TINA PRZHESKA*

Towards a Unified Civil Law in North Macedonia: The Path of Codification

ABSTRACT: *This study analyses the development of civil law in the Macedonian legal system and the activities directed towards civil law codification. The development of civil law is examined through several stages that coincide with significant historical events in Macedonian history. In the first stage (from the 14th to the 20th century), Macedonia was under the rule of the Ottoman Empire and subjected to the laws of the Empire. In the second stage (first half of the 20th century), Macedonia was incorporated into the Kingdom of Yugoslavia, while civil law relations were regulated by the Serbian Civil Code of 1844. The third stage (the second half of the 20th century) is the period of socialism in Macedonia, when civil law regulation was tailored to fit the socialist ideology of working-class governance and a state-operated economy. The fourth stage of development covers the end of the 20th century to the present (the 21st century). Today, North Macedonia is a democratic and independent state oriented towards a free-market economy. Civil law relations are regulated by three basic laws, one for each branch of civil law: real property is regulated by the Ownership and Other Real Rights Act of 2001, obligations are regulated by the Obligations Act of 2001, and succession is regulated by the Succession Act of 1996. In addition, there are subject-specific laws regulating particular civil law areas. At this stage in the development of the civil law system, a process of civil law codification was set in motion by the Ministry of Justice. This study presents the activities undertaken from 2009 to 2025 towards the goal of codifying civil law, their effects, and initiatives for moving forward.*

KEYWORDS: *civil law, codification, real property, obligations, succession*

* Full Professor, Faculty of Law Iustinianus Primus, "Ss. Cyril and Methodius" University, Skopje, North Macedonia; t.przeska@pf.ukim.edu.mk; ORCID: 0000-0002-3476-2789.

https://doi.org/10.47078/2025.2.307-332

1. Introduction

On the European continent, there is a widespread tradition of creating civil codes with the intention of establishing a unified and systematic set of rules governing civil law matters. This tradition is rooted in the acceptance of the Roman law tradition by European countries[1]. Roman Law, as we know, produced the most famous codification, known as the *Corpus Juris Civilis*, dating from the 6th century A.D.[2] Following the Roman law tradition and the influence of the philosophical ideas of the Enlightenment, a wave of civil law codifications surged throughout Europe during the 19th and 20th centuries.[3] Some of the most famous codifications are the French Civil Code of 1804, also known as the Napoleonic Code, and the German Civil Code of 1900.[4] These two civil codes are considered to have had a significant influence on codifications in other European countries.

Concerning the countries in Central and Eastern Europe, scholars underline that their legal systems were also influenced by the Austrian Civil Code of 1797 (*Allgemeines Bürgerliches Gesetzbuch* – ABGB). According to scholars, many countries in that region used the Austrian Civil Code as a model for drafting civil codes for their respective legal systems.[5]

Notably, the codification of civil law is characteristic of Continental European legal systems. In Common Law legal systems, on the other hand, the process of codification has not taken root due to different approaches to regulating legal relations.[6]

There has been great emphasis on the need for the creation of civil codes due to their positive impact on legal systems, especially regarding legal certainty and security.[7] Therefore, the question arises: What is codification, and what does it entail? Codification, in its traditional sense, refers to the act of compiling new and existing rules related to a broad domain of law into a single, comprehensive legal text, usually a book, based on a set of fundamental and coherent principles.[8] However, codification can take on many forms, which is why scholars tend to differentiate between several types of codifications.[9]

The first type of codification is one that merges several different legal acts into a single legal text. The second type comprises old and new rules merged into

1 Merryman, 1985, p. 10; Glenn, 2004, p. 135.
2 Mousourakis, 2012, pp.78–79; O'Connor, 2012, p. 9.
3 Rivera, 2013, p. 4; O'Connor, 2012, p. 10.
4 Murillo, 2001, pp. 5–6.
5 Veress, 2023, p. 196.
6 Wagner, 1953, pp. 335–336; Bergel, 1988, p. 1076; Weiss, 2000, pp. 497–498.
7 O'Connor, 2012, p. 11.
8 Popelier, 2017, p. 254; Veress, 2023, p. 193; Zimmermann, 2012, p. 373; Weiss, 2000, pp. 449–451.
9 Weiss, 2000, pp. 466–467.

a single legal text. The third type is codification via consolidation of a legal act with all of its amendments.[10]

Considering the different types of codifications, scholars also differentiate between substantial and formal codification.[11] Substantial codification entails supplementing and amending existing regulations while also creating new rules, all merged into a single legal text that regulates a particular area of law. This kind of codification aims to unify and modify rules regulating a particular area of law, thus creating a regulation that follows changes occurring in a legal system and adheres to its needs. Substantial codification aims to accomplish a set purpose in line with some type of legal reform within the legal system.

An example of substantial codification is the creation of the French Civil Code (*Code Civil*), which repealed old regulations and implemented a civil law system based on ideas and values rooted in Enlightenment ideology promoted before and during the French Revolution of 1789.[12] The main purpose of the French Civil Code, according to scholars, was to create a modern civil law system purified from the remains of an old and restrictive legal system not in line with the principles of natural law.[13] This is why, by definition, substantial codification or recodification includes radical changes within the legal system, which are usually part of a larger legal reform.[14] Unlike substantive codification, formal codification entails collecting and formatting several different laws regulating the same area of law into a single legal text. This type of codification is also referred to as consolidation.[15] Formal codification or consolidation does not include substantial changes in the codified legal text. This does not mean that consolidation can be reduced to a mere technique for adjoining several laws into one code. The process of consolidation may involve minor changes to the legal texts. These minor changes can include corrections in language and legal terms, adopting unified legal terminology, structural and systematic changes in the legal texts being consolidated, purifying the legal texts from repealed articles, and integrating amended articles.[16] Consolidation improves the quality of the consolidated laws and makes their application easier. However, consolidation does not introduce any fundamental changes in the regulation.

Since the main purpose of consolidation is to facilitate the application of laws by collecting them into a single legal text (code), some scholars point out that the process of consolidation can also be carried out in Common Law systems, even though they are naturally averse to codification.[17]

10 Popelier, 2017, p. 254; Bergel, 1988, pp. 1076–1077.
11 Bergel, 1988, p. 1076.
12 Bergel, 1988, pp. 1074–1075.
13 Albanesi, 2017, p. 269–270; Bergel, 1988, p. 1074.
14 Albanesi, 2017, p. 269.
15 Albanesi, 2017, pp. 265–266; Bergel, 1988, p. 1076; Popelier, 2017, pp. 254–255.
16 Albanesi, 2017, pp. 275–276; Voermans, 2008, p. 4.
17 Bergel, 1988, p. 1076.

The type of codification that is carried out also affects the codification procedure. According to some scholars, substantial codification requires a formal legislative procedure to be enforced. This is because substantial codification, in its essence, represents a legal reform. Formal codification, i.e., consolidation, on the other hand, requires a purely administrative procedure in which different legal texts regulating the same area of law are put together (consolidated) into a single act–code.[18] However, in practice, it is quite difficult to draw a definite line between the two procedures. Substantial codification requires a legislative procedure because it is reform-oriented, but it also requires an administrative procedure for collecting and compiling different laws from the same area of law. Formal codification, even though for the most part requiring an administrative procedure of putting together different legal acts into a single legal text, can also include modifications of the existing legal acts, such as amendments or other improvements to the quality of the text. In such cases, the codification process is not only an administrative process but must also be a legislative process.[19]

2. Historical evolution of the process of codification of civil law

As scholars point out, codifications have evolved with different functions and purposes over time.

During the period of Roman Law, the primary purpose of codification was to provide coexistence between the different classes. This is why laws were usually subjected to codification in times of turmoil and unrest among the population. When facing the danger of being overthrown, rulers sought legal reforms via codification to appease the masses.[20]

In the 19th century, codifications played a crucial part in the formation of nations and national states.[21] During this period, the codification process facilitated the pursuit of centralised legislative and political power.[22] Codifications strengthened the perception of a unified state under a unified set of rules and regulations. Codification also contributed to the modernisation of legal systems, implementing new ideas based on the ideology of the Enlightenment and the interests of the so-called bourgeois class.[23]

The first half of the 20th century was a period when new civil codes were introduced (e.g., the Swiss Civil Code of 1907). This was also a period of revising and amending civil codes that had been enacted during the 19th century. This

18 Poppelier, 2017, p. 255.
19 Ibid.
20 Poppelier, 2017, p. 258; Legrand, 1994, pp. 7–8.
21 Zimmermann, 2003, pp. 19–20; Zimmermann, 2012, p. 374; Weiss, 2000, pp. 467–468.
22 Poppelier, 2017, p. 258; Legrand, 1994, pp. 8.
23 Veress, 2023, pp. 193–194; Weiss, 2000, p. 452.

process was necessary due to economic and social changes that affected civil law relations.[24] As civil law relations evolved and transformed, civil codes also needed to adapt in order to remain relevant in regulating them.

The 20th century is also a time when, according to scholars, a de-codification era began.[25] Scholars identify two relevant reasons for the emergence of the de-codification process. The first reason was that 19th-century civil codes had become outdated and unable to respond to the needs of evolving civil law relations. The second reason was that civil law relations had become so diverse, due to economic and social changes in European countries, that civil codes were no longer able to regulate their diversity effectively.

The de-codification process did not necessarily render civil codes obsolete. However, it did lead to the creation of subject-specific laws (special laws) regulating particular areas of civil law. Since subject-specific laws were *lex specialis*, they derogated certain provisions of civil codes. As the number of subject-specific laws increased, skepticism regarding the effectiveness of civil codes also grew. Some scholars even claimed that the era of civil codes' domination as central piece of legislation had come to an end.[26]

In countries with well-established traditions of codification, subject-specific laws did not eliminate the need for civil codes. Instead of abolishing civil codes, these countries began processes of recodification in order to update and amend the old codes. This naturally led to the improvement of existing civil codes.

The second half of the 20th century was also a period of codification, re-codification, and de-codification. Countries in Europe started the process of post-war recovery within their national borders while strengthening international cooperation by building institutions and organisations capable of preventing future conflicts (e.g., the United Nations and NATO). It was also a time when communist ideology inspired a new form of economic, social, and political organisation in Eastern European societies and states. European countries that embraced communist ideology began reconstructing their legal systems to accommodate new ideas on law and governance. These ideological, economic, and political changes affected civil law as well, since the concept of property and how it would be acquired and used changed significantly. Some socialist countries passed new civil codes that aligned with socialist ideology (e.g., the Czech Republic, Poland),[27] while others enacted new socialist laws (e.g., North Macedonia, Serbia, Croatia, Slovenia).

In contemporary legal systems, codification is used to provide legal certainty.[28] However, it is almost impossible for civil law relations to be regulated

24 Murillo, 2001, pp. 12–13.
25 Rivera, 2013, pp. 15–16.
26 Ibid.
27 Elischer, 2013, p. 106; Radwański, 2006, p. 10.
28 Poppelier, 2017, p. 258.

exclusively by a civil code. This is due to the fact that civil law has become a very vast area of law. Considering the complexity and breadth of civil law relations, some scholars suggest that full codification may not be an ideal solution for every country.[29] European countries that have codified civil law into civil codes also tend to introduce so-called mini-codes that regulate particular areas of civil law relations, such as the Rural Code (*Code rural*) and the Urban Planning Code (*Code de l'urbanisme*) of France. In European countries without codified civil law, regulation usually consists of several basic laws covering particular areas of civil law, such as property law, obligations, succession law, and even family law, alongside a significant number of subject-specific laws (e.g., North Macedonia, Serbia, Croatia, Slovenia, Montenegro, Bulgaria).

3. The influence of the legal system of the Ottoman Empire in Macedonia (14th to 20th century)

North Macedonia was part of the Ottoman Empire for over five centuries (1389–1913). During this period, the Macedonian territory was included in the Rumelia Eyalet, or Beylerbeylik of Rumeli. The Beylerbeylik was a first-level province within the Ottoman Empire, organised to govern the local population, which consisted of people from diverse ethnic and religious backgrounds.

Officially, the law governing the Ottoman Empire was Sharia law. However, Sharia law was not entirely applicable in areas where the Christian and Jewish populations resided, such as in Macedonia. Therefore, Sharia law was usually complemented with statutes called *kanuns* and local customs.[30] The *kanuns* were statutes issued by the Sultan and regulated matters not covered by Sharia law.[31] Even though the *kanuns* were not part of Sharia law, they needed to be consistent with it.[32]

The Ottoman Empire functioned as a feudal system in which ultimate property rights over the land belonged to the Sultan. The Sultan had the authority to award the right to use the land to different categories of feudal lords known as *sipahi*. In return, the *sipahi* granted the right to use the land were obligated to pay taxes and perform military services for the Sultan. Working the land was an obligation for the peasants living on it.[33]

In Macedonia, under Ottoman rule, a classical feudal system was implemented. Property rights over the land were divided between the Sultan, feudal lords, and peasants, each with different authorisations regarding the land. The

29 Ibanesi, 2017, p. 271.
30 Матовски [Matovski], 1990, p. 14.
31 Ibid.
32 Шукарова [Shukarova] et. al., 2008, p. 132.
33 Ibid., p. 135.

Sultan held ultimate authority, meaning he had the right to distribute land for use. Feudal lords had the authority to use the land as local administrators. They were not entitled to sell or otherwise dispose of the land but were allowed to transfer the right to use it as inheritance to their male heirs. For the sons of the feudal lord to inherit the land, they were obligated to resume their father's duties, which included performing military services for the Ottoman Empire.

Peasants had the right, or more precisely, the obligation to work on the land. As scholars note, in the feudal system, peasants represented the main working force in agricultural production, which is why they were tied to the land.[34] They were also tied to the feudal lord they were obligated to serve. Peasants were not free to leave the land without the permission of the feudal lord. If a peasant left the land without permission, the feudal lord had the authority to capture him and bring him back. The authority of the feudal lord could last up to 15 years.

The peasants who belonged to the lower class and were of non-Muslim descent were referred to as *rayah*. Most of the people living on the territory of Macedonia were part of the *rayah*, and their main occupation was agriculture. They were given small parcels of land called *chiflik*, which they were obligated to work on and pay taxes for. Each peasant who was given a *chiflik* to work on received a deed known as *tapu*. The *tapu* represented a guarantee for the peasants that they would not be deprived of that land as long as they worked it and paid taxes regularly. With the permission of the feudal lord, peasants could pass on their *tapu* to their male descendants or transfer it to other peasants. For the *tapu* to be transferred, the recipient had to assume the obligation to pay the same taxes as their predecessor. The *tapus* issued to the Macedonian people during this period played a critical role later on, becoming a basis for establishing continuity in land ownership in the processes of denationalisation, transformation, and privatisation initiated in North Macedonia after the fall of socialism.

At the end of the 18th century and the beginning of the 19th century, the Ottoman Empire was facing a crisis that resulted in a loss of power in its conquered territories. The local feudal lords began declaring their independence from the Empire, which led to lawlessness and pillaging throughout its lands.[35] Facing imminent decline, the rulers of the Ottoman Empire initiated reforms of the feudal system. The influence of Western culture also played a significant role in these reforms. Initially, the reforms were directed towards restructuring the feudal system and the military. The restructuring of the feudal system affected land administration and resulted in the termination of the *sipahi* system.[36] Reforms directed at the military led to the abolition of the *janissaries* as a military structure.[37] The reforms did not result in the full abandonment of the feudal system;

34 Ibid., p. 136.
35 Ibid., p. 165.
36 Rothman, 2007, p. 82.
37 Ibid., p. 81.

however, they laid the foundation for its transformation into a system resembling the capitalism of Western European economies.

As a result of the termination of the *sipahi* system, the *chiflik* system gained momentum. However, that did not improve the position of the peasants. Lower-class peasants (*rayah*) were obligated to pay higher taxes on the land they worked. Taxes became a heavy burden and threatened their very existence. Peasants were impoverished and began to migrate into cities, where trade and crafts were starting to develop. The migration positively affected the development of cities on Macedonian territory, eventually leading to the creation of a bourgeoisie class, some of whom were of non-Muslim descent.

The period that brought the most important reforms of the feudal system within the Ottoman Empire is known as the Tanzimat period. According to scholars, this period ranged from 1839 and 1876.[38] The Tanzimat reform is considered to have been initiated by the Imperial Edict of Reorganisation (*Gülhane Hatt-ı Şerif*), dating from 1839. The Edict of Gülhane is considered an important document that promoted equality for all people before the laws of the Ottoman Empire.[39] Equality meant that all people were to have equal rights and enjoy equal treatment before the authorities. It created opportunities for people to engage in trade and contribute to the economy. As a result, significant economic development occurred within the cities.

Another important document promoting equality among all residents of the Ottoman Empire was the Sultan's Decree (*Hatt-i Humayun*) of 1856. This decree proclaimed that all residents were to have the same rights and liberties, reinforcing the idea of equality, in line with Western European principles. The benefits of these reforms were not limited to the population of Macedonia; they also had the opportunity to participate in the developing market economy, although non-Muslim populations still faced barriers despite formal equality. Political involvement in Macedonia remained exclusively reserved for the Muslim population. Among the reforms that affected the population was the abolition of tax-farming and the reform of the land tenure system, which allowed for land ownership.[40]

For the people in Macedonia, the period of Tanzimat reforms represented a time of national awakening and a striving for liberation. This culminated in the Razlovci uprising of May 1876. Although unsuccessful, the uprising drew the attention of European countries to the Macedonian cause for national liberation.[41] Alongside uprisings in Macedonia and Bulgaria, the Ottoman Empire also faced a power struggle between the Sultan and the Young Turks, who opposed the westernisation of the Empire. The Young Turks believed that the reforms and the modernisation of the Ottoman Empire's legal system should remain aligned with

38 Шукарова [Shukarova] et. al., 2008, pp. 165–166; Rothman, 2007, p. 81.
39 Ibid., p. 166.
40 Rothman, 2007, pp. 82–83.
41 Шукарова [Shukarova] et. al., 2008, p. 173.

the Sharia law.[42] Despite difficulties and opposition, the reforms moved forward, resulting in the adoption of the Constitution of 1876, which defined the Ottoman Empire as a constitutional monarchy. However, this constitutional reform was abolished in 1878.[43] The opposition of the Young Turks eventually culminated in the revolution of 1908.[44]

In 1878, after the Ottoman Empire lost the war against Russia, a peace treaty was signed – known as the Treaty of San Stefano – on January 31, 1878. Among other provisions, this treaty placed Macedonia within the independent Bulgarian state, a decision that was met with strong dissatisfaction among Macedonian intellectuals. The Treaty of San Stefano was opposed by several parties and was subsequently revised during the Berlin Congress held on July 13, 1878. Under the revision, Macedonia was left under Ottoman rule. Although the Treaty called for reforms, they were never enacted. During these negotiations, uprisings also broke out in Macedonia, the most significant being the Kresna uprising of 1878. Similar to earlier revolts, it ended unsuccessfully, leaving the Macedonian people without reforms or independence. Fighting for Macedonian interests, local intellectuals appealed to Western European countries, demanding the enforcement of Article 23 of the Berlin Treaty, which called for reforms, as well as protection of the rights of the Macedonian people.

Following the Berlin Congress, there was intense activity aimed at promoting both socio-economic reform and the national liberation of the Macedonian people. In this context, the Macedonian Revolutionary Organisation was founded in 1893. Its primary goal was the protection of Macedonian interests and the pursuit of national liberation.[45] At a congress held in Thessaloniki in 1896, a decision was made to adopt a Constitution and Rule Book to govern the Organisation's activities. These documents were written and published in 1897. The Constitution provided a framework for protecting Macedonian socio-economic interests and achieving national liberation, but it was not recognised by the Ottoman Empire.

The activities of the Revolutionary Organisation prompted the Sublime Porte to reinforce Ottoman law in Macedonia. Nevertheless, the Organisation continued its efforts, which culminated in the Ilinden uprising on August 2, 1903. The uprising was suppressed and ended on August 13, 1903. Despite its failure, it drew significant attention from Western European countries to the Macedonian cause for liberation. These countries called for immediate and substantial reforms to improve the legal and economic status of the Macedonian population. The proposed reforms targeted administration, policing, and finance, with the goal of strengthening governing institutions. However, they were never fully

42 Rothman, 2007, pp. 86–87.
43 Ibid., p. 83.
44 Rothman, 2007, p. 83; Шукарова [Shukarova] et. al., 2008, p. 207.
45 Шукарова [Shukarova] et. al., 2008, pp. 191–192.

implemented and thus did not significantly improve the position of the population in Macedonia.

The revolution initiated by the Young Turks presented another opportunity for socio-economic reforms in all the territories occupied by the Ottoman Empire, including Macedonia. For this reason, revolutionary forces in Macedonia supported the revolution. Once the Young Turks gained power in the Ottoman Empire, some political rights were recognised for the population in Macedonia, such as the right to form organisations and political parties. However, in 1909, after successfully combatting counter-revolutionary forces, the Young Turks abandoned reforms such as decentralisation and self-governance of the occupied territories. As a result, they reverted to the old system, which excluded significant socio-economic reforms, including agricultural reform.[46]

Up to 1912, Macedonia had the status of a province within the Ottoman Empire. During this period, civil law relations were regulated by the *Mecelle* (*Mecelle-i Ahkâm-ı Adliyye*). The *Mecelle* was a civil code of the Ottoman Empire based on Sharia law but also influenced, both conceptually and structurally, by the French Civil Code.[47] The Ottoman Land Code of 1858 was also enforced in the area of land law.[48] Both the *Mecelle* and the Ottoman Land Code failed to reflect the cultural characteristics of the Macedonian people, which significantly influenced everyday civil law relations. For this reason, customs played a crucial role in regulating those relations as well.

In 1912, the First Balkan War began between the Ottoman Empire and the Balkan Union. It ended with a peace treaty signed on May 30, 1913. The treaty officially ended Ottoman domination in the Balkans but did not establish borders between the Balkan states. According to scholars, this was the main reason for the outbreak of the Second Balkan War on June 29, 1913.[49] The Second Balkan War also ended with a peace treaty, known as the Treaty of Bucharest, signed on August 10, 1913. Under this treaty, Macedonia was divided between Bulgaria, Serbia, and Greece. The part of Macedonia that today constitutes North Macedonia came under Serbian rule. The following year, on July 29, 1914, the First World War began.

4. The legal system of Macedonia within the Kingdom of Serbs, Croats, and Slovenians (First Half of the 20th Century)

After the First World War, a peace treaty was signed on November 27, 1919. This treaty, known as the Treaty of Paris, largely reinforced the previously signed

46 Ibid., p. 209.
47 Групче (Grupche), 1983, pp. 58–59.
48 Ibid.
49 Ibid., p. 213.

Treaty of Bucharest. At this point, the territory of North Macedonia became part of the Kingdom of Serbs, Croats, and Slovenians, later renamed the Kingdom of Yugoslavia. The Kingdom of Yugoslavia was constituted as a democratic parliamentary monarchy.[50] During this period, the Serbian Civil Code of 1844 was enforced in Macedonia, since it was considered part of Serbian territory.

According to scholars, the Serbian civil code was mainly based on the Austrian civil code,[51] but it was also adapted to the cultural, economic, and social characteristics of Serbia at the time. The Civil Code consisted of introductory provisions and three parts: Part One – Persons and Family Law, Part Two – Real Property Rights, and Part Three – General Provisions on Personal and Property Rights. The introductory provisions (Arts. 1–35) set out the scope of application of the Code and the concepts of rights and justice. Part One regulated personhood, legal capacity, civil status, the rights and duties of spouses, and the rights and duties of parents and children (Arts. 36–181). Part Two was divided into two sections. The first section regulated ownership and other real property rights such as pledges and servitudes (Arts. 182–393), as well as inheritance (Arts. 394–530). The second section regulated obligations and torts (Arts. 531–826). Part Three addressed how personal and property rights were acquired, transformed, and terminated (Arts. 837–921), and also regulated prescription (Arts. 922–950).

During this period, the Macedonian people were subjected to strong propaganda aimed at assimilation. The application of the Serbian Civil Code in Macedonia – adapted to the cultural characteristics of the Serbian people – aligned with the broader assimilation policies pursued by Serbian authorities.[52] Since the Serbian Civil Code formed part of this assimilation strategy, it did not reflect Macedonian culture and customs. For this reason, Macedonians regarded it as legislation imposed by an occupying force, and later deliberately avoided preserving continuity with it. Historical events that followed further contributed to the breaking of legal continuity.

In 1919, efforts were made to dissolve the feudal system through agrarian reform. As a result, land was distributed among the peasants who worked on it. These reforms included Macedonia as well. Evaluating the effects of the agrarian reform, scholars conclude that although it was a step towards modernisation, it did not yield the expected results, as it did not completely dissolve the feudal system.[53]

To establish legislative unity within the Kingdom of Yugoslavia, a Commission set up by the Parliament's Legislative Council within the Ministry of Justice began drafting a new civil code that would apply to the entire territory

50 Papajorgji, 2024, p. 44. Шукарова [Shukarova] et. al., 2008, p. 225.
51 Stanković, 2014, p. 886; Popović, 2024, pp. 468–469; Zimmermann, 2003, p. 20.
52 Шукарова [Shukarova] et. al., 2008, p. 225.
53 Papajorgji, 2015, p. 45.

of the Kingdom.[54] The Commission prepared a draft of the Yugoslav Civil Code by 1935.[55]

With regard to commercial law during the period of the Kingdom of Yugoslavia, it should be noted that several laws regulated trade at the time. In Serbia, the Serbian Trade Law of 1960 was enforced.[56] Since North Macedonia was part of Serbia at the time, the same law applied there. Other states within the Kingdom of Yugoslavia enforced their own trade laws (e.g., Montenegro, parts of Bosnia and Herzegovina) or applied the Austrian Commercial Code of 1862 (Slovenia, parts of Bosnia and Herzegovina) or the Hungarian Commercial Code of 1875 (Croatia).[57] The enforcement of different trade laws in different parts of the Kingdom did not contribute to the unity of the legal system. For this reason, it was decided that a new commercial code should be drafted and applied throughout the entire territory of the Kingdom of Yugoslavia. According to historical sources, work on the new Commercial Code began in 1921.[58] However, the process was interrupted in 1929 due to political turmoil and the proclamation of dictatorship. Once the political situation stabilised, work on the Commercial Code resumed, and a preliminary draft was completed by 1932. A version of the Commercial Code was adopted in 1937, but it was incomplete, as it lacked provisions on property law and obligations. Historical sources indicate that the Commercial Code was intended to be completed after the adoption of the Civil Code, which at that time remained only in draft form.[59]

The new Civil Code was never implemented, nor was the Commercial Code completed, due to the outbreak of the Second World War.

5. The legal system in Macedonia after the Second World War (Second Half of the 20th Century)

By the end of the Second World War on September 2, 1945, the Macedonian state was constituted based on the decision of the Anti-Fascist Assembly of National Liberation of Macedonia, held on August 2, 1944.[60] In 1945, Macedonia, as an independent state, became part of the Federal People's Republic of Yugoslavia under the name of the People's Republic of Macedonia. The People's Republic of Macedonia adopted its first Constitution in 1946.[61]

54 Papajorgji, 2015, p. 45; Popović, 2024, p. 472.
55 Popović, 2024, p. 472; Mirković, 2020, pp. 270–280.
56 Vlacic, 2020, pp. 98–99.
57 Ibid.; Krešić, 20017, p. 8.
58 Vlacic, 2020.
59 Vlacic, 2020, pp. 103–104.
60 Шукарова [Shukarova] et. al., 2008, p. 282.
61 Ibid., p. 315.

This was a period when the Communist Party became the ruling party in the country; therefore, the adoption of the Constitution of 1946 marked a new era in building the socio-economic, legal, and political system based on communist ideology. During this time, the government began eliminating private ownership by converting it into state ownership. This included confiscation, expropriation, agrarian reform, and other measures intended to deprive private owners of their property. As a result, over time, the entire social and economic system became state-operated.

The newly established communist system required laws that would be in line with communist ideology. This is why, in 1946, a law[62] was passed that abrogated all laws and regulations enforced before April 6, 1941, as well as those enforced between 1941 and 1945 while the member states of the Federation were under occupation. According to Article 1 of this law, all regulations implemented by the occupying government and their collaborators were declared non-existent. Article 2 stated that the laws and regulations enforced until April 6, 1941 had lost their validity. However, since it was necessary to maintain order, courts and government bodies were allowed to apply the provisions of these laws and regulations as informal rules, as long as they were not contrary to the Constitution of the Federation and the constitutions of its member states. Applying the abrogated laws meant they could only be used as a reference point. Still, neither the courts nor the government bodies were allowed to base their decisions directly on the abrogated law by citing it (Art. 4). The Federal Assembly and the assemblies of the member states were authorised to determine which of the previous laws and regulations could be applied with the necessary amendments (Art. 3). This law not only abrogated all laws and regulations enforced before April 6, 1941 but also prohibited new laws and regulations from being based on them (Art. 4/2). By forbidding old laws from serving as a basis for drafting new laws, the legal continuum was interrupted. This was done with the intention of establishing a new legal order with no common features with the old rules and regulations. However, that was practically impossible in civil law matters, because civil law institutions dating back to Roman law could not be eliminated even in a socialist legal system.

Regarding civil law matters, the law stated that court decisions and decisions rendered by other government bodies after April 6, 1941 could remain in force as long as they were not based on abrogated laws contrary to the new legal order. Any person who considered that their rights had been violated by such decisions in civil law matters was authorised to file a claim before the courts so that a new decision could be rendered under the governing laws. If a person was unable to file such a claim, the claim could be filed by the proper authorities (Art.

62 Zakon o nevažnosti pravnih propisa donetih pre 6. Aprila 1941. godine i za vreme neprijateljske okupacije [Law on invalidity of regulations passed before 6th of April 1941 and during enemy occupation].

7). Regarding property rights on real estate registered in the land registers, the law recognised them as valid (Art. 9). If the rights registered in the land registers were disputed under Article 7, the fact that there was a dispute was to be noted in the land registers (Art. 9/2)

In Macedonia, during the socialist period (1945–1991), civil law matters were not regulated by a civil code. In fact, there were no discussions about codifying civil law. Instead, civil law relations were regulated by three basic laws and a number of subject-specific laws. The basic laws were the Basic Real Property Relations Act (Закон за основните сопственостно-правни односи), the Obligations Act (Закон за облигациони односи), and the Succession Act (Закон за наследувањето). The Basic Real Property Relations Act was passed in 1980 and consisted of 90 articles. It regulated real property rights (ownership, servitudes, and pledge), possession, and the property rights of foreigners. It also contained provisions on the applicable law in case of conflict between the laws of member states and provinces in property relations. Obligations and torts were regulated by the Obligations Act of 1978. The Succession Act of 1973 regulated succession by law, by will, or by succession contract.

The three basic laws that regulated civil law matters reflected the new socio-economic environment in which they were applied. Terms such as 'socialist', 'socialistic', and 'social ownership' were used to incorporate socialistic ideology into traditional civil law institutions. The Basic Real Property Relations Act, as a law regulating property relations, reflected the new socio-economic environment by introducing the concept of social ownership. This was a particular type of ownership operated by state institutions, and ideologically it was presented as ownership belonging to everyone.[63] The Obligations Act was created to regulate trade and services in a system where production was socially operated and the entire economy was socially oriented. According to the Obligations Act, the parties in trade relations were labour organisations, social entities, civil organisations, and individuals. Obligations between parties had to be conducted in accordance with the Constitution, the laws, the social establishment, and socialist morality. The Succession Act also reflected socialist ideology. According to this law, real estate and production resources could not be inherited beyond the maximum limits imposed by subject-specific laws. Criminal acts directed towards undermining the working class and the working people, the independence of the state, its defence forces, and socialist development were stated as grounds for disowning an heir. People who refused to serve in the socialist army or acted against the socialist state were declared unworthy of inheritance.

During this period, there were no discussions regarding the codification of commercial law. In fact, by observing the basic laws regulating civil law, we

63 Живковска [Zhivkovska], 2005, p. 56; Групче [Grupche], 1983, p. 72; Стојановић [Stojanović] et. al., 1982, p. 19.

can assert that, at this time, a monistic approach was adopted. This is evident from the provisions of the Obligations Act of 1978, which stated that legal entities such as labour organisations, social entities, and civil organisations were equal participants in trade relations alongside individuals. This leads to the conclusion that the Obligations Act was equally applicable to all persons, natural or juridical, in matters of trade relations. However, it should be noted that the constitution, organisation, operational activities, and other aspects concerning the functioning of various types of legal entities were regulated by subject-specific laws.

In a state-operated economy, legal entities, including enterprises, were initially owned and operated solely by the state. Later on, during the 1950s, there was slight decentralisation of the economy, which allowed workers to participate in the management of enterprises through so-called 'work collectives'. Workers' management rights were recognised by the Constitution of the Socialist Federal Republic of Yugoslavia of 1963, which stated that workers' organisations were granted decision-making powers in the area of resource production and distribution (Art. 11). The Constitution of the Socialist Federal Republic of Yugoslavia of 1974 went even further in extending the decision-making power of the working people. Article 66 of the Constitution of 1974 stated that working people were allowed to join their labour and assets in joint labour organisations and other forms of cooperatives and enterprises. Within those organisations, they were permitted to participate in the creation and distribution of assets proportionately to their contribution. The functioning of these organisations was regulated by subject-specific laws such as the Joint Labour Act of 1976.

It should be emphasised that, even though workers were granted decision-making powers within the organisations, they were not considered their owners. The organisation and its assets were socially owned. Overall, the entire legal system at the time was adapted to an economy operated and controlled by state institutions, and civil law relations were tailored accordingly, limiting the free initiative and interests of individuals for the benefit of socialist society.

6. The legal system of North Macedonia in the present and the efforts for codification of civil law

The present legal system in North Macedonia was constructed gradually, starting in 1991, when Macedonia declared its independence and adopted a new Constitution. In the Constitution of 1991, the Republic of Macedonia was declared to be a sovereign, independent, democratic, and social state. The Constitution of 1991 cut all ties with the previously established socialist system and the concept of socialist ownership. Instead, it recognised the right of ownership as an inviolable right by declaring that the right of ownership and the right of inheritance are guaranteed to all individuals. According to the Constitution, no one can be deprived of their

ownership except in the public interest, in which case just compensation is due, no less than the market value of the expropriated property (Art. 30). The Constitution also states that one of the fundamental values of the new legal order is the protection of the right of ownership. These constitutional guarantees were put in place to ensure that no future government could unilaterally deprive individuals of their property for ideological reasons. The Constitution further proclaimed the orientation towards a free-market economy (Art. 55). These constitutional provisions became the basis for regulating the three branches of civil law – real property, obligations, and succession.

While new laws were being drafted, the rules and regulations governing civil law relations inherited from the socialist system remained in force after 1991, but only to the extent that they were not contrary to the Constitution of 1991.

Between 1991 and 2001, the Macedonian legislative branch was mainly focused on drafting laws that would regulate the transformation of socialist ownership, partly into state ownership but mostly into private ownership. As a result, various laws were passed regulating the transformation of socially owned buildings and enterprises into private ownership, the denationalisation of nationalised property, and the privatisation of nationalised construction land. These processes took a very long time to complete, and some disputes concerning them are still ongoing in the court system.

The slow transformation of socialist ownership into state or private ownership delayed the drafting of new basic laws regulating the three branches of civil law. The Succession Act was passed in 1996, while the Ownership and Other Real Rights Act and the Obligations Act were passed in 2001. These three basic laws regulating civil law relations are aligned with constitutional provisions and adapted to the free-market economy.

The Ownership and Other Real Rights Act (the Ownership Act) guarantees legal protection of all real property rights. It also provides that all types of ownership (private, state, and municipal) enjoy equal protection under the law. The Ownership Act also guarantees real property rights of foreigners.

The Obligations Act regulates obligations and torts in line with the principles of free enterprise, free initiative, and equality of all parties.

The Succession Act guarantees the right to inheritance for all persons. It provides that inheritance can be obtained by law or according to a will. Respecting the freedom of individuals to dispose of their property in case of death, the Succession Act prioritises succession by will before succession under the law.

In addition to the basic laws, many subject-specific laws regulate particular areas of civil law such as agriculture, urban planning and development, state and municipal ownership management, real securities, exploitation of minerals, consumer protection, and other areas. These subject-specific laws represent a large pool of different rules and regulations that often collide with one another and sometimes contradict the basic laws regulating civil law.

The current state of civil law regulation makes the application of all these different laws difficult, especially when there are contradictions and overlaps. The contradictions between the basic laws and the subject-specific laws are easier to overcome because the principle of *lex specialis derogat legi generali* is applied. However, this principle is not entirely applicable when two subject-specific laws regulating the same area of civil law overlap. When such overlaps occur, it is challenging for the judiciary and other state authorities to maintain consistency in applying those overlapping laws. As a result, legal certainty, legal order, and justice become severely compromised. Meanwhile, corruption and authoritarianism increase.

In that type of legal climate, legal scholars began exploring possibilities for improving the legal system, increasing legal certainty, and maintaining legal order while ensuring justice and fair treatment for all individuals. The point on which they all agree is that the laws and regulations in the area of civil law need to be amended and updated. This especially refers to the basic laws regulating property, obligations, torts, and succession. However, opinions are divided regarding how to consolidate all the laws regulating civil law matters. A larger group of legal scholars consider codification of civil law to be the best approach. There are also scholars, such as Professor Rodna Zhivkovska, who believe that codification of Macedonian civil law at this time is not the best solution. According to Professor Zhivkovska, the level of disharmony between the subject-specific laws, the rapid changes in regulation, and the need for harmonisation of Macedonian law with EU regulations represent a serious obstacle to the codification of civil law.[64]

Despite concerns about the difficulties of achieving full codification of civil law due to the current state of the Macedonian legal system, there were some initial efforts to move forward with this idea. In 2009, the Ministry of Justice prepared the Project for Drafting a Civil Code of the Republic of Macedonia. The Project was publicly presented, but no concrete steps were taken at the time to advance the idea of codification. Three years later, in 2011, the idea for codification was revisited by the authorities. On this occasion, the Government rendered a decision authorising a Commission comprising a large number of legal experts in civil law, constitutional law, administrative law, and other fields to participate in drafting a version of the civil code.[65]

During 2012, the Commission held several meetings at which some basic questions regarding the draft of the civil code were discussed. The discussions revolved around the content and the systematisation of the civil code.

64 Zhivkovska and Przheska, 2014, p. 261.

65 Одлука за формирање на комисија за изготвување на граѓански законик на Република Македонија, Сл. весник на РМ, бр. 4/2011. [Decision for constituting a Commission for drafting the Civil Code of Republic of Macedonia, Official Gazette of the Republic of Macedonia, number 4/2011].

Concerning the content of the civil code, the Commission members shared different ideas. One group considered that the civil code should extend to other areas of private law and not restrict itself to the traditional branches of civil law, such as property law, obligations, and succession. More precisely, this group proposed that family law and even intellectual property law should be included in the civil code. The idea of incorporating intellectual property law into the civil code was abandoned, not only because of the specific nature of intellectual property but also because it represents a dynamic area of law subject to frequent changes. As for family law, even though this branch of private law does not share many similarities with the traditional branches of civil law, it was decided that it could be included in the civil code. The argument in favour of incorporating family law into the civil code was that this is common practice for civil codes in Europe. Ultimately, it was decided that the civil code would be comprised of a general part, property, obligations, succession, and family law.

Regarding commercial law, it was concluded that the monistic approach in regulating trade relations should remain in place, since the Obligations Act of 2001 was already drafted to be equally applicable to natural and juridical persons.

When deciding on the systematisation of the civil code, the Commission concluded that the example of the German civil code should be followed. This decision was based on the fact that Macedonian laws regulating civil law matters generally followed the German legal tradition, either directly or by transplanting legal solutions from countries known to follow the German model, such as Croatia.

Following the initial discussions about the content and structure of the civil code, five working groups were formed, each tasked with working on a particular part of the civil code. The groups consisted mainly of professors, though there was an idea to consult and partially involve legal practitioners and foreign experts. The working groups largely operated independently, with no general meetings to discuss progress. Some issued working papers in 2013 outlining their ideas and views on how a particular part of the civil code should be drafted, which parts of the old regulation could be incorporated, and which needed to be changed or updated.

After this period, the activities regarding the draft civil code lost momentum due to a lack of financial and operational support from the Ministry of Justice, the main instigator of the codification process. As a result, the working groups found it difficult to continue preparing the draft. Even though activities surrounding the drafting of the civil code halted in the following years, the working groups were never officially disbanded.

After the COVID-19 pandemic, there was an attempt to revive the idea of codifying civil law. A general meeting was held in 2022 where members of the previously formed working groups, legal practitioners, and state officials were called to discuss the possibility of continuing the work. Several issues were addressed,

including the need for greater engagement and support from the authorities, the need to establish deadlines for preparing the draft, and restructuring the working groups. One issue that sparked debate was the objective obstacles to codification. A major obstacle is the instability and disharmony between the basic and subject-specific laws regulating civil law relations. As was rightfully pointed out, in a legal climate where subject-specific laws are constantly being amended, there is no relative stability in the legal system – stability that is essential for codification to succeed and for the civil code to be practically applicable.

Considering these obstacles, representatives of the Ministry of Justice faced the dilemma of whether to continue supporting the codification project initiated in 2011 or to focus instead on the goals of the subsequently adopted Strategy for Judicial Sector Reform 2017–2022. Unlike the codification project, the strategy called for adopting separate basic laws regulating the three branches of civil law, with the idea that once stability was achieved, these laws could later be merged into a single legal text – the Civil Code of the Republic of North Macedonia. This dilemma, however, was never decisively resolved by the authorities.

Three years have passed since that meeting, but no concrete steps have been taken by the authorities. Nevertheless, the working groups continued preparing drafts of the separate parts of the civil code. Some of these drafts, such as the draft Succession Act, were publicly discussed at conferences and other gatherings of scholars and legal practitioners. However, none of these drafts entered the official legislative process for adoption. Meanwhile, amendments were made to existing laws, such as the Obligations Act of 2001. Many scholars who participated in the codification project have since appealed to the Ministry of Justice to take a decisive stand on the process.

At present, scholars have put forward two proposals for how the process should continue. One group supports the continuation of full codification of civil law. Another group proposes introducing mini-codifications, such as a Property Code, Obligations Code, Family Code, and Succession Code. In the current legal climate, the latter approach appears more feasible. The Obligations Act, which already functions as a mini-codification, has recently been amended and updated. Similar work can be done with the Family Act and the Succession Act, since the working groups have already prepared amendments and updates to these laws. As for property law, it should be noted that a working group has already prepared a completely new draft of the Ownership and Other Real Rights Act, which could easily serve as the basis for a Property Code.

Despite the efforts of scholars to draw attention to the need for upgrading the civil law system in the Republic of North Macedonia – whether through full codification or mini-codifications – there appears to be little readiness on the part of the legislative branch to endorse the process. A review of the Government's Program of Activities for 2025 makes it clear that civil law codification is not currently considered a priority.

Faced with the uncertainty of when and in which direction the modernisation of civil law will continue, one can conclude that the road towards a unified and codified civil law system in North Macedonia will be long and challenging, with no clear end in sight.

7. Is codifying civil law in North Macedonia an achievable goal?

When asking whether the codification of civil law in the Republic of North Macedonia is an achievable goal, one must take into account the country's social, economic, and political climate, as well as the multitude of civil law regulations currently in force. The short answer is yes – but not under present conditions, and not within a short time frame.

For codification to succeed, the right conditions must first be established. The process should be gradual and conducted in two phases. Rushing it by skipping steps could result in a Civil Code that is impractical and unenforceable.

The first phase should focus on achieving cohesion between the basic laws regulating civil law relations and the subject-specific laws that govern particular areas of civil law by harmonising them. In the areas of obligations and succession, cohesion already exists because fewer subject-specific laws need to be harmonised with the basic laws (the Obligations Act of 2001 and the Inheritance Act of 1996). However, in the area of property law, numerous subject-specific laws must be harmonised with the Ownership and Other Real Rights Act of 2001. As noted earlier, a draft version of a new Ownership and Other Real Rights Act has been prepared and adapted to recent changes in subject-specific laws. Yet, as time passes and further amendments to subject-specific laws are introduced, the cohesion achieved so far could be lost.

For this reason, the mass production of new subject-specific laws must be halted while harmonisation with the basic laws is ongoing. Amendments to existing subject-specific laws should be made only when strictly necessary, and always in concert with the provisions of the basic laws. This applies to all areas of civil law, but especially property law, which contains the largest number of subject-specific laws.

By the end of this first phase, partial codification should be achieved through the adoption of three mini-codes: a Property code, an Obligations Code, and a Succession Code. A Family Code should also be adopted at this time, since there is general consensus that family law should be included in the codification of civil law. Importantly, this inner harmonisation must be accompanied by harmonisation with EU regulations.

It is challenging to assess the timeline of the first phase in the process of codifying civil law in the Republic of North Macedonia. It may last up to a decade, as it depends on many factors, particularly the readiness of government

institutions to provide operational support. Other contributing factors likely to slow down the completion of the first phase include impending changes within the EU resulting from economic shifts, the introduction of new technologies such as AI that require adequate regulation at the EU level, and similar developments. These will certainly have a ripple effect on civil law relations in all European countries.

Once this first phase is completed and the mini-codes have been successfully implemented in the legal system of North Macedonia for a reasonable period, the prerequisite conditions will be met for initiating the second phase. The second phase should lead to the full codification of civil law through consolidation, which will involve incorporating the existing mini-codes into a single legal text.

Concerning commercial law, as previously stated, most scholars favour the monistic approach as the more rational solution. There are strong arguments in favour of this approach, since it creates more cohesive regulation and avoids the multiplication of legal norms governing the same subject matter, such as contracts. On the other hand, valid arguments also exist in support of the dualistic approach, as it allows commercial law to be tailored to the specific needs of juridical persons. However, the dualistic approach does create parallel regulation in the area of trade relations, which may be seen as undesirable. In reality, a purely monistic approach to regulating commercial law is not possible. Even if overlapping areas are regulated within the obligations section of the Code, there will always be a need for subject-specific laws addressing areas of commercial law that must be adapted to the specific nature and needs of juridical persons.

8. Conclusion

European countries with continental legal systems tend to pursue the codification of civil law due to its positive impact in ensuring legal certainty and stability in civil law relations. Codification can take different forms, but there are generally three types: codification by merging several separate legal acts into a single legal text; codification that combines old and new rules into a single legal text; and codification through consolidation.

The functions and purposes of codifications have evolved over time. In the 19th century, codifications played a crucial role in the formation of nations and national states. The first half of the 20th century was marked by the introduction of new civil codes and the revision of old ones. In the second half of the 20th century, processes of codification, re-codification, and de-codification took place. In contemporary legal systems, codification is used to provide legal certainty and stability. European countries that have not yet codified civil law, such as North Macedonia, rely on several basic laws and many subject-specific laws regulating

different branches and areas of civil law, while simultaneously making efforts towards codification.

The evolution of the Macedonian legal system can be observed through four stages, marked by significant historical events: the period between the 14th and 20th centuries, the first half of the 20th century, the second half of the 20th century, and the present period of the 21st century.

Between the 14th and 20th centuries, Macedonia was under Ottoman rule. During this period, the classical feudal system was implemented, governed by Sharia Law, supplemented with statutes (*kanuns*) and local customs, particularly in areas where Christian and Jewish populations resided, such as the Macedonian territory. The influence of Western culture contributed to reforms within the Ottoman Empire in the 19th century. These reforms, known as the Tanzimat, were initiated by the Imperial Edict of Reorganisation (*Gülhane Hatt-ı Şerif*) of 1839, which promoted equality of all people before the laws of the Ottoman Empire. Another important document was the Sultan's Decree (*Hatt-i Humayun*) of 1856, which proclaimed that all residents of the Ottoman Empire were to enjoy the same rights and liberties. For the people in Macedonia, the Tanzimat period marked a time of national awakening and a striving for liberation.

In the first half of the 20th century, the territory of North Macedonia became part of the Kingdom of Serbs, Croats, and Slovenians, later known as the Kingdom of Yugoslavia. During this period, the Serbian Civil Code of 1844 was enforced in Macedonia. In 1919, to establish legislative unity within the Kingdom of Yugoslavia, a Commission set up by the Parliament's Legislative Council was authorised to draft the Yugoslav Civil Code. The Code was completed in 1935 but never entered into force due to the outbreak of the Second World War.

During the second half of the 20th century, Macedonia, as a constituent republic, became part of the Federal People's Republic of Yugoslavia under the name of the People's Republic of Macedonia. During this period, a socialist system was established that required new laws in line with socialist ideology. As a result, in 1946, a law was passed that abrogated all laws and regulations in force before April 6, 1941, as well as those enacted between 1941 and 1945 while the member states of the Federation were under occupation. In Macedonia, during the period of socialism (1945–1991), civil law matters were regulated by three basic laws and a wide range of subject-specific laws, all adapted to the socialist system.

The present legal system in North Macedonia was gradually constructed beginning in 1991, when Macedonia declared independence and adopted a new Constitution. The Constitution of 1991 cut all ties with the previously established socialist system and the concept of social ownership. At this time, three new basic laws were introduced regulating the three branches of civil law: property, obligations, and succession. The Succession Act was passed in 1996, while the Ownership and Other Real Rights Act and the Obligations Act were passed in 2001. These three

basic laws remain in force today. They are aligned with constitutional provisions and adapted to the free-market economy.

In 2009, the Ministry of Justice prepared a project for drafting a Civil Code of the Republic of Macedonia. Three years later, in 2011, the Government rendered a decision authorising a Commission composed of a large number of legal experts in civil law, constitutional law, administrative law, and others fields to draft a version of the Civil Code. In 2012, the Commission held several meetings discussing the content and systematisation of the Civil Code. It was decided that the Code would consist of a general part, real property, obligations, succession, and family law. After the COVID-19 pandemic, in 2022, an attempt was made to revive the idea of codification, which had lain dormant for a decade, and a general meeting was held to discuss the possibility of continuing the work.

At present, there are two proposals from scholars on how the process should continue. One group proposes the continuation of the process of codifying civil law as a whole. Another group proposes the introduction of mini-codifications, such as a Property Code, Obligations Code, Family Code, and Succession Code. In the current legal climate, the latter appears more likely to be achieved.

Gradual codification conducted in a two-phase process – drafting and enforcing separate mini-codes as a first phase, and full codification as a second phase – is a slow and time-consuming process, which is why it is met with opposition by those involved. However, if the process is rushed and objective obstacles are ignored rather than addressed, the result may be a Civil Code that is inapplicable in practice.

Bibliography

- Albanesi, E. (2017) 'Codification in civil law jurisdiction: an Italian perspective', *European Journal of Law Reform*, 19(4), pp. 264–284 [Online]. Available at: https://doi.org/10.5553/EJLR/138723702017019004003 (Accessed: 2 September 2025).
- Bergel, J.L. (1988) 'Principal Features and Methods of Codification', *Louisiana Law Review*, 48, pp. 1073–1097 [Online]. Available at: https://digitalcommons.law.lsu.edu/lalrev/vol48/iss5/3 (Accessed: 2 September 2025).
- Elischer, D., Frinta, O., Pauknerová, M. (2013) 'Recodification of Private Law in the Czech Republic' in Rivera, J.C. (ed.) *The Scope and Structure of Civil Codes*. Dordrecht: Springer, pp. 105–132; https://doi.org/10.1007/978-94-007-7942-6_5.
- Glenn, H.P. (2004) *Legal Traditions of the World*. 2nd edn. Oxford: Oxford University Press.
- Government of the Republic of North Macedonia (2025) 'Program for the activities of the Government of the Republic of North Macedonia for 2025', *Government of the Republic of North Macedonia* [Online]. Available at: https://vlada.mk/sites/default/files/img/programa_vlada_2025.pdf (Accessed: 2 September 2025).
- Krešić, M. (2017) 'A Review of the Development of Private Law in Croatia 1848-1945', *Rechtsgeschichtliche Vortrage*, 75, pp. 3–16 [Online]. Available at: https://www.researchgate.net/publication/321579600_A_Review_of_the_Development_of_Private_Law_in_Croatia_1848-1945 (Accessed: 2 September 2025).
- Legrand, P. (1994) 'Strange Power of Words: Codification Situated', *Tulan European & Civil Law Forum*, 9(1), pp. 1–34.
- Merryman, J.H. (1985) *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America*. 2nd ed. Stanford: Stanford University Press.
- Mirković, Z. (2020) 'Kodifikovanje građanskog zakonika nove države i njegovo mesto u istoriji međuratnih evropskih kodifikacija' in Begović, B., Mirković, Z. (eds.) *Sto godina od ujedinjenja – formiranje države i prava.* Belgrade: Pravni fakultet Univerziteta u Beogradu, pp. 270–280.
- Mousourakis, G. (2012) *Fundamentals of Roman Private Law*. Berlin, Heidelberg: Springer Verlag; https://doi.org/10.1007/978-3-642-29311-5.
- Murillo, M. (2001) 'The Evolution of Codification in the Civil Law Legal Systems: Towards Decodification and Recodification', *Florida State University Journal of Transnational Law & Policy*, 11(1), pp. 163–182 [Online]. Available at: https://ir.law.fsu.edu/jtlp/vol11/iss1/5 (Accessed: 2 September 2025).
- O'Connor, V. (2012) *Practitioner's guide: Common Law and Civil Law Traditions. INPROL - International Network to Promote the Rule of Law*. International Network to Promote the Rule of Law [Online]. Available at: https://www.fjc.gov/sites/default/files/2015/Common%20and%20Civil%20Law%20Traditions.pdf (Accessed: 2 September 2025).
- Popelier, P. (2017) 'Codification in civil law jurisdiction: northern european perspective', *European Journal of Law Reform*, 19(4), pp. 253–263 [Online]. Available at: https://doi.org/10.5553/EJLR/138723702017019004002 (Accessed: 2 September 2025).

- Popović, D. (2024) 'Serbian Civil Code in the History of Serbian Law', Pravni zapisi, 15(2), pp. 466–479 [Online]. Available at: https://doi.org/10.5937/pravzap15-53494 (Accessed: 2 September 2025).
- Radwański, Z. (2006) *Green Paper: An Optimal Vision of the Civil Code of the Republic of Poland*. Warsaw: Ministry of Justice [Online]. Available at: https://www.yumpu.com/en/document/read/11410374/an-optimal-vision-of-the-civil-electronic-journal-of-comparative-law (Accessed: 2 September 2025).
- Rivera J.C. (2013) 'The Scope and Structure of Civil Codes. Relations with Commercial Law, Family Law, Consumer Law and Private International Law. A Comparative Approach' in Rivera, J.C. (ed) *The Scope and Structure of Civil Codes*. Dordrecht: Springer, pp. 3–39; https://doi.org/10.1007/978-94-007-7942-6_1.
- Rothman, N.C. (2007) 'Islam in Turkey and Modernisation: The Tanzimat Period', *Comparative Civilisations Review*, 56(56), pp. 76–92 [Online]. Available at: https://scholarsarchive.byu.edu/ccr/vol56/iss56/7 (Accessed: 2 September 2025).
- *Serbian Civil Code of 1944* [Online]. Available at: https://www.harmonius.org/sr/pravni-izvori/jugoistocna-evropa/privatno-pravo/srbija/Srpski_gradjanski_zakonik_1844.pdf (Accessed: 2 September 2025).
- Stanković, E. (2014) 'Fundamina', *Pretoria*, 20(2), pp. 881–890.
- *Strategy for reform of the judicial sector 2017-2022* [Online]. Available at: https://www.pravda.gov.mk/Upload/Documents/2017-2022.pdf (Accessed: 2 September 2025).
- *Treaty between Great Britain, Germany, Austria, France, Italy, Russia, and Turkey for the Settlement of Affairs in the East: Signed at Berlin, July 13, 1878*, The American Journal of International Law, 2(4), pp. 401–424 [Online]. Available at: https://eclass.uoa.gr/modules/document/file.php/ARCH258/Berlin%20Treaty%20of%201878.pdf (Accessed: 2 September 2025).
- Vasilev, Lj. (1963) 'Basic questions of civil law codification in the People's Republic of Bulgaria', *Strani Pravni Zivot,* 1963/3, pp. 3–17.
- Veress, E. (2023) 'Private Law Codifications in East Central Europe' in Sáry, P. (ed.) *Lectures on East Central European Legal History*. 2nd edn. Miskolc-Budapest: Central European Academic Publishing, pp. 193–233; https://doi.org/10.54171/2023.ps.loecelh_8.
- Vlačić, M. (2020) 'The Codification of the Commercial Law in the Interwar Yugoslavia' in Gosztonyi, G., Krešić, M., Beliznai Bódi, K. (eds.) *Collection of papers on Hungarian and Croatian legal history*. Zagreb: University of Zagreb, Faculty of Law, Chair of Croatian History of Law and State, pp. 98–105 [Online]. Available at: https://edit.elte.hu/xmlui/bitstream/handle/10831/108381/Sic_itur_IV_Vlacic_p_98-105.pdf?sequence=1 (Accessed: 2 September 2025).
- Voermans, W., Moll, C., Florijn, N., Van Lochem, P. (2008) 'Codification and Consolidation in the European Union: A Means to Untie Red Tape', *Statute Law Review*, 29(2), pp. 65–81 [Online]. Available at: https://doi.org/10.1093/slr/hmn007 (Accessed: 2 September 2025).
- Wagner Wencelas, J. (1953) 'Codification of Law in Europe and the Codification Movement in the Middle of the Nineteenth Century in the United States', *Saint Louis University Law Journal*, pp. 335–359 [Online]. Available at: https://www.repository.law.indiana.edu/facpub/2324 (Accessed: 2 September 2025).

- Weiss, G.A. (2000) 'The Enchantment of Codification in the Common-Law World', *Yale Journal of International Law,* 25, pp. 435–532.
- Zhivkovska, R., Przheska, T. (2014) 'Codification of the civil law in the Republic of Macedonia', *Collection of Papers of the Law Faculty in Nish*, 68, pp. 251–267 [Online]. Available at: https://doi.org/10.5937/zrpfni1468251Z (Accessed: 2 September 2025).
- Zimmermann, R. (2003) 'The Civil Law in European Codes' in MacQueen, H.L., Vaquer, A., Espiau, S.E. (eds.) *Regional Private Laws, and Codification in Europe*. Cambridge: University Press, pp. 18–59; https://doi.org/10.1017/CBO9780511495007.002.
- Zimmermann, R. (2012) 'Codification. The Civilian Experience Reconsidered on the Eve of a Common European Sales Law', *Congress of the International Academy of Comparative Law*, 8(4), pp. 367–399 [Online]. Available at: https://doi.org/10.1515/ercl-2012-1000 (Accessed: 2 September 2025).
- Групче, А. [Grupche, A.] (1983) *Имотно (Граѓанско) право, втор дел, Стварно прво* [Property (Civil) Law, part two, Property Law]. Скопје: Култура [Skopje: Kultura].
- Живковска, Р. [Zhivkovska, R.] (2005) *Стварно право* [Property Law]. Скопје: Европа 92 [Skopje: Evropa 92].
- Матовски, Н. [Matovski, N.] (1990) *Кануни и фермани за Македонија* [Quanuns and Fermans for Macedonia]. Скопје: Мисла [Skopje: Misla].
- Стојановић, Д., Георгиев, Д.П., Максимовски, Р. [Stojanović, D., Georgiev, D.P., Maksimovski, R.] (1982) *Коментар на ЗОСПО* [Commentary on the Basic Property Relations Act – BPRA]. Београд: Сл. лист на СФР Југославија [Beograd: Official Gazette of the SFR of Yugoslavia].
- Шуканова, А., Панов, М., Ѓоргиев, Д., Битковски, К., Катарџиев, И., Стојчев, В., Велјановски, Н., & Чепреганов, Т. [Shukanova, A., Panov, M., Ghorgiev, D., Bitkovski, K., Catardziev, I., Stojchev, V., Veljanovski, N., Chepreganov, T.] (2008) *Историја на македонскиот народ* [History of the Macedonian People]. Скопје: Институт за национална историја [Skopje: Institute of National History].