



# MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

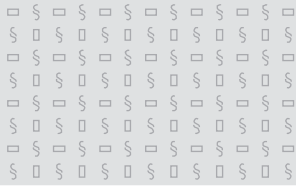
## Development of Business and Private law in Europe in the "modern times" EVOLUTION vs. REVOLUTION

Kateřina Ronovská  
Faculty of Law, Masaryk University, Brno  
The Czech Republic



# OUTLINE

- „Modern concept“ of business and private law in Continental Europe
- „Big“ Codifications in Europe in 19th and 20th century
- Historical background, First WW and Fall of Austrian-Hungarian Monarchy
- Second WW and time of divided Europe by the “Iron Curtain“
- Development after 1990: evolution in Private Law in the „West“ Europe, europeanisation
- Revolution: Recodification of Private law in Eastern and South Europe; Example in the Czech Republic



# 19th century: Code civile (Napoleon) and Austrian ABGB 1811 (systematics of the codes: institutions of Gaius)

Code Civile 1804 - present: maxims: Liberté, Egalité, Fraternité

Austrian ABGB: 1811, entry into force 1.1.1812

Second oldest civil code in Europe, former Austrian monarchy (Upper Austria, Lower Austria, Styria, Carinthia, Bohemia, Moravia, Silesia, Bukovina, Lombardy-Benatia, Croatia, Transylvania, Halych)

„Modern“ European Civil Code

Natural law codification

Influence of Roman Law

Italian CC (1865 inspired by French CC) later 1942



German BGB, Swiss ZGB, OR, Italian CC,  
Dutch NBW (pandect system, general part,  
abstraction, reflection of lex mercatoria,  
monistic/dualistic regulation of private law )

- German BGB
- Swiss ZGB, OR 1907
- Italian Codice Civile (changes fascist provisions) 1942
- Dutch NBW (example of the modern recodification) 1975 and next 20 years; ongoing recodification in Belgium etc.
- 1989 - 1990 major social, political and economic changes in Central and Eastern Europe („the fall of the Iron Curtain“);



# EVOLUTION: Common European tendencies of development

- Globalization and europeanization (United Europe)
- Common European market (and consumer protection)
- Legal transplants (trust law in continental European countries)
- Today! Reactions on „dynamics of the 21st century“ (e-commerce, use of internet platforms, social-media networks, virtual currencies, blockchains, autonomous vehicles, artificial intelligence, etc.)



# Central European Socialist/Communist-countries after 1950, 1964, 1990

- After WWII significant changes, both as regards conceptual structure and content
- „Socialization“ of law, soviet legal doctrine
- Abandonment of the concept of the duality of concurrent and public law
- Law: tool of regulation of the socialistic/communist society
- Division of the Private law to separate „complex“ areas (civil law, labour law, family law, international „trade“ law..)
- „*Up to great tomorrows!*“, private property will not exist...private law will not exist...
- **1990: modifying the legal systems to accommodate to the new situation**



# REVOLUTION IN LAW: CZECH EXAMPLE RECODIFICATION OF PRIVATE LAW (2014)

- Fundamental changes („revolution“) on this field
- Formulation of fundamental principles, „back to the european roots“
- Unification in the area of private law
- Strengthening of the autonomy of the individual´s will
- Inspiration in the foreign legal regulations  
(primarily Austrian, German, Swiss, Quebec, Dutch)



# „Revolution“ 25 years after the „velvet revolution“ (in the society)

## ■ Civil Code n. 89/2012 Coll.

- n. 90/2012 Coll. on business corporations
- n. 91/2012 Coll. on international private law

## ■ Hundreds of acts and regulations were repealed (the Civil Code itself - 238)

## ■ Almost hundred of acts and regulations were amended

- - new Land Registry Act
  - new Legal Persons Registry Act
  - new court proceedings (n. 292/2013 Coll.)
  - changes in tax law





# Structure of the CC: 3081 provisions

- general part
- family law
- absolute property rights
  - property rights (iura in re)
  - law on succession
- relative property rights
  - general obligation law
  - obligation of contracts and quasi contracts
  - obligation of delicts and quasi delicts
- final provisions



# Other Central and East European countries?

- Hungary - new CC - 2014
- Slovakia - still recodification process (neverending story)
- East Germany?
- Poland



# Conclusion and questions



Thank you very much for your attention😊

katerinaronovska(et)gmail.com