

## **Double sale - double interpretation: from European inspirations to Chinese legal practice**

Legal systems across the world are not exactly identical, however they often share similar legal institutions and the same values. Worldwide expansion of private law modeled on Roman law seems only to confirm the presumption that the legal concepts and principles developed in it can be adopted in another cultural environment. China also borrowed from other systems many legal institutions derived from Roman law while constructing its modern law. On first sight the resemblance of Chinese laws to similar European ones is striking. It seems to be justified then to think that by modernization of their law, the Chinese abandoned their own customs and began to copy Western models. Meanwhile, in Europe it is not widely known that China not only developed its own (also legal) culture even earlier than the Roman Republic did, but also that this culture still has a strong influence on everyday life of the Chinese. So although China borrows legal regulations in form of legal texts, it does not necessarily copy the ways they are used in practice. Such a situation may be a source of problems. Nowadays many companies from China and Europe conclude contracts and often decide that in case of a dispute they plan to apply Chinese law. Different understanding of legal norms may then lead to miscomprehensions and even legal flaws.

The legal institution studied in this project is double sale. A double sale is a situation in which one and the same thing is sold by the seller to two (or more) different buyers. The question that arouses is who the actual owner of the thing is. Is it the buyer who paid the price first, the buyer who acquired the thing physically, the buyer who signed the contract first, or even someone else?

Due to the fact that possible legal effects of double sale may be crucial in the international trade, the project will focus on legal regulations related to this issue. The aim of the research is therefore to analyze whether the rules regarding double sale – adopted in China from the Western legal tradition – are understood by the Chinese the same way they are understood by the Europeans. And if not, the project will determine the kind and the scope of the differences. The hypothesis that there are some disparities combines with an assumption that the influences of Confucian culture and Communist ideology modifications, which also impact the Chinese legal culture, play the key role in explaining such a phenomenon. During the project not only the legal texts, but also literature on Chinese culture and legal tradition will be analyzed to grasp the necessary context for the interpretation of the provisions. Apart from the Chinese laws, also relevant European codes will be considered in order to identify Western influences in Chinese texts. The analysis of Western literature concerning Chinese reception of laws will allow to observe how this phenomenon is perceived in Europe. Finally, Chinese court decisions regarding double sale will be examined to find out how the Chinese courts understand this institution while having their own legal tradition as a foundation.

The project may contribute to better understanding Chinese approach to law, which is not widely known in Europe. It can also increase knowledge on Chinese legal culture and thereby help to avoid potential risks posed by mutual miscomprehension in international relation with Chinese partners. The results of the project will also help to estimate the possibility of actual legal communication in the field of private law between the Chinese and European lawyers.