

**HUNGARIAN LAW IN THE FIRST DECADE OF THE 21ST CENTURY
(HUNGARIAN LAW-COMPARATIVE LAW)**

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Abstract: *In the second half of the 20th century the Hungarian legal system was classified as a member of the Socialist legal family. Due to the changes of 1989-90, the Socialist order ceased to exist and the Soviet Union fell apart. During the last twenty years Hungarian society as well as the legal system has gone through a significant change. After twenty years of continuous legislation, which resulted in a basically different legal system, the most important question is how the fundamental features of Hungarian law could be described. In order to provide information for foreign lawyers on the actual place of the Hungarian legal system among the great legal systems of the world - after a short overview of the Hungarian legal history - this essay gives a comparative summary of the main elements of the constitutional, civil and commercial law, the judicial organisation and the legal education of the country.*

Keywords: *Hungarian legal history of public law, Hungarian legal history of private law, Hungarian legal history of penal law, Constitution of the Republic of Hungary, Hungarian Civil Code (Act IV of 1959), Hungarian court system, Law faculties in Hungary*

The Republic of Hungary belongs to the continental legal system, since the major part of private and penal law as well as procedural laws is codified. Except for the period of the communist reign, when it was labelled as a member of the Socialist legal family, the Hungarian legal system was influenced by Roman, Austrian and German law. The major part of the legal material was renewed after 1990, and the most important legal elements of the EEC, later the EU, were transposed through means of legislation; on the 1st May 2004 Hungary became a Member State of the European Union.¹

1. Legal historical antecedents (history of constitutional-, private and penal law)

It seems most suitable to approach Hungarian legal history through the division of public-, private- and penal law.

1.1. The Kingdom of Hungary was founded in 1000 AD in accordance with the traditions of the Western Roman Empire.² The Golden Bull of 1222, which was issued by ANDRÁS II, is one of the most significant sources of the Hungarian constitutional law: it refers to the statutes of King ISTVÁN and the customs of the country when enumerating the privileges of the nobility (guarantees of personal freedom, tax exemption, the right to resist), which serve their protection in their relationship with the king. ISTVÁN WERBŐCZY collected the customary laws of previous times in his *Tripartitum*, which - though formally never incorporated into law - was regarded as the second pillar of the unwritten constitution. According to the doctrine of the Holy Crown, which appeared in the *Tripartitum*, the king and the legally equal noblemen formulated the “corpse of the Holy Crown”, which symbolised the Hungarian state. The following centuries were determined by independence movements. The statutes, which secured the Habsburg dynasty’s claim to the Hungarian throne (1547) and provided for the acknowledgement of succession in the female line (Pragmatica Sanctio, 1723) bear constitutional significance. During these centuries the counties gradually became the forums of Hungarian constitutional life.³

The revolution of 1848 laid down the grounds for a civil, democratic process of constitution-making. Its most important elements are: the liberation of serfs, the introduction of common charges and the creation of popular representation. Act III of 1848 established the institution of independent ministries, which were responsible exclusively to Parliament.⁴ Following the Austrian-Hungarian political agreement, the Compromise of 1867, several statutes were issued pertaining to local governments, the administration of justice, the setting up of juries, civil marriage and citizenship. The resolutions of the National Council adopted in 1918 and the constitution of the Hungarian Soviet Republic of 1919 diverged completely from the constitutional system of the Austro-Hungarian Monarchy.

Under Act I of 1920, which contained provisions on the restoration of the constitution and temporary measures concerning the head of state, a governor was appointed to act as the head of state, while the system of a government responsible to Parliament remained. Between the two world wars, the governmental system reflected the efforts to preserve legal continuity and to take over the principles of governance and state-administration prevailing in contemporary Europe. After October 1944, the constitutional institutions ceased to exist. After this, the Provisional National Assembly held its first session on 21 December 1944, and elected the Provisional National Government, which practically implemented the policy of the coalition of political parties. Act XI of 1945 on the provisional exercise of state powers decided only temporarily about the governmental system. Act I of 1946 on

the form of state of Hungary declared, that Hungary is a republic, where the form of government manifests itself in a national assembly.⁵ Act XX of 1949 on the Constitution contains a Socialist Constitution. It has been amended several times during its history; the most significant amendment of the socialist party-state period took place in 1972. After 1989, the newly formed political powers issued statutes which meant the first steps towards a constitutional state, for example Act I of 1989 providing for the introduction of a constitutional court, Act II of 1989 on the right of association, Act III of 1989 on the right of assembly, Act XVII of 1989 on referendum.⁶ Later Act XXXI of 1989 on the amendment of the Constitution was adopted.⁷ Though formally this statute is simply an amended version of the Constitution of 1949, in its essence it is a new constitution. It has also been amended several times; the most significant amendment is Act XI of 1990, adopted after the first democratic general elections.⁸

1.2. Until 1848 Hungarian private law was based on customary law, while the role of statutes and privileges was secondary. In chronological order the decrees (manifestations of the royal will) of the kings of the Árpád Dynasty are the first sources of private law, which contained provisions pertaining to personal status and marriage. The statutes issued by Parliament referred to private legal relationships only later and sparsely. The first bill concerning private legal relationships bore the name "*Proposition on civil legal issues*" (*Projectum legum civilium*). It contained 59 articles and was drafted by a commission set up under Act LXVII of 1791. This draft was nothing else but a compilation of customary laws and judicial practice. There was no difference between decrees and privileges until the 15th century, since both of them depended on the royal will. From the 16th century the compilation of customary laws, called *Tripartitum* restrained the king's right concerning the donation of privileges, which from then on could prevail only on a restricted level, since the king had to take into consideration the most important statutes, customary laws, the personal and pecuniary rights of private persons. Later private persons, primarily landlords earned the right to donate privileges, too. The issue of royal rescripts came into practice only from the 17th century, but according to Act XII of 1792 these were restricted to the execution of statutes. Mostly free cities and counties earned the right of local and regional legislation (*statutum*). The scope of these local and regional legal acts covered the jurisdiction of the free cities and counties only, and they had to be concordant with statutes and customary law.⁹ The most important among the compilations of *statutum*s are the so-called urban *statutum*s, for example the *statutum* of the Saxons of Szepes ("*Zipser Willkühr*") from the year 1370 and the *statutum*s of the city of Buda (1244-1421).¹⁰ As it has

already been mentioned, private law was regulated mostly through customary law. Because of the uncertainty and plasticity of customary law, the need for the laws to be collected into a single code soon arose. The first attempt in order to create such a code is bound to King MÁTYÁS I (1456-1490), who emphasised the primacy of statutes over customary law in a statute he issued in 1486 (*Decretum majus*).¹¹ Parallel to this, the new idea of codifying customary law developed. This goal was nearly reached in 1514, when ISTVÁN WERBŐCZY laid his draft called „*Tripartitum opus juris consuetudinis inclyti regni Hungariae*” before Parliament. Though this draft was accepted by Parliament, it was rejected by the king. After this WERBŐCZY had his work printed at his own cost in Vienna in 1517, and sent copies to the counties, which started to apply them for the lack of a written code. On the one hand, the *Tripartitum* systematized customary law and collected statutes, privileges and statutums, on the other hand, WERBŐCZY added some elements of canon law and Roman law to the parts of his work explaining legal institutions. The *Tripartitum* is very similar to the compilations of the Middle Ages, which were particularly popular in the Holy Roman Empire in those times: for example the Saxon Mirror (*Sachsenspiegel*), but such compilations could be found in England, for example the legal works of GLANVILL and BRACON as well as in the French Kingdom, for example the works of BAUMANOIR.

Werbőczy's *Tripartitum* determined the development of Hungarian private law for centuries. It was renewed several times until the end of the 18th century, when a new concept arose concerning the codification of private law.¹² Prior to the 19th century the „*Planum Tabulare sive Decisiones Curiales*” could be described as a collection of decisions issued by superior courts. The idea of the codification of private law revived again in the Reform Era (1825-1848), but it was implemented only in the area of commercial law by the statutes of 1839/1840. The statutes issued during this period (Act XV on bills of exchange, Act XVI on merchants, Act XVII on factories, Act XVIII on general partnerships, ACT XX on the associations of merchants and commercial agents, Act XXI on wagoners, Act XII on bankruptcy) could be regarded as some sort of codification regarding commercial law.¹³ The revolution of 1848 meant the closure of the Reform Era, still, the idea of the codification of private legal relationships arose during the war of independence of 1848-49, too. The government entrusted LÁSZLÓ SZALAY with this task and the Code Civil was regarded as a model.¹⁴ The suppression of the war of independence hindered the success of this plan, and in 1852 the Austrian Civil Code (*Allgemeines Gesetzbuch*) was entered into force, which was in effect from the 1st of May 1853 until 1861. Like the *Allgemeines Landrecht der Preussischen Staaten* (ALR) and the French Code Civil, the Austrian Civil Code bears the signs of natural law, provides

special protection for personal rights and acknowledges a nearly absolute right of disposition over property. The Austrian Civil Code is especially important, because it gave a unified civil code to Hungary and through this many legal institutions were incorporated into the Hungarian legal system. A general land register was introduced in 1855 in order to secure the trade in real estate and mortgage-loans. Due to the softening of relations between the Austrian dynasty and Hungary, in 1861 FERENC JÓZSEF restored the former Hungarian judicial system (with some exceptions). Therefore a body of statesmen and lawyers (Országbírói Értekezlet) prepared the Provisional Rules of Jurisdiction (Ideiglenes Törvénykezési Szabályok), which first of all aimed at the annullment of the Austrian law and the re-introduction of the - modernized - statutes of 1848. The adoption of Act XXXVII of 1875 on commercial relations was an important event of that era, it bore the significant influence of the German commercial law. This Commercial Act became the main source of the uncodified Hungarian private law, it transferred a great number of principles and institutions of German law into Hungarian legal practice. The 1876 Act on Bills of Exchange, the 1877 Act on Guardianship and the Act on Marriage adopted in 1894 were also important statutes of the 19th century.¹⁵ The first attempts to codify private law date back to this era. A lot of draft bills were created, most important of these is the Bill on the Civil Code of Hungary of 1928 (Magyarország Magánjogi Törvényének Javaslat, Mtj.). The Mtj. took the significant contemporary civil codes into consideration, so the German Bürgerliches Gesetzbuch (BGB) and the Swiss Zivilgesetzbuch (ZGB) strongly influenced the Hungarian bill. Its structure followed the structure of the Swiss ZGB, so it lacked a General Part but took judicial practice into account. Unfortunately, this excellent bill was taken off the agenda by Parliament, because in the territories which Hungary lost under the Treaty of Trianon, the customary law of the previous eras remained in force, and the enactment of the bill would have disturbed this unity.¹⁶ So the first Hungarian Civil Code (which is still in force) was adopted only in 1959.¹⁷

1.3. The history of the Hungarian penal law began in the age of the patrimonial kingdom: firstly the statutes of St. LÁSZLÓ (1077-1083) specified criminal conducts, mainly crimes against property. In the feudal age the statutes of MÁTYÁS I regulated certain criminal conducts: Act II of 1467 referred to infidelity, and Act XV of 1486 covered the abuse of power. The first part of *Tripartitum* contained the most grievous criminal conducts violating public law, but as it has already been mentioned, the draft was not enacted, though it was applied as the compilation of customary law.¹⁸ The first attempts at the introduction of a unified penal code were made at the beginning of the 17th century. In 1656 Ferdinand III issued a code called „Vewe

peinliche Landgerichtsordnung” for Austria, which was later translated into Latin (*Praxis Criminalis*) by the order of the archbishop of Esztergom. Though the Parliament of 1687 rejected it since its members held it alien from the Hungarian written and customary law, the text of *Praxis Criminalis* was incorporated in the compilation of *Corpus Juris Hungarici*, issued in 1696-97, and after that courts applied it regularly. The *Praxis Criminalis* contained 100 articles and determined very strict sanctions, but it also enumerated mitigating and aggravating circumstances. Later four bills were laid before Parliament (in 1792, 1795, 1827 and 1843), but the final code was accepted only at the end of the 19th century. After the suppression of the revolution and war of independence of 1848-49, the Austrian Penal Code (*Strafgesetz*) of 1803, amended in 1852 (*Strafgesetzbuch*), was entered into force in Hungary. The Provisional Rules of Jurisdiction of 1861 repealed the Austrian penal law and the Hungarian regulation prior to 1848 in Hungary, which had an unfortunate effect since Hungarian penal law was then uncodified.¹⁹ The first penal code adopted was Act V of 1878; known as Code Csemegi, named after KÁROLY CSEMEGI, under-secretary of state, since it was accepted on his proposal. This Code was supplemented with a statute on infractions in 1879. Code Csemegi contained a general and a special part and consisted of 145 articles. The general part contained introductory measures, the scope of the statute, dealt with sanctions, the concepts of attempt, complicity, willfulness and negligence, circumstances excluding or mitigating sanctions, multiple counts, the initiation of prosecution, and the circumstances which exclude the execution of the penalty. The special part divided criminal conducts into five categories: criminal conducts against the state, against social order, against the person and property of private individuals, against public order and against the order of public administration.²⁰ The general part of Code Csemegi remained in effect until 1950 (until Act II of 1950), while the special part until the adoption of the socialist Code Penal Code of 1961 (Act V of 1961).²¹ After the middle of the 1970s crime was regarded and handled as a complex social phenomenon, which led to new codification resulting in Act IV of 1978, which came into force on the 1st July 1979.²²

2. Constitutional law

Prior to 1949 Hungary had no written constitution with a lasting effect, during these times the country had a so-called historical constitution. The first written, charter-like constitution (Act XX of 1949) was introduced by a dictatorial political power, it followed the example of the Soviet constitution of 1936 and took over its structure. Formally the Constitution of Hungary is still the amended

version of the Communist Constitution of 1949, but it must be emphasised, that with regard to its contents, a new constitutional order complying with the democratic requirements of the rule of law was born after the political changes of 1989-90.²³ The amendments of the Constitution are accepted with a qualified majority of the legislation, which means that the legislative power is not different from the one which calls the constitution into life. The Constitution of the Republic of Hungary is contained in Act XX of 1949; since 1989 its text has been fully renewed (Act XXXI of 1989 and Act XL of 1990, the latter adopted by the first freely elected Parliament, meant the total revision of the former text), and as declared in Section 2 thereof, Hungary is an independent, democratic constitutional state, where the rule of law prevails. The Preamble of the Constitution enumerates the following aims to be reached: the freedom of the foundation and functioning of political parties, parliamentary democracy, free market economy and the rule of law.²⁴ The Preamble declares the Constitution itself to be a temporary document of a provisional character, which was called into life in order to secure the peaceful political transition in 1990.²⁵ The construction of a new Constitution by 2011 is a declared aim of the parliamentary majority elected in 2010 (the temporary Constitution has been in effect for 20 years!). The Constitution of the Republic of Hungary has the defence of human and civil rights as its central elements, it introduces a regulation which is in harmony with the values and requirements of a democratic, parliamentary system.²⁶ The Constitution of the Republic of Hungary regulates the rights and duties as well as the principles of the functioning of Parliament (Országgyűlés), the President of the Republic, the Constitutional Court, the parliamentary commissioners, the State Audit Office of Hungary, the Hungarian National Bank, the government, the armed forces, the police, the local self-governments, the judiciary and the public prosecutors. Besides these, the fundamental rights and duties, the principles of elections, the capital city of Hungary and the national symbols are regulated in a separate chapter.²⁷

In the Republic of Hungary the supreme organ of state power and popular representation is Parliament. It exercises the legislative power of the state, has 386 elected members who form one chamber. Since 1902 Parliament has held its sittings in the parliament building erected on the bank of the river Danube in Budapest. The Hungarian electoral system is a mixed system; Members of Parliament are elected by direct universal and secret suffrage every four years. According to this mixed system, citizens are given two ballot papers. 176 Members of Parliament representing single member constituencies can be elected in two rounds with the first ballot. 146 Members of Parliament representing territories are elected with the second ballot from party lists set up in each county and in the capital. Finally,

64 representatives are elected indirectly from the so called national compensatory list; such seats are allocated from the national pool of remainder votes not used to obtain a seat.²⁸ The legal framework of a parliamentary system cherishing democratic values has been established in the Republic of Hungary. Accordingly, the Constitution stipulates the place of Parliament in the system of government in compliance with the principle of the separation of powers. The act on the election of the members of Parliament takes the utmost advantage of the mixed electoral system and ensures the stability of government and the prevalence of the principle of proportionality. The standing orders of Parliament promote the balanced and effective functioning of the legislative body, whilst the legal status, the immunity and the conflict of interest of the Members of Parliament are regulated by separate acts.²⁹

The head of state is the President of Hungary, who expresses the unity of the nation and guards the democratic functioning of the state. The President is elected for a term of five years by Parliament from among the Hungarian citizens who have the right to vote and have reached the age of 35. The election of the President of the Republic is preceded by a nomination procedure. The written recommendation of at least 50 Members of Parliament is required for a nomination to be valid. The president of the Republic is elected by secret ballot; the candidate who receives the two-thirds of the votes of the Members of Parliament in the first round of voting is elected President of the Republic. Should this fail to happen, a second voting is to be taken after a new nomination procedure and a two-thirds majority is also needed to be elected in the second round. Should the voting be unsuccessful again, in the third round of voting only those two candidates who received the largest numbers of votes in the second round may stand for election. The candidate receiving a majority of the votes - regardless of the number of votes cast - in the third round of voting is elected President of the Republic. The measures of the President of the Republic requiring the counter-signature of the Prime Minister or the responsible Minister include the following: to accredit and receive ambassadors and envoys, to appoint and dismiss State Secretaries, the Governor and Deputy-Governors of the National Bank of Hungary, university professors and the university rectors, and to appoint and promote Generals of the Hungarian Armed Forces. Upon the counter-signature of the competent Minister, the President of the Republic has also the power to conclude international treaties, confer titles, orders, awards and decorations specified by law, exercise the right to grant individual pardons and issue rulings in cases of citizenship. His powers not requiring the counter-signature of the competent Minister are as follows: to participate in and speak at sittings of the Parliament and of its committees, to petition the Parliament to take action, to initiate legislation and national referenda. The President of the Supreme

Court and the Chief Public Prosecutor are also elected on his proposal. The President of the Republic participates in the formation of the government and he is the Commander in Chief of the Hungarian Armed Forces.³⁰

The establishment of the Hungarian Constitutional Court was provided for by Act I of 1989. Parliament amended the Constitution according to the provisions thereof: it has incorporated Article 32/A. into the text, which introduced the previously unknown institution into the Hungarian legal system, and laid down its fundamental rules. Subsequently Parliament adopted Act XXXII of 1989 on the Constitutional Court, which determined the most important rules of the organisation and operation of the Court. The eleven members of the Constitutional Court are elected by Parliament by a qualified majority of the votes (two-thirds of the total votes) for a term of nine years. The judges of the Constitutional Court elect their President and Vice-Presidents from among themselves for a term of three years. The President represents the Constitutional Court and coordinates its activity, but his activity must not influence the independence of the other judges of the Court. As a general rule, its decisions are made in plenary sessions or in panels consisting of three members. Issues concerning the constitutionality of Acts of Parliament and other matters defined in the Act on the Constitutional Court are decided in plenary session. The Constitutional Court proceeds in matters concerning the constitutionality of government decrees and statutes of a lower level in three-member panels. The competence of the Constitutional Court includes: preliminary (*ex ante*) and posterior (*ex post*) norm-control, the examination of conflicts between international treaties and laws, judgement on constitutional complaints, the elimination of unconstitutionality by omission, the elimination of conflicts of competence between state organs, the interpretation of provisions of the Constitution, and other proceedings. Under the provisions of the Constitution, the Constitutional Court has jurisdiction in impeachment proceedings against the president of the Republic, and it provides preliminary opinions on the dissolution of local representative bodies operating unconstitutionally. The Act on the Constitutional Court allows for the expansion of the competence of the Constitutional Court by statutes. The most general of these is that the Constitutional Court serves a remedial legal forum against the decisions of the National Election Office and the resolutions of Parliament concerning the initiation of a national referendum.³¹

There are four parliamentary commissioners (*ombudsmen*) in Hungary who guard and defend the constitutional rights of citizens: the Commissioner for Civil Rights, the Commissioner for Data Protection, the Commissioner for the Future Generations and the Commissioner for the Rights of National and Ethnic Minorities.³² The candidates are nominated by the President of the Republic and they are elected by

a majority of two-thirds of the votes of the Members of Parliament. Their mandate is for a term of six years, and it is renewable only once. The Commissioner for Civil Rights is entitled to initiate general or specific measures to redress any anomalies in the working of the authorities and those providing public services which come to the Commissioner's attention. The fastest and simplest way for the Parliamentary Commissioner to remedy an injury is to request action to be taken by the head of the organisation concerned, in his own scope of competence. Recommendation is the most frequently applied legal tool. The most important tools of the Parliamentary Commissioner are professional argument, convincement and publicity. The Commissioner of Future Generations who is responsible for environmental protection on a national level and represents the interests of future generations is almost a unique institution in the world (a similar institution can be found only in the Province of Ontario, Canada, in Israel, and in Finland).³³

The State Audit Office (ÁSZ) is the most important economic monitoring organ of Hungary, its main task is the supervision of the Hungarian State Treasury and to make the Treasury accountable to the public. The staff of the State Audit Office consists of a president, vice-presidents, a general secretary, managers, auditors, public servants, clerks and other employees. The State Audit Office is the economic-financial monitoring organ of the Parliament and the state compared to other foreign models, it has outstanding legal guarantees and it can exercise control over every area of state life where public funds are managed and used. The President of the State Audit Office is entitled to examine the loan contracts of the state budget. He offers an opinion on proposals concerning the improvement of the accountancy and internal financial monitoring system of public finances, the nomination of the President of the Hungarian Tax and Financial Control Administration (APEH) and the internal regulations of the Hungarian State Holding Company. He monitors the management of social security and other separate state funds, local and minority self-governments, county development councils, chambers of commerce, public foundations, non-profit organisations, pension funds, financial companies, institutions of higher education, political parties and their foundations, and churches.³⁴ The National Bank of Hungary (MNB) is the central bank of Hungary. Its tasks are enumerated in Act LVIII of 2001 (Banking Act). The primary objective of the National Bank is to achieve and maintain price stability. Without prejudice to its chief objective, it supports the economic policy of the Government by means of the instruments of monetary control at its disposal.³⁵

The prosecuting authorities are in a special constitutional position in Hungary; they are independent of the government and separated from the judicial system, too. The independence of the prosecuting authorities is guaranteed by the fact

that the General Prosecutor is elected by Parliament on the recommendation of the President of the Republic and is responsible exclusively to Parliament.³⁶

Finally, the division of Hungarian public administration should be noted; it is divided into central administration and territorial self-governments, the latter being based on county (19 counties and the capital city) and local self-governments.³⁷

3. Civil and commercial law

The Hungarian Civil Code (Act IV of 1959) was drafted between 1953 and 1959. The provisions of Act IV of 1959, entering into force on 1st May 1960, still apply. The Code leaned strongly upon the preceding achievements of Hungarian law, and— being a Socialist Code – on the one hand it effaced private property, on the other hand it increasingly protected state and co-operative property.³⁸ The Code has been amended several times, the most significant of which is the comprehensive reform of 1977.³⁹ Despite the several amendments, the structure of the Code has remained unchanged: it is divided into six parts each subdivided into titles and chapters (Part One Introductory Provisions: Sections 1-7.; Part Two Persons: Sections 8-87.; Part Three Ownership: Sections 88-197.; Part Four Obligations Sections 198-597.; Part Five Succession: Sections 598-684.; Part Six Closing Provisions: Sections 685-687.). The Introductory Provisions of the Hungarian Civil Code lays down several principles. These are as follows: the principle of interpretation, the protection of the rights of persons, the free exercise of the rights of persons, the protection of property, the principle of good faith and mutual respect, the principle of mutual cooperation, no liability without actionable conduct, the prohibition of the abuse of rights, the requirement of damage prevention, the general principle of the enforcement of claims in the court of law. In the two decades following the political changes of 1989-1990 the Civil Code has been modified more than 50 times, thus its re-codification is now a topical issue.⁴⁰

Like in other post-socialist Central and Eastern European countries, family law is regulated in a separate code (Act IV of 1952) in Hungary too. This Code, which has been amended several times too, regulates the fundamental questions of family relations including the legal aspects of marriage.

Though Hungary has no separate commercial code as per the legal systems of Germany and France, the most significant legal institutions of commercial, financial and business law are regulated in separate statutes. The most important of these is the so-called Act on Business Associations (Act IV of 2006). This solution of incorporating rules pertaining to business associations into a separate statute is not without antecedents in Hungarian legal history, since Act XXXVII of 1875, which

could be regarded as a translation of the German Commercial Code, was based on a similar concept, from among the forms of business acknowledged by this Act the company limited by shares was of outstanding importance. The form of Limited Liability Company was already known at the beginning of the 20th century: it was introduced by Act V of 1930. Act VI of 1988, which could be regarded as the first real Companies Act, followed mostly the German and Austrian models and provided a modern regulation.⁴¹ The Companies Act (Act VI of 2006) currently in effect acknowledges basically four types of business associations (general partnerships (kkt.), limited partnerships (bt.), private limited-liability companies (kft.) and public and private limited companies (rt.)) and - with regard to European company law – groupings which are cooperative societies. The foundation, the functioning and the dissolution of business associations is regulated by Act V of 2006 on the Public Company Information, Company Registration and Winding-up Proceedings. Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings governs the legal alleviation of the financial and operational disorders of business associations. It has subsequently been amended more than 30 times. Although it introduced the so-called bankruptcy proceedings aiming at the reorganisation of economic operators, it is rather similar to a composition in bankruptcy. One of the deficiencies of the Hungarian regulation is that the fate of the debtor who could actually be saved depends mainly on the willingness of the creditors to co-operate and reorganisation is primarily financed by the creditors as well.⁴² The Hungarian competition law was adopted with a view to the approximation of national law to European law, and the Act on the Prohibition of Unfair Trading Practices and Unfair Competition was adopted in 1996 (Act LVII of 1996). The main elements of this statute are as follows: the regulation of cartels, the prohibition of the abuse of dominant position, controlling the concentration of companies, and establishing consumer protection in the area of competition law (the act prohibits the unfair manipulation of consumers' decisions).⁴³

Obviously, besides civil and commercial law Hungarian private law incorporates other branches of law as well, such as labour law, agricultural law and civil procedural law.⁴⁴

4. Court system and law faculties

Hungary has a unified court system; it does not differentiate between administrative and civil-criminal courts. At the first level of the unified system there are the local courts (in Budapest, in the capital city they are called district courts), and in the 19 counties and in the capital city there are the labour courts as courts with special jurisdiction. The 19 County Courts and the Municipal Court of

Budapest can be found at the second level of the hierarchy. On the third level there are the five Regional Courts of Appeal (Budapest, Debrecen, Győr, Pécs, Szeged). The Supreme Court is at the top of the hierarchy, with its seat in Budapest.

Local courts are courts of first instance in civil and criminal cases, the labour courts have competence in lawsuits concerning employment relations and relations of a similar character, the review of administrative decisions in matters of social insurance and labour administration also fall into their competence. On the second tier of the court structure there are the County Courts and the Municipal Court of Budapest. Their jurisdiction covers the counties and the capital city. County Courts have first instance competence in certain cases and second instance competence in appeals lodged against the decisions of local courts and labour courts. County Courts are subdivided into civil, criminal and economic divisions. Regional Courts of Appeal were established on the one hand to ease the workload of the Supreme Court, on the other hand to create a more efficient division of labour between local and county courts. They are primarily appellate courts as they render judgement on the decisions of County Courts in cases established by law. Besides, Regional Courts of Appeal have competence in cases determined by law, further, in conflicts of jurisdiction they designate the court to proceed.⁴⁵ The Supreme Court is the highest judicial organ in the Republic of Hungary. Its President is elected by Parliament on the nomination of the President of the Republic. Two-thirds of the votes of the Members of Parliament are required to elect the President. The Supreme Court operates ordinary judicial and uniformity chambers. The Supreme Court examines appeals submitted against the decision of the County Courts and the Regional Courts of Appeal and applications for review of final judgements as extraordinary remedy, passes uniformity decisions binding on all courts and proceeds in other cases referred to its jurisdiction.⁴⁶

Legal education at university level began in Hungary in the 14th century with the foundation of the University of Pécs in 1367. Though after a few decades of operation the university ceased to function, it seems very probable, that the Bolognese canon-lawyer, GALVANO BETTINI DA BOLOGNA taught Roman law here, too. The predecessor of the University of Budapest, which later became part of the University of Nagyszombat founded in 1635, boasted of the Faculty of Law with the longest permanent operation in Hungary, legal education commenced there in 1667. In 1777, under the reign of MARIA THERESA the Faculty of Law was moved from Nagyszombat to Budapest and today it is part of Eötvös Lóránd University. The University of Budapest and its Faculty of Law was the only university of the country for a long time, until the foundation of the University of Kolozsvár in 1872. At the beginning of the 20th century new universities were established in Debrecen

and Pozsony, where faculties of law were established in 1914, too. Under the peace treaties of World War I, Kolozsvár and Pozsony ceased to belong to Hungary, so the faculties of law were moved to the territory which remained Hungarian. In 1921 the faculty of law was moved from Pozsony to Pécs, while the faculty of law was moved from Kolozsvár to Szeged. Between the two world wars besides the so-called legal academies there were four universities with a faculty of law in Hungary: in Budapest, in Debrecen, in Pécs and in Szeged. The functioning of legal academies as well as the Faculty of Law of Debrecen was suspended in 1949. Thus in the Socialist era legal education took place in only three cities in the country. In addition to the remaining three faculties of law a fourth faculty was called to life in Miskolc in 1980. The four institutions were able to satisfy the needs of the labour market in relation to law graduates until the change of the political system in 1990. Shortly after the change of regime Hungary saw the establishment of a great number of universities, which led to the duplication of the number of the faculties of law. The first new faculty was founded at Pázmány Péter Catholic University in 1995, then legal education, suspended in 1950, was restarted at the University of Debrecen in 1996, which was followed in 1998 by the establishment of a new faculty of law at Károli Gáspár University of the Reformed Church in Budapest, finally, legal education also commenced in Győr in 2002. At present altogether eight faculties offer academic training in law: there are three faculties in Budapest (one of them is maintained by the state, while the other two, a catholic and a protestant, are private ones) and five in central cities (Debrecen, Győr, Miskolc, Pécs and Szeged) of different regions. Legal education comprises ten semesters, which is concluded by a state examination. Law graduates are given a doctoral title in law after the completion of their university studies. Following a three-year traineeship which can be served in a law firm, at a public prosecutor's office, in a court, in public administration or in a business association or undertaking, legal trainees earn the right to take the second professional state examination, the so-called bar examination. The successful completion of the bar examination is the condition of practising law, working as an attorney-at-law, prosecutor or judge.⁴⁷

The Hungarian Academy of Sciences (Magyar Tudományos Akadémia) plays a significant role in the field of the development of Hungarian legal science, besides the universities it is also entitled to grant doctoral degrees, it elects full and corresponding members from amongst lawyers with outstanding scientific achievements. The Hungarian Academy of Sciences operates an Institute for Legal Studies (Jogtudományi Intézet), too.⁴⁸

The Hungarian Lawyers' Association (Magyar Jogász Egylet) traditionally plays an important role in the public life of the legal profession; it aims to develop Hungarian jurisprudence as well as the professional activities of lawyers.

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