Codification: history and present significance of an idea - À propos the recodification of private law in the Czech Republic

Reinhard Zimmermann, 'Codification: history and present significance of an idea -- À propos the recodification of private law in the Czech Republic' (1995) 3 European Review of Private Law, Issue 1, pp. 95–120

Abstract

Abstract. In his lecture presented at the opening of a symposium on the recodification of Czech Private Law the author first analyses the characteristic features of a codification. He then examines in which ways and for which reasons the idea of a civil code managed, from the late 17th century onwards, to recast the entire civilian tradition. The author argues that, contrary to a widely held view (‘decodificazione’), even today codification is not an outdated concept. It constitutes an intellectual effort to look at private law as a systematic whole. In view of the increasing particularization of modern legal science and of the hectic activity of the modern legislator, this kind of focus appears to be even more desirable today than ever before. It is, however, important to beware of exaggerated and unrealistic expectations. More particularly, no codification can ever hope to be comprehensive in a narrow sense of that word. It has to be brought to life, and has to be kept in tune with the changing demands of time, by active and imaginative judicial interpretation and doctrinal elaboration. Sensible draftsmen of a code will therefore exercise considerable self-restraint so as to provide the basis not for confrontation but for an alliance between legislation and legal science. They will also acknowledge the limitations of their power imposed upon them by the tradition within which they operate. The author finally turns his attention to how the actual process of recodification of Czech private law may be organized. He suggests, inter alia, that one of the existing European civil codes should serve as a model.


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Large parts of private law are regulated by other codes or compilations. Legal systems of Central and Eastern Europe have codes as main sources of civil law*(7). As a result of essential political and economic changes the importance of civil law in mentioned countries has considerably increased. c) The Romano-Germanic legal tradition has undoubtedly influenced a lot the legal systems of Central and Eastern European countries. The process of codification of law in the Soviet Union went through several steps. The first stage started in 1917 with the capture of power by the Bolsheviks (Bolshevik Revolution) and includes New Economic Policy period (1921-1928). The second stage was mainly about the first Five-Year Plan in 1929/1930 and lasted until the mid-50s. Czech law, often referred to as the legal order of the Czech Republic (právní řád České republiky), is the system of legal rules in force in the Czech Republic, and in the international community it is a member of. Czech legal system belongs to the Germanic branch of continental legal culture (civil law). Major areas of public and private law are divided into branches, among them civil, criminal, administrative, procedural and labour law, and systematically codified. Codification of Private Law in Post-Soviet Times. Front Matter. Pages 91-91. PDF. Codification of Private Law in Post-Soviet States of the CIS and Georgia. Lado Chanturia. Pages 93-106. Private Law Codification in The Republic of Croatia. Tatjana Josipović. Pages 107-123. A Civil Code Outside of Reality—The Polish Codification of the Year 1964, Its Origin, Development and Future. Fryderyk Zoll. Pages 125-135. Private Law Role of the Judge in a Codified System Soft Codification of the Unidroit Principles Supranational Codification of Private Law codification in international perspective comparative law and
codification legal de-codification and re-codification supranational codification. Editors and affiliations.