



# THE CURRENT STATE OF THE SLOVAK PRIVATE LAW RECODIFICATION\*

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## ABSTRACT

*The Civil Code, which is currently in force in the Slovak Republic, was adopted in 1964, that is, in a different social system. This code was intended to regulate only typical situations of socialist life. The result was an unduly simplified and overly generalised legal regulation that served as an instrument for managing society rather than for realising private interests. Although the changes made to the legislation after the socialist regime ended in 1989 removed many of the shortcomings, new ones were introduced, resulting in an insufficient, disparate, unsystematic, inconsistent, and fragmented regulation that does not fulfil its unifying and systemising role. The Code still in force therefore does not offer satisfactory solutions to the problems of current complex life because it is over-simplified, inconsistent, and incoherent. Despite these glaring negatives, the Slovak Republic has not managed to adopt a new Civil Code even after decades of recodification works. In this chapter, an attempt is made to identify the reasons for this undesirable state of*

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*affairs. Among them are, first, the weak interest of politicians, social and political unawareness of the benefits of a new code, the method of recodification work, the fatigue involved in the recodification process, and its extensiveness. The objectives of recodification are also discussed – particularly, the strengthening of the private autonomy of individuals while respecting the protection of the weaker party, modernisation and streamlining of private law, its integration and centralisation, as well as the transparency and clarification of the civil law system. In the conclusion, a brief picture of the intended structure of the new Code (according to its draft) is presented, describing the most significant changes.*

**Keywords:** Slovakia, recodification of private law, Civil Code.

## 1. PROGRESS OF RECODIFICATION WORKS AND CURRENT STATUS

At the outset, it is necessary to state that the Slovak Civil Code from 1964, which was adopted to regulate only the typical situations of socialist life, is still in force in Slovakia. The process of recodification of Slovak private law, which has been going on for roughly 30 years, has not yet reached a successful end, and most likely may not in the foreseeable future. During this time, two so-called Legislative Intentions (i.e. memoranda containing the basic principles of future legislation) approved by the Government of the Slovak Republic have been drafted, as well as several versions of paragraph wording; many personalities took turns in heading this process.<sup>1</sup>

During the long period when recodification was underway, the accents and emphases have also gradually changed. In the initial period, the question that was primarily addressed was whether to keep the regulations of civil and commercial law separate. Such a separation would cause problems especially in the law of obligations. The Commercial

1 The Legislative Intention approved by the Slovak Government in 2009, as well as the several versions of the paragraph wording and the history overview, is published on the website of the Ministry of Justice of the Slovak Republic. Available at: <https://www.justice.gov.sk/aktualne-temy/rekodifikacia-sukromneho-prava> (Accessed: 15 September 2024).

Code regulates not only specific types of contracts for commercial relations but also general issues of the law of obligations, which would unnecessarily cause a not-always justified double-track approach to the regulation of the Slovak law of obligations. This issue was ultimately resolved in favour of uniformity of regulation. In the current situation, therefore, the Commercial Code, as a separate code, which regulates not only the status of merchants, but also the commercial obligations, will be abolished and replaced by the Law on Commercial Companies and Cooperatives, which will contain only specifics applicable to commercial companies and cooperatives. The entire obligation law will then be regulated uniformly in the new Civil Code.<sup>2</sup>

Sometime later, the issue of regulation of intellectual property rights was addressed, which was supposed to be included in the new Civil Code according to the first Legislative Intention; subsequently, this intention was abandoned: the last Legislative Intention of 2009 leaves the regulation of intellectual property rights outside the Civil Code.

Recently, the issue of regulation of consumer relations was addressed, considering a new, separate Consumer Code to place this regulation. However, this intention was also abandoned, and now the regulation of consumer relations is to be included in the Civil Code. The reason for this is primarily because a substantial part of civil law transactions is carried out today within the framework of consumer relations; to exclude such a vast part from the basic, ground code of civil law would be a certain degradation of it. Moreover, the approach taken so far – where a large part of consumer relations was regulated in special laws – may be characterised by a weaker degree of coordination between the specific regulation and the regulation included in the Civil Code. Therefore, including a substantial part of the regulation into the Civil Code, one piece of legislation, appears a better alternative. The issues of consumer administrative law will remain specially and separately regulated.

In recent times – also in view of the fruitlessness of the recodification works so far – a gradual recodification in the form of partial amendments to the current Civil Code was considered. An amendment was therefore drafted based on the law of obligations and some questions

2 For details on why this approach is appropriate, see Lazar, 1995.

of the general part (which were assessed as politically and socially the most passable). The amendment of other parts of the code was to follow gradually, in a phased manner, as and when necessary social and political consensus was obtained on them. After this approach was criticised – which, however, was not entirely baseless, the rationale being ‘*if it doesn’t rain, at least let it drip*’ – it was abandoned, and currently the recodification process is underway with the idea of a completely new code. Of course, having a new Civil Code is a much better alternative. Gradual recodification would cause risk of inconsistency in the new parts with those not yet recodified. On the contrary, as the current situation proves, waiting for the new Civil Code can once again postpone the necessary changes and benefits to society indefinitely.

## 2. REASONS FOR THE CURRENT DEADLOCK

The reasons for the new Civil Code not being adopted to date are complex. First, the relatively *weak interest of politicians* is a factor. Changing civil law regulations has never been a real priority for them, although it has been included in the government’s programme statement (manifesto) many times. As it is usually said, recodification does not win elections. Objectively, however, it must be said that in individual periods of social need, demand was focused on other priorities, be it deep economic reforms in the period after 1998, the economic and financial crisis after 2007, the fight against corruption after 2018, or the pandemic, the energy crisis, and the war in Ukraine. These problems pushed recodification – which would undoubtedly mean a big, major change for society and at the same time a considerable, despite only temporary, burden for both legal practitioners and the courts – into the background.

Second, a certain *social as well as political unawareness* seems to have contributed to the failure so far. Neither society nor political actors sufficiently realised the need for a new civil law or the benefits that would accrue from it. It must be admitted that a society living for decades in a relatively non-standard and simplex regulation of private life has already got used to the current regulation and can no longer conceive of a different one for itself, for example, in the area of inheritance law

or marital property relations. There is no in-depth discussion in society about what regulation of private life should look like, even in areas that are most closely linked to private life. Sporadically, voices are heard talking about the need to introduce regulations that make life easier for the LGBTI+ community or to establish, for example, private or family foundations as a mechanism of inheritance law, or to regulate the participation of persons who are not fully capable of deciding on their own affairs in the management of their affairs. However, these are only partial issues, without any attempt made to intervene more broadly in the current regulation. Therefore, one cannot expect the process of recodification to be accelerated because of social demand.

*Furthermore, the method of recodification* and its dependence on changes in political conditions can be another cause of failure to implement a new Civil Code so far. Those entrusted with preparing the new code are exposed to uncertainty about whether continuity will be maintained whenever the Minister of Justice is changed, because responsibility of the Civil Code lies with the minister. It should be added that breaking continuity is not particularly difficult. This is because the results of recodification works are not always discussed in sufficient detail among the professional public and evaluated from the point of view of legal practice. Although in the initial period of the recodification process the professional public paid considerable attention to the proposed changes in the civil law, this attention gradually turned into disinterest. This creates an impression (often justified) that recodification is still a work in progress, the concepts are open, and that there is still both, room and a need, for reopening questions that have already been closed. Therefore, even from the point of view of the Ministry of Justice, changing the leadership of the recodification works and starting the process *ab ovo*, from the scratch, is not a problem.

*Fatigue from the recodification process* can be another cause for the current state of affairs. The process that has been going on for about 30 years and has not produced the desired results is perceived by many stakeholders as a story whose end is not in sight and is questionable. Scepticism looms large about the successful conclusion of the process among the professional public and those in legal practice; above all, a strong sense of fatigue can be observed among the academic community.

This is logically underpinned by a lack of interest in participating in the recodification process further and a reluctance to respond to any partial results. At the same time, fatigue and disinterest indicate that the fundamental issues of recodification are not sufficiently discussed, which in turn suggests that the conclusions adopted in the recodification process are not the result of a broad consensus. This closes the circle of disinterest: long-term failure of the recodification process leads to greater disinterest, which in turn leads to further prolongation of the whole process. At the same time, this leads to the logical questions of whether recodification is necessary at all if we have been able to somehow function with the existing regulation for decades, and whether the new code will end up being a useless luxury, a burdensome fad that will complicate everything, overload judges and practitioners who will have to learn civil law anew; and after all, if we have managed to live without some legal institutes for almost 60 years, then maybe we do not need them at all.

Another reason for the prolongation of the recodification process is that many of the problems that have arisen over a long period have not been dealt with gradually as they arose, but have been postponed to a later date, assuming that they will be dealt with in the framework of recodification. Politicians have thus avoided dealing with complex issues by postponing them indefinitely, while recodification has given them an elegant way out, a neat reason not to address them immediately. Thus matters began to grow, and now, they will have to be dealt with all at once, instead of gradually. Matters to be addressed are therefore *quite extensive*; the changes will not only be evolutionary, but in many ways downright revolutionary, raising fears in a large section of the legal community that too many changes will be required. It is understandably natural that practitioners do not like change. It is necessary to adapt to changes, understand them, and free our thinking from the burden of conventions or paradigms that have been built up in our civil law since 1950. We are inherently reluctant to accept new and complex changes. Therefore, change will not be painless. At the same time, the reluctance will be not only to individual changes but also to recodification per se.

As mentioned above, several complex reasons have led to the current situation and to the lack of tangible results. It is therefore essential to deal with them by restarting the recodification process in such a way that these causes are adequately addressed and eliminated.

### 3. REASONS FOR RECODIFICATION

Despite the failure of recodification efforts so far, the adoption of the new Civil Code is becoming even more necessary, mainly because the Civil Code of 1964, which is still in force today, was adopted in a different social system, under a socialist regime. Although numerous amendments have succeeded in eliminating some of its ills, the Code as a whole is still indebted to the regime in which it was created.

First, the current Civil Code was built around *typical situations of socialist life*. The consequence is an overly simplistic legislation that has left out many of the classical legal institutes. The desire to avoid a casuistic approach has led to the legislation being too generalised, to the extent that what remains of it does not adequately cover present-day needs and does not provide answers to current problems. Life today is far different from what it was more than 50 years ago. A major amendment to the Civil Code in 1991 did change a lot about this, but not enough. We would do well to remember that its source of inspiration was the so-called middle Civil Code of 1950. Professor Karel Eliáš – who is behind the new Czech Civil Code – rightly points out the paradox that the ideological source of the amendment in 1991, which was supposed to help the protection of private property and pave the way for the market economy and new social conditions, is a law that was supposed to be an instrument for building a socialist way of life and a planned economy modelled on Soviet law.<sup>3</sup>

The inadequacy of the legislation and its inability to respond to the needs of the current complex world can be seen, for example, in the insufficient regulation of inheritance law, which was prepared primarily for situations where, in principle – for example, owing to the absence of any family problems – there is no need for a testator to regulate how his estate

3 Eliáš, 1998.

is to be dealt with after his death, because no problematic behaviour on the part of the heirs is foreseen. Such a regulation, largely considering only unproblematic cases, is no longer sufficient today, because it makes it impossible for the testator to make decisions about his estate, even though atypical circumstances of the case would require it, for example, if the descendant is addicted to drugs or any other substance, if she or he is unable to manage her or his affairs because of a disability or other handicap, and so on. Current legislation based, for example, on the inadmissibility of imposing conditions or orders in a will cannot provide answers to today's problems. However, the problem is not limited to inheritance law. The fact that the Civil Code regulated only typical situations of socialist life, and at the same time that the code was considered primarily mandatory, led to the opinion, often accepted even today, that what the Civil Code does not recognise is not permitted. This has a negative effect especially in judicial practice, which, even 30 years after the regime change, cannot always overcome this approach.

Furthermore, the Civil Code, at its inception, represented *a tool for managing society* rather than *a tool for realising private interests*. Thus, the goal was not only to regulate typical situations, but also to prevent atypical relationships from occurring. This was manifested in an unnaturally narrowed legal space for individual autonomy and free decision-making about one's own affairs, as well as in an overly simplistic view of law as a system of limits, constraints, and restrictions on the realisation of an individual's broad freedom. Above all, one can mention the rigid view on the invalidity of legal (juridical) acts, which takes a primarily formalistic view of compliance with the letter of the law, without looking for an answer to the crucial question of what reasonable and significant reason in a given case justifies denying legal protection to an individual's decision. The aforementioned limitation of private autonomy is still manifest in the preference for absolute invalidity over other mechanisms (e.g., relative invalidity, or revocability of a legal act). It may also be pointed out that the limitations of the regulation of inheritance law unreasonably and disproportionately prevent a testator from deciding how his estate is to be dealt with after his death.

Further, *the paternalistic approach*, on which today's Civil Code was built, could (perhaps) have been manageable in the times of socialism,

but today, the individual can no longer rely on the protection of the state, both because of the capacity of the state and because of the current complexity of life situations and the diversity of a person's private needs and interests. For example, the protection of persons with medical or other disabilities, given the complexity, pitfalls, and risks of today's world, can no longer be fully provided by the state. The concerns of parents and other close people about the fate of such descendants or other relatives cannot be resolved by simplistic and inflexible guardianship or inheritance law arrangements.

Furthermore, the current Civil Code was also a manifestation of efforts to *decentralise civil law*. The Civil Code was narrowed down to regulations necessary to ensure only the basic needs of citizens. To a large extent, this situation continues even today, as the regulation of many purely civil relations is contained in special laws. This is most evident in the dual regulation of obligations in the Civil and Commercial Codes or in the separate regulation of family law in the Family Act. However, many other examples of unnecessary fragmentation of the legal regulation also exist: for example, a separate regulation of the lease and sublease of non-residential premises or short-term lease, separate from the Civil Code, or the fragmentation of the regulation of consumer private relations. The consequence of such fragmentation is that the Civil Code has, to a large extent, lost its status as a unifying regulation of civil law. This entails several shortcomings and disadvantages. First, special laws are not always sufficiently adapted to the regulation of the Civil Code, which is also a consequence of the fact that they fall within the remit of different ministries. Likewise, the same terminology is not always preserved, or the same idea is expressed differently, which raises questions on whether the idea is the same. At the same time, the fragmentation of legislation and the lack of connection between special and general legislation allows the legislator to make more benevolent changes to special legislation, which do not consider the unity and coherence of the civil law system. The consequence of all these shortcomings is that the application of the law becomes increasingly difficult and court decisions become less predictable.

Last, but not the least, the reason for the recodification is also the *inconsistent and incoherent* state of the Civil Code currently, which makes even the regulation inconsistent and incoherent. The code is largely

unsystematic as well, which means that the room for reforming the original structure is limited. Entire books and sets of provisions have been deleted without replacement. For example, sections 55 to 99 and 152 to 414 are completely missing. Moreover, originally, the Civil Code did not contain any comprehensive regulation of obligations; it regulated them only in a fragmented manner in several places. On the contrary, the existing provisions were extended by dozens of others, for example, § 151a to 151me were inserted after § 151 (with the result that there are 26 paragraphs with the number 151). The Code is therefore difficult to navigate, making the connections between the various provisions obscure.

Even the major amendment of the code in 1991 was unable to eliminate or remedy these shortcomings. It should be emphasised that the amendment of 1991 was from the beginning seen as insufficient, as if hastily sewn with a hot needle; it was adopted largely because, on the one hand, its adoption was a prerequisite for the adoption of the new Commercial Code, which was key for the new economic system based on a market economy, and on the other hand, it was assumed that a completely new Civil Code would be adopted in the foreseeable future. Already in 1996, the chairman of the first recodification commission, Professor Karol Plank, pointed out strongly that the Civil Code as amended in 1991 is only a temporary solution, a 'way out of an emergency' that 'bears the stamp of the speed of its preparation'.<sup>4</sup> The amendment from 1991 was thus considered only an interim, temporary solution, which is also confirmed by its explanatory memorandum (report), citing that the amendment was adopted for the necessary period until the recodification and was mainly for the period of transition to the market mechanism. This was in 1991. In an era that is separated from the present day not only by thirty long years – a whole generation – but also by a huge social, economic, cultural, and technological shift. During this time, we achieved the market economy, became independent, and joined the European Union. Yet the legislative standstill persists. The socialist Civil Code has endured most part of its life in non-socialist times. Expectations for the early adoption of the new code have therefore not been fulfilled, and our

4 Plank, 1996.

society has had to struggle with an insufficient, temporary regulation for more than 30 years.

However, the unsystematic nature of the structure, or its lack of conceptuality, is not only a consequence of the initial form of the Civil Code, but also of its subsequent amendments. Changes to the code, especially after 1991, were often carried out *ad casum*, without considering their impact on the overall coherence and cohesion of the code. For example, the regulation of consumer relations was included in the general part within the regulation of legal acts, although it would be more appropriate to include it in the part dealing with obligations. In addition, some revisions also introduced chaos and confusion into the terminology because their sources of inspiration have not been confronted with the existing terminology. Problems are also often caused by the literal transposition of European Union law, which has often been carried out without sufficient examination of whether the literal translation corresponds to the terminology of the Civil Code, or whether the idea addressed by the European Union law is not already resolved in a general way by the Civil Code. Unnecessary questions and doubts then arise: the amendments adopt provisions from several sources without evaluating whether the adopted provisions resolve the same issue and doubts arise as to when one or the other provision should be applied. The unsystematic nature of some parts of the regulation is also because the major amendment in 1991 un-conceptually extended the regulation previously applicable only in the relationship between natural persons and socialist organisations to relations between only natural persons, which often resulted in the introduction of harsh regulations into relations between natural persons.

The result of all these shortcomings and disadvantages is a code that lacks a sufficiently clear internal organisation of the content and logical continuity of individual parts, as well as coherence and consistency of the regulation, which makes it impossible or difficult to derive rules and principles applicable to the entire regulation of civil law and to build a consistent and coherent system of civil law.<sup>5</sup>

5 For details on reasons and objectives of recodification, see Dulak, 2009.

## 4. OBJECTIVES OF RECODIFICATION

The objectives of recodification largely follow from the reasons given above. They can be divided into material and formal objectives. The main substantial, *material objectives* of the recodification are to strengthen the private autonomy of individuals, while respecting protection of the weaker party, and to modernise and streamline private law.

The first material objective of the recodification is *to strengthen the private autonomy of individuals*. As has already been pointed out, the current Civil Code, as well as the practice that developed in its background, followed a paternalistic approach to the individual, enhanced by the fact that civil law was not understood as a tool for realising private interests but as a tool for managing society. The aim is to reverse such an approach and strengthen private autonomy in several ways. Primarily, we may mention here the turning, the reversal, of the paradigm in assessing the validity of a legal (juridical) act. The validity of the legal act must prevail over its invalidity. Another area where private autonomy needs to be strengthened is in the protection of adults. Presently, a person who is unable to manage her or his own affairs tends to have his or her legal capacity restricted, although there could be milder, less intrusive interferences with her or his autonomy. However, it is necessary to strengthen the protection of private autonomy in other areas as well. For all of them we can mention, for example, the need to prefer limitation over preclusion or limit the ability of courts to prioritise, for example, expediency or other similar aspects over the interest of the individual. On the contrary, the interest in protecting private, individual autonomy is not limitless. The new legislation must limit it in several ways, and one of them is *the protection of the weaker party*.

The second material objective is *modernisation and streamlining of private law*, or restoration of some abolished legal institutes. As mentioned, the current Civil Code was conceived to regulate typical situations of socialist life. Many classic institutes or issues were not covered and dealt with by the Civil Code although these omitted classical institutes could provide solutions for many complex questions of contemporary life. Their absence is therefore felt in practice as a deficiency. This includes,

in particular, the rigid regulation of inheritance law, which makes it impossible for a testator to decide on the fate of his estate. Another area that requires modernisation is the protection of adults with physical or other disabilities. In the same way, today's austere regulation of personal rights no longer meets the current needs. In this context, one may mention in particular interferences with personal rights carried out on the Internet or in the online environment. Among other things, the regulation of liability for damage requires modernisation, a result of technological progress. Further, the regulation of legal entities requires modernisation, as the current one – especially in relation to legal entities other than commercial companies and cooperatives – does not always flexibly help the development of legal relations, mainly because of its austerity and ambiguity, as well as the limited possibilities of using the relevant forms of legal entities. In this regard, we may mention, for example, the current inadmissibility of the so-called family or private foundations. At the same time, it should be emphasised that, in many areas it will not be a question of real modernisation, but rather of a return to classic institutions, which – although they were omitted when the Civil Code was adopted – still meet the needs of the modern world and whose absence adversely affects legal practice.

One of the main formal objectives of the recodification is to *integrate and centralise civil law* as much as possible, particularly to eliminate duplication of regulation and move regulation from special laws to the Civil Code wherever it makes sense. The other, equally important, formal objective is to make the civil law system *clearer and more transparent*. This will require making the structure of the Civil Code more transparent and logical, linking the regulations that remain in special laws with the regulation of the Civil Code, clarifying the relations between them, and introducing a uniform method of regulation and sanction mechanisms. Another important formal objective is to achieve terminological purity, matter-of-fact expression (i.e., avoiding non-normative content), and clarity and comprehensibility of the text (each section should have its own title, a section should have a maximum of 3 paragraphs, and each paragraph a maximum of 2 sentences).

The new Civil Code must therefore bring not only a cosmetic modification or correction, but also fundamental changes that will inevitably lead

to a change in our perception of law and our view of it. Present-day regulation of civil law was adopted in an effort to simplify. This has also been reflected in our thinking, when we try to find quick and easy solutions that are suitable for as many situations as possible, regardless of whether the solution is really the one that a particular life situation deserves. Overall, the incompleteness and inadequacy of today's regulation encourages it. The current Civil Code is therefore not only the foundation and root cause of this simplification, but also a tool for deepening it.

The above objectives cannot be achieved by partial amendments alone, all the more so since what is to be amended cannot even be considered as a regulation that should regulate relations in the 21st century. A house with a bad foundation cannot be repaired indefinitely. Sometimes a big patch is not enough to cover a big hole: the clothes need to be replaced. A new Civil Code that is comprehensive, consistent, and as clear as possible – giving answers to many times more questions than the current one, making the work of judges and practitioners easier by its methodology, system, and language, and enabling individuals to make decisions about their own affairs, not only in areas where this is not possible today, but also without unnecessary and excessive interference by the state – could also be a great boost to improving legal relations. The added value of the new code would thus also improve and culturalise social relations as such.

Of course, what has been said does not mean that the new regulation should completely sweep the old one off the table. Where there is room, the new regulation must build on the existing one, improve it, not negating it just for the sake of negation. However, the Slovak civil law – although partially modernised in 1991 – is still only a law built on the foundations of Soviet law. Therefore, fundamental changes cannot be avoided, even where they may not seem necessary today. If this is required by a new, modern concept of civil law, a uniform methodology of approach and regulation, or the need for clear terminology, even a regulation that seems unproblematic will have to give way.

## 5. STRUCTURE OF THE CODE

The Code is expected to consist of six books: General Part, On Persons, On Family, On Real Rights (right *in rem*), On Obligations, and On Inheritance and Legacies.

The most significant changes in *the general part of the Civil Code* will concern the issue of legal (juridical) acts. As mentioned above, in case of any deficiencies in the legal act, today's regulation prefers its invalidity over its validity. The new code should change this premise, this starting point, and allow private decisions to be accepted as far as possible. This will entail moving some of the grounds for absolute nullity of a legal act into the group of grounds for revocability (voidability).<sup>6</sup> These changes will also affect the rules of interpretation of a legal act, since today's regulation rigidly supports strictly linguistic interpretation, which leads judicial practice to the conclusion that linguistic interpretation takes precedence even over the apparent will of the parties to the contract. The consequences of the conditions included into a legal act will also be clarified, as today's law is too brief. The section on statute of limitations will also be significantly revised – in contrast to the current state, it is now envisaged that only claims, i.e., the right to demand from another to act or omit something, will be subject to statute of limitations. On the contrary, other rights, in particular the so-called creative rights (*Gestaltungsrechte*), such as withdrawal from or termination of a contract, will not be subject to statute of limitations at all (but will be subject to other limiting mechanisms). At the same time, the new regulation of the statute of limitations will also remove the current double-track since the Commercial Code regulated the statute of limitations of commercial obligations separately and differently from the Civil Code. A major task of the general part will also be to lay down rules that will support the honesty of the parties and, on the contrary, that will prove to be a disadvantage to one who behaves dishonestly in mutual relations.

The *book on persons* is envisaged to establish the general regulation for all legal entities, with the exception of the peculiarities of

6 See Hlušák, 2021.

commercial companies and cooperatives, which will be left to the special regulation contained in the new Companies and Cooperatives Act. A significant innovation will be the introduction of decision-making support arrangements with the aim of helping those who cannot make the necessary decisions on their own due to their disabilities, thereby avoiding judicial restriction of their legal capacity. Introduction of the so-called private, or family, foundations is also envisaged. Plans are also afoot to change the regulation of personal rights, especially from the point of view of protection on the Internet, or in a digital environment.<sup>7</sup>

The *book about family* will be a novelty for our Civil Law, as family law is currently regulated in a separate, special law (Family Act of 2005). The recodification envisages its abolition and the incorporation of the matter of family law into the Civil Code. The current family law is relatively new: it was adopted in 2005. Therefore, few fundamental changes are expected. Only issues of marital property relations will probably undergo substantial modifications, as the current regulation does not suit today's life. Therefore, a certain relaxation of the rules for matrimonial property regimes is expected, but with an increase in the protection of each of the spouses and guaranteeing the protection of creditors. Given the reluctance of the majority of the political spectrum, the possible introduction of regulation of registered partnerships or recognition of LGBTI+ relationships, which is still completely absent in any form in the Slovak legal order, is highly questionable.

The *book on real rights* foresees a move to the so-called superficial principle (*superficies solo cedit*), that is, the building is not part of the plot, since this principle does not currently apply. This change is justified not only by the positive consequences of such a change in the neighbouring Czech Republic, but also by convergence with neighbouring states where this principle is applied.<sup>8</sup>

*The Book on Obligations* will, in particular, bring the long-awaited and much-needed unification of the general regulation with the regulation of commercial obligations, which is now contained in a special,

7 See Cirák, 2013.

8 See Jakubáč, 2023.

separate Commercial Code. This will remove the persistent and troublesome dualism. At the same time, it is expected that the regulation of consumer obligations will be substantially clarified. On the contrary, the regulation of labour relations will probably remain contained in a separate Labour Code, only with a subsidiary applicability of the Civil Code.<sup>9</sup>

The *book on inheritance and legacies* envisages the restoration (reintroduction) of institutions that were abandoned by communist law and have not been part of Slovak private law for 60 years or more, such as *legatum*, conditions, *fideicommissum*, *modus*. As has already been mentioned several times, the current inheritance law is absolutely inadequate, as it does not give the testator enough space to determine the fate of his property after his death according to his own will. It is the book on inheritance and legacies that will probably contain the most changes compared to the current state.<sup>10</sup>

## 6. CONCLUSION

We have reached the end of our reflections. As has been described, the situation in Slovakia is not flattering. The Civil Code of 1964, which was adopted in the times of socialism, has been in force for a very long time. Slovak private law is thus stumbling along. It is therefore unable to provide solutions and possibilities where practice needs them or where they could be a positive step forward. The Civil Code of 1964 thus hinders the development of social relations and makes legal turnaround more difficult. It must be frankly and humbly admitted that this situation is largely the fault of the academic community itself, which has failed to unite in the process of drafting the new regulation of the private law and failed to make the benefits of the new code convincingly clear to politicians and to the professional and general public. As an academic community, we must acknowledge this fault and restart the recodification process. It is high time that we not only try to complete

9 See Barancová, 1998, or Hlušák, 2023.

10 See Jakubeková, 2008.

the long-standing, and perhaps for all stakeholders tedious, process of recodification, but also to bring it to a real and successful conclusion. The Slovak Republic – as Professor Ján Lazar aptly pointed out – will thus fill a significant gap in the private law order.<sup>11</sup>

11 Lazar, 2020.

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