more cit. sub. 42, pp. 263-264.
[45] Op. cit. sub. 25, pp. 70.

however, from a civil law point of view, it is not a "part of the road" as a thing, but the thing itself.[46]

It is therefore clear that the conclusion as to whether a certain entity has the nature of a "part of the road" within the meaning of the Road Act is in principle irrelevant to the civil nature of such an entity – that is, whether it is a building or not, or if it is a building, then whether it is a separate thing or just a part of the land.[47]

After all, even if Road Act were to work with the concept of "part of the road" in the same spirit as the Civil Code works with the concept of "part of the thing" (which is probably what the Constitutional Court thinks), the reasoning of the glossed judgment would suffer from another defect. If the Constitutional Court states that a pavement is "a separate (building) thing in the civil law sense", then at the same time it cannot be "as such a part of a local road [...], the owner of which is [...] the municipality on whose territory the local road lies. This is a case provided for by law where a local road structure (of which the pavement is a part) is located on someone else's land." It is evident that in these parts the Constitutional Court, when applying the institute of a part of a road, is based on the property (substantive) criterion and not on the criteria arising from the Road Act. However, the conclusion that the pavement is both a separate thing (a building) and part of the local road construction is obviously nonsensical. However, this result cannot occur; either the pavement is a separate thing or part of another thing, *tertium non datur*.[48]

CONCLUSION

The departure of the Constitutional Court from the established case-law of the Supreme Court raises fundamental practical problems. In most cases, landowners treat pavement a property. They rely on settled case-law and invest considerable resources in their repairs. If the opinion of the Constitutional Court were to be upheld, this would be a case of incurring costs for the benefit of another person, which creates a right of unjust enrichment against the owner

[46] It always depends on the specific circumstances of the case in question to determine whether the road in question is a separate thing after 1 January 2014 or 31 December 2015. Two criteria are decisive. The first criterion is that the road must be a definable piece of the world, i.e., it is possible to clearly define where the land ends and the building begins. R. KOČÍ thus considers a road consisting of a bituminous surface and structural layers to be a definable piece of the world. On the contrary, one cannot speak of a definable piece of the world in the case of the layering of natural material on the road surface - e.g., chippings, gravel, clay (KOČÍ, R. *Účelové pozemní komunikace a jejich právní ochrana*. [in:] *Leges*, Praha 2011, pp. 41, the footnote 29).
[47] Cf. SVESTKA, J., DVOŘÁK, J., FIALA, J. a kol. *Občanský zákoník. Komentář. Svazek I. (§ 1-654), Obecná část*. [in:] *Wolters Kluwer*, Praha 2014.
[48] Op. cit. sub. 25, pp. 70.

of the "building", which in many cases, will already be time-barred. Since these are buildings that are not registered in the Land Registry, it is almost always difficult to determine who built the pavement and is its "owner"[49] and who should therefore carry out the building maintenance [Section 9 (3) of Road Act]. These pavements are usually located on municipal lands. This uncertainty has a significant negative impact on the decisions of the Constitutional Court.

BIBLIOGRAPHY

References

AMOVÁ, H., BRIM, L. a kol. *Pozemkové vlastnictví*. [in:] *Wolters Kluwer*, Praha 2019

ČERNÍNOVÁ, M., ČERNÍN, K., TICHÝ, M. *Zákon o pozemních komunikacích. Komentář*. [in:] *Wolters Kluwer*, Praha 2015.

ELIÁŠ, K. *K justifikaci pravidla o nezávislosti uplatňování soukromého práva na uplatňování práva veřejného*. [in:] „Právník" 2014, vol. 153(11).

ČÍ, R. *Účelové pozemní komunikace a jejich právní ochrana*. [in:] *Leges*, Praha 2011.

ŠINÁROVÁ, B. *Zákon o pozemních komunikacích. Komentář*. [in:] *C. H. Beck*, Praha 2021.

LAVICKÝ, P. a kol. *Občanský zákoník I. Obecná část (§ 1-654). Komentář*. [in:] *C. H. Beck*, Praha 2014.

LZER, F., TÉGL, P. *Občanský zákoník – velký komentář. Svazek III. § 419 - § 654*. [in:] *Leges*, Praha 2014.

MOTEJL, O., ČERNÍNOVÁ, M., ČERNÍN, K., GABRIŠOVÁ, V. *Veřejné cesty: místní a účelové pozemní komunikace*. [in:] *Kancelář veřejného ochránce práv*, Brno 2007.

PELIKÁNOVÁ *Návrh občanskoprávní kodifikace*. [in:] „Právní fórum" 2006, vol. 10.

RŮŽIČKA, P. *Obrana rozhodnutí ÚS k právní povaze chodníku, zvláště sjednocení výkladu pojmu stavby*. [in:] „Advokátní deník" (online), 2021. Available from https://advokatnidenik.cz/2021/03/30/obrana-rozhodnuti-us-k-pravni-povaze-chodniku-zvlaste-sjednoceni-vykladu-pojmu-stavby/

DVÁČEK, D. *Místní komunikace*. [in:] „Právní rozhledy" 2014, vol. 20.

SPÁČIL, J. *Cesty pozemní komunikace v praxi civilních soudů*. [in:] „Právní fórum" 2006, vol. 3(7).

SPÁČIL, J. a kol. *Občanský zákoník III. Věcná práva (§ 976–1474). Komentář*. [in:] *C. H. Beck*, Praha 2021.

ŠVESTKA, J., DVOŘÁK, J., FIALA, J. a kol. *Občanský zákoník. Komentář. Svazek I. (§ 1-654), Obecná část*. [in:] *Wolters Kluwer*, Praha 2014.

GL, P., MELZER, F. *Superedifikáty a nový občanský zákoník*. [in:] „Právní rozhledy" 2014, vol. 4.

TÉGL, P., MELZER, F. *Problematické rozhodnutí Ústavního soudu k právní povaze chodníku*. [in:] „Bulletin advokacie" 2020, vol. 27(11).

Case-law

dgment of the Supreme Court of the Czech Republic of 28 January 1998 no. 3 Cdon 1305/96

dgment of the Supreme Court of the Czech Republic of 26 October 1999 no. 2 Cdon 1414/97

Judgment of the Supreme Court of the Czech Republic of 31 January 2002 no. 22 Cdo 52/2002

Decision of the Constitutional Court of the Czech Republic of 17 April 2002 no. IV ÚS 42/01

dgment of the Supreme Court of the Czech Republic of 26 August 2003 no. 22 Cdo 1221/2002

gment of the Supreme Court of the Czech Republic of 6 January 2004 no. 22 Cdo 1964/2003

Judgment of the Supreme Court of the Czech Republic of 28 February 2006 no. 22 Cdo 1118/2005

Judgment of the Municipal Court in Prague of 16 March 2006 no. 10 Ca 284/2005-56

gment of the Supreme Court of the Czech Republic of 11 October 2006 no. 31 Cdo 691/2005

dgment of the Supreme Administrative Court of the Czech Republic of 1 March 2007 no. 2 Afs 125/2005-40

Judgment of the Supreme Administrative Court of 31 July 2008, no. 2 As 48/2008-58

[49] The fact that Section 9 (1) of Road Act states that "the owner of local roads is the municipality in whose territory the local roads are located" does not imply the ownership title for the municipality. The municipality must acquire ownership of the road on the basis of one of the general titles of acquisition of ownership (cf. e.g., the recent Supreme Court Resolution of 17 March 2020, no. 28 Cdo 2480/2019).

Judgment of the Supreme Administrative Court of the Czech Republic of 25 September 2008 no. 5 Afs 24/2008-63
Resolution of the Supreme Court of the Czech Republic of 27 November 2008 no. 22 Cdo 3510/2007
Judgment of the Supreme Administrative Court of the Czech Republic of 29 May 2009 no. 4 Ao 1/2009-58
Judgment of the Supreme Administrative Court of the Czech Republic of 11 September 2009 no. 5 As 62/2008-59
Judgment of the Supreme Court of the Czech Republic of 27 May 2010 no. 22 Cdo 2682/2008
Resolution of the Supreme Court of the Czech Republic of 28 April 2011 no. 22 Cdo 2569/2009
Judgment of the Supreme Court of the Czech Republic of 3 May 2011 no. 22 Cdo 2106/2009
Judgment of the Supreme Court of the Czech Republic of 23 July 2012 no. 22 Cdo 1928/2010
Resolution of the Supreme Court of the Czech Republic of 25 September 2012 no. 22 Cdo 4378/2010
Judgment of the Supreme Court of the Czech Republic of 17 October 2012 no. 22 Cdo 766/2011
Judgment of the Supreme Court of the Czech Republic of 16 May 2013 no. 22 Cdo 3851/2012
Judgment of the Supreme Court of the Czech Republic of 30 July 2013 no. 22 Cdo 2417/2011
Judgment of the Supreme Administrative Court of 11 September 2013, no. 1 As 76/2013-27
Resolution of the Supreme Court of the Czech Republic of 26 November 2013 no. 22 Cdo 835/2012
Resolution of the Constitutional Court of the Czech Republic of 20 May 2014 no. III. ÚS 2128/2013
Judgment of the Supreme Court of the Czech Republic of 10 June 2014 no. 28 Cdo 3895/2013
Decision of the Constitutional Court of the Czech Republic of 23 March 2015 no. I. ÚS 3143/13
Judgment of the Regional Court in Ostrava of 9 May 2017 no. 56 Co 65/2017-238
Judgment of the Supreme Administrative Court of the Czech Republic of 24 January 2018 no. 6 As 333/2017
Resolution of the Supreme Court of the Czech Republic of 27 March 2018 no. 22 Cdo 4330/2017
Decision of the Constitutional Court of the Czech Republic of 25 June 2019 no. III. ÚS 2280/18
Judgment of the Supreme Court of the Czech Republic of 27 October 2020, no. 22 Cdo 1238/2020

Legislation

No. 40/1964 Coll., Civil Code as amended until 31 December 2013
Act No. 182/1993 Coll., on the Constitutional Court as amended
No. 13/1997 Coll., On the Road Network as amended
Decree of the Ministry of transport and communications No. 104/1997 Coll. implementing the law on road traffic
Amended
Act No. 183/2006 Coll., On Spatial Planning and the Building Act (Building Act) as amended until 1 July 2023
Act No. 89/2012 Coll., Civil Code as amended

Problematic case-law of the Constitutional Court of the Czech Republic on the legal nature of the pavement - is it a separate immovable thing or part of the land? Commentary on the decision of the Constitutional Court of 25 June 2019, no. III. ÚS 2280/18 (iThenticate Similarity Report)

ORIGINALITY REPORT

25%
SIMILARITY INDEX

PRIMARY SOURCES

1	real.mtak.hu Internet	147 words — 2%
2	dspace.cuni.cz Internet	97 words — 1%
3	"Handbook of Human Dignity in Europe", Springer Science and Business Media LLC, 2019 Crossref	88 words — 1%
4	Lucie Novotná Krtoušová. "The Duty of Loyalty Imposed on a Company Director: A Comparison between Czech and English Law", Review of Central and East European Law, 2019 Crossref	86 words — 1%
5	docplayer.net Internet	68 words — 1%
6	"Information Obligations and Disinformation of Consumers", Springer Science and Business Media LLC, 2019 Crossref	60 words — 1%

7	"Transfer Pricing in V4 Countries", Brno University of Technology, 2020 Crossref	57 words — 1%
8	vdoc.pub Internet	55 words — 1%
9	is.muni.cz Internet	53 words — 1%
10	Ius Comparatum - Global Studies in Comparative Law, 2015. Crossref	50 words — 1%
11	Ius Comparatum - Global Studies in Comparative Law, 2016. Crossref	49 words — 1%
12	www.zakonyprolidi.cz Internet	48 words — 1%
13	"European Tort Law 2009", Walter de Gruyter GmbH, 2010 Crossref	46 words — 1%
14	hdl.handle.net Internet	45 words — 1%
15	www.flaw.uniba.sk Internet	43 words — 1%
16	tomten.cz Internet	39 words — < 1%
17	Zuzana Hamuľáková. " The Gaps in the Regulation of Prohibition of in Slovak Administrative Law in Central European Perspective ", International and Comparative Law Review, 2022	38 words — < 1%

Crossref

18	theses.cz Internet	38 words — < 1%
19	www.ncbi.nlm.nih.gov Internet	38 words — < 1%
20	adoc.pub Internet	37 words — < 1%
21	"Medical Liability in Europe", Walter de Gruyter GmbH, 2011 Crossref	36 words — < 1%
22	advokatnidenik.cz Internet	36 words — < 1%
23	Alternative Dispute Resolution in European Administrative Law, 2014. Crossref	35 words — < 1%
24	"Essential Cases on Damage", Walter de Gruyter GmbH, 2012 Crossref	34 words — < 1%
25	www.law.uj.edu.pl Internet	31 words — < 1%
26	www.ampul.eu Internet	29 words — < 1%
27	Judicial Application of International Law in Southeast Europe, 2015. Crossref	28 words — < 1%
28	Karel Beran. "How can legal interpretation change the legal order into legal disorder?	28 words — < 1%

(Lessons from the Czech Republic)", Review of Central and East European Law, 2023
Crossref

29 www.pf.upol.cz
Internet
28 words — < 1%

30 "Deference to the Administration in Judicial Review", Springer Science and Business Media LLC, 2019
Crossref
27 words — < 1%

31 Jana Dudová, Jan Duda. "The influence of environment and human rights in the business – the concept of public health – case study on noise pollution", Acta Universitatis Agriculturae et Silviculturae Mendelianae Brunensis, 2013
Crossref
27 words — < 1%

32 Karel Beran, David Elischer. "Has 'Strict Liability' Given Way to a General 'Duty to Compensate Harm' in Czech Law?", Review of Central and East European Law, 2019
Crossref
27 words — < 1%

33 "Essential Cases on Misconduct", Walter de Gruyter GmbH, 2018
Crossref
26 words — < 1%

34 Nikola Pacalajová, Martin Kubinec. "Statutory Bar on the Right to Exercise a Mortgage Under the Conditions Applicable in the Slovak Republic and Comparison with the Legal Regulation of the Czech Republic", DANUBE, 2021
Crossref
26 words — < 1%

35 unece.org
Internet
26 words — < 1%

36	docplayer.cz Internet	24 words — < 1%
37	stag.upol.cz Internet	24 words — < 1%
38	www.law.muni.cz Internet	24 words — < 1%
39	lawinbusiness.vse.cz Internet	21 words — < 1%
40	Pavel Kotlán. "Criminal Liability of Legal Persons in Light of the Subsidiarity of Criminal Repression", DANUBE: Law and Economics Review, 2016 Crossref	20 words — < 1%
41	pamatky.praha.eu Internet	20 words — < 1%
42	Zdenek Kühn. "The Judiciary in Central and Eastern Europe", Brill, 2011 Crossref	19 words — < 1%
43	www.mdpi.com Internet	19 words — < 1%
44	Jiří Hrádek. "V. The Czech Republi", European Tort Law Yearbook, 2013 Crossref	18 words — < 1%
45	www.ustavnisoud.cz Internet	16 words — < 1%
46	"Comparative Climate Change Litigation: Beyond the Usual Suspects", Springer Science and Business Media LLC, 2021	15 words — < 1%

Crossref

47	"Compulsory Liability Insurance from a European Perspective", Walter de Gruyter GmbH, 2016 Crossref	15 words — < 1%
48	"International Handbook on Shareholders´ Agreements", Walter de Gruyter GmbH, 2018 Crossref	15 words — < 1%
49	dspace5.zcu.cz Internet	14 words — < 1%
50	Jiří Hrádek. "V. Czech Republic", European Tort Law Yearbook, 2021 Crossref	13 words — < 1%
51	Tomáš Peráček, Mária Srebalová, Andrej Srebala. "The Valuation of Land in Land Consolidation and Relevant Administrative Procedures in the Conditions of the Slovak Republic", Administrative Sciences, 2022 Crossref	13 words — < 1%
52	nusl.cz Internet	13 words — < 1%
53	Jiří Hrádek. "V. Czech Republic", European Tort Law Yearbook, 2017 Crossref	12 words — < 1%
54	docstore.ohchr.org Internet	12 words — < 1%
55	"XXVI. Slovenia", European Tort Law Yearbook, 2016 Crossref	11 words — < 1%

56	"Finance and Sustainability", Springer Science and Business Media LLC, 2020 Crossref	10 words — < 1%
57	home.kpmg Internet	10 words — < 1%
58	opvvv.msmt.cz Internet	10 words — < 1%
59	smlouvy.gov.cz Internet	10 words — < 1%
60	"Compatibility of Transactional Resolutions of Antitrust Proceedings with Due Process and Fundamental Rights & Online Exhaustion of IP Rights", Springer Nature, 2016 Crossref	9 words — < 1%
61	Jiří Hrádek. "Czech Republic", Tort and Insurance Law, 2008 Crossref	9 words — < 1%
62	Kralik, Michal. "European Legal Doctrine Concerning Criminal Liability of Sports Participants for Sports-Related Injuries and Its Reflection in the Czech Republic", International Law Research, 2014. Crossref	9 words — < 1%
63	kpep.vse.cz Internet	9 words — < 1%
64	scholarship.shu.edu Internet	9 words — < 1%
65	science.law.muni.cz Internet	9 words — < 1%

66	www.mpsv.cz Internet	9 words — < 1%
67	Eleonóra Marišová, Roberta Štěpánková, Matúš Michalovič, Ivana Lichnerová et al. "Prerequisites for cooperation between self-government and state administration in the construction sector of the Slovak Republic in the light of the new legislation", Eastern European Journal of Transnational Relations, 2022 Crossref	8 words — < 1%
68	Jiří Hrádek. "V. The Czech Republic", European Tort Law Yearbook, 2021 Crossref	8 words — < 1%
69	Petr Frischmann. "Freedom of Enterprise in the Perspective of Czech Professional Self-Governing Associations", Białostockie Studia Prawnicze, 2019 Crossref	8 words — < 1%
70	www.usoud.cz Internet	8 words — < 1%
71	"EU Management of Global Emergencies", Brill, 2014 Crossref	6 words — < 1%
72	Pavel Ondřejek. "A Structural Approach to the Effects of Fundamental Rights on Legal Transactions in Private Law", European Constitutional Law Review, 2017 Crossref	6 words — < 1%

EXCLUDE QUOTES	OFF	EXCLUDE SOURCES	OFF
EXCLUDE BIBLIOGRAPHY	OFF	EXCLUDE MATCHES	OFF