

The Rise of The Modern Company in East-Central Europe*

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1. Introduction

1.1. Thesis

East-Central Europe followed a markedly different path of corporate legal development from Western Europe. Because the region largely bypassed (1) the medieval-early modern contractual phase of enterprise and (2) the rise of chartered joint-stock monopoly companies (e.g. the British and Dutch East India Companies), it lacked the incremental institutional learning that, in the West, underwrote modern corporate law. When modernisation arrived in the 19th century, it did so mainly through top-down legal transplants, producing rapid formal convergence but uneven functional outcome. The last decades of the 19th century and the interwar advances in the 20th century were then severed by the Soviet-type legal orders after 1945, creating an increased discontinuity that complicated post-communist reconstructions.

* Eichlerová, K., Ivkošić, M., Ledwoń, P., Veress, E., Barta, J., Dugar, G., Renko, J., Mihajlović, B., Mrázová, Ž. (2025) 'Legal Capital and Finances of the Company' In Veress, E. (Ed.) Joint Stock and Limited Liability Companies in East Central Europe. Miskolc-Budapest: Central European Academic Publishing. pp. 15–90. https://doi.org/10.54171/2025.ev.jsllcece_chapter1

1.2. The Missed Contractual Phase

In Western Europe, late-medieval and early-modern commerce nurtured partnerships and other consensual business forms grounded in private agreement, trust, and small-scale governance. Over time, courts and statutes learned to recognise these collectives as entities distinct from their members, laying the conceptual groundwork for corporate personality and even limited liability. East-Central Europe, by contrast, experienced constraining structural conditions, including entrenched feudal agrarian economies, extended imperial domination (i.e. Ottoman, Habsburg, and Russian empires), and comparatively weaker urban mercantile populations. These factors dampened market-driven experimentation with partnerships and reduced demand for corresponding doctrinal refinement. The consequence was an absence of a long period of iterative practice through which norms of internal governance, risk allocation, and creditor protection could organically evolve.

1.3. The Missing Chartered Joint-Stock Moment

Western Europe's 16th–17th-century chartered companies, notably the English and Dutch East India Companies created under royal/state privilege charters, pioneered large-scale equity finance, transferable shares, professional management, and, crucially, doctrines separating ownership from control. They served as arenas for developing limited liability, fiduciary standards, and shareholder remedies, innovations that became integral to the evolution of modern corporate law.

East-Central Europe did not host analogous entities. Its economies remained more insular and agrarian, and strategic trade routes and high-capital enterprises were often controlled by foreign powers. Without exposure to these capital-intensive organisational experiments, the region missed a second formative phase of institutional learning by doing. The region's involvement in global trade was also minimal, further reducing the impetus for creating large, capital-intensive enterprises that require advanced legal structures.

1.4. 19th-Century Top-Down Modernisation

The absence of these two phases created a significant developmental gap. When East-Central Europe began modernising in the 19th and 20th centuries, it faced the challenge of adopting imported legal frameworks of corporate law without the benefit of having evolved them incrementally. Western legal models, shaped by centuries of organic development, often had to be grafted onto societies with fundamentally different economic and social conditions. This led to implementation and adaptation difficulties because the legal systems were not always aligned with the local realities. Furthermore, the lack of a foundational legal tradition meant that East-Central European countries were often ill-prepared to manage the challenges of company law.

Even in this context, starting from the first half of the 19th century, East-Central Europe embarked on a deliberate and state-driven effort to modernise its legal and economic systems, including through company law development. By the 19th century, East-Central Europe was undergoing significant transformations influenced

by broader political and economic shifts. The decline of feudal systems, the rise of nationalism, and the spread of industrialisation created pressures to modernise the legal and institutional structures. Regional governments sought to emulate Western European models to enhance economic competitiveness, attract foreign investment, and integrate into the broader European economy. This modernisation was characterised by an “up-to-bottom approach”, where reforms were initiated by the ruling elites or governments rather than through grassroots economic evolution. This process allowed many countries in East-Central Europe, despite the region’s earlier divergence from the Western trajectory of legal and economic development, to develop their company law frameworks with relatively little delay compared to Western Europe.

By the mid-late 19th century, the formal company-law gap had largely closed, with an example being that England and Hungary converged on the core doctrines of modern corporate law. England’s Joint Stock Companies Act of 1844 established incorporation by registration, the Limited Liability Act of 1855 generalised shareholder limited liability, and the Companies Act of 1862 consolidated the regime. Hungary moved from Act XVIII of 1840, its first modern company-law statute, to the Commercial Code (Act XXXVII of 1875), which codified the joint-stock company and limited shareholder liability to paid-in capital. By 1875, both jurisdictions possessed the essential legal toolkit, even if enforcement capacity, market depth, and governance practice still differed.

As aforementioned, in East-Central Europe, this modernisation effort was driven by the state, in contrast to the much longer, more organic, bottom-up evolution of company law in Western Europe. Thus, while Western European company law evolved alongside the economic and social changes of the Industrial Revolution, East-Central Europe implemented legal reforms as part of a broader strategy to “catch up” with the West. These reforms were often introduced as comprehensive legal codes and borrowed heavily from Western models, particularly the French, German, and Italian legal traditions. Similarly, the two predecessor states of Romania adopted the French Commercial Code first, some decades after its introduction in France under Napoleon in 1807. This code was one of the most influential legal documents of its time, providing a comprehensive framework for commercial activities, including company law. Later, the newly created Romania in 1887 adopted the Italian Commercial Code, a successful legal transplant. The adoption of these codes signalled a commitment to modernisation and alignment with Western European legal traditions, ensuring that the region’s commercial laws reflected contemporary practices and standards.

These reforms were part of broader legal and institutional modernisation programs, often including the introduction of civil codes, judicial reforms, and administrative changes designed to support economic development and integrate the region into broader markets. In summary, the “up-to-bottom approach” to modernisation in East-Central Europe had several defining features, as follows:

- (a) state leadership, because rulers and administrative elites designed and imposed commercial reforms with limited participatory input from business communities;

- (b) foreign models, because legislators borrowed extensively from French, German, and Italian codes to accelerate “catch-up” and overcome the lack of organic development;
- (c) the objective was to catch-up as the legal changes were aimed at improving competitiveness, investment attraction, and integration with broader markets;
- (d) rapid enactment, because comprehensive commercial codes and company acts were adopted quickly, albeit such a rapid establishment of modern legal frameworks often led to adaptation and implementation challenges.

1.5. Interwar Consolidation and Partial Indigenisation

After the First World War, the political map of East-Central Europe was radically redrawn. The collapse of the Austro-Hungarian, Russian, and Ottoman empires produced a series of newly-independent or enlarged nation states, each inheriting fragments of prewar legal systems. Company law, like other branches of private law, was directly affected by this transformation. The break-up of imperial markets meant that unified commercial codes, previously applied across vast, integrated territories, now operated only within much smaller national economies. Successor states faced the urgent task of consolidating their legal orders by reconciling multiple overlapping legal traditions. In some cases, this meant retaining imperial-era codes temporarily for reasons of legal continuity, while drafting new company law provisions tailored to the national priorities. Moreover, state-building agendas influenced corporate regulation, as governments sought to align the company law with economic nationalism, promote domestic entrepreneurship, and control foreign capital. This often led to protection of domestic shareholders and measures to encourage industrialisation and infrastructure investment.

The interwar decades marked a period of limited organic growth in the region. Legislatures refined company forms (e.g. introduced limited liability companies), clarified shareholder rights, and elaborated rules on capital formation, managerial responsibility, and accountability. Jurisdictions such as Czechoslovakia tailored company law to industrial expansion, while others (e.g., Romania) sought to balance their agrarian legacies with industrial policies. Business communities began to accept and internalise corporate forms, suggesting the emergence, at last, of a regionally-grounded corporate legal culture. The laws gained acceptance among the population and businesses, signalling a maturing legal culture that supported entrepreneurship and economic development, and this occurred even during periods of crises such the one starting in 1929 and lasting in the region until approximately 1933.

1.6. Socialist Rupture (Post-1945)

While the interwar period represented the peak of organic development and integration of company law in the region, with widespread acceptance among businesses and society, this progress was disrupted by the Soviet occupation following the Second World War, and the imposition of planned economies (which rendered capitalist

company law obsolete and replaced it with a framework centred on state ownership and centralised planning).

Private enterprises were nationalised or prohibited, while state ownership and administrative command displaced market coordination. Classical company-law concepts lost operative meaning, like the corporate personality as a private actor and limited liability as investor protection, shareholder governance, and fiduciary duties. “Enterprises” functioned as administrative units within planned hierarchies, and legal rules served allocative compliance rather than private ordering. This created a generational break in professional expertise and institutional memory, and a new break with Western Europe.

The imposition of planned economies had profound and long-lasting effects on the legal and economic systems of East-Central Europe. The abrupt transition from a capitalist to a socialist economic model interfered with the organic development of company law and severed the region’s connection to the legal and economic traditions that had been established in the second half of the 19th century and during the inter-war period. The elimination of private enterprise and the focus on state ownership upset the region’s burgeoning business culture. Entrepreneurs, investors, and private businesses were replaced by state officials and bureaucracies, fundamentally altering the relationship between economic actors and the legal system. Under this planned economy, there was little need or opportunity for innovation in economic law. The legal frameworks that governed Soviet-type state-owned enterprises were rigid and primarily designed to ensure compliance with central plans, stifling the evolution of legal principles related to business. The displacement of capitalist company law created a new significant gap in the region’s legal tradition. Decades of progress in developing refined corporate law frameworks were effectively erased, leaving a void that would have to be addressed after the fall of “communism”.

1.7. Post-Communist Reconstruction

The collapse of communist regimes in the late 20th century required rebuilding the market institutions and reintroducing company law, which was done largely through renewed legal transplants. The long interruption meant scarce judicial precedents, thin regulatory capacity, and limited practitioner familiarity with corporate law and governance. Reform agendas could reinstall code provisions swiftly, but deep complementarities (e.g. financial intermediation, disclosure norms, enforcement credibility, and managerial and investor cultures) were much slower to (re)emerge.

Privatisation set the practical terms of corporate governance, where mass programs (e.g. voucher schemes, insider/management buyouts, auctions, and later strategic sales) produced either highly-concentrated block holdings (often with “golden share” residues) or atomised ownership that was quickly reconsolidated by funds and insiders. This ownership mix, combined with weak regulators and illiquid exchanges, amplified problems of related-party transactions, tunnelling, and minority-shareholder expropriation, forcing successive waves of rules on disclosure, connected-party approvals, and audits. Early finance was predominantly bank-led, with foreign

strategic investors in banking and utilities importing compliance routines and board practices, but also testing the states' capacity to police competition and state aid.

Privatisation also catalysed essential infrastructure laws (e.g. company registries, secured transactions, and bankruptcy/insolvency) and soft-law governance codes, yet courts, supervisory agencies, and professions needed years of training and case-building to make these tools credible. For European Union-bound states, *acquis* alignment (e.g. company, accounting/audit, prospectus, market abuse, and takeover) supplied a second modernisation wave that raised formal standards and listing rules.

1.8. Evaluation

East-Central Europe's company law did not simply arrive late, but travelled a different road. The region skipped the formative early stages, imported rules at speed in the 19th century, found firmer footing in the interwar decades, and then saw that progress be halted by socialist legal orders after 1945. The post-1989 rebuild added a new and disputed chapter characterised by rapid statutory convergence and uneven institutional recovery. Read this way, the region's history can be regarded as less a tale of delay and much more as a record of detours, accelerations, and abrupt stops that left deep marks on how corporate law works in practice.

Two clocks have been ticking throughout these happenings: one measures formal adoption, codes, and acts that came quickly once policy windows opened; the other measures functional uptake, the slower work of courts, regulators, financiers, managers, and investors learning to use those tools. In the 19th century, the first clock raced ahead, as the region could relatively speedily put modern company forms on the books after England, France, or Germany. The second clock lagged, as enforcement routines and commercial habits had to be learned in compressed time. The interwar period seemed to bring these two clocks closer and closer together. New states consolidated company law, refined shareholder rights, experimented with forms suited to their industrial and agrarian mixes, and a recognisable corporate legal culture began to emerge.

Then came rupture. Under central planning, company law stopped and was replaced by the administrative law of state-owned enterprises. After 1989, the statutes aligned swiftly with European models, and thus incorporation, limited liability, disclosure, and listing rules reappeared. Successive reforms tightened disclosure, auditing, and conflict-of-interest rules, but credibility grew only as regulators gained experience, judges built precedents, and market actors came to expect enforcement.

This history carries three lessons for comparative corporate law. First, transplants travel faster than trust, in that it is easier to borrow a code than to build the expectations, incentives, and professional routines that make it work. Second, the state can accelerate, but not substitute for, learning, as while top-down reform creates the legal possibility of modern governance, bottom-up practice (e.g. shareholders litigating and solving managerial conflicts) is what turns that possibility into a constraint. Third, complementarities matter, with corporate law performing differently depending on

ownership patterns, banking structures, media scrutiny, and political insulation of regulators. Where these complements are weak, identical statutory language yields different results.

At the same time, the region is not a monolith. Some jurisdictions built credible securities regulators sooner, while others modernised insolvency faster or cultivated more active courts. The timing and design of privatisation mattered, and so did the sequencing of reforms in accounting, bankruptcy, and competition law. Local legal communities (e.g. judges, notaries, academics, and practitioners) played an outside role in translating the imported concepts into usable doctrines. There were genuine instances of innovation, not mere imitation, especially where lawmakers tailored forms to domestic business needs.

None of this implies fatalism, with the long view showing a steady progress from statutory form to institutional substance. Importantly, the region's corporate law today is not simply a translation of Western law, but rather features a set of frameworks increasingly embedded in local markets and administrative practices. Then, why did the region's laws look familiar so quickly while outcomes varied for so long? Because formal convergence is a sprint and functional convergence is a marathon, the first having been run in the 19th century, again after 1989, and the marathon having been underway ever since. This snapshot suggests that we should avoid both triumphalism (i.e. "the laws are in place; the job is done") and pessimism (i.e. "nothing works here"). The more grounded conclusion is that when institutions are allowed to accumulate experience, and when political will sustains enforcement, corporate law in East-Central Europe does what it is supposed to do: channel capital, allocate control, discipline insiders, and, over time, build the trust that no act can decree but every market requires.

2. The Czech Republic

The joint-stock company (*akciová společnost*) is to some extent the result of historical development, as the lawmaker first reflected this development and then regulated this form in detail. Meanwhile, the limited liability company (*společnost s ručením omezeným*) is a targeted creation of the German lawmaker that was gradually adopted by other countries. The beginnings of the modern regulation of joint-stock companies in the territory of present-day Czech Republic can be dated back to the mid-19th century, when the Czech lands were part of the Austrian Empire. These beginnings can be found in the Act No. 253/1852 ř. z., Act on Associations (*spolkový zákon*). A more extensive regulation of the joint-stock company did not appear until the General Commercial Code (Act No. 1/1863 ř. z.; *všeobecný obchodní zákoník*). However, this regulation

applied only to joint-stock companies that carried on business.¹ Subsequently, the Stock Regulation (*akciový regulativ*) was issued for these joint-stock companies (Regulation No. 175/1899 ř. z.), which was a particularly fine piece of legislation at the time. The Stock Regulation applied to all joint-stock companies except those which carried on banking, credit, or insurance business or were canal, railway, or steamship companies - as these had their own special regulations. The establishment of joint-stock companies, and the significant changes in their proportions, were subject to the concession regime (i.e. the granting of a concession was subject to the discretion of the relevant government authority).²

From 1906, it was possible to establish a limited liability company in the Czech lands on the basis of Act No. 58/1906 ř. z. on Limited Liability Companies (*zákon o společnostech s ručením obmezeným*), which was preceded by the German Act (*GmbH Gesetz* from 1892). The law was valid only for Cisleithania. Its issue was related to the economic need to create a new form of business company between a partnership and a joint-stock company, combining their advantages and counteracting their disadvantages. The aim was to introduce a new business company whose members would not be burdened with unlimited debt to creditors and, concomitantly, the process of incorporation would be considerably simplified compared to a joint-stock company. Therefore, the registration system was introduced for limited liability companies, as was the same for other business companies. The exception was the system for the joint-stock company, which is still applied today and which comprises that when the statutory conditions are met, the legal right to register the company in the Commercial Register and thus to its establishment arises. The reason for the abandonment of the strict conditions applicable to the joint-stock company was that not every business, or the carrying on of business, required a large amount of capital to be raised from the general public through the issue of shares. It was assumed that in the case of small and medium-sized businesses, capital could only be raised from the founders without addressing the public. Therefore, unlike a public limited company with traded shares, a limited liability company was characterised by a closer relationship of the shareholders to the company, representing a more permanent link between the shareholder and the company. This was secured in the law by the exclusion of the issue of participating securities, since a share in a limited liability company, unlike shares in a joint-stock company, was not intended to be the subject of a circulation trade and therefore to speculation.³ If a limited liability company was characterised at that time, it was done so by means of an expression: 'a joint-stock company without shares, a limited partnership without a general partner'.⁴

1 Joint-stock companies that did not conduct business (e.g. theatre joint-stock companies) were governed only by the Act on Associations and did not have the status of traders. Malovský-Wenig, 1947, p. 254.

2 Malovský-Wenig, 1947, p. 255.

3 Černá et al., 2021, p. 321.

4 Malovský-Wenig, 1947, p. 447; Hermann-Otavsky, 1929, p. 694.

The limited liability company was the first company type to allow incorporation for a purpose other than carrying on business, while retaining the status of a full-time trader. Under the Limited Liability Companies Act, it could be formed for any permissible purpose except the carrying on of insurance business and the activities of political societies. Then, by the Reception Act No. 11/1918 Sb., on the establishment of the independent Czechoslovak state, all imperial laws, including the General Commercial Code, the Stock Regulation and the Limited Liability Companies Act, were retained in force. The validity of Act No. 58/1906 ř. z. Limited Liability Companies was extended by Act No. 21/1920 Sb. to the territory of Slovakia and Subcarpathian Rus, where it was not possible to establish a limited liability company until then. However, even then, and unlike in the Czech lands, limited liability companies were only sporadically established in this territory before the Second World War.⁵

During the 1930s, the recodification of Czech commercial law, including business corporation law, was being prepared together with the recodification of civil law. The intent was unifying commercial law in Czechoslovakia. As a result of the 1918 Reception, a dual commercial law was in force in the territory of Czechoslovakia. One in the Czech lands, which belonged to Cisleithania in the Austro-Hungarian Empire, and the other in Slovakia and Subcarpathian Rus, which belonged to Transleithania. In 1937, the Ministry of Justice submitted the Draft of the Commercial Code, containing the first book of traders and the second book of companies; that is, the full text of the new Commercial Code was not submitted at this time, the legal regulation of trades was missing, and so was the regulation of limited liability companies and joint-stock companies, which were to be dealt with in separate laws. The Explanatory Memorandum drew attention to the strong need for a reform of the law on shares and for certain changes in the regulation of limited liability companies. However, it acknowledged that work on these amendments had not even begun.⁶ While the work on the recodification had not been completed, the Draft of the Commercial Code is still a very valuable document for the quality of its drafting.

After the Second World War, a new form of legal entity was created, namely the state-owned national enterprise (*národní podnik*). This form was created in the nationalisation decrees of the President of the Republic No. 100 to 103/1945 Sb. Although national enterprises were considered to be independent legal entities, they were at the same time the property of the State, which, however, did not guarantee their property.⁷ They could be set up for business or for other purposes, but they were always entered in the Commercial Register. As a result of nationalisation, national enterprises acquired the assets of joint-stock companies and limited liability companies,

5 Osnova obchodního zákona, 1937, p. 152.

6 Osnova obchodního zákona, 1937, p. 152.

7 Malovsky-Wenig, 1947, p. 48.

which were nationalised.⁸ In other words, in those sectors of the economy in which nationalisation had taken place⁹ (successively in all of them),¹⁰ although these companies continued to exist formally, they were deprived in principle of all their assets, as these had passed to a particular national enterprise as a result of nationalisation.

After the Second World War, the Stock Regulation was abolished in 1949 by the Act on Public Stock Companies (Act No. 243/1949 Sb.; *zákon o akciových společnostech*). The new law contained only a minimalist regulation allowing the establishment of a joint-stock company in cases strictly necessary for the needs of international trade. The Public Stock Companies Act from 1949 had a total of 20 provisions; the distribution of the share capital into shares and the absence of shareholders' liability for the company's debts were retained.

Act No. 58/1906 ř. z. on Limited Liability Companies was repealed by Act No. 141/1950 Sb., the Civil Code (*občanský zákoník*). On 1 January 1951, all limited liability companies were abolished on the basis of this law, and the related property settlement was to be carried out in accordance with the existing Limited Liability Companies Act. Between 1951 and 1989, no limited liability companies existed or could be established in Czechoslovakia. After 1989, one of the first steps towards the restoration of full-fledged company law was the provisional regulation of joint-stock companies in the Joint-stock Companies Act (Act No. 104/1990 Sb.) (*zákon o akciových společnostech*), which was replaced by the Commercial Code (Act No. 513/1991 Sb.) (*obchodní zákoník*) with effect from 1 January 1992.¹¹

8 At the beginning, it was assumed that own citizens would be compensated for the nationalised property, but this was subsequently abandoned, so it was a confiscation without compensation. However, compensation was provided for the nationalisation of foreign investments. Kuklík, 2010, p. 357.

The way to nationalization was already opened by the Constitution of 1920, which although 'protected the ownership but stipulated that it was possible to expropriate even without adequate compensation if it is laid down by the provisions of Act of Parliament'. Kuklík, 2010, p. 422.

9 In the beginning, large enterprises such as coal mines, leading industries, and banks were nationalised, the so-called first wave of nationalisation. Kuklík, 2010, p. 423.

10 Kuklík, 2010, p. 322. The second wave of nationalisation, that of all industry except small holders of land and small private businesses took place during 1948–1950. Nationalisation was almost complete, as well as more rapid and far reaching when compared with the German Democratic Republic, Poland, Hungary or Romania. Kuklík, 2010, pp. 423 et seq.

11 On the development after 1989, see Havel et al., 2023.

Although the restitution laws in the 1990s¹² did not apply to business companies,¹³ joint-stock companies established before 1948 were “revived” in some specific cases. An illustrative example for the period of nationalisation and redress of injustices after 1989 is the story of the company *Cíl, akciová společnost v Praze*. This company was established on 28 December 1939 mainly to operate in the printing and publishing industry.¹⁴ It issued 3,500 shares to owners, and the sole shareholder was the Czechoslovak Social Democracy (*Československá sociální demokracie*). After the war, the company was twice placed under national administration, and subsequently its printing-related assets were nationalised in 1950 and incorporated into the national enterprise *Svoboda, tiskařské závody, národní podnik v Praze*. The shares were forcibly deposited in a monetary institution as a result of Presidential Decree No. 95/1945 Sb, but the company *Cíl, akciová společnost v Praze* was not deleted from the Commercial Register. In the 1990s, the Czech Social Democratic Party (*Česká strana sociálně demokratická*), as the legal successor of the Czechoslovak Social Democracy, demanded the shares from the State Regional Archive in Prague, where they were transferred in 1993 as archival material of permanent historical value as a “complete collection of shares” by the monetary institution, which had held them in custody until then. The political party also sought to the members of the board of directors of the company *Cíl, akciová společnost v Praze*, appointed by it, to enter into the Commercial Register, on the grounds that it was the sole shareholder of the company.¹⁵ It was initially unsuccessful with its claims in the general courts, but eventually succeeded in the Constitutional Court. The Constitutional Court, in its ruling III.ÚS 462/98 of 11 January 2000, recognised the legal continuity of the Czech Social Democratic Party

12 Restitution was the process of returning illegally-taken (nationalised) property to its original owners, usually former private owners, churches, and other institutions confiscated after the communist coup in February 1948 in what is now the Czech Republic and Slovakia. Restitution was aimed only at restitution of ownership rights, not at redressing the loss of other property rights (e.g. mortgage rights). They were regulated by four basic laws, as follows: Act No. 87/1991 Sb., on Out-of-court Rehabilitation (*o mimosoudních rehabilitacích*), Act No. 229/1991 Sb., on Regulation of Ownership Relations to Land and Other Agricultural Property (*o úpravě vlastnických vztahů k půdě a jinému zemědělskému majetku*), Act No. 403/1990 Sb., on Mitigation of Consequences of Certain Property Injustices (so-called ‘small restitution’) (*o zmírnění následků některých majetkových křivd (takzvaná “malá restituce”)*) and Act No. 119/1990 Sb., on Judicial Rehabilitation (*o soudní rehabilitaci*).

13 Only items nationalised or confiscated after the Communist takeover (i.e. 25 February 1948), were subject to restitution, and the beneficiary was basically a person with Czech citizenship and permanent residence in the territory (the second requirement was subsequently dropped). Ecclesiastical restitution was regulated much later. Kuklík, 2010, p. 425.

14 The company is registered in the Commercial Register maintained by the Municipal Court in Prague under the registration number BXXVI 240; its ID number is 26165376.

15 The reason why the Czechoslovak Social Democratic Party embarked on these legal disputes was a dispute over the ownership of the People’s House (*Lidový dům*) in Prague. It was owned by the company *Cíl, akciová společnost v Praze*, and was one of the few that had not been nationalised (it was not part of the printing enterprise). The People’s House was used by the Communist Party of Czechoslovakia, and although the latter tried to bring the legal relations to this house into line with the actual situation, it was not successful in the end.

with the post-war Czechoslovak Social Democracy, and also recognised that this company was the sole shareholder of the company *Cíl, akciová společnost v Praze*, even though over time the original shares had lost their character as a security as a result of Section 7(b) of the Act No. 41/1953 Sb., (Second) Monetary Reform (*zákon o peněžní reformě*).¹⁶

The regulation of limited liability companies returned to the legal system on 1 May 1990 by Act No. 103/1990 Sb., which significantly amended the then Economic Code (Act No. 109/1964 Sb.; *hospodářský zákoník*). The regulation was brief, including only four provisions. This transitional legislation remained in force for 20 months and was completely replaced by the Commercial Code on 1 January 1992, which in turn remained in force until 31 December 2013. It was amended many times during its 22 years of operation. The amendments adopted in 1996 and 2000 were particularly significant for joint-stock companies and limited liability companies. After 1996, many of the amendments were of a harmonising nature with European directives.

Act No. 89/2012 Sb. (the Civil Code, *občanský zákoník*) and Act No. 90/2012 Sb. (the Business Corporations Act; *zákon o obchodních korporacích*), whose regime joint-stock companies and limited liability companies are currently subject to, have been in force since 1 January 2014. A significant amendment that has affected their regulation is Act No. 33/2020 Sb. The Business Corporations Act significantly liberalises the legal relations of companies, and the company law is considerably more liberal than it was in the past, allowing for greater flexibility in setting corporate governance and shareholder rights. Meanwhile, it significantly strengthens the liability of directors.¹⁷

In the case of a joint-stock company, since 2014, founders are currently given the choice of the internal structure they choose, the possibility of creating single-member elected bodies without any conditions, and the only limit for the creation of types of shares is basically good morals and public order. It is also worth mentioning the possibility to set an unlimited term of office for a member of an elected body, and the possibility for a legal person to be a member of an elected body. In summary, the Czech stock law is very liberal in principle, affording great flexibility in setting the company's management and shareholder rights.

For limited liability companies, the following changes have been made to the legislation in force since 2014: the number of shareholders is not limited (previously maximum 50); the prohibition on chaining (i.e. the creation of additional one-member companies by a one-member company) was abandoned; the minimum value of the contribution is 1 Czech koruna (previously 20,000 Czech koruna); the minimum amount of the share capital is based on the minimum amount of the contribution according to the number of shares (e.g. one shareholder may establish a limited liability company with a share capital of 1 Czech koruna; two shareholders may establish a

16 Although the shares lost the character of a security and the share was separated from the deed, the share itself did not cease to exist and survived as an uncertificated share, therefore the court could find that the Czech Social Democratic Party was still the sole shareholder.

17 Černá et al., 2021, p. 403.

limited liability company with a share capital of 2 Czech koruna); the memorandum of association may allow shareholders to hold more shares; it is expressly allowed to create different share types (i.e. shares with different rights attached to them); a share may be represented by a share certificate; the company is not legally obliged to create a loss reserve; the maximum possible amount of the premium is not fixed by law but is to be set out in the memorandum of association.

The legal regulation of joint-stock companies and limited liability companies is mainly found in the Civil Code and the Business Corporations Act. Then, when dealing with a specific legal issue, the following structure of legislation must be applied (we speak of a multi-level structure of legislation):

- a) general regulation of legal entities in the Civil Code (Sections 118–209 Czech Civil Code);
- b) general regulation of corporations in the Civil Code (Sections 210–213 Czech Civil Code);
- c) the provisions of the Civil Code on associations, if expressly provided for in the Business Corporations Act (Sections 3(1)):
 - validity of the decision of the body (Section 45 (1) Business Corporations Act in conjunction with Section 245 Czech Civil Code);
 - invalidity of the resolution of the general meeting (Section 191(1) Business Corporations Act in conjunction with Sections 258–260 Czech Civil Code);
 - reasonable satisfaction of the shareholder (Section 193(2) Business Corporations Act in conjunction with Section 261 Czech Civil Code);
- d) the general provisions on Business Corporations in the Business Corporations Act (Sections 1–94 and Sections 774–785 Business Corporations Act);
- e) special regulation of the relevant type of the business corporation in the Business Corporations Act (Sections 132–242 and Sections 243–551 Business Corporations Act);
- f) special laws.

The lawmaker refers to both companies as capital companies (Section 1(2) Business Corporations Act), albeit factually only a joint-stock company is a purely capital company and a limited liability company is of mixed nature. Its statutory scheme contains a number of personal elements (e.g. unanimity in the event of a decision to amend the memorandum of association affecting the rights and position of the members; Section 171 Business Corporations Act), although the capital elements predominate. The statutory regulation is to a significant extent default, and therefore the regulation of limited liability companies is very flexible. This means that it is up to the shareholders of the limited liability company to decide whether the company's internal structure is more akin to a partnership or a joint-stock company. Despite differences, both company types configure legal entities characterised by property independence, and they are also completely separate from the assets of shareholders. Both company types are always in the position of an entrepreneur as they are entered in the Commercial Register (Section 421(1) Czech Civil Code). This plays a role

in determining the standard of care expected of them in legal dealings (standard of professional care) and in the specifics associated with the status of an entrepreneur in the law of property and obligations (greater contractual freedom in certain cases, less protection, and stricter regime).

Both company types exhibit a number of identical elements, which are outlined herein: they can be formed for any permissible purpose, not just for business purposes; can be formed by only one person; it is not possible to create shares without a contribution obligation in both company types; the legislation allows for professional management; a person other than a shareholder may become a director; the decision-making of the general meeting as well as of the elected bodies is governed by the majority principle; shares are in principle freely transferable; while share transferability may be limited in a joint-stock company, it may be excluded in the case of a limited liability company.

The basic differences between a limited liability company and a joint-stock company are as follows. *First*, while a joint-stock company issues shares as registered share, a limited liability company is given the choice of whether its shares are uncertificated or certificated. *Second*, only a joint-stock company can issue registered shares that are tradable on public markets. A limited liability company is prohibited from offering its registered share for trading on public markets (Section 137(4) Business Corporations Act). *Third*, a joint-stock company must have a minimum share capital of 2 million Czech koruna or 80,000 euros (Section 246(2) Business Corporations Act), while the law does not directly provide for a minimum amount of share capital of a limited liability company. This can only be inferred indirectly from the requirement of the law that a limited liability company must have at least 1 Czech koruna per share (Section 142(1) Business Corporations Act); this entails a significant difference in the financial requirements for the establishment of the two company types. *Fourth*, in the case of a guarantee, the shareholders are not liable for company debts for the duration of the company. Liability comes into play only after the dissolution of the company if the liquidation dividends has been distributed to the shareholders. In that case, the shareholders are liable for the debts of the company up to the amount of their share of the liquidation dividends. In a limited liability company, the shareholders shall be liable for the duration of the company up to the aggregate of the outstanding contribution, as recorded in the Commercial Register on the date of the creditor's call. After its dissolution, they shall be liable to the same extent as the shareholders. *Fifth*, the organisational structure of a joint-stock company is more complex than that of a limited liability company, and these companies, in certain cases, require employee participation in the supervisory board. *Sixth*, the legal regime of a limited liability company is more default than that of a joint-stock company, as the autonomy of a limited liability company to set its internal relations is much broader than that of a joint-stock company. A nice example is the approach of the courts and their discretion in profit distribution. The wording of the statutory rules in this matter is fundamentally the same for both types of companies. Previous case law has been based on the conclusion that the general meeting may decide not to distribute profits

only if there are important reasons for doing so.¹⁸ In a recent decision, the Supreme Court concluded that this requirement does not apply to a limited liability company,¹⁹ meaning that profit in a limited liability company does not have to be distributed among shareholders even if there are no important reasons. Let us leave aside cases of abuse of rights.

If company founders must decide between a limited liability company and a joint-stock company, the decisive criteria also include the object of the business (for certain cases only the form of a joint-stock company is allowed, such as banks), tax rules (the same rules do not apply in all cases), and prestige. Czech law does not recognise a special form of legal entity corresponding to the simplified joint-stock company (e.g. French *Société par actions simplifiée* or SAS), which can be found abroad. In the case of a joint-stock company with variable share capital (SICAV, which can only be used if it is an investment fund under Act No. 240/2013 Sb., on Investment Companies and Investment Funds; *zákon o investičních společnostech a investičních fondech*), there are discussions about whether it is a special form of a company under Czech law.²⁰ There are currently about 27,000 joint-stock companies and over half a million limited liability companies in the Czech Republic.

3. Croatia

The Companies Act²¹ is a fundamental legislative instrument that regulates the formation, internal relations, representation, liability, operation, and termination of companies in the Republic of Croatia. Its excellence and its compliance with other laws that regulate both the relations between market participants and the (co) operation of public authorities in the economy are the base of the realisation of a free market. Since its enforcement in 1995, it has proven to be one of the more permanent regulations adopted in the Republic of Croatia.²² Companies are constantly developing, transforming, and changing. Whether it is an internal need to respond to

18 Judgment of the Supreme Court, case No. 29 Cdo 3059/2011; Judgment of the Supreme Court, case No. 27 Cdo 3885/2017.

19 Judgment of the Supreme Court, case No. 27 Cdo 1306/2023.

20 See Eichlerová, 2023.

21 The Companies Act (hereinafter, CA), Official Gazette No. 111/93, 34/99, 121/99 – credible interpretation, 52/00 – Decision of the Constitutional Court of the Republic of Croatia, 118/03, 107/07, 146/08, 137/09, 125/11, 111/12, 68/13, 110/15, 40/19, 34/22, 114/22, 18/23. The act contains 647 articles and regulates all five companies under Croatian law, namely the joint-stock company, the limited liability company, the general partnership, the limited partnership, and the economic interest grouping.

22 Regarding the scope and subject matter of regulation, significant laws have rarely been in force (in application) for more than 20 years. However, there are some regulations that have been in force since 8 October 1991, when part of the legal system of the former federation was adopted on the occasion of the establishment of an independent state (lawyers are familiar with the adoption of regulations at that time that did not contradict the provisions of the Constitution of the Republic of Croatia, Official Gazette No. 51/91). See Ivkošić, 2020, p. 552.

occurrences of inconsistent application of the law, occurrences of abuse of existing legal institutions, concerns over the necessity of adaptation to the legal acquis of the European Union, the legislator must constantly change and supplement the existing legal solutions.

The way in which the members of a company are bound together in the private law community that makes it up is one of the features that distinguishes partnerships from corporations. In the case of partnerships (e.g. general partnership, limited partnership, and economic interest grouping), their connection is of a personal nature; that is, members are personally connected only on the basis of the memorandum by which the company is established in order to achieve a common objective, which they themselves determine. However, for corporations (e.g. joint-stock and limited liability companies), members are linked to a private legal community on the basis of stocks (i.e. share contributions), in which their membership rights in the company are embodied. The essence of corporations is the association of members through capital.²³ For this embodiment of membership, it is essential that each of them participates in the share capital of the company, and from this follows the scope of the rights and obligations that the members have in the company.

The legal status of subjects of commercial law in the Middle Ages was based on customs and statutes of Dalmatian cities. There were various types of partnership in trade, agriculture, shipping, and fishing.²⁴ The Croatian-Hungarian settlement placed the regulation of trade relations under the jurisdiction of the joint Croatian-Hungarian Parliament, which in 1875 codified commercial law by adopting the Croatian Commercial Code.²⁵ For those times, it was a modern law based on the German Commercial Code of 1861, also known as the Austrian Commercial Code of 1862. The Croatian Commercial Code included general partnership (paras. 64–124), limited partnership (paras. 125–146), joint-stock company (paras. 147–222), and cooperatives (paras. 223–257), which by their nature do not belong to commercial companies. After 1875, no new commercial law was enacted in Croatia, and the existing Commercial Law was not changed or supplemented even in the new circumstances of state law in 1918 and 1945.

²³ Barbić, 2006. p. 151.

²⁴ During the time of national rulers, there was a principle according to which, after the death of the father, the property of the family community as a group of persons remained undivided. The son did not inherit from the father, but took over the management of the common property, which had to be preserved. This rule was the basis for the creation of a company with the characteristics of a partnership, called a *compagna*. In 1794, the Dubrovnik Insurance Company was founded in Dubrovnik, the first joint-stock company in the modern sense of the word. It had a capital (initial capital) of 110,000 Dubrovnik ducats, divided into 110 shares, each with a nominal value of 1,000 Dubrovnik ducats. See Margetić, 1997, pp. 13 et seq. See also Luetić, 1982, pp. 123–125.

²⁵ Although passed by a joint parliament, this law differed from the Hungarian law in some respects, partly owing to differences in the wording of the two laws, which were interpreted by different courts in their application. See Stražnický, 1920.

After the Second World War, in the socialist Yugoslav federation, the Basic Law on State Enterprises from 1946 introduced the administrative management of the economy, and in a totalitarian socialist spirit (based on the Basic Law on Private Commercial Activities), all listed commercial companies were abolished.²⁶ Upon the termination of these trading companies, the membership rights of their members ceased, and the seized property was managed by public socialist authorities. This gave rise to a period longer than four decades characterised not only by legal violence²⁷ but also by the socialist concept of social property, in which Croatian law no longer knew the forms of legal entities based on ownership. The socialist experiment initially marked the period of natural planning based on individual administrative acts (i.e. the planning task becomes the basis of the contract). The plans even provided for contractual partners, who were obliged to enter into a contract based on the planned tasks; these tasks also provided the ingredients of the contract, so the contracting parties had little room to make their own decisions. This was to the point that we cannot speak of the free performance of economic entities in legal transactions during this period.²⁸

Based on the Basic Law on the Management of State Enterprises and Higher Economic Associations by Labor Collectives in 1950 and the Constitutional Law on the Basics of the Social and Political Organization of the Federal People's Republic of Yugoslavia and Federal Authorities in 1953, the so-called "socialist self-management" was introduced and the social ownership of means of production and self-management of producers in the economy was established. This was the beginning of an experiment that culminated in 1976 by the adoption of the Joint Work Act. Conceptually, that law dealt with much more areas than is usual in legislative practice. In addition to the organisational issues of business owners, it contained norms for the regulation of mutual relations between workers, on the connection of personal work into the system of joint work, on the management and disposal of social funds, the acquisition and distribution of income, among others. In this way, the approach to legislative regulation was quite uneven. While, with regard to the organisational issues of business owners, there was an obvious effort to fully regulate what the Act covered, in other areas, the approach was significantly different.²⁹

The types of legal entities according to that law were as follows: a) basic organisation of joint work, b) work community, c) work union, d) complex organisation of joint work, and e) business community. These legal entities formally did not have property, but only the right to use social funds, and therefore these entities were not managed

26 A single exception was made by the legal provisions, for private traders' companies that were allowed to continue existing in the form of a general partnership, with prior approval. Regulations on the foundation of companies and the furtherance of economic activities ended this possibility in 1953.

27 During the period of illegal expropriation, that is, the seizure of property from the members of commercial companies without adequate compensation, socialist Yugoslavia simultaneously carried out a powerful state terror against them, persecuting every 'hostile capitalist phenomenon'.

28 For more on this, see Golštajn, 1967, pp. 22 et seq.

29 See Barbić, 2006, pp. 77 et seq.

with regard to property contribution and membership. Instead, that was being formally done exclusively by employees based on the constitutional right to work with social funds, thereby achieving self-management.³⁰ This system of legal entities was based on the fact that a) one legal entity was inside another; b) none of them had all the functions of a legal entity; c) there was no hierarchical relationship in decision-making as this was not suitable for business. Rather, the operation of each system or subsystem was decided by its lowest organisational parts, regularly by consensus, and not infrequently by workers' referendum.³¹ Thus, the conditions in which the market and the legal system are built on did not operate, which made normal business impossible. In establishing a legal entity solely on the basis of labour and not capital, the Joint Work Act also required uniform organisation according to administratively-set frameworks. By prescribing the right and duty to organise workers into a basic organisation and limiting the activity of such an organisation so that it can perform only one activity, the entire economy was organised according to statistical standards.

By the Amendments from 1988, the Constitution gave certain powers to the person who invests capital, who was enabled to participate in the management of a legal entity and to have legal authority over the funds that were previously owned by the company, so that on this basis the person is also recognised with management rights. This means that the association of labour and capital through a self-management agreement was replaced by the classic form of capital investment. Thus, the basis was created for the adoption of the new Law on Companies, which entered into force on January 1, 1989. With the return of companies, the door to the free-market economy was left ajar, and related concepts that had been regulated until then (e.g. private law association, stake, property, membership rights, and profit) returned to the economy.³² Although it provided the basis for the establishment of commercial companies, they were not called as such at this time.

The Law on Companies was based on the division of companies on the basis of ownership, discoursing about a company in social, cooperative, mixed, and private ownership, depending on the ownership regime of the assets with which the company operates. It regulated a) joint-stock companies, b) limited liability companies, c) limited partnerships, d) limited partnerships with shares, and e) companies with unlimited solidary liability of members. The law was extremely underregulated because it contained only 52 articles. Although commercial companies had been revitalised after four decades, their regulation was conceptually not right. Thus, for example, the establishment of all companies was governed by only four articles, and each individual company was referred to only by a few provisions that did not even meet the basic requirements for the company to be considered legally regulated.

30 Ibid.

31 Ibid.

32 This *de jure* rejected the concept of a legal entity without assets but with means as a presumption of work, based exclusively on work with legal and economic neglect of capital and on the result of a business which was manifested in income, in the distribution of which those who did not participate in its creation.

Such an insufficiently elaborated approach to companies led to legal uncertainty, which became more and more apparent the more such companies operated. Amendments to the Law on Companies in 1990 stopped the further establishment of social enterprises, but on the basis of this law, existing ones could not be converted into commercial companies.

This became possible after the dissolution of the Socialist Federation and the independence of the Republic of Croatia, which in 1991 passed the Act on the Conversion of Social Enterprises.³³ According to this Act, which was the basis for ownership conversion, social companies were converted into joint-stock companies and limited liability companies. The object of the transformation of the former social property into private property were not individual things, but enterprises. In addition to this conversion program, the former social companies now had to submit business data, financial indicators, a development program, and data and evidence on the right to use real estate.³⁴ The conversion also accompanied efforts to preserve the unity and integrity of the former social entities, and the “proprietary” conversion of the company was carried out. This entailed the transformation of a legal entity and its legal structuring into a form in which the powers derived from invested capital can be exercised. The aim of the law was not to immediately implement the complete privatisation of companies, but to create the legal prerequisites for its implementation.³⁵ Based on the law on the conversion of social enterprises, the Privatization Fund was created, to which the assets of the former social entities (i.e. shares, things, and rights) were transferred. This fund was established to implement and complete the privatisation process of assets that were temporarily transferred to the Fund, or assets that became the property of the Republic of Croatia on the basis of other laws. Privatisation was finally carried out on the basis of the Act on Privatization³⁶ from 1996, and special laws about the privatisation of particular public companies were also passed.

Since the Law on Companies was such a deficient regulation that corrections were out of the question, in 1993 a completely new law was passed that regulated commercial companies in the Republic of Croatia. The Companies Act³⁷ had a *vacatio legis* for

33 Act on the Conversion of Social Enterprises, Official Gazette No. 19/91. It was applied in accordance with the then Law on Companies, the Law on Securities, the Law on Accounting, and the Law on Obligations. Along with the Law, instructions for its implementation were adopted.

34 Article 11, Act on the Conversion of Social Enterprises and Point I of the Instructions for the Implementation of the Act.

35 It only enabled privatisation, which was partially or fully implemented in the phase of company transformation. Almost three thousand social enterprises, by converting into sole proprietorships and limited liability companies, entered the substandard and deficient regime of the Law on Enterprises. See Barbić, 2006, pp. 91 et seq.

36 Act on Privatization, Official Gazette No. 21/96.

37 In the fall of 1992, a working group was formed to draft the law that was adopted on 23 November 1993 as the Companies Act, Official Gazette No. 111/93, 34/99, 121/99 – credible interpretation, 52/00 – Decision of the Constitutional Court of the Republic of Croatia, 118/03, 107/07, 146/08, 137/09, 125/11, 111/12, 68/13, 110/15, 40/19, 34/22, 114/22, 18/23.

more than a year and entered into force on January 1, 1995, and today it is one of the more permanent regulations adopted in the Republic.³⁸ It is a fundamental legislative instrument that regulates the creation, internal relations, representation, liability, operation, and termination of commercial companies. Its excellence and compliance with other laws that regulate both the relations between market participants and the (co)operation of public authorities in the economy are the base of the realisation of a free market.

The regulations on commercial companies had to be adopted according to the model of the developed countries of the West. Through comparing the laws, judicial practice, and legal literature of individual European countries, it was acceptable to refer to the experiences of the Central European legal circle. German law was chosen as a model law, which, as the law of a leading member of the European Union, had the strongest influence on the development of company law in all Central and Eastern European countries. The Republic of Croatia also had intensive business ties with that country and the largest number of foreign investors came from it.³⁹

Commercial companies are constantly developing, transforming, and/or changing, so the dynamic development of company law encourages the legislator to react. Whether it is an internal need to respond to occurrences of inconsistent law application, occurrences of abuse of existing legal institutions, or it concerns the necessity of adaptation to the legal acquis of the European Union, the legislator had to continuously change and supplement the existing legal solutions. By June 2023, the CA was amended and supplemented sixteen times.⁴⁰ The adaptations to the rules of European law (i.e. directives, regulations, and court practice) brought Croatian company law to a level that meets modern needs.

The CA provides the legal forms of commercial companies. It enables the establishment of the following:

38 Regarding the scope and subject of regulation, significant laws were rarely in force (in application) for longer than 20 years. Admittedly, there are some regulations that have been in force since 8 October 1991, when, on the occasion of the creation of an independent Croatian state, a part of the legal order of the former federation was taken over (lawyers are familiar with the taking over of those regulations that did not contradict the provisions of the Constitution of the Republic of Croatia). See the journal *Narodne novine*, Issue No. 51/91 for a comprehensive presentation.

39 German law belongs to those in which commercial companies are most thoroughly regulated. Drafting regulations on companies that are based on German legal experience, except for the fact that they are governed by several laws there, means accepting widely accepted standards for regulating legal relations in companies, with the fact that it is possible to use the experiences contained in their rich judicial practice and legal literature. Complete copying was not possible, because it is a very developed law and some of its complex solutions could cause difficulties in application, which would further burden the transition from a socialist to a capitalist economic environment. See Barbić, 2006, pp. 98 et seq.

40 The CA has so far been amended and supplemented 14 times by legislative means, and in addition, there have been two more 'external' interventions in its content: the authentic interpretation of the Croatian Parliament from 19 November 1999, and the decision of the Constitutional Court of the Republic of Croatia from 10 May 2010. In terms of scope, the most significant amendments to the CA were adopted in 2003, 2007, 2009, 2012 and 2019.

- a) joint-stock company;
- b) limited liability company (including a simple limited liability company), such as corporations;
- c) general partnership;
- d) limited partnership;
- e) economic interest grouping, such as partnerships.

In addition to them, it is possible to establish a European joint-stock company and a European economic interest grouping, in accordance with the directly applicable provisions of European law.

It is not possible to establish a commercial company of any other legal form that is not prescribed by law. This means that commercial companies in Croatian law, like all companies in general, are *numerus clausus*. Despite this, the possibility of autonomous organisation in a commercial company opens up space for the economic activity to be carried out according to the individual needs of each business entity and the persons who are members of that entity. The boundaries of such an autonomous arrangement are set for the protection of shareholders, and especially other persons outside the company with whom it enters into business relations. In this, the CA does not deviate from the solutions in other countries, but follows an already well-established and useful practice.

The fact that commercial companies are *numerus clausus*, however, does not mean that the same rules always apply to all companies of a certain legal form (e.g. a joint-stock company). Sometimes, if such is the juridical-political assessment of the legislator, special provisions are prescribed for performing some special activities, and general provisions, which are valid for all companies of that legal form, are applied unless these special rules stipulate otherwise. The reason for such an approach lies in the assessment that these are activities that are so significant and sensitive that they need to be regulated additionally, and therefore additional provisions are prescribed that apply to the legal form of the company in which they can be performed. In this way, for example, the regulation of banking activities, insurance activities, and sports activities (e.g. participation in sports competitions) can be handled. Importantly, these companies do not configure some new, special form of company, but only feature a warning that they perform specially regulated activities and that, in addition to the general ones, some special rules also apply to them.

4. Hungary

Efforts to codify commercial law in Hungary commenced in the 18th century, signalling a distinctive trajectory in the development of company law compared

to that of Western Europe.⁴¹ In Western Europe, the evolution of company law was predominantly contractual, driven by organic growth to meet economic demands, having begun in the late Middle Ages and been carried through to the modern era. The development of joint-stock companies in Western Europe was peculiar because they were the first to be set up based on state privilege. This organic development was subsequently followed by a phase of state regulation. In contrast, in regions like Hungary, where economic development was historically delayed, the approach was to facilitate the creation of companies through legal means. In this context, legal regulation was instituted prior to the actual formation and proliferation of companies within the economy, serving as an initiative of top-down modernisation.⁴²

In 1779, the Royal Curia was tasked with drafting legislation on trade and bills of exchange. This drafting was completed by 1786, with the second section encompassing company law provisions. It was only in 1791 that this draft was presented to the National Assembly, reconvened by Leo II after an extended hiatus. However, the Assembly did not deliberate on the draft; instead, it appointed a committee to consistently refine the text. In 1795, the Trade Committee submitted the revised proposal to the National Assembly, titled '*Codex Cambio Mercantilís Pro Regno Hungariæ Partibusque Eidem Adnexis In Tres Partes Divisus Per Regnicolarem Juridicam Deputationem Artículo 67. 1791. ordinatam elaboratu*'. This proposal was eventually published in Pozsony (present-day Bratislava) in 1802.⁴³ Nonetheless, the committee's recommendations were neither discussed nor enacted, as the momentum for reform was significantly disrupted for several decades owing to the untimely death of Leo II, the ensuing stringent absolutism under his successor Francis I, and the reactionary stance of the Habsburgs against the radicalising influences of the French Revolution and the Hungarian Jacobin movement led by Ignác Martinovics.

Despite the regulatory difficulties, attempts to set up companies were made, but these either remained at the planning stage, the process of setting up the company stalled for some reason (e.g. lack of capital), or the company only carried out activities of local importance. Worthy of mention is the textile factory founded by the Forgách family, which tried to issue shares around 1800; the draft of the North Wine Export Company (1802); the Révkomárom Ship Insurance Company (1808); the draft of the Hungarian National Joint-Stock Company (1826), which aimed to promote the tobacco trade.⁴⁴ The first joint-stock company to effectively operate in Hungary, the First Danube Steamship Joint-Stock Company, was based in Vienna.⁴⁵ Codification efforts continued in the first half of the 19th century. Building on the results of the previous

41 For a general overview on the history of Hungarian company law before 1918, see Veress, 2024a, pp. 45–51.

42 For details see Veress, 2018, pp. 321–338; Veress, 2020, pp. 123–138.

43 *Codex Cambio Mercantilís Pro Regno Hungariæ Partibusque Eidem Adnexis In Tres Partes Divisus Per Regnicolarem Juridicam Deputationem Artículo 67. 1791. ordinatam elaborate*, 1802.

44 See Horváth, 2005, pp. 111–114.

45 *Ibid.*, pp. 122–125.

codification attempt,⁴⁶ another draft of a commercial law code, the *Codex Cambio-Mercantil* *eiusdemque Ordo Processualis*, was prepared, which was also not adopted, but was published in print in 1830 in Pozsony and Buda. This is the last draft of commercial legislation in Latin.

At the dawn of the 19th century, during the Age of Reform, Hungary experienced a national awakening accompanied by a linguistic revival, which notably included the ascendance of Hungarian as the language of legal proceedings. By 1830, the Curia had begun adjudicating in Hungarian, and by 1834, proficiency in Hungarian was mandated for public officeholders and legal practitioners. István Széchenyi, a key figure of this reform era, was instrumental in the construction of the Chain Bridge, which connected Buda with Pest. Legislative support for this initiative is evidenced in Act XXVI of 1836, which mandated the establishment of a joint-stock company to oversee the construction of a permanent bridge between Buda and Pest. The financing of the bridge was to be recouped through tolls collected by the joint-stock company, with dividends distributed to investors. The duration of toll collection was specified in the contract with the joint-stock company, and the law further stipulated that upon fulfilment of the contract terms, the bridge would be transferred to the nation as a public property. Notably, the legislative focus was primarily on the bridge's construction rather than on detailed regulations governing the joint-stock company's organisation and operations. The Chain Bridge was completed and opened to traffic in 1849. The right to toll the bridge was originally granted for 87 years, but it was actually exercised for two decades, because the bridge was redeemed by the state under Act XXX of 1870.⁴⁷

The Hungarian Commercial Bank of Pest joint-stock company (*Pesti Magyar Kereskedelmi Bank Rt.*) was established on a contractual basis, thanks to an imperial privilege. The privilege was applied for as early as 1830, but the patent was only granted in 1838. The bank was then actually established only on 14 October 1840 (i.e. the date on which the monarch, Ferdinand, signed the bank's charter) owing to opposition from the imperial administration, and began operations only in 1841.⁴⁸ According to the letter of privilege in Latin, the emperor decreed:

To all our subjects of any rank, degree, and dignity, true and loyal, in our Hungary and its associated regions, who become aware of this present charter in any way, we solemnly enjoin and graciously command that you do not disturb, hinder, or trouble, either publicly or privately, the financial institutions established and maintained by the said company.⁴⁹

46 Papp, 2010, p. 265.

47 For further details, see Horváth, 2005, pp. 125–132.

48 See Pólya, 1892; Lamotte, 1941; Botos, 1991; Holbesz, 1939, pp. 41–46; Horváth, 2005, pp. 141–145.

49 Lamotte, 1941, no page numbering in the volume.

It can be seen that the first modern Hungarian bank and one of the first Hungarian joint-stock companies were created using the medieval technique of the privilege granted by the monarch. The regulation and the subsequent “commodification” of companies emerged as significant developments, and this occurred in parallel to similar trends observed in Western Europe. The foundational regulations for companies – namely, the general partnership, the limited partnership, and the joint-stock company – were codified in the 1840 Act XVIII, which delineated the legal relations of companies.⁵⁰

Influenced by the intellectual currents of the reform era and building upon prior legislative accomplishments, a comprehensive suite of laws intended to enhance economic activities was finalised by 1840. Company law was only one part of this. The set included the 1840 Act XV named The Bill of Exchange Code,⁵¹ the 1840 Act XVI on merchants, the 1840 Act XVII on the legal relations of factories, the 1840 Act XIX on merchants’ boards and brokers, the 1840 Act XX on carriers, the 1840 Act XXI on the priority registration of debt claims, and the 1840 Act XXII on bankruptcy. These laws are largely ‘simple translations of the relevant Austrian provisions’,⁵² and their development involved the participation of Ignaz Wildner (1802–1854), a lawyer from Vienna.⁵³ This legislation was enacted in Hungarian. Based on the 1840 Act XVIII, numerous companies were founded, while associations previously operating in cooperative forms (e.g. savings banks) were transformed into joint-stock companies.

The regulation considered the general partnership as the foundational type of company, in which each partner was liable with their entire personal assets for the company’s contracts with external parties. From this form, the law developed the limited partnership by allowing the inclusion of limited partners, modelled similarly to a loan transaction. The limited partner essentially provided a loan to the general partnership and, in return, could stipulate interest; they did not exert any other influence on the company’s affairs and were not liable with their other assets beyond the amount they contributed. A written contract was required with the limited partner, but neither the limited partner nor the contract needed to be registered. During the company’s operation, the limited partner could not demand the return of their loan, unless otherwise stipulated by the contract. However, the full partners were responsible to the limited partner for the contributed capital and its interest, and the limited partner could sue both the company and the full partners. In the event of the company’s failure, the claims of the limited partner were subordinate to those of the company’s creditors, who could be satisfied also from the financial contributions made by the limited partner. Members or full partners generally made equal contributions, unless otherwise specified by the contract, and the company’s members could not undertake activities that contradicted the company’s objectives.

50 See Pókecz Kovács, 2011, pp. 117–127.

51 For details see Balogh, 2011, pp. 1–9.

52 Holbesz, 1939, pp. 43.

53 Sárközi, 1988, p. 525.

Profits were to be distributed in proportion to the capital contributions, and each member had the right to inspect the company's accounts and trading books.

The regulation of joint-stock companies at the time was also detailed. The law established an important freedom, specifying that acquiring shares and joining a joint-stock company were unrestricted for everyone. The regulation permitted only registered shares, and at the general meeting, each shareholder had one vote per whole share, and regardless of the number of shares owned, could not obtain more than 10 votes. In 1864, on the order of Franz Joseph I, Emperor of Austria, the Pest Commodity and Stock Exchange (*Pesti Áru- és Értéktőzsde*) was established. Its first president, Frigyes Kochmeister (1816–1907), led the institution for more than three decades.

However, the true golden age of companies in Hungary dawned only after the closure of the absolutist autocratic period following the 1848–49 revolution. This era began with the Compromise of 1867, which marked the establishment of the dualist Austro-Hungarian Monarchy. By 1868, the press was already reporting on a frenzy of stock market speculation, referring to the period following the Compromise as “*Gründerzeit*”, which can be translated as “founders’ era”. The Industry Act (Act VIII of 1872) subsequently abolished the guilds. The modernisation of company law was undertaken through the Commercial Code (Act XXXVII of 1875), which was modelled on the German example.⁵⁴ The model for this was the Joint Commercial Code of the German states from 1861, which Austria, as a member of the German Confederation (*Deutscher Bund*) at the time, also adopted in 1862–63. István Apáthy (1829–1889) played a pivotal role in the drafting of the proposal. However, the Commercial Code was not a slavish copy of the German regulations, but a flexible adaptation.⁵⁵ Under this Commercial Code, numerous large joint-stock companies (companies limited by shares) were established; for smaller companies, the general partnership and limited partnership forms were also made available.

The 1875 regulation categorised cooperatives alongside general partnerships, limited partnerships, and joint-stock companies as commercial companies. A general partnership arose when two or more individuals conducted commercial business under a common firm name, with unlimited and joint and several liability, and any agreement to the contrary did not have legal effect towards third parties. Anyone who joined an existing general partnership, regardless of whether this involved a change in the firm name or not, was equally liable for the company's obligations that arose before their entry, and any contract to the contrary had no legal effect towards third parties. A limited partnership was formed when, in the course of conducting a commercial business under a common firm, one or more limited partners were liable only up to a specified amount of capital contribution, while one or more general partners had unlimited and joint and several liability. For the general partners, if there were multiple partners, the partnership also qualified as a general partnership.

54 For details on the adaptation of the Commercial Code, see Horváth, 2018, pp. 203–245.

55 Sárközi, 1988, p. 526.

A joint-stock company was defined as a company formed with a predetermined number of shares of equal value, where the shareholders were liable only to the extent of their shares. The shares could be registered (nominative) or bearer shares. The law also introduced the institution of a supervisory board for joint-stock companies, which oversaw the company's management in all its aspects; it was entitled to be informed about the company's operations and had the right to inspect the company's books, documents, and cash reserves at any time. The Commercial Code did not explicitly specify a minimum number of shareholders required for establishing such a company. However, the requirement for a quorum at the founding general meeting was of at least seven shareholders, implying that a joint-stock company had to have at least seven shareholders at its formation. Once established, a joint-stock company could have fewer than seven members if shares were consolidated into fewer hands, as there was no specific prohibition against this in the Commercial Code. Nonetheless, the fundamental principle that a single individual could not constitute a company alone prevented the concentration of all shares in one person's hands, aligning with the inherent legal and conceptual framework of corporate formation. A legal (compulsory) size of the share capital was prescribed by the law only exceptionally, such as for public storage companies, insurance companies, and railway joint-stock companies.

The next step in the reform of company law was Act V of 1930, which introduced the limited liability company into Hungarian law and also regulated the silent partnership. This law detailed the conditions and requirements for the formation of a limited liability company, such as company agreement contents, capital stock amounts, and member liability. It also governed company registration, members' rights and obligations, fundamental issues concerning company operations, the legal status of directors, and dissolution or liquidation circumstances. A limited liability company was a type of commercial company formed with a predetermined amount of capital contributions, constituting its share capital, and where member liability towards the company extended only to their capital contribution and any other financial contributions stipulated in the company agreement. Members were not otherwise liable for the company's obligations. Unlike a joint-stock company, securities could not be issued for membership rights, any issued securities were void, and the issuers were jointly and severally liable for any damages arising from their issuance. Public solicitation for the collection of members was prohibited. The law specified the minimum share capital for a limited liability company at 10,000 *pengő*s (previously, the minimum legal capital requirement was only associated with specific types of activities performed by joint-stock companies). A limited liability company engaged in transport, freight forwarding, warehousing, and pawnshop business was required to publish its balance sheet, and companies whose share capital exceeded 150,000 *pengő*s and whose number of members exceeded 25 had to establish a supervisory board. Other limited liability companies were required to establish a supervisory board if the company agreement mandated it.

Under the Soviet-style dictatorship established after the Second World War, there was no need for companies, which were perceived as capitalistic tools of mass exploitation; hence, no regulations were put in place for them. Noteworthy is that the Commercial Code of 1875 was never formally repealed, but was also not applied in practice. It remained in force until 1988, when the first Company Act, adopted in the course of the pre-transition reforms preceding the regime change, entered into effect. The central actors in the economic sphere were state enterprises, which were integrated into the public administration and possessed characteristics specific to public law.⁵⁶ The assets of the former companies in general were nationalised and their place was taken over by state enterprises.

During and subsequent to the economic and political transformation in Hungary in the context of the fall of the Soviet-type dictatorship, a series of company laws were enacted, reflecting the evolution and adaptation of company law to meet the economic demands at the time. Notable laws included Act VI of 1988, Act CXLIV of 1997, and Act IV of 2006. These statutes demonstrated both an enduring continuity and a pressing necessity for legislative reforms. As of the current framework, the regulation of company law has been consolidated within the Civil Code (Act V of 2013).

Presently, the Civil Code governs four distinct company types: (a) general partnerships (*közkereseti társaság*), (b) limited partnerships (*betéti társaság*), (c) companies limited by shares like joint-stock companies (*részvénytársaság*), and (d) limited liability companies (*korlátolt felelősségű társaság*).⁵⁷ Of these, the limited liability company emerges as the most prevalent form, although the incidence of joint-stock companies remains considerably high. Under the Civil Code system, all company types have legal personality, whereas previously general partnerships and limited partnerships were legal entities but not legal persons. The name of the company shall contain a designation referring to the company's type or its abbreviation. Currently, joint-stock companies have two forms: the public company limited by shares (listed or in process to be listed, *nyilvánosan működő részvénytársaság*, or *nyrt* in Hungarian) and the private company limited by shares (not-listed or closed, *zártkörűen működő részvénytársaság*, or *zrt* in Hungarian).

Interestingly, the core organising idea of contemporary Hungarian company law is an expansive principle of dispositivity, which treats the constitutive instrument of the legal person as a private-law charter capable of displacing most statutory default rules on company organisation and operation. In doctrinal terms, the statute installs a default-mandatory architecture (Civil Code, Article 3:4); as a default, members may freely calibrate (I) their mutual rights and obligations, (II) their relationship to the legal person, and (III) the internal governance structure and decision-making procedures of the entity. This contractarian baseline is then bounded by a set of mandatory carve-outs, as deviation is impermissible where: the statute prohibits it; the deviation

⁵⁶ For a detailed and very interesting analysis, see Sárközy, 2007.

⁵⁷ These English translations are not totally precise, having in mind that the continental legal system is somewhat different than the common law system.

manifestly prejudices creditors, employees, or a minority of members; it would frustrate lawful supervisory control over the company.⁵⁸

The constitutive instrument functions as private legislation for the company. It becomes the principal site for tailoring voting and quorum rules, board and committee design, managerial authority allocation, information and audit rights, conflict-of-interest procedures, transfer restrictions, exit and buy-out mechanisms, dividend and distribution policies, and dispute-resolution clauses. At the same time, the legal hierarchy is unambiguous, as the charter may override statutory defaults but not mandatory provisions, including those that secure third-party protection (creditors and employees), minority rights against oppression or exclusion, and the integrity of public or judicial oversight.

The creditor-protection limit recognises that a corporate constitution can create negative externalities for non-consenting third parties. Clauses that effectively eviscerate capital-maintenance constraints, subordinate outside creditors to insiders without disclosure or consent, or authorise distributions that would leave the company undercapitalised will not withstand review. In practice, core solvency rules, rules on unlawful distributions and return of contributions, and rules that police related-party transactions operate as non-derogable safeguards; attempts to contract out of them are either void *ab initio* or unenforceable against third parties. Similarly, the employee-protection limit prevents the corporate constitution from derogating from mandatory labour law standards or from eliminating co-determination or information rights where these are imposed by sectoral statutes.

The minority-protection limit polices opportunism by controlling shareholders or founding members in closely held firms. Constitutive instrument provisions that strip a minority of essential participation rights, disable information and inspection rights, foreclose judicial review of abusive resolutions, or hard-wire squeeze-out mechanisms without fair-value protections will typically be invalid or subjected to strict scrutiny. This boundary is particularly salient in limited liability companies and private companies limited by shares, where ownership is concentrated and exit can be practically constrained. It channels private ordering toward *ex ante* fair design (e.g. calibrated consent thresholds, balanced drag-along/tag-along frameworks, or tailored deadlock devices).

Finally, the preservation of supervisory control limit serves general societal values. Corporate constitutions cannot be drafted to obstruct registration and court oversight, the work of sectoral regulators, statutory audits, lawful information requests by oversight bodies, or the enforcement of directors' duties. Clauses that purport to shield managers from accountability (e.g. by disabling liability for wilful misconduct or by prohibiting the production of books and records to authorities) are incompatible with the "supervision" reservation and therefore ineffective.

58 For further details and disputes, see Jójárt, 2014, pp. 673–685; Sárközy, 2015, pp. 8–14; Auer, 2016, pp. 395–404; Csehi, 2016, pp. 1–8; Vékás, 2018, pp. 385–391; Veress, 2019, pp. 95–100; Vezekényi, 2020, pp. 44–47; Pázmándi, 2023, pp. 153–161; Auer and Papp, 2023, pp. 314–335.

This boundary is especially tight for publicly-oriented entities (e.g. public companies limited by shares), where European Union-level requirements and listing rules add layers of mandatory governance that private orderings cannot displace. Within those outer walls, the space for private ordering is unusually wide by European standards. The law's starting point is that parties are better positioned than the legislature to minimise agency costs and transaction costs in their specific venture.

The statutory test that forbids deviations which “manifestly” infringe on protected interests invites a calibrated standard of review. The term “manifest” here signals that not every marginal or hypothetical impairment suffices, but that the prejudice must be clear, material, and reasonably foreseeable at the time of drafting or application. In practice, courts can operationalise this by asking, for example, whether the clause: (I) systematically disables a protected constituency's core rights (e.g. minority information and challenge rights); (II) materially elevates insiders' positions at the creditors' expense (e.g. authorising distributions in the vicinity of insolvency or by subordinating outside claims without consent); (III) structurally impairs statutory supervision (e.g. interposing confidentiality devices that block regulator access). Where the defect is confined to a clause, partial invalidity and severability preserve the rest of the charter; where the defect pervades the governance design, courts may refuse registration or grant broader remedial relief.

Compared to other models in Europe, Hungary's model is strongly contractarian, closer to some common-law jurisdictions enabling statutes that privilege private ordering than to the highly mandatory templates of classic continental public company acts. This characterisation, however, must be kept in proportion. The dispositive core sits atop a vast bedrock of non-derogable rules: capital and solvency constraints, basic director duty norms, disclosure and audit rules, minority and creditor protection, sectoral regimes, and the public-law apparatus of supervision. For public companies, European Union company law directives and market rules further thicken the layer of mandatory law; for closely-held companies, the dispositive space is at its widest, but remains policed by the three mandatory limits identified above. When properly applied, these limits preserve the advantages of a high-dispositivity regime, such as tailor-made governance, reduced agency costs, and contractual innovation, while constraining its systemic hazards.

5. Poland

Compared to foreign corporate law systems (e.g. in Germany, France, and the United States of America),⁵⁹ modern Polish regulations regarding companies have a fairly short history. The reasons for this state of affairs are geopolitical and historical in nature, mostly due to the lack of own statehood in the 19th century. In 1795, and for a subsequent period of 123 years, Poland lost its sovereignty as a result of three partitions and occupations carried out by Russia, Prussia, and Austria. Independence was regained only in 1918. At the time of regaining independence, Poland was subject to the relevant legislation of the former partitioning states and, additionally, French law, which resulted from the fact that the Congress Kingdom⁶⁰ during the Napoleonic Wars received the Napoleonic Code. There was thus an urgent need to unify law in Poland. Regaining independence and reviving statehood was primarily connected with the need to create modern laws relating to regulations in non-partitioned areas. This was, as one can imagine, a huge challenge and an extremely complex task. The introduction of all new institutions had to bear in mind the principle of protection of rights acquired under the rule of the partitioning states, while completely eliminating the foreign influences accumulated over a 100 years of partitions is completely impossible even for at least several dozens of years. For example, some of the provisions of the Napoleonic Code protecting rights acquired under his rule are still in force.⁶¹ It should be mentioned that the first capital companies in Poland date back to even before the period of partitions. The first Polish joint-stock company is considered to having been established in 1766 on the initiative of King Stanisław August Poniatowski; this company featured 120 shares submitted for the establishment of wool factories in the country, and was called the Company of Wool Manufactures.⁶²

The first unified and contemporary regulation of the share law was contained in the regulation of the President of the Republic of 2 March 1928 – Law on joint-stock companies. In 1933, the Regulation of the President of the Republic of Poland of 27 October 1933 – Law on Limited Liability Companies was adopted. The provisions of the indicated juridical acts were taken over with amendments to the Commercial Code of 1934, which also took the form of a regulation of the President of the Republic of Poland. These changes were not significant. Accordingly, for the purposes of the

59 The history of the creation of joint-stock companies is discussed by many legal historians. Some researchers point to the Merchant Adventures of England corporation founded in 1390 as the oldest capital company, on the basis of which merchants combined capital in order to conduct ventures burdened with economic risk (Sołtysiński, 1998, p. 24). It is also indicated that the first germ of the concept of corporations could have been Roman *universitates* (colleges) or *societates publicanorum* educated in ancient Rome. Dąbrowska, 2020, p. 8.

60 The state was created in 1815 by the decision of the Congress of Vienna from the lands of the Duchy of Warsaw as a monarchy united by a personal union with Russia.

61 In 2013, the Supreme Court referred to the Napoleonic Code in a case concerning an entry in the land and mortgage register (III CZP 29/13).

62 Bałtruszajtys, 1959, p. 77.

current study, it is reasonable to discuss the Commercial Code of 1934.⁶³ The Polish Commercial Code, which entered into force on 1 July 1934 and essentially ceased to apply on 1 June 1965, was prepared by the Codification Commission established in 1919.⁶⁴ The Commercial Code of 1934 was one of the most significant achievements of the codification of Polish jurisprudence in the 20th century, being a collective work resulting from the cooperation of Polish jurists and created over many years. The original draft of the commercial code was developed and published in 1928 by Antoni Górski, a professor of the Free Polish University in Warsaw, based on an Italian project from 1926 prepared by Alfredo Rocco, which in turn was based on the German system.⁶⁵ In the end, however, this project did not become the subject of the Section's deliberations, and finally, after many discussions, the Subcommittee on Commercial Law, chaired by Stanisław Wróblewski, developed between 23 February and 15 April 1934 a project to include in the Commercial Code - parts of the juridical acts prepared by it and already in force, with modifications, were the Act of 22 March 1928 on joint-stock companies, Regulation of the President of the Republic of Poland of 27 October 1933 - the Law on Limited Liability Companies, Regulation of the President of the Republic of Poland of 28 December 1924 on storage houses and regulations on sale in instalments. Until the outbreak of the Second World War, work continued on the second and third parts of the Commercial Code, covering maritime and river law as well as private insurance law.⁶⁶

As just described, the Commercial Code of 1934 also included a regulation on the law of limited liability companies. This regulation was originally developed on the basis of the Austrian Limited Liability Companies Act of 6 March 1906 and on the basis of the work of the Codification Commission. With the cooperation of Dr. Witold Supiński and Świętosław Baudouin de Courtenay, representatives of the Ministry of Industry and Trade, the Codification Commission proceeded to develop a draft of a uniform law on limited liability companies for the whole country. This draft was adopted by the Commercial Law Section of the Codification Commission in the first reading in January 1928 and published in print, and then addressed to the opinion of representatives of the economic sector. It was amended in 1930 and announced in 1933 as a regulation of the President of the Republic of Poland.⁶⁷

The Commercial Code of 1934 therefore unified Polish company law, eliminated particularisms and differences in the scope of commercial codification of the reborn state, and repealed extra-partition laws, as follows: the French Commercial Code

63 Regulation of the President of the Republic of Poland Commercial Code of 27 June 1934 (Journal of Laws No. 57, item 502).

64 Dz.P.P.P. No 44, poz. 315 i Journal of Laws 1921, No. 75, item 511.

65 Codification Commission of the Republic of Poland. Section of Commercial Law, vol. I, No. 3: Draft of the Polish Commercial Code developed on the models of the Italian project by the chief referent, prof. dr. Antoniego Górski, Warsaw, 1928.

66 Górnicki, 2015, p. 66.

67 Codification Commission. Section of commercial law, vol. I, No. 4 of general collection No. 65. Draft Act on Limited Liability Companies. Justification in the elaboration of the main project referent, prof. A. Chelmoński, Warsaw, 1932.

(*Code de commerce*) of 1807, applied in the territory of the former Congress Kingdom;⁶⁸ the German *Handelsgesetzbuch* (also known as HGB) of 1897, in force in the Western Territories of the Republic of Poland (*Das allgemeine deutsche Handelsgesetzbuch*, also known as ADHGB); the German General Commercial Code of 1862, applicable in the Southern Territories of the Republic of Poland; the Russian Trade Act in the version of 1912 (*Swod Zakonow Rossijskoj Imperii*, T. XI cz. II.), binding in the Eastern Territories of the Republic of Poland. However, the decree of the President of the Republic indicated certain exceptions in the special provisions for the area of binding force of individual codes, maintaining in force certain provisions of the repealed regulations. This was a consequence of the principle of protection of acquired rights and differences between individual non-partitioning territories.⁶⁹

The entry into force of the Commercial Code in 1934 was an unquestionable success of Polish jurisprudence. It is emphasised that this code constituted a kind of constitution of Polish commercial law after Poland regained independence. We should agree with the view that we can talk about modern Polish commercial law as a separate branch of private law only since the adoption of the Commercial Code of 1934. The Polish legislator, when proceeding to the unification of the commercial law, was in a situation that favoured the creation of a law considering the *acquis* and experience resulting from the application of leading European codifications. Specifically, at the deliberations of the codification commission, lawyers who were well-acquainted with all the legislation in force in Poland and the jurisprudence and doctrine arising from them met, which fostered the creation of a commercial code that considered the achievements of European legal thought at a high level.⁷⁰

The Commercial Code remained close to the previous *acquis* of European thought. Importantly, the Commercial Code of 1934 was not a fully original creation, but drew inspiration and shape from individual institutions primarily from the German *Handelsgesetzbuch*, which was considered by contemporary scholars, including Polish lawyers, as a modern codification, and also referred to the Austrian Western Territories of the Republic of Poland of 1862. As far as the layout of the Code is concerned, like the *Handelsgesetzbuch*, it also covered only substantive commercial law, but not in its entirety, leaving all of the following outside the Commercial Code: cooperative law, banking law, stock exchange law, certain specific matters concerning bill of exchange and cheque law, trademark protection, patent law, and other laws applicable in trade and civil trade. The Commercial Code of 1934 hence differed from both the *Handelsgesetzbuch* and other commercial codes, as it contained full regulation of almost all commercial companies. Moreover, contrary to the German legislation, the intention of the Polish codifiers was to include maritime law in the second part of the Commercial Code and private insurance law in the third part.⁷¹

68 Introduced by virtue of the Act of the Sejm of the Duchy of Warsaw of 24 March 1809 (Dz. Pr. Ks. Warsz., vol. I, p. 239).

69 Hryniewicz, 1939, pp. 3–5.

70 Frąckowiak, 2015, pp. 45–48.

71 Górnicki, 2015, p. 88.

Unfortunately, the further fate of the Commercial Code of 1934 was thwarted by the Second World War; owing to the war, the Commercial Code was in force in all its glory for basically only five years. In 1939, the fourth partition of the Polish took place by Germany and Russia on the basis of the Molotov-Ribbentrop Pact. As a result of the loss of sovereignty by Poland, the code was suspended for the duration of the ongoing war and occupation. After 1945, although formally it was still in force, its use was systematically limited owing to the political changes that Poland experienced, as it remained under the sphere of influence of the Soviet Union. In the emerging new regime based on the principle of special protection of state property, nationalisation of private property, and basing the economy on the principle of planning, there was not much room for further development in the field of commercial rights. The concept of the merchant known from the Commercial Code gave way in economic development to the unit of the socialised economy. The selective and inconsistent determination by the post-war legislator of the scope of application of the provisions of the Commercial Code maintained in force constituted a serious obstacle to its application. It was only on 1 January 1989 that the foundations for the return and restoration of commercial law reappeared.⁷² The exposition thus far allows for considering it a convincing argument that Polish commercial law has developed unevenly, and that three periods can be clearly distinguished in its development: the first period until 1939, the second period from 1945 to 1989, and the third period beginning in 1989 and ongoing.⁷³

After the end of the Second World War, with the development of the primacy of the socialist economy, the importance of the 1934 Commercial Code diminished and its role degraded. Until its formal repeal in 1964, however, the Commercial Code was still the basis for a separate commercial law.⁷⁴ Despite the fact that the commercial code was formally in force after the Second World War, fundamental changes in the socioeconomic system quickly began to take place owing to Poland having found itself in the orbit of the Soviet Union's influence. The economy was not based on the free market; instead, the priority that was introduced was of social ownership, primarily of the state, and thus extensive nationalisation and land reform were carried out. The legal basis for nationalisation was the Act of the National Council of 3 January 1946 on the takeover of the basic branches of the national economy into the State,⁷⁵ based on which most Polish private enterprises were nationalised. This nationalisation process included industrial plants employing more than 50 workers per shift, with the exceptions were enterprises belonging to Reich citizens, traitors, and

72 Ibid., p. 71.

73 Frackowiak, 2015, p. 46.

74 Act of 23 April 1964; provisions introducing the Civil Code (Journal of Laws No. 16, item 94, Article VI) repealed the Commercial Code and the provisions introducing this Code, while maintaining most of its provisions concerning general partnerships, limited liability companies, and joint-stock companies. This incident illustrated the marginal role that the new regime was to attribute to commercial law.

75 Act of 3 January 1946 on the takeover of the basic branches of the national economy (Journal of Laws 1946 No. 3, item 17).

collaborators, which were taken over without compensation and regardless of size, as well as enterprises belonging to the 17 key branches listed in the law, nationalised regardless of size. In practice, real compensation was paid to foreign shareholders of Polish companies (apart from Germans), while domestic shareholders were offered substitutes for compensation in securities.⁷⁶

The basis of the economic turnover was the principle of planning and management of governmental acts of an administrative nature, not the principle of freedom of contract. In these new political conditions, there was no legal certainty, no incentives to set up a business, and no commercial law institutions. The basic role began to be played by organisational units related to social property: state-owned enterprises, cooperatives, and other organisations of the working people of cities and villages (in accordance with the nomenclature of the Constitution of the People's Republic of Poland). In place of the concept of the merchant, which granted equal status in the conduct of economic activity to every person, a new term of "unit of socialised economy" was created. Natural and legal persons, as well as organisational units which operated on the basis of individual ownership, could do so only after obtaining the permission of the relevant public authority, and became a margin of economic turnover. This led companies as a form of conducting business activity to disappear from trading. In addition to the formally-binding commercial code, special legislations on socialist trade appeared. It was no longer a commercial law, but a law of the socialised economy.⁷⁷ Trade law remained dead, because the merchant was replaced by a unit of socialised economy. For the merchant and the related institutions of commercial law, there was no justification and *raison d'être* in economic transactions based on the ideas of socialist property.

The culmination of this situation occurred in 1964, when the Commercial Code of 1934 and the provisions introducing this Code were repealed. Somewhat paradoxically, most of the provisions of the Commercial Code of 1934 concerning general partnerships, limited liability companies, and joint-stock companies were maintained, but these provisions were in the form of a hull. As it is emphasised elsewhere, these parts of the provisions of the Commercial Code on companies were maintained only thanks to the prudence and experience of the creators of the Civil Code, which proposed this under the guise of requirements related to cooperation with foreign countries.⁷⁸ The advantage of this situation was the fact that when the gradual return to the market economy began and after the political transformation, good law on companies, which received many valuable studies and research, allowed for the rapid development of modern company law regulations in Poland.

Starting from 1980, along with the permanent economic crisis, there were more and more intensive social changes aimed at breaking the economic system out of the constraints of the socialist economy. Then, a social movement was constituted

⁷⁶ Morawski, n. d.

⁷⁷ Frąckowiak, 2015, p. 52.

⁷⁸ Ibid., p. 53.

under the name of the Independent Self-Governing Trade Union, “Solidarity”; in August 1980, a number of agreements were concluded between Solidarity and the government, which initiated slow changes in the laws regulating economic relations. However, this process, which had good prospects, ceased for several years with the introduction of martial law and related repressions.⁷⁹ The return to talks took place at the end of the 80s, specifically in mid-August 1988, when the authorities began discussions with the opposition caused by numerous social protests lasting since April. As a result of negotiations between the government and Solidarity, talks took place at the so-called round table. This led to key changes in the economic system: from 1 January 1989, the principle of taking up and conducting business activity is free and allowed to everyone on equal rights came into force. There was also another challenge in the form of adapting Polish regulations governing the functioning of commercial companies to the requirements of the new legal system.

The current Code of Commercial Companies (CCC) entered into force on 1 January 2001.⁸⁰ Its primary goal is to modernise Polish commercial company law and adapt it to today’s leading standards. The prevailing view in the Codification Commission was that the solutions adopted should be based on leading continental legislation, in particular German law, which has the most significant influence on the shape of directives created in the European Union. A consequence of this approach was the fact that, for example, the existing structure of the company’s governing bodies was not abandoned in favour of a single management and supervisory body modelled on Anglo-American solutions (board of directors). The idea of continuity was supported, understood as a postulate to preserve those provisions of the Commercial Code of 1934 – which remained valid – and, as far as possible, maintain the terminology and layout of the repealed commercial code.⁸¹ The typology of capital companies is indicated in Article 1 § 2 CCC, which defines three types of capital companies, as shown herein:

- a) a limited liability company (regulated in Articles 151–300 CCC), referring to a capital company with legal personality, a separate legal personality from partners, and the ability to bear liability for the company’s obligations, established for any legally permitted purpose, and which operates on the basis of share capital divided into shares created by partners as a result of the contributions made;
- b) simple joint-stock company; as of 1 July 2021, this new type of capital company was introduced in Polish law. The legislator indicated, as one of the reasons for the introduction of simple joint-stock company, that it:

is a modern form of non-public capital company intended for innovative projects. It is to combine the corporate nature of the company as a legal person and its basic manifestation, which is the exclusion of personal liability of shareholders for its obligations with considerable freedom to shape the company’s

79 Ibid., pp. 53–54.

80 Code of Commercial Companies (Journal of Laws 2000 No. 94, item 1037).

81 Nazaruk, 2014, p. 398.

relationship, both in terms of mutual relations between shareholders and the company's management system and supervision over this process. This new structure of the company is distinguished above all, on the one hand, by the admission of new categories of contributions to cover the membership rights acquired and, on the other hand, by a modern mechanism for the protection of the company's creditors, abandoning the structure of the share capital in favour of flexible restrictions on distributions to shareholders, taking into account both the size of the aggregate indebtedness of the company and the degree of its solvency.

The basic regulation of this company can be found in Articles 300(1) to 300(134) CCC. It is meant to fulfil the hopes of those interested towards the creation of an appropriate form of capital company for developing innovative ventures and technological developments with a new type of capital company.⁸²

- c) a joint-stock company (regulated in Articles 301–490 CCC), describing a capital company with legal personality, established for any legally permitted purpose, created on the basis of a corporate structure, and endowed with a share capital that is determined in the company's articles of association, within the statutory framework of its amount, formed from shareholders' contributions, and divided into a specified number of shares of equal nominal value.

6. Romania

Following the formation of the United Principalities from the union of Wallachia and Moldova in 1859, the question of modernising Romanian law quickly arose.⁸³ In 1864, under the initiative of Prince Alexandru Ioan Cuza, the Civil Code and the Code of Civil Procedure were adopted. The Civil Code was compiled in six weeks, modelled after the 1805 French Code civil (Code Napoléon), came into effect in 1865, and was in use until October 1, 2011, when the new Civil Code, Law No. 287 of 2009, was implemented. This six-week period was relatively brief, but the reception of French law had been ongoing for some time.

In the country, which became independent from the Ottoman rule in 1878 and a kingdom starting in 1881, economic development necessitated the re-regulation of commercial law. Although in Wallachia, a precursor state, the Commercial Code (*Kondika de Komerciu*) had been introduced in 1840 based on the French model and extended to the entire territory of the United Principalities in 1863, a decision was

⁸² Nędzyński, 2021, pp. 233–234.

⁸³ For a general overview on the history of Romanian company law, see Veress, 2024a, pp. 52–63.

made to adopt a new, modern code. The new Commercial Code (*Codul comercial*), which took effect in 1887, was based on Italian sources, specifically the 1882 Italian Commercial Code (*Codice di Commercio*), considered the most modern at the time, but it also incorporated German, Belgian, and French elements. At the time of its adoption, it was considered extremely contemporary and comprised 971 articles. However, it soon became apparent that the Commercial Code alone could not regulate all aspects of commerce, leading to the gradual introduction of more specific commercial laws.

In 1918, the Romanian Commercial Code contained provisions related to corporate and bankruptcy law, which existed at a time when the country expanded significantly in territory owing to political processes and legal outcomes following the First World War, resulting in the creation of Greater Romania. In company law, various legal systems coexisted; for example, the 1887 Commercial Code was applied in the Old Kingdom (the former territory of Wallachia and Moldova), while the Hungarian Commercial Code (Act XXXVII of 1875) was used in the broader region of Transylvania.

In 1924, a law was adopted concerning the trade and regulation of economic enterprises,⁸⁴ introducing uniform regulations for state enterprises under the protectionist policy of the National Liberal Party. The legislation divided state enterprises into two categories, namely those serving public interest and those of a purely economic nature. Enterprises serving the public interest could operate as state monopolies, whereas those in the second category could be operated with private capital participation, including up to a maximum of 40% of foreign capital. To prevent the sale of shares to foreigners, these companies could only issue registered shares, and the approval of the board of directors was a mandatory condition for the transfer of shares. At least two-thirds of the directors, including the chairman of the board and the CEO, were required to be Romanian citizens. Within seven years, the proportion of Romanian citizen employees had to reach 75% in both number and remuneration. This law remained in effect until 1929 when, following the National Peasant Party's rise to power, a new law was adopted regarding the organisation and operation of public companies and public assets on a commercial basis.⁸⁵ This new regulation abolished the 40% limitation, allowed the issuance of bearer shares, and removed the citizenship requirements for management positions. However, under the conditions of a global economic crisis, the anticipated foreign investments did not materialise.

By 1936, the press reported on the successful progress of the Commercial Code:

During the fall, the draft of the unified Commercial Code will be presented to Parliament. The committee tasked with unifying commercial law has advanced sufficiently that the new Commercial Code draft can be brought before Parliament this autumn. The draft incorporates several currently

84 Legea privitoare la comercializarea și controlul întreprinderilor economice, însoțită de expunerea de motive, 1924.

85 Legea pentru organizarea și administrarea pe baze comerciale a întreprinderilor și avuțiilor publice, 1929.

effective laws closely related to industry or commerce. For instance, the law on company registration and the law concerning unfair competition have been fully integrated into the new draft. The proposal introduces the institution of limited liability companies across the entire country, a corporate form previously existing only in Bukovina. The main purpose of the limited liability company, as we know, is to replace family-owned joint-stock companies. Regarding the regulation of joint-stock companies, the new code introduces patched responsibility for board members.⁸⁶

In reality, the process took longer. The implementation of all three codes (the two private law codes and the procedural law code) was initially set for 15 September 1940, was later postponed to 1 January 1941, and indefinitely delayed on 31 December 1940. Among the reasons for this delay were the territorial losses of Greater Romania: Bessarabia had to be ceded to the Soviet Union (June 1940) and Northern Transylvania was given to Hungary as per the Second Vienna Award (30 August 1940). The three codes were nonetheless considered valuable contributions to Romanian legal thought. The territorial losses of Romania, the forced emigration of King Carol II, the events of the Second World War, and the subsequent rise of a Soviet-style dictatorship prevented the implementation of the three private law codes, thus thwarting the unification of private law through the new codes.

In 1943 in Southern Transylvania, and in 1945 in Northern Transylvania after it was returned to Romania, Romanian private law was rapidly implemented through Law No. 260 of 1945, which introduced the 1887 Commercial Code. This rapid implementation overrode the scientifically-grounded plan for gradual integration of private law that had characterised the pre-Second World War period. Romanian private law, in its essential components, was unified through the extension of the legal system of the Old Kingdom. However, there was no time to genuinely apply the Romanian Commercial Code in Transylvania; in the post-Second World War years, Romania, including Transylvania, entered the sphere of influence of the Stalinist Soviet Union, leading to the establishment of a Soviet-style dictatorship.

The cornerstone of the Soviet-style dictatorship's societal transformation project was nationalisation.⁸⁷ The elimination of the ruling bourgeois class involved not only the physical eradication of real or potential resisters but also the economic liquidation of the bourgeoisie, with nationalisation serving as the primary tool. According to the Communist Manifesto (1848),

modern bourgeois private property is the final and most complete expression of the production and appropriation of products based on class antagonisms, where a minority exploits the majority. In this sense, the communists can summarize their theory in one expression: the abolition of private property.

⁸⁶ See *Keleti Újság*, 1936. august 7.

⁸⁷ For further details, see Veress, 2015, pp. 125–137; Veress, 2021, pp. 332–350.

This excerpt shows how the nationalisation of private property and its exploitation by the state for the public good forms a fundamental tenet of communist ideology. This goal was served by nationalisation, collectivisation, and the restriction of private property to personal ownership. Nationalisation, however, can be characterised as nothing less than unjust expropriation, lacking both real public interest and compensation.

On May 8, 1945, Romania and the Soviet Union signed an agreement on mutual trade. Based on this agreement, the *Sovroms* were established, which were joint Soviet-Romanian companies owned 50–50% by the two signing states, legally structured as joint-stock companies such as Sovrompetrol, Sovromgaz, Sovromtransport, or Sovrom Kvarțit (which conducted uranium mining under a “cover name”, including in Bihor County’s Rezbánya). The *Sovroms* essentially served the exploitation of the Romanian economy for the benefit of the Soviet Union and operated until 1956. However, uranium exports to the Soviet Union continued thereafter.

Significant changes in the ownership structure had not yet occurred by 1948, and the foundation for the abolition of private property was laid by the 1948 constitution. According to Article 11, when the public interest required, the means of production, banks, insurance companies, which were the private property of natural or legal persons, could be taken into state ownership under conditions prescribed by law as goods of the people. In June 1948, the nationalisation law (Law No. 118 of 1948) was enacted, followed by numerous additional nationalisation regulations, as follows: Decree No. 197 of 1948 on the nationalisation of banks and credit institutions; Decree No. 232 of 1948 on the nationalisation of seven railway companies; Decree No. 302 of 1948 on the nationalisation of private healthcare institutions; Decree No. 303 of 1948 on the nationalisation of the film industry (e.g. nine cinemas in Cluj County, four in Mureș County, and 16 in Arad County); Decrees No. 134 of 1949 and No. 418 of 1953 on the nationalisation of pharmacies. In 1948, the Bucharest Stock Exchange was abolished owing to the twilight of joint-stock companies and the nationalisation of commodity trade. All major industrial facilities in Transylvania were also nationalised. By the end of 1948, Romania had 18,569 state enterprises (including 193 *Sovroms*), which, under the Soviet-style dictatorship, were integrated into the public administration and placed under the subordination of sectoral ministries. They played a role in production, distribution, and public administration, essentially characterised by public law rather than private law. Larger enterprises also had party organisations, serving to monitor and discipline workers.

According to the official stance, nationalisation eliminated the industrial and financial bourgeoisie as a class and established the socialist sector in production: ‘Thus, by this revolutionary act, we snatched the main means of production from the hands of the bourgeoisie’.⁸⁸ A portion of the urban housing stock was also transferred to state ownership. The constitution declared the principle of a centrally-directed planned economy (Section 15); on 2 July 1948, the State Planning Commission was

88 Roller, 1952, p. 806.

established. One-year plans were made for 1949 and 1950, and five-year plans from 1951 onwards.

The goal was to introduce the Soviet model and rapid industrialisation. Propaganda reported incredible successes, praised the socialist competition, and the over-fulfilment of plans. This brought short-term advantages and development to the economy, but proved inoperable in the long term. Regarding the 1949 plan, it was reported: 'In the midst of enthusiastic work, under the leadership of the Romanian Workers' Party and with multifaceted support from the Soviet Union, our country's workers realised the plan at 108%, completing it 20 days before the year's end'.⁸⁹ Continuous success propaganda was a part of everyday life under the Soviet-style dictatorship. The Soviet-style dictatorship operated on the principle (or rather, the fiction) of socialist social ownership: essentially, the means of production were owned collectively by the society (mostly as national property and to a lesser extent as cooperative property). According to this concept,

the state was merely a tool in the hands of the working class, of the entire people, to organize and realize socio-economic development based on socialist ownership. The state exercised oversight to ensure that the people's property was not squandered but rather strengthened and developed. Therefore, the subject of the socialist collective ownership was not the state, but the entire working people.⁹⁰

In reality, the state was indeed the subject of property rights, and the fiction of social ownership played solely a legitimising role, meant to show that the system operated in the interest of the people. State enterprises, however, operated with low efficiency, excessive staffing, limited productivity, multiple conflicting goals due to political interference, poor resource allocation, and inflexibility. They operated in technically-backward conditions (with outdated equipment, methods, and products), took on activities unrelated to profit (e.g. supporting sports teams and holiday resorts), had very limited innovation capabilities, were amidst theft and corruption, and were environmentally polluting.⁹¹ Overall, it can be concluded that a market economy (i.e., capitalism) based on competition and operating under properly regulated conditions resulted in a more efficient economic system than the planned economy based on state ownership introduced in Soviet-style dictatorships. These dictatorships purportedly aimed to eliminate the exploitation of proletarians by capitalists, but in reality replaced capitalist exploitation with exploitation by the dictatorial state.

As a result of this collectivisation, private property as a motivational factor ceased to exist, peasants were reduced to agrarian proletarians, and economic efficiency

⁸⁹ Roller, 1952, p. 811.

⁹⁰ Lupán, 1986, p. 172; For a similar reasoning regarding agricultural land, see Lupán, 1988a, 1988b.

⁹¹ Savas, 1993, p. 287.

only reached the expected outcomes at the level of rhetoric. In December 1989, following the collapse of the Soviet-style dictatorship, it became imperative to recreate the legal framework for a market economy. A market economy cannot exist without companies, leading to the relatively early adoption of the Law No. 31 of 1990 on commercial companies (*Legea societăților comerciale*) in the autumn of 1990.

During the Soviet-style dictatorship, the Commercial Code had been completely sidelined, but it was reinstated after the regime change. The fate of the Romanian Commercial Code is particularly noteworthy, as it survived its own model (the Italian Commercial Code was repealed during the Second World War, when Italy returned to a monist private law system with the 1942 *Codice Civile*), survived the totalitarian Soviet regime, and was revived after 1989 along with its natural environment: capitalism. However, the corporate law provisions of the Commercial Code were outdated (originating from 1887), necessitating the enactment of Law No. 31 of 1990. Nonetheless, there is continuity in that the corporate law provisions of the Carol II Commercial Code from 1940 formed the basis for the creation of the new post-regime-change law. Currently, the Law No. 31 of 1990 on companies remains in effect, albeit with numerous amendments: by the time the manuscript of this volume was completed, it had been amended more than 45 times, with some amendments significant enough to be considered corporate law reforms (e.g. Law No. 441 of 2006 or Law No. 265 of 2022).

Another important process from a corporate law perspective occurred after the regime change, which was privatisation, the details of which are not covered in this volume. However, it is worth noting that in the summer of 1990, Law No. 15 (the transformation law) was passed, which restructured state enterprises: for those enterprises intended to remain under state ownership, the French model of independent management (*regie autonomă*) was prescribed; those that could be privatised were converted into commercial companies. About 47% of state corporate assets, including strategically-significant enterprises, were categorised under independent management. Six months were allocated for this reorganisation. This transformation was a prerequisite for privatisation because:

the socialist state enterprise form was unsuitable for selling the enterprise, as it qualified as a legal, essentially public law institution. As an organization, the enterprise could not be alienated. Therefore, socialist countries were forced to first transform the state enterprise into a one-person state owned joint-stock company using the universal succession technique copied from the German transformation law. This is known as formal privatization, legal privatization, the commercialization of legal form without changing ownership relations (...). Real privatization, both in economic and sociological terms, could only follow formal legal privatization (...).⁹²

92 Sárközy, 1997, p. 20.

Based on the 1990 Law No. 15, 30% of the shares of the transformed joint-stock companies were planned to be distributed for the population. This was followed by several actual privatisation laws and a long transition and privatisation process, the examination of which, although interesting, goes beyond the scope of a company law analysis.

The new Romanian Civil Code, adopted with Law No. 287 of 2009 and effective from October 1, 2011, repealed most of the still-effective provisions of the Commercial Code that regulated separate commercial obligations, introducing a monist private law regime.⁹³ Consequently, efforts were made to eliminate the use of the term “commercial” from the legal system. The text of the Romanian Civil Code no longer speaks of “merchants”, but of “professionals”, and the term “commercial” was removed from the title and text of Law No. 31 of 1990, which now simply refers to companies.

The Law No. 31 of 1990 on companies has matured for recreation; owing to the numerous amendments, its conceptual unity has been broken. Under its regime, companies with legal personality are constituted in one of the following forms: a) general partnership; b) limited partnership; c) joint-stock company; d) limited partnership limited by shares; e) limited liability company.

7. Serbia

The first contours of the development of Serbian company law date back to the mid-19th century, the period of the Serbian liberation from the Ottoman Empire, the revival of the Serbian state in the modern age, and the inception of the slow growth of entrepreneurship in the territories that were becoming released from Turkish influence. From a legal point of view, the adoption of the modern Serbian Civil Code in 1844, as one of the first European codifications at the time, depicts this period of resurrection. The Code was modelled upon the Austrian counterpart, thereby containing a myriad of modern rules of that time. The Code provided guarantees of private property which served as a basis for the later development of the first company law rules. It also contained rules on civil partnerships that had contractual nature and consequentially did not have a legal personality. In that sense, a civil partnership was defined as a contract between several persons who work together and make contributions of material goods to gain the benefits they share among themselves.⁹⁴ The rules on civil partnerships are still applicable in the present Serbian law, as a consequence of specific legal developments that occurred after the Second World War. Briefly, the laws that were in force before the end of the war were declared (provisionally) applicable until the enactment of the new rules.⁹⁵ The new rules for civil partnerships were never enacted, and the old rules are still part of the Serbian legal system.

93 For details, see Veress, 2017, pp. 27–34; Fegyveresi, 2017, pp. 35–42.

94 Serbian Civil Code, Article 723.

95 Mirković, 2019, p. 140.

They have certainly minor practical importance nowadays, but there are still occasions in which Serbian courts apply them in case law.⁹⁶

The next step in the development of Serbian company law and commercial law relates to the adoption of the Serbian Commercial Code in 1860. The role model for this Code was mainly the French Commercial Code, although certain provisions were probably inspired by German law as well. The thrust of the Code comprised rules on the notion of a trader and conditions for conducting commercial activities. A separate part of the Code contained rules on commercial companies and their legal forms. The Code provided for three forms of commercial companies, which in turn were the first, rudimentary legal forms of companies in Serbian law.⁹⁷ These forms mostly resemble today's general partnerships, limited partnerships, and joint-stock companies.

Even though the rules on joint-stock companies were already part of the Commercial Code, the late-19th-century Serbian legislator recognised the particularities and importance of these companies by enacting a specific Law on Joint-Stock Companies in 1896. This Law defined a joint-stock company as a company established with a pre-determined capital (e.g. the legal capital, in terms of modern company law) divided into equal parts designated as shares.⁹⁸ There are several rules and principles from this law that are an essential part of modern law as well. The shares might have been either registered or bearer. The law also prescribed a well-known principle of the non-divisibility of shares.⁹⁹ The shareholders enjoyed the privilege of limited liability, and they were able to go public in order to sell the company's shares and finance the company's operation. There were two governing bodies of the company, which were the general meeting and the management board.

The privilege of limited liability and the ability to externally finance the company's operation was, however, followed by the prominent role of the state in the formation and even in, to a certain extent, the operation of the companies. The formation was based on the system of state approval, meaning that a company needed approval from the ministry competent for the economy to be established. The companies' operation was supervised through the mandatory participation of the state's representative at the general meetings. Finally, it is particularly noteworthy that 19th-century-Serbian law on joint-stock companies dedicated a specific chapter to foreign joint-stock companies, testifying on the openness and receptiveness of old Serbian law to foreign markets. The foreign joint-stock companies could operate in Serbia, provided they had obtained authorisation from the competent ministry and had established a branch in Serbia that acted on behalf of the foreign company.¹⁰⁰

Serbian company law went through three very different stages during the 20th century. The first stage ended with the beginning of Second World War, which brought

96 Jovanović et al., 2021, p. 33.

97 Marković, 1914, p. 11.

98 Ibid., p. 69.

99 Ibid., p. 70.

100 Ibid., p. 113.

significant economic and social changes to the newly-established socialist Yugoslavia. The second stage designated an utter relinquishment of any previous legal and social achievements. Its main characteristic was the creation of laws that reflected the abandonment of the principle of private property and the adoption of new communist premises of state and societal ownership and employee self-government. The third stage coincided with the unprecedented economic crisis and violent separation of Yugoslavia at the end of the 20th century.

In the first stage, two new countries were born, the Kingdom of Yugoslavia born in 1929, which was preceded by the Kingdom of Serbs, Croats, and Slovenians founded at the end of the First World War. Although full of political and social turmoil, this stage did not bring many developments important for the company law. Special attention is required only for the Commercial Code of the Kingdom of Yugoslavia enacted in 1937. This Code, however, never entered into force owing to forthcoming events in the wake of and during the Second World War. The domestic legal scholarship usually considers this Code as an instance of modern regulation of the time.¹⁰¹ The same is true for its provisions dealing with commercial companies. For example, let us turn our attention to the norms stipulating the duties of companies' directors. The Code prescribed general rules of care for the members of the management board, as well as recognised the main behaviours (conditionally) prohibited by the modern duty of loyalty.¹⁰² In that line, it acknowledged the duty to avoid conflicts of interest, the duty not to compete with the company, and the duty to keep trade secrets. It also has the main elements of modern rules on related-party transactions; an instance is the prescription of the obligation to inform the competent body about personal interests and the possibility of consent to such transaction by the supervisory board or the general meeting. It also expanded the application of certain conflict-of-interest rules to persons related to management board members (related parties).¹⁰³

The second stage of company law development in the 20th century was in effect a negation of the recent developments of the time and the disappearance of company law from the legal stage. The end of the Second World War brought revolutionary changes and the establishment of a new country, namely the Federal Peoples's Republic of Yugoslavia. The process of confiscation of private property began as early as 1946, followed by its nationalisation aiming to transfer private proprietary rights into the hands of the state. After confiscating property from the "state enemies", a process justified by many fake judicial proceedings, the state conducted the nationalisation in several stages. The first target was the property of the richest people from pre-war Yugoslavia, the second target was the middle class and the agricultural land, and the final targets were some specific sectors (e.g. all pharmacies were nationalised in 1949).¹⁰⁴

101 Mićović, 2016, p. 21.

102 Article 300, Section 1, Commercial Code of the Kingdom of Yugoslavia.

103 Commercial Code of the Kingdom of Yugoslavia, Article 303–304.

104 Anđelković, 2020.

These processes resulted in several laws aiming to achieve the purposes of implementing the new ideology in the country's economic and social life. The first laws promoted the replacement of private property with state property, while the culmination of the ideological developments of Yugoslavian communism was depicted by the final transfer to the concept of societal property. This property, in the words of one of its founders and most prominent political leaders of the time, Edvard Kardelj, belonged "to everyone and to no one". When it comes to the economic organisations that replaced the commercial companies, depending on the time and laws during the period, they existed in different forms (e.g. state enterprises, work organisations, and organisations of joint work). Their common trait, upon the introduction of societal property, was the firm involvement of employees in the government of the organisation through different bodies (e.g. worker councils and meetings). The vague concept of societal property, combined with the ambiguous rules and principles of governance in the work organisations, which became especially exaggerated after the adoption of the Law on Joint Work in 1976,¹⁰⁵ resulted in the crisis which commenced in the 1980s and culminated in the country's civil war and violent separation.

In the third stage, as a consequence of the crisis and the failure of the old system, company law began to retrieve its importance. In the twilight of Communist Yugoslavia, private property started to regain its prominence, and the first Law on Enterprises, after almost a century, was adopted in 1988. This law returned commercial companies to the country's economic life. It was, however, a reflection of the time, characterised by many enterprises in the state or societal ownership.¹⁰⁶ For these enterprises, special governance rules were provided, and the route to the privatisation process was outlined. However, owing to the civil war that began in 1991, the Law on Enterprises was never fully applied. After the separation of communist Yugoslavia and the establishment of the Federal Republic of Yugoslavia (consisting of Serbia and Montenegro), the new state enacted the new Law on Enterprises in 1996. This law demonstrated the further development of company law, containing many rules that were in accordance with modern developments in company law.¹⁰⁷ This Law acknowledged the main legal forms of commercial companies, including limited liability companies. Related developments occurred, albeit at a gradual pace and constrained by the existence of various state-owned enterprises and societal enterprises (i.e. enterprises in the status of societal property). The turmoil occurring at the end of the 1990s was not fertile ground for the privatisation of these enterprises, and therefore the real economic transformation of the country commenced only in the 2000s.

After the political changes in 2000, the final dissolution of Yugoslavia, and the formation of another new country, the State Community of Serbia and Montenegro, the new Law on Commercial Companies was introduced in 2004. This Law denotes the actual revival of commercial companies and company law, containing the main legal

105 Jovanović et al., 2021, p. 30.

106 Vasiljević, 2012, p. 37.

107 Ibid., p. 38.

rules and principles present in the comparative company law. Above all, it introduced a new term for the business organisation (i.e. commercial company) instead of the outdated and imprecise term of enterprise used in previous laws. The enactment of the new Law preceded the establishment of the Serbian Business Registers Agency (hereinafter, BRA), which was another important step in modernising the business environment. The foundation of BRA led the way for significant simplification, acceleration, and increased efficiency in company formation and operation. The more modern laws accompanied by the process of privatisation, which had been on the way since 2001, as well as the decrease in the number of state and societal enterprises, enabled the gradual creation and growth of a new business environment with limited liability companies at the forefront. Although only a year after the adoption of the Law on Commercial Companies Serbia and Montenegro peacefully separated, this law remained applicable in Serbia up until 2011.

The next step in the evolution of company law rules was the adoption of the new Law on Commercial Companies in 2011 (Serbian Companies Act; hereinafter, CA),¹⁰⁸ which is currently applicable. This law presents the main source of current Serbian company law, and its main provisions will be analysed in the following chapters. Since 2011, the CA underwent several changes aimed at enhancing and modernising Serbian company law. These changes were the result of changes in European Union company law, the process of digitalisation which increasingly began to affect different aspects of company law, and the practical problems caused by vague or non-existent provisions applicable in different practical situations. The most striking change, compared to the time when the initial version of CA was adopted, was introduced by the specific law on companies' registration. In May 2023, the online registration of companies became the only and mandatory form of registration for all Serbian companies.¹⁰⁹ This has been the last stage in the progressive switch to electronic registration, which Serbian law commenced in 2018. It remains to be seen whether the BRA and prospective founders of Serbian companies are ready for this change, as well as whether Serbian law could prevent potential abuses usually related to online registration.¹¹⁰

Although undoubtedly the most important one, the CA is certainly not the only relevant source of Serbian company law, as many different laws affect the formation, operation, and dissolution of companies in Serbia. When it comes to formation, the procedure for acquiring legal personality and establishing a company is regulated by the already mentioned Law on the Registration Procedure with the Business Registers Agency.¹¹¹ The norms of this law are equally relevant for any relatively significant changes that a company has to register during its operation (e.g. changes in legal capital, shareholders, representatives, and shares). The operation of public joint-stock

108 Official Journal of the Republic of Serbia, 36/2011.

109 Law on the Registration Procedure with the Business Registers Agency, Article 9, Section 2.

110 Jevremović Petrović, 2021, p. 306.

111 Official Journal of the Republic of Serbia, No. 99/2011, 83/2014, 31/2019, 105/2021.

companies is particularly affected by the Law on Capital Markets¹¹² and Law on Takeover of Joint-Stock Companies.¹¹³ The preparation and auditing of companies' financial statements are mainly regulated by the Law on Accounting¹¹⁴ and Law on Auditing.¹¹⁵ Regarding the dissolution of insolvent companies, the main source for most commercial companies is Insolvency Law, albeit special insolvency laws apply to banks and insurance companies.¹¹⁶ There is also a specific method of pre-pack reorganisation of insolvent or nearly insolvent companies that is subject to the norms of the Law on Consensual Financial Restructuring.¹¹⁷ Specialised financial undertakings, such as banks, insurance companies, stock exchanges, and investment funds, are subject to specific laws.

Besides state-enacted hard law rules, there are several soft law instruments as sources of company law, the most important of which is the Corporate Governance Code of the Serbian Chamber of Commerce.¹¹⁸ This Code contains several categories of rules tailored to different company types present in the Serbian market, aiming to apply a dynamic approach and to follow the life cycle of a company. In addition to the specific rules for large enterprises, regardless of legal form, and public joint-stock companies, the Code provides separate rules for family companies and companies in state ownership (i.e. the shareholder is the Republic of Serbia). The latter reflects the realities of the Serbian economy in the first decades of the 21st century: the newly (re) established family capitalism and state-owned companies as a legacy of former times. Aside from the Corporate Governance Code, there is the Business Ethics Code of the Serbian Chamber of Commerce, the Corporate Governance Code of the Belgrade Stock Exchange, among others. Importantly, soft law rules are not entirely voluntary for public joint-stock companies in Serbia, as these companies are obliged to apply the corporate governance codex they choose in their business operation on a comply-or-explain basis.¹¹⁹

Finally, in Serbian legal scholarship, case law is usually considered an indirect and informal source of law. Although the standpoints of higher courts are not a formally-binding authority for lower courts, the latter rarely deviate from these standpoints, thereby giving them the status of persuasive authority. However, this statement has very limited importance in company law since case law in this field remains scarce. The CA's rules that are rarely or never applied in practice are not uncommon, and standards of behaviour for the main stakeholders have not yet been established.

112 Official Journal of the Republic of Serbia, No. 129/2021.

113 Official Journal of the Republic of Serbia, No. 46/2006, 107/2009, 99/2011, 108/2016.

114 Official Journal of the Republic of Serbia, No. 73/2019, 44/2021 – other law.

115 Official Journal of the Republic of Serbia, No. 73/2019.

116 Official Journal of the Republic of Serbia, No. 104/2009, 99/2011 – other law, 71/2012 – resolution of the Constitutional Court, 83/2014, 113/2017, 44/2018, and 95/2018.

117 Official Journal of the Republic of Serbia, No. 89/2015.

118 Official Journal of the Republic of Serbia, No. 99/2012.

119 Article 368, CA.

Serbian company law traditionally recognises four legal forms of commercial companies: I) general partnerships, II) limited partnerships, III) limited liability companies, and IV) joint-stock companies. A somewhat different approach existed in the Law on Enterprises from 1988, which recognised the form of limited partnerships by shares. Serbian law does not recognise the simplified forms of limited liability companies and joint-stock companies, but defines a public joint-stock company and provides a lot of specific rules for it. The common features of all legal forms are as follows: a) legal personality, b) conducting business activity, and c) profit-gaining purpose.¹²⁰ The four legal forms are habitually divided into two groups, namely companies of persons (general and limited partnerships) and capital companies (limited liability companies and joint-stock companies). This division used to be a part of the law, but its importance, due to congruence between different legal forms, has steadily decreased. The main difference between the two groups nonetheless remains untouched; the general partners, contrary to the shareholders of limited liability companies and joint-stock companies and limited partners, are jointly and severally liable for companies' obligations.

This very difference made both general and limited partnerships unattractive in business practice, thereby diminishing their actual presence. Joint-stock companies also feature some characteristics that make them unattractive, and the reasons for their limited presence are quite different from those for the aforementioned partnerships. Specifically, joint-stock companies offer a very limited practical possibility for employing their main advantage: gather large amounts of capital through public offers. Initial public offerings are almost inexistent in Serbia; as a matter of fact, after one pre-war initial public offering in 1940, the next public offering in Serbia occurred in 2018. As a result, the entire Serbian capital market is underdeveloped. Although the causes for such underdevelopment are not straightforward, they most likely have to do with the bank-centric system, and banks' lack of interest to act as underwriters. The prominent role of banks in financing Serbian companies led them to avoid capital markets in order to keep the profits from loan interests. Another factor is the absence of a shareholders' culture and negative experiences with certain collective investments in the 1990s, which is reflected in the general non-willingness of citizens to invest in capital markets. It is abundant to say that as a consequence of the limited formation of partnerships and joint-stock companies, limited liability companies are by large the predominant legal form in Serbia.

Finally, one very recent development in Serbian law, not directly related to company law, deserves some attention. In 2022, Serbia enacted its first Law on Social Entrepreneurship.¹²¹ This law allows companies of any legal form, upon the fulfilment of statutory conditions and certification by the BRA, to become a company with the status of social entrepreneurship.¹²² It must be underlined that Serbian law did not

120 Article 2, CA.

121 Official Journal of the Republic of Serbia, No. 14/2022.

122 Law on Social Entrepreneurship, Article 8.

introduce a new legal form through this law (e.g. benefit corporation in certain United States of America states), so the “fifth legal form” still does not exist. Instead, the companies with this status are eligible to gain certain benefits that the state decides to grant them (e.g. more favourable tax treatment, employment benefits, and monetary grants), which serves as compensation for their voluntary deviation from some of the basic business and company law principles (e.g. acceptance of social goals through the change of the company’s purpose in the articles of association, asset lock, and profit lock rules, and stakeholders’ participation in company governance).¹²³ Companies with the status of social entrepreneurship are very rare, and it remains to be seen whether the state measures to promote this type of entrepreneurship will be capable of changing the situation.

8. Slovenia

In the territory of the Republic of Slovenia and the Republic of Croatia, the Austrian Commercial Code was in force from 1862, which was modelled on the German Commercial Code but was more extensive, of a higher quality, and more liberal than the German model.¹²⁴ During the period of the former Kingdom of Yugoslavia, of which Slovenia was an integral part, six Commercial Codes were in force. In addition to the Slovenian one, which was the same, there were the Serbian, the Croatian Hungarian, the Bosnian Herzegovinian, and the Montenegrin ones. The Montenegrin and Serbian ones were almost identical, as were the Croatian and Hungarian ones. Both the Hungarian-Croatian and the Bosnian were based on the old General German Commercial Code, but differed from it in many respects, mainly owing to later amendments. The Serbian and Montenegrin ones were in fact translations of the French *Code de Commerce*. As all the commercial codes in force in the territory of the Kingdom of Yugoslavia were from different periods and quite different in content, the need for a new, unified, and common commercial law arose. This was partly realised in the publication of a codification of commercial law in the form of the Commercial Law for the Kingdom of Yugoslavia, which did not enter into force because no special law was adopted to introduce it.¹²⁵

After the Second World War, Slovenia became part of the Socialist Federal Republic of Yugoslavia (also known as SFRJ). In 1946, the Basic Law on State Economic Enterprises was adopted in the field of the organisation of economic entities, introducing administrative management into the economy, which represented the first stage in the construction of a socialist economic system. This was the period of natural planning, in which the plan replaced the contract. The Basic Law on Private Shops abolished all companies organised under the previous regulations, and while

123 Sørensen and Neville, 2014, pp. 285–290.

124 Ivanjko et al., 2009, p. 85.

125 Ibid.; see also Škerlj, 1938.

individual trades could still be organised as a public trading company, this possibility also ceased with the adoption of the Regulation on the Establishment of Enterprises and Establishments in 1953.¹²⁶

In 1965, the Basic Law on Enterprises and the Law on the Assets of Economic Organisations were adopted. In addition to these two laws, the Basic Law on the Election of the Workers' Council and other Governing Bodies in Workers' Organisations, adopted in 1964, was also important for the situation of economic operators at that time. This marked the transition to the second phase of the development of the socialist economic system.¹²⁷ The constitutional amendments of 1968 made it possible for a section of a workers' organisation to be organised as an "organisation of associated labour" (*organizacija združenega dela*, or OZD, in Slovenian), which could be designated as an independent OZD with the status of a legal entity by the Workers' Council of that work organisation. All OZDs shared the characteristic of being associations of workers who pooled their labour and resources under social ownership, exercising their right to work with social means of production.¹²⁸ The Workers' Council was considered the highest body of the workers' organisation, and it, among other responsibilities, determined the scope of the self-management rights of the OZD. Following the constitutional amendments of 1971, the OZD became the basic form of economic entity, which in turn marked the third phase of the construction of the socialist economic system.¹²⁹

After 1973, numerous laws were enacted to replace the Law on Enterprises, regulating various areas of corporate law (e.g. registration in the court register, employee relations in united labour, company names, and dispute resolution before arbitration) in a partial manner. However, these laws *inter alia* allowed for the introduction of foreign capital into the Socialist Federal Republic of Yugoslavia. The concept of a company was abandoned, and all forms of associated labour had the status of legal entities.¹³⁰

One of the forms of associated labour, the Basic Organization of Associated Labour (*temeljna organizacija združenega dela*, or TOZD, in Slovenian), was an economically-independent entity by nature. However, it had to be associated with the appearance of work organisations, so it appeared in the market not only under its own name but also under the company name of the work organisation. A TOZD was liable for obligations in legal transactions with all its assets, as well as for the obligations of other TOZDs within the work organisation if defined as such in the self-management agreement on association within the work organisation. This agreement typically specified the type and manner of the TOZD's liability in more detail.¹³¹

126 Ivanjko et al., 2009, p. 86.

127 Ibid.

128 Ivanjko, 1977, p. 62.

129 Ibid., p. 10.

130 Ivanjko et al., 2009, p. 87.

131 Ivanjko et al., 2009, p. 87.

In 1976, the Law on Associated Labour (ZZD) was adopted, shifting the organisation of economic entities into the phase of so-called negotiated economy. This phase was based on the principles of mutual agreement and marked the fourth phase of development of the socialist economic system, lasting until 1989 (i.e. a new Law on Enterprises came into effect in 1989). The negotiated economy aimed to eliminate market principles among economic entities and regulate market relations based on agreements.¹³² The ZZD included provisions on the status characteristics of economic entities organised as OZDs, and left the regulation of various legal relationships to self-management through statutes or self-management agreements. The ZZD particularly emphasised the rights of workers, stemming from their right to work and management.¹³³

The amendments to the ZZD in 1987 could not eliminate all the deficiencies of the law nor prevent negative tendencies in the economy. Despite ideological obstacles, the shortcomings of the ZZD and its negative effects on the economy allowed for a discussion on its abolition and a return to the concept of the company and the market. This was realised with the adoption of the Law on Enterprises, which reintroduced the market and market principles into the Yugoslav system, recognised entrepreneurship across all forms of ownership rights, allowed for the establishment of private, mixed, and socially-owned companies, converged with European regulations, and facilitated the formation of all types of companies.¹³⁴

The Law on Enterprises brought revolutionary changes for the legal, ideological, economic, and organisational domains. It eliminated the outdated principles of the negotiated economy enforced by the ZZD, as the substrate of a legal entity was no longer worker labour but once again the capital. The corporate governance was also simplified, and social ownership began to lose importance as private ownership began to replace it. Workers lost the right to manage capital in work organisations, and management had once again a decisive role in company management and leadership.¹³⁵ Despite the revolutionary changes it brought compared to the previous system, the Law on Enterprises was still quite incomplete and deficient, and even two amendments to the law did not address its key shortcomings.¹³⁶

Accordingly, the Law on Enterprises was replaced by the enactment of the Companies Act (ZGD) on 10 July 1993.¹³⁷ This definitively abolished the socialist system of management and organisation of economic entities. The ZGD comprehensively regulated corporate status-related issues in company – defined as legal entities engaged in profit-making activities as their exclusive business on the market – establishment and operation. With the adoption of the ZGD, the significant lacuna resulting from

132 Ibid., p. 88.

133 Ibid.

134 Ibid., p. 89.

135 Ibid., pp. 89–90.

136 Ivanjko et al., 2009, p. 90.

137 *Zakon o gospodarskih družbah*, (ZGD) (Official Journal of the Republic of Slovenia, No. 30/1993).

the concepts of negotiated economy was eliminated. The regulation introduced by the ZGD is based on modern Central European corporate law, with one of its significant influences being the German *Aktiengesetz* (also known as AktG), and it also incorporates harmonised European Union law. In certain institutions, it draws upon solutions from the Romance legal tradition for better placement and applicability.¹³⁸

The ZGD was structurally divided into 10 parts. The first part consisted of common provisions applicable to all companies, encompassing eight chapters that regulated issues related to legal personality, company name law, registered office, representation, trade secrets and non-competition, court register, book of accounts, and annual reports. The second part pertained to the regulation of the (individual) sole trader. The third part, the most extensive, focused on companies and was divided into six chapters that defined six types of economic entities (the chapter regulating silent partnership is today no longer in effect). The fourth part governed affiliated companies, while the fifth part covered economic interest groupings and European Economic Interest Groupings (also known as EEIG). The sixth part comprised seven chapters regulating changes of the legal status of the company, while the seventh part addressed the regime for foreign companies in Slovenia. The last three parts contained provisions related to supervision, penalties, transitional provisions, and final provisions. During its validity from 1993 to 2006, the ZGD underwent eight amendments, including two revisions of the law, one amendment to the law, and five combined amendments and revisions.¹³⁹ One of the most extensive amendments was the ZGD-F amendment, which aimed to align Slovenian company law with European Union law.

In 2006, the ZGD was replaced by the revised Companies Act (ZGD-1),¹⁴⁰ the main reason being to align it with European company law, particularly in introducing the European Company (*Societas Europaea*, also known as SE) as a supranational legal form for conducting economic activities in the form of a joint-stock company within the Slovenian legal system. Additionally, the adaptation to the euro currency, which was introduced in the Republic of Slovenia in 2007, was another motive for the revision. Initially, the legislative changes were intended to be included in a new amendment

138 Ivanjko et al., 2009, p. 76.

139 The amendments to ZGD were as follows: *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-A) (Official Journal of the Republic of Slovenia, No. 29/1994), *Zakon o spremembi zakona o gospodarskih družbah* (ZGD-B) (Official Journal of the Republic of Slovenia, No. 82/1994), *Zakon o spremembah zakona o gospodarskih družbah* (ZGD-C) (Official Journal of the Republic of Slovenia, No. 20/1998), *Zakon o dopolnitvi zakona o gospodarskih družbah* (ZGD-D) (Official Journal of the Republic of Slovenia, No. 84/1998), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-E) (Official Journal of the Republic of Slovenia, No. 6/1999), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-F) (Official Journal of the Republic of Slovenia, No. 45/2001), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-G), (Official Journal of the Republic of Slovenia, No. 57/2004), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-H), (Official Journal of the Republic of Slovenia, No. 138/2004).

140 *Zakon o gospodarskih družbah* (ZGD-1), Official Journal of the Republic of Slovenia, No. 42/2006.

called ZGD-H, but later the decision was made to introduce the comprehensive revised law, ZGD-1, to ensure the transparency and comprehensiveness of the nomotechnical revision of the law and the renumbering of its articles.¹⁴¹ Since then, the ZGD-1 has undergone 11 amendments, including two amendments to the law and nine combined amendments and revisions.¹⁴²

In addition to this fundamental legal source of corporate law in the form of the ZGD-1, certain corporate issues are also regulated by other statutory and subordinate sources. Directly related to the ZGD-1's enactment are regulations governing the registration of economic entities. In this regard, the Register of Companies Act (also known as ZSreg)¹⁴³ takes precedence, supplemented by the Decree on the registration of companies and other legal entities in the register of companies,¹⁴⁴ as well as the Act on Notaries (also known as ZN).¹⁴⁵ The field of auditing procedures is governed by the Auditing Act (also known as ZRev-2),¹⁴⁶ while the maintenance of business records is regulated by the Accounting Act (also known as ZR).¹⁴⁷ For companies involved in public services and utilities management, the Services of General Economic Interest Act (also known as ZGJS)¹⁴⁸ is relevant. Regarding corporate governance, the

141 Ivanjko et al., 2009, pp. 78–79.

142 The amendments to ZGD-1 were as follows: *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1A) (Official Journal of the Republic of Slovenia, No. 10–307/2008), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1B) (Official Journal of the Republic of Slovenia, No. 68–2960/2008), *Zakon o spremembah zakona o gospodarskih družbah* (ZGD-1C) (Official Journal of the Republic of Slovenia, No. 42–2040/2009), *Zakon o dopolnitvi zakona o gospodarskih družbah* (ZGD-1D) (Official Journal of the Republic of Slovenia, No. 33–1587/2011), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1E) (Official Journal of the Republic of Slovenia, No. 91–3912/2011), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1F) (Official Journal of the Republic of Slovenia, No. 32–1401/2012), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1G), (Official Journal of the Republic of Slovenia, No. 57–2405/2012), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1H), (Official Journal of the Republic of Slovenia, No. 82–3035/2013), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1I), (Official Journal of the Republic of Slovenia, No. 55–2281/2015), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1J), (Official Journal of the Republic of Slovenia, No. 15–730/2017), *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1K), (Official Journal of the Republic of Slovenia, No. 18–413/2021).

143 *Zakon o sodnem registru* (Official Journal of the Republic of Slovenia, No. 54/07, 65/08, 49/09, 82/13, 17/15, 54/17, and 16/19).

144 *Uredba o vpisu družb in drugih pravnih oseb v sodni register* (Official Journal of the Republic of Slovenia, No. 43/07 43/07, 5/10, 25/14, 54/15, and 1/18).

145 *Zakon o notariatu* (Official Journal of the Republic of Slovenia, No. 2/07, 33/07, 45/08, 91/13, 189/20, 130/22, and 49/23).

146 *Zakon o revidiranju* (Official Journal of the Republic of Slovenia, No. 65/08, 63/13, 84/18, and 115/21).

147 *Zakon o računovodstvu* (Official Journal of the Republic of Slovenia, No. 23/99, 30/02, and 114/06).

148 *Zakon o gospodarskih javnih službah* (Official Journal of the Republic of Slovenia, No. 32/93, 30/98, and 127/06, 38/10, 57/11).

Worker Participation in Management Act (also known as ZSDU),¹⁴⁹ which regulates the participation of employee representatives on a company's supervisory board, is important. In the case of insolvency, the relevant regulations concerning the termination of companies are found in the Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act (also known as ZFPPIPP).¹⁵⁰ The manner, conditions, and procedures regarding a takeover bid for the acquisition of public joint-stock companies, where their voting shares are traded on an organised market, are regulated by the Takeovers Act (also known as ZPre-1).¹⁵¹

When discussing the regulation of specific types of economic entities engaged in certain regulated activities, it is necessary to refer to specific regulations based on the nature of the economic activity. The position of insurance companies is governed by the Insurance Act (also known as ZZavar-1),¹⁵² while the regulation of financial organisations and banks is found in the Banking Act (also known as ZBan-3).¹⁵³ The Small Business Act (ObrZ)¹⁵⁴ defines small business as a form of conducting business activities, while the Chambers of Commerce and Industry Act (also known as ZGZ)¹⁵⁵ regulates the status of chambers of commerce as independent, voluntary, interest-based, and non-profit associations of legal and natural persons engaged in independent economic activities on the market. The conditions and methods of trading in financial instruments (e.g. shares) are regulated by the Market in Financial Instruments Act (also known as ZTFI-1),¹⁵⁶ which, in addition to public offerings of securities, also regulates the competencies of the Securities Market Agency (*Agencija za trg vrednostnih papirjev*, or ATPV, in Slovenian). The latter is an independent organisation responsible, among other things, for granting permission for the issuance of securities.

In the Republic of Slovenia, as a European Union Member State, the European Union acts, and the case law of European Union courts are directly applicable as legal sources of company law. As the law does not cover all the details of corporate

149 *Zakon o sodelovanju delavcev pri upravljanju* (Official Journal of the Republic of Slovenia, No. 42/07 and 45/08).

150 *Zakonu o finančnem poslovanju, postopkih zaradi insolventnosti in prisilnem prenehanju* (Official Journal of the Republic of Slovenia, No. 176/21, 178/21, 196/21, 157/22, 35/23, and 57/23).

151 *Zakon o prevzemih* (Official Journal of the Republic of Slovenia, No. 79/06, 67/07, 1/08, 68/08, 35/11, 105/11, 10/12, 38/12, 56/13, 63/13, 25/14, and 75/15).

152 *Zakon o zavarovalništvu* (Official Journal of the Republic of Slovenia, No. 93/15, 9/19, 102/20 and 48/23).

153 *Zakon o bančništvu* (Official Journal of the Republic of Slovenia, No. 92/21 and 123/21).

154 *Obrtni zakon* (Official Journal of the Republic of Slovenia, No. 40/04, 117/06, 102/07, 30/13, and 36/13).

155 *Zakon o gospodarskih zbornicah* (Official Journal of the Republic of Slovenia, No. 60/06, 110/09, and 77/11).

156 *Zakon o trgu finančnih instrumentov* (Official Journal of the Republic of Slovenia, No. 108/10, 78/11, and 55/12, 105/12, 63/13, 30/16, 9/17, 77/18, 66/19, and 123/21); *Zakon o trgu finančnih instrumentov* (Official Journal of the Republic of Slovenia, No. 77/18, 17/19, 66/19, and 123/21).

relationships, the Management Code for Publicly Traded Companies¹⁵⁷ was formulated and adopted, providing more detailed standards for the management and governance of public joint-stock companies. The Code does not contain legally-binding rules but represents recommended practices for the functioning of the bodies of public joint-stock companies, providing non-binding recommendations.

The ZGD-1 regulates the status of economic entities, most of which are established as companies, which also include the sole trader, for whom the ZGD-1, as a systemic law, is also applicable.¹⁵⁸ An (individual) sole trader is a natural person who independently conducts a business activity for profit within an organised enterprise (Article 3(6) ZGD-1). Comparable terms used in comparative law include “*Kaufmann*” in German, “*imprenditore*” in Italian, and “*commerçant*” in French.¹⁵⁹ An entrepreneur can engage in any form of economic activity, and it is essential that this represents their regular profession and that they engage in economic activity for the purpose of making a profit.¹⁶⁰ An (individual) sole trader who has registered their business activity is recognisable in legal transactions by the acronym “*s.p*” (*samostojni podjetnik* in Slovenian). The sole trader is personally liable for the obligations arising from the business operations with all of their assets. Article 71 ZGD-1 stipulates that certain provisions governing activities, company names, registered offices, branches, procuration, and trade secrets for companies shall be applied *mutatis mutandis* to the sole trader.

An unlimited company (*družba z neomejeno odgovornostjo*, or *d.n.o.* in Slovenian)¹⁶¹ is classified as a personal company. Unlike a sole trader, an unlimited company has the status of a legal entity, and must be established by at least two natural or legal persons. No capital contributions are required to establish an unlimited company, within which company members collaborate to achieve a common goal and bear joint and several liability for the obligations of the company with all their assets. The personal liability of company members is the main characteristic of an unlimited company, and they are identified in legal transactions through the acronym “*d.n.o.*”.

A limited partnership (*komanditna družba* in Slovenian) is a type of a personal company in which at least one of the company members is liable for the obligations of the company with all of their assets (referred to as a “general partner”; “*komplementar*” in Slovenian), while at least one company member is not liable for the obligations of the company (referred to as a “limited partner”; “*komanditist*” in Slovenian).¹⁶² Unlike an unlimited company, the fulfilment of a common goal is not an essential characteristic of a limited partnership. From an economic perspective, the general partner is the entrepreneur who carries out the business activities, while the limited

157 *Kodeks upravljanja javnih delniških družb* (Official Journal of the Republic of Slovenia, No. 118/05).

158 See Articles 71–75, ZGD-1.

159 Ivanjko et al., 2009, pp. 325–326.

160 Ivanjko et al., 2009, p. 323.

161 See Articles 76–134, ZGD-1.

162 See Articles 135–157, ZGD-1.

partner is an investor who participates in the profits.¹⁶³ The provisions of an unlimited company are applied *mutatis mutandis* to a limited partnership, especially regarding the legal position of the general partner who bears unlimited personal liability. In legal transactions, a limited partnership is identified by the acronym “k.d.”. A special form of limited partnership in which the sole general partner is a company in which there are no personally-liable company members, or where they are all general partners of such company, is called a double partnership (*dvojna družba* in Slovenian).¹⁶⁴

A joint-stock company is a company limited by shares, where the share capital is divided into shares. As a legal entity, a joint-stock company is liable to its creditors for its obligations with all its assets, while shareholders are not personally liable for the company’s obligations to creditors.¹⁶⁵ Regarding its economic and legal significance, a joint-stock company is the most important type of commercial company, not only among companies limited by shares but also among commercial companies in general. The Slovenian legislator has adopted the term “European joint-stock company”¹⁶⁶ to refer to the *Societas Europaea* as a form of a company limited by shares, following the implementation of Regulation (EC) No. 2157/2001¹⁶⁷ into its corporate legislation. The ZGD-1 provides detailed provisions regarding the establishment and termination of a European joint-stock company.

A partnership limited by shares (*komanditna delniška družba* in Slovenian) is a capital company in which at least one partner is liable for the company’s obligations with all of their assets (referred to as a general partner), while the limited shareholders, who hold shares in the share capital, are not personally liable for the company’s obligations towards creditors.¹⁶⁸ The provisions of the ZGD-1 regarding limited partnerships apply, *mutatis mutandis*, to the legal relationships between general partners and their relationships with limited shareholders. For other matters concerning the partnership limited by shares, the law refers to the applicable provisions of the ZGD-1 regarding joint-stock companies. A partnership limited by shares operates in legal transactions using the acronym “k.d.d.”.

Apart from the joint-stock company, a limited liability company (*družba z omejeno odgovornostjo* in Slovenian) is the most important form of company limited by shares in terms of its economic and legal significance.¹⁶⁹ Its share capital comprises contributions from shareholders of different values, and the shareholders are not personally liable for the company’s obligations. It is also allowed to establish and operate a single-member limited liability company, for which specific regulations are introduced by

163 Ivanjko et al., 2009, p. 392.

164 See Articles 152–157, ZGD-1.

165 See Articles 168–429, ZGD-1.

166 See Articles 430–463, ZGD-1.

167 Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE), OJ L 294, 10.11.2001, pp. 1–21

168 See Articles 464–470, ZGD-1.

169 See Articles 471–526, ZGD-1.

law.¹⁷⁰ A limited liability company operates in legal transactions using the acronym “d.o.o.”.

It is important to note that the silent partnership regime was deleted in 2012 with an amendment to the Companies Act (ZGD-1G).¹⁷¹ A silent partnership (*tiha družba* in Slovenian) was a special form of partnership that did not have the status of a legal entity, but was based on an obligational relationship similar to the concept of capital investment. It was created through a contract, whereby a silent partner contributed capital to the business of another person or entity (the managing partner) and acquired the right to participate in its profits.¹⁷² A silent partnership did not have a separate business name; it operated in legal transactions using the business name of the managing partner. However, the acronym “t.d.” was allowed to be used alongside the business name of the managing partner to indicate that the business was conducted with a silent partner. The name of the silent partner was not necessarily disclosed.

9. Slovakia¹⁷³

Historically, the territory of the Slovak Republic was part of the Kingdom of Hungary. Therefore, our attention will be briefly focused on the period of the first codification of commercial laws in the Hungarian territory. The requirement to draw up a Hungarian Commercial Code was raised and formulated at the first Hungarian legal congress in 1870.¹⁷⁴ The draft of the codified commercial law was passed by the Hungarian Parliament as Statute Article XXXVII/1985 on Commercial Code, which came into force on 1 January 1876. The Hungarian Commercial Code of 1875 was divided into two parts, the first comprising provisions on merchants and business organisations, and the second dealing with provisions on commercial obligations. This Commercial Code recognised the following types of business entities: a general partnership, a limited partnership, a joint-stock company (*účasinná spoločnosť*), and a cooperative. It did not contain provisions on limited partnerships by shares or silent partnerships.¹⁷⁵

The considerably detailed provisions for the joint-stock company were largely inspired by the German legal regulation of 1861. To establish a joint-stock company under the Hungarian Commercial Code, a state permit was not required,¹⁷⁶ and a written form of articles of association was sufficient, with no need for notary

170 See Articles 523–526, ZGD-1.

171 *Zakon o spremembah in dopolnitvah zakona o gospodarskih družbah* (ZGD-1G), (Official Journal of the Republic of Slovenia, No. 57-2405/2012).

172 See annulled Articles 158–167, ZGD-1.

173 This chapter section was supported by the Slovak Research and Development Agency under the Contract No. APVV-19-0424.

174 Suchoža et al., 2009, p. 22.

175 Gábriš and Janáč, 2022, p. 17.

176 Karmán and Pecháček, 1926, p. 125.

authorisation. The joint-stock company could also be established for non-business purposes. The mandatory bodies of a joint-stock company were the general meeting, the board of directors, and the supervisory board.

In 1918, Slovakia became part of the newly-established Czechoslovak Republic. Owing to specific historical circumstances, the coexistence of Austrian and Hungarian law (the legal dualism) was present on the territory of the Czechoslovak Republic. As a result of the reception norm (Act No. 11/1918 Coll.), the Czechoslovak Republic took over the laws of the defunct Austro-Hungarian Monarchy. While the Austrian Commercial Code of 1863 continued to apply as a main source of private law in the territory of Bohemia, Moravia, and Silesia, Hungarian private law regulation and the Statute Article XXXVII/1875 continued to apply in the territory of Slovakia and Subcarpathian Rus. This dual legal status persisted in Czechoslovak territory until the adoption of the Civil Code in 1950.

In the newly-formed Czechoslovakia, no reliable official Slovak translation of the Statute Article XXXVII/1875 was available, since all the authors of the commentaries derived from Hungarian publications.¹⁷⁷ However, and interestingly, the Statute Article XXXVII/1875 was perceived as the Slovak Commercial Code without the “Hungarian” attribute thereto. Since the Hungarian Commercial Code did not recognise a separate corporate form known today as a limited liability company, there was a need to introduce this type of company in the Slovak territory. The limited liability company was first introduced by Act No. 271/1920 Coll., which extended the application of Austrian Act No. 58/1906 Coll. on limited liability companies into Slovakia and Subcarpathian Rus. Various special laws were also adopted, such as the Act on the Conversion of Limited Liability Companies (No. 279/1924 Coll.), the Trade Act (No. 259/1924 Coll.), and the Bills of Exchange Act (No. 1/1928 Coll.). Furthermore, a separate government decree was passed on the establishment of limited liability companies and joint-stock companies, the increase of the share capital, and the formation of branches (No. 465/1920 Coll.).

Despite the need to adopt new private law regulations and the fact that the outline of the first Czechoslovak Civil Code was formally prepared and presented to the public in 1937, this legislative attempt did not succeed.¹⁷⁸ Following the restoration of the Czechoslovak statehood in 1944–1945 and fundamental changes in the social and political conditions in 1948, a series of legal regulations were introduced to align with the new state ideology. This period was marked by significant restrictions for the private sector. The Hungarian Commercial Code and the Limited Liability Company Act were repealed by the publication of the first Czechoslovak Civil Code (Act No. 141/1950 Coll.) in 1950. The limited liability company as a legal form became part of our legal order again only after 40 years, with the adoption of an amendment to the Economic Code, which came into effect on 1 May 1990.

¹⁷⁷ Husár, 2017, p. 41; Fundárek, 1926, p. 5.

¹⁷⁸ Suchoža et al., 2011, p. 16.

The two Civil Codes (adopted in 1950 and 1964) and the Economic Code (1964) reflected the ideology of the planned management of the national economy. The only corporate form available during this period was the joint-stock company. However, the Joint-Stock Companies Act No. 243/1949 Coll. restricted the use of this corporate form, permitting it only to a limited extent in relation to foreign trade. State permission and approval of the articles of association were required for company incorporation. Moreover, a ministry's approval was required for any amendments to the articles of association.¹⁷⁹

A series of positive political, social, and economic changes in 1989 led to the first major recodification of Czechoslovak commercial law. In 1990, the regulation of stock law was replaced by a new Act No. 104/1990 Coll. on joint-stock companies. The aforementioned act and the amendment to the Economic Code No. 103/1990 Coll. became the legal basis for the formation and operation of companies until the adoption of the Act No. 513/1991 Coll. Commercial Code (in force since 1 January 1992),¹⁸⁰ which remains the primary source of commercial and corporate law in Slovakia to this very day. The company law regulation was influenced by new social changes and the transformation of the national economy from a centrally-planned to a market economy, and was built on foreign models of commercial regulations.

On 1 January 1993, Slovakia became an independent and sovereign state, specifically when the Czech and Slovak Federal Republics peacefully divided into two separate states. The overthrow of the communist government in 1989 (i.e. so-called Velvet Revolution) also led to changes in the ownership of state-owned enterprises. Part of the state's property was transferred to the private sector through voucher privatisation, aiming to rapidly transform state-owned enterprises into joint-stock companies with publicly-traded stocks. However, most privatised enterprises were not prepared to comply with the capital market rules.¹⁸¹

Since its adoption in 1991, the Act No. 513/1991 Coll. Commercial Code, as the key legal regulation of business entities and commercial relations in general, has been amended several times to reflect major business environment changes. An extensive amendment to the Commercial Code was carried out through the so-called harmonisation amendment (Euronovela), introduced by Act. No. 500/2001 Coll, which came into force on 1 January 2002 with the aim of aligning Slovak corporate law with European Union law prior to Slovakia's accession to the European Union. Notably, since Slovakia became a Member State on 1 May 2004, corporate law and its practice have been constantly changing owing to the process of harmonisation of corporate law. The harmonisation has been primarily focused on the implementation of freedom of establishment and various safeguards to protect shareholders' and third parties' interests. Interestingly, in the process of implementing European Union directives, the Slovak legislator has often approximated a limited liability company to

179 Gábriš, 2011, p. 105.

180 Suchoža et al., 2009, p. 520.

181 Gábriš and Janáč, 2022, p. 22.

a joint-stock company. To illustrate, strict mandatory provisions on the creation and maintenance of a share capital, which the European Union directive stipulates only in relation to joint-stock companies, were implemented in such a way as to apply also to limited liability companies (e.g., rules on protection of contributions, distribution of profit, acquisition of own shares). Therefore, in certain ways, the limited liability company legal framework is looked at nowadays as quite rigid,¹⁸² with many restrictions on shareholders' private autonomy.

Recently, Slovakia has carried out several company law reforms focused on creating a better environment for businesses and entrepreneurs. Various regulations emphasising the protection of creditors and other stakeholders were introduced, such as the concept of a company in crisis (in 2016m with further amendments in 2020), the extension of directors' duties with conditions for their disqualification, or the liability regime for de facto directors and controlling entities. These new provisions have been highly influenced by Czech, Austrian, and German law. Meanwhile, recent developments regarding the introduction of digital tools in corporate law, and the new legal framework for mergers, divisions, and cross-border conversions, have been introduced through the adoption of European Union directives.

In the Slovak Commercial Code, the legal regulation of business entities is supplemented by specific acts on certain corporate-related issues, such as Act No. 7/2005 Coll. on bankruptcy and restructuring (*Zákon o konkurze a reštrukturalizácii*), Act No. 203/2011 Coll. on collective investment, Act No. 566/2001 Coll. on securities and investment services, or the Act No. 111/2022 Coll. on the resolution of imminent insolvency. These acts have introduced a new preventive restructuring framework aimed at providing companies with mechanisms to deal with financial distress. The legal definition of a legal person is set by Act No. 40/1964 Coll. Civil Code as *lex generalis* to the Commercial Code. The new Act No. 309/2023 Coll. on the Transformation of Commercial Companies and Cooperative and on the Amendment and Supplementation of other Acts introduced new regulation on domestic and cross-border mergers, divisions, and cross-border conversions. It became effective from 1 March 2024, and was adopted as a result of the implementation of European Union law.¹⁸³

The current Slovak Commercial Code (CC) offers several corporate vehicles with full legal personality, allowing founders and investors to pick and choose according to their needs/objectives. A classical distinction is drawn between partnerships and capital companies (corporations), the former being characterised by a general feature based on the partners' personal involvement in business management and their unlimited joint and several liability. A general partnership (*verejná obchodná spoločnosť*, or v.o.s) is a corporate form in which two or more partners conduct business under a common business name, and bear joint and several liability for the

182 Ibid., p. 23.

183 Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions [2019] OJ L 321

obligations of the company.¹⁸⁴ A limited partnership (*komanditná spoločnosť*, or *k.s.*) is a company in which at least two persons must participate at the outset, one of whom is liable for the company's liabilities with all their assets while the other is liable for the company's liabilities up to the amount of the unpaid contribution entered in the Commercial Register.¹⁸⁵ The category of corporations comprises mainly the joint-stock company (*akciová spoločnosť*, or *a. s.*). The simple joint-stock company (*jednoduchá spoločnosť na akcie – j.s.a.*) and limited liability company (*spoločnosť s ručením obmedzeným – s.r.o.*) blend the characteristics of both categories, but are usually referred to as corporations.

A limited liability company is currently the most commonly used corporate form in Slovakia. The reason behind this fact is mainly the limited liability, relatively low costs of its incorporation, and low property risk for founders. According to the statistics, 20,575 new companies were registered in the Commercial Register in 2024, of which 20,238 were incorporated in the form of a limited liability company.¹⁸⁶ Importantly, most limited liability companies are single-member companies. The benefits derive from the limited liability of a sole shareholder and special tax treatments compared to entrepreneurs doing business as freelancers. Although this corporate form is suitable mostly for small and medium-sized enterprises, several significant entrepreneurs and employers in Slovakia have been incorporated in this legal form of business entity.

The legal regulation of limited liability companies was introduced in secs. 105 to 153 Commercial Code. Both, natural persons of legal capacity and legal entities may form a limited liability company. Since 1 February 2023, the new simplified fully online incorporation of limited liability companies with a template of articles of association has been available as a result of the implementation of the Digitalisation Directive.¹⁸⁷ Currently, there is no data available to assess whether the simplified online formation of a company has been significantly used; however, a few drawbacks have been identified with this procedure and legal provisions that may lower its usage by potential founders.¹⁸⁸ Currently, a limited liability company, as well as any other corporate form, can only be registered in the Commercial Register electronically. In addition to the registration court, as of 1 November 2023, any notary public (*registrátor*) is also authorised to carry out registrations of limited liability companies. This change, introduced by the amendment to Act No. 530/2003 on the Commercial Register, aims to accelerate and improve efficiency of the registration process. Since 1 January 2025, notaries public are permitted not only to carry out the initial registration of limited liability companies but also to register changes to the recorded data

184 Section 76, CC.

185 Section 93, CC.

186 FinStat, n.d.

187 Directive (EU) 2019/1151 of the European Parliament and of the Council of 20 June 2019 amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in company law [2019] OJ L186/80.

188 Mrázová and Cukerová, 2023.

of such companies, with the exception of changes related to mergers, divisions, and conversions. It is also expected that notaries' competencies will be extended to other forms of business entities.

Each shareholder (*spoločník*) may subscribe to only one business share (*obchodný podiel*). If a shareholder makes additional contributions to the company or acquires a business share from another shareholder, his/her business share is increased. Nonetheless, there is no possibility of owning two separate business shares in a limited liability company. The impossibility of holding multiple business shares by one shareholder leads to several practical complications, such as when the execution of a lien takes place. The registered share capital of a limited liability company must amount to at least 5,000 euros, with a minimum contribution of 750 euros from each shareholder. The corporate bodies of the limited liability company are the general meeting of shareholders (*valné zhromaždenie*) and the managing director (*konateľ*), while the supervisory board (*dozorná rada*) is optional and is established only if stipulated by the articles of association (*spoločenská zmluva*). It features therefore a two-tier governance system, with the managing director always holding the executive position.

A joint-stock company is the second most popular corporate form in Slovakia, albeit only 160 of them were established in 2024.¹⁸⁹ This corporate form is suitable for more capital-demanding projects. The joint-stock company may either be a private or public joint-stock company, which issues all the shares or a part thereof under a public call for the subscription of shares or shares accepted to be traded in the stock market.¹⁹⁰ The minimum share capital for a private or public joint-stock company is 25,000 euros, and it may be founded by a single shareholder (*akcionár*) if the founder is a legal entity; otherwise, there must be at least two founders.¹⁹¹ Besides the ordinary shares, shares to which priority rights to dividends are attached may also be issued. Joint-stock companies operate exclusively under a two-tier governance system, comprising the board of directors (*predstavenstvo*), the supervisory board (*dozorná rada*), and the general meeting (*valné zhromaždenie*).

With effect from 1 January 2017, the amendment to the Slovak Commercial Code introduced a new corporate form: a simple joint-stock company. Although the initial inspiration for the new corporate vehicle was the French simplified joint-stock company (*société par actions simplifiée*) – and thus this legislative approach could be considered a typical example of responsive law-making – provisions regulating the new corporate entity were drafted from scratch by the Slovak legislator.¹⁹² The new entity was designed to overcome certain rigidities in the Slovak corporate law that would make it impossible to employ some of the structures and mechanisms common and available in other, more developed legal markets. Additionally, the vehicle was primarily designed for start-up companies with high innovation and growth potential.

189 FinStat, n.d.

190 Section 154 (3), CC.

191 Section 162 (1), CC.

192 Šuleková, 2016, p. 2.

Specific rules were introduced in secs. 220h to 220zl of the Commercial Code, and for aspects not regulated therein, the regulation of a joint-stock company shall be applied. A simple joint-stock company is a company whose registered capital is distributed into a certain number of shares with a certain nominal value; where a shareholder is not liable for the company's obligations; is a private corporation; cannot be established based on a call for share subscriptions; the minimum prescribed share capital is 1 euro.¹⁹³ While limited liability companies and joint-stock companies may be established for any legal purpose, a simple joint-stock company may be established only with the intention of conducting business activities.

The introduction of the simple joint-stock company brought various novelties into the Commercial Code. First, it brought major changes to the Slovak company law by overruling the rigid principle of the *numerus clausus* of shares, introducing an option to issue shares with specific rights attached thereto, and shares for employees and other natural persons performing activities for a company. Second, a more detailed regulation of shareholders' agreements can be found in the provisions regulating the simple joint-stock company, which includes specific rights such as tag-along right, drag-along right, and shoot-out clause. The two former rights can be concluded as registered rights entered in a special register administered by the Central Securities Depository (*Centrálny depozitár cenných papierov SR*, or *a.s.*). Such registration of tag-along and drag-along rights shall strengthen the enforceability of these rights. The legal framework of a simple joint-stock company also provides a simplified corporate governance structure without the obligation to form a supervisory board, and a less administratively burdensome decision-making procedure by *per rollam* voting.¹⁹⁴

However, considering the very low number of this type of corporate form (only 56 simple joint-stock companies were established in 2024),¹⁹⁵ one can assume that the advantages offered did not appeal to entrepreneurs.¹⁹⁶ This may be caused by higher costs associated with the formation of a company, since the articles of association must be drawn up in the form of a notarial deed, higher fees related to the central depository associated with the operation of a company (e.g. issuance of shares, maintaining a list of shareholders, and registering special rights), and the absence of shareholders' anonymity, since the list of shareholders in the central depository is publicly available.¹⁹⁷

As already stated, the Slovak Commercial Code has been amended multiple times, mainly but not fully owing to the implementation of European Union directives. Despite many attempts at recodifying private law in Slovakia in the last decades, this process has yet to be completed, and corporate law as well as the law of commercial obligations are still regulated by the Commercial Code. However, in 2021, the

193 Section 220t Commercial Code.

194 Šuleková, 2016, pp. 2–10.

195 FinStat, n.d.

196 Patakyová et al., 2020, p. 212.

197 Šuleková, 2016, pp. 2–10.

Slovak government approved the legislative intent for recodification of the corporate law. According to the legislative intent, the new Civil Code shall stipulate general provisions on legal entities, and a separate Act on Corporations shall be prepared in accordance therewith. The main aim of these changes is to set up the corporate law as a set of default provisions, increase the flexibility of corporate relations, and reduce administrative barriers to starting businesses in Slovakia. The new Act on Corporations shall include four types of companies, namely the general partnership, limited partnership, limited liability company, and joint-stock company. Thus, the simple joint-stock company is no longer envisaged by the legislative intent, and this corporate form is planned to be abandoned.¹⁹⁸ But the recodification of the corporate law shall ensure a wide scope for the private autonomy of the founders, and various elements of the current simple joint-stock company legal framework shall be available also for limited liability companies and joint-stock companies (e.g., more flexible rules on corporate structure and decision-making, or the abolition of *numerus clausus* of shares).¹⁹⁹ The most fundamental changes include the stipulation of a registered share capital of 1 euro for limited liability companies, the explicit stipulation of the business judgment rule, and the possibility to contractually negotiate the performance of corporate body members. The new law shall also include the regulation of company groups, which is currently absent in Slovak corporate law.

The new proposal also slightly addresses the concept of the digitalisation of processes in company law. Beyond the requirements of the Digitalisation Directive (online formation of a limited liability company), it also reflects on the remote exercise of shareholders' voting rights.²⁰⁰ It assumes that the new legal regulation will waive the requirements of personal participation at the shareholders' meeting, offering technologically-neutral provisions enabling the use of electronic means of communication, if stipulated so in the articles of association.

10. Conclusions

Viewed as a whole, the company law histories of the Czech Republic, Croatia, Hungary, Poland, Romania, Serbia, Slovenia, and Slovakia trace a common arc that is less a tale of delay than one of discontinuity and reconstruction. In the 19th and early 20th centuries, each jurisdiction built modern corporate doctrines largely through the reception and adaptation of continental models; this was followed by a socialist rupture that displaced private company law for public law economic organisations. After 1989, there was a compressed re-founding that reintroduced companies, modernised governance, and sought alignment with the European *acquis*. The pattern is neither uniform nor linear. Rather, the region reveals a sequence of transplantation before

198 Ministry of Justice of the Slovak Republic, 2021, p. 14.

199 *Ibid.*, p. 15.

200 Mrázová et al., 2021, p. 196.

full practice, partial interwar consolidations left unfinished by war and geopolitical shocks, an abrupt mid-20th century eclipsing of private enterprises, and a rapid post-socialist re-importation of corporate forms that has produced formal convergence accompanied by an uneven functional depth.

The genealogy of these regimes is distinctly transnational. German and Austrian models supply much of the structural backbones of the regulations, with the Austrian Commercial Code of the 1860s and the German Western Territories of the Republic of Poland²⁰¹/*Handelsgesetzbuch*²⁰² tradition resonating in the Czech lands through the General Commercial Code of 1863 and the finely crafted 1899 Stock Regulation; in Hungary through the 1875 Commercial Act explicitly modelled on the German example; in Croatia via the 1875 Croatian Commercial Code grounded in German and Austrian codifications; in Slovenia through the direct force of the Austrian code; in Slovakia through the 1875 Hungarian statute. French influence appears strongly in Poland, where Napoleonic law had long applied in the Congress Kingdom and where the celebrated 1934 Commercial Code, though German-leaning in technique, was drafted in dialogue with leading continental systems. Romania predecessor states initially received French commercial law and then, for commerce, turned decisively to the 1882 Italian Commercial Code when adopting its own code in 1887. Serbia's 19th-century commercial legislation likewise shows French inspiration. The limited liability company's diffusion illustrates the region's receptivity to targeted innovations: engineered in Germany in 1892, the GmbH²⁰³ model was enacted for Cisleithania²⁰⁴ in 1906, extended across Czechoslovakia after 1918, introduced in Hungary by Act V of 1930, and ultimately became the workhorse form throughout the region after 1989.

In several jurisdictions, legislation preceded the development of deep domestic corporate practices. Hungary is emblematic, as its 18th- and 19th-century drafting cycles, the 1840 suite of commercial statutes, and the 1875 Commercial Code laid an elaborate framework even as early joint-stock activity often depended on imperial privilege and iconic projects such as the Chain Bridge turned the corporate shell into an instrument for (privately initiated) public works. Croatia's comprehensive 19th-century codification similarly established sophisticated forms that would outlast state ruptures. Serbia's 1896 joint-stock statute combined modern limited liability and capital-market aspirations with an approval-and-supervision architecture reflecting strong administrative oversight. The Czech concession regime for joint-stock formation underscored the same state-first reflex. Against this dynamic, the limited liability company was consciously designed to small and medium enterprise: it promised

201 Allgemeines Deutsches Handelsgesetzbuch (General German Commercial Code, 1861). The pan-German commercial code that strongly influenced Central European commercial law until the *Handelsgesetzbuch* replaced it.

202 *Handelsgesetzbuch* (German Commercial Code, 1897). Germany's enduring commercial code, influencing modern company law across Central and Eastern Europe.

203 Gesellschaft mit beschränkter Haftung (company with limited liability).

204 The Austrian half of the Austro-Hungarian Empire (1867–1918), where Austrian commercial legislation applied.

(some) creditor protection, simplified incorporation, and a tighter, less speculative link between members and the company, thereby “bridging” partnerships and joint-stock companies.

The interwar decades were an era of consolidation and unification that proved, in important respects, unfinished. Czechoslovakia’s 1918 Reception Act maintained imperial commercial law while policymakers prepared a comprehensive recodification in the 1930s; the draft presented in 1937, which was a product of serious scholarly craftsmanship, never became law. Poland achieved a unifying masterwork with the 1934 Commercial Code, widely regarded as a crucial point of national codification that harmonised the disparate partition regimes while remaining close to the leading European thought of its day. Romania pursued an ambitious project of new codes aimed at unifying private law across the enlarged state, and although the projects were praised as major contributions, territorial losses and war prevented entry into force. These episodes revealed legal capacity and doctrinal erudition across the region, with the through-line that it was political cataclysm, rather than intellectual deficit, that arrested these unification projects.

After 1945, private company law was displaced across the region. In Czechoslovakia, a spare 1949 joint-stock statute permitted incorporation only in tightly-circumscribed contexts connected to foreign trade, and all limited liability companies were abolished in 1951. In the Yugoslav republics (Croatia, Slovenia, and Serbia) the sequence moved from administrative management to a full self-management regime; classical companies gave way to organisations of associated labour in forms like the OZD²⁰⁵ and TOZD,²⁰⁶ with negotiated economy instruments gradually replacing market coordination and contract. Romania embraced the Soviet template of nationalisation, with the 1948 nationalisation wave covering industry, banks, credit institutions, transportation companies, and other sectors; the Sovrom joint ventures functioned as a vehicle for extraction; the stock exchange was abolished; state enterprises became integrated organs of public administration. Hungary’s 1875 Commercial Act or the Romanian Commercial Code of 1887 formally lingered on the books, but fell into practical desuetude, while state enterprises dominated economic life. Poland’s 1934 Code, though formally in force for a time, was progressively sidelined; its repeal in 1964 left only a shell of company provisions and signalled the ascendancy of the socialised economy. The unifying theme is that core private-law concepts, separate personality deployed for private ordering, limited liability as a device to mobilise investment, shareholder governance, and fiduciary accountability all lost their operative meaning in systems where enterprises were effectively arms of the state and plan compliance displaced market signals.

205 Osnovna Zajednica Djelatnosti (Basic Organization of Associated Labour, in former Yugoslavia). The smallest unit of the socialist self-management enterprise system.

206 Temeljna Organizacija Udruženog Rada (Fundamental Organization of Associated Labour, in former Yugoslavia). A higher-level unit of associated labour, integrating OZD into larger structures.

Under the Soviet-type regimes, the economic legislation was designed to concentrate decisional authority in the state, to dissolve private corporate forms, and to replace them with state enterprises. The term “state enterprise” is used here to distinguish these entities from state-owned enterprises operating within market economies; unlike state-owned enterprises subject to market discipline and corporate governance norms, state enterprises were integrated into the administrative apparatus of central planning. They were characterised by unified state ownership and control over major productive assets; enterprise objectives, product mix, output levels, input allocations, and administered prices were determined by plan directives rather than by managerial choice or market signals. Profit maximisation was not the operative criterion, but managerial accountability attached primarily to the fulfilment of quantitative targets set by the plan, as well as to broader socioeconomic or ideological objectives. Domestic competition was largely absent because sectors were commonly monopolised by a single provider, attenuating incentives for cost control, quality improvement, and technological upgrading. Governance was highly bureaucratised, with multilayered approval processes and pervasive reporting requirements impeding timely decision-making and constraining innovation. Resource allocation and manager advancement were influenced by political loyalty and hierarchical position more than by economic performance, producing allocative inefficiencies and, at times, corruption. Labour relations reflected the same logic, as workers were state employees who generally enjoyed employment security but had suppressed wages, restricted mobility, and independent collective bargaining was precluded; official unions functioned principally as transmission belts for policy rather than as autonomous representatives.

Collectively, these features situated the enterprise as an instrument of state policy within a command economy. Centralised planning and political objectives systematically superseded market coordination and private ordering, such that the enterprise ceased to operate as a profit-seeking corporate actor to instead function as an administrative unit tasked with plan implementation.

The re-founding after 1989 proceeded quickly, but not identically. With the collapse of Soviet-type (“communist”) regimes, a critical phase of economic transformation and legal realignment towards market-driven practices ensued. Forms a significant part of the common past of this region that the planned economy based on state ownership under the Soviet-style dictatorship had to be transformed into a market economy grounded in private ownership and competition, within a pluralistic and democratic framework. Establishing political pluralism and a democratic institutional system was not a simple task; however, the economic transition, which spanned decades and had privatisation as its central element, was even more complex. Thus, ‘the central phenomenon of the general socio-economic transition was privatisation, as without the dominance of private property, there can be neither a market economy nor a civil society’.²⁰⁷ Privatisation can be seen as an end in itself in systems theory

207 Sárközy, 1997, p. 19.

and involved an incredible scale of state assets being sold off rapidly; nonetheless, the competition among former socialist countries, oversupply of privatisation opportunities, unfavourable global economic conditions, capital shortages, legal uncertainties deterring investments, technological obsolescence, and environmental damages all negatively impacted the privatisation processes of the countries of interest.²⁰⁸ In economies burdened with social problems, loss of Eastern markets, and ongoing crises, the state had a strong need for revenue from privatisation.

In simpler terms, state-owned enterprises needed to be sold. The privatisation process unfolded in multiple phases, faster or slower, and was fraught with contradictions. For example, the reasons for a delay in privatisation in the case of Romania were summarised as follows:

The lag behind many Central European countries can partly be explained by the fact that the regime change could not be intellectually prepared; there were no economic reforms in the 1980s. Additionally, society was less prepared for radical regime change, with egalitarian views being popular. The third reason is that the elites who came to power were not fully committed to a market economy based on private ownership and were politically too weak to implement consistent programs.²⁰⁹

In parallel, the modern corporate law framework had to be created. Czechoslovakia used transitional joint-stock statutes in 1990 and soon installed a comprehensive Commercial Code effective from 1992; Czech company law now sits in a multi-level architecture anchored in the Civil Code and the Business Corporations Act, with important doctrinal signals from the Supreme Court that grant limited liability companies a wide discretion in profit policy absent abuse. Croatia's Companies Act, effective since 1995 and amended repeatedly by 2023, became a durable construction that intentionally hews to the Central European and German infrastructure while steadily aligning with European Union law; it couples an expanded contractual freedom in governance with a reinforced liability regime for directors. Hungary's company law passed through successive modern statutes in 1988, 1997, and 2006 before consolidation in the 2013 Civil Code; today it recognises the general partnership, the limited partnership, the limited liability company, and the company limited by shares in their public and private forms. Poland's contemporary Code of Commercial Companies entered into force in 2001, with an explicit commitment to continuity with the one from 1934; in 2021, it added a simple joint-stock company to support innovative ventures through flexible capital and creditor-protection mechanics. Romania's Act 31/1990, repeatedly amended more than 45 times, reconstituted the classical forms and was complemented by the 2011 Civil Code's shift to a monist private-law system and a terminological move from "merchant" to "professional"; the transformation

208 Ibid.

209 Hunya, 1991, p. 135.

legislation in 1990 converted state enterprises to company forms and set the stage for privatisation. Serbia revived company law in 2004, adopted a modern Companies Act in 2011, and, with the Business Registers Agency, pushed decisively into digital practice by making online registration mandatory in 2023, while its capital market remains thin enough that public offerings have been exceedingly rare. Slovenia replaced the negotiated-economy edifice with the 1993 Companies Act and then the 2006 ZGD-1,²¹⁰ brought its law into close alignment with the *acquis*, recognised the European Company, and built out an ecosystem of adjacent statutes on worker participation, auditing, takeovers, insolvency, and market instruments. Slovakia's 1991 Commercial Code was heavily harmonised in 2002; in 2017, the legislature introduced a simple joint-stock company to inject contractual freedom (registered tag-along and drag-along rights and streamlined per-*rollam* voting),²¹¹ though uptake has been modest; ongoing plans contemplate a new Act on Corporations, a one-euro minimum capital for limited liability companies, the explicit adoption of the business judgment rule, and the diffusion of flexibility into mainstream forms while phasing out the simple joint-stock company.

Despite national idiosyncrasies, the typological core is now widely shared. The four classical forms (i.e. general partnership, limited partnership, joint-stock company, and limited liability company) are entrenched across the eight systems, with *numerus clausus* protecting third parties while substantial space for internal autonomy remains. Variants exist at the edges, as Czech law confines SICAV²¹² to investment funds; Croatia recognises a simple limited liability company alongside the standard form; Poland and Slovakia have experimented with a simple joint-stock company; Serbia distinguishes the public joint-stock company and relies on soft-law governance codes on a comply-or-explain basis; Slovenia retains the partnership limited by shares and has eliminated the silent partnership.

Everywhere, limited liability companies dominate business practices. The Czech Republic's 2014 reforms are strikingly liberal, whereby contributions may be as low as 1 Czech koruna, there is no cap on the number of members, multiple shares per member can be created with different rights, share certificates are possible, loss reserves are not mandatory, and dividends can be withheld without the "important reasons" constraint, which had long been applied to joint-stock companies. Hungary reports the limited liability company as the most prevalent form. Serbia describes the same company type as the predominant vehicle by far. Slovakia's statistics underline similar dominance; the minimum registered capital remains 5,000 euro, with a 750 euro minimum per shareholder, and each shareholder can hold only a single business

210 ZGD-1 – *Zakon o gospodarskih družbah* (Slovenian Companies Act).

211 Per *rollam* voting is the adoption of a corporate resolution without convening a meeting by circulating the proposed text to all entitled voters and collecting their written consents within a specified period, which is subject to statutory and constitutional limits.

212 Société d'investissement à capital variable (investment company with variable capital). An investment fund form developed in Luxembourg and received into Czech law for collective investment undertakings.

share, which creates practical frictions. Slovenia's d.o.o. (limited liability company) stands beside the a.d. (joint-stock company) as a principal engine of commerce, while Croatia's framework emphasises autonomous structuring within the confines of investor and third-party protection. Romania's post-1990 practice likewise centres on the limited liability company, while the joint-stock company remains indispensable for sectors or the capital structures that require it.

Public-private distinctions in the joint-stock shell are also broadly shared, but market consequences diverge. Czech joint-stock law is conspicuously permissive, where founders may select the internal structure, create single-member elected bodies, appoint legal persons as board members, and design shared classes limited only by good morals and public order, with employee participation required in some cases. Hungary's split between the private and the public companies limited by shares aligns with the availability of public offers and market trading. Slovakia distinguishes private and public joint-stock companies on a 25,000-euro capital base for each, while enabling ordinary and preference shares. Serbia maintains a robust public-company regime in statute, but describes initial public offering²¹³ activity as almost non-existent, reflecting a bank-centric environment and a thin equity culture. Moreover, sectoral overlays refine the landscape without multiplying new forms; specifically, Czech law channels SICAV for collective investment, Croatia calibrates banking, insurance, and even sports-competition companies through special statutes while insisting they are not distinct company types, and Slovenia layers extensive financial-market and takeover rules atop the general regime. Beyond substantive company law, institutional complements shape functionality. Digitalisation is explicit in the region.

The comparative balance tilts toward convergence in form and diversity in function. All eight jurisdictions accept full legal personality, limited liability for capital companies, registration-based incorporation, creditor and minority safeguards, and, for joint-stock companies, a public-private hinge that expresses an openness to capital markets. Yet, entry thresholds, the elasticity of internal governance, the vitality of equity finance, and the density of enforcement and advisory institutions vary in ways that reflect national design choices and inherited constraints. The Czech Republic and Croatia exemplify generous contractual freedom within carefully-policed boundaries, with Czech and Hungarian law in particular pressing toward liberal configurations of both joint-stock and limited liability companies. Slovakia presents a more rigid limited liability company core, even as it experiments with, and now plans to make mainstream, many of the flexible mechanisms that the simple joint-stock company was meant to pilot. Serbia combines a modern statutory framework and digital infrastructure with a bank-centric finance ecosystem. Poland's code builds deliberately on interwar traditions while adding a simplified joint-stock shell for innovative ventures. Slovenia's system is notable for the completeness of its

213 Initial Public Offering, the first sale of shares by a private company to the public, which is central to the operation of capital markets.

adjacent statutes and its integration of European company forms. Romania's company law survives as a continuously amended post-1990 statute located within a monist private-law structure. Hungary epitomises a present-day consolidation of modern forms within the Civil Code.

The normative consequence that emerges from these records is that the region's corporate law is best understood as a cycle of transplantation, interrupted indigenisation, socialist erasure, and rapid reconstitution. The modern statutes are erudite and, in many places, strikingly liberal; where institutional complements, such as courts, registries, professions, and capital-market infrastructure are dense and credible, private autonomy in governance and finance can be exercised to full effect. Where they are thin or where residual rigidity remains, the same statutory forms achieve only partial realisation. The eight systems now speak a common corporate language, but they pronounce it in different accents shaped by their distinct sequences of codification, interruption, and reconstruction.

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