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R. Rosicki (2016), *Transmission Easement and Adverse Possession of Transmission Easement in the Polish Law*, "Przegląd Naukowo-Metodyczny. Edukacja dla Bezpieczeństwa", No. 1 (30), pp. 1578 - 1589.

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**TRANSMISSION EASEMENT AND ADVERSE POSSESSION OF TRANSMISSION
EASEMENT IN THE POLISH LAW**

Introduction

The object of analysis in this text is the institution of transmission easement, which in the Polish Law has evolved from other types of easement, i.e., inter alia, an easement appurtenant. The analysis of the institution of transmission easement will be narrowed down to civil-law relations, and so attempts made by the Polish legislator at establishing the institution of transmission easement on the grounds of public-law relations will not come under the scope of analysis.¹ Besides the analysis of the transmission easement itself – as a civil-law relation – the text analyses the issues concerned with the institution of the adverse possession of this kind of easement. The text also analyses the issues of selected articles concerning the institution of transmission easement, easement appurtenant and adverse possession as defined by the Polish Civil Code (hereafter abbreviated as CC).

The institution of easement as such should be regarded as a limited property right inasmuch as it is a right to a thing of another (*ius in re aliena*). The institution of transmission easement has some features that make it stand out against other kinds of easement. Compared with an easement appurtenant, the distinctive feature of the transmission easement is the fact that no dominant estate is needed for its establishment; compared with an easement in gross, the distinctive feature is the fact that it is established in favour of the entrepreneur, and not in favour of the natural person.²

With a view to elaborating the material scope of the analysis of the transmission easement, the text addresses the following research questions: (1) *What function is performed by the institution of transmission easement in the system of civil-law relations in the Polish law?*, (2) *What legal problems in the civil-law relations does the application of the institution of transmission easement by adverse possession entail?* In order to answer the above questions one should make use of a specific research process methodology based on legal interpretation. With this goal in mind the text employs

¹ More on the endeavours to introduce the institution of transmission easement on the grounds of public-law relations (in:) R. Rosicki, *The Institution of Transmission Easement in Poland*, (in:) *Energy Security. Raw Materials and Energy Markets. Energy Industry in Times of Political Instability*, P. Kwiatkiewicz, R. Szczerbowski, et. al. (eds.). Poznań 2015, p. 339-348; R. Rosicki, *Transmission Easement – Selected Problems*, (in:) *Energy Security – Earth Materials vs Alternative Energy Sources*, P. Kwiatkiewicz (ed.), Poznań 2013, p. 245-253; P. Ciołkowski, M. Andruszkiewicz, *The Development of Network Infrastructure from the Investor's Perspective – an Outline of the Legal Issues in the Light of the Solutions Proposed in the Bill on Transmission Corridors*, (in:) *Infrastructure Investments and Environmental Protection in the Energy Law*, K. Ziemiński, P. Lissoń (eds.). Poznań 2014, p. 51-70

² M. Gieniec-Mordak, *Transmission Easement – Between Ownership and Public Interest*, „Inwestycje Sektora Publicznego” 2013, no. 4/6, http://gww.pl/uploads/news/id633/ISP_01.04.2013_MGieniec-Mordak.pdf, (access 20.12.2015)

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functional and teleological interpretations, which have been supplemented with theses from the judicature and the legal doctrine concerned with transmission easement.

The origins of transmission easement

While it is next to impossible to conduct a comprehensive historical analysis of the institution of easement in the Polish civil law, one can point to some major legal acts which the Polish legislator introduced; these preceded the institution of transmission easement.³ It is worthwhile focusing on the postwar period, that is on the solutions that were implemented after World War II.⁴ As early as 1946 a statutory decree entitled *Property Right* was passed; it introduced a distinction between an easement appurtenant and an easement in gross.⁵ The issues concerned with the easement appurtenant came into relief in *Decree*, in Articles 167-175 (Title VI, Section I), while the issues concerned with the easement in gross in Articles 176-183 (Title VI, Section II).

The function of the easement appurtenant introduced with the *Decree of 1946* was to make it possible to encumber the servient estate in a manner securing benefits for each and every owner of the dominant estate. This function was executed by way of conferring powers upon the dominant estate owner; these consisted in the right to use the servient estate within a designated scope, or the right to demand that the owner of the servient estate not exercise his right of ownership within a designated scope (Article 167 of the *Decree*). Moreover, a special kind of easement was introduced; it could be established in favour of each and every owner of the enterprise, and appropriate provisions concerned with the easement appurtenant were applied to it (Article 175 of the *Decree*). The rationale behind this solution was to provide the entrepreneur with the possibilities for enhancing its functionality, whereas providing each and every owner of the dominant estate with benefits was not intended.⁶

Subsequent amendments to the civil law took place in the 1960s, following the repeal of the *Decree of 1946*. As of 1 January 1965 the regulations on easement were revised, and the newly introduced Civil Code regulated its division into an easement appurtenant (Articles 285-295) and an easement in gross (Articles 296-305).⁷ These provisions did no longer feature the institution of an easement in favour of the enterprise, which was regulated in Article 175 of the *Decree of 1946*.

On 30 May 2008 the *Act amending the Act – the Civil Code and other Acts* was passed. The amendments to the civil law, introducing the institution of the transmission easement came into effect on 3 August 2008. The Civil Code, as part of the regulations concerned with limited property rights, was supplemented with Articles 305¹ through 305⁴; besides, Article 49, which defined the transmission

³ Cf. K. Jachmylska, *Transmission Easement in the Polish Law in the Postwar Period*, „Przegląd Prawniczo-ekonomiczny” 2013, no. 3, p. 27-42

⁴ More on the history of Polish law (in:) E. Borkowska-Bagieńska, B. Lesiński, *A History of Judicial Law*, Poznań 2000; T. Maciejewski, *A History of the Polish Judicial Law*. Koszalin 1998

⁵ *Decree of 11 October 1946 – Property Right* (Journal of Laws 1946, no. 57, item 319)

⁶ Cf. the theses in: Resolution of the Supreme Court of 8 April 2014 (File Ref. No. III CZP 87/13)

⁷ Act of 23 April 1964 – *The Regulations Introducing the Civil Code* (Journal of Laws 1964, no. 16, item 94)

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facility, was revised.⁸ The substance of these new legal solutions as well as problems that follow from this fact are the object of analysis in this text.

The establishment of transmission easement

The Polish legislator defined the terms and the material scope of the establishment of transmission easement – as a civil-law relation – in Article 305¹ of CC, which stipulates that “Real estate may be encumbered with a right in favour of an entrepreneur who intends to construct or which owns the facilities referred to in Article 49 § 1 under which the entrepreneur may use the servient estate within a designated scope, in accordance with the purpose of the facilities (transmission easement)”.⁹ Hence, it follows that the encumbrance of the estate is effected in favour of the entrepreneur, which results in the possibility of constructing and using the transmission facility located within the estate. Noteworthy, the facility is the property of the entrepreneur, who can use it within a designated scope and in accordance with its intended purpose.

Along with the amendments of 2008, the substance of Article 49 of CC was revised as well. It defines transmission facilities as “transmission equipment for supplying or discharging liquids, steam, gas, electricity and similar facilities are not component parts of the real estate if they are part of an enterprise” (Article 49 §1 CC).¹⁰

Besides the legal norm pointing to the institution of transmission easement (Articles 49 and 305¹ of CC), one should also invoke the solutions related to the claims to the establishment of a transmission easement in the event of a refusal to execute a contract addressing that matter. This issue is regulated by Article 305² §1-2 of CC, which points out two situations: (1) a refusal to execute a contract by the owner of the estate (Article 305² §1); (2) a refusal to execute a contract by the entrepreneur (Article 305² §2).

The substance of Article 305² §1 of CC stipulates that “if the real estate owner refuses to execute a contract establishing a transmission easement and the easement is required for the proper operation of the facilities referred to in Article 49 § 1, the entrepreneur may demand that an easement be established against appropriate remuneration.” From the content of the article it follows that in the first place an attempt should be made to reach an agreement with the owner of the estate, and it is the entrepreneur who should make this attempt. If such an agreement is not reached, the entrepreneur may demand that a transmission easement be established against an appropriate remuneration. The readiness to have a transmission easement established pursuant to Article 305² §1 of CC may be related to the following

⁸ Act amending the Act – the Civil Code and other Acts of 30 May 2008 (Journal of Laws 2008, no. 116, item 731)

⁹ On account of the work on the amendments to the Civil Code, within the scope of the regulations concerned with the transmission easement, the legislator provided for Article 305¹ being supplemented with §2, which was to indicate that a transmission easement was only aimed at increasing the utility of the company or a part thereof. See *Government Bill Amending the Act on the Civil Code* (document no. 74) of 7 December 2011

¹⁰ More on the legal status of transmission facilities (in:) G. Bieniek, *Transmission Facilities. Legal Issues*. Warszawa 2008, p. 11-49

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situations: (1) an attempt to construct a new transmission facility, (2) an attempt to sanction the actual state, that is to legalise the existing transmission facility.¹¹

The legislator provides an adequate legal solution in the event that the entrepreneur refuses to execute a contract – just like in the case when the estate owner refuses to execute a contract. The contents of Article 305² §2 of CC stipulates that: "If an entrepreneur refuses to execute a contract establishing a transmission easement, and the transmission easement is required for the proper operation of the facilities referred to in Article 49 § 1, the real estate owner may demand appropriate remuneration in exchange for establishment of the transmission easement." The function of the regulation contained within this article is to secure the legal interests of estate owners, who may demand remuneration in exchange for the establishment of a transmission easement or endeavours made to sanction it. That being so, the legal solution included in Article 305² §2 of CC enables estate owners to regulate the state in which transmission facilities were constructed in violation of ownership rights, that is without a valid legal title. This is of special relevance given the operation of the state under the previous political regime before 1989.¹² In that period legal issues were not resolved on the grounds of civil-law relations, but infrastructure companies operated on the basis of accomplished facts and administrative decisions were made on the grounds of public-law relations.

In both of the presented legal situations, that is the refusal to execute a contract by the estate owner (Article 305² §1 of CC) and the refusal to execute a contract by the entrepreneur (Article 305² §2 of CC), there are grounds for court action of non-litigious character. In such a case it does not matter if the basis is Article 305² §1 of CC or Article 305² §2 of CC. A lack of agreement between the parties may follow not only from a denial of the need to establish a transmission easement in general, but also from a lack of consent for the course the transmission facility should take in the real estate, e.g. the width of the strip necessary for the operation of the transmission and distribution networks. The legislator did not take enough care over the statutory regulations concerned with the operating or technological strip necessary for the use of the transmission easement in relation to the institution of transmission easement. One of the bases of the strip delineation which the enterprise should define is the type of a transmission device (e.g. transmission line parameters). Another important basis is security considerations related to the operation of the transmission facility.¹³

An adverse possession of transmission easement

Adverse possession is the acquisition of a subjective right in the form of ownership by virtue of the act of law and by a person not entitled to it. The acquisition

¹¹ Cf. *Ibidem*, p. 56

¹² Cf.K. Bator, *On the Nature of Transmission Easement – Conclusions Following from the Analysis of the Rulings of Institutions*, (in:) *System Determinants of Strategic Sectors. Conclusions for the Energy Sector*, F.M. Elżanowski, M.M. Sokołowski (eds.). Toruń 2011, p. 93-96

¹³ More on the scope of the operating or technological strip in relation to the transmission easement, inter alia (in:) *Non-Contractual Use of Real Estate Seized for Transmission Infrastructure – Economic and Legal Aspects*, C. Kowalczyk (ed.). Olsztyn 2014; N. Sajnog, *Technical Infrastructure for the Transmission and Distribution of Utilities and the Attendant Land Strips*, „Infrastruktura i Ekologia Terenów Wiejskich” 2014, no. 2, p. 467-479. Technical guidelines of particular companies regarding the construction of transmission infrastructure are of special significance as well.

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of this title may take place on account of the actual and long-standing use thereof. It should be pointed out that the confirmation of the adverse possession is effected in the course of non-contentious proceedings, whereby in its ruling the court pronounces the existing actual state.¹⁴

Unlike the adverse possession of the easement appurtenant or easement in gross, the Polish legislator did not introduce "directly" into the act the provisions regulating the conditions under which the transmission easement is to be acquired by adverse possession or/and the regulations indicating the inability to acquire it in such a manner. Still, in Article 305⁴ of CC the legislator pointed out that the regulations on easements appurtenant are to be accordingly applied to the transmission easement. In the case of the adverse possession of an easement appurtenant the legislator points to Article 292 of CC, whereby "an easement appurtenant may be acquired by adverse possession only if it consists in the use of a permanent and visible facility." In such a case the provisions on acquiring real estate ownership by adverse possession apply accordingly. An easement in gross, which according to Article 304 of CC cannot be acquired by adverse possession, leads to a different situation.

It is worth focusing attention on other purposes of an easement appurtenant and a transmission easement, for the latter one is established with a view to operating the transmission facility, without which the transmission of substances (e.g. heat, electricity, gas, water) would not be possible.¹⁵ In the Supreme Court judicature the transmission easement is not associated with the dominant estate, for it does not enhance the utility of such a real estate, but enables the enterprise to use the transmission facility located within the servient estate in accordance with the regulations governing usufruct.¹⁶ On the other hand, the transmission easement constitutes a duty for the real estate owner to suffer the restrictions imposed by the entity entitled thereto on account of the transmission easement.¹⁷ It should be noted then that the transmission easement constitutes an easement distinct from an easement appurtenant and an easement in gross. Still, pursuant to the reference in Article 305⁴ of CC, regulations on an easement appurtenant, as well as Article 292 of CC governing adverse possession, are to be applied accordingly.¹⁸

Moreover, it is worth invoking the judicature which directly emphasises that "before the statutory regulation of the transmission easement (Articles 305¹-305⁴ of CC), the judicature of the Supreme Court featured a well-established position that an acquisition by virtue of adverse possession of an easement corresponding to the content of the transmission easement in favour of an enterprise is acceptable".¹⁹ On account of the conflict of the laws concerned with adverse possession before 2008, that is on account of the application, within legal transactions, of an easement appurtenant, the content of which corresponded to the subsequent transmission

¹⁴ E. Gniewek, *Property Right*. Warszawa 2003, p. 91-97

¹⁵ Z. Gołba, *Easements Appurtenant, Road and Transmission Easements, Easements in Gross*. Warszawa 2011, p. 141

¹⁶ Supreme Court Verdict of 6 July 2011 (File Ref. No. I CSK 157/11)

¹⁷ Supreme Court Verdict of 17 February 2011 (File Ref. No. IV CSK 303/10)

¹⁸ Supreme Court Verdict of 6 July 2011 (File Ref. No. I CSK 157/11)

¹⁹ Supreme Court Verdict of 12 January 2012 (File Ref. No. II CSK 258/11); Also see: Supreme Court Verdict of 10 July 2008 (File Ref. No. III CSK 73/08); Supreme Court Verdict of 8 September 2006 (File Ref. No. II CSK 112/06); Supreme Court Resolution of 17 January 2003 (File Ref. No. III CZP 79/02)

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easement, the Supreme Court put forth the following thesis: "The period of the actual state of the real estate, which corresponds to the content of the transmission easement before Articles 305¹-305⁴ of CC came into effect, shall be combined with the period of possession required for the adverse possession of the easement".²⁰

Another characteristic feature of the transmission easement is a connection to the transmission network, which determines the ownership (that is a component part) of the transmission enterprise. Hence, the "permanent and visible facility" emphasised in Article 292 of CC does not serve the function of the transmission facility. Functional interpretation takes place in the case of the facility within the meaning of Article 49 §1 of CC (the use of the facility according to its intended use). Therefore, the difference that emerges out of the juxtaposition of Article 49 §1 of CC and Article 292 of CC is worthy of note. It follows from these two regulations that the following premises should be combined: (1) a function (the purpose of supplying and discharging specified substances), (2) technical features (permanent and visible).²¹

In view of the settlements, with relation to the transmission infrastructure easement in the period prior to the solutions concerned with the transmission easement coming into force (that is before 2008), as well as in the period of the binding force thereof, it is worth pointing to the different interpretations of what is supposed to be permanent and visible, and as such serve the purpose of transmission. For instance, in its verdict of 2006 the Supreme Court ruled that the conditions of permanence and visibility included in Article 292 of CC are met by any material device which corresponds to the content of the easement in the economic sense, and which enables the use of the estate of another as regards easement, and which is situated in the estate of another or in any other way encroaches upon its domain.²² In its verdict of 2014 the Supreme Court points out that the device that meets the above-mentioned conditions may be a power line running over the real estate, and not just the pylon embedded in the real estate ground.²³ In such a case the state of possession pursuant to Article 292 of CC will be determined by the very fact of the electric lines running over the servient estate. The resultant conclusion is thus that permanent and visible facilities need not be located in the estate itself, which the easement applies to, for the adverse possession of the transmission easement (pursuant to Article 292 of CC and in relation to Article of 305⁴ CC) to arise.²⁴ Besides, R. Dziczek points to the role of the servient estate owner's awareness, which should be checked against the objective premise of the divulgence of the permanent transmission facilities, and so a possibility of becoming familiar with the land maps and registers may be taken into consideration.²⁵

The Supreme Court openly points out that the functioning of the permanent and visible device should be viewed as a "warning" for the real estate owner in the sense that if he continues to condone the status quo, that is the manner in which his real

²⁰ Supreme Court Resolution of 22 May 2013 (File Ref. No. III CZP 18/13)

²¹ Cf. P. Lewandowski, *Transmission Easement in the Polish Law*. Warszawa 2014, p. 147-161

²² Supreme Court Verdict of 4 October 2006 (File Ref. No. II CSK 119/06); Also see: Supreme Court Verdict of 6 July 2011 (File Ref. No. I CSK 157/11)

²³ Supreme Court Verdict of 19 May 2004 (File Ref. No. III CK 496/02)

²⁴ Cf. Supreme Court Verdict of 24 April 2002 (File Ref. No. V CKN 972/00)

²⁵ R. Dziczek, *Transmission Easement and Supplemental Claims. Court Motion and Petition Templates. Regulations*. Warszawa 2013, p. 58-59

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estate is used, it can be encumbered with an easement. The fact that the owner condones the actual state and does not exercise his right to negatory protection can be regarded as an approval of the actual state.²⁶

Of relevance for the running of the period of the adverse possession of transmission easement is the provision that in the event of the adverse possession of the easement appurtenant the regulations on the acquisition by way of adverse possession of the real estate ownership apply (Articles 172 and 176 of CC). Pursuant to Article 172 of CC the premise of the adverse possession is the uninterrupted and bona fide possession of the real estate for the period of 20 years, and 30 years if mala fide possession is the case. Determination of the actual and uninterrupted exercise of the transmission easement will pose a significant legal problem here.²⁷ For it should be stressed that pursuant to Article 352 §1 of CC, the owner of the easement is considered the one who has in fact been using the real estate of another within the scope corresponding to the content of the easement. Hence, while for the adverse possession of ownership the premise is to be owner-like possession, as regards the adverse possession of easement the premise is to be possession as the actual use of the real estate of another within the scope corresponding to the content of easement. The exercise of a transmission easement may be occasional, that is it does not need to be continuous, since, by way of illustration, repairing a transformer is not a continuous activity but is undertaken as the need arises.²⁸

Conclusions

The object of analysis in the text are the issues concerned with the transmission easement and the adverse possession thereof on the grounds of the Polish law. The text features: (1) a historical outline of the solutions concerned with easements in the Polish law following 1945, (2) the institution of transmission easement introduced in 2008 and the solutions concerned with the claims for the establishment thereof at court, (3) the institution of adverse possession of transmission easement pursuant to civil law regulations, judicature and the legal doctrine. On account of the need to elaborate the wide-ranging legal issues concerned with the transmission easement in this text, the analysis embraces two research questions giving rise to the following conclusions:

(1) What function is performed by the institution of transmission easement in the system of civil-law relations in the Polish law?

The legislator in the articles introducing a transmission easement ossified the solutions functioning in the judicature of the Polish courts before 2008. The legal interpretation took a turn for clarification, that is for the establishment of a norm in the situation where its comprehension was dubious. It is noteworthy that in the period prior to 2008, the law provided for easement appurtenant, and on account of the usual course of judicial decisions also for easement appurtenant with the content

²⁶ Constitutional Tribunal Verdict of 25 May 1999 (File Ref. No. SK 9/98); Also see: Supreme Court Verdict of 6 July 2011 (File Ref. No. I CSK 157/11) as well as J. Ignatowicz, K. Stefaniuk, *Property Right*. Warszawa 2006, p. 233

²⁷ Cf. E. Gniewek, *Property...*, op. cit., p. 94-95

²⁸ Cf. P. Lewandowski, *Transmission...*, op. cit., p. 147-150; B. Rakoczy, *Transmission Easement in Practice*. Warszawa 2009, p. 102-103

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corresponding to transmission easement. In 2008 these two "legal existences" were supplemented with a transmission easement, which nevertheless failed to resolve all the legal problems; nay, this gave rise to even more problems, e.g. the one of non-establishment of interpolary norms which would address the issues arising in connection with the use of various easement institutions in legal transactions.

While amending the civil law, the legislator aimed to bring order to legal transactions by streamlining the unregulated actual state of easement in relation to transmission infrastructure, but also in relation to the situations where an easement was yet to be established and a facility yet to be constructed. Thus, such action is intended to regulate the disorderly legislation in force as well as to safeguard investment processes. This is of particular significance, for example, for energy companies which are burdened with statutory public-law obligations as regards securing energy supplies and providing for the development of energy infrastructure. Hence, the *de facto* introduced civil-law solutions indirectly served to realise the principles of the doctrine of easement in the public interest.

(2) What legal problems in the civil-law relations does the application of the institution of transmission easement by adverse possession entail?

On account of the functioning of various institutions of easement, that is (1) an easement appurtenant, (2) an easement appurtenant with the content corresponding to a transmission easement, and as of 2008 (3) a transmission easement, a problem arose as to which of the given easements companies exercised in particular periods, all the more so because before 1989 the State Treasury owned them and many of the transmission facilities were put in place by virtue of administrative decisions. The commonly held belief is that in the period of "society-oriented economy" as well as up to 2008 infrastructure companies could exercise an easement appurtenant which corresponded to the content of a transmission easement. Therefore, in such a case the running of the prescriptive period should allow for the general rules laid down for an easement appurtenant.

Apart from the problem of the relation of a capacity to exercise a right to property and the free development of civil-law relations before 1989, the recognition of the running of prescriptive periods – given the functioning of the three various easements as legal institutions – became a significant legal problem. By way of illustration, the recognition – against the period of exercising transmission easement – of the period required for the acquisition thereof by adverse possession, whereby before 3 August 2008 the real estate featured the legal state corresponding to the content of this right, is debatable. One cannot recognise that within that period a transmission easement was exercised, because such a right was not in existence as yet. Therefore, the institution that might be employed is the running of the period as regards the adverse possession in relation to an easement appurtenant with the content of a transmission easement. Still, the problem remains as to whether the period of the exercise of the easement appurtenant with the content corresponding to a transmission easement can be recognised against the period of possession required for the adverse possession of a transmission easement pursuant to the regulations introduced in 2008. One might incline to the position whereby in such a case it would be right to fully recognise – against the period of exercising a transmission easement –

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the period of exercising an easement appurtenant corresponding thereto in respect of its content. That being so, the adverse possession of a transmission easement might ensue in such a situation on 3 August 2008 at the earliest, that is the moment the regulations governing this right come into effect. Conversely, if the prescriptive period expires before that date, the entrepreneur would acquire an easement appurtenant with the content corresponding to the transmission easement. Such an interpretation is aligned with the purpose intended by the legislator, which is to bring order to the actual state of the broadest scope with the aid of a new legal instrument.

The text, while analysing the issue of a transmission easement and an adverse possession thereof as a institution of the civil law, presents only some selected problems. Hence, the analysis does not include, for example, the issues concerned with claims for remuneration (for usufruct without contractual basis or usufruct fees), or claims for compensation (redress or amends). Furthermore, the text does not conduct a more profound analysis of the relation between the provisions regulating public-law relations (e.g. acts of law introducing the institution of dispossession) and the provisions regulating civil-law relations (the easements in question).

Streszczenie

Przedmiotem analizy w tekście jest problematyka związana ze służebnością przesyłu i zasiedzeniem tejże służebności na gruncie polskiego prawa cywilnego. Główne części pracy dotyczą następujących kwestii: (1) rysu historycznego rozwiązań dotyczących służebności w polskim prawie po 1945r., (2) instytucji służebności przesyłu wprowadzonej w 2008r. oraz rozwiązań dotyczących roszczeń do ustanowienia jej na drodze sądowej, (3) instytucji zasiedzenia służebności przesyłu w polskim prawie cywilnym, orzecznictwie sądów i doktrynie prawa.

W celu uszczegółowienia problemu badawczego w pracy przedstawiono następujące pytania badawcze: (1) *Jaką funkcję w systemie stosunków cywilnoprawnych pełni instytucja służebności przesyłu w polskim prawie?* (2) *Z jakimi problemami prawnymi w stosunkach cywilnoprawnych wiąże się stosowanie instytucji zasiedzenia służebności przesyłu?*

Słowa kluczowe: służebność przesyłu, ustanowienie służebności przesyłu, zasiedzenie służebności przesyłu

Summary

The object of analysis in the text are the issues concerned with the transmission easement and the adverse possession thereof on the grounds of the Polish civil law. The main sections of this thesis address the following issues; (1) a historical outline of the solutions concerned with easements in the Polish law following 1945, (2) the institution of transmission easement introduced in 2008 and the solutions concerned with the claims for the establishment thereof at court, (3) the institution of adverse possession of transmission easement pursuant to civil law regulations, judicature and the legal doctrine.

With a view to elaborating the research issues, the thesis addresses the following research questions: (1) *What function is performed by the institution of transmission easement in the system of civil-law relations in the Polish law?*, (2) *What legal problems*

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in the civil-law relations does the application of the institution of transmission easement by adverse possession entail?

Key words: transmission easement, establishment of transmission easement, adverse possession of transmission easement

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