

Incorporation of mines to the public domain category. History of the doctrinal discussion and current situation [Incorporación de las minas a la categoría del dominio público. Historia de su discusión doctrinaria y situación actual]

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In the doctrinal studies on the mining regimes it has been a constant concern to try to answer, among other things: To whom do the mines or mineral wealth belong? What is the relationship that exists between individuals and the State with the mines? What is the nature of the rights that can be acquired over mineral wealth? The theories that have been proposed to answer these and other questions can be found in what has been called in the doctrine "mining domain" or for some "mining property, " terms that fundamentally refer to the determination of who do the mine and mineral resources belong to, or other legal systems that try to explain the link between the State and these, as well as the way in which individuals may or may not take advantage of them. Although in comparative law it seems clear that mines are integrated into the public domain genre, a macro category that includes a series of goods and rights subject to special regulations, of which the mining domain is then a species; in the case of Chile, this has not always been the case. At least from the dogmatic point of view. From the review of Chilean literature, it can be observed that, with some exceptions, there are still vestiges of civilist theories to try to explain this link. In this way, although the State is usually linked to mines or mining wealth, in Chile the explanation of the legal nature of this link is at first diffuse, having been formulated as a true property, but then being definitively affected to a general interest. Hence, the present work seeks to explain that, indeed, today the mines have come to be integrated into the notion of "public domain" that includes the most diverse categories of goods. © 2020.

Eminent domain

Mining domain

Mining property

Public domain

Public goods