



INTRODUCTION: GENERAL REMARKS ON PRIVATE LAW CODIFICATION IN EAST CENTRAL EUROPE

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1. THE CIVIL CODE: A CONSERVATIVE INSTRUMENT

In the grand evolution of legal systems, a code is not just a compilation of rules and regulations but also a tangible symbol of societal organisation, an embodiment of structured thought, and a proof to the evolution of jurisprudence. Known historically as a ‘codex’ or a ‘book’, a code captures the essence of a civilisation’s legal framework, crafted with precision and imbued with cultural significance.

The genesis of codes, or codification, marks a pivotal moment in the records of legislative history, particularly within the sphere of civil law. Its journey can be traced to its origin in the late 18th and early 19th centuries, a period characterised by dramatic shifts in societal structures and the rise of bourgeois revolutions seeking to dismantle the shackles of feudalism. Within this turning point, the concept of a ‘civil’ or ‘bourgeois’ code emerged, symbolising the aspirations of these revolutions and the foundational principles upon which modern legal systems are built.

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Central to the ethos of civil codes is the elevation of the individual citizen to the forefront of societal consciousness. Grounded in the sanctity of private property and contractual freedom, these codes represent a paradigm shift away from feudalistic hierarchies towards a more egalitarian and rights-based framework. With equality enshrined as a guiding principle, civil codes serve as bulwarks against arbitrary power, providing a stable foundation upon which the edifice of justice can be erected.

Yet, beneath the veneer of permanence, a measured exchange between tradition and progress is in play. While civil codes are intended to endure the test of time, their conservative nature belies the interaction of dynamic forces within the legal system. For instance, the Napoleonic Code originated amidst the fervour of the revolution, but it was designed to consolidate rather than disrupt the new status quo. Similarly, the German and Swiss codes, with their steadfast commitment to tradition, underscore the notion that while change may be inevitable, it must be tempered with prudence and respect for precedent.

The evolution of law is a complex relationship between tradition and innovation. While civil codes provide a framework for stability, they are not immune to change. Reforms, though often incremental, serve as the lifeblood of legal systems, adapting to the evolving needs of society while preserving the core tenets of justice and equality. In essence, civil codes represent more than just legal texts: they are living documents, reflective of the ever-shifting sands of societal norms and values. As guardians of stability, they stand as pillars in the enduring quest for order and equity in a changing world.

Viewed through the lens of private law, codification marks not just the culmination of a period of transition, but also the dawn of a new era characterised by stability and order. This process entails the establishment of a novel set of norms, meticulously crafted to serve as the soil on which legal certainty can flourish. In essence, codification demands not only the consolidation of prior transformations but also the systematic organisation of legal principles into a coherent framework.

2. THE ROLE OF CODIFICATION

The imperative of legal certainty finds a formidable ally in a well-structured code. Instead of dealing with the unpredictable flux of daily legislative activity, individuals and institutions can rely on a comprehensive code that provides a stable foundation. By delineating rights and obligations in clear and unambiguous terms, codification offers a shield against the capriciousness of legal interpretation, fostering confidence and predictability within the legal landscape.

Nevertheless, the inherent limitations of codification must be acknowledged. While a well-crafted code can address a myriad of legal issues, the quest for absolute comprehensiveness remains a utopian ideal. Even iconic codes like the French, Swiss, or German civil codes, while monumental in scope, fall short of encompassing every facet of law and society. However, this acknowledgement does not diminish the transformative potential of codification, particularly in contexts where legal reform is intertwined with broader social and economic upheavals.

A case in point is the revolutionary impact of codification in East Central Europe, where codes served as catalysts for the bourgeoisie transformation of ostensibly ‘feudal’ societies. Romania’s adoption of a civil code in 1864 exemplifies this paradigmatic shift. Unlike instances where legal reform follows the establishment of a new economic order, the Romanian civil code was not merely a reflection of societal change but a potent instrument in driving it forward. By enshrining principles of private property and contractual freedom, the code laid the groundwork for a modern legal framework conducive to economic growth and social progress.

Codification in private law heralds the end of an era characterised by flux and uncertainty, ushering in a period of stability and legal order. While not devoid of limitations, the transformative potential of codification cannot be understated, particularly in contexts where it serves as a linchpin to broader societal transformations. As exemplified by cases such as Romania, the adoption of a civil code represents not just a legal

milestone but also a fundamental moment in the ongoing evolution of law and society.

Codification is driven by a multitude of compelling reasons, each contributing to its significance and impact. These reasons, ranging from ensuring widespread understanding of legislation to serving as instruments of reform and modernisation, underscore the multifaceted nature of codification and its far-reaching implications.

First, codification serves as a vehicle for ensuring general knowledge about legislation. By consolidating disparate legal provisions into a unified and accessible form, codification facilitates greater understanding and accessibility of laws among citizens, legal professionals, and other stakeholders. This transparency fosters a sense of accountability and empowerment within society, allowing individuals to navigate the legal landscape with more confidence and clarity.

Codification also enables the standardisation and systematisation of legislation, particularly where diverse legal norms are applied across different jurisdictions or areas of law. By harmonising disparate laws and regulations into a coherent framework, codification promotes consistency and coherence within the legal system, enhancing its efficiency and effectiveness. This standardisation streamlines legal processes, reduces ambiguity, and fosters greater predictability in legal outcomes, thereby bolstering legal certainty – a fundamental prerequisite for stability and economic development.

Beyond its instrumental role in fostering legal certainty, codification is also crucial in strengthening citizens' political identity. By codifying laws that reflect societal values and norms, legal systems affirm and reinforce the collective identity of citizens, providing a tangible expression of shared values and aspirations. In this way, codification serves as a cornerstone of civic engagement and political participation, empowering citizens to play an active role in shaping the legal landscape in accordance with their beliefs and principles.

Furthermore, codification serves as a medium for expressing the inherent value choices of a society. By codifying laws that embody particular moral, ethical, or cultural values, legal systems articulate and prioritise certain principles over others, shaping societal norms and behaviours. This expressive function of codification illustrates its role

in reflecting societal values and priorities, shaping the contours of legal discourse and governance.

Finally, in certain contexts, codification serves as a potent instrument of reform and modernisation. By revising and updating outdated or inadequate laws, codification works as a catalyst in bringing about transformative change within legal systems, adapting them to evolving social, economic, and technological realities. This reformative aspect of codification underscores its dynamic nature and its capacity to drive progressive change and innovation within legal frameworks.

As a cornerstone of legal systems, codification embodies the complex interplay among law, society, and governance, shaping the contours of legal discourse and governance in profound and enduring ways.

3. CODIFICATION IN WESTERN EUROPE

3.1. AUSTRIA

The Austrian Empire occupies a significant position in the historical evolution of legal systems, particularly in the inception of modern codification in private law. Stemming from the principles of enlightened absolutism, a series of initiatives were undertaken in the Empire to modernise its legal framework, culminating in the formulation and implementation of the Austrian Civil Code.

The codification endeavour can be traced to the latter part of the 18th century, with the initiation of the 1786 project – an experimental venture intended to reconfigure the legal landscape. However, no tangible progress was seen until 1797, when an incipient iteration of the Austrian Civil Code was enacted in the Galicia province, presently partitioned between Poland and Ukraine. These early undertakings represent the initial strides towards legal modernisation, reflective of the progressive inclinations characteristic of enlightened absolutism.

These efforts culminated in 1812 with the promulgation of the ‘final’ rendition of the Austrian Civil Code, designated as the *Allgemeines Bürgerliches Gesetzbuch* (ABGB), applicable to the non-Hungarian

territories of the Austrian monarchy. This comprehensive legal framework, meticulously devised and implemented, served as a cornerstone for the subsequent codification endeavours across various states within the region.

A prominent feature of the Austrian civil code was its all-encompassing nature, transcending linguistic and ethnic confines to accommodate the diverse nationalities within the Habsburg Empire. Following its enactment, official translations of the ABGB were swiftly disseminated in all languages spoken within the Empire, enabling each nationality to adopt the code as its own legal foundation. This linguistic inclusivity facilitated widespread adherence to and application of the code by judicial bodies and legal practitioners throughout the region.

Furthermore, the Austrian Civil Code ignited scholarly discourse and critical analysis, engendering a prolific body of commentary in diverse languages across the Empire. This vibrant intellectual exchange not only enriched comprehension and interpretation of the code but also facilitated its seamless assimilation into the varied legal systems and traditions prevalent within the region.

In essence, the Austrian Civil Code exemplifies the transformative potential of legal codification, transcending geographical and linguistic boundaries to mould the contours of contemporary legal frameworks across East Central Europe. As an enduring emblem of legal reform, its legacy shines as a beacon of enlightenment and progress, guiding the trajectory towards justice and equity in an ever-evolving societal landscape.

3.2. FRANCE

The French Civil Code, officially known as the Code Civil, was adopted in 1804. This legal instrument is esteemed for its lucid and comprehensible definitions, facilitating accessibility for lay individuals to grasp its contents – a feature not shared by its German counterpart. However, despite this advantage, the French Civil Code is criticised for its superficial treatment of some legal matters.

A fundamental disparity between the French and Austrian codes lies in the underlying source of authority they purportedly represent. For instance, the French Civil Code apparently embodies the ‘general will’ of the populace, whereas the Austrian code ostensibly reflects the will of the monarch, albeit cloaked within the framework of rationalistic natural law theory. This dichotomy underscores the divergent philosophical underpinnings of the two legal systems, at least at their origins.

3.3. GERMANY

The advent of the German Civil Code, known as the *Bürgerliches Gesetzbuch* (BGB), marks a significant milestone in the history of legal codification. This codification was preceded by the Prussian *Allgemeines Landrecht* of 1794, which, despite its comprehensive scope covering various legal domains beyond civil law, exhibited a casuistic manner of organisation, overshadowing general principles and abstract concepts. Influenced by the principles of natural law, the *Allgemeines Landrecht* contained an extensive array of 17,000 paragraphs.

However, the impetus for codification in German territories slowed following the *Allgemeines Landrecht*, as the dominance of the natural law school was supplanted by the historical school of law. This shift in jurisprudential thought, championed by Friedrich Carl von Savigny, posited that law emerges not as a deliberate creation of legislative wisdom but as a product of organic historical evolution. According to Savigny, German jurisprudence was not yet ripe for codification, as the development of customary law was deemed to be more aligned with the organic growth of legal principles. Accordingly, the task of the legislature and legal scholars was not to impose codification as an instrument of social transformation but to ascertain and interpret the law that had organically evolved from the collective consciousness of the people, encapsulated in the concept of *Volksgeist*, or the ‘national spirit’. This perspective emphasised the role of *Volksgeist* as the authentic carrier and developer of customary law, blending Roman and Germanic legal traditions.

Nevertheless, despite the dominance of the historical school, the pro-codification views championed by Anton Friedrich Justus Thibaut ultimately prevailed. Consequently, the German civil code, the BGB, was not enacted until 1896, and it came into effect only in 1900. Noteworthy for its logical and coherent system, precise conceptualisation, and comprehensive regulation of major aspects of private law, the BGB stands as a monumental legal achievement. However, its notable strengths are counterbalanced by the code's excessive abstractness and structural complexity, which pose challenges to its comprehensibility and accessibility.

3.4. SWITZERLAND

In Switzerland, the regulation of civil matters is addressed by several distinct laws, each covering different aspects of civil codes. Notably, the Obligations Act (Obligationenrecht) was enacted in 1881, and it came into effect in 1883. Subsequently, the Swiss Civil Code (Schweizerisches Zivilgesetzbuch) was adopted in 1907 and enforced in 1912. Unlike its counterparts, this code is written in the vernacular, rendering it easily comprehensible even to non-legal professionals. Its concise structure and limited number of sections afford judges considerable discretion in its application.

Among the renowned civil codes, such as the Austrian Civil Code, the Code Civil, and the Bürgerliches Gesetzbuch, the Swiss Civil Code is considered one of the foremost legal frameworks globally. Its accessibility, succinctness, and allowance for judicial flexibility contribute to its esteemed reputation.

3.5. ITALY

In Italy, the initial iteration of the civil code was instituted in 1865, which was eventually supplanted by the 1942 Codice civile. The precise year of its enactment remains a subject of debate, as it was promulgated during the era of Mussolini's fascist regime. Despite being hailed as a

significant accomplishment of the burgeoning Mussolini civilisation, the very influence of fascist ideology on the code became a contentious issue. Following the downfall of fascism, mere stylistic revisions and excision of select institutions were enough to update the Italian Civil Code. Nonetheless, vestiges of corporatist ideals can be discerned within the framework of the Codice civile.

4. CODIFICATION IN EAST CENTRAL EUROPE

All the aforementioned civil codes remain in effect, albeit subject to periodic reforms and amendments. Their enduring legacy is evident in their profound influence on the process of legal codification in East Central Europe. Functioning as instruments of reform and modernisation, these codes were instrumental in catalysing significant societal transformations.

In some instances, the introduction of these codes into predominantly agrarian societies presented a novel challenge; yet, they served to bring about profound societal change. Despite rigorous adherence to foreign models in certain cases, the implementation and adaptation of these codes within specific cultural contexts produced unique legal frameworks. When they were applied by courts, these civil codes evolved into living texts, moulded to accommodate local realities and cultural nuances. In certain instances, they underwent alterations to reflect local specificities, becoming integral components of the legal and cultural landscape.

East Central Europe emerged as a locus of legal innovation, going beyond mere replication of Western codification practices. Rather than serving as passive recipients of legal norms, these codes became organic elements of legislation and culture, reflecting the unique legal ethos and values of the region. Consequently, identical legal texts developed independently, fostering original interpretations tailored to specific contexts. This phenomenon underscores the emergence of a distinct East Central European legal tradition, characterised by the synthesis of foreign influences and indigenous legal principles.

Codification in East Central Europe became a complex exchange between common European trends and regional specificities. While influenced by broader continental developments, the process of codification in this region was also shaped by unique historical, cultural, and legal factors. A comparative analysis of the legal history of codification in East Central Europe necessitates considering several key factors, each highlighting the nuances and intricacies of this transformative process.

First, the presence of unitary codes or distinct acts to regulate private law serves as a fundamental criterion for comparison. The choice between a singular comprehensive code and multiple discrete enactments reflects varying approaches to legal organisation and harmonisation within the region. Additionally, the presence of a dualist system, characterised by the coexistence of specific commercial codes alongside civil codes, presents an alternative framework for addressing the legal needs of both individuals and businesses – a stark contrast to the monist system where a single code serves this purpose.

Another crucial dimension for comparative analysis lies in the models used for codification, with distinct influences from Austrian, French, German, and Swiss legal traditions evident in different jurisdictions. The degree of model-following further distinguishes codification processes, ranging from direct adoption or translation of foreign codes to the integration of multiple models or the formulation of original solutions tailored to local contexts.

The intensity of model-following, as determined by important criteria, provides further insight into the dynamics of codification in East Central Europe. From instances of near-complete emulation of foreign codes to the development of hybrid frameworks blending various legal traditions, the spectrum of model-following reflects the diverse strategies employed in shaping legal systems across the region.

Ultimately, a comprehensive understanding of the legal history of codification in East Central Europe necessitates grappling with these multifaceted questions and their implications. By delving into the intricacies of unitary versus multiple codes, dualist versus monist systems, and the intensity of model-following, scholars and practitioners can elucidate the diverse trajectories of legal development within this vibrant

and dynamic region. The culmination of such analysis, presented in this volume, promises to enrich our comprehension of the complexities inherent in the codification process and its enduring impact on legal systems in East Central Europe.

5. FIVE WAVES OF CODIFICATIONS IN EAST CENTRAL EUROPE

5.1. FIRST WAVE: DIRECT IMPLEMENTATION OR ADOPTION OF WESTERN CODES (THE FIRST HALF OF THE 19TH CENTURY)

This era is distinguished by two principal approaches to legal codification. The first trend was the direct adoption of foreign legal codes. For instance, during the Napoleonic wars, the Grand Duchy of Warsaw, established in 1807, implemented the French Civil Code. Similarly, in the French Illyrian provinces from 1809 to 1814, under the governance of Auguste de Marmont, the French Civil Code was introduced. In regions such as Bohemia, Moravia (present-day Czechia), Istria, Dalmatia, and the Military Frontier Zone, the Austrian Civil Code was enforced from 1812 to 1815, persisting until 1946 (in Croatia and Slovenia) and 1950 (in Czechia). However, in the Hungarian part of the Habsburg Empire, the Austrian Code was not introduced, because Hungary had a strong legal culture deeply rooted in medieval customary law.

Conversely, the next option was to transplant foreign legal codes to other territories. This occurred in Moldova in 1817 and in Serbia, both of which were under the jurisdiction of the Ottoman Empire. In these instances, the model used for codification was based on the Austrian Civil Code.

5.2. SECOND WAVE: LEGAL TRANSPLANT AND INNOVATIONS (THE SECOND HALF OF THE 19TH CENTURY)

In 1859, the territories of Walachia and Moldova were amalgamated under the umbrella of the United Principalities, subsequently acquiring the unified designation of Romania in 1862. The attainment of independence from Ottoman rule in 1877 heralded a period of profound modernisation, characterised by a deliberate departure from Byzantine traditions and Turkish influences and favouring Western models. Central to this modernisation endeavour was the adoption of a unified civil code for the newly formed Romania. The *Codul civil*, which came into effect on 1 May 1865, represented a direct transposition – effectively a translation – of the French Civil Code of 1804. Additionally, the Belgian Mortgage Act of 1851 served as a blueprint for mortgage regulation, with discernible traces of Italian influence as well. While the process of legal transplantation was challenging, it yielded positive outcomes, notably the cultivation of a proficient Romanian legal elite nurtured within the framework of French legal culture. This integration of foreign legal norms not only modernised the Romanian legal landscape but also fostered a broader cultural exchange and alignment with Western legal standards.

In this context, it is worth mentioning the first modern civil code with a higher degree of originality produced in the region. The General Property Code (*Opšti imovinski zakonik za Knjaževinu Crnu Goru*) represents a notable legislative innovation introduced in the principality of Montenegro in 1888. Crafted by Valtazar Bogišić, a then-professor of law in Odessa and a proponent of the historical school of jurisprudence, this code deviated from the conventional approach of transposing foreign codes and advocated for a method grounded in the study of local customary law, upon which the code's provisions were predicated.

The scope of the General Property Code encompasses regulations pertaining to the law of persons, real rights, and the law of obligations. Bogišić's rationale for this focus lay in his conviction that the domain of family law, particularly the intricacies of succession law, had not yet attained a sufficient degree of coherence to warrant formal codification.

This being the case, he posited that customary law provided a viable framework for addressing these issues effectively.

5.3. *THIRD WAVE: THE QUEST FOR LEGAL UNIFICATION (THE FIRST HALF OF THE 20TH CENTURY)*

Following World War I, a number of newly established states grappled with the legacy of intricate and fragmented legal systems. It became imperative to unify and modernise civil law across these emerging nations. In Poland, which regained its independence in 1918, the establishment of the Codification Commission marked a significant step towards this goal. Operating from 1918 until 1939, the commission persevered even during the German occupation, continuing its work in a clandestine manner.

In the realm of civil law, the commission's most notable achievement was the enactment of a new law on obligations in 1933. Each provision of this law emerged from a meticulous process of comparative analysis, amalgamating diverse European legal traditions to formulate optimal regulations. Initially, a draft Code of Obligations inspired by Franco-Italian models was considered, but Professor Roman Longchamps de Brier, a renowned legal expert, dissented, advocating instead for a synthesis of Swiss, Austrian, and French legal principles. Although Longchamps de Brier was executed by the Nazis in 1941 during the 'massacre of Lwów professors', his influence persisted. Other components of the proposed codification assumed a different trajectory in 1939 when further progress was disrupted with the outbreak of World War II. The unfinished state of this codification underscores the tumultuous historical context in which legal reforms were pursued and the impediments to their progress.

In the aftermath of World War I, the formation of Czechoslovakia marked the integration of various territories, encompassing historical Czech regions (Bohemia, Moravia), territories acquired from Hungary (Slovakia, Subcarpathian Ruthenia), and regions obtained from Austria (Feldsberger and Weitraer Regions) and Germany (Hlučín Region). In terms of private law, the Austrian General Civil Code (*Allgemeines*

bürgerliches Gesetzbuch - ABGB) governed the Czech regions and former Austrian territories, whereas Hungarian law prevailed in Slovakian regions. Although efforts towards legal unification were initiated, they remained incomplete.

The creation of the Kingdom of Yugoslavia in the post-World War I era involved the amalgamation of Serbia with territories that were formerly part of the Austro-Hungarian monarchy, including Croatia, Slovenia, and Montenegro. This period was characterised by legal particularism, with distinct legal regimes co-existing, such as the 1844 civil code in Serbia, the Austrian Civil Code in Slovenia and Croatia, and the General Property Code of 1888 alongside local customary law in Montenegro. The Austrian Civil Code was also enforced in Bosnia and Herzegovina. Although unification efforts began, no concrete results were produced.

In Greater Romania, which saw significant expansion after World War I, six distinct private law regimes co-existed. Legal unification became a challenging task, with proposals suggesting the extension of laws from the Old Kingdom over the entire state. The minister of justice, Constantin Hamangiu, advocated for this approach, which sparked opposition. Consequently, initiation of drafting new private law codes, namely the Civil Code and the Commercial Code, ensued during the dictatorship of King Carol II. Although considered significant achievements in Romanian legal thought, these codes were never implemented due to the outbreak of World War II. Subsequently, the extension of Romanian private law across the entire country was achieved only in the post-war period, realising Hamangiu's vision.

In Hungary, the interwar period witnessed a fervent pursuit of legal codification, resulting in the elaboration of high-quality official projects. Notably, the culmination of these efforts was the 1928 Private Law Bill, representing a refined version of the 1900 project – a comprehensive civil code. However, despite its elaboration, the bill was not adopted, primarily due to the functional efficacy of the old customary law, which had been reformed and upheld by the courts.

5.4. FOURTH WAVE: COMMUNISM (THE SECOND HALF OF THE 20TH CENTURY)

The fourth wave of codification corresponds to the era of Soviet-type dictatorship in the region. Initially, communist theory postulated the eventual disappearance of civil law, or law in general. However, Soviet practice diverged from this theory, acknowledging the continued existence of law under socialism. Although communist ideology did not openly deny the eventual disappearance of law, it envisioned it as a distant future prospect, maintaining that law could co-exist with socialist governance. A significant influence on civil law codification in the region during this period stemmed from the works of A. V. Venediktov.

Characteristics of civil law during the period subject to analysis.

Civil law during this period exhibited the following characteristics:

- a) A rupture occurred within the legal tradition with the imposition of a new political, economic, and legal system as external forces reshaped the states of the region. The Soviet Union, as a dominant power, and its local agents sought to mould the region to conform to socialist ideals.
- b) Some states adopted new civil codes, while others retained existing codes, albeit with diminished relevance. Private property was predominantly supplanted by state and cooperative property, relegating personal and private property to a secondary role. This era was characterised as one of ‘private law without private property’. Special legislation governing state-owned enterprises formed the cornerstone of legal provisions, addressing their role in the planned economy, contractual matters, investments, and dispute resolution through state arbitration. The socialist planned economy marginalised the traditional market-oriented solutions of classical civil law.
- c) Despite the decline in civil codes and legislation, they continued to exist, albeit in limited capacities. This facilitated the possibility of subsequent regime changes, with the primary corpus of state-owned property being subject to abolition in favour of re-establishing the dominance of the subsidiary corpus concerning private property.

- d) Family law, imbued with socialist morality, was regulated separately and emerged as a distinct branch of law.
- e) Contrary to expectations, the quality of legal scholarship and the totalitarian regime were not inherently incompatible. As observed by András Földi, a Hungarian professor, classical Roman jurists and the jurists of Justinian's era both thrived within autocratic empires.

New civil codes were introduced in several Eastern European countries during this period of legal reform. Czechoslovakia implemented new codes in 1950 and 1964, while Poland adopted its revised civil code in 1964. Hungary also joined this wave of codification with the enactment of its first civil code in 1959. In contrast to the Czech code, Hungary's civil code maintained a degree of continuity with past legal traditions, aiming to preserve the established values of civil law. However, this approach was criticised for incorporating concepts and solutions associated with an outdated phase of legal evolution. Some viewed the Hungarian Code as a belated manifestation of civil law principles rooted in a liberal-capitalist economic model, potentially reinforcing the interests of antiquated economic groups. The introduction of the code marked a significant departure for legal practitioners, particularly in Hungary, where customary law had traditionally underpinned private law. The transition to a more structured legal framework necessitated a shift from an inductive to a deductive method of interpretation for judges. This transformation underscored a broader trend in which Soviet-style dictatorships sought to supplant customary-law-based legal systems with more centralised and codified regimes.

During the initial phase of socialist dictatorship in Yugoslavia, significant legal reforms were enacted, notably with the adoption of the Act on the Invalidity of Regulations Adopted Prior to 6 April 1941 and During the Occupation in 1946. This legislation effectively annulled all preceding laws, including the 1844 Serbian Civil Code and the Austrian Civil Code applied in Croatia since 1812, reflecting a stance of legal nihilism. The aim was to introduce a new legal framework, yet the practical applicability of the old legislation, known as *stara pravna pravila*, prevailed where new regulations had not yet been established, provided they

aligned with the evolving social realities. This transitional arrangement was conceived as temporary, pending the enactment of new laws.

Consequently, various aspects of private law were progressively regulated through piecemeal legislation. The necessity to abolish antiquated laws led to the introduction of partial regulations governing specific social relations. This approach of creating segmented norms through disparate acts proved expedient compared to the protracted process of drafting a comprehensive civil code. Consequently, Yugoslavia opted for regulating subdivisions of civil law through separate acts, such as the Marriage Act (1946), the Inheritance Act (1955), the Obligations Act (1978), and the Act on Basic Ownership Relations (1980). Notably, the quality of these legislative efforts was commendable; for instance, the Obligations Act, primarily modelled on Swiss law, was hailed as a stellar achievement of liberal socialist legislation, demonstrating its efficacy over its nearly forty years of implementation.

In Romania, the 1864 civil code remained in effect during this period, albeit playing a secondary role amidst severe constraints on private property. Although attempts were made to develop a socialist civil code, these endeavours did not fructify.

5.5. FIFTH WAVE: AFTER THE COLLAPSE OF THE SOVIET-TYPE DICTATORSHIP

Romania possessed a pre-World War II civil code that naturally endured for decades following the downfall of communist regimes. Conversely, in other states, such as Hungary, Czechoslovakia (later divided into Czechia and Slovakia), and Poland, post-Soviet transitions prompted reforms of existing civil codes. The primary transformation was informal: civil codes emerged from the relative obscurity in which they lay during Soviet-type dictatorships when separate regulations concerning the planned economy dissipated. Alongside democratic constitutions, civil codes resumed their rightful position as foundational laws governing private property and contractual freedom.

During the transitional phase, civil code reform was not of paramount importance immediately after the regime change. This could

be because civil code reflects a state of normalcy. Instead, the focus was on transitioning from a Soviet-style property regime to one based on private property, necessitating specialised norms to effectuate this shift from a planned to a market economy. Once this transformation was accomplished, considerations for reforming existing civil codes or implementing new ones could be entertained.

The emergence of the fifth wave of codification characterises the 21st century, decades after the collapse of communism in the region. Croatia and Slovenia introduced new acts to regulate traditional realms of civil law, although lacking a unitary civil code. Meanwhile, Czechia, Hungary, and Romania adopted new civil codes (in 2012, 2014, and 2009, respectively, with substantial reforms preceding its enforcement in 2011). These codes are characterised by the utilisation of multiple models and exhibit undeniable degrees of originality within the constraints of feasibility.

Other states such as Poland, Serbia, and Slovakia are currently engaged in the development of new codes. Consequently, the fifth wave of codification continues to unfold across the region.

6. CONCLUSIONS

Given the constraints of space, any comprehensive overview of the history of private law codification provided in this introduction inherently remains partial. Nonetheless, the brief analysis has provided a revealing glimpse into the intricate and compelling legal history of the region. Through historical examination, it becomes evident that political, ideological, economic, and legal factors have profoundly influenced Europe's development, highlighting the interconnectedness between the models adopted and the expression of distinct legal cultures.

The outcomes of the developmental process analysis underscore that each state within the region adheres to its unique private law culture and civil code. This observation emphasises the diversity and richness of legal traditions across the region, reflecting the multidimensional nature of historical, societal, and legal influences that have contributed to the shaping of private law codification.

Nevertheless, questions regarding the pertinence of codification in the 21st century may arise, for instance, about the need for comprehensive codes that encompass a broad spectrum of social relations. While these arguments against such codification merit consideration, the overall response leans towards the affirmative. Concepts such as systematisation, transparency, and legal certainty stand as compelling arguments in favour of civil law codes.

The studies presented in this volume offer valuable insights into an exceptionally diverse array of civil law codification phenomena, spanning both geographical and temporal dimensions. This academic exploration presents a captivating journey, wherein our shared cultural heritage co-exists with our distinctive characteristics. Indeed, it exemplifies the beauty of legal science.

