

Kőszeghy, Adam¹**Act XXXVII of 1875 and Slovak Commercial Law. A Contribution to the 150th Anniversary of Its Adoption²***Abstract*

The Act XXXVII of 1875 (the Hungarian Commercial Code) was the first commercial law regulation in Hungary, representing the initial comprehensive codification of commercial law within the territory of the Kingdom of Hungary (Slovakia). This legal norm stood out for its modernity and innovativeness in many respects, and its “legal destiny” was not halted even by the circumstances of the First World War and the subsequent dissolution of the dualistic state of Austria-Hungary. On the contrary, it found its application even in the newly established state – Czechoslovakia. Under the influence of the so-called first Czechoslovak law, Act No. 11/1918 Coll. (of laws and decrees), the former Hungarian law was received onto the territory of Slovakia through this reception norm. Among other provisions, the Act XXXVII of 1875 was thereby adopted, making it a valid part of the newly formed Czechoslovak legal order (with validity for the territory of Slovakia and Subcarpathian Ruthenia). Given the unfinished unification of commercial law during the interwar period, the regulation of this Act was subsequently adopted into the newly created, so-called Wartime Slovak State. In the area of application of its provisions, continuity with the preceding period was maintained, meaning no significant legislative interventions were made to its text. Following the renewal of Czechoslovakia, a “breakthrough” in relation to its application occurred only after 1948, due to the altered social, political, and economic direction of Czechoslovakia under the power of the Communist Party of Czechoslovakia (KSČ). The final stage of this legal norm’s existence was the adoption of Act No. 243/1949 Coll. on Joint-Stock Companies, and Act No. 141/1950 Coll. the Civil Code, which repealed it without replacement, thereby “burying” commercial law in Czechoslovakia for more than forty years. The only exception was the provisions concerning the legal affairs of cooperatives, which, however, served merely as a transitional regulation for the emerging People’s Cooperatives and were therefore also quickly repealed by Act No. 53/1954 Coll., on People's Cooperatives and Cooperative Organisations. Even though it was not readopted during the restoration of the market economy after 1989, Act XXXVII of 1875 represents the longest-standing and most effective commercial law regulation in the territory of Slovakia, leaving an indelible legacy.

Keywords: Act XXXVII/1875, Hungarian Commercial Code, Slovak Commercial Law, Legal Dualism, Abolition of Commercial Law

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I. Introduction

Commercial law, as a branch of law, is currently an undeniable “twin” of civil law within the broader category of private law (private law disciplines). However, this was not always the case in the development of law within the territory of Slovakia. Commercial law has existed as a legal discipline in the territory of Slovakia for a “relatively” short time, only since the 19th century, as it essentially lacked the most crucial element – successful codification of otherwise fragmented legal regulation. In the early days of the Kingdom of Hungary, the regulation of commercial legal relations was limited mainly to public law regulation through various restrictions and prohibitions on trade within the Árpád-era royal codes (Stephen, Ladislaus, Coloman).³ In the later period, the nature of Hungarian law consisted of strong legal particularism. Therefore, the regulation of commercial legal relations was dispersed within individual particular legal sub-systems of municipal, guild, vinicultural, or mining law. For this reason, no major codification or unification efforts could take place in the field of commercial law, and this problematic situation persisted until the first third of the 18th century, when the state began focusing on the functioning of guilds and their state control. This step marked a certain realization among the Hungarian elite, who understood that proceeding without a unified (codified) commercial code was a path against the progress and prosperity arising from the rapid development of commercial relations. The first codification attempt was the drafting of the Bill of Exchange and Commercial Code (Codex Cambio-Mercantilis) at the end of the 18th century; however, its adoption failed even on the fourth attempt by 1830.⁴ Instead of adopting a separate commercial law code, several statutory acts regulating the most important issues of commercial law – the so-called Wildner Acts – were finally adopted.⁵ Further steps included the revolutionary events of 1848/1849, where attention focused not only on the requirement to eliminate feudal remnants but also on abolishing restrictions on the free movement of goods and the cancellation of the corporative nature of commercial contractual relations, which represented a certain continuity with the already adopted Wildner Acts. Unfortunately, due to

³ Bak, János Mihály: *Online Decreta Regni Mediaevalis Hungariae. The Laws of the Medieval Kingdom of Hungary*. USU Libraries: Utah, 2019, 1593 p.

⁴ In 1779, Queen Maria Theresa instructed the Curia to prepare a draft code for bills of exchange and other commercial law relationships, based on the relevant Austrian laws already in force in the territory of the so-called Hungarian Littoral. With this royal order, the codification works of Hungarian commercial law started. Two versions of a “Codex Cambio-Mercantilis” were prepared by the Royal Table, in 1781 and 1787. These served as the basis of the codification works of the regnicolar committees established by the Diet of 1790/91. The legal committee, in cooperation with an acknowledged lawyer of Fiume, Mátyás József Paravits, prepared a third version of the code in 1795. Due to the political changes after the French Revolution, the Diet had no possibility to adopt it, but after 1825 it was re-elaborated by a newly established committee. This last edition of the Codex Cambio-Mercantilis of 1830 was not adopted by the Estates either. See Képes, György: *Drafts of the “Codex Cambio-Mercantilis” in the Late 18th Century: First Attempts of Codification of Hungarian Commercial Law*. In Švecová, Adriana – Lanczová, Ingrid – Gajarský, Adrián (eds.): *Právno-historické trendy a výhledy VII*. Praha: Leges, 2022, p. 48.

⁵ These statutory acts were named after their author, Ignaz Wildner von Maithstein. There was a total of eight such statutory acts, and they fundamentally regulated the most important issues of commercial law:

Act XV of 1840 on Bills of Exchange,

Act XVI of 1840 on Merchants,

Act XVII of 1840 on the Legal Status of Factories,

Act XVIII of 1840 on Commercial Companies,

Act XIX of 1840 on Chambers of Commerce and Brokers (Sensals),

Act XX of 1840 on Carriers (Freight Carriers),

Act XXI of 1840 on Registered Primary Claims (Encumbrances),

Act XXII of 1840 on Bankruptcy (Insolvency).

the defeat of the revolution and the subsequent period of constitutional provisionality in the form of the Bach Absolutism, the development toward adopting a separate commercial law regulation was halted for a decade, until 1860/1861.⁶

Following the collapse of the Bach Absolutism, the Hungarian lawyers were confronted with a critical dilemma: whether to adhere to the full continuity of the legal order preceding 1848, or whether to accept and utilize certain modernizing influences and institutes introduced during the Austrian rule (1849–1860) in the codification efforts. To resolve this complex situation, the Conference of the High Judge was organized, led by the High Judge (*iudex curiae*), with the aim of deciding on the continuity/discontinuity of Hungarian law individually concerning the respective branches of law. The subsequent direction of Hungarian law was then governed by the normative document resulting from this decision-making process, entitled the Temporary Judicial Rules of the Judex Curia Conference of 1861,⁷ by which the validity of the Wildner Acts was reinstated in commercial law.⁸ This was a relatively logical step, yet this legal regulation was no longer able to keep pace with the rapidly developing Hungarian economy. A few years later, based on the court decree of 1864, the provisions of the German Commercial Code (*Allgemeines Deutsches Handelsgesetzbuch of 1861*) regarding commercial companies (firms) were mandatorily applied to the territory of Hungary. From this moment on, the question was not whether a new separate Hungarian commercial law regulation would be (finally) adopted, but rather when it would occur. This moment occurred approximately one decade later with the adoption of the first Hungarian Commercial Code.

II. István Apáthy and Act XXXVII of 1875, the Hungarian Commercial Code

Hungarian commercial law, unlike civil law, did not have to face various obstacles stemming from cultural, social, and legal traditions deeply rooted in Hungarian law in its efforts toward fundamental modernization. Nevertheless, something was still missing for a successful culmination in the form of a dedicated Commercial Code. The initial impulse was provided by the already mentioned adoption of the German Commercial Code (*Allgemeines Deutsches Handelsgesetzbuch*), which, among other things, was also introduced in the Austrian part of the Monarchy. This eventually conditioned the effort to apply some of its provisions to the territory

⁶ Generally, the introduction of Bach's Absolutism was a negative aspect, primarily disrupting the (autonomous) constitutional status of Hungary within the Habsburg Monarchy. However, every coin has two sides, and therefore, on the other hand, Hungarian law was, after long decades, (forcibly) confronted again with the more progressive Austrian law, which, moreover, was applied in this period even on the territory of Hungary (and thus also on the territory of present-day Slovakia). At the cost of Hungary's sovereignty, Bach's Absolutism also enabled the creation of a unified customs territory within the Habsburg Monarchy, though the positive aspects of these measures did not fully manifest themselves in real practice. Hungarian legal scholarship was therefore faced with a difficult decision regarding the nature of Hungarian law after 1860. Cf. Képes, György: An Overview of the Hungarian Private Law Codification until 1918, with Special Regard to the Codification Aspects of a Separate Commercial Law. In Švecová, Adriana – Lanczová, Ingrid (eds.): *Právno-historické trendy a výhľady V*. Trnava: VEDA, 2020, pp. 57–59.

⁷ The Provisional Judicial Regulations of the Conference of the High Judge of 1861 were established within the legal system through the judicial application of customary law, as they never attained the status of a written source of law (a statute/act), and remained applicable in Hungary until May 1, 1960. See Képes, György: An Overview of the Hungarian Private Law Codification until 1918, with Special Regard to the Codification Aspects of a Separate Commercial Law. In Švecová, Adriana – Lanczová, Ingrid (eds.): *Právno-historické trendy a výhľady V*. Trnava: VEDA, 2020, p. 60.

⁸ Gábris, Tomáš. *Dočasné súdne pravidlá Judexkuriálnej konferencie z roku 1861. Monografická štúdia a historickoprávny komentár. 2. prepracované vydanie*. Bratislava: Wolters Kluwer, 2014, p. 176.

of Hungary as well. However, this was decidedly insufficient. Therefore, driven by the pressure from merchants in Pest, serious consideration regarding the possibilities for a Hungarian Commercial Law Code began during the years 1864–1872.⁹ Ultimately, the esteemed lawyer and Professor at the University of Pest, István Apáthy, was commissioned to prepare the new Commercial Code. He succeeded in drafting this proposal relatively quickly, completing it already in 1873.¹⁰ The main inspiration for drafting the new Hungarian Commercial Code was naturally the German Commercial Code (*Allgemeines Deutsches Handelsgesetzbuch*). However, unlike its German counterpart, the proposal abandoned the concepts of the limited partnership with shares (*Kommanditgesellschaft auf Aktien*), the silent partnership (*stille Gesellschaft*), and maritime law. The draft Hungarian Commercial Code was subsequently submitted for expert assessment to a commission established by the Minister of Commerce, Count József Zichy. This commission was composed of both lawyers and merchants (including Pál Hoffmann, the author of the draft for the general part of the Hungarian Civil Code).¹¹ In December 1874, the commission completed the revision of the draft. The result of this expert assessment was a truly groundbreaking step: the incorporation of the legal regulation of cooperatives as a form of enterprise into the draft Hungarian Commercial Code. In this form, the draft act was subsequently submitted to the Hungarian Diet for deliberation and approval. The Act XXXVII of 1875, the Hungarian Commercial Code, was adopted on May 18, 1875, and took effect on January 1, 1876. On this occasion, it must be noted that the adoption of the Hungarian Commercial Code of 1875 simultaneously completed the impressive hegemony of commercial law regulations based on the German model in Europe, which together successfully created an economically developed territory governed by identical or similar legal frameworks.¹² In this geographical area, it surpassed in importance even the French model, which was represented by the great commercial law regulation, the Code de commerce of 1807, and which had influenced a multitude of later commercial law regulations across Continental Europe.¹³

In terms of its structure, the Hungarian Commercial Code was primarily divided into two main parts: the first part concerning merchants and commercial companies, and the second part regulating commercial contractual relationships (obligations). These parts were subsequently divided into detailed sections. Compared to the structure of the Austrian General Commercial Code, Act No. 1/1863 R. G. Bl., which was adopted only a few years earlier and

⁹ Initially, possibilities were considered regarding the extent to which and how to introduce the German Commercial Code into the Hungarian legal system, however, this path proved fruitless. Therefore, following renewed pressure from the merchants of Pest, in the form of a petition to the Hungarian Diet in 1865, a subsequent mobilization of merchants, lawyers, and politicians ensued. This ultimately resulted in the decision to prepare a new Hungarian Commercial Code. See Képes, György: An Overview of the Hungarian Private Law Codification until 1918, with Special Regard to the Codification Aspects of a Separate Commercial Law. In Švecová, Adriana – Lanczová, Ingrid (eds.): *Právno-historické trendy a výhľady V*. Trnava: VEDA, 2020, p. 65.

¹⁰ Apáthy, István. *A Magyar Kereskedelmi Törvénykönyv Tervezete*. Budapest: Franklin, 1873.

¹¹ Képes, György: An Overview of the Hungarian Private Law Codification until 1918, with Special Regard to the Codification Aspects of a Separate Commercial Law. In Švecová, Adriana – Lanczová, Ingrid (eds.): *Právno-historické trendy a výhľady V*. Trnava: VEDA, 2020, p. 66.

¹² Husár, Ján: Všeobecný obchodný zákonník – inšpiračný zdroj pre zákonný článok XXXVII/1875, Obchodný zákon. In Bubelová, Kamila (eds.): *150 let Všeobecného obchodního zákoníku: sborník příspěvků z mezinárodního vědeckého kolokvia ke 150. výročí Všeobecného obchodního zákoníku pořádaného ve dnech 11. – 12.10.2012 Právnickou fakultou Univerzity Palackého v Olomouci pod názvem Zákon č. 1/1863 ř.z., všeobecný rakouský zákoník – inšpirační zdroj českého obchodního práva*. Olomouc: Univerzita Palackého v Olomouci, 2012, p. 53.

¹³ Sacco, Rodolfo: O některých otázkách základu občanského práva socialistických zemí. In *Právník*, 1969, Vol. 108, No. 10, p. 807.

originated also from the German Commercial Code, there were only minimal differences, mainly resulting from the aspects already mentioned above:

<i>Act XXXVII of 1875, the Hungarian Commercial Code</i>	<i>Act No. 1/1863 R. G. Bl., the Austrian General Commercial Code</i>
General Provisions	General Provisions
Part One: Merchants and Commercial Companies	Book One: On Commerce / On Commercial Matters
Section I: On Merchants in General	Title 1: On Merchants
Section II: Commercial Registers	Title 2: On the Commercial Register
Section III: Commercial Names (Trade Names)	Title 3: On Commercial Names (Trade Names)
Section IV: Commercial Books (Accounting Records)	Title 4: On Commercial Books (Accounting Records)
Section V: Proxies and Commercial Agents	Title 5: On Proxies and Commercial Agents
Section VI: Auxiliary Personnel	Title 6: On Commercial Assistants / Auxiliary Personnel
*Author's note: [cf. Part Two, Section IX of Code]	Title 7: On Commercial Brokers or Sensals
Section VII: On Commercial Companies in General	Book Two: On Commercial Companies
Section VIII: General Partnership	Title 1: On General Partnerships
Section IX: Limited Partnership	Title 2: On Limited Partnerships
	Title 2b: On Limited Partnerships with Shares in Particular
Section X: Joint-Stock Company	Title 3: On Joint-Stock Company
Section XI: Cooperatives	
	Book Three: On Silent Partnership and on Association for Individual Transactions on Joint Account
	Title 1: On Silent Partnership
	Title 2: On Association for Individual Transactions on Joint Account
Part Two: Commercial Transactions	Book Four: On Commercial Transactions
Section I: On Commercial Transactions in General	Title 1: On Commercial Transactions in General
Section II: Purchase (Sale)	Title 2: On Purchase (Sale)
Section III: Commission Transaction	Title 3: On Commission Contract
Section IV: Forwarding Transaction (Consignment)	Title 4: On Forwarding Contract (Consignment Contract)
Section V: Carriage Transaction (Freight Transport)	Title 5: On Carriage Contract (Freight Contract)
Section VI: Public Warehousing Transaction	
Section VII: Insurance Contract	
Section VIII: Publishing Transaction	

Section IX: Brokerage Transaction (Sensal Transaction)	
Transitional and Miscellaneous Provisions	

The most prominent difference, besides the exclusion of provisions on the silent partnership and the limited partnership with shares, was the incorporation of provisions on cooperatives. These provisions were not part of the original Apáthy draft, which was directly based on the German model. The addition of these regulations into the Hungarian Commercial Code itself created a legislative unicity, as no commercial law regulation had previously governed the legal relations of cooperatives within its provisions.¹⁴ Naturally, the Austrian legal order also contained the legal regulation of cooperatives within Act No. 70/1873 R. G. Bl., on Gainful and Economic Cooperatives; however, in this case, it was a separate legal regulation, standing outside the commercial code. Another field in which the Hungarian Commercial Code surpassed the contemporary legal regulation of commercial law codes was the regulation of the insurance contract. While the legal regulation of the insurance contract was covered within various Civil Codes, its comprehensive regulation was conspicuously absent in the field of commercial law, except for the Hungarian Commercial Code, which dedicated §§ 463–514 to it. Conversely, the contemporary legal development involved debate over whether to regulate insurance within a commercial law code or as a separate piece of legislation.¹⁵ For instance, the German Commercial Code of 1861, which served as the template for the Hungarian Commercial Code, only included provisions related to maritime insurance. The comprehensive regulation of the insurance contract was achieved more than 50 years later, with the adoption of the Insurance Contract Act of 1908 (*Versicherungsvertragsgesetz – VVG*), which remained in force for another hundred years until it was replaced as part of a substantial reform in 2008.

From the perspective of a more detailed substantive analysis of the provisions of the Hungarian Commercial Code and the Austrian General Commercial Code, these regulations were consistent but also contained deviations. Therefore, we shall briefly present the individual deviations corresponding to each part of the Hungarian Commercial Code. Regarding the provisions on merchants and commercial companies, the Hungarian Commercial Code defined the concept of merchant in greater detail, with the addendum that the [m]erchant must conduct the trade commercially in their own name. Furthermore, this concept was simultaneously construed more broadly with respect to the more extensive regulation of commercial obligational relationships.¹⁶ Joint-stock companies and cooperatives were always considered merchants regardless of their object of activity.¹⁷ Consequently, the Hungarian Commercial Code also provided for a broader scope of the so-called fictitious (formal) merchants. Regarding the transfer of a commercial enterprise, the successor's liability for the predecessor's debts was regulated by commercial law provisions. The Austrian legal regulation was primarily based on

¹⁴ Suchánek, Jaroslav: Družstva a obchodní zákoník. In *Právník*, 1992, Vol. 131, No. 8, p. 712; Helešic, František: Družstevní právo jako vědeckopedagogická disciplína a jeho výuka. In *Právník*, 2000, Vol. 139, No. 4, p. 408; Eliáš, Karel: Příspěvek k dějinám akciových společností se zřetelem k vývoji jejich právní úpravy ve střední Evropě. In *Právník*, 1994, Vol. 133, No. 8, p. 711.

¹⁵ Fekete, Imrich: Buržoázna koncepcia poisťnej zmluvy a jej kritika. In *Právník*, 1986, Vol. 125, No. 3, p. 195.

¹⁶ A relatively liberal concept of family law also permeated the regulation of merchants, establishing that a married woman did not require her husband's consent to act as a merchant within the meaning of the provisions of the Hungarian Commercial Code. See Wenig-Malovský, Arnošt: *Příručka obchodního práva*. Praha: Kompas, 1947, pp. 62–63.

¹⁷ §§ 147 and 223 of Hungarian Commercial Code. See Klúčovský, Štefan – Čorba, Ignác: *Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876)*. Vlastným nákladom. Nitra, 1920, pp. 32, 50.

customary (commercial) law and, in its absence, on the provisions of civil law. The approach to the release from liability regarding the scope of mandatory liability also differed: the Hungarian Commercial Code made no distinction as to whether the successor was a close relative of the predecessor or not, and established the same scope of liability, up to the amount of the predecessor's debts.¹⁸ With respect to the designation of the business name, both the joint-stock company and the cooperative had to be explicitly designated as 'Joint-Stock Company' or 'Cooperative,' a requirement that the Austrian legal regulation did not impose.¹⁹ In the event of the transfer of the business name right under the Hungarian Commercial Code, no strict condition regarding consent was required; consequently, any form of consent was deemed sufficient.²⁰ Under the provisions of the Hungarian Commercial Code, only a registered merchant could appoint a proxy. However, if a merchant obligated to register their firm at the court failed to do so, yet still appointed a proxy, this quasi-proxy still bound the merchant when acting on their behalf.²¹ In the event of the formation of a so-called occasional partnership, intended to carry out one or more commercial transactions for joint profit or loss, the provisions regarding commercial companies did not apply. Furthermore, unless the contracting parties stipulated otherwise, their contributions and the division of profit and loss were in equal proportion.²²

In the regulation of joint-stock companies, a difference already existed in the terminology: according to the contemporary Slovak legal terminology,²³ the joint-stock company was designated as "účasťinná spoločnosť" (in Hungarian "részvénytársaság"); similarly, the shareholder was designated as "účasťinár" (in Hungarian "részvényes"), and the share as "účasťina" (in Hungarian "részvény").²⁴ As already stated, joint-stock companies were considered merchants regardless of their object of activity. Consequently, they were deemed merchants even if their object of activity was non-commercial, such as in the fields of theatre, spas, or, for instance, land subdivision.²⁵ The formation of joint-stock companies under the Hungarian Commercial Code was conditional upon the subscription of the entire share capital, the existence of Articles of Association, and registration in the Commercial Register. State authorization was not required for the formation of the company, as was the case under the Austrian General Commercial Code. Thus, the formation of a joint-stock company under the Hungarian Commercial Code was based on the normative system, similarly to the German Commercial Code.²⁶ Regarding the formal regulation of the Articles of Association, the Hungarian Commercial Code did not require a qualified form, such as a notarial or judicial

¹⁸ Wenig-Malovský, Arnošt: Příručka obchodního práva. Praha: Kompas, 1947, pp. 94–95.

¹⁹ § 14 of Hungarian Commercial Code. See Klúčovský, Štefan – Čorba, Ignác: Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876). Vlastným nákladom. Nitra, 1920, p. 3.

²⁰ Wenig-Malovský, Arnošt: Příručka obchodního práva. Praha: Kompas, 1947, p. 123.

²¹ § 16 of Hungarian Commercial Code. See Klúčovský, Štefan – Čorba, Ignác: Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876). Vlastným nákladom. Nitra, 1920, p. 4.

²² In the case of Austrian law, pursuant to Section 268, the partners' own contributions were primarily considered when determining the share of profit and loss. See Wenig-Malovský, Arnošt: Příručka obchodního práva. Praha: Kompas, 1947, p. 250.

²³ Stodola, Emil – Zátůrecký, Adolf: Návrh slovenského právneho názvoslovia. (Maďarsko-slovenská právnická terminológia). Turčiansky Sv. Martin: Knižtlačiarstvo účastinársky spolok, 1919, p. 81.

²⁴ Husár, Ján: Zákonný článok XXXVII/1875 a jeho vplyv na vývoj slovenského obchodného práva. In Právny obzor, 2017, Vol. 100, No. 1, p. 45.

²⁵ Fajnor, Vladimír – Zátůrecký, Adolf: Nástin súkromného práva na Slovensku a v Podkarpatskej Rusi. Sošit 1. Bratislava: Právnická Jednota na Slovensku, 1924, p. 28.

²⁶ Eliáš, Karel: Novodobý rozměr starého právního sporu. In Právnik, 1993, Vol. 132, No. 1, p. 35; Eliáš, Karel: Příspěvek k dějinám akciových společností se zřetelem k vývoji jejich právní úpravy ve střední Evropě. In Právnik, 1994, Vol. 133, No. 8, p. 711.

deed; therefore, a simple written form was sufficient.²⁷ On the question of the organs of the joint-stock company, both commercial law regimes in Hungary and Austria did not formally differ: both stipulated the same triad of organs – the General Assembly, the Management and the Supervisory Board. However, where they differed was in the content, as only the Hungarian Commercial Code regulated these organs as mandatory, including the Supervisory Board.²⁸ Furthermore, the Hungarian Commercial Code, unlike the Austrian General Commercial Code, also regulated the criminal liability of members of the Management, members of the Supervisory Board, and founders within its provisions.²⁹

The Hungarian Commercial Code granted cooperatives a unique status – that of a commercial company. As such, they were automatically considered merchants and were registered in the Commercial Register along with other (traditional) commercial companies. Cooperatives were formed upon the fulfilment of two conditions: the adoption of the Articles of Association and registration in the (Commercial) Register, whereby the mere registration was not sufficient, as was the case under Austrian legal regulation, but rather its publication. In accordance with the Hungarian Commercial Code, the application for registration of the cooperative in the Commercial Register required the submission of a list of members, as well as proof that the cooperative had been duly established; i.e., that the Articles of Association had been approved by the inaugural General Assembly and that the Management Board and Supervisory Board had been elected.³⁰ The Supervisory Board, therefore, was a mandatory (obligatory) organ, just as with the joint-stock company. Furthermore, the declaration regarding the due establishment of the cooperative had to be personally signed by all members of the Management Board or submitted in an authenticated (notarized) form.³¹ With respect to the legal succession of the heirs of a deceased cooperative member, the Hungarian Commercial Code permitted the legal succession of heirs for both limited and unlimited liability memberships, unless the Articles of Association excluded it.³² The Austrian regulation contained a different approach: for legal succession concerning unlimited liability membership, it required the consent of the Articles of Association, while for legal succession concerning limited liability membership, it only required that the Articles of Association did not exclude it.³³ The Hungarian commercial regulation largely corresponded to the Austrian legal regulation with respect to the grounds for the dissolution of the cooperative but included two additional grounds typical of commercial companies. These were the merger of cooperatives and a decision of the registry court, specifically if the cooperative extended its activity to a purpose other than that stipulated by the Hungarian Commercial Code.³⁴ Although the legal regulation of the cooperative under the Hungarian Commercial Code was regulated relatively comprehensively, in some instances (amendment of the Articles of Association, merger,

²⁷ Wenig-Malovský, Arnošt: Příručka obchodního práva. Praha: Kompas, 1947, p. 351.

²⁸ §§ 159 (4), 176, 182 et seq. of Hungarian Commercial Code. See Klúčovský, Štefan – Čorba, Ignác: Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876). Vlastným nákladom. Nitra, 1920, pp. 36–41.

²⁹ §§ 218 – 222 of Hungarian Commercial Code. See Husár, Ján: Zákonný článok XXXVII/1875 a jeho vplyv na vývoj slovenského obchodného práva. In Právny obzor, 2017, Vol. 100, No. 1, p. 46.

³⁰ Wenig-Malovský, Arnošt: Příručka obchodního práva. Praha: Kompas, 1947, pp. 435–436.

³¹ § 227 of Hungarian Commercial Code. See Klúčovský, Štefan – Čorba, Ignác: Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876). Vlastným nákladom. Nitra, 1920, p. 52.

³² Wenig-Malovský, Arnošt: Příručka obchodního práva. Praha: Kompas, 1947, p. 436.

³³ Švehla, Antonín – Basch, Jaromír – Hermann-Otavský, Karel: Všeobecný zákoník obchodní platný v Čechách, na Moravě a ve Slezsku a československý zákon směnečný se zákony doplňujícími. 4. vydání. Praha: Všehrad, 1937, pp. 394, 402.

³⁴ § 247, 248 of Hungarian Commercial Code. See Klúčovský, Štefan – Čorba, Ignác: Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876). Vlastným nákladom. Nitra, 1920, pp. 55–56.

liquidation of the cooperative or criminal liability) it referred to the proportionate application of the provisions governing the legal relations of the joint-stock company.³⁵

The provisions of the Hungarian Commercial Code on business contractual relationships largely corresponded to the wording of the Austrian General Commercial Code; however, they slightly modified the enumeration of absolute and relative business contractual relationships, based on objective or subjective criterion. Hungarian commercial law considered the purchase or other agreements concerning state bonds, shares, or other negotiable securities to be absolute business contractual relationship, even if they were not conducted for the purpose of further alienation – as well as mutual insurance.³⁶ Similar to the case of absolute business contractual relationships, Hungarian commercial law defined relative business contractual relationships differently. Relative business contractual relationships, which were distinct from Austrian commercial law, included transactions exceeding the scope of small-scale trade, consisting in the activity of producers who processed or modified their own products, as well as trading within the mining industry.³⁷ Concerning specific obligational contract types, J. Husár draws attention mainly to the legal regulation of the contract of sale under the Hungarian Commercial Code, based on which the largest volume of transactions was concluded. The contract of sale was concluded when the parties agreed on the subject matter of the purchase and the price.³⁸ The essential parts of the contract were, therefore, the agreement on the subject matter of the purchase and the price. Offers for sale made to several persons – for instance, by sending price lists or stock lists, samples of goods, or specimens – in which the goods, price, or quantity were not definitively specified, were not considered binding.³⁹ The regulation of the purchase price was also noteworthy, as it had to be determined in money. If other considerations were exchanged alongside the money, and the value of these exceeded or equalled the monetary amount, the transaction was not deemed a sale.⁴⁰

III. Act XXXVII of 1875: Linguistic Adaptation in Multi-Ethnic Hungary and Related Commercial Legislation up to 1918

The socio-political events in Hungary in the 1860s foreshadowed a key moment for the return of Hungarian constitutionalism through the adoption of Act XII of 1867, signifying the Austro-Hungarian Compromise and establishing the Dual Monarchy of two states: Austria and

³⁵ Wenig-Malovský, Arnošt: Příručka obchodního práva. Praha: Kompas, 1947, pp. 438–439, 436.

³⁶ § 258 of Hungarian Commercial Code. See Klúčovský, Štefan – Čorba, Ignác: Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876). Vlastným nákladom. Nitra, 1920, p. 58.

³⁷ § 259 of Hungarian Commercial Code. See Fundárek, Jozef: Obchodný zákon platný na Slovensku a v Podkarpatskej Rusi (Zák. čl. XXXVII. z roku 1875). Bratislava: Právnická jednota na Slovensku, 1926, pp. 152–153.

³⁸ § 336 of Hungarian Commercial Code. See Klúčovský, Štefan – Čorba, Ignác: Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876). Vlastným nákladom. Nitra, 1920, pp. 71–72.

³⁹ This provision was substantively identical to the provision of Article 337 of the General Commercial Code. The provisions on purchase also applied to commercial transactions that were concluded for the delivery of a specific quantity of fungible goods at a determined price. Article 338 of the General Commercial Code contained similar regulation. See Husár, Ján: Zákonný článok XXXVII/1875 a jeho vplyv na vývoj slovenského obchodného práva. In Právny obzor, 2017, Vol. 100, No. 1, p. 46.

⁴⁰ § 338 of Hungarian Commercial Code. See Fundárek, Jozef: Obchodný zákon platný na Slovensku a v Podkarpatskej Rusi (Zák. čl. XXXVII. z roku 1875). Bratislava: Právnická jednota na Slovensku, 1926, p. 195.

Hungary.⁴¹ Given that the Ministries of Defense, Finance, and Foreign Affairs were the joint institutions within the monarchy, Hungary gained absolute power over most areas, such as culture and education. This period initially saw many accommodating steps towards linguistic minorities taken by Emperor Franz Joseph I (notably, the establishment of three Slovak high schools/gymnasiums). However, the reality of Hungarian educational policy after 1867 led to the intensification of „Magyarization“ and attacks on the newly founded Matica Slovenská and the Slovak high schools in Martin, Kláštor pod Znievom, and Revúca. Although these attacks were essentially regional skirmishes carried out by county officials against Slovak cultural and educational institutions, they had very negative overall consequences for the development of Slovak education.⁴² The purpose of this treatise, however, is not to open old wounds, but rather to point out the unpreparedness of the Slovak legal profession for the legislative deluge in the last 50 years of the common state.

Pursuant to Act XLIV of 1868 (The Nationalities Act), the Hungarian nation (*natio hungarica*) was constituted in a political sense, and Hungarian became the dominant language. Nevertheless, individual nationalities were entitled to specific language rights. One of the key rights was the authentic translation of the Acts adopted by the Hungarian Diet into the languages of the individual nationalities.⁴³ The translations of Hungarian Acts were published in the Slovak, German, Romanian, Croatian, Serbian, and Ruthenian languages. In Slovak, the translations of Hungarian Acts were published in the Collection of Land Laws (*Sbierka krajinských zákonov*). Regarding the first translation of Act XXXVII of 1875 (the Hungarian Commercial Code), although the names of the translators were not recorded, we have information that J. A. Gočar and Ignác Slušný worked in this field before 1881.⁴⁴ It is therefore likely that one of them was also the author of the first official translation of the Hungarian Commercial Act into contemporary Slovak, published in the Collection of Land Laws from 1875. The first translations, therefore, truly began to be published in Slovak, but with very fluctuating and unstable legal terminology, which oscillated between the use of Latinisms and linguistic calques.⁴⁵ During the last three decades (1881–1909) in Hungary, the translations of Hungarian legal regulations into Slovak were carried out by the linguist and translator Samuel Czambel, who, since 1879, had worked in the translation department of the Presidency of the Government (Prime Ministry) in Budapest. Although Czambel performed these translations outside his official duties, they were not merely a peripheral matter in his work. The erudite

⁴¹ For the purposes of this article, it is not essential to delve further into the details concerning the circumstances of the Austro-Hungarian Compromise. For details, see, e.g. Laclavíková, Miriam – Švecová, Adriana: Rakúsko-uhorské vyrovnanie a jeho ústavné zakotvenie v zákonom článku XII/1867. In *Právnik*, 2017, Vol. 156, No. 12, pp. 1153–1171.

⁴² Lysý, Miroslav: Právnické vzdelávanie na Slovensku pred vznikom Univerzity Komenského. Príspevok k stému výročiu založenia Právnickej fakulty. In *Acta Facultatis Iuridicae Universitatis Comenianae*, 2022, Vol. 41, No. 1, p. 57.

⁴³ § 1 of Act XLIV/1868 The Nationalities Act.

⁴⁴ Valkovičová, Gizela: Kodifikačné snahy S. Czambela pri ustáľovaní slovenskej právnej terminológie. In *Slovenská reč*, 1981, Vol. 46, No. 1, p. 29.

⁴⁵ We should recall that while Latinisms were more typical of the Czech or German professional (and thus legal) language, calques were and are more characteristic of the Hungarian language, where the principle of language purism was very consistently applied. This led to the creation of entirely new words, thanks to which Hungarian contains relatively few internationalisms. The Slovak legal language, however, stood at a crossroads. A huge disadvantage for it was the fact that there was no possibility for systematic improvement compared to the opportunities available to Hungarian in Hungary or even compared to the Czech legal language in the Austrian part of the monarchy. See Lysý, Miroslav: Právnické vzdelávanie na Slovensku pred vznikom Univerzity Komenského. Príspevok k stému výročiu založenia Právnickej fakulty. In *Acta Facultatis Iuridicae Universitatis Comenianae*, 2022, Vol. 41, No. 1, p. 58.

linguist, who had partial legal training, was aware that the translation of laws from Hungarian into Slovak was not merely a translation intended for communicative purposes; rather, as part of the integration into the national culture, it was a creative act and a significant stimulus for the development of the national language, specifically its professional terminology.⁴⁶

The absence of an authentic translation of Act XXXVII of 1875 manifested itself particularly in the subsequent period following the dissolution of the Austro-Hungarian Monarchy after 1918. Although Act XLIV/1868 (The Nationalities Act) stipulated a relatively clear obligation to publish all legal regulations adopted by the Hungarian Diet in minority languages as well, in practice, this did not play such a significant role due to strong Magyarization. It is therefore possible that this translation was simply not sufficient in terms of quality. The developments outlined after 1918 may support the truth of this thesis. Given the establishment of the new common state of Czechs and Slovaks, it became necessary to use the norms of the former Hungarian law in the state language. Consequently, several translations – or translations with commentary and contemporary case law – were produced between 1919 and 1926 by prominent legal figures (J. Fundárek, J. Karmán, Š. Klúčovský, I. Čorba, M. Slávik).⁴⁷ However, none of these translations were based on the original Slovak text of the Hungarian Commercial Code, as might objectively be expected, but rather on Hungarian works published before 1918. This “fate” also befell the first post-war work in Slovak dealing with private law in Slovakia, which was also merely a translation, or rather an adaptation, of a Hungarian work describing Hungarian law, supplemented with legislation and case law of the Supreme Court of the Czechoslovak Republic after 1918.⁴⁸ The absence of the authentic wording of this Act in Slovak, together with the insufficiently developed Slovak legal terminology before 1918, caused the first translation of the Hungarian Commercial Act to be immediately “enriched” after the establishment of Czechoslovakia with an appendix forming a Slovak-Hungarian legal terminology glossary.⁴⁹ Subsequently, to overcome the terminological problems, a similar bilingual terminological dictionary also emerged as a separate publication.⁵⁰ The application practice of the Hungarian Commercial Act was, of course, also a particular problem, since, based on the situation in 1910, as stated by J. Husár, out of 2,646 judges, only

⁴⁶ Valkovičová, Gizela: Kodifikačné snahy S. Czambela pri ustaľovaní slovenskej právnej terminológie. In *Slovenská reč*, 1981, Vol. 46, No. 1, p. 30.

⁴⁷ Klúčovský, Štefan – Čorba, Ignác: *Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876)*. Vlastným nákladom. Nitra, 1920, 152 p.; Slávik, Michal: *Obchodný zákonník platný na Slovensku a v Podkarpatskej Rusi*. Myjava: Daniel Pažický, 1924, 239 p.; Fundárek, Jozef: *Obchodný zákon platný na Slovensku a v Podkarpatskej Rusi (Zák. čl. XXXVII. z roku 1875)*. Bratislava: Právnická jednota na Slovensku, 1926, 326 p.; Karmán, Július: *Slovenský obchodný zákon a predpisy ho dopĺňajúce s judikatúrou najvyššieho súdu, ako i bývalej uhorskej kúrie a súdnych tabúl*. Praha: Čsl. Kompas, 1926, 967 p.

⁴⁸ The basis for the translation was supposed to be the work of the Hungarian professor K. Szladits: Szladits, Károly. *A magyar magánjog vázlatá, a banyá-, csőd-, kereskedelmi- és váltójog alapelveivel. A községi közigazgatási tanfolyamok használatára. Harmadik, javított kiadás*. Budapest: Grill Károly, 1917, 406 p. See Fajnor, Vladimír – Záthurecký, Adolf: *Nástin súkromného práva na Slovensku a v Podkarpatskej Rusi. Sošit 1*. Bratislava: Právnická Jednota na Slovensku, 1924, 1924, 258 p.

⁴⁹ Klúčovský, Štefan – Čorba, Ignác: *Obchodný zákon platný na Slovensku (XXXVII. uh. zák. článok z roku 1876)*. Vlastným nákladom. Nitra, 1920, pp. 124 – 152.

⁵⁰ The creation of the terminology was an initiative of E. Stodola, the editor of the legal journal *Právny obzor*. This idea and the necessity of urgently publishing a comprehensive work dedicated to Slovak legal terminology were also unanimously affirmed by the first Congress of Slovak Lawyers, which took place on December 20, 1918 in Žilina. Stodola, Emil – Záturecký, Adolf: *Návrh slovenského právneho názvoslovia. (Maďarsko-slovenská právnická terminológia)*. Turčiansky Sv. Martin: Kníhtlačiarsky účastinársky spolok, 1919, 108 p.

one judge identified as being of Slovak nationality. The situation was no better among the advocates – out of 6,743 advocates, there were only 92 “Slovak” advocates.⁵¹

Following the adoption of Act XXXVII of 1875, the Hungarian Commercial Act, legislative pursuits naturally did not cease, quite the opposite. Further important legal regulations concerning the branch of commercial law emerged in quick succession. For example, the following Acts were adopted by 1918:

- Act XXI/1876 on the differences with which Act XXXVII of 1875 applies to the Hungarian Land Credit Institution,⁵²
- Act XXVII/1876 on the Bill of Exchange,
- Act XXXVI/1876 on the Security of Mortgage Bonds
- Act XVI/1879 on the Registration of Maritime Merchant Ships,
- Act XVII/1881 on Bankruptcy,
- Act XXV/1883 on Usury and Harmful Credit Transactions,
- Act XXXI/1883 on Instalment Transactions,
- Act XVII/1884 on Trade Act,
- Act II/1890 on the Protection of Trademarks
- Act XXII/1893 on the Participation of Hungarian Merchant Ships Engaged in Free Sea Navigation in State Aid and Benefits,
- Act XXXV/1895 on the determination of the statutory interest rate,
- Act XXXVI/1895 on the Reduction of the Legal Interest Rate in force throughout the Territories of the Hungarian Crown,
- Act XXIII/1898 on Economic and Industrial Credit Cooperatives,
- Act XLII/1899 on Contractors for Economic Works and Auxiliary Laborers,
- Act II/1906 on the Regulation of Foreign Trade and Traffic Relations,
- Act LVII/1908 on the Transfer of Commercial Business,
- Act LVIII/1908 on Cheques.

Given the above-mentioned legal regulations, it might seem that a significant shift occurred in Hungarian private law between 1875 and 1918. The truth, however, is that this shift occurred mainly in commercial law, while in civil law, Hungarian customary law was still in force. This situation was also unfavourable even for the already codified Hungarian commercial law, since, in the absence of a legal solution in the Hungarian Commercial Act or commercial customs, the general (customary) civil law was to be applied. The process (attempt) to adopt the Hungarian Civil Code eventually took place between 1865 and 1915, resulting in the drafting of a total of four drafts of the Hungarian Civil Code. However, due to the ongoing pan-European military conflict, the adoption was ultimately unsuccessful.⁵³

⁵¹ Husár, Ján: Zákonný článok XXXVII/1875 a jeho vplyv na vývoj slovenského obchodného práva. In *Právny obzor*, 2017, Vol. 100, No. 1, p. 42.

⁵² This Act represented the first and simultaneously the last amendment of the Hungarian Commercial Code until 1918.

⁵³ See Képes, György: An Overview of the Hungarian Private Law Codification until 1918, with Special Regard to the Codification Aspects of a Separate Commercial Law. In Švecová, Adriana – Lanczová, Ingrid (eds.): *Právno-historické trendy a výhľady V*. Trnava: VEDA, 2020, pp. 67–69.

IV. “The Czechoslovak State Came into Existence” – Czechoslovak Commercial Law and the (Hungarian) Commercial Code

The First World War represented a social, economic, and political tragedy for continental Europe, intended to serve as a stark warning and a memento, so that such a pan-European military conflict would never be repeated. Considering that Austria-Hungary was practically at the very centre of this tragedy, the consequences of the military conflict logically manifested themselves even more severely, namely through its dissolution, which signified the culmination of the long-term pressure exerted by the individual nations of the Dual Monarchy desiring their own independence. Therefore, several new states emerged on the ruins of Austria-Hungary after 1918, including Czechoslovakia as a union of the territory of Slovakia (Subcarpathian Ruthenia) and the Czech lands into a single unitary state. On the legislative level, the new state came into existence on October 28, 1918, based on Act No. 11/1918 Coll. concerning the establishment of the Czechoslovak State. Furthermore, in the interest of maintaining continuity, the reception of the existing legal norms and institutions also occurred. The result of the reception of the former Hungarian and Austrian legal orders into the Czechoslovak legal order was the creation of legal dualism on the territory of the new Czechoslovak state, and this applied to commercial law as well.⁵⁴

Shortly after the establishment of the independent Czechoslovak Republic, two significant processes concerning joint-stock companies and their shareholders took place: the inventory and marking of securities and the nostrification of joint-stock companies.⁵⁵ The nostrification of joint-stock companies represented the process of transferring the registered offices of joint-stock companies, limited liability companies, banks, insurance companies, and pension institutions to the territory of Czechoslovakia.⁵⁶ This was based on Act No. 417/1919 Coll. on the Entry of the Czechoslovak State into the Guarantee Relationship concerning Local Railways Guaranteed by the State, and Act No. 12/1920 Coll. on enterprises having their registered office outside the territory of the Czechoslovak State. Pursuant to the Act on the Entry of the Czechoslovak State into the Guarantee Relationship concerning Local Railways Guaranteed by the State, commercial companies operating railway transport on routes defined by this Act were obliged to: a) transfer their registered office from Vienna to Prague, b) elect Czechoslovak citizens residing in Czechoslovakia as members of the administration, c) transfer the management of the company to the Czechoslovak Ministry of Railways, which could

⁵⁴ In this case, it is an expression of material continuity and formal discontinuity with the received Hungarian and Austrian legal order. See Hácha, Emil – Hoetzel, Jiří – Weyr, František – Laštovka, Karel: *Slovník veřejného práva československého*. III. svazek (P až Ř). Brno: Polygrafia, 1934, pp. 716–717.

⁵⁵ Securities, both foreign and domestic, including shares, were subject to inventory and marking. The inventory and marking of securities were organized based on Government Decree No. 126/1919 Coll. concerning the Inventory and Marking of Securities of March 12, 1919. The inventory applied to all natural or legal persons located on the territory of the Czechoslovak Republic who were owners and held securities; who acquired securities in any way and transferred them to the possession or custody of other persons; and who stored the securities of other persons. The persons were obliged to make an inventory of the securities and submit it at the designated inventory location. The inventory took place between March 20 and April 20, 1919. See Husár, Ján: *Zákonný článok XXXVII/1875 a jeho vplyv na vývoj slovenského obchodného práva*. In *Právny obzor*, 2017, Vol. 100, No. 1, p. 47.

⁵⁶ The nostrification process also proceeded based on the treaty between the Czechoslovak Republic and the Austrian Republic on the legal treatment of manufacturing and transport enterprises, published as Decree No. 580/1920 Coll.; With Hungary, the nostrification process of joint-stock companies was extended until 1927, when the agreement on the nostrification of these companies was incorporated into the content of the commercial treaty between the Czechoslovak Republic and the Kingdom of Hungary. See Husár, Ján: *Zákonný článok XXXVII/1875 a jeho vplyv na vývoj slovenského obchodného práva*. In *Právny obzor*, 2017, Vol. 100, No. 1, p. 48.

eventually entrust another suitable body, and d) register in the Commercial Register of the competent Commercial Court in Prague.⁵⁷ Similarly, pursuant to the Act on the enterprises having their registered office outside the territory of the Czechoslovak State, these enterprises were also obliged, upon the call of the competent minister, to move their registered office (principal establishment) and economic management to the territory of Czechoslovakia.⁵⁸

The key change, even regarding the ubiquitous legal dualism, was the adoption of Act No. 271/1920 Coll., which extended the validity of the Act of March 6, 1906, No. 58 R.G.Bl., concerning limited liability companies, to Slovakia and Subcarpathian Ruthenia as well, thereby eliminating the differing legal regime across Czechoslovakia in this area. Given that the Hungarian Commercial Code did not contain the legal regulation of limited liability companies (and originally neither did the General Austrian Commercial Code), until the adoption of the Act, the provisions of the received Act No. 58/1906 R.G.Bl. were applied only on the territory of the Czech lands.⁵⁹ A further step toward resolving the legal dualism in commercial law was the unification of the regulation of trade licensing in 1924, which was modelled on the (former) Austrian legal regulation, and was extended to the territory of Slovakia and Subcarpathian Ruthenia.⁶⁰ In the same year, the adoption of a legal regulation enabling the conversion of limited liability companies into the legal form of a cooperative society also occurred. The conversion could be carried out into the legal form of a cooperative society under three legal regulations: a) to Gainful and Economic Cooperative pursuant to Act No. 70/1873 R. G. Bl., b) to a Cooperative pursuant to §§ 223 to 257 of the Hungarian Commercial Code or c) to an Economic and Trade Credit Cooperative pursuant to Act XXIII/1898 concerning Economic and Trade Credit Cooperatives.⁶¹ Apart from these few changes, the state essentially did not intervene in the area of commercial law during the 1920s. However, everything changed based on an event thousands of kilometres away from Czechoslovakia, yet signifying the emergence of the longest, deepest, and most widespread economic recession of the 20th century – the Great Depression of 1929. For this reason, during the 1930s in Czechoslovakia, significant state interventions occurred in the otherwise almost untouched branch of commercial law, taking the form of various regulatory measures such as

⁵⁷ These measures had to be carried out within four months. Furthermore, the inability to amend the company's articles of incorporation under the law of its state of seat was not considered an obstacle, as this entry into the Commercial Register was to be performed directly based on this Act and the resolutions of the relevant company's bodies. Moreover, these companies were not required to apply for permission to carry out railway operations, which would otherwise be mandated pursuant to legal regulations. See Section 1, 2, 3 of Act No. 417/1919 Coll. on the Entry of the Czechoslovak State into the Guarantee Relationship concerning Local Railways Guaranteed by the State.

⁵⁸ This competent minister could also, if necessary, determine that the relocation of the registered office (principal establishment) must take place within a certain time limit or to a specified location. Similarly to the previous case, the requirement for approval of the amendment of the statutes/articles of association was superseded, and it was not necessary to apply for any permission concerning the performance of commercial activity on the territory of Czechoslovakia. See Section 1 of Act No. 12/1920 Coll. on the enterprises having their registered office outside the territory of the Czechoslovak State.

⁵⁹ See more Berger, Josef: *Zákon o společnostech s omezeným ručením ze dne 6. března 1906 č. ř. z. 58*. Tábor: Josef Berger, 1906, 209 p.; Patsch, Hugo – Nesý, Petr Celestýn – Kozáková, Anděla – Fuksa, Josef: *Společnost s omezeným ručením podle zákona ze dne 6. března 1906 č. 58 ř. z.* Praha: Právnícké knihkupectví a nakladatelství V. Linhart, 1934, 854 p.

⁶⁰ Act No. 259/1924 Coll. The Trade Licensing Act for the Territory of Slovakia and Subcarpathian Ruthenia of October 10, 1924. See further Ottis, Adolf: *Živnostenské právo v Československé republice*. Praha: Adolf Ottis, 1938, 379 p.

⁶¹ Naturally, on the territory of Slovakia and Subcarpathian Ruthenia, the conversion could only be carried out according to options b) and c), regarding the already mentioned ubiquitous legal dualism.

the creation of cartels and private monopolies,⁶² or the so-called forced syndication, which consisted of the possibility of creating a syndicate in a specific economic sector controlling the scope of production and sales.⁶³

In relation to the (Hungarian) Commercial Code, it was not directly amended even once during the Czechoslovak Republic.⁶⁴ However, the most pronounced problem of Czechoslovak law, especially private law, consisting of the dualism of legal norms valid for the Czech lands (Bohemia, Moravia, and Silesia) and Slovakia with Subcarpathian Ruthenia, was a priority that needed to be urgently resolved. As early as 1935, the professorial board of the Faculty of Law at Comenius University submitted a memorandum demanding the unification of the legal order, along with a specification of the branches of law that needed urgent unification, as well as an indication of the method/form by which the unification should be carried out.⁶⁵ The Unification Congress of Lawyers in Bratislava, which was scheduled to take place in September 1937, generated great interest across both the public and private spheres.⁶⁶ Finally, during 1937, the draft of a new commercial code was issued, which was intended to finally eliminate the legal dualism in commercial law, with the (Hungarian) Commercial Act also serving as one of the inspirational sources during its preparation. K. Kizlink also commented on the content of the draft of the new commercial code, specifically in the section “on commercial books,” stating that the previous regulation of both commercial legal codes was insufficient and the draft eliminated the main errors and defects of older codification works.⁶⁷ J. Fundárek also contributed to the discussion, stating that achieving a successful result in the efforts to unify commercial law should not represent a major problem, particularly given the closeness of both valid commercial legal regulations, which stemmed from the model of the German Commercial

⁶² Act No. 141/1933 Coll. on Cartels and Private Monopolies (The Cartel Act) of July 12, 1933. The Act recognized cartels; however, cartel agreements had to be in written form and registered in the register of the State Statistical Office. In the event of a threat to business, the government was authorized to prohibit the execution of a cartel agreement. The Act also established a Cartel Commission and a Cartel Court.

⁶³ Syndicates were established, for example, by the following regulations: Government Decree No. 170/1933 Coll. concerning the Extraordinary Regulation of Timber Extraction and the Regulation of Forestry and Timber Economy of August 5, 1933; Government Decree No. 137/1934 Coll. concerning the Regulation of the Trade in Grain, Flour, and Mill Products and Certain Feedstuffs of July 13, 1934; Government Decree No. 2/1936 Coll. concerning Certain Organizational and Other Measures in Glass Production of December 20, 1935; Government Decree No. 228/1936 Coll. concerning Certain Organizational and Other Measures in Textile Production of July 9, 1936 and others.

⁶⁴ However, naturally, as part of the process of rapprochement between the two received legal orders after 1918, several provisions were replaced by specific Czechoslovak regulations, thus resulting in partial unification in areas such as publishing contracts, insurance contracts, and the legal status of private employees. See Fundárek, Jozef: Unifikácia obchodného práva. In *Právny obzor*, 1937, Vol. 20, No. 14, p. 610.

⁶⁵ Since this initiative was widely accepted both by government bodies and by the professional public itself, based on the decision of the Committee of the Legal Union in Slovakia and Subcarpathian Ruthenia, a unification congress of lawyers from Slovakia and Subcarpathian Ruthenia was to take place on September 26 – 27, 1937. Laštovka, Karel: Poznámky k unifikačnému sjezdu právniků ze Slovenska a Podkarpatské Rusi. In *Právny obzor*, 1937, Vol. 20, No. 4, p. 77.

⁶⁶ Approximately half a year before the planned congress, participation was expressed by up to 77 offices, institutions, corporations, associations, and professional interest legal associations, including not only Slovakia and Subcarpathian Ruthenia but also Bohemia and Moravia. Bařinka, Cyril: Unifikačný sjezd právnikov v Bratislave v r. 1937. In *Právny obzor*, 1937, Vol. 20, No. 6-7, p. 137. See also regarding the number of congress attendees Bařinka, Cyril: Unifikační kongres právniků v Bratislavě 26. – 28./IX. 1937. In *Právny obzor*, 1937, Vol. 20, No. 9, pp. 232–236.

⁶⁷ At the same time, he highlighted the fact that it was possible to proceed in accordance with the principle of conservative reform, meaning the improvement, possibly correction and modernization of the provisions of valid legal regulations. Kizlink, Karel: K osnově obchodního zákona z r. 1937. In *Právny obzor*, 1938, Vol. 21, No. 8-9, pp. 281–282.

Code of 1861. On the other hand, however, he did not fail to identify the reasons why this unification had not yet occurred, noting that more urgent legislative problems existed, and the need for commercial law unification was therefore not an pressing priority.⁶⁸ Significant criticism began to emerge as early as the turn of the 1920s and 1930s, specifically on the occasion of the 10th anniversary of the establishment of the Czechoslovak state and the (old) new legal order. The state of commercial law was labelled as a “state with a passive balance,” since the dualism and the anachronism of the commercial legal regulation had not been successfully eliminated.⁶⁹ The All-State Unification Congress of Lawyers in Bratislava articulated a resolution containing several points concerning the process of commercial law unification:

1. Formal regulations concerning the protection of samples and models, as well as regulations concerning private insurance companies, should also be unified,
2. Provisions regarding joint-stock companies, limited liability companies, and cooperative societies should be incorporated into the draft of the Czechoslovak Commercial Code,
3. The singular legal regulation of certain types of securities (mortgage bonds, fractional subscriptions, etc.) should be unified within the framework of the Czechoslovak Commercial Code or by a separate Act,
4. The draft of the Czechoslovak Commercial Code should be prepared in such a way that the National Assembly of the Czechoslovak Republic could deliberate on it immediately after the approval of the new Czechoslovak Civil Code,
5. Non-contentious court proceedings in commercial and bill of exchange matters should also be uniformly regulated with the adoption of the Czechoslovak Commercial Code,
6. Cheque law should also be unified according to the Geneva Conventions, along with the adoption of a unified Bill of Exchange Act.⁷⁰

Unfortunately, the unification efforts could not be brought to a successful conclusion resulting in the adoption of neither a new Czechoslovak Civil Code nor a new Commercial Code. The time and political will, necessary for its proper deliberation and approval, were entirely consumed by the internal political problems of Czechoslovakia in 1938, ultimately signifying the establishment of the autonomy of Slovakia and Subcarpathian Ruthenia, which finally culminated, under pressure from A. Hitler, in the creation of a separate state (the so-called Slovak State).

V. “The Independent and Sovereign Slovak State” and the (Slovak) Commercial Code of 1875

Act No. 1/1939 Sl. Coll. concerning the independent Slovak State declared the autonomous Slovak Land (a part of the Czechoslovak Republic) to be an independent Slovak State. This also led to the transformation of legislative and governmental bodies, as well as the reception of Czechoslovak law with changes resulting from the spirit of the Slovak State’s independence. A part of this Act was also the authorization of the government to issue decrees during the transition period, specifically for maintaining order and safeguarding the interests of

⁶⁸ Fundárek, Jozef: Unifikácia obchodného práva. In *Právny obzor*, 1937, Vol. 20, No. 14, pp. 617–618.

⁶⁹ Kizlink, Karel: Vývoj obchodního práva československého v prvním desetiletí republiky. In *Všehrd*, 1928, Vol. 10, No. 1-2, pp. 14–16.

⁷⁰ Fundárek, Jozef: Unifikácia obchodného práva. In *Právny obzor*, 1937, Vol. 20, No. 14, pp. 619–620.

the Slovak State. However, the government decree unfortunately ultimately became the primary used source of law during the period of the so-called Slovak State.

Immediately on the second day after the establishment of the new state, the “breakthrough” Government Decree No. 19/1939 Sl. Coll. on the dispatch of government trustees to production and commercial enterprises (establishments) was issued, which sent a very clear signal about the functioning of commercial law during the so-called Slovak State. Government trustees were to be appointed to economically significant enterprises with the sole purpose of monitoring public interest and protecting the economic interests of the Slovak State. He was appointed to the position by the Minister of Economy and, when performing his activities, held the status of a public authority. The main attributes of a government trustee, as a Slovak citizen, were to be his moral reliability, at least 24 years of age, and only in the last place, “if possible,” his professional education or knowledge. The term of office of the government trustee was one month, with the possibility of repeated extension. This government decree was intended to be valid for three months from its issuance.⁷¹ This government decree was subsequently replaced by Government Decree No. 137/1939 Sl. Coll. on trustees and temporary administrators in industrial, commercial, and craft enterprises and in other asset portfolios. This continued the direction set by the previous legal regulation; however, the introduction of the possibility of temporary administration resulted in a much more invasive intervention into the autonomous position of private entrepreneurs and the influencing of their activities exclusively for the benefit of the economic interests of the Slovak State.⁷² In both cases, the predictability of law and legal certainty were absolutely absent. As J. Husár aptly states, it was unclear what “economic and public interests” meant in a specific case, or who determined these “public interests”, as well as the nature or intensity of the threat justifying the imposition of temporary administration over the enterprise.⁷³

A further measure, Government Decree No. 24/1939 Sl. Coll. Concerning the Administration of the Capital Stake of the Slovak State in State, Public Utility, and Private Enterprises,⁷⁴ resulted, at the moment of the establishment of the Slovak State, in the takeover of all rights arising from Czecho-Slovakia’s capital stake in enterprises and establishments located on the territory of the Slovak State, regardless of where these securities (shares, stakes, etc.) were located, or whether they had been issued. The administration of this capital stake was to be carried out by the relevant departmental ministries of the Slovak State. Upon the effectiveness of this government decree, the previous membership in the administrative and supervisory bodies was simultaneously terminated, whereby the relevant ministry of the Slovak State was to appoint new members in their place or entrust the administration and control to special commissaries. This procedure superseded the procedure under the (Slovak) Commercial Code of 1875 or according to the Articles of Association, and pursuant to the wording of this government decree, all provisions contradicting its content were indeed to be repealed.

⁷¹ Government Decree No. 19/1939 Sl. Coll. on the dispatch of government trustees to production and commercial enterprises (establishments) of March 15, 1939. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1939.pdf>. (cited 2025-11-23).

⁷² Government Decree No. 137/1939 Sl. Coll. on Trustees and Temporary Administrators in Industrial, Commercial, and Craft Enterprises and in Other Asset Portfolios of June 20, 1939. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1939.pdf>. (cited 2025-11-23).

⁷³ Husár, Ján: Zákonný článok XXXVII/1875 a jeho vplyv na vývoj slovenského obchodného práva. In *Právny obzor*, 2017, Vol. 100, No. 1, p. 51.

⁷⁴ Government Decree No. 24/1939 Sl. Coll. Concerning the Administration of the Capital Stake of the Slovak State in State, Public Utility, and Private Enterprises of March 24, 1939. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1939.pdf>. (cited 2025-11-23).

It did not take long for the anti-Semitic focus of the Slovak State's government policy to manifest itself in the branch of commercial law, which, unfortunately, also became one of the key and characterizing features of the period of the Slovak State, or Slovak Republic (1939–1945). Government Decree No. 40/1939 Sl. Coll. concerning extraordinary interventions in the licenses of innkeeping and tavern trades led to the revision (liquidation) of trade licenses issued to persons where, from the perspective of personal reliability, public interest, or social reasons, the elimination of an economically unhealthy influence resulting from an excessive number of issued licenses was required.⁷⁵ The trade was to be liquidated within 3 months, or this period could be extended for a maximum of another 3 months. However, if there was a public interest in the retention of a specific trade, and the conditions for the cancellation of the trade license against a specific person were met, a capable representative was to be appointed. The government decree sanctioned non-compliance with obligations very strictly, with fines up to 30,000 korunas or 90 days imprisonment. Despite the fact that not a single word about solving the Jewish question was mentioned *expressis verbis* in the government decree, practice unambiguously confirmed that the object of interest was the strong stratum of Jewish tavern owners profiting from the distressing social situation of most of the Slovak countryside.⁷⁶ The catastrophic nature of this government decree was also underlined by its effectiveness, which was “only” until December 31, 1940, but its effectiveness was gradually extended by decrees having the power of law until December 31, 1944.⁷⁷ Anti-Jewish legislation in commercial law continued with the adoption of a number of legal regulations, particularly Decree having the force of law No. 93/1940 Sl. Coll. concerning the prohibition of the unjustified cessation of operation of Jewish enterprises, Government Decree No. 303/1940 Sl. Coll. concerning Jewish enterprises,⁷⁸ and Government Decree No. 314/1940 Sl. Coll. concerning trustees and temporary administrators in Jewish industrial, commercial, and craft enterprises. The latter two government decrees signified the onset of harsh anti-Semitism, based on Constitutional Act No. 210/1940 Sl. Coll., which authorized the government to take measures in matters of

⁷⁵ Government Decree No. 40/1939 Sl. Coll. Concerning Extraordinary Interventions in the Licenses of Innkeeping and Tavern Trades of March 30, 1939. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1939.pdf>. (cited 2025-11-23).

⁷⁶ Šmátrala, Milan – Králik, Jozef: *Obchodné zákonodarstvo a podnikanie v Slovenskej republike v rokoch 1939 – 1945*. 1. zväzok. Bratislava: Veda, 2010, p. 122.

⁷⁷ Decree having the force of law No. 353/1940 Sl. Coll. Concerning Extraordinary Interventions in the Licenses of Innkeeping and Tavern Trades of December 17, 1940. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1940.pdf>. (cited 2025-11-23); Decree having the force of law No. 290/1941 Sl. Coll. Concerning Extraordinary Interventions in the Licenses of Innkeeping and Tavern Trades of December 19, 1941. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1941.pdf>. (cited 2025-11-23); Decree having the force of law No. 243/1942 Sl. Coll. Concerning Extraordinary Interventions in the Licenses of Innkeeping and Tavern Trades of December 18, 1942. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1942.pdf>. (cited 2025-11-23).

⁷⁸ Commercial companies were considered Jewish if they met the following criteria:

- General Partnerships, where at least half of the members were Jews or Jewish associations, and at the same time, at least half of the profit belonged to Jews or Jewish associations,
- Limited Partnerships, where at least half of the general partners and at least half of the limited partners were Jews, or regardless of the composition of membership, if at least half of the profit belonged to Jews or Jewish associations,
- Joint-Stock Companies and Cooperatives, where at least one-quarter of the members of the board of directors were Jews, or if at least half of the registered capital belonged to Jews or Jewish associations,
- Limited Liability Companies, where at least one-quarter of the managing directors were Jews, or if at least half of the core capital belonged to Jews or Jewish associations.

See Kizlink, Karel: *Nariadenia o židovských podnikoch vo svetle platného práva, najmä obchodného*. In *Právny obzor*, 1941, Vol. 24, No. 1-2, pp. 3–4.

Aryanization. The authorization was granted for 1 year and, pursuant to point (a) of this Constitutional Act, applied to “the exclusion of Jews from Slovak economic and social life.”⁷⁹

In 1941, a very significant legal regulation was adopted concerning membership in the directorial and supervisory boards of joint-stock companies and cooperative unions.⁸⁰ Act No. 249/1941 Sl. Coll. concerning membership in the directorial and supervisory boards of joint-stock companies and cooperative unions fundamentally restricted membership in these boards. The restriction on membership in the directorial boards was tied to the amount of registered capital, such that the number of members of the directorial board could not exceed: seven members (registered capital not exceeding 10,000,000 Ks); nine members (registered capital between 10,000,000 and 20,000,000 Ks); thirteen members (registered capital exceeding 20,000,000 Ks). Membership in the directorial boards was restricted not only in terms of the total number of members but also in terms of the accumulation of such membership. A person who was simultaneously a member in five directorial or supervisory boards could not be a member of the directorial board, nor could foreigners if their number exceeded half of all members of the directorial board. The Supervisory Board could have a maximum of seven members. An analogous restriction on the accumulation of membership applied to membership in the supervisory board, namely if the member was simultaneously a member in five directorial or supervisory boards or was a foreigner. In both cases, however, the competent ministry could decide to grant an exception if public interest required it. The amount of income for board members should be commensurate with the responsibilities of these members and the financial situation of the company.⁸¹ This legal regulation naturally closely resembled the provisions of the German Act on joint-stock companies and partnerships limited by shares from 1937.⁸² *Prima facie*, members of the Assembly of the Slovak Republic, as well as state and public employees, could not be members of the directorial or supervisory boards, except with the prior consent of the competent ministry or office.⁸³ Although the original draft bill absolutely excluded their possibility of membership, after deliberation of this draft bill in the government and the Assembly, the position was reached that “there are no objective prerequisites in this political system for such a decapitation of legislators.”⁸⁴ In 1944, as a consequence of extraordinary

⁷⁹ Constitutional Act No. 210/1940 Sl. Coll., which authorized the Government to take Measures in Matters of Aryanization of September 3, 1940. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1940.pdf>. (cited 2025-11-23).

⁸⁰ As J. Fundárek stated, the public was interested in who was in these bodies and what income they derived from them; specifically, whether some overly zealous individuals perhaps concentrated too many such functions upon themselves and whether their remuneration was adequate, not only in proportion to the enterprise and the work performed, but also from the perspective of the fundamental requirement of the equitable distribution of national income. Fundárek, Jozef: Zákon o členstve v správnych a dozorných radách účastinných spoločností a družstevných zväzov. In *Právny obzor*, 1942, Vol. 25, No. 1, p. 3.

⁸¹ Act No. 249/1941 Sl. Coll. concerning Membership in the Directorial and Supervisory Boards of Joint-Stock Companies and Cooperative unions of November 12, 1941. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1941.pdf> (cited 2025-11-23).

⁸² The maximum number of Supervisory Board members was set at 7, 12, or 20 members, depending on whether the company’s registered capital was 3,000,000, between 3,000,000 and 20,000,000, or more than 20,000,000 Reichsmarks. In terms of number, a person could be a member of the Supervisory Board in a maximum of 10 such boards. Likewise, the Reich Minister of Economy could permit an exception. Fundárek, Jozef: Zákon o členstve v správnych a dozorných radách účastinných spoločností a družstevných zväzov. In *Právny obzor*, 1942, Vol. 25, No. 1, p. 4.

⁸³ Act No. 249/1941 Sl. Coll. concerning Membership in the Directorial and Supervisory Boards of Joint-Stock Companies and Cooperative unions of November 12, 1941. [online] Available on internet: <https://www.upn.gov.sk/data/pdf/Slovensky-zakonnik-1941.pdf> (cited 2025-11-23).

⁸⁴ Fundárek, Jozef: Zákon o členstve v správnych a dozorných radách účastinných spoločností a družstevných zväzov. In *Právny obzor*, 1942, Vol. 25, No. 1, p. 17.

wartime conditions,⁸⁵ Decree having the force of law No. 143/1944 Sl. Coll. concerning transitional regulations regarding the administration of companies was also adopted, according to which the competent ministry was authorized, in the event that the directorial and supervisory bodies of commercial companies could not perform their function due to extraordinary wartime conditions, to appoint substitute bodies for a transitional period in their place, with the authority reserved for the directorial or supervisory bodies of the companies.⁸⁶

Just as in the previous period of the Czechoslovak Republic, no direct amendment of the Commercial Act of 1875 occurred.

VI. The (Slovak) Commercial Code of 1875 and its “Journey to Eternity” after 1945

Following the end of the Second World War and the liberation of the territory of Czechoslovakia (Slovakia) in 1945, the theory of the uninterrupted continuity of Czechoslovakia was enforced, and thus the legal nullity of the state entities on its territory during the period of “unfreedom” (from the Munich Agreement on September 29, 1938, until the liberation of Czechoslovakia). For this reason, Czechoslovak law continued to be valid in the scope applicable before this period, including in relation to the (Slovak) Commercial Act of 1875. The process of nationalization of industry in 1945 significantly intervened in the branch of commercial law, which was intended to pursue the state’s interest in gaining control of strategic industrial sectors during the crisis-ridden, post-war times. This process was carried out based on specific norms – the so-called decrees of the President of the Republic Edvard Beneš, issued in October 1945. The scope of the nationalization of industry was generally wide and concerned, for example, the mining industry, the energy industry, the metallurgical and engineering/arms industry, the chemical industry, the glass industry, the wood and cellulose/pulp industry, and the food industry.⁸⁷ Nationalization also affected the functioning of a significant part of commercial law, namely the area of joint-stock banks and private insurance companies.⁸⁸ However, the nationalization process did not affect companies established in the legal form of cooperative societies pursuant to Sections 223 et seq. of the Commercial Code of 1875.

This (first) phase of nationalization was intended to represent an acute measure for the stabilization of the situation in Czechoslovakia, and therefore compensation was also provided to the owners of the nationalized enterprises. Further implementation of nationalization was therefore not planned; however, this began to change in 1948 under the influence of the Communist Party of Czechoslovakia (KSC), which held the strongest position among all the parties in the government after the elections to the Constituent National Assembly in 1946.⁸⁹

⁸⁵ Šmátrala, Milan – Králik, Jozef: *Obchodné zákonodarstvo a podnikanie v Slovenskej republike v rokoch 1939 – 1945*. 2. zväzok. Bratislava: Veda, 2010, p. 519.

⁸⁶ Husár, Ján: *Zákonný článok XXXVII/1875 a jeho vplyv na vývoj slovenského obchodného práva*. In *Právny obzor*, 2017, Vol. 100, No. 1, p. 54.

⁸⁷ § 1 of Decree of the President of the Republic No. 100/1945 Coll. concerning the nationalization of mines and certain industrial enterprises of October 24, 1945; § 1 of Decree of the President of the Republic No. 101/1945 Coll. concerning the nationalization of certain enterprises in the food industry by October 24, 1945.

⁸⁸ § 1 of Decree of the President of the Republic No. 102/1945 Coll. concerning the nationalization of joint-stock banks by October 24, 1945; § 1 of Decree of the President of the Republic No. 103/1945 Coll. concerning the nationalization of private insurance companies by October 24, 1945.

⁸⁹ In the elections to the Constituent Assembly in 1946, the Democratic Party won in Slovakia by a margin of 62% to 38%; however, the Communist Party of Czechoslovakia (KSC) was the winner within the whole of

Crucial moment for further development in Czechoslovakia occurred on February 25, 1948, when the President of the Czechoslovak Republic, E. Beneš, accepted the resignation of ministers representing non-communist political parties (which, however, was intended as a protest against the policies of the communists). This provided the Communist Party of Czechoslovakia with the opportunity to nominate candidates for these posts exclusively from their own political party, and thereby definitively seize power in Czechoslovakia. Following the events of the so-called Victorious February, the state's social, political, and economic direction changed after 1948, following the model of the Soviet Union, which also affected the future and further existence of private law (commercial law). Based on the “reconstruction” of the government with ministers exclusively from the Communist Party of Czechoslovakia, the intention to carry out a second wave of nationalization was announced in March 1948, based on the policy statement of Klement Gottwald’s 2nd government. However, its purpose was diametrically different from the previous one, which soon manifested itself in the actual nationalization practice.

The second wave was intended to complete what the first wave of nationalization could not, and with much greater intensity. Its purpose was practically the destruction of everything characterized as “private” – private ownership and private enterprise. Even though the legislation itself specified certain limits – particularly the protection of small and medium-sized enterprises with up to 50 employees – in reality, nationalization affected a much wider range of persons and enterprises. The reason was prosaic: according to Marxist-Leninist philosophy, private ownership and private enterprise represented the so-called means of exploitation and appropriation of surplus value, and therefore they needed to be destroyed, suppressed, and replaced by collectively more suitable forms. However, the state did not content itself “only” with the very broadly defined nationalization but also proceeded to monopolize individual sectors, thereby definitively preventing any “undesirable” activity by anyone other than the state in these sectors.⁹⁰

Czechoslovakia. At this moment, a more or less evident struggle for the elimination of the political opposition and the complete takeover of power in Czechoslovakia effectively began.

⁹⁰ § 4 of Act No. 114/1948 Coll. concerning the nationalization of certain other industrial and other enterprises and plants and concerning the regulation of certain relations of nationalized and national enterprises; § 4 of Act No. 115/1948 Coll. concerning the nationalization of further industrial and other production enterprises and plants in the food industry sector and concerning the regulation of certain relations of nationalized and national enterprises in this sector; § 3 of the Decree of the President of the Republic No. 100/1945 Coll. concerning the nationalization of mines and certain industrial enterprises, as amended by Article II of Act No. 114/1948 Coll. concerning the nationalization of certain other industrial and other enterprises and plants and concerning the regulation of certain relations of nationalized and national enterprises (in the complete wording as Ordinance of the Minister of Industry No. 116/1948 Coll. concerning the complete wording of the Decree of the President of the Republic concerning the nationalization of mines and certain industrial enterprises); § 3 of the Decree of the President of the Republic No. 101/1945 Coll. concerning the nationalization of certain enterprises in the food industry, as amended by Article II of Act No. 115/1948 Coll. concerning the nationalization of further industrial and other production enterprises and plants in the food industry sector and concerning the regulation of certain relations of nationalized and national enterprises in this sector (in the complete wording as Ordinance of the Minister of Nutrition No. 117/1948 Coll. concerning the complete wording of the Decree of the President of the Republic concerning the nationalization of certain enterprises in the food industry); § 1 of Act No. 118/1948 Coll. concerning the organization of wholesale activity and concerning the nationalization of wholesale enterprises; § 1 and § 2, paragraph 1 of Act No. 119/1948 Coll. concerning the state organization of foreign trade and international forwarding; § 1, paragraph 1 of Act No. 122/1948 Coll. concerning the organization and nationalization of travel agencies; § 4 of Act No. 123/1948 Coll. concerning the nationalization of polygraphic (printing/publishing) enterprises; § 3, paragraph 2 of Act No. 125/1948 Coll. concerning the nationalization of natural medicinal resources and spas and concerning the integration and administration of confiscated spa property.

However, after the nationalization, it was necessary to adapt the legal order to the "new" conditions in Czechoslovakia. For this purpose, paradoxically, an intention arose simultaneously to codify, or rather unify, essentially all legal regulations that had not been successfully adopted until then. During the process of the so-called Legal Biennial (1948–1950), several infamous regulations were adopted in the field of commercial law, particularly the new Civil Code of 1950 and the new Act on Joint-Stock Companies of 1949.⁹¹ The Act on Joint-Stock Companies of 1949 repealed the hitherto valid and effective provisions on joint-stock companies (§§ 147 – 232 of the Commercial Code of 1875), as well as the provisions (§§ 173 – 249) contained in the General Commercial Code in the case of the Czech lands. Although it had only 20 provisions, it signified a significant change in the position of joint-stock companies. The most pronounced change in joint-stock law was the conditioning of the establishment of a joint-stock company on three facts: a) the approval of the statutes, b) the granting of a state permit, and c) registration in the relevant register. Unfortunately, the hitherto valid so-called joint-stock regulative, which laid down the conditions for obtaining the state permit,⁹² was also repealed. For this reason, the predictability of granting the state permit ceased to exist for both new and existing joint-stock companies, which, upon the effectiveness of this Act, were obliged to reapply for it. Joint-stock companies that did not obtain this permit either did not come into existence or were dissolved by administrative measure. Through this step, the legal form of a joint-stock company was degraded only for the purposes of the state monopoly on foreign trade, carried out by the so-called privileged foreign trade companies.⁹³

Another “breakthrough” was the adoption of the new Civil Code, which represented the first codification of civil law on the territory of Slovakia and, simultaneously, the unification of civil law within the whole of Czechoslovakia. Although it preserved Roman law (civilistic) terminology, its content clearly reflected the changed conditions in Czechoslovakia after 1948. The Civil Code was no longer a general regulation of private law, which, in relation to commercial law, manifested itself in a very cruel legislative manner. Pursuant to Section 568, paragraph 2 of the Civil Code, a widespread repeal of private law regulations occurred, encompassing both civil and commercial laws. Naturally, the Commercial Code of 1875 was among them, but except for the provisions on cooperatives. However, the provisions on cooperative societies pursuant to the Commercial Act of 1875 were valid only temporarily, specifically until January 1, 1955.⁹⁴ However, the regulation of craft/trade business ended up being the most absurd, as it lost its justification after the factual liquidation of trades and tradesmen in the early 1950s, but formally these regulations remained valid until the adoption of the Labour Code of 1965.

⁹¹ Act No. 141/1950 Coll. Civil Code of October 25, 1950; Act No. 243/1949 Coll. on Joint-Stock Companies of November 17, 1949.

⁹² Regulation of the Ministries of the Interior, Finance, Trade, Justice, and Agriculture No. 175/1899 Coll., which declared regulations for the establishment and modification of joint-stock companies in the industry and trade sector.

⁹³ Martincová, Lenka: Formovanie podnikov zahraničného obchodu v Československu v rokoch 1948 – 1953. In *Historický časopis*, 2025, Vol. 73, No. 1, pp. 157–159.

⁹⁴ Section 62, paragraph 1, point 6 of Act No. 53/1954 Coll. concerning people’s cooperatives and cooperative organizations.

VII. Conclusion

The Hungarian Commercial Code, Act XXXVII/1875, also known as the Slovak Commercial Code of 1875, was the longest valid and effective commercial law on the territory of Slovakia, which was not only true now of its repeal on January 1, 1951, but remains equally true to this day. Even though it was not re-introduced as a commercial law regulation on the territory of Slovakia after 1989 and the return of the market economy, its content was timeless and inspiring. The key aspect was its incredible resilience and (legal) stamina, as after the first forty years of operation in the Austro-Hungarian Monarchy, it subsequently served as an inspiring model for Czechoslovak unification efforts on a new Commercial Code, and its legal fate was not stopped even by the wartime Slovak State, but only by the communist totalitarianism, for which commercial law was Public (or rather Private) Enemy No. 1.⁹⁵ The reason for recalling it is also the ongoing and much needed (re)codification of private law in Slovakia, which apparently relies on the so-called Czech model, i.e., the removal of the dualism of the law of obligations within private law and its regulation solely within the Civil Code. This step will even more significantly underscore the importance of the Hungarian/Slovak Commercial Act of 1875 in the development of commercial law within the geographical coordinates of the territory of Slovakia and neighbouring states as the longest valid Commercial Code in history.

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⁹⁵ Fortunately, commercial law „only” ceased to exist within the framework of domestic relations, since, within the framework of the next wave of codification in the 1960s, Act No. 101/1963 Coll. concerning legal relations in international commercial intercourse (the Code of International Trade) was adopted in Czechoslovakia. This represented the sole remnant of the private law regulation of the law of obligations, yet applicable only in relation to foreign business partners when carrying out international trade. See Kőszeghy, Adam. *Základné zásady Zákonníka medzinárodného obchodu*. In *Historia et theoria iuris, 2021, Vol. 13, No. 3, pp. 59–67*; Kőszeghy, Adam. *Zákon č. 101/1963 Zb. o právnych vzťahoch v medzinárodnom obchodnom styku (Zákonník medzinárodného obchodu) ako míľnik vo vývoji obchodných vzťahov v Československu*. In *Historia et theoria iuris, 2023, Vol. 15, No. 1, pp. 40–51*. Cf also Suchoža, Jozef. *Úvahy o obchodnom práve*. In *Právní obzor, 1992, roč. 75, č. 4, pp. 306–307*.

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