

Shares*

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1. Introduction

Shares, whether issued by joint-stock companies (JSCs) or embodied as membership interests in limited liability companies (LLCs), constitute the basic legal technology for allocating ownership, control, and economic returns in modern enterprises. However, the two vehicles rely on distinct legal logics, which shape how equity is created, classified, transferred, repurchased, and financed. Because JSCs and LLCs pursue different institutional aims and are embedded in different governance architectures, their equity interests are not interchangeable. The divergences become especially salient in three recurrent problem areas: transferability, issuer repurchases, and financial assistance.

JSCs are engineered to mobilise capital from investors who may be numerous, dispersed, and heterogeneous in sophistication. To serve that function, JSC shares take a standardised form that can be readily valued and traded. The standardisation

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supports liquidity, facilitates price discovery, and reduces transaction costs for new investors entering and existing investors exiting. In public JSCs, the discipline of organised markets amplifies these effects: disclosure, continuous reporting, and corporate governance rules together create a baseline of information and accountability suited to outside investors who lack direct involvement in management. Private JSCs, while not listed, still rely on the conceptual template of standardised shares; their ownership may be concentrated, but the form of the security remains familiar and transferable, subject to negotiated or statutory constraints that temper liquidity to preserve control and coherence.

The regulatory environment mirrors these economic intentions. Public JSCs operate under an overlay of securities regulation, corporate legislation, and, where applicable, stock-exchange rules, all designed to enhance transparency and protect investors. Prospectus requirements, ongoing disclosure, and procedural safeguards around major transactions seek to mitigate information asymmetries and agency costs. Even private JSCs do not lack strict regulation: capital-maintenance rules, director duties, and minority-protection doctrines structure how shares may be issued, transferred, or encumbered. The cumulative effect is a legal regime that trades flexibility for predictability and market access.

LLCs, by contrast, privilege contractual design and member-level control. The LLC interest (membership or business share) is not a standardised security, but a bundle of rights defined primarily by the operating agreement. Members can tailor voting arrangements, profit allocations, capital calls, and management roles to the needs of the venture and the identities of its participants. This plasticity is attractive in closely held settings in which the business depends on trust, complementary personal skills, and shared strategy. Because LLC membership shares are bespoke and typically not offered to the public, they are generally treated through the lens of private ordering, backed by mandatory creditor and minority legal safeguards rather than through a securities-market paradigm.

These structural contrasts explain the different approaches to transferability. In JSCs, especially public ones, ready alienability is a design feature. Shares must move freely to sustain liquidity and market-based valuation. Constraints do exist, particularly in private JSCs, whereby pre-emptive rights, rights of first refusal, or board-approval provisions can protect existing control arrangements and informational equilibria. However, even then, the baseline expectation is that shares represent a portable, standardised claim that can “change hands” without disrupting the firm’s operations or renegotiating its internal constitution.

LLCs invert those priorities. Because the identity, reliability, and compatibility of members often matter as much as their capital, transfers of membership interests are commonly gated. Consent rights, rights of first refusal, and procedural conditions, such as appraisal mechanisms or waiting periods, are typical. Some agreements prohibit transfers outright without unanimity or a specified exit event. These devices preserve the relational and personal character of the venture and stabilise expectations about who sits at the “governance table”.

Issuer dealings in their own equity further highlight the divergent logics of LLCs versus JSCs. In JSCs, buybacks are recognised tools for capital structure management, calibration of earnings per share, and signalling. Precisely because buybacks can influence market prices and alter the creditor–shareholder balance, they are fenced by solvency and liquidity tests, approval mechanics, and disclosure obligations. These safeguards aim to prevent manipulation, protect creditors from value leakage, and ensure that distributions occur only when the firm can bear them. The emphasis is on preserving market integrity while allowing the board to adjust capital efficiently within defined limits.

In LLCs, if permitted at all, repurchases are primarily a matter of contract layered over baseline statutory constraints. Operating agreements may authorise, condition, or foreclose redemptions; some regimes restrict them heavily or render them unavailable to protect the company’s capital base and creditor interests. Where permitted, repurchases usually must respect solvency standards and any priority rights embedded in the capital stack. Because LLC economics are often customised, redemption price and mechanics may be tightly specified, through formulas, third-party valuation, or negotiated processes, to avoid opportunism and to align with the venture’s financing model.

Financial assistance in the form of company support for the acquisition of its own equity remains a sensitive topic across both forms. In JSCs, the risk is that assistance can erode the capital buffer, distort control contests, or entrench insiders at the expense of dispersed shareholders and creditors. Accordingly, many regimes prohibit assistance outright or confine it to narrow pathways subject to shareholder approval, enhanced disclosure, and rigorous solvency assurances. The policy is consistent: prevent conflicts of interest and protect the firm’s asset base for both investors and creditors.

LLCs enjoy greater contractual latitude, but assistance still sits within mandatory guardrails. Any arrangement that effectively funds a new member’s acquisition of a membership share must be assessed against creditor-protection norms, minority-oppression doctrines, and the express bargain of the operating agreement. In jurisdictions that do not provide bright-line rules, the absence of uniformity can produce uncertainty and ex-post disputes, reinforcing the importance of drafting clear instruments around financing, collateral, and default consequences.

Two additional themes follow from this comparison. First, the classification of equity interests tracks their intended audience. JSC shares are built for a market of strangers and, therefore, are standardised, whereas LLC interests are built for a circle of known counterparties, and therefore, are customizable. Second, the direction of legal intervention differs. JSCs accept heavier public oversight to gain liquidity and scale, whereas LLCs accept reduced liquidity and greater ex-ante contracting costs to gain flexibility and control. Neither model is inherently superior: each aligns its equity regime with its institutional mission.

This introduction frames the forthcoming analysis along four axes: (I) the legal nature and classification of equity interests; (II) the mechanics, rationale, and limits

of transfer; (III) issuer repurchases and their creditor and market implications; and (IV) financial assistance as a test case for capital maintenance and conflict management. Throughout, the central claim is constant: the core objectives of each form, aggregating public capital versus preserving tailored member relationships, determine how the law structures, constrains, and enables their equity.

2. The Czech Republic

2.1. Introduction to Shares in Czech Law

Under the Business Corporations Act (BCA) in Czech law, a share represents the extent of a shareholder's participation in a company (corporation) limited by shares and the set of rights and obligations arising from that participation (Section 31, BCA). The existence of a share in a business corporation is one of the features that distinguishes a business corporation from an association. In an association, the set of membership rights and obligations is not constructed as a share. The essence of a share lies in the association of the shareholder with the corporation as a separate legal entity of which the shareholder is a member. The theory distinguishes two aspects of this connection:

- a) the qualitative aspect of the share, describing the rights and obligations between the shareholder and the company and the shareholders among themselves, and
- b) the quantitative aspect of the share, expressing the size of the shareholder's participation in the company and the rights arising therefrom.

2.2. Legal Classification and Characteristics of Shares

Shares are considered as things (*res*) in the legal sense in Czech law, because they fully comply with the Czech concept of a thing in the legal sense as that which is distinct from a person and serves the needs of people (Section 489, Czech Civil Code; Czech CC).¹ The shares in LLCs can be uncertificated or certificated. The shares in JSCs are certificated; however, until the issuance of a certificate or share, the shareholder's rights and obligations are represented by the so-called outstanding share (*nesplacená akcie*) or unissued share (*nevydaná akcie*) (Section 256(2, 3), BCA). In addition, it is an uncertificated share. A share certificated in a security is a movable, tangible thing (§ 496(1) and § 498(2), Czech CC). A share uncertificated in a security is an intangible, movable thing (Articles 496(2) and 498(2), Czech CC). The share is a whole thing and can be disposed of only in its entirety.² A share cannot be divided except by amend-

1 This conclusion is confirmed by case law (Supreme Court Resolution of 19 September 2017, Case No. 29 Cdo 5719/2016). Until 2014, Czech law worked with a narrow concept of a thing, and therefore, when the Commercial Code was in force, an unvested share was not considered a thing in the legal sense, but another property value.

2 Judgment of the Supreme Court, case No. 29 Cdo 1763/2016. For an identical reasoning, also see Štenglová et al., 2020, p. 78; Černá et al., 2021, p. 338.

ment of the memorandum or article of association or by division of the share under Section 43 of the BCA. This is without prejudice to the fact that, under certain conditions, separately transferable rights may be severed from a share (Section 281, BCA).

2.3. Ownership of Shares

A share may be co-owned by several persons (Section 1115, Czech CC). Usually these are heirs, but this might not always be the case. Multiple co-owners of a share constitute only one common shareholder from the company's point of view. The share is administered by the administrator of the joint share (Section 1134 ff, Czech CC) who is also entitled to exercise the rights of the joint shareholder in relation to the company. The administrator may be any of the co-owners of the share, but also a third party. The purpose of this rule is to simplify the position of the company in relation to the co-owners and to exclude the negative effects of possible conflicts between them on the company. The statutory regulation is default in nature. Therefore, the company may deviate from it in favour of the general principles of exercising co-ownership rights and fulfilling co-ownership obligations, allowing joint exercise of company rights.

There are opinions that the memorandum and articles of association may exclude co-ownership of shares.³ In our view, co-ownership can be prohibited in the memorandum and articles of association only if these documents completely exclude the transferability of the share and prohibit the inheritance of the share or its transfer to a legal successor. Thus, the prohibition of co-ownership cannot apply in a JSC (Section 42, BCA).

If a spouse acquires a share during the marriage from funds belonging to the matrimonial community property (*společné jmění manželů*), the share becomes part of the matrimonial community property. However, only the spouse who directly participated in the juridical act based on which the share was acquired is a shareholder (Section 709(3), Czech CC). Such an act may be the conclusion of a memorandum or article of association or a share transfer agreement. For both spouses to become a joint shareholder, they would both have to participate in the juridical act in question.⁴

Under the conditions set out in the Czech CC, the share may be subject to retention (*vydržení*) within the 3-year retention period.⁵

A share which is certificated in a security (share certificated) may be acquired under the conditions set out in the Czech CC from an unauthorised person. In the case of an uncertificated share, there is no unanimity of opinion on this possibility. A part of the doctrine allows for this possibility even in the case of an uncertificated share.⁶ Personally, I am reserved about it. The reason for the doubt is the lack of protection for the owners of the uncertificated shares. An uncertificated share is an intangible thing, the ownership of which is to be registered in the Commercial Register, with

³ Lasák et al., 2021, p. 167.

⁴ For a summary, see Kožiak, 2019.

⁵ Judgment of the Supreme Court, cases No. 27 Cdo 3728/2020, 27 Cdo 3608/2019, 27 ICdo 179/2017.

⁶ Štenglová et al., 2020, p. 77; Čech and Šuk, 2016, p. 235.

the exception of a JSC or cooperative. However, the registration of this fact has only declaratory effects. The current regulation of the Commercial Register does not provide mechanisms for the protection of the original owner of shares. In particular, it lacks an instrument similar to the notice of contentiousness in land law.⁷

In the case of a share, it is necessary to distinguish between the property and the social aspect of the share. In most cases, the owner of the share and, by virtue of that title, the shareholder are the same person, but this might not always be the case. We then distinguish who is the shareholder and who is the owner of the share. In certain cases, a company is dealing legally with a person as a shareholder even if that person is no longer the owner of the share or is not its sole owner. Examples are as follows: (I) a purchaser has duly acquired by endorsement and delivery of registered shares, but they have not yet become a shareholder because the shares have not been delivered to the JSC; and (II) a share held in a matrimonial community of property if only one spouse is a shareholder, but the opposite situation may also arise. For example, someone loses their status as a shareholder in an LLC company as a result of an expulsion. Their share is then transformed into a released share (*uvolněný podíl*). The share remains in their ownership even though they are no longer a shareholder.

Although a share is a set of rights and obligations, it is, in legal terms, a single integral thing and therefore, can be disposed of only in principle. The principle of integrity precludes, in principle, that individual rights may be separated from the share and transferred separately to another (e.g. the right to participate in the general meeting, the right to vote, and the right to information). In the case of a JSC, the law contains an explicit regulation of so-called separately transferable rights, which are separated from the share, and thus, are an exception to the principle of the integrity of the share (e.g. the right to a share in the profit or the preferential right to subscribe for shares). There is no similar express statutory regulation for an LLC. Despite the absence of an express regulation, I conclude that it is not possible that certain rights may be separated from the share. Separable rights include a claim for payment of a specific profit share, a settlement share or a share of the liquidation balance. A shareholder may separate such a claim from the share by assigning it to another.⁸ The difference between the arrangements in the two company forms is that in a JSC, the separation of the separately transferable rights from the share occurs without any further action, whereas in the case of an LLC, it occurs only by a juridical act of the shareholder.

A JSC is built on a plurality of shares. Each share represents one distinct right of participation (share in the economic sense) in a company. A shareholder may own multiple shares. Prior to 2014, in an LLC, a shareholder could hold only one share (a manifestation of the monistic view). If a shareholder acquired another share, it was added to their existing share. This principle is still retained by disposition. An LLC may provide in its memorandum of association that a shareholder may have more than

7 For details, see Zvára, 2017.

8 Judgment of the Supreme Court case No. 29 Cdo 3581/2010.

one share (Section 32(1), BCA). In such a case, the law requires that the memorandum of association distinguish the shares by a different designation, because the mere indication that a share is owned by a particular person cannot serve to distinguish the share. If the memorandum of association is silent on the matter, the principle of unity of shareholding is enforced. However, this is not the case for several classes of shares in the company under the memorandum of association. Shares of different content cannot be added together. If the memorandum of association provides that there is more than one class of share in the company, this would also allow one shareholder to have more than one share if the shares were of different classes (Section 135(2), BCA).

2.4. Classes of Shares

Three rights are regularly associated with a share: a) the right to participate in the management of the company (discussed in Chapter 4), b) the right to a dividend (discussed in Chapter 2), and c) the right to a share in the liquidation balance or the right to a settlement share in the event of loss of the shareholding without a legal successor during the life of the company.

The content of a share is defined by the legislation and the memorandum and article of association. As of 2014, the legislature no longer limits what classes of shares a JSC may create through the permitted list of classes of shares. The limits on the creation of specific classes of shares are set out in Section 1(2) of the Czech CC. The limit is based on good morals and public order, which includes the protection of shareholders and creditors.

Since 2021, the legislator has abandoned the distinction between ordinary shares (*kmenové akcie*) and special classes of shares in a JSC. Ordinary shares were referred to as those with only statutory rights attached to them. Special classes of shares were those that differed from the statutory model. Thus, ordinary shares had the same content in all JSCs. However, the legislator now provides that shares with which the same rights are attached constitute one class. Whether or not they deviate from the law is irrelevant. The same applies in the case of shares in an LLC. The reason for this intervention by the legislator is to avoid the need to enter details of the content of the share or shareholding in the Commercial Register if there is only one class in the company, even if it was different in content from the statutory model.

The scope and content of the rights (and obligations) attached to the share are left to the will of the shareholders. Therefore, some rights may be strengthened and others weakened. The division of shareholder rights into relatively and absolutely inviolable rights plays a role in the content. The distinguishing criterion is the mandatory or default nature of the legal provisions. The first group includes property rights (the right to a share of profits and the right to a share of the liquidation balance) and voting rights. These rights are relatively inviolable because the memorandum and articles of association may create shares without these rights. Therefore, they are also referred to as withdrawable rights. However, the majority of the literature tends to conclude that at least one of them must always be attached to the share, otherwise

the share would lose its participatory character altogether and its owner could hardly be considered a shareholder.⁹ The group of absolutely inviolable rights or inalienable rights includes rights which are granted to the shareholder by mandatory regulation, and therefore, cannot be restricted or taken away by the memorandum and articles of association. These include, in particular, the right to participate in the general meeting, the right to challenge the invalidity of its resolutions, and the right to bring a shareholder's action.¹⁰ This category includes the rights of a qualified shareholder.

Prior research has discussed whether rights other than those directly related to the membership (e.g. the right to park in front of the entrance to the company's registered office) may be attached to a share.¹¹ I consider this discussion outdated. In our opinion, such rights can be associated with the share, *inter alia*, because it is permissible to create a share in an LLC with the right to rent an apartment owned by the LLC. Another argument may be that both an LLC and a JSC can be established for purposes other than business, that is, also for the purpose of supporting their shareholders. Therefore, the rights related to the special support of the shareholders can be certificated in the share.

In a JSC, shares may be issued as paper share certificate or book-entry (dematerialised) securities.¹² If a share is issued as a paper share certificate, the law refers to it as a paper share (*listinná akcie*). A share issued as a dematerialised security is a dematerialised share (*zaknihovaná akcie*). It is up to the company to decide whether to issue paper shares or dematerialised shares.¹³ The determination of what shares are to be issued is a mandatory part of the articles of association (Section 250(2)(c), BCA). The conversion of paper shares into dematerialised shares (and vice versa) is a matter for the general meeting to decide, as it is an amendment to the articles of association (Section 421(2)(a), BCA). Detailed regulation is contained in the Civil Code (Sections 529 to 544, Czech CC). It is possible that the company may partly issue paper shares and partly issue dematerialised shares.¹⁴

Czech stock law distinguishes between two types of shares: shares with nominal value and no-par value shares (*kusové akcie*). A company can choose which type it wants to issue, but it cannot combine them (Section 257(2), BCA). Par value shares contain an indication of the nominal value. No-par value shares, meanwhile, do not contain this indication; their value is determined by the ratio of the share capital to the number of shares. However, a no-par value share must contain an indication that

9 Štenglová et al., 2020, p. 601; Štenglová et al., 2023, pp. 72–73.

10 However, these issues are still under discussion. It is also possible to take the view that a share can be created without all the removable rights, as well as the view that the right to participate in the general meeting can be removed from a share if it is a share without voting rights (Štenglová et al., 2023, p. 73).

11 Čech and Šuk, 2016, p. 268.

12 Under current Czech law, book-entry (dematerialised) securities are not a subcategory of securities, but two categories standing side by side (Sections 514 and 525, Czech CC).

13 In some cases, special laws require that dematerialised shares be issued, for example, if a public company wants to draw support for renewable energy.

14 Černá et al., 2021, p. 416.

it is a no-par value share (Section 259(2), BCA). No-par value shares are linked to the share capital and therefore, are not true no-par value shares.¹⁵ In fact, they are not shares without par value but rather, they are shares without an obvious declaration of their value. The value in relation to the share capital is accountable.

In a JSC, shares can be further subdivided in terms of form into bearer shares (*akcie na majitele*) and registered shares (*akcie na jméno*). Again, this option depends on which form the company opts for. It is up to the company whether part of the shares will be in bearer form and part in registered form.

In a JSC, shares with the identical rights constitute a single class (Section 276(1), BCA). The different nominal values or accountable par values do not form different classes of shares. The literature unanimously concludes that different forms of shares do not constitute different classes of shares, because the form does not define the content of the share but the manner of disposition.

Unlike the Commercial Code, the BCA does not contain an exhaustive list of the permitted classes of shares in a JSC. It prohibits only interest shares (Section 276(4), BCA) and regulates certain classes in more detail. However, this does not preclude other classes being created. It is permissible to create shares without voting rights (Section 276(2), BCA),¹⁶ shares with the right to appoint a director (e.g. Section 438a, BCA),¹⁷ shares with different voting weights (Section 276(5), BCA), shares with a fixed share in profits (Section 348(3), BCA), and preference shares (Section 278, BCA). The literature permits the issuance of so-called information shares¹⁸ or tracking shares.¹⁹ However, a company should be cautious when creating special classes of shares. It is easy for one share with specific content to be created, which, in cases in which voting by share class is required, will essentially have a veto right attached to it.

It is a matter of debate whether it is permissible to attach an obligation, such as a surcharge obligation, to a share in a JSC. Part of the doctrine does not oppose this possibility, provided that all shareholders concerned have agreed to it and the JSC is a non-publicly traded company.²⁰ Part of the doctrine rejects this possibility on the grounds of protecting future shareholders.²¹ On the one hand, such share content may be surprising to future shareholders. On the other hand, shareholder law does not have similar tools to the ability of an heir to cancel their participation in a JSC for reasons for which they cannot fairly be required to remain in the company.

15 For details, see Černá, 2015.

16 However, under certain conditions, the right to vote will be restored, for example, if voting is to be by share class.

17 For details, see Kříž, 2022; Štenglová and Šuk, 2022.

18 For details, see Štenglová and Šuk, 2022.

19 For details, see Kříž, 2019.

20 See Lála, 2020.

21 Černá et al., 2021, p. 424.

2.5. *Transfer of Shares*

The rules on the transfer and transfer of shares co-create the character of the company. Thus, we can distinguish between an open company (shares are freely transferable and their transfer is neither excluded nor restricted), a fully closed company (shares are non-transferable and their transfer is excluded), and a partially closed company (shares are only partially transferable or their transfer is restricted). I comment further on the transferability of shares in the context of an LLC and a JSC.

Here, it is important to note that a special case of acquisition of a share by transfer in Czech law is the acquisition of a share as part of a business enterprise plant's transfer. The transfer of ownership of a business enterprise, to which the principle of integrity applies, results in the transfer of ownership of all the things constituting it *uno actu* (Section 2175(1), Czech CC).²² As it is not a transfer, the acquisition of ownership of the components of the business enterprise, including the share, does not require the fulfilment of the conditions for the acquisition of ownership by transfer.

Therefore, the restriction or even exclusion of the transferability of a share does not apply to the acquisition of the ownership right to a share as a part of a business enterprise, unless the memorandum and articles of association expressly provide for this case and choose the same rules for both cases – transfer and transfer within the acquisition of a business enterprise. Under Section 42(1) of the BCA, a JSC is prohibited from prohibiting or restricting the transfer of shares. In our view, this rule is not inconsistent with the proposed solution. This is because Section 42(1) of the BCA applies only to transfers of shares as a result of the death or dissolution of a shareholder, and not to transfers of shares as a result of the transfer of the business of which they form part.

Since 1992, there has been a gradual liberalisation and opening up of the LLC. Until 2000, the transfer of shares between shareholders was not even possible unless the memorandum of association allowed it. Between 2001 and 2013, the transfer between shareholders was legally possible with the consent of the general meeting and the transfer to a third party had to be permitted by the articles of association. Since 2014, the transfer between shareholders is unconditional and to a third party is possible with the approval of the general meeting (Sections 207 and 208, BCA).

Shares in an LLC are in principle uncertificated, that is, they are intangible assets. However, the memorandum of association may allow a share to be certificated. It must be apparent from the Commercial Register whether the share should be certificated. Different transfer regimes apply to an uncertificated and a certificated share. This is because of their different nature. An uncertificated share is an intangible thing, whereas a certificated share is a tangible thing, namely, a security.

22 Judgment of the Supreme Court case No. NS 29 Odo 314/2001; Judgment of the High Court in Prague case No. 14 Cmo 41/2003. B. Havel (2024) takes the minority view that the change control clause in the memorandum or the articles of association should always be enforced, including the acquisition of shares as part of a business enterprise.

The law requires that a written agreement with signatures certified be executed for the transfer of the uncertificated share in an LLC (Section 209(2), BCA). A share transfer agreement has translational effects unless otherwise provided. Therefore, there is a change in the identity of the owner of the share on the date of its conclusion. The transferee becomes a shareholder upon delivery of the effective transfer agreement to the company.²³ The transferor shall be liable to the company for the debts that have been transferred to the transferee with the share (e.g. unfulfilled deposit or surcharge obligations). A share transfer agreement is not a special type of contract but, depending on the circumstances, may be a purchase, exchange, gift, or other type of contract under which ownership is transferred (e.g. a security transfer). The share transfer agreement must indicate whether the transfer is with payment or free of it.²⁴ Only a share transfer agreement that has substantive effects must comply with the requirement of a written form with officially certified signatures. It is possible that a contract which has only obligatory effects may exist alongside it. Thus, it is possible that the parties agree to divide their obligations relating to the transfer of shares into a contract of obligation and a contract in rem. In the case of such a division, the requirement of a mandatory written form with officially certified signatures does not apply to a contract with bonding effects.²⁵

In an LLC, the law distinguishes between the transfer of a share to another shareholder and the transfer of a share to a third party. The law does not require any conditions for the transfer of a share to another shareholder. For the transfer of a share to a third party, the law requires the general meeting to give its consent to the transfer. These statutory rules are default and the memorandum of association may derogate from them. Thus, it may release the transfer of the share completely (without any conditions) or exclude it entirely.²⁶

Failure to comply with the conditions of limited transferability results in the ineffectiveness or nullity of the share transfer agreement. Ineffectiveness is the consequence of a failure to obtain the consent of the company's bodies required by law or by the memorandum of association (Section 207(2), BCA). In other cases, the law attaches the consequence of nullity (Section 209(4), BCA).

The statutory regulation protects the shareholder against inaction of the bodies as well as against unjustified failure to grant consent. In these cases, the shareholder has the right to withdraw from the company (Section 207(4), BCA).

In the case of a share transfer agreement in an LLC, a distinction is made between the effectiveness of the transfer of the share in relation to the contracting parties, in relation to the company and in relation to third parties. The transfer of a share is in principle effective between the transferor and the transferee upon conclusion of the agreement, unless the agreement provides for a later time of its effectiveness.

23 Judgment of the Supreme Court case No. 29 Cdo 4215/2016.

24 Judgment of the Supreme Court case No. 29 Odo 221/2005.

25 Kříž, 2022.

26 Judgment of the Supreme Court case No. 29 Cdo 5719/2016.

If the consent of a company's body is required for the transfer of a share, the contract shall not be effective until such consent is given. Consent may be given either before or after the conclusion of the contract. The effects of the transfer of the share shall not take effect in relation to the company until the effective share transfer contract has been submitted to the company. Thereby the transferee of the share becomes a shareholder. Subsequently, the shareholder is entered in the list of shareholders kept by the company and then in the Commercial Register. Both entries are declaratory.

The transfer of the share has effect vis-à-vis third parties as soon as it has been notified to them. As a result of the principle of the material publicity of the Commercial Register, the transfer of the share shall become effective against third parties at the latest, irrespective of whether they were aware of it, upon publication of the entry of the change in the identity of the shareholder, or on the fifteenth day after publication of that fact.

In the case of a single-member LLC, neither the statutory prohibitions or restrictions on the transferability, pledge, or assignment of the share nor similar prohibitions or restrictions arising from the memorandum of association apply while the company is a single-member company (Section 14, BCA). The purpose of this regulation is two-fold. First, it aims to ensure that the company is not left without a shareholder. This could occur, for example, if the sole shareholder dies while the prohibition on inheritance is enshrined in the memorandum of association. The rule is also important in order to remove the administrative burden. If a sole shareholder wishes to transfer their share to another and the memorandum of association does not permit such a transfer, it is clear that the sole shareholder can by their decision obtain an amendment to the memorandum of association, but the costs involved would be entirely unnecessary.

The law allows a share in an LLC to be certificated as share certificate (*kmenový list*) (Section 137, BCA). A share certificate (*kmenový list*) cannot be issued as a book-entry share (dematerialised) nor can it be publicly traded. A share may be incorporated in a share certificate only if the memorandum of association so permits and if the share in respect of which the share certificate is freely transferable. It should be recalled that as a statutory rule, in principle, the transfer of a share to a third party is subject to the approval of the general meeting. Therefore, if the share is certificated, the memorandum of association must depart from the default statutory provision (Section 208, BCA) and remove this statutory restriction on transfer. The share certificate (*kmenový list*) in an LLC, therefore, is an unlimited transferable share, which distinguishes its legal regime from that of registered shares in a JSC, the transfer of which may be conditional in the articles of association. Moreover, if share certificate (*kmenový list*) is to be issued, the principle of unity of shares must be abandoned in the memorandum of association, because share certificates, like shares in a JSC, are based on the principle of plurality of shares. If the principle of unity of shares is not expressly abandoned, it may be considered that, if the memorandum of association admits the possibility of issuing share certificates, it has done so implicitly. Where a company has several classes of shares, the possibility of share certificates may be

provided for only in respect of some of them. The law regulates the requirements of the share certificate in a mandatory manner. Unlike a share, a share certificate does not have a nominal value, but it must state the amount of the contribution attributable to the share represented by it.

The transfer of the share certificate is affected by contract (*titulus*) after the share certificate has been endorsed with a counterfoil and handed over (*modus*). The special legal requirements for the share transfer contract (written form and officially certified signatures) apply only to the contract for the transfer of an uncertificated share, which has a legitimising function in relation to the company, as the subject of the transfer is an intangible object. By contrast, a share certificate is a security which itself has a legitimating function vis-à-vis the company and therefore, the general rules for the transfer of securities apply to its transfer. The law does not provide for any special form for the contract under which the transfer of a security takes place. The contract may be concluded in writing, orally, or even merely by implication, for example, by delivery of a counterfoil (Section 1103(2), Czech CC). The counterfoil must comply with the requirements for the counterfoil of promissory notes, but in addition, pursuant to Section 210(1) of the BCA, it must contain a precise identification of the transferee so that it is not confused with another person. In the case of the endorsement of promissory notes, it is sufficient if the endorsement is, for example, ‘for me in favour of Peter Novak’. In the case of the endorsement of a registered share, such a designation of the transferee would be insufficient – properly, it should be ‘for me to Peter Novak, residing at 24 Wenceslas Square, Prague 1’.

We distinguish several effects in the case of a transfer of a share certificate. The effectiveness of the transfer agreement is a condition for the validity of the transfer of the certificate. The effectiveness of the actual transfer of the share certificate occurs at the moment when the transferor delivers the share certificate bearing the transfer endorsement to the transferee (and the transferee witnesses an unbroken series of endorsements). The transferee thereby acquires title to the certificate. The transfer takes effect against the company upon notification of the change in the owner’s personality with the presentation of the duly endorsed share certificate to the company for inspection. Thus, the owner of the share certificate becomes a shareholder. Subsequently, the shareholder is entered in the list of shareholders maintained by the company and then in the Commercial Register. Both entries are declaratory.

A share in an LLC is subject to inheritance. The statutory regulation of an LLC does not provide for special rules on the transfer of the share, and therefore, the default Section 42(1), first sentence, of the BCA applies. The memorandum of association may exclude or condition the transfer of an uncertificated share, but cannot interfere with the regulation of the right of succession and determine the specific person who is to acquire the share as the legal successor of the deceased shareholder.²⁷ If the share is certificated, the transfer of ownership cannot be restricted, let alone excluded, in the

memorandum of association, as the law requires that the share certificate be freely transferable.²⁸

In an LLC, the heir can always consider whether they want to become a shareholder. If this is not their choice, they are free to apply to the court for the cancellation of their participation, unless the memorandum of association provides for the heir's right to withdraw from the company.²⁹ The heir acquires the share upon the death of the testator, but becomes a shareholder of the LLC only after they prove to the company that they acquired the share, that is, at the latest by submitting a succession order to the court. If the share is certificated, the registered share must also be submitted to the company.³⁰

In a JSC, registered shares are transferred by contract, endorsement, and delivery (Section 1103(2), Czech CC). Otherwise, similar rules apply to the transfer as in the case of the transfer of share certificates in an LLC.

However, the share certificate in an LLC must be freely transferable. This does not apply to registered shares in a JSC. The articles of association may restrict the transfer but cannot exclude it (Section 270(1), BCA). An amendment to the articles of association imposing a restriction on transferability does not take effect until it is entered in the Commercial Register (Section 270(2), BCA). This is one of the few constitutive entries.

A restriction on transferability may consist of a requirement for the consent of one of the company's bodies or the satisfaction of another condition. Lack of consent renders the transfer ineffective (Section 271(1), BCA), while the absence of any other condition renders it void (Section 271(3), BCA). The statutory provisions protect shareholders from inaction by the bodies as well as from unreasonable failure to grant consent. The protection against inaction is the fiction of granting consent (Section 272(2), BCA). The defence against unjustified failure to grant consent is the shareholder's right to redeem the shares at a reasonable price (Section 272(3), BCA).

Shares in a JSC may be issued to holders only as dematerialised shares or immobilised shares (Section 274(2), BCA). Immobilised shares are transferred in the same way as dematerialised shares – that is, by changing the entry in the customer's account in the register of dematerialised securities (Section 1104(1), Czech CC). Dematerialised shares may be issued as registered shares or bearer shares. If issued as registered shares, their transferability may be limited.

A special case involves outstanding shares (*nesplacená akcie*) and unissued shares (*nevydaná akcie*). The difference between the two is that in the case of an outstanding share, the issue price has not yet been paid, while in the case of an unissued share, the issue price has already been paid. In both cases, however, the shares have not been certificated. Both are transferred by written agreement; the certificated signatures are not required (Sections 256(2) and (3), BCA).

28 Eichlerová, 2022, p. 270.

29 Ibid., p. 272.

30 Ibid., p. 271.

Czech stock law forbids the exclusion or restriction of inheritance of shares. An heir cannot consider whether they want to become a shareholder. The heir acquires the share on the death of the testator but becomes a shareholder only after they prove that they acquired the share, that is, at the latest by submitting the order of the court of inheritance together with the share.

2.6. Acquisition of Treasury Shares and Financial Assistance

The acquisition of treasury shares by a company results in the company being its own shareholder at the same time. This situation poses several problems. The company controls itself and there is a danger of so-called self-control. If the company acquires its treasury shares by subscribing for a new contribution when increasing the share capital, the share capital would no longer be covered by external resources when it is created. The acquisition of the company's treasury shares from a shareholder for consideration would be a problematic case for creditors to terminate the shareholder's participation in the company. The acquisition of an equity interest for consideration has a negative impact on the company's equity. Equity is the value of the company's assets net of the company's debts. If the company's assets include its treasury shares, it is problematic to determine its value as it is based on the equity. Thus, we are moving in a circle. The acquisition of equity shares may, therefore, lead to distortions in the company's financial situation and its internal functioning. For these reasons, the acquisition of treasury shares by business corporations is prohibited in principle, unless the law exceptionally allows it (Section 33, BCA).

Both JSCs and LLCs are allowed to acquire their treasury shares under certain conditions. For an LLC, more lenient rules are set for the acquisition of treasury shares than for a JSC, for which the Czech Republic is bound by the EU regulation in Directive 2017/1132/EU on certain aspects of company law. The law prohibits an LLC from acquiring its treasury shares by means of a share transfer agreement (§ 149, BCA). The acquisition of treasury shares by subscription for a new contribution when increasing the share capital is also not allowed, as in this case, it is also a de facto transfer of shares. The purpose of the prohibition on contractual acquisition of treasury shares is to prohibit the company from paying for the acquisition of the share. Therefore, I conclude that the statutory prohibition applies only to acquisitions of shares for consideration (acquisitions of shares for no consideration can be excluded based on teleological reduction) and that a gift of shares to the company is, therefore, permissible. A company may become the owner of a share based on a legal fact other than a contract (e.g. conversion, inheritance, and succession). Such cases do not endanger the company's financial stability.

If a company acquires its treasury shares, it may not exercise the voting rights attached to it. This solves the problem of the risk of self-control. The right to a share of the profits or other own resources associated with an equity share shall lapse on maturity and the unpaid profits or other own resources shall be transferred to the retained earnings account of previous years. If the company acquires all its shares by the permitted means, even share certificates, it must transfer them to a third party

within 3 months, otherwise the court shall dissolve the company even without a petition.

As regards the acquisition of treasury shares, the regulation in case of a JSC is contained in Sections 298 to 309 of the BCA. The basic principle is: what is not allowed is prohibited.³¹ Even a JSC is prohibited from subscribing for its own shares. Other ways of acquiring shares are regulated in detail by the requirements for the approval of the general meeting of shareholders, the creation of a reserve fund, and the establishment of a maximum holding period. Violation of the legal rules can lead to the dissolution of a JSC.

These are cases in which a shareholder, owing to the actions of the company, its other shareholders, or the person controlling the company, finds themselves in a situation in which they cannot reasonably be expected to sell their shares at a price commensurate with their value to a third party, and therefore, the law requires the person who caused the situation to buy the shares back at the request of the shareholder.³² This is one of a number of statutory measures to protect minority shareholders.

The right to redeem shares can be distinguished according to the person against whom it arises, whether the company or someone else.

The right to redeem a share of a shareholder against an LLC does not arise, because the regulation of LLCs provides for other institutions allowing the termination of their membership under fair conditions (e.g. agreement of the shareholders, withdrawal from the company, and termination of membership by the court on their proposal).

For the sake of completeness, it should be added that in the Czech context, cautious discussions are emerging on whether an LLC can create a special class of share attached to the right to purchase it by the company. In our view, there is nothing to prevent this if the rules on the acquisition of treasury shares are complied with, that is, if the share is sold or the share capital is reduced accordingly. The same objective could be achieved by the shareholders entering an agreement to terminate the participation of one of them with deferred effect. In both cases, the protection of creditors is sufficiently ensured by the fact that the payment of the settlement share in the case of a termination agreement or the payment of the purchase price in the case of a buyback of the shares must not cause the company to go bankrupt.

In the case of a JSC, the shareholder's right to redeem his shares at a reasonable price arises in the case of:

- a) unjustified refusal to consent to the transfer of registered shares (Section 272(3), BCA);
- b) a decision by the General Meeting to delist the participating securities from trading on a European regulated market (Section 333, BCA);

31 Štenglová et al., 2023, p. 90.

32 Černá et al., 2021, p. 446.

- c) a decision of the general meeting to change the class of shares, to substantially change the rights attached to the shares, or to restrict or tighten the transferability of registered shares (Section 335, BCA).

In relation to other persons, the shareholders have the right to redeem their shares in relation to

- a) a controlled person of the company if the shareholder's position in the controlled person's company is materially impaired or their legitimate interests are otherwise materially prejudiced, and they cannot fairly be required to remain in the company (Section 89, BCA). This is an ultima ratio option, which a shareholder may use only if they have not been successful with other instruments protecting their position or if their position is not insignificant (e.g. in a motion to invalidate a resolution of the general meeting);
- b) the main shareholder, who has the right to squeeze out (Section 395, BCA).

Financial assistance means the granting of an advance, loan, or credit by a company for the purpose of acquiring its shares or the provision of security for such purposes, that is, the company financially assists in the acquisition of a shares. In the past, financial assistance was prohibited. It was already permitted under the Commercial Code in its last years of operation, provided the legal conditions were met, and this is still the case.

In the case of a JSC, financial assistance can be provided only if the articles of association allow it under the conditions set out by law (Section 311 et seq, BCA). The conditions that must be fulfilled in order to be granted financial assistance are similar to those for the acquisition of treasury shares (resolution of the general meeting, prohibition to reduce the equity capital below the share capital, and prohibition to cause bankruptcy by acquiring treasury shares), with the addition of other conditions (verification of the financial capacity of the person to be granted financial assistance, preparation of a report to be deposited in the collection of documents of the Commercial Register, etc.).

In the case of an LLC, financial assistance is possible directly by law if it is provided on fair terms and if the managing director draws up a report on the provision of the financial assistance, in which he justifies why it is not contrary to the interests of the company to provide financial assistance (Section 200, BCA). The report is deposited in the collection of documents of the Commercial Register.

3. Croatia

3.1. *Legal Regime of Shares*

The share capital of a JSC is divided into shares. Each share represents a proportionate part of the company's share capital. If shares with a nominal value are issued, the sum of their nominal values must correspond to the share capital of the JSC. If, however, shares without nominal value are issued, the sum of the amount of the share capital relating to all the shares without nominal value issued must equal the amount of the share capital. Share rights can be divided into management and property rights. In some respects, the most important management right is that which gives the right to vote at the general meeting of the company. More will be said about this when we discuss the general meeting as a special body of the JSC. Other management rights are the right to participate in the general meeting of the company (Article 274, paragraph 1 of the Act on Obligations, hereinafter: CA), the right to be informed (Article 287, CA), and the right to challenge the resolutions of the general meeting (Article 362, CA).

The most important property right of shareholders is the right to be paid a part of the company's profits (dividends). The method of profit distribution may be determined by the statute, but if it is not, the shareholders' share in the profits is proportional to the nominal value of their shares, that is, the amount by which the share participates in the total share capital of the company. If the contributions are not paid in full, shareholders participate in the distribution of profits in proportion to what is paid to shareholders.

Before the distribution of profits, the company's financial statements must be approved, which is usually done jointly by the management board and the company's supervisory board or board of directors. As an exception, the financial statements may be adopted determined by the general meeting of the company if the supervisory board or management board disagrees with the financial reports prepared by the management board or executive directors, or if the management and supervisory board or executive directors and management board decide to leave the adoption of financial reports to the general meeting (Article 300.a-300.e, CA). The profit and loss account must show that the company has made an operating profit. Shareholders are then entitled to a share of the profit, but only after certain amounts have been transferred to the company's reserves in accordance with the law and the company's articles of association, and any losses from previous financial years have been covered. Once this has been done, the general meeting can decide what to do with the remaining profit. If it does not decide to use it for other purposes (e.g. special investments and bolstering the company's reserves), the general meeting can decide to pay the profit to shareholders (Articles 220–222, CA).

3.2. *Nature and Classes of Shares*

In accordance with the provisions of Article 165 paragraph 1 of the CA, shares can be registered only in name. Regarding the rights they confer, shares can be ordinary or

preference (Article 167, CA). Ordinary shares confer the right to vote at the company's general meeting, the right to receive part of the profit (dividend), and the right to receive part of the company's residual assets in the event of liquidation or bankruptcy. Preference shares may be cumulative and participating.³³

Shares that give their holders the same rights make up a class of shares. It is important to know whether the company has issued shares of more than one class and what their number is, because the CA requires in several places that the holders of a certain class of shares vote and make decisions on certain issues at a special meeting, in which only the holders of that class of shares participate, or that they do so at the general meeting separately from the holders of other shares (Article 295, CA).

3.3. *Transfer of Shares*

Registered shares are transferred in the manner determined by the form in which they have been issued (as materialised securities or non-materialised securities). If the shares have been issued as materialised securities, they may be transferred by endorsement or cession. Endorsement is a legal institution that enables the transfer of securities, and the provisions of the Law on Bills of Exchange are applied appropriately to the transfer of shares. In practice, endorsement means that the existing shareholder transfers the share to another by stating the name of the new shareholder on the share (security) and signing it. The transfer of materialised shares by cession is carried out according to the rules of Article 80 of the CA,³⁴ which regulate that legal institution.

The transfer of shares that have been electronically registered in the computer system of the Central Clearing and Depository Company (shares as book-entry securities) requires a corresponding entry in this system on the account of the acquirer. The transfer requires that the shares be transferred from the account of the transferor to the account of the acquirer of the shares. In principle, there is freedom to dispose of shares; that is, each shareholder is free to decide whether and to whom he wishes to transfer his shares. However, the company's statute may stipulate that the company's consent is required for the transfer of registered shares that are not issued

33 Cumulative preferred shares give the holder the right to collect accumulated unpaid dividends before they are paid to holders of ordinary shares. In other words, if dividends were not paid to shareholders in earlier years, in the year in which they are paid, cumulative dividends from those earlier years will primarily be paid to holders of cumulative shares, and only then will dividends be paid to holders of ordinary shares. Holders of participatory preferred shares have, in addition to a certain preferred dividend, the right to a dividend that belongs to holders of ordinary shares. The rights of the holders of preferred shares must be determined in the decision on the issuance of shares. Privileged shares, that is, special rights from preferred shares, can be limited or abolished only with the consent of the holders of those shares, who make a decision on this at a special assembly of only those shareholders or by separate voting at the general assembly of the company (Article 297, of the Croatian Companies Act (*Zakon o trgovačkim društvima*; ZTD)).

34 Act on Obligations, Official Gazette No. 35/05, 41/08, 125/11, 78/15, 29/18, 126/21, 114/22, 156/22.

in non-materialised form (Article 227, paragraph 2, CA). These shares are called shares with restricted transferability (vinculated shares). The reasons for which restrictions on the transferability of shares may be introduced include, for example, the desire to prevent undesirable persons from becoming shareholders, to protect the company from takeovers by undesirable persons, or to maintain the existing circle of shareholders. Consent for the transfer of shares is given by the management board, if the statute does not stipulate that it is given by the supervisory board or the general meeting of the company. The reasons for which the company can refuse to give consent for the transfer of shares can be specified in the statute. If this is not done, the competent body of the company gives or withholds consent based on a free assessment of what is in the interests of the company. If there is no consent to the transfer, the shareholder who requested such consent may, if he considers that such consent has been unreasonably withheld, require the company to permit the transfer by way of an action in court.

When shares are transferred, membership in the company is transferred. However, the share can be disposed of without transferring the membership. This is done by establishing a usufruct on the share, a lien on the share, or a fiduciary transfer of the share for the purpose of securing a claim.

Shares do not confer any rights if they are held solely by the company (Article 235, CA). In this case, the shares are the company's own. The rights conferred by these shares are dormant; they are reactivated when the company sells them and other people acquire them. In other words, if a company holds its own shares, it cannot, as a rule, exercise any rights deriving from them; that is, it cannot vote at its own general meeting, it cannot receive dividends from them, and so on.

The JSC may never acquire its own shares by original means. This is reflected in the prohibition on the company registering its own shares (Article 219, paragraph 1, CA), even when creating or increasing its share capital. This rule implements the principle of the registration and preservation of the company's share capital. The only exception is when the share capital is increased from the company's own resources, in which case the company itself acquires the shares in proportion to the percentage of its own shares.

The company may acquire its own shares derivatively, that is, from other persons, based only on an authorisation to do so granted by the general meeting, which shall be valid for a maximum of 5 years and shall specify the conditions under which the shares may be acquired, namely, the maximum number of shares to be acquired; the period for which the authorisation to acquire shares is granted; and, if the shares are acquired against payment, the maximum and minimum value of the payment made by the company.

The company may not acquire its own shares for the purpose of trading in them and, and with each acquisition of shares, the company's management board or executive directors must ensure that the conditions prescribed by law have been met. The acquisition and disposal of own shares must respect the principle of equal treatment of shareholders. This principle is deemed to be respected if the shares are

acquired, that is, if they are sold on the organised securities market. A resolution of the general meeting is required for a different disposal of shares. When disposing of shares, the provisions on the right of priority of existing shareholders (to acquire new shares of the company) are applied appropriately.

Nonetheless, even when there is no decision of the general meeting authorising the management to acquire the company's own shares, the company can acquire them in the following cases specified by law:

- a) the acquisition is strictly necessary to prevent serious and imminent harm to the company, for example to prevent the takeover of the company by undesirable persons;
- b) the shares are to be offered to employees of the company or one of its affiliated companies, and this offer is to be followed by the transfer of own shares to the aforementioned persons within 1 year of acquisition at the latest;
- c) the acquisition is necessary to compensate the company's shareholders (e.g. to give them severance pay) or minority shareholders in companies related to the company in question;
- d) the acquisition is unpaid or the financial institution acquires the shares on a commission basis, that is, in its own name but for the account of others, and therefore, the company does not actually acquire them for itself;
- e) it acquires them from the shareholder, because the shareholder has not paid in full the amount for which they were issued;
- f) the shares are acquired by universal succession, that is, the company acquires its own shares by entering into the entire legal position of the person who was their immediate previous owner;
- g) they are acquired based on a resolution of the general meeting on the withdrawal of shares according to the regulations on the reduction of the company's share capital, which means these shares will cease to exist upon withdrawal anyway; or
- h) bidding conducted by the court for the company to settle some of its claims against the shareholder (Article 233, CA).

The acquisition of own shares up to this amount is permitted if, at the time of the acquisition, the company has prescribed reserves that can be used for this purpose (reserves for the acquisition of own shares).

Own shares that the company acquires in violation of the described rules are valid but the transfer transaction is void. Own shares acquired by the company contrary to the described rules and conditions for the acquisition of own shares must be disposed of within 1 year. If the legal basis for acquiring own shares is valid, and their nominal value exceeds 10% of the share capital, the company must dispose of the surplus shares that exceed that amount within 3 years. Own shares that are not handled in accordance with the stated rules must be withdrawn.

The privatisation process in the Republic of Croatia was characterised by a significant number of workers being given the opportunity to acquire shares in

former social enterprises, while the socio-political context favoured the acquisition by individuals of most of the economic entities privatised in this way. In the context of the negative legacy of transformation and privatisation, the development of the concept of employee ownership in Croatia has been set back considerably, and the benefits of the development of employee ownership for companies as a whole have not materialised. By bringing the interests of employees closer to those of other shareholders and enabling employees to take a more active and long-term interest in the development of their company, employee ownership supports and encourages the establishment of transparent and efficient corporate governance. In the post-transition period, employee ownership in Croatia developed mainly in the form of a *sui generis* model based on separately designed solutions in the form of allocation of shares or share options for purchase, transfer of shares to employees, and participation in decision-making.³⁵

4. Hungary

4.1. *Limited Liability Companies*

A membership (business) share in an LLC encompasses the entirety of membership rights and obligations associated with a member's capital contribution (quota or core deposit).³⁶ Under Hungarian law, the minimum value of an individual capital contribution (quota) in an LLC cannot be less than 100,000 Hungarian forint (HUF). Additionally, the company's registered capital must be at least 3,000,000 HUF. The membership share comes into existence upon the company's official registration. Its size corresponds to the proportion of the member's capital contribution. Equal-sized membership shares confer identical membership rights. Even if a member holds multiple membership shares, they are treated as a single member in relation to the company. Any provisions in the company's articles of association that deviate from this principle are considered null and void.

The fundamental legal characteristics of the LLC in Hungary includes the concepts of capital contribution (*törzsbetét*) and membership share (*üzletrész*). The central

35 Examples of companies in Croatia that have implemented certain forms of employee shareholding are: AD Plastik dd, Dalekovod dd, Elektropromet dd, Herbos dd, Hotel Osmine dd, Jadranka dd, Mali Lošinj, Kraš dd, Pliva dd, Tankerska plovidba dd, and Tehnika dd. For more, see Kundić and Smajla, 2020, p. 129. Companies in which employee shareholding was introduced, without having designed an appropriate model in advance, face great financial difficulties. In addition, there is often insufficient interest of workers to participate in worker share ownership, or workers very often sell shares immediately after buying them. Furthermore, the examples of many transition countries show that favourable tax incentives, which existed for the purpose of purchasing shares by workers, are abolished after privatisation. In addition, there is a lack of a legal and fiscal framework or any support policy to support the introduction and effective functioning of the employee shareholding model. Tipurić, 2004, pp. 25 et seq.

36 As a selection of recent and relevant literature, see Veress, 2019, pp. 119–125; Fazakas, 2020, p. 79; Gál, 2022, pp. 56–57; Török, 2022, pp. 11–19; Veress, 2024a, pp. 3–10.

question revolves around the stability of these defining features over time and across legal frameworks, particularly given amendments to the Hungarian Civil Code effective as of January 1, 2022. Historically, the LLC was characterised by any member contributing one capital contribution, corresponding to a single membership share. However, the Civil Code amendments now allow a member to hold multiple capital contributions and membership shares, raising questions about whether this change fundamentally alters the nature of the LLC. Previously, an LLC was distinguished by its ‘one-member-one-capital-contribution-one-business-share’ model. The capital contribution represented the member’s financial input into the company, while the membership share embodied the associated rights and obligations. This clarity in structure was seen as critical for internal governance and external transparency. The current wording of the Civil Code now explicitly allows members to hold multiple capital contributions and membership shares, aligning the Hungarian LLC more closely with corporate entities, like closed companies limited by shares (abbreviated as *zrt.* in Hungarian), which may impact its hybrid nature as a company blending personal and capital elements.

For a better understanding, we should separate the analysis of capital contribution and membership share, as their implications differ significantly under the new legal framework. In our view, allowing a single member to have multiple capital contributions is inherently illogical and contradicts the core purpose of capital contributions as an indivisible representation of a member’s total financial stake in the company. A capital contribution is inherently unified, even if comprised of different types of inputs (e.g. monetary and non-monetary). Splitting it into multiple units undermines its purpose as a single measure of a member’s financial commitment. Introducing multiple capital contributions complicates administration and accounting, potentially reducing transparency for creditors and partners. The legislative amendment enabling multiple capital contributions was justified primarily by arguments related to multiplication of membership shares, with no direct explanation for the need for multiple capital contributions.

The following example illustrates how multiple capital contributions create unnecessary complexity. Say that a member is required to contribute 300,000 HUF but has only partially fulfilled this by contributing 200,000 HUF. The remainder is due in the form of non-monetary property. If the capital contributions are treated separately, it creates ambiguity regarding the member’s obligations. For example, can sanctions apply only to the unpaid contribution, or must they affect all contributions? The unified treatment of contributions would avoid such confusion. A single, unified capital contribution system is simpler, more transparent, and consistent with the original purpose of the LLC structure.

In contrast to capital contributions, the possibility of holding multiple membership shares is deemed more defensible and even beneficial under certain circumstances. Membership shares include not just the financial stake but also the rights and obligations of membership, making their separation into multiple units more justifiable. The French LLC model (*parts sociales*) has long permitted multiple

membership shares per member, enhancing flexibility for partial transfers or differentiated rights. Allowing multiple membership shares facilitates smoother partial transfers of ownership without requiring formal division of a single share, reducing administrative hurdles. Multiple membership shares can enhance functionality, such as when partial ownership is transferred to other members or third parties.

The amendment to allow multiple membership shares reflects a shift, aligning the Hungarian LLC more closely with closed (privately held) JSCs. This trend enhances flexibility but raises questions about the need to maintain separate legal forms for LLCs and privately held JSCs.

A single membership share may be jointly owned by multiple individuals. In such cases, these co-owners are collectively regarded as one member with respect to the company. They exercise their rights through a joint representative and are jointly and severally liable for the obligations associated with membership. The co-owners elect the joint representative from among themselves, based on the voting power assigned to their ownership proportions. The joint representative is obligated to notify the company of any changes in the identity of the co-owners or their respective ownership proportions. If the joint representative changes, the newly appointed representative is responsible for informing the company of the change.

Membership shares in an LLC may be freely transferred among its members. The articles of association can grant members a pre-emptive right³⁷ to acquire membership shares being transferred for monetary consideration. This right is proportionally distributed among members based on the size of their respective membership shares.

A membership share can be transferred to an external party only if the transferring member has fully contributed their share of the capital, unless the transfer arises owing to the termination of membership caused by failure to fulfil capital contributions, supplementary payments, or exclusion from the company. In cases of transfer for monetary consideration, the other members, the company, or a designated third party (in this order) have a pre-emptive right to acquire the membership share. This pre-emptive right cannot be transferred. The proportionate allocation of pre-emptive rights among members is based on the size of their respective membership shares. The exercise of the pre-emptive right by the company or the designation of a third party for this purpose is determined by a resolution of the general meeting. If an agreement is concluded in violation of the pre-emptive right, a lawsuit seeking invalidation of the contract must be filed within 1 year of the agreement's conclusion.

If a member does not respond to the offer within 15 days of its communication, or if the company or its designated person does not respond within 30 days, the member is assumed to have waived this right.

37 Properly characterised, the entitlement is not a pre-emptive right *stricto sensu*, because its object is membership share, an intangible asset. Its nature is of a priority to purchase existing membership shares when they are offered for sale for money or a right of first refusal. Nevertheless, the statutory regime governing pre-emptive rights applies to it *mutatis mutandis*.

If the articles of association require the company's consent for transferring membership shares to external parties, the general meeting decides whether to grant such consent. If the company does not issue a response within 30 days of receiving the notification of intent to transfer, consent is deemed granted. Any provision in the articles of association allowing a longer response time is invalid. Additionally, the articles of association cannot validly prohibit the transfer of membership shares to external parties for monetary consideration.

During the sale of membership shares in enforcement proceedings (against the member of the LLC), individuals entitled to a pre-emptive right may exercise their right to acquire the shares before others.

If a member wishes to transfer only a portion of their membership share, the share must first be divided. The division requires the approval of the general meeting. All transfers of membership shares must be documented in writing. Such transfers do not require amendments to the company's articles of association.

The acquirer of the share must report the change in membership and its effective date to the company within 8 days of the transfer. This report is necessary for updating the member register and must be submitted either as a notarised document or a private document with full probative value, accompanied by the transfer agreement. The report must also include a declaration by the acquirer acknowledging the binding nature of the articles of association. Upon transfer, the transferring member's rights and obligations arising from their membership are transferred to the acquirer. The change in membership becomes effective with respect to the company from the date of notification, regardless of when it is entered into the register. The acquirer's membership rights and obligations commence upon notification to the company.

In the event of a member's death, their heir may request entry into the member register, provided they present proof of their status as heir. Similarly, if a corporate member undergoes transformation, merger, division, or other statutory succession, the successor may request registration. The managing director may refuse registration if individuals entitled under the articles of association exercise their pre-emptive right within 30 days of the heir's or successor's request, provided they compensate the heir or successor for the market value of the membership share. Any provision in the articles of association extending this 30-day period is invalid. If a corporate member ceases to exist without a successor, and the membership share remains unclaimed through liquidation or other asset distribution processes, the company must decide either to cancel the share or to redistribute it among existing members in proportion to their capital contributions.

If a membership share was acquired from marital joint property, the court may allocate a portion of the membership share to the non-member spouse during marital property division proceedings. This allocation is subject to the relevant provisions of the law and the articles of association. In such cases, the pre-emptive acquisition right and the requirement for full contribution payment do not apply. These provisions also apply if the spouses mutually agree to divide the membership share as part of a marital property settlement.

Hungarian law permits LLCs to acquire their own membership shares. This acquisition can occur based on a resolution of the general meeting and through a transfer. However, the company can only purchase its own membership shares using assets exceeding its registered capital and must not proceed if it is unable to declare dividends. The company may acquire only those membership shares for which the corresponding capital contributions have been fully paid. Furthermore, the total value of the capital contributions underlying the acquired shares must not exceed 50% of the company's registered capital. Any provision in the articles of association that imposes less stringent conditions than those prescribed by law is invalid. Membership rights associated with the company's own shares cannot be exercised, and such shares are excluded from quorum calculations at general meetings. Additionally, the company is not entitled to receive dividends for its own shares. Instead, the dividends corresponding to these shares must be distributed among the other members proportionally, based on their respective capital contributions. A company that has acquired its own membership shares for consideration is required to take one of the following actions within 1 year of purchase: sell the shares to a third party, distribute the shares to members proportionally and without consideration, cancel the shares in accordance with the rules governing capital reduction. Provisions in the articles of association that deviate from these legal requirements by granting the company greater flexibility are invalid.

If a member is excluded by court order or their membership is terminated because of non-fulfilment of financial contributions or supplementary payments, their membership share must be sold. This can be achieved through an agreement with the former member. If no agreement is reached, the company must organise an auction. Should the auction fail, the membership share must be cancelled.

4.2. Companies Limited by Shares (Joint-Stock Companies)

A share is a transferable security that embodies the membership rights exercisable in the issuing corporation.³⁸ It is issued in registered form, has a nominal value, and is exclusive to corporations limited by shares; no other entity can issue securities that represent membership rights. Under Hungarian law, the issuance of bearer securities is prohibited.³⁹ The issuance of shares may occur either privately or publicly. Shares of privately held corporations, except in cases related to a change in the corporation's operational form, must be issued in a manner that does not require the preparation of a prospectus or a minimum disclosure document under capital market regulations and does not involve listing on a stock exchange.

If a share has multiple owners, they are regarded as a single shareholder in relation to the corporation. Their rights can be exercised only through a common representative, and they bear joint and several liability for obligations associated with the share.

38 For a monographical approach, see Veress, 2019a.

39 Veress, 2019b, pp. 95–100.

In privately held JSCs, shares may be issued either in physical (printed) form or as dematerialised securities. A share issued in physical form can be converted into a dematerialised share, and vice versa. In publicly traded corporations, shares may be issued only in dematerialised form.

A physically issued share is a document produced by an authorised printing company and must include at least the following information:

- a) the corporate name and registered office of the issuing corporation;
- b) the share's serial number, series, and nominal value;
- c) the name of the initial shareholder;
- d) the date of the articles of association or the amendment forming the basis of issuance;
- e) the amount of share capital or the portion of share capital represented by the share, and the total number of shares issued;
- f) the signatures of the corporation's representatives as required by the corporate signature rules; and
- g) the security code.

Where applicable, the physical share document must also include:

- a) the rights attached to the share type, class, or series as specified in the articles of association;
- b) any restrictions on voting rights; and
- c) any limitations on the transferability of the share or provisions requiring the corporation's consent for transfer.

If, in the case of shares issued in physical form, multiple shares belonging to the same series are consolidated into a single share certificate – either based on the provisions of the articles of association or at the request of the shareholder – the rights associated with the shares included in the consolidated certificate remain individually applicable to each share. Upon the shareholder's request, a consolidated share may be divided into smaller denominations of consolidated shares or into shares with the nominal value specified in the articles of association for the given series. Such division is contingent upon the shareholder reimbursing the costs associated with the conversion.

A dematerialised share is a type of dematerialised security that contains the same essential information as a physical share, with the following differences:

- a) the shareholder's name and other identification data are recorded in the securities account maintained by the account provider for the benefit of the shareholder;
- b) it does not include a serial number; and
- c) it does not bear the signatures of the corporation's representatives.

If the information recorded on a share changes, the corporation must update the affected shares. For physically issued shares, this involves replacing or re-stamping

the shares in accordance with the rules applicable to capital increases. For dematerialised shares, the content must be amended to reflect the changes.

The Hungarian legal framework governing JSCs establishes a highly detailed classification of shares based on their functional and legal characteristics. This classification includes share types (*részvényfajták*), share classes (*részvényosztályok*), and share series (*részvénytörzsek*), providing a structured system to define and manage the rights and obligations of shareholders and the corporate entities issuing the shares. Each category has distinct legal and operational implications, ensuring a high degree of flexibility for companies while safeguarding shareholder rights.

The fundamental distinction within Hungarian corporate law divides shares into five primary types: ordinary shares, preference shares, employee shares, interest-bearing shares, and redeemable shares. These share types serve as the building blocks for corporate equity, with each type designed to address specific economic and governance objectives.

Ordinary shares are the default share type issued by JSCs. These shares confer general membership rights, including participation in the company's general meetings, voting rights, and a proportional entitlement to dividends. Ordinary shares are defined negatively, meaning they include all shares that do not fall into the specialised categories outlined below.

Preference shares, by contrast, are characterised by the conferral of special privileges to their holders. A corporation's articles of association may stipulate the issuance of shares that grant certain advantages to shareholders compared to other share types, subject to specific conditions. These are known as preferred shares. The articles of association may define, within the category of preferred shares, the following: a) dividend preference; b) priority in the distribution of assets in the event of the corporation's dissolution without legal succession (liquidation preference); c) voting preference; d) priority in nominating members of the board of directors or supervisory board; e) pre-emptive rights; and f) shares that simultaneously combine several of the preferences listed in points a–e.⁴⁰ Within the category of preference shares, multiple classes can exist, each corresponding to a specific privilege or combination of privileges. For example, one class may focus solely on voting rights, while another prioritises liquidation entitlements.

Preferred shares granting dividend preference entitle shareholders to receive dividends from the corporation's distributable post-tax profits at a more favourable rate than those attached to other types and classes of shares. Preferred shares granting dividend preference are aimed at aligning shareholder interests with the financial performance and governance of the corporation. The primary function of dividend-preferred shares is to grant shareholders a superior claim to the corporation's

40 The articles of association may also allow for the issuance of a series of shares within the preferred share category, provided conditions are defined, where the corporation is obliged to exchange such shares, upon the shareholder's request, for shares of another preferred share category or ordinary shares. Alternatively, the corporation itself may exchange such shares at its discretion for shares belonging to another preferred share category or for ordinary shares.

distributable post-tax profits. Holders of these shares receive dividends at a more favourable rate compared to other classes of shares, providing a financial incentive and rewarding their investment. This preferential treatment often appeals to investors seeking steady income and reliability in returns, making these shares attractive to certain types of shareholders. In this context, dividend-preferred shares are particularly attractive to long-term investors, such as pension funds or income-focused individuals, who prioritise consistent returns over speculative gains. By guaranteeing prioritised dividends and, in some cases, mandatory payments, these shares offer stability and reduce the risks associated with market fluctuations and corporate profit allocation decisions.

Such shares may require mandatory dividend payments under statutory conditions, even when the corporation allocates its remaining profits for other purposes (i.e. no dividends are paid on ordinary shares). This guarantees that shareholders benefit from the company's profitability, regardless of broader strategic or operational decisions that may limit distributions to ordinary shareholders. This feature ensures that dividend-preferred shareholders are prioritised, making their investment less subject to the corporation's discretionary financial policies.

If voting rights associated with dividend-preferred shares are restricted or excluded by the articles of association, and if the corporation fails to pay dividends on these shares in a given financial year or pays less than the amount due, the voting rights of dividend-preferred shares are reinstated without restriction until the approval of the annual financial statements for the following financial year. This safeguard protects shareholders by providing them with an alternative form of influence in the corporation, ensuring their interests are represented when financial commitments are not met. Reinstated voting rights remain in effect until the approval of the annual financial statements for the subsequent financial year, serving as a temporary corrective measure to uphold shareholder interests.

Voting-preferred shares grant shareholders the right to exercise multiple voting rights, as defined in the articles of association. In a publicly traded corporation, voting rights attached to a single share may not exceed 10 times the voting rights corresponding to the share's nominal value. Any provision in the articles of association to the contrary is invalid. In the case of voting-preferred shares granting veto rights, resolutions of the general meeting can be adopted only with the affirmative vote of the holder(s) of such shares. If only one such share is issued, the resolution requires the affirmative vote of the shareholder holding that share.

Voting-preferred shares play an interesting role in the governance and decision-making structure of a JSC, particularly in safeguarding the interests of certain shareholders or groups. Voting-preferred shares grant holders the ability to exercise multiple voting rights relative to their nominal shareholding, amplifying their influence in corporate decision-making processes. This is particularly useful for founders, early investors, or strategic partners who wish to retain significant control over the corporation's strategic direction, even if they hold a minority stake in terms of capital contribution. In publicly traded corporations, voting-preferred shares are often used

to separate control from financial investment. While regular shareholders contribute capital and hold standard voting rights, voting-preferred shareholders may exert greater influence without necessarily holding a proportionate share of the company's equity. This ensures that the corporation remains under the control of parties deemed essential to its long-term stability and vision, such as founding members or key stakeholders. Additionally, in joint-stock corporations, the limitation on the voting power of a single share – capped at 10 times the nominal voting rights – ensures that the enhanced influence of voting-preferred shares is not abused.

Voting-preferred shares granting veto rights are a mechanism for protecting the interests of specific shareholders or ensuring the alignment of key decisions with the corporation's strategic priorities. The requirement for the affirmative vote of the holder(s) of such shares before a resolution is adopted gives these shareholders significant control over critical matters. This could include decisions related to mergers, acquisitions, changes in capital structure, or crucial amendments to the articles of association. When only one such share is issued, the exclusive affirmative vote required from its holder underscores the extraordinary authority vested in that individual or entity. This arrangement can serve as a safeguard for minority protection, ensuring that certain strategic decisions cannot be made without the express consent of a specific shareholder.

By concentrating voting power among specific shareholders, voting-preferred shares contribute to governance stability. They ensure that decision-making authority resides with individuals or entities with a vested long-term interest in the corporation's well-being. This stability can be particularly beneficial during times of crisis or significant strategic changes, as it reduces the risk of erratic decisions driven by short-term majority sentiment. Voting-preferred shares may also attract strategic investors who seek not only financial returns but also a voice in corporate governance. By offering enhanced voting rights, the corporation may appeal to investors who wish to participate actively in shaping the company's policies and direction. Finally, in corporations in which the founders or original investors wish to preserve the company's identity, mission, or culture, voting-preferred shares can act as a tool to prevent hostile takeovers or decisions that could deviate from the corporation's foundational values.

Preferred shares providing the right to nominate members of the board of directors or supervisory board allow shareholders, under the procedures specified in the articles of association, to nominate one or more members of the board. Preferred shares with nomination rights allow certain shareholders to directly appoint individuals to key governance positions. These members become part of the board upon accepting their nomination. If preferred shareholders fail to nominate a director within the specified time-frame and under the stipulated procedure, the right to elect the director reverts to the corporate body authorised to do so under general rules. Moreover, preferred shareholders may recall directors they have nominated, and they may be required to do so if conditions specified in the articles are met. If they fail to fulfil this obligation within the specified time-frame, the authority to recall passes to the appropriate

corporate body. Even in such cases, preferred shareholders retain the right to nominate a new director to replace the recalled one. However, shares granting the right to nominate directors may not be issued if the corporation operates under a system where the CEO exercises the functions of the board of directors. Similarly, in publicly traded corporations, shares granting the right to nominate members of the board or supervisory board cannot be issued.

These shares ensure that specific shareholders have a direct influence on the leadership and oversight of the corporation. This privilege ensures that shareholders with significant stakes or strategic interests can actively shape the board's composition, aligning it with their vision for the corporation. Certain restrictions on the issuance of preferred shares with nomination rights ensure a balanced governance structure. For example, such shares cannot be issued in corporations in which the CEO exercises the functions of the board of directors, preventing excessive concentration of power in the hands of a single individual or group. Similarly, publicly traded JSCs are prohibited from issuing these shares, promoting equity and transparency in governance practices, and protecting the interests of a broader shareholder base. By involving preferred shareholders in the nomination and recall of board members, these shares foster greater engagement and accountability. Shareholders with these rights are incentivised to take an active interest in the corporation's governance, leading to more informed decision-making and a stronger alignment between the board and shareholder interests.

Shares granting pre-emptive rights may be issued only by privately held corporations. These rights entitle shareholders to priority in purchasing shares that the corporation intends to transfer through sale. If a shareholder does not declare their intention to exercise this right within 15 days of being informed of the sale terms, they are assumed to have waived the right.

If a privately held JSC intends to transition into a publicly traded JSC, it must convert shares granting the right to nominate board members, supervisory board members, or pre-emptive rights, as well as shares combining dividend preferences with other rights, into forms of preferred or ordinary shares permitted for publicly traded corporations. This conversion must take place before the shares are listed on the stock exchange.

Employee shares are a specialised type designed to incentivise and align the interests of employees with those of the company. They may be issued by a corporation to employees working either full-time or part-time, either free of charge or at a discounted price lower than the nominal value of the shares. If the articles of association attach dividend preference rights to employee shares, such rights may be exercised only after the rights of shareholders holding shares classified as dividend-preferred have been satisfied.

Employee shares may be introduced simultaneously with an increase in the corporation's share capital, ensuring compliance with the prohibition against issuing shares below their nominal value. These shares can validly be transferred only to the

corporation's employees or to individuals specified in the articles of association as eligible based on their prior employment relationship with the corporation.

If an employee's employment is terminated and, as a result, they are no longer entitled to hold employee shares, they may transfer their shares up until the first general meeting held after 6 months from the termination of their employment. The same rule applies in the case of inheritance of employee shares. If the former employee or heir fails to transfer the shares within the specified deadline, the corporation may, at the general meeting following the expiration of the deadline, decide to redeem the employee shares or convert them into another type of share for sale.

In such cases, the former employee or heir is entitled to receive the nominal value of the shares, which must be paid within 30 days of the date of the redemption or transfer of the shares.

Employee shares serve multiple roles within a corporate structure, including financial, motivational, and governance dimensions, all of which contribute to the corporation's strategic and operational goals. Employee shares act as a form of financial incentive, aligning the interests of employees with those of the corporation. By granting shares either free of charge or at a discounted price, the corporation provides employees with a stake in its financial success. This fosters a sense of ownership, encouraging employees to contribute more actively to the company's growth and performance. Moreover, employee shares serve as a retention mechanism, because they are linked to continued employment. Employees may be more likely to remain with the corporation if their financial benefits are tied to the long-term success of the organisation. By enabling employees to benefit from the company's distributable post-tax profits, these shares provide a direct financial reward for their contributions to the company's success. When employee shares are associated with dividend preference rights, they function as a profit-sharing mechanism. Although subordinated to other dividend-preferred shares, employee shares still allow employees to participate in the company's profitability, reinforcing their motivation and commitment. The issuance of employee shares is tied to an increase in the corporation's share capital, as mentioned above. This dual purpose of capital raising and employee benefit ensures that the company secures additional financial resources (instead of paying dividends) while simultaneously engaging its workforce. Beyond financial and governance aspects, employee shares symbolise a culture of inclusivity and shared purpose. By granting employees a tangible stake in the company's success, the corporation fosters a collaborative atmosphere, strengthens employee loyalty, and enhances its reputation as an employer of choice.

Interest-bearing shares provide a hybrid between equity and debt by offering a fixed interest payment to shareholders in addition to traditional equity rights. The interest, calculated on the nominal value of the shares, is distributed from the company's free reserves. However, payment is conditional upon the company maintaining a capital level that meets or exceeds its statutory minimum, ensuring the financial stability of the issuing entity.

Redeemable shares grant either the company, the shareholder, or both the right to initiate the repurchase or sale of the shares. This type of share is particularly useful in scenarios in which the company seeks to manage its equity dynamically. The redemption process is subject to strict legal safeguards, including the requirement that the nominal or issue value of the shares be fully paid and that the company is not in breach of its capital maintenance obligations. A corporation may exercise its purchase right or fulfil its obligations arising from a shareholder's sale right in relation to shares for which the shareholder has fully paid the nominal value or the issue value, and has provided any non-monetary contributions to the corporation. However, the corporation is prohibited from exercising rights under the purchase option or fulfilling obligations under the sale option if it would be precluded from declaring or distributing dividends. Shares that are repurchased under these circumstances must be cancelled by the corporation in accordance with the rules governing the mandatory reduction of share capital.

Within any given type of shares, companies can issue series of shares, distinguished by such factors as issue date, specific issuance conditions, or unique rights.

Share types, classes, and series reflect a hierarchical structure that allows for highly customised equity instruments. Ordinary shares provide a baseline of general shareholder rights, while preference shares, with their multiple classes, cater for the design of specific corporate governance and financing strategies. Employee shares align workforce incentives with corporate objectives, while interest-bearing and redeemable shares introduce elements of financial flexibility and risk management.

While the transfer of shares is generally unrestricted, various limitations may be introduced depending on specific interests. If the corporation restricts share transfers or subjects them to its consent as stipulated in the articles of association, these restrictions are only enforceable against third parties if they are evident from the share itself or, in the case of dematerialised shares, from the document deposited with the central securities depository. Similarly, if a pre-emptive right, repurchase right, sale option, or purchase option is established by contract concerning the shares, it is enforceable against the corporation and third parties only if it is reflected in the share or, for dematerialised shares, in the securities account information.

If the articles of association require the corporation's consent for the transfer of shares, the reasons for which such consent may be withheld must also be specified in the articles. The decision on granting or withholding consent lies within the authority of the board of directors. If the board of directors fails to make a declaration within 30 days of the notification of the intent to transfer shares, consent is deemed to have been granted.

Hungarian law provides detailed regulations regarding the acquisition and handling of treasury (own) shares (*saját részvény*) by corporations. Treasury shares serve several strategic, financial, and governance purposes. While corporations are limited in their ability to acquire and use treasury shares, the regulatory framework ensures that such shares can support specific objectives while maintaining the integrity of the corporate structure and protecting the interests of shareholders. Treasury

shares provide corporations with a mechanism for managing their capital structure. By repurchasing their own shares, corporations can reduce the number of outstanding shares, thereby increasing earnings per share and potentially enhancing the market value of remaining shares. Additionally, treasury shares can be used as a tool to stabilise the share price in volatile markets, protecting shareholders and maintaining investor confidence. Treasury shares are often used to fulfil obligations under employee stock ownership plans or other incentive schemes. By holding treasury shares, corporations can allocate them to employees as part of performance-based compensation without issuing additional shares, which helps align employee interests with the long-term success of the corporation.

A corporation may acquire its own shares up to a maximum of 25% of its share capital. When determining the extent of treasury shares, shares owned by legal entities under the majority control of the corporation – including foreign entities recognised as LLCs or corporations under applicable laws – must also be included. Additionally, shares acquired or held by a third party on behalf of the corporation, as well as shares accepted by the corporation as collateral for claims, must be considered treasury shares. However, these provisions do not apply to transactions carried out by banks or other credit institutions in the course of their regular business operations.

A corporation cannot acquire its own shares during its formation or during a capital increase. It is also prohibited from acquiring shares as treasury shares if the nominal value or issue price of the shares has not been fully paid or provided. Treasury shares may be acquired for consideration only if the conditions for paying dividends are met, and the consideration must be paid from the assets that would otherwise be available for dividend distribution.

The acquisition of treasury shares requires prior authorisation from the general meeting. This authorisation must specify the type, class, number, and nominal value of the shares to be acquired, as well as the minimum and maximum price in the case of acquisition for consideration. The authorisation is valid for 18 months. However, prior authorisation from the general meeting is not required if the acquisition of shares is necessary to prevent imminent and serious harm to the corporation. This exception does not apply to public takeover bids for the shares of publicly traded corporations.

The provision allowing corporations to acquire treasury shares without prior authorisation from the general meeting in situations of imminent and serious harm reflects the role of treasury shares in crisis management. In such cases, treasury shares may be used to protect the corporation from hostile takeovers, safeguard its independence, or address other significant threats to its stability and operation.

Furthermore, authorisation is unnecessary if the shares are acquired during court proceedings to settle claims owed to the corporation or during corporate restructuring. In all cases, the board of directors must inform the next general meeting about the reasons and nature of the acquisition, the number and aggregate nominal value of the acquired shares, their proportion relative to the corporation's share capital, and the consideration paid.

If a corporation acquires its own shares in violation of the law, it must dispose of those shares – or, if the quantity cannot be determined, all treasury shares – within 1 year of acquisition, or cancel them by reducing the share capital. If the company is compelled to cancel a treasury share owned by another person, it incurs an obligation to account to that shareholder.⁴¹ Hungarian law explicitly ensures that treasury shares cannot distort corporate governance: treasury shares do not grant shareholder rights. When determining the quorum of the general meeting or exercising subscription priority rights, treasury shares must be disregarded. Any dividends attributable to treasury shares must be distributed proportionally to the other shareholders entitled to dividends, based on the nominal value of their shares. Treasury shares, therefore, indirectly benefit shareholders by reallocating dividends attributable to these shares. Because treasury shares do not confer shareholder rights, the dividends that would otherwise be paid on them are redistributed among the remaining shareholders proportionally to their holdings. This increases the effective dividend yield for existing shareholders.

Any provision in the articles of association that imposes less stringent requirements on the acquisition of treasury shares or the rights associated with treasury shares than those set out by law is invalid.

A distinctive mechanism in corporate law is the provision of financial assistance for share acquisition. Financial assistance can facilitate strategic partnerships or acquisitions by enabling the purchase of significant shareholdings; can support the creation of employee ownership schemes, which contribute to long-term stability and alignment between employees and corporate objectives; and play a role in corporate restructuring or ownership transition scenarios, ensuring smoother processes while adhering to legal safeguards.

A publicly traded corporation may provide financial assistance to a third party for the acquisition of its issued shares only under market conditions and using assets available for dividend distribution. This assistance requires the approval of the general meeting by a resolution passed with at least a three-quarters majority, based on a proposal by the board of directors. The proposal must include the rationale for the financial assistance, associated risks, conditions of implementation, consideration for the shares, and expected benefits for the corporation from the assistance. The board of directors is required to submit the proposal to the registry court.

These restrictions do not apply to transactions that directly or indirectly facilitate the acquisition of shares by employees of the publicly traded corporation – including employees of subsidiaries under its majority control – or by organisations established by employees for this purpose. Similarly, they do not apply to transactions conducted by banks and other financial institutions in the ordinary course of their business. However, financial assistance is strictly prohibited if the corporation's equity does not meet or, as a result of the assistance, would not meet the corporation's registered share capital. By requiring that assistance be granted only from assets available for dividend

41 Fővárosi Ítéltábla Gf.40229/2023/12.

distribution, the law prevents the corporation from depleting its core capital, which is critical for creditor protection and the corporation's long-term sustainability.

Any provision in the articles of association that imposes less stringent requirements than the mandatory statutory rules of financial assistance is void.

5. Poland

5.1. *Limited Liability Companies*

Pursuant to Article 152 of the Commercial Companies Code (CCC), the share capital of an LLC is divided into shares with equal or unequal nominal value. One of the roles in the structure of an LLC is played by the share capital, which should be understood as a specified amount of money determined in the articles of association, constituting the sum of the nominal value of the shareholders' shares, usually corresponding to the value of their declared contributions, made by the shareholders to cover shares in this capital. These contributions may be in cash, in-kind (in-kind contributions) or mixed. The share capital class does not guarantee that the company has assets corresponding to the amount of capital, but legally binds part of the company's funds. The provisions introducing the protection of share capital include:

- a) Article 189 §§ 1 and 2 of the CCC – introducing a general ban on the return of contributions made by shareholders, except for cases expressly provided for in the act, and a ban on payments from the company's assets needed to fully cover the share capital;
- b) Article 158 § 2 of the CCC – prohibiting the payment of remuneration for services provided at the incorporation of the company from the funds paid to cover the share capital and excluding the possibility of crediting the remuneration for these services to cover the participation in the company;
- c) Article 176 § 2 of the CCC – stipulating that the remuneration paid to a shareholder for the performance of recurring non-cash benefits may not exceed the usual prices or rates in turnover;
- d) Article 200 § 1 of the CCC – introducing a ban on taking up and acquiring own shares (with exceptions specified in Article 200 § 1 sentence 3, Article 515 § 2, and Article 541 § 5, CCC).

Using various criteria, we can distinguish the following types of shares in the share capital: initial and new in the increased share capital, ordinary and preferred, received for contributions in kind, cash and mixed, divisible and indivisible, equal and unequal, covered by community and ordinary, own, as well as shares with assigned obligations and with assigned rights.⁴²

Shares in an LLC, unlike shares in a JSC, may have an equal and unequal nominal value; this issue is decided by the articles of association.

42 See Kidyba, 2023.

The articles of association determine whether a shareholder can have only one or more shares. If a shareholder may have more than one share, then all shares in the share capital should be equal and indivisible (Article 153, CCC), this determines the obligation to choose one of two share models of an LLC: a single-share company, in which each shareholder will be entitled to one share, which are then unequal and divisible, and therefore, the number of shares corresponds to the number of shareholders, or a multi-share company, in which the shareholders can hold many shares that are equal in value and indivisible, similar to shares in a JSC. The choice of a particular system determines the structure of membership relations in an LLC. The multi-share system is characteristic for Polish LLCs.⁴³

Pursuant to Article 180 of the CCC, the existence of a share, its part or a fractional part of the share, and its pledge should be made in writing with notarised signatures. In the case of a company whose agreement was concluded using the model agreement, the sale of shares by a shareholder is also possible using the template made available in the ICT system. Statements of the seller and the purchaser shall bear a qualified electronic signature, a trusted signature, or a personal signature.

In the context of the rigour of failure to comply with the form laid down in Article 180 § 1 of the CCC, it should be emphasised that pursuant to Article 73 § 2 CC in conjunction with Article 2 of the CCC, if the law reserves another special form for a legal transaction, the act performed without observing this form is invalid. The abovementioned list of provisions shows that the written form with notarised signatures has been reserved for the sale of shares under pain of nullity.⁴⁴ In addition to the whole share(s), a part of the share may also be the subject of disposal. This is permissible if, according to the agreement, a shareholders can have only one share. In this case, the shares in the company may have an unequal nominal value and may be divisible. As a result of the division, shares lower than 50 Polish zloty (PLN) may not be created (the nominal value of the share in an LLC might not be lower than PLN 50).

Pursuant to Article 182 § 1 of the CCC, the sale of a share, its part or fractional part of the share and pledging of the share may be made conditional on the company's consent or otherwise limited by the articles of association (e.g. make dependent on the investor's consent), while the lack of consent of the authorised entity leads to the so-called ineffectiveness of the suspended legal transaction concerning the shares. This means, in practice, that the effect in the form of an effective (having legal effects) juridical act will not take place until consent is granted. The CCC directly introduces the possibility of making the sale of shares in an LLC dependent on the company's consent, at the same time indicating the possibility of introducing other regulations in the articles of association. If this procedure is used pursuant to Article 182 § 2 of the CCC (unless the articles of association provide otherwise), consent to the sale of shares is granted by the company's management board in writing. If the management board refuses to consent to the sale of shares, the registry court may allow it if there

⁴³ See Jara, 2023.

⁴⁴ Szczurowski, 2018, pp. 25–29.

are important reasons (Article 182 § 3, sentence 2, CCC). In this case, however, the company must propose another buyer within the time limit set by the registry court.⁴⁵ Pursuant to Article 182(1) § 1 of the CCC, the offer to acquire shares in a company may not be submitted to an unspecified addressee. Under paragraph 2 of that provision, the acquisition of shares in a company may not be promoted by targeting an advertisement or other form of promotion to an unspecified addressee.⁴⁶

The compulsory buyout of shares in an LLC was introduced into the CCC by a recent amendment in the holding law regulation (the law of groups of companies), which entered into force on 13 October 2022, the provisions of this law introduce additional possibilities to request the buyout and repurchase of both shares and shares. However, they can be used only in a company participating in a group of companies. The majority power developed in Article 21(11) of the CCC is an expression of seeking a balance between the rights of the minority and the majority in the structure of a group of companies. Its equivalent is the right of repurchase described in Article 21(10) of the CCC. The right to request repurchase belongs only to the parent company (group of companies), which must additionally represent at least 90% of the share capital. In accordance with Article 200 of the CCC, the company shall not take up or acquire or take on pledge its own shares. This prohibition applies equally to the taking up or acquisition of shares or to the taking of the same on pledge by a subsidiary company or cooperative. Exceptions are acquisition under execution in satisfaction of those claims of the company which cannot be satisfied from a shareholder's other estate, acquisition for the purpose of redemption of shares, and acquisition or taking up shares in other cases provided in this act. Failing transfer of shares acquired under execution pursuant to paragraph 1 within 1 year of their acquisition, such shares shall be redeemed pursuant to provisions on initial capital reduction unless the company has set up a special reserve capital with a view to redeeming shares. Own shares shall be shown in the balance sheet under a separate item of assets.

5.2. Simple Joint-Stock Companies

In a simple JSC, shares are taken up in exchange for cash or in-kind contributions. A contribution in kind to cover shares may be any contribution having a property value, in particular the provision of work or services. The shares do not have a nominal value, do not constitute part of the share capital and are indivisible (Article 300(2),

⁴⁵ Kwaśnicki and Pietrzak, 2002, p. 18.

⁴⁶ Article 182(1) of the CCC enters into force on 10 November 2023.

CCC).⁴⁷ Until the emergence of a simple JSC, Polish company law was characterised by a model of property structure in the share rights system, built on assigning a nominal value to units of participation in a company, constituting a part of the amount of share capital. The share model of a simple JSC expresses a fundamental feature that distinguishes it from other capital companies whose share capital is divided into shares.

Shares in a simple JSC have no nominal value and are detached from its share capital in the sense that they do not constitute a fraction of it. This feature is associated with the lack of share capital. Non-denominational shares express membership rights, and the link with share capital is only constituted by the fact that contributions made to cover non-denominational shares, provided that they meet the traditional criteria of in-kind capacity, are credited to the share capital.⁴⁸ Shares need not have any connection with share capital, as they can be taken up in exchange for contributions in kind which are not intended to cover the share capital, in particular contributions in the form of work or services. However, this cannot apply to all shares of the company because of the statutory obligation to participate in the share capital (Article 300(3) § 1 and Article 300(4), item 3, CCC). Shareholders of a simple JSC may withdraw some – or practically all – of their contributions without the need to adopt a resolution to reduce the share capital, within the limits of Article 300(15) of the CCC. Funds accumulated within the share capital are taken into account in determining the balance sheet surplus and may be paid to shareholders as dividends or redemptions of shares. In this way, the company can better adapt its capital needs to the market situation and the capital can be used more efficiently.⁴⁹ The advantage of shaping the construction of a simple JSC is also the simplification of restructuring, facilitation of capitalisation,⁵⁰ and no need to reduce the share capital by reducing the nominal value as the first stage of restructuring.⁵¹

Shares of a simple JSC are transferable. However, as in the case of other capital companies, restrictions on their disposal is possible (Articles 300(39) to 300(42), CCC). The form provided for both the sale and encumbrance of shares in a simple JSC is the document form, reserved under pain of nullity. In order to maintain the documentary

47 Therefore, it seems that the category of in-kind contribution to a simple joint-stock company includes two basic types of in-kind contributions (in-kind contributions): a) in-kind contributions, taking into account Article 14 § 1 of the CCC, the contribution of which increases the amount of share capital (Article 300(3) § 1, CCC); and b) in-kind contributions in the form of an inalienable right, provision of work or services, and other contributions, which do not have the capacity to make contributions in kind in the light of Article 14 § 1 of the CCC and do not contribute to the share capital (*a contrario* Article 300(3) § 1, CCC, according to the explanatory memorandum to the bill, p. 23). Article 14(1) of the CCC provides that the subject of a contribution in kind to an LLC, a JSC, or intended for the share capital of a simple JSC may not be an inalienable right or the provision of work or services.

48 Explanatory memorandum to the bill of 19 July 2019, pp. 20 and 28.

49 Ibid., p. 22.

50 Opalski, 2018, cited by Modzelewska and Reszczyk-Król, 2023.

51 Explanatory memorandum to the bill of 19 July 2019, p. 23.

form of a juridical act, it is sufficient to submit a declaration of will in the form of a document, in a manner enabling the identification of the person making the statement (77(2) of the Civil Code in conjunction with Article 2, CCC). According to 77(3) of the Civil Code, a document is a carrier of information enabling familiarisation with its content. The mere performance of a legal transaction does not have the effect of acquiring rights from shares. This takes place when an entry is made in the register of shareholders indicating the purchaser and the number, type, series, and numbers of the acquired shares (Article 300(37), CCC).

The articles of association may make the disposal of shares subject to the consent of the company or otherwise limit it. The disposal of shares not fully paid up requires the consent of the company until the contribution is made in full. The consent of the company requires a documentary form under pain of nullity, unless the articles of association provide otherwise (Article 300(40) § 1, CCC).

Pursuant to Article 300(49) of the CCC on a request of a shareholder or shareholders representing more than half of the total number of votes, the court, for important reasons concerning a given shareholder, may order his exclusion from the company. The articles of association may limit this entitlement to a shareholder or shareholders representing a larger number of votes. The regulations in force in an LLC shall apply accordingly to such exclusion.

At the request of the shareholder himself, the court may order the resignation of the shareholder from the company if there is an important reason justified by the relationship between the shareholders or between the company and the departing shareholder, resulting in gross harm to the outgoing shareholder. Shares held by the departing shareholder are subject to redemption at a price corresponding to the fair value determined by the court on the date of service of the claim. When ruling on the resignation of a shareholder, the court also determines the date within which the buyout price should be paid to the outgoing shareholder together with interest from the date of service of the claim. The resignation of a shareholder provided for in Article 300(50) of the CCC is a new construction in Polish law, aimed at improving the situation of the so-called ‘corporate prisoner’ in capital companies. Based on the previous legal status, especially the extremely difficult situation for minority shareholders in cases of acute conflict with the majority shareholder – in a JSC, in practice, they did not have a mechanism allowing them to exit the company, while in an LLC, they could use only the *ultima ratio* in the form of an action for dissolution of the company⁵²

As a rule, in a simple JSC, it is not permissible to acquire own shares, but Article 300(47) of the CCC provides for exceptions to this prohibition; for example, a company may acquire shares for redemption, on the basis of and within the limits of the authorisation granted in the shareholders’ resolution, by way of execution to satisfy the company’s claims that cannot be satisfied from other shareholder assets, and by universal succession. Nor can a simple stock shelf include own shares.

52 See Mazgaj, 2023.

This prohibition also applies to the acquisition of shares in the parent company by a subsidiary company or cooperative. However, such a definition of shares is valid, with the proviso that a member of the management board is jointly and severally liable with the person who took up the shares for making a full contribution, unless he is not at fault. If, however, the shares of a company have been subscribed for by a person who has acted in his own name but on behalf of the company or subsidiary company or cooperative, the holder shall be deemed to be acting on his own account.

5.3. Joint-Stock Companies

In a JSC, pursuant to Article 302 of the CCC, the share capital of a JSC is divided into shares of equal nominal value. All shares in the company must, therefore, have the same nominal value. Shares of a non-public JSC exist only in a dematerialised form (Article 328 § 1, CCC). This means that the only way to manifest a shareholder's share rights is an entry in the register kept in electronic form (Article 328(1) § 1, CCC). The dematerialisation of shares in a JSC and the mechanism of their trading is part of a broader legislative trend of the legislator moving away from the traditional form of securities in the form of paper documents. The structure of the provisions concerning the dematerialisation of shares in a JSC is, to a large extent, similar to the provisions concerning a simple JSC. The regulations introduced into the CCC regarding the form of shares of a non-public JSC, as a rule, entered into force on 1 March 2021.⁵³

Pursuant to Article 351 § 1 of the CCC, a JSC may issue shares with special rights (preference shares). Those powers must, as that provision indicates, be laid down in the statutes. Therefore, we can distinguish the so-called ordinary and preferred shares in the company. Preference shares, with the exception of silent shares, should be registered. The preference of shares should be distinguished from the granting, pursuant to Article 354 of the CCC, of personal rights to an individual shareholder. There are also voice actions and silent actions. Shares, as a rule, are endowed with voting rights. However, the company's articles of association may differentiate the scope of this right by giving preference to shares by granting them two votes per share. The opposite of voting shares are so-called silent shares, that is, shares endowed with a special privilege of a financial nature at the expense of limiting their competence to exercise voting rights (Article 353 § 3, CCC).

The provisions of the CCC (Articles 362 et seq., CCC) also regulate the problem of acquiring and taking up so-called own shares.

Based on Article 334 § 1 of the CCC, we can distinguish primarily registered shares and bearer shares. A shareholder may hold only registered shares, only bearer shares, or both types of shares. In connection with the dematerialisation of shares, the distinction between registered and bearer shares, provided for in Article 334 § 1

⁵³ Act of 30 August 2019 amending the CCC and certain other acts (Journal of Laws of 2019, item 1798).

of the CCC, was maintained. However, it is emphasised in the literature that most of the regulations that differentiated them were repealed.⁵⁴

Article 337 § 1 of the CCC expresses the principle of freedom in the sale of shares. The act does not provide for any requirements regarding the form of a legal transaction the subject of which is the sale of shares in a JSC. However, the sale of shares takes place only when the entry in the register of shareholders is made.⁵⁵ Pursuant to Article 337 § 2 of the CCC, the articles of association may make the disposal of shares subject to the consent of the company or otherwise limit the disposal of registered shares. Meanwhile, the provisions of Article 338 of the CCC provide that an agreement limiting the disposal of shares or a fraction of shares for a specified period of time is permissible. A restriction on disposal may not be imposed for a period exceeding 5 years from the date of conclusion of the contract. Agreements establishing a right of pre-emption or other pre-emptive right to acquire shares or a fraction of shares are also permitted. Restrictions on disposal resulting from such agreements may not last longer than 10 years from the date of conclusion of the contract. Such an agreement remains effective *inter partes*, that is, only in the relations between its parties. Thus, in the case of disposal of shares contrary to the provisions of the concluded agreement, which falls within the provisions of Article 338 of the CCC, such a regulation remains valid and effective both between the parties to a given act disposing of shares and with respect to the company itself. The only issue that remains is possible liability for damages or, in certain cases, the possibility of seeking recognition of the contract as ineffective based on the provision of Article 59 of the Civil Code.⁵⁶

In a JSC, the buyback of shares may take place, as described in Article 416 of the CCC – that is, in the event of adopting a resolution on changing the subject of the company's activity. Pursuant to Article 416 § 4 of the CCC, the effectiveness of such a resolution depends on the purchase of shares of those shareholders who do not agree to the change. Shareholders present at the general meeting who voted against the resolution should submit a request to buy back their shares within 2 days of the date of the general meeting, but absent within 1 month of the date of announcement of the resolution. Shareholders who do not request the redemption of their shares on time shall be deemed to have agreed to the change. The CCC also allows for the so-called 'squeeze out' of shareholders, allowing majority shareholders holding a specific capital share in the company to carry out a compulsory buyout of minority shareholders' shares, as a result of which they are deprived of ownership rights to their shares and the loss of shareholder status (Article 418, CCC). As mentioned, when discussing an LLC, it is possible for the parent company of a group of companies to buy out shares held by minority shareholders of a subsidiary. Unlike the right of repurchase, the reverse compulsory buyout procedure for minority shareholders is initiated by majority shareholders who wish either to change the company's business or to buy out some

54 See Kidyba, 2023.

55 Sójka, 2020, p. 673.

56 See Bieniak and Nita-Jagielski, 2022.

of the minority shareholders. Regarding the rights of minority shareholders related to the exit from the company, the legislator has regulated them, in principle, in relation to the shareholders of a JSC. Article 418(1) of the CCC regulates the right to repurchase shares on general principles, which is vested in shareholders representing no more than 5% of the share capital throughout the period of participation in the company. This right is exercised by requesting that a resolution on the compulsory repurchase of their shares be placed on the agenda of the next general meeting.⁵⁷

Poland has transposed the financing procedure currently described in Article 64 of Directive 2017/1132.⁵⁸ Compared to the previous regulations, a completely new approach to financing the acquisition and subscription of company shares is now in force. This is primarily about increasing flexibility in terms of changes in the structure of shareholders, which allows the use of leveraged buyouts and management buyouts.⁵⁹ In the CCC, the issue of the so-called financial assistance has been regulated only in relation to a JSC. In the current legal status, the rule is the admissibility of direct or indirect financing of the acquisition or subscription of own shares by the company. The form of such financing can be diverse – the CCC mentions only the examples of granting a loan, making an advance payment, or establishing a security. The payment of dividend advances is excluded from Article 345 of the CCC, even if its objective purpose is to enable the acquisition or subscription of the company's shares.⁶⁰

6. Romania

6.1. Generalities

The type of corporate participation summarising membership rights varies depending on the legal form of the company. In LLCs, such participation takes the form of *membership shares* (*părți sociale*); in JSCs, they take the form of shares (*ațiuni*).

6.2. Limited Liability Companies

Among the members of an LLC, membership shares may be freely transferred (*inter vivos* transactions). However, transferring these membership shares to third parties outside the company is only possible with the approval of members representing at least three-quarters of the company's capital.⁶¹ Some opinions and practices suggest that, when calculating this majority, the membership shares of the member intending to transfer their participation should be excluded to avoid conflicts of interest

⁵⁷ Michalak, 2022, p. 754.

⁵⁸ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 on certain aspects of company law.

⁵⁹ Jerzmanowski, 2016, pp. 45 et seq.

⁶⁰ Jerzmanowski and Sójka, 2008, p. 11.

⁶¹ Angheni, 2013, p. 220.

between the member and the company.⁶² However, we do not support this view, as identifying conflicts of interest in such cases can be challenging, and it would be unjust to prevent, for example, a member holding 90% of the company's membership shares from transferring their participation based on such an interpretation. This issue can only be satisfactorily resolved through future legal amendments or clarifications.⁶³

In legal literature, it has been noted that a three-quarters majority effectively means unanimity in LLCs with only two or three members, as it would otherwise be impossible to form the legally required majority.⁶⁴ However, the referenced author overlooks that the majority is calculated based on company capital, not the number of members. For example, in a three-member LLC where one member holds 90% of the shares and the other two hold 5% each, the first member could, on their own, form the required three-quarters majority to sell a portion of their membership shares – provided the aforementioned contested interpretation is rejected.

Originally, the requirement for a three-quarters majority was a mandatory norm aimed at protecting the defining characteristics and unique structure of LLCs. However, Act No. 223/2020 modified this logical foundation, allowing parties to deviate from this norm in the articles of incorporation. The problem with this change is that it undermines a fundamental characteristic of LLCs, potentially allowing the issuance of freely transferable membership shares, which makes these shares functionally similar to securities (shares issued by JSCs). However, the prohibition on issuing securities in LLCs remains in place (Article 11(2) of the Romanian Companies Act), and Article 275(1)(d) of the act criminalises the securitisation of membership shares. Thus, the peculiar change introduced by Act No. 223/2020 cannot be interpreted to mean that the requirement for member approval of share transfers is entirely abolished. Increasing the required majority to unanimity is clearly lawful but reducing it should be considered permissible only if it respects the implicit anti-securitisation thresholds established by law. In other words, making membership shares fully transferable would constitute a criminal offense. Therefore, in our view, the three-quarters majority can only lawfully be reduced to a simple majority required by the hybrid nature of this company type as well.

Emergency Government Ordinance No. 54/2010 initially introduced strict procedural rules for transferring membership shares to third parties, aiming to ensure oversight in the sale of indebted companies and prevent the emergence of 'phantom' LLCs. According to these procedures, transferring membership shares to third parties could be implemented as follows. The decision was immediately transmitted electronically by the Trade Registry Office to the National Tax Administration Agency and the Public Finance Directorates of Bucharest Municipality and the counties. Creditors of the company and any other parties adversely affected by the decision could file

62 Cărpenu et al., 2006, p. 628.

63 Veress, 2010, pp. 96–105.

64 Turcu, 1998, p. 437.

an objection, requesting the competent judicial authority to order the company or the transferring member to compensate for damages or establish the transferring member's civil liability. This provision is controversial, as it introduced the concept of piercing the corporate veil without adequately regulating the conditions for such liability. The transfer of membership shares became effective in the absence of objections once the objection period expired or, if objections were raised, upon notification of a court decision rejecting the objections. The updated articles of incorporation, reflecting the new membership structure, had to be registered with the Trade Registry.⁶⁵ This entire procedure was finally repealed by Act No. 223/2020.⁶⁶

The law also addresses the scenario in which a member passes away. If the articles of incorporation contain no contrary provisions, membership shares are transferred via inheritance (*mortis causa* transfer). Alternatively, the articles of incorporation may require approval by a three-quarters majority of the general meeting for such a transfer. If the articles stipulate that membership shares cannot be transferred *mortis causa*, or if the required qualified majority cannot be achieved, the company is obligated to pay the heirs the value of the membership shares based on the last approved financial statements. In cases in which the number of heirs would exceed the statutory maximum number of members (50), the heirs must designate a subset of members that complies with the legal limit.

The transfer of membership shares must be registered with both the Trade Registry and the company's membership register. The transfer becomes opposable against third parties only upon its registration in the Trade Registry.

Under the latest regulations, it is possible to establish a pledge over membership shares. While enforcing such a pledge is straightforward in single-member LLCs, complications may arise in multi-member LLCs where a minority member has pledged their membership shares. For instance, no regulation currently exists for cases in which members representing three-quarters of the company's capital disagree with the enforcement of the pledge. If the legislator were to explicitly permit enforcement for creditor protection, it would challenge the personal nature of LLCs. In our view,

65 Gheorghe, 2020, pp. 338–339.

66 A version of this procedure seems however to be reintroduced in 2026. The new approach has in focus the opposability to the central tax authority of the transfer of shares in a limited liability company that ensures control, within the meaning of Article 25(4) of Law No. 207/2015 on the Tax Procedure Code. The transfer is effective towards the tax authority only if, within 15 days, the transferor, transferee or the company notifies the authority of the share transfer and submits the updated articles of association. Where the company has outstanding tax obligations or other budgetary claims evidenced in enforceable titles, the company or the transferee must constitute guarantees covering the amounts indicated in a tax clearance certificate, and proof of the tax authority's agreement regarding these guarantees must be presented upon registration of the transfer in the trade register. By derogation from the general rule, the tax clearance certificate may also be requested by the transferor or, as the case may be, by the transferee. The trade register verifies compliance with these conditions, requesting the tax certificate from the National Agency for Fiscal Administration, while guarantees are released when the debts are extinguished or, failing payment within 60 days from registration of the transfer, are enforced by the tax authority.

pledges over membership shares in multi-member LLCs should have limited enforceability. Either an existing member must be the buyer (as the law provides them with this right), or the acquisition of shares by a third party through enforcement must still be approved by a three-quarters qualified majority, as previously discussed.

6.3. Joint-Stock Companies

In JSCs, the company's capital is represented by a specific number of registered shares with a defined nominal value, issued by the company. A share is the standardised unit by which a JSC's capital is divided⁶⁷ and, rather than conferring co-ownership of assets, it represents a continuing membership relationship between the shareholder and the company. Within that relationship, the shareholder owes only any unpaid subscription and enjoys organisational rights (vote, information, and participation) and patrimonial rights (dividends when declared, liquidation surplus, and pre-emptive entitlements where applicable), while the company must observe equal treatment and corporate-law formalities. In private-law terms, the share is an incorporeal movable that aggregates these organisational and financial incidents into a single legal position. It is also a negotiable security designed for transfer, by endorsement and delivery for certificated form or by registration for dematerialised form, with opposability to the issuer upon inscription in the relevant register. Although sometimes analogised to a credit instrument, any monetary claims it yields are contingent on valid corporate acts and outcomes, underscoring the hybrid, membership-based nature of the shareholder's position.⁶⁸

The court of appeal has rightly held that, in a JSC – a capital company – the decisive element is the proportion of capital contributed, the identity of the shareholders being immaterial; their liability is limited to the value of the shares, which are negotiable and transferable securities. Consequently, unlike partnerships, in which the corporate directly reflects the partners' will and their participation in decisions expresses the *affectio societatis*, in capital companies, shareholder participation is indirect: the right is attached to the shares, not to the person who holds them.⁶⁹

Shares can be classified based on several criteria:⁷⁰

- a) *By transferability*: Shares were historically either registered (nominative) or bearer shares. However, Act no. 129 of 2019, aimed at preventing and combating money laundering and terrorist financing, abolished the category of bearer shares in Romania as of July 21, 2019.

Registered shares identify the owner, whereas bearer shares did not; in the last case, ownership rights were exercised by whoever held the physical share certificate at the time. Bearer shares represented the most natural and freely transferable category of shares. Their anonymity and unrestricted

67 David, 2014, pp. 307–308.

68 Angheni, 2013, pp. 145–146.

69 High Court of Cassation and Justice, Commercial Section, Decision No. 4175 of 30 November 2010.

70 Veress, 2024b, pp. 90–92.

transferability, without formal requirements, were historically consistent with the logic of corporate law. However, the abolition of bearer shares was driven by factors external to corporate law, particularly in response to European and international efforts to combat financial crimes. Most European states, like Romania, have phased out bearer shares for these reasons. It is worth noting that the European directive on preventing the use of financial systems for money laundering or terrorist financing (Directive 2015/849/EU) did not require member states to eliminate bearer shares from their national legal systems. Instead, it mandated measures to prevent the abuse of bearer shares (Article 10). Nevertheless, states retaining bearer shares were classified as higher-risk jurisdictions, prompting Romania to join through the adoption of Act no. 129 of 2019.

The nature of shares had to be established in the articles of incorporation. In the absence of such provisions, shares were deemed registered by default under supplementary provisions of the law. Shares that had not been fully paid for were always registered.

Registered shares could be converted into bearer shares and vice versa through a resolution of the extraordinary general meeting of shareholders (the rules for majorities required in such meetings will be discussed later). However, following the enactment of Act No. 129 of 2019, it became prohibited to issue bearer shares or transfer existing bearer shares. All previously issued bearer shares had to be converted into registered shares, and the updated articles of incorporation had to be submitted to the Trade Registry. Holders of bearer shares were required to submit their shares to the company within 18 months of the law's effective date.⁷¹ After the 18-month deadline, the company's management was obliged to record the details of the shareholders in the company's shareholder register and the share certificates. Failure to comply with the conversion requirements is subject to severe penalties, including the dissolution of the JSC (or the specific and vehicle of limited partnership by shares, which is not used in practice). Bearer shares not submitted within the specified period automatically became void by operation of law, and the company's capital is reduced accordingly.

Corporate capital cannot be increased, and new shares cannot be issued until all shares from the previous issuance have been fully paid.

Shares are indivisible. If a share becomes the joint property of multiple individuals, the company is not obligated to register the transfer until these individuals designate a single representative to exercise the rights associated with the share. Until such a designation is made, and as long as the share remains the indivisible joint property of multiple persons, they bear joint and several liability for the payment of any amounts owed.

71 Gheorghe, 2020, pp. 358–359.

- b) *By form*: Shares can exist in either material or dematerialised form.⁷² Shares may be issued in material form, on paper (physically printed), or in dematerialised form, recorded in a shareholder registry and share account.

Before the abolition of bearer shares, they were always issued in material form, while shares issued in dematerialised form could only be registered (nominative). Shares representing multiple units could also be issued in material form, known as consolidated shares. If a company issues dematerialised shares, it is required to issue shareholder certificates either automatically or at the request of shareholders.

- c) *By the rights they confer*: Shares can be categorised as ordinary or preference shares.⁷³ All shares must have equal nominal value and generally provide their holders with equal rights. However, under the terms of the articles of incorporation, specific categories of shares can be issued that grant their holders different rights. These are known as preference shares or priority shares. Preference shares typically do not grant voting rights in the general meeting (a disadvantage), but they provide priority in dividend distribution. Dividends are paid first on preference shares from the distributable profit of the financial year, before any other allocations (an advantage).

Before Law No. 441 of 2006 was adopted, preference shares did not grant any participation rights in the general meeting. The law now ensures that holders of preference shares have the right to participate. However, the value of non-voting preference shares with preferential dividends cannot exceed one-quarter of the company's capital, and their nominal value must be equal to that of ordinary shares. Members of the company's management, including executives, directors, members of the board, supervisory committee, and auditors, are prohibited from owning non-voting preference shares with preferential dividends. Preference shares and ordinary shares can be converted into one another through a resolution of the extraordinary general meeting of shareholders.

- d) *By voting rights*: Shares can be classified as granting regular voting rights or restricted voting rights. Generally, each fully paid share entitles its holder to one vote in the general meeting, unless otherwise specified in the articles of incorporation. The articles may limit the number of votes for shareholders who own more than one share. Voting rights are also suspended for shareholders who are in arrears with their due payments.

As stated above, Romanian corporate law explicitly defines non-voting preference shares with priority rights to dividends as a distinct class of preference shares. However, it does not explicitly regulate shares with enhanced voting rights, such as multiple voting shares or veto rights. While these are not expressly named in the law, their issuance is not prohibited. In fact, the

⁷² David, 2014, p. 312.

⁷³ Angheni, 2013, p. 149; Gheorghe, 2020, pp. 360–361.

possibility of issuing multiple voting shares can be inferred from Article 101(1) of the Romanian Companies Act, which states that each fully paid share entitles the holder to one vote, unless otherwise specified in the articles of incorporation. This implies that the articles of incorporation can allow shares to carry multiple voting rights, enabling a shareholder to hold votes exceeding the nominal value of their shares. Similarly, the articles may limit the number of votes for shareholders owning more than one share.

The ability to issue multiple voting shares is further supported by specific exceptions in sectoral legislation. For example, the 2006 Government Emergency Ordinance No. 99, regulating credit institutions and capital adequacy, explicitly prohibits deviations from the “one share–one vote” principle in the banking sector. This prohibition reinforces the interpretation that such deviations are generally allowed in other sectors unless specifically restricted by law. If multiple voting rights were entirely prohibited under Romanian corporate law, this express prohibition for the banking sector would be redundant. The rationale for multiple voting shares lies in their ability to benefit founding or stable shareholders by allowing them to exert greater influence in general meetings.⁷⁴ This mechanism ensures that their preferences are more effectively represented in company decisions. Importantly, the law does not set a maximum limit for enhanced voting rights, leaving this to the discretion of the articles of incorporation.

Veto shares, although not regulated under Romanian corporate law, have occasionally been referenced in legal literature. These shares, sometimes called ‘golden shares’ or shares with special control rights, grant their holders the ability to block certain decisions. Golden shares were commonly used during privatisation to allow the state to retain control over strategic companies, even after selling the majority stake. These shares provide special rights related to the company’s structural changes or significant transactions, regardless of the capital they represent.

There is some debate regarding the validity of veto shares. One view holds that such rights require explicit legal authorisation, as seen in legislation like the 1997 Government Emergency Ordinance No. 88 on privatisation. Another perspective argues that shareholder autonomy and contractual freedom should allow for the issuance of such shares if agreed upon in the articles of incorporation or at the founding general meeting.⁷⁵ Given the discretionary nature of the law, companies are not precluded from introducing unregulated share classes, including shares with veto rights, through their articles of incorporation.

- e) *By market participation*: Shares may be categorised as listed or unlisted, depending on whether they are traded on the stock exchange.

74 Georgescu, 1948, pp. 339–340.

75 Schiau and Prescure, 2009, p. 274.

The nominal value of a share cannot be less than 0.1 Romanian leu, and shares cannot be issued at a value below their nominal value.⁷⁶ The nominal value of shares represents the baseline commitment of shareholders to contribute to the company's capital. Allowing shares to be issued below their nominal value could result in an inflated perception of the company's financial health, potentially misleading creditors about the actual amount of secured capital. However, issuing shares above their nominal value is permitted.⁷⁷

The content of shares must include the following information:⁷⁸

- a) the name of the company and its duration (specified or unspecified);
- b) the date of the articles of incorporation, unified registration number, and issue of the Official Gazette, Part IV, in which the establishment of the company was published;
- c) the company's capital, the total number of shares, their serial numbers, nominal value, and payment status; and
- d) any benefits granted to the founders.

Additionally, shares must indicate the following:

- a) for individual shareholders: their full name and residence; and
- b) for legal entity shareholders: their name, headquarters, and registration number.

Shares must be signed by either two members of the board or, in the case of a sole administrator, by that administrator. If there are multiple administrators, the signatures of two administrators are required.

Ownership of material shares can be transferred by a declaration signed by the assignor and the assignee (or their authorised representatives) in the issuer's share register, accompanied by an annotation on the share certificate itself. If there is no space left on the share certificate, the annotation is recorded on an attachment. For dematerialised shares, ownership is transferred by an entry in the issuer's share register, signed by the assignor and assignee. The articles of incorporation may also specify alternative methods for transferring share ownership.

Share subscribers and subsequent transferees are jointly and severally liable for payment obligations related to the shares for 3 years from the date of transfer entry in the share register.

Bearer shares, abolished in 2019, were transferred through simple delivery (transfer of possession). The holder of the share at any given time was entitled to the rights arising from it. Bearer shares were exclusively issued in material form and did not identify the shareholder or specify the rights holder.

⁷⁶ David, 2014, pp. 313–315.

⁷⁷ Issuing shares above nominal value can generate surplus funds (referred to as a share premium), which the company can use for growth or operational needs without increasing its nominal capital.

⁷⁸ Angheni, 2013, pp. 149–150.

Shares can be pledged as movable collateral. This requires a private document specifying the debt amount, the value, and the category of the pledged shares. For material shares, the fact of their use as collateral must also be annotated on the share certificate, signed by both the creditor and the shareholder debtor (or their authorised representatives). The pledge must be recorded in the share register maintained by the executive officers, or the independent share registry company. A certificate confirming the registration is issued to the creditor in whose favour the pledge was created.

The pledge becomes enforceable against third parties upon its registration in the National Registry of Movable Collateral (*Registrul Național de Publicitate Mobiliară*). The registration date also determines the priority of the guarantee.

In Romania, a JSC is allowed to acquire its own shares, either directly or through a person acting in their own name but on behalf of the company, under the following conditions:

- a) the acquisition of its own shares must be authorised by the extraordinary general meeting of shareholders, which will establish the terms of acquisition, specifically the maximum number of shares to be acquired, the duration of the authorisation (not exceeding 18 months from the registration date in the Trade Registry), and, in the case of acquisition for consideration, the minimum and maximum value of the shares;
- b) the nominal value of the shares acquired by the company, including those already held in its portfolio, must not exceed 10% of the subscribed share capital;
- c) the transaction may only involve fully paid shares; and
- d) payment for the acquired shares may be made only from distributable profits or available reserves of the company as stated in the latest approved annual financial statements, excluding legal reserves.

If the shares are acquired to be distributed to employees of the company, such shares must be distributed within 12 months of the acquisition date.

These restrictions do not apply if the shares are acquired for the purpose of reducing the share capital and are intended to be cancelled. Similarly, the restrictions do not apply to shares acquired as a result of a universal transfer (e.g. through a merger). Exceptions also include fully paid shares acquired pursuant to a court decision in enforcement proceedings against a shareholder who is a debtor of the company, and fully paid shares acquired gratuitously. If the nominal value of the company's shares acquired, either directly or through a person acting in their own name but on behalf of the company, including those already held in its portfolio, exceeds 10% of the subscribed share capital, the shares exceeding this percentage must be disposed of within 3 years of acquisition.

Shares acquired in violation of the law must be disposed of within 1 year of acquisition. If the shares are not disposed of within the prescribed period, they must be cancelled, and the company is required to reduce its subscribed share capital accordingly.

Shares held by the company do not grant dividend rights during the period they are held. Additionally, the voting rights associated with such shares are suspended while they are owned by the company. If the shares are recorded as an asset in the balance sheet, an equal reserve must be recorded as a liability in the balance sheet, and this reserve cannot be distributed.

The board of directors must include in the report accompanying the annual financial statements the following information regarding the acquisition or disposal of its own shares by the company:

- a) the reasons for acquisitions made during the financial year;
- b) the number and nominal value of shares acquired and disposed of during the financial year and the percentage of the subscribed share capital they represent;
- c) in the case of acquisition or disposal for consideration, the value of the shares; and
- d) the total number and nominal value of all shares acquired and held by the company and the percentage of the subscribed share capital they represent.

Under Romanian law, as a general rule, a JSC cannot provide advances, loans, or guarantees for the subscription or acquisition of its own shares by a third party. This prohibition does not apply to transactions carried out in the ordinary course of business by credit institutions and other financial institutions, nor to transactions aimed at the acquisition of shares by or for the employees of the company, provided that these transactions do not reduce the net assets below the cumulative value of the subscribed share capital and the reserves that cannot be distributed under the law or the company's articles of association.

The establishment of security interests on the company's own shares, either directly or through a person acting in their own name but on behalf of the company, is considered an acquisition. These restrictions do not apply to the ordinary operations of banks and other financial institutions.

The subscription, acquisition, or holding of shares of a JSC by another entity in which the company holds, directly or indirectly, the majority of voting rights or whose decisions can be significantly influenced by the company, is considered as having been carried out by the JSC itself. These rules also apply when the intermediary company through which the subscription, acquisition, or holding is carried out is governed by the law of another state.

7. Serbia

7.1. Limited Liability Companies

The LLC share is a part of the shareholder's personal assets, which entitles her to certain membership rights acquired in exchange for her contribution to the company's legal capital. In Serbian legal scholarship, the share is also understood as a set of rights and obligations of a shareholder (e.g. under certain conditions, shareholders may owe the duty of loyalty to a company).⁷⁹

Serbian law adopts the principle of "one share–one shareholder".⁸⁰ The nominal value of the share, in principle, corresponds to the value of members' contributions. However, this is only a default rule because the articles of association may specify the different treatment of shareholders' contributions.⁸¹ This is another important instance that confirms the prevalence of the freedom of contract principle in Serbian law on private companies. A share may belong to multiple persons (share co-owners). In this case, to make the functioning of the company more efficient, the Act on Obligations (CA) requires co-owners to designate a proxy, whose identity should be made known to the company. If co-owners do not fulfil this obligation, the voting rights attached to the share will be suspended until the determination of a proxy.⁸²

The CA specifies the minimum content of shareholders' rights: I) the voting right in the general meeting, II) the right to a share in the company profit, and III) the right to a share in the liquidation surplus.⁸³ These rights are, as a default rule, proportionate to one's share in the company's legal capital. However, under the freedom of contract principle, different proportions may be set down in the articles of association. This raises the question of the permitted level of differentiation in proportion. Serbian literature for a while has recognised the French concept of *clause leonine*.⁸⁴ The clauses that substantially deprive one party of her rights in relation to the governance rights or profit sharing are deemed forbidden.⁸⁵ However, it is for case law to determine the relevance of *clause leonine*, if any, as well as the permitted level in decreasing or increasing shareholders' rights compared to their respective contributions.

Serbian law recognises only registered shares. Personal or business names of the shareholders are the mandatory element of the articles of association, which are publicly available in the national business register. In addition to this requirement, certain basic data about the company's shareholders (e.g. national number, passport number for foreigners, or tax number for legal persons) are subject to specific registration requirements under Article 9a of the CA.

79 Jovanović, Radović, and Radović, 2021, p. 379.

80 Article 151, Section 1, CA.

81 Article 151, Section 2, CA.

82 Article 153, Section 6, CA.

83 Article 152, Section 1, CA.

84 Mićović, 2016, p. 30.

85 Vasiljević, 2012, p. 213.

Because of the exclusive existence of registered shares in Serbian law, shares are immaterial, that is, they do not present paper certificates. The owner of the share in Serbian company law is a natural or legal person registered as such in the national business register. The registration of share ownership in the national register has a constitutive effect, meaning that the status of the shareholder is to be acquired only on the day of registration of share ownership.⁸⁶ The same principle applies in a case of transfer of share. The acquirer of the share becomes the shareholder only after her ownership was registered. For example, the new owner of the share cannot participate in the general meeting before her ownership becomes registered. Serbian business practice recognises one exception from a constitutive effect of the registration of share ownership. This exception applies in the case of acquiring the share ownership based on an inheritance certificate.⁸⁷ In addition to the national register, the CA requires company directors to keep updated internal company's share register. This internal register contains data on the company's shareholders (essentially their postal or email addresses).⁸⁸ Although the law prescribes directors' duty to keep the register updated and potential liability for not complying with this duty, the internal share register does not have any consequences for the legal status of share ownership. The purpose of the internal register is rather to facilitate smooth communication between a company and its shareholders, and to enable company management to know the identity of the shareholders.

The private character of LLCs determines the nature of shares. The CA clarifies that shares are not securities. A company's share may not be acquired, nor may it be disposed of by forwarding a public offer in terms of the law regulating the capital market.⁸⁹ However, this does not mean that an LLC cannot have the status of a public company in terms of capital market law. Shares themselves cannot be publicly traded, but an LLC may issue other financial instruments (e.g. bonds), subject to requirements prescribed in the Serbian capital market law.⁹⁰ However, LLCs rarely use this option owing to the underdevelopment of domestic capital markets. In this regard, two issues are worth mentioning: one has already become part of the law, while the other one is not even in the pipeline, even though it has slowly been integrated into academic and business discussions. First, the CA recognises a specific sort of own shares, called reserved own shares, as well as the specific financial instrument related to them – the right to acquire the share.⁹¹ The rationale for the specific sort of own shares and the new financial instrument is primarily to awarding employees or other persons with particular roles in the business operation the share ownership. This change has been welcomed by the business community, although its practical consequences remain to unfold, as these legal norms have been applied for a relatively short time (since 2020).

86 Article 143, Section 1, CA.

87 BRA website.

88 Article 144, Section 1, CA.

89 Article 150, Section 2, CA.

90 Jovanović, Radović, and Radović, 2021, p. 367.

91 Article 159a, CA.

Second, after Serbia adopted the law on digital assets, the business community has become especially interested in the possibility of the tokenisation of shares. There is no doubt that this possibility is not allowed under current company law. However, Serbia's desire to be at the forefront of the digital assets field opens the possibility of law amendments that would enable private companies to conduct initial coin offerings and trade with LLC shares in the crypto markets.

The CA attaches the same membership right to all LLC shares; there are no specific classes of shares. As mentioned above, the only exception to this rule concerns own shares, which are subject to a specific legal regime. This legal regime is discussed hereafter.

Regarding the transfer of share, there are two separate issues to be discussed: I) potential limitations of the transfer; and II) the method of transfer, that is, the formalities required to conduct the transfer.

The Serbian legislator bases default rules on the transfer of LLC shares on the overarching assumption that LLCs are formed by a small group of shareholders, whose personal relations are important for the business operation and the overall corporate success. The CA's default rules make a distinction between two situations: transfer to the other shareholders (internal transfer), and transfer to any other third party, including family members (external transfer). The former is unrestricted, while the latter is subject to other shareholders' pre-emptive rights (right of first refusal). Some remarks about these rules are inevitable. First, these are only default rules, meaning that shareholders are allowed to adjust them by the articles of association. These adjustments may further limit transferability of shares and alleviate statutory default limitations. The CA itself contains several default rules that may serve as options for further limitations of the transfer (the company's approval of external transfer or the company's right to determine an acquirer of the share). The possible mitigations usually entail free transfer notwithstanding the status of a person acquiring the share. It is noteworthy that Serbian default rules on pre-emptive rights refer only to transfers made for consideration. Therefore, any benevolent share transfer is not covered by the statutory default provisions on pre-emptive rights. This leaves room for potential abuses from fictitious gift agreements.⁹²

Regarding the manner of the transfer of a share, the CA requires the mandatory written form of the agreement on share transfer.⁹³ In addition to this requirement, the signature of the contracting parties must be authorised by the public notary. Upon fulfilment of these conditions, the transfer becomes effective after its registration, that is, after the BRA registers the acquirer of the share as its new owner.

The CA generally allows LLCs to repurchase a share or part of a share of a shareholder.⁹⁴ Repurchase of own shares is subject to the following conditions: I) the general meeting must authorise such repurchase in the form of a specific resolution,

⁹² Jovanović Radović and Radović, 2021, p. 385.

⁹³ Article 175, Section 1, CA.

⁹⁴ Article 157, Section 2(4), CA.

II) the repurchased share must be fully paid up, and III) compensation may be paid exclusively out of the specific reserves that serve these purposes (in effect, the reserves may be created only if a company is profitable).⁹⁵

Voting and profit rights are not attached to own shares. These shares do not count in the quorum at the general meeting.⁹⁶

Regarding the disposal, the CA recognises three possible options: I) benevolent transfer to the shareholders in proportion to their share ownership in the company's legal capital, II) selling the own shares to a shareholders or third party whereas the shareholders keep their pre-emptive rights, and III) cancellation of own shares and concomitant capital reduction if neither of the first two options was employed within 3 years of the acquisition of own shares.⁹⁷

Although Serbian scholars proposed more modern rules on self-financing more than a decade ago,⁹⁸ the CA still contains a blanket prohibition against it. It forbids financial support of any kind, direct or indirect. Furthermore, it specifies the most common instances of financial support that are subject to prohibition, such as granting loans, guarantees, and sureties. A legal transaction that is contrary to this provision is null and void.⁹⁹

7.2. Joint-Stock Companies

The main principles determining the legal regime of shares in JSCs include the principle of indivisibility of shares, the one share-one vote rule, and the prohibition of real non-par value shares. Only the last prohibition is addressed in this section, as it does not strictly arise from the letter of the law.

The CA differentiates between the par value, accounting value, book value, and market value of the shares. The difference between the first two deserves special attention. The par value of a share is the value determined as such by a resolution on the issue of shares.¹⁰⁰ The accounting value exists only when shares do not have a par value, that is, face value. In that case, the accounting value is determined as a value obtained after the entire accounting value of the legal capital is divided by the overall number of shares issued.¹⁰¹ Strictly speaking, according to the CA, a company may issue shares with or without par value.¹⁰² If the company issues shares with par value, all shares of the same class shall have the same par value, and if it issues shares without par value, all company's shares shall be without par value.¹⁰³ However, even shares without par value must have accounting value. In effect, the accounting value

95 Article 157, CA; Marjanski, 2020, p. 219.

96 Article 158, CA.

97 Article 159, CA.

98 Radović, 2007, p. 210.

99 Article 154, CA.

100 Article 258, Section 1, CA.

101 Jovanović, Radović and Radović, 2021, p. 432.

102 Article 250, Section 4, CA.

103 Article 250, Section 5, CA.

is the same as the par value.¹⁰⁴ Thus, even shares without par value in Serbia are not to be considered real non-par value shares, according to its common understanding in European legal scholarship.¹⁰⁵

The shares may have multiple claimants for various reasons (inheritance, status change of a company, specific contractual arrangements, etc.).¹⁰⁶ As in the case of LLCs, share co-owners are obliged to notify the company on the appointment of a proxy, and inscribe him in the Central Registry. The voting rights attached to the co-owned shares are not effective before the appointment of the proxy.¹⁰⁷

The shares of JSCs in Serbia have been dematerialised, electronic financial instruments for more than two decades now (since 2002). It follows that they are created and held on special securities accounts with the Central Registry, the Depository, and the Clearing of Securities (hereafter, the Central Registry). The legal status of a shareholder belongs to a person who is entered in the Central Registry as a legal holder of a share, and the day of entering the Central Registry is the day of acquiring the share.¹⁰⁸

There are two main types of shares: common shares and preferred shares. The difference between the two exists concerns the rights attached to each type of share. Common shares give their owner classic voting and profit rights. While preferred shares generally do not entail voting rights, except in certain specific situations to be discussed below, they do entail some of the preferred rights to be determined in the company's statute. Such rights may encompass priority for payment of dividends (i.e. a preset cash amount or percentage of its par value which is paid in priority to holders of common shares), the right to participate in a dividend belonging to holders of common shares, and the right to convert such shares into common shares or other class of preferred shares.¹⁰⁹

The CA adopts the well-known principle of protecting owners of preferred shares against changes to the specific rights attached to their shares. The owners of preferred shares are entitled to one vote per share within their class of shares at any general meeting on the issues affecting (directly or indirectly) the rights attached to the class. The difficult question for any legislator is to define what exactly constitutes a change to class rights thereby triggering the preferred shareholders' right to vote on the proposed change. The Serbian legislator in Article 255 of the CA exhaustively enumerates the situations to be considered as a change to class rights. Although the CA does not explicitly entitle preferred shareholders to vote on the introduction of any new class of shares, it confers on them voting right in situations that are most likely to affect their rights (e.g. the introduction of new classes of shares carrying larger rights than are the rights carried by the shares of that class, or change of rights carried by

104 Jovanović Radović, and Radović, 2021, p. 432.

105 Ibid.

106 Article 256, Section 1, CA.

107 Article 256, Section 8, CA.

108 Article 249, Section 1, CA.

109 Article 253, CA.

another class of shares so that they carry equal or larger rights in relation to the rights carried by the shares of that class).¹¹⁰

The CA also regulates partly paid-up shares, that is, the common shares based on which the shareholder has not fully performed his obligation to pay up contribution to the company. The rights of the owner of partly paid-up shares are limited. He may only exercise rights in proportion to the paid-up contribution unless the articles of association provide otherwise.¹¹¹

Finally, as a matter of comparison with other legal systems, Serbian law neither allows priority shares (shares that have special decision-making powers, either veto powers or powers to decide things without the cooperation of other shareholders), nor multiple-voting shares¹¹² and loyalty shares.¹¹³

In a more general vein, it should be underlined that Serbian law allows the transfer of shares, as well as the transfer of specific rights attached to the shares except for voting rights.¹¹⁴ Furthermore, as regards the free transferability of shares, the difference is being made between public and private JSCs. Transfer of shares and rights attached to shares of a public JSC may not be restricted.¹¹⁵ In private companies, shares are freely transferable, unless the company's statute restricts the transfer of shares with the pre-emptive purchase right of other shareholders, or with prior approval of the company.¹¹⁶

The manner of share transfer for private JSCs is identical to that for LLCs.¹¹⁷ The transfer of shares in public JSCs, needless to say, is substantially different owing to the different legal nature of shares that are publicly traded. This transfer is regulated by the specific provisions of capital market law.

The rules on repurchasing shares in Serbian company law are inspired by the relevant provisions of the Directive (EU) 2017/1132 (Articles 59–63). A JSC may repurchase its shares from the shareholders under four conditions: I) the authorisation of the general meeting (in a form of a resolution) upon which the board of directors or executive board implements the general meeting's resolution; II) appreciation of the rules on distributions, that is, the balance sheet test (already discussed above) applicable to any distribution to a shareholder; III) repurchased shares must be entirely paid up; and iv) own shares must not overcome the limit of 10% of the legal capital (applicable only to public JSCs).¹¹⁸ The resolution on the repurchase of own shares (including other possible ways of acquiring of own shares) may be brought without prior general meeting's authorisation in two cases: I) where the acquisition

110 Article 255, Section 1, CA.

111 Article 252, Section 2, CA.

112 See Lepetić, 2018, pp. 1195–1215.

113 See Lepetić, 2019.

114 Article 261, Section 4, CA.

115 Article 261, Section 6, CA.

116 Article 261, Section 5, CA.

117 Article 261, Section 2, CA.

118 Article 282, Section 2, CA.

of a company's own shares is necessary to prevent serious and imminent harm to the company; and II) for the purpose of distribution to employees of the company or of an affiliated company, or as a reward to the members of the board of directors.¹¹⁹ Regarding the concrete procedure for the repurchase, the board of directors, or the executive board, must follow two principles: the principle of shareholders' equal treatment, and the principle of proportionality.¹²⁰ The former principle obliges the relevant board to make an offer for buyback to all shareholders of the class of shares in question.¹²¹ The latter relates to the situation in which the shareholders' offers exceed the number of shares the company wants to repurchase. In this case, the company shall purchase from each shareholder a proportionate number of shares that the shareholder offers to sell, while when calculating this proportionate number of shares only the whole number of shares will be taken into account.¹²²

Once the company finalises the repurchase, the own shares do not entail any voting or profit rights. As a general rule, there is no statutory time limit for disposal of own shares. The general meeting is supposed to specify the conditions for the disposal in its resolution that authorise the buyback of the shares.¹²³ The board of directors or executive board must dispose of the own shares based on said conditions. The CA prescribes the obligation to dispose of own shares only when they were acquired in violation of the relevant statutory rules. Under those circumstances, the company must sell or cancel the own shares not later than 1 year from the day when they were acquired (3 years if the violation of the rules consists of exceeding the 10% statutory limit).¹²⁴ In the process of selling of the own shares, the present shareholders have the pre-emptive right to purchase them.¹²⁵

The provision on the prohibition of self-financing analysed in the context of LLCs applies *mutatis mutandis* to JSCs.¹²⁶

8. Slovenia

8.1. Legal Regime of Shares

8.1.1. Limited liability companies

Business shares are based on how much each shareholder has contributed to the share capital. When a business share is acquired, it represents a unified share. An individual shareholder may have only one business share at the time of incorporation but

119 Article 282, Section 4, CA.

120 Jovanović Radović and Radović, 2021, p. 476.

121 Article 285, Section 1, CA.

122 Article 285, Section 4, CA.

123 Article 288, Section 1, CA.

124 Article 287, Section 1, CA.

125 Article 288, Section 2, CA.

126 Article 279, CA.

may subsequently acquire several business shares which retain their independence. Business shares are also divisible, but only in the case of transfer or inheritance and in the division of the matrimonial property of spouses, and division may also be prohibited by the articles of association (Article 483(4), Companies Act; ZGD-1). The value of each business share after division, which takes the form of an independent share, may not be less than 50 euro (EUR) (Article 483(2), ZGD-1).

One business share can belong to multiple individuals (common share). In this case, they exercise rights and share responsibilities related to the share collectively (Article 480, ZGD-1).

Business shares are tied to each individual partner and serve as the basis for assessing the relationship between the company and the shareholder, as well as between shareholders themselves. They serve as an identification mark for the partner and determine the extent of their rights.¹²⁷

Regarding internal relations, contractual freedom applies. If the shareholders do not regulate internal relations, certain default rules apply. A shareholder is not the owner of the LLC but rather holds a bundle of rights to the company derived from their share capital. The partners can agree to distribute their shares differently than their contributions (disproportionate to the contributions).¹²⁸

The fundamental obligation of shareholders in an LLC is to provide funds for the establishment of the company in proportion to their capital contributions (Article 477(1), ZGD-1). If a partner fails to timely pay the required amount as a capital contribution, they must pay default interest (Article 485, ZGD-1). If a shareholder who is in default with the payment of the capital contribution or its part fails to fulfil their payment obligation even after a written notice and a minimum 1-month deadline, their business share, including any partial payments already made, transfers in full to the company (Article 486, ZGD-1). Even after default, the shareholder remains liable for the unpaid amount. If the excluded shareholder cannot be held responsible for the unpaid capital contributions, the responsibility for payment falls on their legal predecessors. Their liability is based on the fact that they sold their business shares before they were fully paid. If neither the legal predecessors nor the sale of the share covers the unpaid capital contribution, other shareholders must make the payment proportionally to the size of their shares (Article 489, ZGD-1). The provisions governing the exclusion of a shareholder due to non-payment and the obligation of the shareholder's legal predecessors are mandatory, meaning the company cannot exempt the partner from these obligations through a resolution or the articles of association (Article 490, ZGD-1).

8.1.2. Joint-stock companies

Shares are the fundamental identifying element of a JSC, as it is a company whose share capital (equity capital) is divided into shares. Although the ZGD-1 does not

¹²⁷ Ivanjko, Kocbek, and Prelič, 2009, p. 888.

¹²⁸ Ibid., p. 915.

provide a definition of a share, it is clear that a JSC cannot exist without shares, and conversely, shares cannot exist in a company that is not organised as a JSC.¹²⁹

In addition to the basic definition of a share as an aliquot part of the equity capital of a JSC (Article 168(1), ZGD-1), a share can also be understood as a document and as the content of membership rights in the company.¹³⁰ Furthermore, a share represents a form of equity financing for companies.

In addition to the Companies Act, shares are also regulated by other acts, such as:

- a) the ZTFI-1 (the Market in Financial Instruments Act),
- b) the Obligations Code (OZ),¹³¹ and
- d) the Book-Entry Securities Act (ZNVP-1).¹³²

A share represents the entirety of corporate rights belonging to its holder (shareholder) in relation to a company organised as a JSC. The corporate rights contained in a share are allowed to be incorporated into a security.¹³³ The JSC is also obligated to issue dematerialised shares (Article 182, ZGD-1).

As previously mentioned, shares in a JSC can be in the form of shares with a nominal value or no-par value shares, but the company cannot have both forms of shares simultaneously. Shares with a nominal value must be denominated at least 1 EUR or multiple thereof, and their share in the share capital is determined by the ratio between their nominal value and the amount of the share capital (Article 172(1, 2), ZGD-1).

No-par value shares, meanwhile, are not denominated with a nominal value. Each no-par value share has an equal share and corresponding amount in the share capital. The amount in the share capital attributable to each no-par value share must not be lower than 1 EUR, and the share of each no-par value share in the share capital is determined by the number of issued no-par value shares (Article 172(3), ZGD-1). A share must not be issued for an amount lower than its nominal value in the case of shares with a nominal value, or lower than the corresponding amount in the case of no-par value shares, but it can be issued for a higher amount (Article 173, ZGD-1).

The main obligation of shareholders is to pay the issue price of subscribed shares to the company's account or to provide it with non-cash contributions (Article 222, ZGD-1). This indicates that shares can be paid for either in cash or with non-cash contributions, with at least one-third of the share capital consisting of shares paid in cash (Article 191(2), ZGD-1). At least 25% of the minimum issue price of each share which is paid for in money shall be paid in before entering a public limited company in the register. For shares that were partly covered by non-cash contributions, the

¹²⁹ Ibid., p. 475.

¹³⁰ Ibid.

¹³¹ *Obligacijski zakonik* (Official Journal of the Republic of Slovenia No. 97/07, 64/16, 20/18).

¹³² *Zakon o nematerializiranih vrednostnih papirjih* (Official Journal of the Republic of Slovenia No. 75/15, 74/16, 5/17, 15/18, 43/19).

¹³³ Ivanjko, Kocbek and Prelič, 2009, p. 488.

part which is not covered by payment with a non-cash contribution shall be paid for in money before the company is entered in the register (Article 191(3), ZGD-1).

The obligation to pay for a share arises with a call from the management, and the management must call all shareholders in the same percentage and under the same conditions, so as to maintain the shareholders' position as it was at the time of establishment of the company. In case of late payment, shareholders are required to pay default interest, and the articles of association may also stipulate a contractual penalty (Article 223(2, 3), ZGD-1). The consequence of late payment may also be the exclusion of the shareholder, which is carried out by revoking the shares. An excluded shareholder loses all rights and is also liable for any resulting damages. Exclusion is applicable only to registered shareholders, as bearer shares must be fully paid before issuance, and this applies only to cash payments. The management conducts the exclusion procedure, which can only be carried out because of non-payment of the contribution.¹³⁴ If the excluded shareholder cannot be held liable for the payment of unpaid shares, the liability for the requested amount rests with their legal predecessors (Article 225, ZGD-1).

8.2. Nature and Classes of Shares

Shares of JSCs can be classified according to various criteria, either based on their content or purely formal criteria. According to the formal criterion, shares can be classified as registered shares and bearer shares. In principle, shares shall be made out to the bearer or by name (registered shares), but they must be registered if they are issued prior to the full payment of the share capital, and the partial payment amount must be indicated on the share certificate (Article 175(2), ZGD-1). Interim share certificates¹³⁵ must also be registered (Article 175(3), ZGD-1).

Because of the obligation to issue shares in dematerialised form, registered and bearer shares no longer differ in terms of transfer, as both types of shares are transferred through the instruction of the holder and subsequent transfer on the account with the Central Securities Clearing Corporation (*Klirinško depotna družba*; KDD) (Article 17, ZNVP-1).

Rights and obligations in relation to the company arise from the shares for the person registered as the holder of these shares in the central register maintained by KDD. In the case of registered shares, shareholders are entered into the share register, which is maintained by KDD on behalf of and for the account of the issuer, and KDD must allow each shareholder to inspect the share register upon request (Article 235(1, 2), ZGD-1). The same applies to interim share certificates (Article 235(4), ZGD-1). For bearer shares, shareholders prove their ownership with a certificate issued by KDD or its member (Article 235(2), ZGD-1).

¹³⁴ Ibid., p. 482.

¹³⁵ Interim certificates are certificates of participation which are delivered to shareholders before the shares are issued (Article 172(6), ZGD-1).

All data entered in the register of registered securities, which is maintained by KDD on behalf of and for the account of the company, are public, except for the taxpayer identification number and the unique identification number of a natural person (personal identification number, *EMŠO*) (Article 39(5), ZNVP-1).

Shares of individual classes, whether registered or bearer, can be converted into another type if provided for in the articles of association. Conversion is carried out at the shareholder's request, and a bearer share can be converted into a registered share or a registered share into a bearer share (Article 184, ZGD-1).

In addition to the formal criterion, shares are also divided based on their content, namely, the rights arising from different types of shares. In terms of content, shares are divided into ordinary shares (German: *Stammaktien*) and preference shares (German: *Vorzugsaktien*).¹³⁶ Shares with the same rights constitute one class (Article 177, ZGD-1).

Ordinary shares grant their holders the following rights (Article 176(2), ZGD-1):

- a) the right to participate in the management of the company;
- b) the right to a share of the profit (dividend); and
- c) the right to a proportionate share of the remaining assets upon liquidation or bankruptcy of the company.

Preference shares provide their holders with certain additional rights in addition to the rights granted by ordinary shares, such as (Article 176(3), ZGD-1):

- a) priority in the payment of predetermined amounts or percentages of the nominal value of shares or profits;
- b) priority in the payment upon liquidation of the company and other rights determined by the articles of association; and
- c) other rights determined by the articles of association.

Two types of preference shares are explicitly defined in Article 176(4, 5) of the ZGD-1: cumulative preference shares and participating preference shares.

Cumulative preference shares, according to the resolution on share issuance, give their holder the priority right to receive all unpaid dividends before any dividends are paid to the holders of ordinary shares in accordance with the profit distribution resolution (Article 176(4), ZGD-1).

Participating preference shares, in addition to the preference dividend, give the holder the right to receive dividends that belong to the holders of ordinary shares in accordance with the profit distribution resolution (Article 176(5), ZGD-1). In practice, it is possible to combine both forms of preference shares, so a share can be both cumulative preference and participating, or only participating without cumulative preference.¹³⁷

¹³⁶ Ivanjko, Kocbek and Prelič, 2009, p. 498.

¹³⁷ Ibid., p. 499.

A JSC can have any number of different classes of shares. In addition to the options listed in the law (priority in payment of predetermined amounts or percentages of the nominal value of shares or from profits, priority in liquidation), other rights provided for in the company's articles of association can also be designated as preferences.¹³⁸

Article 176(6) of the ZGD-1 prohibits the division of rights from shares, meaning that individual rights derived from shares cannot be transferred independently. Therefore, transferring only the voting right from a share while retaining the right to participate in profits is prohibited.

Furthermore, shares that would give a different number of votes for an equal share in the share capital are explicitly prohibited (Article 178(3), ZGD-1).

In accordance with Article 178(1) of the ZGD-1, each share carries voting rights, whereby only preference shares may be issued without voting rights, but the company may not have more than half of such shares in its share capital (Article 178(2), ZGD-1). Issuing shares that would give a different number of votes for an equal share in the share capital is also prohibited (Article 178(3), ZGD-1). Preference shares without voting rights provide all the rights that a shareholder has from a share, except for the voting right. However, if the pre-emption amount is not paid within 1 year or is not paid in full, and the outstanding amount is not paid in the following year, preference shareholders shall have the right to vote until the outstanding amount has been paid. In this case, preference shares shall be taken into account in calculating the majority of the capital required by an act or the articles of association (Article 315, ZGD-1).

Preference shareholders must consent to the issuance of those preference shares that have priority over preference shares without voting rights or are equal to them in the distribution of profits or company assets. No consent is necessary if the shares were issued with the guarantee of preference or if the voting right was subsequently excluded, expressly reserved on exclusion and if the registered right of preference shareholders is not excluded (Article 316(2), ZGD-1). The consent is decided by the preference shareholders at a separate meeting with an extraordinary resolution. The validity of this resolution requires a majority of at least three-quarters of the votes cast by the shareholders, and the articles of association cannot stipulate a different majority nor other requirements. If the preference is cancelled, shares without voting rights will provide voting rights thereafter. This also applies if the shareholders consent to the cancellation of such preference.¹³⁹

Additionally, the ZGD-1 does not recognise ordinary shares without voting rights. However, Article 317 of the ZGD-1 allows for the issuance of such shares by a special act.

138 Bohinc, 2008, p. 218.

139 Ivanjko, Kocbek and Prelič, 2009, p. 501

8.3. *Transfer of Shares*

8.3.1. *Limited liability companies*

The law specifically regulates the transfer of business shares, and in principle, all business shares are transferable in legal transactions and can be inherited (Article 481(1), ZGD-1). The transfer of a business share is possible through any legal basis that transfers the right to the asset. A contract is required for the transfer of a share, which must be executed in the form of a notarial deed. Before drafting the notarial deed for the transfer of a business share, the notary verifies whether there are grounds for restriction on the acquirer of the business share. If the notary determines that there are grounds for restriction as mentioned in the previous sentence, the drafting of the notarial deed must be declined (Article 481(3), ZGD-1).

The articles of association may stipulate that the consent of the majority of or all the shareholders is required for the transfer of a business share to persons who are not shareholders, and it may determine the conditions for granting consent (Article 481(3), ZGD-1).

By law, shareholders have a pre-emptive right in connection with the sale of a business share, but this right can be excluded or limited to specific shareholders by the articles of association. A shareholder intending to sell their business share must inform other shareholders in writing about the intended sale and the conditions of the sale, and invite them to express their willingness to purchase within 1 month of receiving the notice (Article 481(5), ZGD-1). If multiple shareholders are willing to purchase the business share, the purchasers together become the holders of the sold share (Article 481(6), ZGD-1). The pre-emptive right can be exercised only in the case of a sale and not in the case of a gratuitous transfer.¹⁴⁰

A portion of a business share can also be transferred, resulting in the creation of a new separate business share, the value of which must be at least 50 EUR (Article 483, ZGD-1).

The transfer of a business share changes the shareholders, but the change in shareholders does not imply a change in the articles of association.¹⁴¹ If none of the shareholders is willing to purchase the business share, and the shareholders have not given consent for the sale of the business share to a non-shareholder, a shareholder may withdraw from the company (Article 481(8), ZGD-1).

Only the person registered in the register is considered the acquirer of the business share (Article 482(1), ZGD-1). The transferor and the acquirer are jointly liable to the company for obligations that arose before the registration of the transfer of the business share (Article 482(3), ZGD-1).

¹⁴⁰ Ibid., p. 889.

¹⁴¹ Ibid., p. 888.

8.3.2. Joint-stock companies

Because of the obligation to issue shares in dematerialised form, both types of shares in a JSC are transferred through an instruction from the holder for transfer and, based on that, through a book-entry transfer to an account at the KDD. Shares are generally freely transferable, but the articles of association can restrict the transferability of registered shares by requiring the company's permission, which is decided by the company's management. The articles of association can also stipulate that the approval for the transfer of shares is decided by the supervisory board or the general meeting of the company (Article 236(2), ZGD-1). Registered shares, whose transfer is subject to the company's approval, are called restricted shares (German: *vinkulierte Aktien*).¹⁴²

The ZGD-1 distinguishes between restricted shares that are traded on an organised securities market and restricted shares that are not traded on an organised securities market. When registered shares are not traded on a regulated market and the articles of association provide that the company's permission is required to transfer these shares, the articles of association shall give well-founded reasons as to why the company may refuse to give its permission for their transfer. The well-founded reasons shall be reasons which, when taking into account the company's share ownership structure, justify the refusal to permit the transfer of shares in cases in which such transfer could jeopardise achievement of the company's goals or its economic independence (Article 237(1, 2), ZGD-1).

When the legal basis for the acquisition of shares is inheritance, the division of matrimonial property or a sale carried out in a compulsory enforcement procedure, the company may refuse to give permission to the transfer of shares only if it offers to acquire these shares from the acquirer at their market value (Article 237(4), ZGD-1).

Until the company grants a permission to transfer shares not traded on a regulated market, the acquirer of these shares shall not have any rights deriving from these shares in relation to the company (Article 238(1), ZGD-1). However, in the case of acquisition through inheritance, community property of spouses, or sales carried out in enforcement proceedings, the acquirer obtains property rights from the shares upon their acquisition, but managerial rights are granted only based on the company's permission for the transfer of shares. The company must decide on the permission within 3 months of receiving the request from the acquirer; otherwise, it is deemed that the permission has been granted (Article 238(3), ZGD-1).

The possibilities for restricting the transfer of shares traded on an organised securities market are even more limited. The fact that shares are restricted does not prevent their trading on an organised securities market. However, such restrictions must not hinder or significantly impede such trading. Therefore, the ZGD-1 restrictively regulates the possibility of restrictions and establishes the procedure for granting permission for transfer by the company, as well as sanctions in case permission

142 Ibid., p. 495.

for transfer is not granted.¹⁴³ In these cases too, the articles of association must specify the reason for refusing permission, but the reason can only be the circumstance that the acquirer, together with the shares they already hold, would exceed a certain percentage of voting rights or capital in the company. This means that shareholders with restricted shares can trade them freely, and the restriction applies only to the upper limit of the permissible acquisition of shares or voting rights.¹⁴⁴

Similar to the case of shares which are not traded on an organised securities market, there are specific provisions for acquiring shares through inheritance, the division of matrimonial property, or a sale carried out in a compulsory enforcement procedure. The difference is that in these cases, the company cannot refuse permission for transfer, even if it would otherwise be willing to buy back those shares (Article 239(3), ZGD-1).

In relation to the effects of transferring shares traded on an organised securities market, the acquirer of such shares immediately acquires property rights from the shares upon acquisition, regardless of whether the company grants permission for the transfer or not. However, the acquirer cannot exercise voting rights or other rights associated with voting until the company issues permission for the transfer. Nevertheless, the acquirer can exercise all other rights deriving from these shares, including pre-emption right to subscribe for new shares (Article 240, ZGD-1).

The company must decide on the permission for the transfer within 20 days of receiving the acquirer's request for the issuance of permission for the transfer of shares. If the company fails to make a decision within this period, it is deemed that the permission has been granted (Article 240(4), ZGD-1). If the company refuses the acquirer's request in contravention of the provisions of the ZGD-1, the acquirer's request in contravention of the provisions of this Act, the acquirer shall acquire the voting rights deriving from the shares on the date when the court ruling instructing the company to grant its permission for the transfer of shares becomes final. Additionally, the company is liable to the acquirer for damages incurred as a result of the unfounded refusal to grant permission to transfer shares (Article 240(5), ZGD-1).

8.4. Repurchase of Shares

8.4.1. Limited liability companies

An LLC, as a legal entity, can also become the holder of its own business shares. However, Article 500 ZGD-1 restricts the acquisition and ownership of own business shares to protect creditors, as such shares may enable shareholders to covertly refund the company's share capital.¹⁴⁵ The company can repurchase its own business shares only if they are fully paid and reserves for its own business shares are established (Article 500(2), ZGD-1). Payments made in violation of this provision are considered

143 Ibid., p. 496.

144 Ibid., pp. 496–497.

145 Ibid., p. 891.

prohibited payments and must be returned in accordance with the obligation to repay prohibited payments (Article 500(3), ZGD-1). The company cannot acquire all its own business shares and become its own owner (Article 500(4), ZGD-1). The Slovenian regulation generally prohibits the acquisition of own business shares for consideration, and this also applies, by analogy, to the acceptance of own shares as collateral (Article 500(1), ZGD-1).

Furthermore, Article 64(5) of the ZGD-1, which regulates reserves, stipulates that a company that has acquired its own shares during the business year must establish reserves for own shares in the balance sheet for that business year in the amount of the payments made to acquire those own shares. Reserves for own shares must be released, and can only be released if the own shares have been disposed of or withdrawn (Article 64(6), ZGD-1). It should be emphasised that the company cannot exercise rights from its own shares (Article 506(4), ZGD-1).

8.4.2. Joint-stock companies

In addition to the prohibition on issuing own shares at the establishment of a JSC, the ZGD-1 also establishes a prohibition on acquiring own shares. While the prohibition on issuing own shares (original acquisition) under Article 229 of the ZGD-1 is absolute, the prohibition on (derivative) acquisition of own shares is relative, as the law provides eight exceptional cases in which a JSC is allowed to acquire its own shares under Article 247(2) of the ZGD-1. However, regardless of the permitted exceptions, a JSC has no rights arising from its own shares (Article 249, ZGD-1).

Therefore, a JSC may acquire its own shares only in the following exceptional cases:

- a) *If the acquisition is necessary to prevent serious, immediate damage*
Such necessary acquisition includes, for example, the acquisition of shares from a shareholder who is a debtor of the company, from whom the company can only recover its claim in this way.¹⁴⁶ Such acquisition of shares is permissible only if the shares are fully paid, meaning that the minimum or higher issue price has been paid for them (Article 247(2), ZGD-1). If the company purchases its own shares for this reason, the management must report on the reasons and purpose of the acquisition, the total number of shares, the minimum issue price, and the proportion and value of the acquired shares at the next general meeting (Article 247(3), ZGD-1).

- b) *If the shares are to be offered for repurchase to the company's employees or a related company*

The acquisition of its own shares by a JSC is also permissible if it involves the acquisition of shares by the company for the benefit of its employees. The process proceeds in such a way that the company repurchases its own shares and later offers them for repurchase to the employees. The company must

146 Ibid., p. 529.

offer the acquired own shares for repurchase to the employees within 1 year of the acquisition (Article 247(3), ZGD-1).

- c) *If the shares are acquired to provide compensation to shareholders under the ZGD-1*
The company may acquire its own shares to provide adequate consideration to shareholders, as enabled by Articles 553 and 556 of the ZGD-1. Control agreements and profit transfer agreements concluded between related companies must contain a specific provision on appropriate compensation for external shareholders of the company to which management is left or to which profits are transferred.

In fact, the management contract and the profit transfer agreement concluded by related companies must contain a specific provision on the appropriate compensation to be paid to the external shareholders of the company to which management is left or to which profits are transferred. As consideration, the agreement may provide for the provision of shares of the parent company or of the company of which the parent company is a subsidiary, or for a cash payment (Article 553(2), ZGD-1).

- d) *If the acquisition is gratuitous*
An exception to the prohibition on the acquisition of own shares is the gratuitous acquisition of own shares. This includes gifts or simple transfer of shares to the company, as long as the company does not pay any consideration for the shares. Such acquisition of shares is permissible only if the shares are fully paid, meaning that the minimum or higher issuance amount has been paid for them (Article 247(2), ZGD-1).

- e) *If a bank, insurance company, or other financial organisation acquires shares from a purchase committee*

This option for the acquisition of own shares is provided only for banks, insurance companies, and other financial organisations that are JSCs and purchase their own shares on behalf of and for the account of their clients. Such an acquisition of shares is permissible only if the shares are fully paid, meaning that the minimum or higher issue price has been paid for them (Article 247(2), ZGD-1).

If the company acquires its own shares through a purchase committee, the total number of shares acquired in this way is not limited to 10%, as is the case with the exceptions listed in the first to third and eighth exceptions in order. Furthermore, for such acquisition, there is no requirement to establish reserves for own shares,¹⁴⁷ which applies only to the first to third and eighth exceptions in order.

147 Article 247(2) of the ZGD-1 in conjunction with Article 64(5) of the ZGD-1 require the creation of reserves for treasury shares to ensure that the share capital is not reduced as a result of the acquisition of own shares.

f) *If it is by way of universal legal succession*

Based on universal legal succession a JSC may acquire its own shares based on universal legal succession. This includes cases of mergers, divisions, transformations, and inheritance based on a will.¹⁴⁸

g) *If it is based on a resolution of the general meeting for the withdrawal of shares in accordance with the provisions on the reduction of share capital*

The company can exceptionally acquire its own shares based on a resolution of the general meeting on the withdrawal of shares, following the procedure prescribed for the reduction of share capital through the withdrawal of shares.

h) *Subject to authorisation by the general meeting for the purchase of own shares*

The acquisition of treasury shares is also permitted for a JSC based on the authorisation of the general meeting for the acquisition of treasury shares, which is valid for a maximum of 36 months and determines the minimum and maximum purchase price for acquiring shares, as well as the number of shares that can be acquired. In this regard, the company may not acquire its own shares solely for trading purposes.¹⁴⁹

It is important to observe the principle of equal treatment of shareholders from Article 221 of the ZGD-1¹⁵⁰ and the provisions of the ZTFI-1. If the purpose of acquiring treasury shares is to realise stock options, the resolution must also specify all essential elements of the option plan, with the scope of permissible acquisition limited to 10% of the total number of shares or 10% of the company's share capital in the case of shares with a nominal value. When disposing of own shares, the provisions of Article 337 of the ZGD-1, which govern the pre-emption right of existing shareholders to subscribe to new shares, and Article 344 of the ZGD-1, which regulates the majority required to adopt a resolution of the general meeting, shall apply by *mutatis mutandis*. The general meeting may also authorise the management to withdraw company's own shares without further resolution on reducing the share capital.¹⁵¹

If the company has acquired its own shares in contravention of the permitted exceptions under Article 247 of the ZGD-1, it must dispose of those shares within 1 year of the acquisition thereof (Article 250(1), ZGD-1). However, if the JSC has acquired its own shares in accordance with the permitted exceptions under Article 247 of the ZGD-1, but the total share of the acquired shares and the shares already held exceeds 10% of the share capital, the company must dispose of the portion of shares that exceeds this percentage within 3 years of their acquisition (Article 250(2), ZGD-1).

148 Ivanjko, Kocbek and Prelič, 2009, p. 533.

149 Ibid., p. 534.

150 The acquisition or disposal of treasury shares is presumed to be in accordance with the principle of equal treatment of shareholders laid down in Article 221 of the ZGD-1, if it is affected based on a transaction concluded on an organised market. A different disposal of treasury shares can only be determined by a resolution of the general meeting (Article 247(1), ZGD-1).

151 Ivanjko, Kocbek and Prelič, 2009, p. 534.

If the treasury shares have not been divested within these specified time limits, the company must withdraw them (Article 250(3), ZGD-1).

In connection with the acquisition of its own shares, the restrictions on acquiring treasury shares through third parties are also important. In other words, a person who conducts transactions in their own name but on behalf of the company may only acquire or hold company shares if it would be permitted to the company in accordance with the first through sixth and eighth exceptions in the order stated above (all exceptions except for the acquisition of own shares based on a resolution of the general meeting on the withdrawal of shares pursuant to provisions on reducing the share capital). This also applies if the company's subsidiary or a company in which the company holds a majority stake acquires or holds shares from the company, or if a third party who conducts transactions in their own name but on behalf of a subsidiary or a company in which the company holds a majority stake acquires or holds shares. In this regard, it should be emphasised that when calculating the maximum permissible total share of shares amounting to 10%, these shares are taken into account as shares of the company. The third party or company must sell the shares to the company upon its request (Article 251, ZGD-1).

8.5. Financial Assistance for the Purchase of Shares

The ZGD-1 contains regulations that attempt to prevent the principle of prohibition of acquiring own shares from being circumvented through legal transactions that would have the same effect for the company as if it had acquired its own shares. Thus, there is a sanction of absolute invalidity – nullity for the legal transaction by which the company secures an advance payment or a loan for the acquisition of shares or any other transaction with comparable effect. Therefore, financial assistance by the company in the acquisition of its own shares is prohibited (Article 248(1), ZGD-1).

Transactions with a “comparable effect” to the provision of a loan are also considered fictitious transactions and, therefore, prohibited. These include transactions involving collateral or offering guarantees to lenders (pledges and sureties).¹⁵² However, the prohibition does not apply in two cases: current legal transactions of financial organisations, or transactions through which employees of the company or related companies would acquire shares. Such a legal transaction is void if the company could not establish its own share fund without reducing the share capital or without using a fund prescribed by law or the articles of association that cannot be used for payment to shareholders (Article 248(2), ZGD-1).

Similarly, a legal transaction between the company and another person, by which the other person would be entitled to acquire shares of the company on behalf of the company, a subsidiary, or a company in which the company holds a majority stake, is void if the company were to acquire shares in violation of the law through fictitious transactions (Article 248(3), ZGD-1). Therefore, the prohibition on acquiring shares of the company also applies to a subsidiary and a company in its majority ownership.

152 Ibid., p. 539.

Consequently, the company cannot purchase shares of its parent company without considering the conditions under which the parent company itself could acquire its own shares. Additionally, for the purpose of obtaining approval from the Securities Market Agency (Agencija za trg vrednostnih papirjev) for a takeover offer, the acquirer must demonstrate that:

- a) he has not in any way, directly or indirectly, pledged or undertaken to pledge or hypothecate securities of the offeree company not owned by the acquirer in payment for the securities to which the takeover bid relates; and
- b) he has not in any way, directly or indirectly, pledged or undertaken to pledge or hypothecate the assets of the target company in consideration of the securities of the target company (Article 32(2) ZPre-1).

9. Slovakia

9.1. *Limited Liability Companies*

9.1.1. *Business shares*

The participation of a shareholder in an LLC is expressed as a business share (*obchodný podiel*). Pursuant to Section 114 of the Slovak Commercial Code (CC), a business share represents rights and duties and the corresponding participation of the shareholder in the LLC. In general, the share is determined as a ratio between the shareholder's pledged contribution to the company and the company's registered share capital. A different approach to determining the share may be stipulated in the articles of association. The Slovak law regulating LLCs is based on the prohibition of one shareholder holding multiple shares in the same LLC. Thus, each shareholder may have only one business share in the company.¹⁵³ If a shareholder makes additional contribution (e.g. in the event of an increase of the share capital) or acquires additional share from another shareholder, his own share is increased by the amount of such additional contribution or acquired shares are amalgamated into one. The limitation to holding only one share in an LLC leads to several practical shortcomings. It is possible for several persons to acquire or inherit a share, however, such persons may exercise their rights attached to the business share only through a joint representative,¹⁵⁴ who is often one of the co-shareholders.

9.1.2. *Transfer of shares*

The Slovak law on LLCs provides for different requirements for share transfers among the shareholders and transfers to persons outside the company. While the transfer of a share to another shareholder is allowed with the consent of the general meeting, the

153 Section 114(2), CC.

154 Section 114(3), CC.

transfer of a share to persons outside the company (*externea*) is prohibited by default. The transfer of a business share to a person other than another shareholder must be expressly provided for in the articles of association (otherwise the transfer is not possible) and may be subject to the approval of the general meeting.¹⁵⁵ Therefore, the CC distinguishes between these types of transfers and determines the consequences of dissent. The share transfer shall not be effective prior to its approval by the general meeting.¹⁵⁶

If a business share transfer is subject to consent granted by the general meeting, the simple majority of the votes of all present shareholders is sufficient to adopt such a decision in the general meeting under Section 125(1)(k) of the Slovak CC, unless the articles of association provide for a higher number of votes required to pass the decision. Consent to the transfer may be requested before or after a share transfer agreement is signed. The transfer of a *part of a share* always requires the consent of the general meeting to be obtained for the share split,¹⁵⁷ irrespective of whether the acquirer of the split share is another shareholder or a person outside the company.¹⁵⁸

Although the only restriction the law provides with respect to an LLC is the consent of the general meeting, other restrictions may be stipulated in the articles of association. The articles of association may further specify the approval requirements, personal requirements for the selection of new shareholders, time requirements, or other terms and conditions for the acquisition of a share. The articles of association may further stipulate the terms of transfers in the form of information obligations of the transferring shareholder with respect to other shareholders or the company, or as an obligation set for the acquirer to accede to the shareholders' agreement.¹⁵⁹

Effective from 1 January 2018, transfers of shares to other shareholders or a person outside the company are also excluded where the company holds a special status,¹⁶⁰ that is, when (I) proceedings to dissolve the company are pending; (II) the company has been dissolved by the decision of a business register court or an insolvency court; or (III) the company is subject to the effects of a passed insolvency order or is granted restructuring.¹⁶¹ The abovementioned rules are aimed at eliminating abusive practices in transferring shares during critical phases of a company's operation. These prohibitions exclusively apply to LLCs and no other corporate form. Furthermore, a share in an LLC may not be transferred or acquired by a person held as an obligor in the register of authorised applications for enforcement.¹⁶² This prohibition applies to both the transferor and the acquirer.

155 Mrázová, 2022a, p. 31.

156 Section 115(5), CC.

157 Section 117(1), CC.

158 Mrázová, 2022a, p. 34.

159 Mrázová, 2022b, p. 58.

160 Section 115(3), CC.

161 Mrázová, 2022a, p. 35.

162 Section 115(6), CC.

The transfer of a share is also affected by the prohibition of so-called cascade shareholding when a unipersonal LLC cannot form or be a sole shareholder of another LLC. The rule is applicable to foreign LLCs. Additionally, a single person may be a sole shareholder of no more than three LLCs.¹⁶³ These restrictions do not apply to JSCs or simple JSCs.

The question of whether the spouse's consent is required for the transfer of a share has been the subject of an intensive debate. Despite the number of opposing theoretical and jurisprudential opinions, the position has been established that the value of a share is part of the joint ownership of the spouses, provided that one of the spouses acquired it during the marriage.¹⁶⁴ Some authors hold the opinion that the consent of the other spouse is always necessary for the transfer of a share; thus, in the absence of this consent, there is a risk of invoking the invalidity of the transfer by the neglected spouse. This also applies in the case of the acquisition of a share, although the other spouse does not become a shareholder.¹⁶⁵ However, according to a recent decision of the Supreme Court, if a spouse is the acquirer of a share, the consent of the other spouse is not required for such an act.¹⁶⁶

A share transfer agreement needs to be in writing, and the signatures of the contracting parties must be authorised. The purchase agreement must clearly specify the share to be transferred, and if the consideration is agreed, must stipulate the amount of the consideration or the method of its determination.¹⁶⁷ The acquirer, who is not a shareholder of the target company must declare in the agreement his will to adhere to the articles of association.

9.1.3 Acquisition of own shares by a company

In general, to protect the legitimate interests of third parties, an LLC cannot contractually acquire its own shares. The prohibition to acquire own shares by the LLC is stipulated in Section 120(1, 2) of the Slovak CC. The reason for this prohibition is primarily the principle of creating a minimum level of equity capital and its maintenance. The acquisition of own shares by the company is only admissible in strictly defined cases and only temporarily.¹⁶⁸ A share is transferred to the company in the event a shareholder is expelled by the general meeting because of failure to fulfil their obligation to repay a contribution or when the shareholder's participation in the company is terminated by a court. If the company acquires its own shares, it cannot exercise shareholders' rights. The company is entitled to transfer the business share of an expelled shareholder to any other shareholder or a person outside the company. The share is also transferred to the company in the event of bankruptcy

163 Section 105a(1), CC.

164 The Supreme Court of the Slovak Republic No. 8 Cdo 196/2018, 28 January 2020.

165 Ovečková et al., 2022, pp. 1065–1066.

166 The Supreme Court of the Slovak Republic No. 4 Cdo/316/2020, 26 January 2023.

167 The Supreme Court of the Slovak Republic No. 2 Obo 102/2001.

168 Mrázová, 2022a, p. 34.

of the shareholder, the execution of their property, or because of the prohibition on inheriting the share, in which case the company acquires the share.

Slovak company law does not provide for rules on prohibition of financial assistance for LLCs.

9.2. Joint-Stock Companies

9.2.1. Nature of shares

Each share with a certain nominal value represents a fraction of the share capital of a JSC. A share, as a security, represents the shareholder's rights, which a shareholder acquires in the company. Each share constitutes an independent right of membership. The general regulation of securities is provided in a separate Act No. 566/2001 Coll. on securities and investment services (*Zákon o cenných papieroch a investičných službách*). The shares of a JSC may be issued only as par value shares with a minimal nominal value of at least 1 EUR. Slovak corporate law does not allow the issuance of no-par value shares by JSCs or for an amount below their par value. However, it is possible that shares are issued for a higher amount than their par value.

Shares may be issued either as bearer shares (*akcie na doručiteľa*) or as registered shares (*akcie na meno*).¹⁶⁹ Registered shares may be issued as paper shares or book-entry shares. Different forms of shares are characterised by different records of shareholders, methods of transfer, and possible restrictions on their transferability.¹⁷⁰ Book-entry shares are recorded by the Central Securities Depository of the Slovak Republic. If the JSC issues registered shares, it is obliged to keep a register of shareholders (*zoznam akcionárov*) with the following information: the identification number of the share, class, and nominal value of shares; the name, address, and birth certificate number of the shareholder who is a natural person; and the business name, registration office, and identification number if the shareholder is a legal entity.¹⁷¹

The registered shares may be owned by two or more persons. If several shares are acquired by one person, the company may issue a bulk share (*hromadná akcia*) as a substitution for more shares of the same class having the same nominal value.¹⁷²

9.2.2. Classes of shares

A Slovak JSC may issue only ordinary shares (*kmeňové akcie*) with no special rights attached to it, or priority shares (*prioritné akcie*) with preference rights to the payment of dividends. The issuance of preference shares must be specified in the company's articles of association. The sum of the nominal value of priority shares cannot exceed half of the registered share capital. In general, each share grants a voting right at the general meeting, but the issuance of priority shares with no voting rights at the

¹⁶⁹ Section 156(1), CC.

¹⁷⁰ Mrázová, 2021, p. 400.

¹⁷¹ Section 156(6), CC.

¹⁷² Section 157(3), CC.

general meeting may be provided by the articles of association.¹⁷³ However, holders of priority shares are entitled to vote at the general meeting when decisions on priority payments for distribution of profits occur. Different treatment of the holders of preference shares compared to the holders of ordinary shares does not, in principle, violate the principle set out in Section 176b (2) of the CC, according to which the company must treat all shareholders equally under the same conditions. Issuing other classes of shares by a JSC is expressly prohibited.¹⁷⁴

A special subtype of JSC with variable share capital (internationally recognised as *Société d'investissement à capital variable*; SICAV) may issue shares with a buyback right against the company. A JSC with variable capital is, under the Collective Investment Act, considered an investment fund and an open investment entity with legal personality, which allows for continuous and flexible entry and exit of financial investors into the company. It differs from the “classic” JSC primarily because of the variability of the share capital and the shareholders’ (investors’) right to have their shares repurchased by the company. In this case, the share capital is divided into a certain number of no-par value shares, which are not tied to a fixed amount of share capital but represent a share in the company’s equity. The issuance of other classes of shares by this type of JSC is expressly prohibited.¹⁷⁵

9.2.3. *Transfer of shares*

Shares of the JSC are freely transferable. In contrast to the legal regulation of LLCs, the private autonomy to limit the transferability of shares is narrowed for JSCs. The transferability of the registered shares may be restricted by the articles of association unless they are accepted for trading on the regulated securities market. The transferability of registered shares cannot be excluded.¹⁷⁶

The requirements for the share transfer are set forth in Act No. 566/2001 Coll. on securities and investment services. In the case of a transfer of shares for consideration, the sale and purchase agreement must contain the determination of the class of shares, the number of shares to be transferred, the purchase price, and the ISIN number of the shares to be transferred, if assigned. The transfer of registered paper shares is carried out based on a unilateral declaration of the transferor recorded in writing on the back of the share certificate (endorsement). The share certificate must be handed over to the acquirer. The acquirer of the registered shares must be entered in the company’s shareholders’ list, as only those persons entered in this register are considered shareholders vis-à-vis the company.¹⁷⁷ If a new shareholder is not entered in the company’s list of shareholders, he cannot exercise his shareholder rights. This includes no possibility of casting votes at the general meeting or bringing action against resolutions of the general meeting prior to his entry into the shareholder’s

173 Section 159(3), CC.

174 Section 155(6), CC.

175 Šuleková, 2017, p. 997.

176 Section 156(9), CC.

177 Section 156(7), CC; Žitňanská, 2022, p. 144.

list.¹⁷⁸ If the company breaches its duty to update the list of shareholders, it may be liable for the damage caused to the shareholder who transferred the shares as well as the acquirer of the shares.

For an efficient transfer of book-entry shares, registration of the share transfer by the central depository is required. Materially identical transfer orders shall be submitted by the transferor and the transferee, otherwise, the registration may not be carried out.

For the case in which the transfer of registered shares is subject to the approval of the company, the articles of association must stipulate the grounds on which the company may refuse to give its approval and the time period within which the company must either accept or dismiss a shareholder's request and notify the concerned shareholder of the decision. The time period could be determined by the reference to the next corporate body meeting.¹⁷⁹ Unless otherwise stated in the articles of association, consent to the share transfer is granted by the board of directors. Consent for the transfer of shares is deemed to be granted if the board of directors or other corporate body, if stipulated so by the articles of association, does not decide within the time period specified in the articles of association. A refusal to grant consent renders the transfer of shares invalid. As a result of the refusal to grant consent, the concerned shareholder acquires the right to have its shares purchased by the company at a reasonable price. For the determination of the amount of the reasonable price for shares, the legal regulation for the calculation of reasonable monetary compensation in the case of national mergers of companies applies.¹⁸⁰ Because the legal provisions do not distinguish between refusal to grant consent in accordance or in contradiction with the requirements stipulated in the company's articles of association, a shareholder has the right to have its shares bought back by the company, even if the board of directors refused to grant consent in accordance with the conditions stated in the articles of association.¹⁸¹

The articles of association may also stipulate other restrictions for the transferability of registered shares; however, the restrictions on transferability must not be so stringent as to render the transfer of shares practically impossible.

In general, the JSC company may not acquire its own shares, which make up its own share capital. The company is entitled to do so only when special conditions are met. First, the acquisition of its own shares by the company is subject to the approval of the general meeting, which also defines the terms of the proposed acquisition, such as the maximum admissible number of shares, the time period by which the company must acquire the shares, and the lowest and highest price, at which the shares may be acquired.¹⁸² Second, the nominal value of all own shares must not exceed 10% of the registered share capital. Moreover, after the acquisition of the shares, the equity

178 The Supreme Court of the Slovak Republic No. 3 Obo 9/2009, 10 June 2010.

179 The Constitutional Court of the Slovak Republic No. II. ÚS 289/2014–34, 11 June 2014.

180 Section 218j(4), CC.

181 Mrázová, 2022b, p. 69.

182 Section 161a, CC.

of the company shall not drop below the aggregate of the registered share capital and the reserve fund. The board of directors must ensure that the conditions stated above are satisfied.

9.2.4 Rules on financial assistance

Despite the relaxed regulation of financial assistance at the EU level, Slovak law maintained a stringent prohibition on financial assistance. This position remained unchanged until the adoption of Act No. 309/2023 Coll. on Transformations of Commercial Companies and Cooperatives and on the Amendment and Supplementation of Other Acts, which entered into force on 1 March 2024. The amendment partially lifted the prohibition, aligning Slovak law more closely with prevailing EU standards.¹⁸³ Currently, under Section 161e of the CC, the JSC may, either directly or indirectly, provide advances, loans, credits, or guarantees for the purpose of enabling a third party to acquire shares in the company. However, such financial assistance is permissible only if expressly allowed by the company's articles of association and several cumulative conditions are met.

Primarily, the financial assistance must be granted under fair market conditions. This requires the transaction to occur at arm's length and the company to receive adequate consideration. The board of directors must verify the financial capacity of any third party to whom, or through whom, the assistance is to be granted. The provision of financial assistance must not result in a reduction of the company's equity below the threshold of its subscribed share capital, increased by the statutory reserve fund and any other mandatory, non-distributable reserves established under law or the articles of association, and decreased by the amount of any unpaid subscribed capital. Additionally, the company must establish a special reserve fund equivalent to the amount of the financial assistance provided.¹⁸⁴

The board of directors is required to prepare a written report for the general meeting, which must include: (a) the rationale for granting the financial assistance; (b) a justification of its alignment with the company's best interests; (c) the terms and conditions under which it is to be provided; (d) a risk assessment, particularly in relation to the company's liquidity and solvency; and (e) the acquisition price of the shares by the third party.¹⁸⁵ The supervisory board is also required to submit a written opinion for the general meeting, evaluating whether the proposed financial assistance is consistent with the best interests of the company, and reviewing the report prepared and submitted by the board of directors.¹⁸⁶ Finally, the provision of financial assistance must be approved by the general meeting with a two-thirds majority of the shareholders present at the company's general meeting.¹⁸⁷

183 Ostáš, 2023, pp. 293–306.

184 Section 161e(1), CC.

185 Section 161e(2), CC.

186 Section 161e(3), CC.

187 Section 161e(5), CC

9.3. Simple Joint-Stock Companies

9.3.1. Classes of shares

As already stated in the chapter regarding the Czech Republic in this publication, the regulation on the simple JSC introduced a novelty into Slovak legislation by providing the possibility of the issuance of different classes of shares by this corporate form. The simple JSC may issue ordinary shares which carry no special rights and shares which encompass specific rights set out therein.¹⁸⁸ The special rights attached to the shares may primarily consist of the determination of (I) the extent of the entitlement to a share in the profit or liquidation balance, (II) the number of shareholder's votes, stated otherwise than the proportion of the nominal value of the shares to the amount of the share capital, or (III) the extent of the right of information. The list of special rights is not exhaustive, and other special rights can be attached to shares issued by the simple JSC. A simple JSC may also issue shares with no voting rights, however, at least one share must carry a voting right, otherwise, a court may order the winding up of the company.¹⁸⁹

Moreover, in contrast to a JSC, a simple JSC may issue only registered shares in book-entry form. The reason for such differentiation is the promotion of digitalisation in corporate law, which also ensures effective registration of special rights, such as tag-along right and drag-along right in special registers.

9.3.2. Transfer of shares

The transferability of shares in a simple JSC may be restricted and even completely excluded,¹⁹⁰ which is not possible for a regular JSC. If the transferability of shares is excluded, the shareholder is entitled to require the company to buy back their shares upon the expiration of 4 years from the date of the payment of their issue price.¹⁹¹ The articles of association may specify a shorter time period.

In contrast to a JSC, in a simple JSC, if the share transfer is subject to company's approval, the shareholder's right to buy back shares does not arise every time the corporate body refuses to grant consent to the share transfer. This shareholder's right does not arise in the event the corporate body is obliged to refuse such consent pursuant to articles of association or certain legal provision.¹⁹²

The legal regulation of the simple JSC provides for other restrictions on the transferability of shares, explicitly the tag-along right (*právo pridať sa k prevodu akcií*), drag-along right (*právo požadovať prevod akcií*) and shoot-out clause (*právo požadovať nadobudnutie akcií*), which may be included in the shareholders' agreements.¹⁹³ These are contractual exit tools for resolving potential conflicts of interests and deadlock

188 Section 220i(3), CC.

189 Section 220i(6), CC.

190 Section 220k, CC.

191 Section 220l(1), CC.

192 Patakyová et al., 2022, p. 1085.

193 Section 220w, CC.

among shareholders or aiming to protect against the opportunistic behaviour of a shareholder and an abuse of his majority or minority position. Only one pre-emptive right, one tag-along right, one drag-along right, and one shoot-out right may be attached to a single share. Provisions of a shareholders' agreement that purport to create additional rights in violation of the limitations set out in this paragraph shall be deemed null and void.¹⁹⁴ Tag-along and drag-along rights may be concluded as registered rights. Registrable rights are available only to the shareholders of a simple JSC and its registration shall strengthen the enforceability of these rights.

10. Conclusions

Across the Czech Republic, Croatia, Hungary, Poland, Romania, Serbia, Slovenia, and Slovakia, the law of equity interests in capital companies reveals a shared architecture with sharp jurisdiction-specific inflections. Two cross-cutting distinctions structure nearly every rule surveyed: (I) form (LLC vs. company limited by shares/JSC); and (II) function (standardised, market-oriented instruments vs. bespoke, relationship-dependent participations).

On that axis, JSC law in each country privileges liquidity, standardised rights, and public-facing safeguards; LLC law privileges contractual design, member screening, and creditor-protective capital rules. Within that common frame, the eight systems diverge on the legal nature of the “share”, transfer mechanics and publicity, the range of permissible classes and control rights, and the intensity and design of capital-maintenance constraints, especially treasury-share acquisition and financial assistance.

All eight jurisdictions treat the JSC “share” as a security-like, standardised unit of membership that aggregates organisational and patrimonial rights. Several codifications make the point expressly (e.g. Hungary, Slovakia, Slovenia), and all couple the instrument with registry-based or documentary transfer techniques and issuer-facing opposability rules. By contrast, the LLC interest (membership share) functions throughout as a non-negotiable instrument, whose content and transferability are largely determined by constitutive documents and default member-protection norms (Romania's explicit anti-securitisation rule exemplifies the point).

However, notable variations in legal ontology and taxonomy exist. The Czech Republic explicitly frames the share as a “thing” in the legal sense, with certificated (tangible) and uncertificated (intangible) variants; JSCs also recognise outstanding and unissued shares before paper or book-entry issuance, and certain rights (e.g. profit claims, pre-emptive rights) may be separated from a JSC share, exceptionally, by statute. Poland offers the most pronounced internal heterogeneity: the simple JSC decouples shares from share capital (no nominal value, indivisible), while the classic JSC retains par-value equality and full dematerialisation; LLCs may operate

194 Section 220w(6), CC.

in a “single-share” or “multi-share” model and tolerate unequal nominal values. Hungary maintains a finely granulated JSC taxonomy: ordinary, several “flavours” of preference (dividend, liquidation, voting, nomination), employee, interest-bearing, and redeemable shares, with classes and series layering. Voting-preferred stock is permitted (capped leverage in public issuers), and nomination rights are available in private companies. Romania has abolished bearer shares, alinging with solution that is slowly becoming the norm across jurisdictions, permits non-voting dividend-preferential stock up to a statutory cap, and, by negative implication and sectoral carve-outs, tolerates multiple-voting and even veto rights where not otherwise prohibited. Serbia draws a bright line: JSC shares are dematerialised securities; multiple-voting, loyalty, and veto shares are not permitted. LLC interests are never securities and are registered in a public business register with constitutive effect. Slovenia allows registered and bearer JSC shares but requires universal dematerialisation and KDD central registration; multiple-voting shares are prohibited, while non-voting preference stock is permitted up to one-half of capital; rights attached to a share are indivisible. Slovakia limits classic JSCs to par-value shares and only two types (ordinary, priority); a special SICAV regime allows variable capital and redemption, while the simple JSC embraces modern private ordering (registered, book-entry only; classes with tailored economic, voting, and information rights).

Across jurisdictions, employee equity appears in different guises (Hungary’s employee shares, Slovenia’s and Croatia’s pathways via treasury-share programs, and Romania’s distributions), reflecting a regional willingness to use equity as an incentive within capital-maintenance limits.

The shift of JSCs toward free transferability with registered-share restrictions is permitted but policed. Croatia’s vinctuated registered shares, Slovenia’s and Slovakia’s consent regimes (with reasons, deadlines, and remedies), Poland’s dematerialisation with register-entry effectiveness, and Romania’s opposability upon registration all express the same outcome: allow contractual screening in private or non-listed contexts while preserving marketability and third-party certainty. Where consent can be withheld, systems typically supply anti-opportunism safety valves (e.g. deemed consent for inaction, right to a buy-out at a reasonable price, and judicial review).

LLCs are consistently more closed. Czech, Hungarian, Serbian, Slovenian, and Slovak law default to member consent, pre-emptive rights, or general-meeting approvals for transfers to outsiders; several add formalities (notarial deeds in Slovenia, and notarised signatures in Poland and Serbia) and graduated effectiveness rules (inter partes, vis-à-vis the company, and vis-à-vis third parties). Romania’s three-quarters approval rule (now contractually adjustable within anti-securitisation limits) captures the same design choice from another angle. Special pipelines, such as transfer within an enterprise sale (the Czech Republic), enforcement and succession carve-outs (Slovenia), or publicity safeguards (register entries with constitutive effect in Serbia, and declaratory entries in the Czech Republic), further tailor the gatekeeping to local contexts.

Co-ownership and matrimonial aspects are also addressed with an eye to issuer certainty: common themes are a requirement of a single representative toward the company (the Czech Republic, Hungary, Slovenia, and Slovakia) and separation of ownership and shareholder status for opposability (Czech examples, and Serbia's constitutive registration rule with an inheritance exception). Several systems confront community property or spousal consent issues (the Czech Republic and Slovakia), generally without letting these unsettle company-facing formalities.

While economic preference (dividend, liquidation) is common across the region, the distribution of control rights varies. We can consider permissive Hungary's voting-preferred shares (with public-issuer caps) and nomination rights; Romania's inferred tolerance for multiple voting (outside banking) and scope for contractual veto rights. However, there are restrictive solutions: Slovenia's prohibition on unequal votes per capital unit and its cap on non-voting stock; Serbia's categorical ban on multiple-voting and veto shares; and Slovakia's classic JSC limited to ordinary/priority with narrow voting flex, offset by the simple JSC's freedom to tailor voting, information, and exit-related rights (e.g. tag/drag). Poland's JSCs are situated in the middle path, with the law allowing two votes per preferred share; simple JSCs, meanwhile, rely on register-based special rights and rigid documentary formalities.

Protection of outsiders and minorities is built into transfer-consent regimes (e.g. buy-out rights when consent is refused: the Czech Republic, Slovakia, and Slovenia), class voting where class rights are affected (Serbia and Romania), and exit-at-fair-value tools linked to structural changes (the Czech Republic, Poland's change-of-object buy-out, and Romanian treasury-share and assistance limits). Hungary overlays this with disclosure-heavy approvals for sensitive transactions (financial assistance in public JSCs).

All eight jurisdictions adopt EU-style capital-maintenance constraints, but the details differ. The Czech Republic starts from a principled prohibition with tailored exceptions. In LLCs, contractual acquisition is barred (teleologically confined to for-consideration cases), while gratuitous and universal-succession routes are tolerated; JSC acquisitions are permitted under tight approvals, solvency tests, and disclosure, and issuer-held rights are dormant. Czech law also couples treasury-share and transferability rules with minority liquidity rights (e.g. buy-outs upon delisting or class changes). Croatia requires general-meeting mandates, enforces equal treatment, and recognises exceptional, authorisation-free acquisitions (to avert serious harm, for employee programs, universal succession, unpaid subscriptions, court enforcement, and capital reduction), backed by reserve and disposal rules. Hungary caps JSC treasury shares at 25%, imposes dividend-capacity and solvency constraints, and, for LLCs, permits acquisition up to 50% of capital subject to full payment, distributable-earnings tests, non-voting/non-dividend status, and 1-year disposal or cancellation. Poland bars LLCs from own-share acquisition (with narrow statutory exceptions) and permits JSC buybacks under the CCC with specific contexts for compulsory buyouts (e.g. change of object), alongside squeeze-out/exit mechanisms. Romania authorises JSC buybacks up to 10% on an 18-month mandate, fully paid shares only, funded

from distributable profits/reserves; voting and dividend rights are suspended, and a balancing reserve is required. There are no rules for LLCs. Serbia, an EU membership candidate country, aligns JSC buybacks with Directive 2017/1132 (authorisation, fully paid shares, distribution tests, 10% limit in public JSCs, equal treatment, and proportional scaling), with no time limit for disposal unless rules are breached; LLC repurchases are allowed from special reserves, with dormant rights and 3-year disposal/cancellation. Slovenia distinguishes LLCs (tight prohibitions, reserve requirement, and no rights on own shares) from JSCs (absolute ban on original acquisition, except for serious harm, employee programs, compensation in group contracts, gratuitous acquisition, universal succession, withdrawal, and GM-authorised buybacks up to 10% for ≤ 36 months; strict disposal deadlines; and aggregation of holdings through affiliates and nominees). Slovakia bars LLC contractual acquisition (limited, temporary transfers to the company upon expulsion or comparable events; and rights dormant) and allows JSC buybacks for a classic model: prior mandate (defining number, window, and min/max price), $\leq 10\%$ of capital, and post-acquisition equity sufficiency.

The common core, fully paid shares, distribution-capacity tests, non-voting/non-dividend status of treasury stock, percentage caps, time-bound disposal, and heightened approvals reflect a shared policy: preserve creditor cushions and prevent control manipulation while allowing legitimate capital-structure management and employee schemes.

The region exhibits convergence toward conditional permissibility in JSCs, with LLCs often more permissive by contract or, conversely, subjected to blunt prohibitions.

All eight systems prioritise registries and dematerialisation to create opposability and reduce transaction costs. Slovenia (KDD), Slovakia (Central Securities Depository), Serbia (Central Registry for JSCs; constitutive business registry for LLCs), Poland (universal dematerialisation of JSC), and Croatia/Romania/the Czech Republic combine material and book-entry forms with issuer-facing lists. A recurring, deliberate design is the tiered effectiveness of transfers (between transferor and transferee, against the issuer, and against third parties) coupled with publicity (business registers, securities accounts) to discipline reliance and mitigate double transfers or unauthorised disposals.

As a policy synthesis, we can first state that the LLC/JSC divide remains the master variable. Where the objective is scalable capital aggregation from strangers, these systems converge on standardised, transparent, and liquid instruments and on robust capital-maintenance rules. Where the objective is a durable relational venture, these entities accept liquidity sacrifices and procedural hurdles to screen entrants, preserve cohesion, and protect creditors.

Second, control engineering through share classes is widely but unevenly available. Hungary and Romania allow meaningful deviations from “one share – one vote” outside sensitive sectors or public markets; Slovenia and Serbia largely forbid such deviations; Poland and Slovakia position flexibility in newer corporate forms (simple JSC) but preserve orthodoxy in classic JSCs. The normative idea is familiar: founder/

stable-owner protection and long-term strategy versus minority participation and market fairness.

Third, minority liquidity is increasingly mediated by targeted buy-out rights keyed to governance frictions (unjustified consent refusals), market status changes (delisting), or class-right alterations. Expanding calibrated exit rights in LLCs, without undermining their personal character, would further rationalise the law's response to deadlock and oppression.

Fourth, financial assistance is the area of greatest dynamism. Slovakia's 2024 reform aligns with EU practice and Hungary's approach; the Czech Republic has already achieved this; Poland liberalised for JSCs to accommodate modern finance; Slovenia and Romania retain stricter limits (with employee/banking carve-outs); and Serbia remains prohibitionist. Given creditor-protection concerns, the emerging consensus package – arm's-length terms, distributable-assets constraints, solvency/liquidity tests, enhanced reporting and approvals, and, where appropriate, mandatory reserves – appears to be both principled and operational.

Finally, publicity rules merit continued harmonisation. The coexistence of constitutive (Serbia) and declaratory (e.g. Czech Commercial Register) effects, and varying issuer versus public-registry opposability points, can lead to cross-border frictions. Clarifying when a transferee is a shareholder for all purposes (and ensuring expedited, reliable entries) would reduce litigation and transactional hold-up.

Despite stylistic and doctrinal differences, the eight jurisdictions show a coherent regional model. JSC law is converging on EU-style standardisation, market integrity, and creditor protection, with room for controlled preference engineering and modern financing tools. LLC law remains a laboratory for contractual freedom, bounded by mandatory rules on creditor protection and transfer gatekeeping. Future reforms that (I) expand carefully conditioned assistance, (II) fine-tune minority exit rights, and (III) streamline registry opposability while respecting each form's core logic would further align legal infrastructure with the economic functions these companies are meant to serve.

References

- Angheni, S. (2013) *Drept comercial. Profesioniști-comercianți*. București: C.H. Beck.
- Bieniak, M., Nita-Jagielski, G. (eds.) (2022) *Kodeks spółek handlowych. Komentarz*, 8th edn. Warszawa: C.H. Beck.
- Bohinc, R. (2008) *Korporacije: razlaga pravnih pravil in sodna praksa*. Ljubljana: Nebra.
- Čech, P., Šuk, P. (2016) *Právo obchodních společností: v praxi a pro praxi (nejen soudní)*. Praha: Bova Polygon.
- Černá, S. (2015) 'O nepravých a pravých kusových akciích', *Obchodněprávní revue*, 2015/5, pp. 129–134.
- Černá, S., Štenglová, I., Pelikánová, I. et al. (2021) *Právo obchodních korporací*, 2nd edn. Praha: Wolters Kluwer.
- David, S. (2014) in Cărpenaru, St.D., Piperea, Gh., David, S. (eds.) *Legea societăților. Comentariu pe articole*, 5th edn. București: C.H. Beck.
- Eichlerová, K. (2022a) 'Dědění podílu' in Kotásek, J., Špačková, P. (eds.) *Pocta prof. Bejčkovi k 70. Narozeninám*, 1st edn. Brno: Masarykova univerzita, pp. 255–274.
- Fazakas, Z.J. (2020) 'A társasági szerződés, mint szerződés', *Iustum Aequum Salutare*, 2020/3, pp. 63–105.
- Gál, J. (2022) 'Egy tag – egy üzletrész? Az egyszemélyes kft. üzletrésze', *Gazdaság és Jog*, 2022/5–6, pp. 56–57.
- Georgescu, I. L. (1948) *Drept comercial român*, vol. II. București: Ed. Socec.
- Gheorghe, C. (2020) *Tratat de drept comercial român*. București: C.H. Beck.
- Ivanjko, Š., Kocbek, M., Prelič, S. (2009) *Korporacijsko pravo*. Ljubljana: GV Založba.
- Jara, Z. (ed.) (2023) *Kodeks spółek handlowych. Komentarz*. Warszawa: C.H. Beck.
- Jerzmanowski, J. (2016) *Finansowanie przez spółkę akcyjną nabycia lub objęcia emitowanych przez nią akcji w procesie wykupu menedżerskiego*. Warszawa: C.H. Beck.
- Jerzmanowski, J., Sójka, T. (2008) "Financial assistance" po nowelizacji kodeksu spółek handlowych', *Przegląd Prawa Handlowego*, 2008/11, pp. 9–15.
- Jovanović, N., Radović, V., Radović, M. (2021) *Kompanijsko pravo – Pravo privrednih društava*, 2nd edn. Beograd: Pravni fakultet u Beogradu, Centar za izdavaštvo i informisanje.
- Kidyba, A. (2023) *Kodeks spółek handlowych. Komentarz. Tom I i II*, 18th edn. Warszawa: Wolters Kluwer.
- Kožiak, J. (2019) 'Manželské majetkové právo a podíl v obchodní korporaci', *Obchodní právo*, 28(5), pp. 22–34.
- Kříž, R. (2019) "Tracking" stock aneb divizní akcie jako zvláštní druh akcií', *Obchodněprávní revue*, 2019/4, pp. 90–95.
- Kříž, R. (2022) 'Akcie s vysílacím právem a změna vnitřní struktury orgánů akciové společnosti', *Bulletin advokacie*, (3), pp. 16–19.

- Kundić, M., Smajla, N. (2020) 'Utjecaj radničkog dioničarstva na sigurnost i zaštitu na radnom mjestu', *Sigurnost: časopis za sigurnost u radnoj i životnoj okolini*, 62(2), pp. 127–137 [Online]. Available at: <https://hrcak.srce.hr/240702> (Accessed: 10 October 2025).
- Kwaśnicki, R.L., Pietrzak, P. (2002) 'Obrót akcjami i udziałami w świetle regulacji prawa spółek', *Dodatek do Monitora Prawniczego*, 2002/23, pp. 17–23.
- Lála, D. (2020) *Druhy podílů v kapitálových společnostech*, 1st edn. Prague: C.H. Beck.
- Lasák, J., Dědič, J., Pokorná, J., Čáp, Z. et al. (2021) *Zákon o obchodních korporacích. Komentář*, 2nd edn. Praha: Wolters Kluwer ČR.
- Lepetić, J. (2018) 'Jedna akcija – jedan glas: Da li je vreme za promene?', *Zbornik radova Pravnog fakulteta u Novom Sadu*, 52(3) [Online]. Available at: <https://doi.org/10.5937/zrpfns52-19816> (Accessed: 10 October 2025).
- Lepetić, J. (2019) 'Dodatni glasovi kao nagrada lojalnim akcionarima: predlog za reformu', *Analiz Pravnog fakulteta u Beogradu*, 67(1), pp. 392–425.
- Marjanski, V. (2020) 'Raspodela dobiti članovima društva sa ograničenom odgovornošću i razlika u odnosu na druge isplate korporativno-pravnog karaktera', *Zbornik radova Pravnog fakulteta u Novom Sadu*, 54(1), pp. 215–243 [Online]. Available at: <https://doi.org/10.5937/zrpfns54-26336> (Accessed: 10 October 2025).
- Mazgaj, M. (2023) in Z. Jara (ed.) *Kodeks spółek handlowych. Komentarz*, 4th edn. Warszawa: C.H. Beck/Legalis.
- Mićović, M. (2016) *Privredno pravo*, 4th edn. Kragujevac: Pravni fakultet u Kragujevcu, Institut za pravne i društvene nauke.
- Modzelewska, K., Reszczyk-Król, K. (2023) in Jara, Z. (ed.) *Kodeks spółek handlowych. Komentarz*. Warszawa: C.H. Beck/Legalis.
- Mrázová, Ž. (2022a) 'Share transfer restrictions in closely held corporations: shareholders' protection and exit strategies', *Právny obzor*, 2022/105 (special issue), pp. 29–43.
- Mrázová, Ž. (2022b) 'Korporačné obmedzenia prevoditeľnosti účasti na spoločnosti a súhlasy orgánov spoločnosti s prevodom účasti' in Havel, B., Nevolná, Z. (eds.) *Převody obchodních podílů a akcií*. Praha: Wolters Kluwer ČR, pp. 55–73.
- Mrázová, Ž., in Patakyová, M., Ďurica, M., Husár, J. et al. (2021) *Aplikované právo obchodných spoločností a družstva – ťažiskové inštitúty*. Bratislava: Wolters Kluwer SR.
- Opalski, A. (ed.) (2018) *Kodeks spółek handlowych. Tom II B. Spółka z ograniczoną odpowiedzialnością. Komentarz do art. 227–300*. Warszawa: C.H. Beck.
- Ovečková, O. et al. (2022) *Obchodný zákonník. Veľký komentár*, vol. I, 2nd edn. Bratislava: Wolters Kluwer SR.
- Patakyová, M. et al. (2022) *Obchodný zákonník. Komentár*, 1st edn. Bratislava: C.H. Beck.
- Radović, V. (2007) 'Pružanje finansijske podrške za sticanje svojih akcija', *Pravni život*, 56(12), pp. 183–212.
- Schiau, I., Prescure, T. (2009) *Legea societăților comerciale nr. 31/1990. Analize și comentarii pe articole*, 2nd edn. București: Editura Hamangiu.

- Sójka, T. (2020) 'Dematerializacja akcji niepublicznej spółki akcyjnej', *Monitor Prawniczy*, 13, pp. 668–675.
- Stanciu, D. C., David, S., Predoiu, C., Piperea, G. (2006) *Legea societăților comerciale. Comentariu pe articole*, 3rd edn. București: C.H. Beck.
- Štenglová, I., Šuk, P. (2022) 'Zvláštní druhy akcií jako nástroj účasti akcionářů na řízení společnosti', *Bulletin advokacie*, (7–8), pp. 46–52.
- Štenglová, I., Dědič, J., Lasák, J., Pihera, V., Lála, D., Josková, L. (2023) *Akciové společnosti*, 1st edn. Praha: C. H. Beck.
- Štenglová, I., Havel, B., Čileček, F., Kuhn, P., Šuk, P. (2020) *Zákon o obchodních korporacích. Komentář*, 3rd edn. Praha: C. H. Beck.
- Šuleková, Ž. (2017) 'Akciová spoločnosť s premenlivým základným imaním – nová forma kolektívneho investovania', *Justičná revue*, 69(8–9), pp. 997–1008.
- Szczurowski, T. (2018) 'Forma umowy rozporządzającej udziałami spółki z o.o.', *Przegląd Ustawodawstwa Gospodarczego*, 2018/1, pp. 25–29.
- Tipurić, D. et al. (2004) *ESOP i hrvatsko poduzeće*. Zagreb: Sinergija.
- Török, T. (2022) 'A törzsbetét, a törzstőke, valamint az üzletrész elsődleges szabályainak változása a magyar társasági jogban', *Gazdaság és Jog*, 2022/9–10, pp. 11–19.
- Turcu, I. (1998) *Teoria și practica dreptului comercial român*, vol. I. București: Lumina Lex.
- Vasiljević, M. (2012) *Kompanijsko pravo – pravo privrednih društava*, 7th edn. Beograd: Pravni fakultet u Beogradu, Centar za izdavaštvo i informisanje.
- Veress, E. (2010) 'Discuții privind revocarea administratorilor și transmiterea părților sociale la societățile comerciale cu răspundere limitată', *Dreptul*, (9), pp. 96–105.
- Veress, E. (2019a) 'Megjegyzések a korlátolt felelősségű társaságok üzletrésznének forgalmáról', *Jogtudományi Közlöny*, 2019/3, pp. 119–125.
- Veress, E. (2019b) 'Report from Hungary: Is It Possible to Issue Bearer Shares in Hungary? Remarks on Mandatory and Default Rules in Hungarian Company Law', *European Company Law*, 16(3), pp. 95–100.
- Veress, E. (2024a) 'Állandó és változó elemek a kft. szabályozásában. 2. rész: Törzsbetét, üzletrész', *Gazdaság és Jog*, 2024/11–12, pp. 3–10.
- Veress, E. (2024b) 'A társasági jog elmélete és a társaságok általános jellemzői' in Fegyveresi, Zs. (ed.) *Román társasági jog*, 3rd edn. Cluj-Napoca: Forum Iuris.
- Žitňanská, L. (2022) 'Účinky prevodu obchodného podielu a akcie medzi zmluvnými stranami, voči spoločnosti a voči veriteľom' in Havel, B., Nevolná, Z. (eds.) *Převody obchodních podílů a akcií*. Praha: Wolters Kluwer ČR, pp. 137–147.
- Zvára, M. (2017) 'Nabytí podílu od neoprávněného ve společnosti s ručením omezeným na základě smlouvy o převodu podílu', *Obchodněprávní revue*, (7–8), pp. 193–198.

