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INSTITUTE OF PROPERTY RIGHTS THROUGH A HISTORICAL PRISM

ABSTRACT: The institute of property rights is one of the oldest legal institutes. It appears as a historically determined form of social relations that arises in connection with the appropriation and possession of material goods. Since its inception, it has been the subject of fierce battles, but also the subject of a person's greatest factual and legal protection. However, property is not only a legal concept, but also an economic, social, ethical, and even a religious concept. The development of the institute of property is interwoven with turbulent changes, which reflect the direction of societal development and evolve in accordance with its needs. For this reason, the institute of property rights is the most suitable legal institute, through which social relations in different periods of society's development are viewed. Therefore, in this paper we will analyze the institution of the right of ownership across several historical periods: Roman law, the era of feudalism, the bourgeois revolutions, as well as the modern age.

Keywords: *institute of property rights, property, Roman law, feudalism, Middle Ages, capitalism.*

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1. Introduction

When it comes to the institute of property rights, it is necessary to answer the question of what forms of property exist in general and what criteria determine the existence of a property relationship. In its basic elementary form, regardless of how it is actualized, the final realization of property is always individual. From the aspect of appropriation, as its economic content, property was originally created as private property, regardless of all the changes that occurred during history in relation to the forms of its manifestation, it always remained private. The second approach starts from the fact that appropriation is the basic content of property, but the criteria for distinguishing various forms of property are found in the way and forms of realization of its property functions, and the holder of property rights, that is, the owner, is determined according to who is the person that decides upon the way of realization of property functions (Lakićević , 1992, p. 169). Although it is true that the terms property and ownership of assets both mean appropriation in the economic sense, it is important to highlight the difference between these two terms. In this sense, Gams (1953) points out that property is the appropriation of use value, while ownership is the appropriation of marketable value.

Property law is seen as a set of different legal relationships between legal subjects regarding a certain matter. It is "a real right to a certain thing that authorizes the holder of this right to use the thing and benefits from it at his own discretion, as well as to exclude everyone else from it if it does not conflict with the rights of others or legal restrictions" (Popov, 2005, p. 129). Gams and Petrović (1980) state that property is a double concept: economic and legal. Property, as an economic term, means the most complete appropriation of economic goods, while as a legal term, it has an objective and subjective meaning. In an objective sense, property is a legal institution that regulates the direct appropriation of economic goods, that is, things in their most complete and basic form, while in a subjective sense, it represents subjective rights and legal powers related to that appropriation. According to Malahinova (1989), when means of production appear as objects of property, the right of ownership acquires, in addition to legal, an economic form of realization, that is, appropriation of a part of the product in the form of income of its subject. However, that right can only be used when there is something to be appropriated. Otherwise, nothing can be done with that right. A classic example is e.g. a piece of land that, due to changed land conditions, no longer provides for the rent, and its owner continued to claim it as part of his income. "Therefore, it is necessary to distinguish formal appropriation, on which the

legal understanding of property is based, from real appropriation that occurs in the real relationship of people and the conditions of production where their actual exploitation is accounted for as a condition of production" (Malahinova, 1989, p. 39). On the other hand, Lakićević (2007) points out that property is primarily an economic category and that its basic economic content is the appropriation of objects of nature, which means that the right of property arose as an expression of the economic relationship between people in the process of appropriation. According to the same author, the right to property has retained its basic characteristic in all stages of the development of social relations, and legal norms, both in political and legal systems, had a special significance. According to Marx, property is a historically determined relationship between people interconnected by means of production and products. The totality of these relations in a society divided into classes is denoted by property in the broadest sense of the word. Also, Marx understands property in a more narrow sense, as appropriation. At the same time, appropriation signifies the relationship of people to nature in the process of work (Marks, 1859).

From property as a social relationship, it follows that the right to property does not seem as a relationship between a person and a thing, but as a relationship between people regarding things. A change in production relations entails a change in the property category. These changes in certain historical types of production relations were accompanied by corresponding forms of property. In the primordial community, the basic production relationship was social ownership of the means of production, while in the slave system it was replaced by private ownership. The basic production relationship in the slave society was the slave owner's ownership of the means of production and the commodity itself. In the conditions of slave labor, there was a natural way of production, and private property appeared as the clearest form of individual appropriation (Ristić, 1978, p. 1130). According to the general understanding, "property is a right, on the basis of which a thing is constantly subjected to the exclusive will of one person. The owner, because he is the owner, is authorized to use the thing, to enjoy it and to dispose of it. He may not use the thing, or even destroy it" (Konstantinović, 1982, p. 282). So, property is an absolute right and has a similar character in all the codes valid today. It is an individual right, which exists only in order to satisfy the individual goals of the owner. However, property did not always have the nature of an individual right. Over the centuries, the institution of property rights has changed, that is, was modified with the improvement of humankind and with the education and development of society.

2. Roman law

The Romans did not originally have a term for property, but used the possessive pronouns *meum esse* and *suum esse*, which did not denote only property, but were used for both persons and things. At the end of the Republic, the Romans used the term *dominium* for property (from *dominus* – master, owner and corresponds to our term property), and in the classical period *proprietas* (from the possessive pronoun *proprius* – own). (Stanojević, 1972, p. 845). The usual interpretation of the meaning of these expressions is that the first implies authority over the thing, and the second indicates the owner's right of disposal and the owner's exclusion of other people's influence on the thing. Milošević (1989) analyzes this point of view in more detail, stating that "in the original and broadest meaning, *dominus* is the same, or almost the same, as *pater familias*, in classical law a similar use was transferred to the later and more abstract noun *dominium*. "From this initial position, the terms *dominus* and *dominium* gradually received various concretizations, whereby none of them could be denied a legal technical character: thus each or both of them can denote the relationship to one's own property or the property itself, the position of the represented person, the holder of a real right or the right itself" (p. 110).

In the pre-classical period of the development of Roman law, there were different forms of property that intertwined with each other, namely: private and individual, private collective and public or state property. Private individual property was the property of the family community represented by the *pater familias*. "The powerful *pater familias*, to whom the right was given *ius vitae ac necis*, recognized him as business and legally capable, declared him the absolute master of everything living and dead in the family,[1] he was in fact a slave of traditional understandings, religious dogmas, moral and even legal norms that have all reduced the use of his powers to very narrow limits, leaving him to bear the full burden of caring for family property, for deceased ancestors, for living members and future descendants, and always in fear of the wrath of offending ancestral gods, of the moral condemnation of society, of the *nota consoria*, from being declared a *prodigus* and from whether he will deserve that his descendants offer enough sacrifices to him after his death.[2]

[1] This authority corresponded to the closed household economy, which was mainly reduced to extensive agriculture and animal husbandry, the family in that time period was a productive and consuming community.

[2] Romac (1981, p. 155) states that in such occasions, there was no name for the concept of ownership, and that ownership at that time actually consisted of a possession named according to Law XII *plate usus*. Ownership was not understood as a right, but was equated with things.

This is how property relations were in the first phase, which includes the first centuries of Roman history until the liquidation of the closed household economy and the construction of developed slave-owning, commodity-money relations" (Stojčević, 1970, p. 351).

Private collective property was land that belonged to a *gens* and was available for cultivation by family members from that *gens*. Public or state property was land that was acquired through conquests and was called *agner publicus*, which was granted selectively, initially only to members of aristocratic families who had enough money and slaves to occupy and use it (Stanojević, 2010, p. 191).

In the classical period of Roman legal history, there was a stabilization of relations regarding land (*ager publicus*), and conditions were created that influenced the formation of the classical concept or understanding of property rights. Namely, Roman law was the only legal system that made an essential difference between property and ownership of assets, building an understanding of property as complete unlimited power over things (*plena in re poteas*), while ownership of assets was defined as a set of things that are the subject of ownership. Thus, the Roman understanding of property as complete authority over things became the foundation of modern private property, which is of immeasurable importance from the point of view of modern law (Stefanović, 2018, p. 18). However, even in Roman law, this power was not without any limitations. Restrictions existed in the interest of the neighbor, i.e. to leave certain land along the boundary uncultivated, to allow the neighbor to pick the fruits that fell on his land, as well as in the public interest, in the sense of allowing the "public use of rivers", to allow the extraction of ores, while still retaining a certain percentage, and others. In order to facilitate circulation, the praetor sanctioned the informal delivery of the basic means of production and thus created bonitary or praetorian property, and thus another remnant of collective property disappeared (Stanojević, 1972, p. 845). In addition to the above, Roman law also distinguished the following forms of property: quiritary, provincial and peregrine (more in: Šarkić, 2017, pp. 60–62; Stanojević, 2003, pp. 194–197). Quiritary property is a form of property that is acquired and protected according to the rules of *ius civile*. It belonged to the Romans and referred to things found in Italy. This form of property was individual or family property, unequal in the sense that no limits were set as to the amount of goods belonging to individuals. The absolute right of ownership was eternal and the owner could transfer it to another person if that person was a Roman citizen by birth (Vuković, 1998, pp. 76–77). Provincial property is a form of property belonging to the Romans and the inhabitants of Italy in

the provinces. In fact, it is a matter of different relationships to property that have changed over time. So, for example, a number of 'provincial' owners appropriated their land from the state by purchase, others settled on plots of land that they received through the assingation after the agrarian reforms, some were tenants, and there were also those who occupied parts of the conquered land over time through constitutional protection, and with the permission of the state became its owners. Free inhabitants of the provinces of Peregrine have peregrine ownership over land and other property. For them, property is not regulated by *ius civilie* but instead by their local law and *ius gentium*, regulated by tradition, local customs and orders of the governor of the province and the peregrine praetor (more in: Šarkić, 2017, pp. 60–62; Stanojević, 2003, pp. 194–197). Over time, the differences between these forms of ownership have diminished or disappeared.

With the collapse of the Roman Empire and the emergence of a new social order – feudalism in the whole of Europe, which was characterized by a closed autochthonous natural economy and collective feudal property, in which the lords developed a centralized state power with the predominance of customary, private law, there could be no question of the application of Roman law. Namely, Roman law was developed for a society whose characteristic was the existence of a slave-money economy (Stojanović, 1976, p. 83).

3. Feudalism and medieval law

The period of the Middle Ages is identified with feudalism, which is considered the dominant form of property in that period (Avramović & Stanimirović, 2007, p. 138). So, at its core, the medieval social order has a feudal system as a special type of political organization based on property and personal ties of its members. Personal character is relevant because it represents the basis of feudal social order (Nikolić, 1997, p. 167). The essence of feudalism in the narrower sense is the relationship between seniors and vassals, that is, the existence of a special personal relationship between privileged feudal lords, seniors, that is, suzerain and their inferior but free subjects (vassals). This relationship arises when the feudal lord entrusts the vassal with the performance of some public service, or even more often, land ownership, that is, a fief. The vassal managed it, used it and collected revenues from it, but could not alienate it. In return, he acquired the obligation of personal loyalty to the suzerain, primarily in the military sense, which meant that the vassal's obligation was to accompany his suzerain to war. This obligation of personal loyalty, in addition to military service, entailed certain

other duties towards the master in natural sense, money or labor. On the other hand, the vassal gained the security and protection provided by the lord. This relationship was established in the form of a specific ceremonial contract, during the conclusion of which the vassal expressed his respect to the suzerain through various rituals (Avramović & Stanimirović, 2007, pp. 139–140). This contract had a personal character, and had to be renewed in the event of the death of one of the parties. For the same reasons, non-compliance by a vassal or a suzerain exempted the opposite party from fulfilling its obligations. Non-fulfillment of obligations by the vassal meant the loss of the feudal possession, and in a situation where the suzerain could not provide protection to the vassal and for this reason the vassal lost his possession, he had the right to cancel the vassal oath and enter into a vassal relationship with another suzerain, even a foreign ruler (Šarkić, 2011, p. 58).

In feudal social system, the feudal lord had ownership of the means of production, primarily ownership of land and partial ownership of serfs. Feudal property included not only the economic appropriation of an object, such as country, but it also contains, in case of such appropriation, some other powers of a personal or political nature. Thus, the feudal owner of a piece of land was also the political head and judge for the settlements on that piece of land. Exploitation was carried out by non-economic means, and feudal property was divided, that is, it was not jointly owned because several persons appropriated it through the same property (Gams & Petrović, 1980, p. 48). Each vassal leased his land to free farmers, villagers (*des vilains*), or had dependent farmers tied to the land (*des serfs*) on his property. We can say that these population groups formed the base of the medieval social pyramid, which kept the entire system alive through their work. It is relevant to emphasize that the property is appropriated differently by the supreme feudal lord, differently by his vassal who uses the land for life, but has certain obligations, and differently by the serf who appropriates the land to a certain extent, which is why he differs from a slave who is not a subject of law. So in feudalism, there were various forms of tied and encumbered property, which authorized their holders to a limited use of the same thing, i.e. land. Regarding one and the same thing, there were several limited property rights (higher and lower property). Along with the feudal divided property (*dominum dividium*), the unique work property of peasants and artisans on the means of production also developed in feudalism. As we can see, the same land was partially appropriated by the serfs, however, the land, and to some extent the serfs, were further appropriated, according to a certain hierarchy, by various higher feudal lords, who had varying powers in this matter, which was a typical form of collective property. The specificity of

feudalism is precisely the division of ownership of the land. Namely, on the same piece of land, the ruler has the supreme right of ownership (*dominium eminens*), his vassal directly controls it and derives income from it (*dominum directum*), and then on the same land, in the system of hierarchical ladders, there is also the right of a vassal (*dominium utile)*, while the serf cultivates that land and directly uses it and harvests fruits from it (*usus fructus*). In this way, the division of property rights between several holders was defined by glossators and post-glossators, because they noticed that the whole is divided among several holders, which in the case of private property are the *usus, fructus* and *abusus*.[3] Also, some of these powers are intertwined and shared among them, without their relationship being based on co-ownership. In many countries, over time, these powers were increasingly concentrated in the hands of feudal lords, and according to the content of the powers, this specific medieval type of property came closer to individual private property (Avramović & Stanimirović, 2007, p. 142).

4. Property 'through the revolution'

The French Revolution destroyed all medieval obligations, abolished the old feudal burdens and paved the way for the establishment of property rights as unlimited and absolute. Namely, the French bourgeois revolution was one of the examples of the large-scale transformation of property relations that marked the beginning of the end of the feudal social and economic system, opening a completely new era in the development of social relations. The decree of March 15-28, 1790 abolished the feudal property system. All immovable properties that were owned on the basis of *dominum utile* became the private property of the former immediate holders, with the obligation to pay a certain amount of money to the former suzerain. Also, all hierarchical relationships that resulted from the mixture of personal and property elements of feudal divided property were abolished. The Declaration on the Rights of Man and Citizen from 1789 states: "Men are born and remain free and equal in rights. Social distinctions may be based only on considerations of the common good." (Art. 1). "The aim of every political association is the preservation of the natural and imprescriptible rights of Man. These rights are Liberty, Property, Safety and Resistance to Oppression." (Article 2) (Čepulo, 1989). However, the text of the Declaration indicates that the idea

[3] In French law, these land rights were not called property, but holdings (*las tenures*). The two basic types of tenure were fiefdom and censiva. (more in: Nikolić, 2023, pp. 266–268).

of unlimited and inviolable property rights is not absolute, i.e. it is allowed to limit property rights under certain conditions. In doing so, it is required that those conditions be provided by law and that the reason for the restriction be "obvious public necessity", that is, public interest, as well as that the owner be fairly compensated (Dolović Bojić, 2022, p. 305).

In this period, codes were created in Europe in which property received its full affirmation, namely: the French Civil Code (1804), the Austrian Civil Code (1811), the Serbian Civil Code (1844), the German Civil Code (1896) and the Swiss Civil Code code (1907). In these civil codes, the individualistic and absolutist concept of property rights was consistently expressed and implemented (Stanković & Orlić, 1982, p. 88). Thus, the French Civil Code, by the provision of Article 544, regulates the right with certain limitations, by proclaiming that property is the right to enjoy and dispose of things in the most absolute way, on the condition that it does not do something that is prohibited by laws and other regulations. Also, Article 537 of the same Code stipulates that individuals have the freedom to dispose of things that belong to them with the limitations set by the law. This means that ownership is exclusive in its relation to third parties, and unlimited in terms of the use and disposal of things. It is the absolute right of individuals to one specific thing. Violation of this right represents its limitation, i.e. deprivation of the authority already contained in it. According to the spirit of the French Civil Code, property is limited by servitude that represents an "unnatural humiliation of the owner." These restrictions should be removed as quickly as possible, and with their removal, property is once again complete and free. Namely, everything is allowed to the owner, which is not expressly prohibited. Other codes were inspired by the same spirit (Nikolić, 2014). It is believed that after the French Revolution and the adoption of the French Civil Code in 1804, property was confirmed as a human right, i.e. the right to property, and that with the adoption of the Civil Code, it was also confirmed as a civil subjective right for the first time in legal history.

In the Austrian Civil Code from 1811, although it was adopted for a society in which the remnants of feudal property were still present, it was prescribed that "Considered as a right, property is an authorization: to dispose of the substance and benefits of something at will, and each exclude others from it" (§ 354). According to this Code, the limits of the exercise of property rights are the rights of third parties and the law, as can be seen from the content of paragraph 364, paragraph 1, which reads: "Property rights exist only until they do not infringe upon the rights of third persons, transgress legal restrictions, prescribed for the purpose of maintaining and supporting the general well-being." The Serbian Civil Code from 1844 accepts the

individualistic concept of property and guarantees the owner that he is "a complete master of his possessions, that he is free to enjoy them at his will, to dispose of them at his will, to transfer them to another or not to enjoy them" (§ 22, 211, 2016) (Lazić, 2007, p. 182). The German Civil Code stipulates that the owner of an item may, if the law or the rights of a third party do not oppose it, dispose of the item at his discretion (paragraph 903). The absolute character of property is also expressed in the provision of Article 641 of the Swiss Civil Code, according to which the owner of a thing can, within the limits of the legal order, dispose of it at his discretion. He also has the right to demand it from anyone who illegally holds it and to remove any illegal influence on the matter (Popov, 2005, pp. 134–135). It is evident that property is defined in all codes as the most absolute legal authority over things within the limits of the law. Although the aforementioned codes included in their wording the restriction that the exercise of ownership must not contradict the rights of third parties and laws, for the creators of the codes, this did not mean that the state wanted to reserve the right to ownership for itself. The state could impose certain burdens on the owners in the public interest in order to prohibit a certain way of using things, and that was where its powers ended.

The political principles that the bourgeoisie proclaimed upon coming to power, and reinforced with its civil laws, are a reflection of its class position, and therefore of its class interests. The capitalist system is characterized by capitalist private ownership of the means of production, as well as the absence of ownership of the worker, who participates in the production process. Formally, the worker is free, but he is forced to sell his labor power to the capitalist as a commodity (Gams, 1980, p. 49). "In such a mechanism of labor exploitation by the capital, the capitalist needs a worker who is formally and legally free and who, as a formally equal partner, can conclude a labor contract with him; freedom, equality and equity, as a political principle, expresses, in fact, the needs of the existing mechanism of labor exploitation, while the 'lightness and inviolability' of property rights, in fact, is the lightness and inviolability of bourgeois private property, since the historical process of separating direct producers from the means of production has already been completed" (Stanković & Orlić, 1982, p. 89). The basic transparency of capitalist society is the social character of production and the private capitalist form of appropriation. This contradiction is abolished in the socialist revolution, which replaces capitalist ownership of the means of production with social socialist ownership. Social socialist ownership of the means of production appears as the basic production relationship in the socialist social order (more in: Lakićević, 1985).

5. Looking back at modern times

In the modern legal order, the institute of property is undergoing a transformation under the influence of digitalization, globalization and increasingly pronounced environmental and social challenges. Although property traditionally represents an absolute subjective right – the right to use the thing, dispose of it and exclude others – modern legal systems increasingly integrate the social, ecological and technological dimensions of this institution. Comparative legal analysis between continental and Anglo-Saxon legal systems sheds light on different approaches to property law and points to wider social processes that shape its contemporary role.

Within continental law, property is codified as a whole right. For example, the German Civil Code (Bürgerliches Gesetzbuch, 2024) in Article 903 stipulates that the owner of the thing can do whatever he wants with it, unless the law restricts it. The French Code civil and the Serbian Law on the Basics of Property Relations (1980) take a similar approach, emphasizing that the right to property can be limited in the public interest, especially in the case of expropriation. In contrast, Anglo-Saxon law, especially in the United States of America, divides property into so-called "bundle of rights", i.e. a set of rights that includes the right to use, the right to dispose of, and the right to exclude others. In such a framework, ownership is not absolute, but is flexible and adaptable to specific circumstances, and court practice plays a key role in shaping it. This approach is particularly suitable in the context of digital assets and intellectual property, where traditional notions of physical ownership are difficult to apply (Merrill & Smith, 2001).

The modern age is characterized by a special form of property – digital property, which includes software, data, cryptocurrencies and NFTs (Jia & Yao, 2024), which opens up new questions. Who owns the digital content? Does a user of social networks have ownership rights over their own data? In the European Union, the General Data Protection Regulation (GDPR, 2016) introduces the concept of "control" over personal data, while in the US they rely on the Digital Millennium Copyright Act (1998) and the "fair use" doctrine. Serbia, as a country in the process of European integration, harmonizes its legislation with EU directives, but still does not have clear regulations on digital property and digital assets. In addition to the above, in the modern age there is an increasingly strong connection between property rights and environmental rights. Constitutional models like the Ecuadorian one recognize nature as the subject of law (Assamblea Nacional del Ecuador, 2008), while in European countries, such as in Norway (Norway, 2005), develop concepts

of collective property over natural resources. In continental systems, such as the German one, Article 14 of the Grundgesetz für die Bundesrepublik Deutschland (2024) stipulates that "property binds", which emphasizes its social function, and in the Constitution of the Republic of Serbia (2006), the provision of Article 58 recognizes the possibility of limiting property rights in order to protect the general interest.

6. Conclusion

The institution of property, as a legal term, in the broadest sense means a socially regulated and protected legal relationship that is intended for the appropriation and the use of goods. As far as the content of property is concerned, it appears as the broadest legal authority of keeping, using and disposing of the subject of property. As the relations of appropriation changed in various historical epochs, the legal concept of property, from the original forms of collective to the modern concept of individualistic property, went through numerous changes expressing social order, authority, power.

Roman law was further characterized by various forms of closed household economy with the head of the household having unlimited authority. Over time, a commodity-money economy was developed that broke apart the closed household economy, thus affecting the development of commodity production, which in the 19th century served as a model for bourgeois codifications. In this period, a new category appeared in Roman law, property of goods. With the appearance of this type of property, the category of ownership of assets also appears. In feudal property relations, the most important property was land. In doing so, it is clearly seen that the economic appropriation of the land by the feudal lord, which gives the feudal lord certain other powers. The property element is important, for the reason that it is the land that forms the core of the fief, as an expression of the personal bond between the suzerain and the vassal. The dominant model of ownership and use of immovable property in medieval society is the fief model, which was reflected in the fact that the suzerain assigned land to a vassal for lifetime use in exchange for certain acts of a completely personal nature, as well as acts related to property. The French bourgeois revolution 'marked' the end of feudal divided property and feudal social relations and 'introduced' classical individualistic property. Then, for the first time in legal history, the right to property was confirmed by a regulation as a civil subjective right. This right was a key element of the legal basis of industrial capitalism.

Forms of property and property rights are conditioned by the character of production of a certain social formation. The laws that regulate property express the will of the ruling class conditioned by the nature of production, which determines the content of the institution of property rights, and thus the subjective right of property in specific property relations. For this reason, property rights have different content in different social formations, depending on the manner of production. Starting from the fact that property rights should be determined historically, it is still possible to determine some general characteristics of the institution of property rights that would be valid for all social formations in which they exist. In this sense, it can be concluded that in all forms of society, the general characteristic of property rights is that they provide the owner with the opportunity to own the thing, to use it and to dispose of it. Also, a general characteristic is the independence of the powers that belong to the owner of a thing, and the content of property rights is determined directly by the law itself.

The Institute of Property in the modern era is no longer a static legal concept but a dynamic instrument that reflects changes in society, technology and economy. Property is no longer just a private right, but increasingly takes on a public, digital and collective dimension. Comparative legal analysis shows that legal systems approach property differently, and continental systems strive for a clear normative framework, while the Anglo-Saxon system relies on the flexibility of judicial practice. The traditional concept of property as an absolute right of the owner is increasingly giving way to modern, more flexible models that take social function, collective rights and digital property into account. The advantages of this development are reflected in the ability of legal systems to respond to new challenges – from regulating the ownership of digital content to protecting natural resources and citizens' data. Also, the convergence of legal standards through international mechanisms, such as European Union directives, facilitates legal certainty and cooperation between states. However, such changes also bring a number of challenges. Legal uncertainty, non-uniformity of regulations, as well as collisions between different rights, especially in the digital space, can threaten the clarity and effectiveness of property rights protection. In order to overcome these difficulties, it is necessary to adapt the legislation to modern forms of property, to develop hybrid models of property relations, such as digital property) to promote responsible ownership through education, and to improve international cooperation in order to harmonize standards. We believe that in this way the property institute will maintain its legal relevance and social function in the 21st century.

Conflict of Interest
The authors declare no conflict of interest.

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INSTITUT PRAVA SVOJINE KROZ ISTORIJSKU PRIZMU

APSTRAKT: Institut prava svojine predstavlja jedan od najstarijih pravnih instituta. Pojavljuje kao istorijski određena forma društvenih odnosa koja nastaje u vezi sa prisvajanjem i posedovanjem materijalnih dobara. Od svog nastanka predstavljala je predmet žestokih borbi, ali i objekat najveće čovekove faktičke i pravne zaštite. Ipak svojina ne predstavlja samo pravni, nego i ekonomski, socijalni, etički, pa i religiozni pojam. Razvoj instituta svojine je protkan burnim promenama, koji možemo reći, odslikava i pravac razvoja društva i koji evoluira u skladu sa potrebama društva. Iz tog razloga institut prava svojine predstavlja najpogodniji pravni institut, kroz koji se sagledavaju društveni odnosi u različitim periodima razvoja društva. Stoga ćemo u okviru ovog rada analizirati institut prava svojine

kroz određene istorijske epohe, odnosno rimsko pravo, doba feudalizma, buržoaskih revolucija, kao i osvrt na moderno doba.

Ključne reči: *institut prava svojine, imovina, rimsko pravo, feudalizam, srednji vek, kapitalizam.*

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