

## HARMONISATION AND APPROXIMATION OF EU LAW – CROATIA EXPERIENCE IN THE FIELD OF COMPANY LAW

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### ABSTRACT

*The paper deals with the development of Croatian company law within the framework of the European company law. The first part makes a summarized overview of EU company law mechanisms such as Directives and Regulations as well as the functioning of internal market through the freedom of establishment and its impact on the lawmaking in Croatia and other Member States. The second part of the paper is stressing the EU Law influences on Croatian company law through three phases: initial harmonization which began before SAA was signed, the further harmonization that became actual after signing SAA and in the end the changes brought by Croatian membership in EU. It is also emphasizing some side effects of the EU law.*

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## 1. INTRODUCTION

The past year, 2013, was of the great significance for Croatian company law.

It was the year of twentieth anniversary of the Companies Act<sup>1</sup> (hereinafter: CA) which was introduced in 1993 and which forms the core of the modern company law in Croatia. The new company law, that was constructed on the model of the western European jurisdictions, particularly German and Austrian, was the only possible solution to the needs brought by new economic regime settled after the breakup of former Yugoslavia - establishment of the market based economy requested the new forms of business. 1989 Act on Enterprises<sup>2</sup> was a small step toward emerging requirements but the law was rather stressing the different types of capital ownership than focusing on organizational issues of the business forms and aims that could be achieved through them.<sup>3</sup> Therefore it was decided to abandon the existing concept based on the Act on Enterprises and create completely new body of law which will be able to keep the pace with the legal systems of developed market economies. Draft CA was prepared in only two months by the group of assigned experts led by Academician Jakša Barbić.<sup>4</sup> It was passed in the Croatian Parliament on 23 of November 1993 and entered into the force on 1 of January 1995. Since then until today CA has been developed and shaped in accordance with the *acquis communautaire* requirements as well as in accordance with all the latest standards and achievements in this extremely dynamic and complex legal field, in general.

Furthermore, 2013 was also the year of Croatian accession to European Union. The mentioned fact has changed the previous picture of Croatian company law as well as the picture of the whole legal system over the night. On 1 of July 2013 EU Company Law Regulations has entered in force, thus introducing European Company (hereinafter: SE) and European Economic Interest Grouping (hereinafter: EEIG) as newly available forms of business in Croatia.<sup>5</sup> Company Law Directives have received different legal significance such as direct vertical effect. The courts are now obliged to interpret the national norm in compliance with the objectives set by the directives. But more than anything else

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<sup>1</sup> Companies Act (Zakon o trgovačkim društvima), gazette "Narodne novine" no. 111/93, 34/99, 121/99, 52/00, 118/03, 107/07, 146/08, 137/09, 125/11, 152/11, 111/12, 68/13.

<sup>2</sup> Act on Enterprises (Zakon o poduzuećima), gazette "Narodne novine" no. 53/91, 8/92, 58/93.

<sup>3</sup> Barbić, J., Pravo društava – Knjiga prva: Opći dio, Zagreb, 2006., p. 86.

<sup>4</sup> Ibid., p. 95.

<sup>5</sup> See Art. 70 of the Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European company (SE) and Art. 43 of the Council Regulation (EEC) 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG).

Croatia has become a part of internal market and will feel all of its effects that will certainly reflect to the further development of company law.

## 2. THE PURPOSE AND MECHANISMS OF EUROPEAN COMPANY LAW

Regardless of its nature,<sup>6</sup> the European company law, understood as the set rules provided by EU lawmakers that regulates certain companies' issues, has it clear and straight purpose. It is not about creating complete system of rules that would cover all company law issues and replace the national rules of member states on companies' matters, and thus setting completely unified supranational European company law. Such approach would be unachievable having in mind all the different legal traditions in the various Member States.

European company law regulates only those areas where the majority of various interests are concentrated. It mainly provides safeguards for different stakeholders in listed public limited companies, while it hardly deals with limited liability companies. Moreover the issues concerning partnerships are completely left out of its scope.

Simple and clear, the only purpose of the European company law rules is to make internal market functioning properly.<sup>7</sup> The objectives are: providing equivalent protection for shareholders and other parties concerned with companies, ensuring freedom of establishment for companies throughout the EU, fostering efficiency and competitiveness of business, promoting cross-border cooperation between companies in different Member States and stimulating discussions between Member States on the modernization of company law and corporate governance.<sup>8</sup>

The grounds for the EU engagement in the field of company law are settled in Article 50 (2) g of the Treaty on the Functioning of the European Union (hereinafter: TFEU).<sup>9</sup> Since 1968 when the "First Company Law Directive"

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<sup>6</sup> See Horak, H. et al., *Uvod u europsko pravo društava*, Zagreb, 2010., p. 17; Edwards, V., *EC Company Law*, Oxford, 2003., p. 1.

<sup>7</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *Action Plan: European Company Law And Corporate Governance - A Modern Legal Framework For More Engaged Shareholders And Sustainable Companies*, COM(2012) 740 final (hereinafter: 2012 Action plan).

<sup>8</sup> See [http://ec.europa.eu/internal\\_market/company/index\\_en.htm](http://ec.europa.eu/internal_market/company/index_en.htm) (27/02/14).

<sup>9</sup> The rule requires from the EU institutions to attain freedom of establishment „by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and others, are required by Member States of companies or firms within the mean-

was adopted until now, many achievements were accomplished and the great impact was given to national company laws making them more alike and more attractive for the entrepreneurs and investors from different Member States. Not only that European rules affected the national company laws the way it was intended by EU lawmakers - by implementation of the of directives into national bodies of law. The European company law rules also caused the various side effects, initially unintended by EU lawmakers – many Member States decided to extend the provisions of the directives to other legal forms and to use them as a model for uncovered areas.

All the influence of the European company law on national company laws can be summarized through the three main mechanisms: (1) The Freedom of Establishment principle that in general provides equal rights and possibilities for every Member State national on the whole internal market, thus strengthening entrepreneurial competition but also encouraging regulatory competition between the Member States,<sup>10</sup> (2) Company Law Directives which are providing certain safeguards to prevent the “race to the bottom”,<sup>11</sup> and (3) Company Law Regulations which are introducing supranational business forms such as SE or EEIG with an aim to simplify and promote cross-border business activities and cooperation.

## *2.1. THE FREEDOM OF ESTABLISHMENT*

Freedom of Establishment is one of the “fundamental freedoms” on which the internal market is based. It is set out in the Article 49 of the TFEU. The principle of freedom of establishment enables an entrepreneur, whether it is a natural or legal person, to carry on an economic activity in a stable and continuous way in one or more Member States. In general the principle includes taking up and pursuing business activities as self-employed person, setting-up up and managing undertakings (companies or firms) and setting-up agencies, branches or subsidiaries. The freedom is guaranteed to the nationals<sup>12</sup> of any Member State on the territory of every Member State.

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ing of the second paragraph of Article 54 with a view to making such safeguards equivalent throughout the Union“.

<sup>10</sup> Horak, H. et alt., *Sloboda poslovnog nastana trgovačkih društava u pravu Europske Unije*, Zagreb, 2013.

<sup>11</sup> Enriques, L., Gatti, M., *The Uneasy Case for Top-Down Corporate Law Harmonization in the European Union*, University of Pennsylvania Journal of International Economic Law, Vol. 27, pp. 939-998, 2006, p.12.

<sup>12</sup> Term „nationals“ within the context includes: (1) EU citizens and (2) Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Union. See Art. 54. TFEU.

Determined by TFEU provisions and shaped by the rich practice of European Court of Justice, the principle of freedom of establishment has not only been the base for the development of European company law rules but also the factor that strongly influenced the company laws of different Member States.<sup>13</sup>

## 2.2. COMPANY LAW DIRECTIVES

As it is stated in Article 50 (1) TFEU directives are the main mechanism of the European Company Law.<sup>14</sup> It is well known that Directives in general, unlike the Regulations who have direct effect in all Member states, needs to be transposed into national jurisdiction to impact the intended effect. The direct effect of Directives is only exceptional. The manner and the form of their incorporation into the national jurisdictions of the Member states are optional, but in the end, result of incorporation must be reflected in the achievement of the objectives set by certain Directive.<sup>15</sup>

So far, the Company Law Directives have approximated and harmonized the national laws regarding (1) companies' disclosure and transparency requirements, *ultra vires* transactions and the nullity of the companies<sup>16</sup>, (2) the formation of public companies and the maintenance of their capital<sup>17</sup>, (3) mergers

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<sup>13</sup> Maybe the best example of such influence was introduction of "Mini GmbH" in German Company Law as an answer to pressure provided by simplified, cheaper and overall less demanding Limited Company forms in UK. See Horak, H. et al., *Komparativni osvrt na jednostavno društvo s ograničenom odgovornošću, Pravo i porezi*, vol. 22. (4), 2013; Schmidt, J., *The New Unternehmergeellschaft (Entrepreneurial Company) and the Limited – A Comparison*, *German Law Journal*, vol. 9. (9), 2008.

<sup>14</sup> „In order to attain freedom of establishment as regards a particular activity, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall act by means of directives.”

<sup>15</sup> See Article 288 TFEU.

<sup>16</sup> *Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (Before: First Council Directive 68/151/EEC of 9 March 1968 on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community)*

<sup>17</sup> *Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital,*

and divisions of public companies<sup>18</sup>, (4) companies' annual and consolidated accounts<sup>19</sup> (5) qualifications of auditors<sup>20</sup> (6) disclosure of the cross-border branches<sup>21</sup> (7) single-member private limited companies<sup>22</sup>, (8) takeover bids<sup>23</sup> (9) cross-border mergers<sup>24</sup> (10) shareholders rights<sup>25</sup>.

It is worth mentioning that the above listed issues do not make the process of Member State legislation approximation even nearly completed. 2012 Action Plan has clearly stressed the direction of future company law development. E.g. strengthening shareholders rights as well as encouraging their engage-

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with a view to making such safeguards equivalent Text with EEA relevance (before: Second Council Directive 77/91/EEC of 13 December 1976 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent).

<sup>18</sup> Directive 2011/35/EU of the European Parliament and of the Council of 5 April 2011 concerning mergers of public limited liability companies (before: Third Council Directive 78/855/EEC of 9 October 1978 based on Article 54 (3) (g) of the Treaty concerning mergers of public limited liability companies.), Sixth Council Directive 82/891/EEC of 17 December 1982 based on Article 54 (3) (g) of the Treaty, concerning the division of public limited liability companies, Directive 2009/109/EC of the European Parliament and of the Council of 16 September 2009 amending Council Directives 77/91/EEC, 78/855/EEC and 82/891/EEC, and Directive 2005/56/EC as regards reporting and documentation requirements in the case of mergers and divisions and Directive 2007/63/EC of the European Parliament and of the Council of 13 November 2007 amending Council Directives 78/855/EEC and 82/891/EEC as regards the requirement of an independent expert's report on the occasion of merger or division of public limited liability companies.

<sup>19</sup> Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54 (3) (g) of the Treaty on the annual accounts of certain types of companies and Seventh Council Directive 83/349/EEC of 13 June 1983 based on the Article 54 (3) (g) of the Treaty on consolidated accounts

<sup>20</sup> Eighth Council Directive 84/253/EEC of 10 April 1984 based on Article 54 (3) (g) of the Treaty on the approval of persons responsible for carrying out the statutory audits of accounting documents.

<sup>21</sup> Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State

<sup>22</sup> Directive 2009/102/EC of the European Parliament and of the Council of 16 September 2009 in the area of company law on single-member private limited liability companies

<sup>23</sup> Directive 2004/25/EC of 21.04.2004 on takeover bids (Text with EEA relevance)

<sup>24</sup> Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies

<sup>25</sup> Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007 on the exercise of certain rights of shareholders in listed companies

ment should be achieved by amending the Shareholders' directive. Furthermore the need for the future study of cross-border transactions and business conducting, which could eventually lead to cross-border transfer of seat directive and cross-border divisions' directive as well as to European Private Company Regulation, has been stated.

### 2.3. COMPANY LAW REGULATIONS

To facilitate and encourage cross-border activities the EU Law has developed and regulated supranational business forms by the virtue of Regulations. So far European Economic Interest Grouping (EEIG)<sup>26</sup>, European Company (SE)<sup>27</sup> and European Cooperative Society (SCE)<sup>28</sup> have been regulated. According to 2012 Action Plan the Regulation on European Private Company (SPE) is to be expected in the near future.

Even though one could question the purpose of supranational forms such as SE or SPE, having in mind that equivalent business forms are already represented in the legal systems of all Member states and are available for all EU nationals by the virtue of Freedom of establishment,<sup>29</sup> their primarily goal is to simplify running the enterprise in more than one Member State and to enhance the companies mobility within the internal market.<sup>30</sup> SE was, for example, very popular mechanism for cross-border mergers until the "Cross-border merger Directive" was brought, when the popularity of SE slowly dropped.<sup>31</sup> However the most recent data indicates the remarkable growth of newly formed SEs –

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<sup>26</sup> Council Regulation (EEC) 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG).

<sup>27</sup> Council regulation (EC) 2157/2001 of 8.10.2001 on the Statute for a European company (SE), Directive 2001/86/EC of 8.10.2001 supplementing the Statute for a European company with regard to the involvement of employees.

<sup>28</sup> Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE), Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees.

<sup>29</sup> E.g. under the scope of Article 49 TFEU any EU national could set up and run *die Aktiengesellschaft (AG)* in Germany, *la Societe Anonyme (SA)* in France, Public limited company (PLC) in UK, *Dioničko društvo (d.d.)* etc., rather than to establish and run SE in any of above mentioned Member states.

<sup>30</sup> E.g. unlike the most of the national versions of Public Limited Companies, SE can transfer its registered office from one to another Member state without having to dissolve.

<sup>31</sup> See Report from the Commission to the European Parliament and the Council: The application of Council Regulation 2157/2001 of 8 October 2001 on the Statute for a European Company (SE), Brussels, 17.11.2010, COM(2010) 676 final.

out of total 1996 formed SEs, 105 were formed within the period of only three months, since July until October 2014.<sup>32</sup>

Unlike Directives, the Regulations as a legal mechanism are directly applicable in the Member states.<sup>33</sup> However, even though they don't have to be transposed into national laws likewise Directives, the national lawmakers must build a legal infrastructure that will enable the direct application of the rules contained in the Regulations. That legal infrastructure will have to issue the rules on registration, taxation etc. of the supranational business forms, indicate to the rules that applies subsidiary, and in certain situations, when Regulations allows, will provide selection of one or more of the available options.

### **3. THE DEVELOPMENT OF CROATIAN COMPANY LAW WITHIN THE EU COMPANY LAW FRAMEWORK**

As it was mentioned in the introduction, the development of the Croatian company law in modern sense started in early 1990s. The core legislation is 1993 CA. It generally regulates two types of business forms (legal entities based on capital): Public Limited Company (*Dioničko društvo – d.d.*) and Limited liability company (*Društvo s ograničenom odgovornošću – d.o.o.*) and four types of partnerships (entities based on the members): General partnership (*Javno trgovačko društvo – j.t.d.*), Limited partnership (*Komanditno društvo – k.d.*), Economic Interest Grouping (*Gospodarsko interesno udruženje – GIU*) and silent partnership (*tajno društvo*). All above business forms, except the silent partnership, are legal persons and subjects to the court registry.

Besides CA there is also diversity of other legal sources regulating company law issues wholly or partly. Most important accompanying acts are Court Registry Act and Obligations Act. Accounting and auditing are regulated by separate Accounting Act and Auditing Act. Certain rules governing Public Limited Companies' issues are set in Takeover Bids Act, Capital Market Act and The Code of Corporate Governance. Issues concerning employees' participation in some companies' issues are regulated by Labor Act.

The general legal infrastructure for the application of the Council regulation (EC) 2157/2001 of 8.10.2001 on the Statute for a European company (SE) and the Council Regulation (EEC) 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG) is set out in the Act on the introduction of the

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<sup>32</sup> [http://www.worker-participation.eu/European-Company-SE/Latest-developments/News-on-European-Companies-A-further-100-SEs-set-up-since-July-\(27/02/13\)](http://www.worker-participation.eu/European-Company-SE/Latest-developments/News-on-European-Companies-A-further-100-SEs-set-up-since-July-(27/02/13)).

<sup>33</sup> See Article 288 TFEU.



European Company (SE) and European Economic Interest grouping (EEIG)<sup>34</sup> (hereinafter: Act on introduction).

Other than above mentioned some company law issues are regulated by General Taxation Act and Bankruptcy Act as well as with multiple other acts governing certain economic activities and providing special rules for the companies that have these business activities registered, such as Act on Credit institutions, Insurance Act etc.

### 3.1. INITIAL HARMONIZATION

Even though, the formal obligation for Croatia to harmonize its law with the community law arises from the provisions of Article 69. of the Stabilization and Association Agreement between the European Communities and their Member States and the Republic of Croatia (hereinafter: SAA)<sup>35</sup>, which was signed in 2001 the harmonization in the field of the company law started almost a decade before. Namely, the draft CA incorporated the basic principles provided by Company Law Directives in force at that time and was in general written in the spirit of EU Company Law.

The result was the law (CA) which basically contained legal solutions provided by “Company Law Directives” such as pre-incorporation liability and validity of *ultra vires* transactions, some capital requirements, merger provisions and provisions on Economic Interested Grouping which was modeled on the EEIG, even at the time when the Croatian membership was not even on the horizon.<sup>36</sup>

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<sup>34</sup> Act on the introduction of the European Company (SE) and European Economic Interest grouping (EEIG) (Zakon o uvođenju Europskog društva - Societas Europea (SE) i Europskoga gospodarskoga interesnog udruženja (EGIU), gazette “Narodne novine” no. 107/07.

<sup>35</sup> „(1) The Parties recognise the importance of the approximation of Croatia’s existing legislation to that of the Community. Croatia shall endeavour to ensure that its existing laws and future legislation will be gradually made compatible with the Community acquis.

<sup>(2)</sup> This approximation will start on the date of signing of the Agreement, and will gradually extend to all the elements of the Community acquis referred to in this Agreement by the end of the period defined in article 5 of this Agreement. In particular, at an early stage, it will focus on fundamental elements of the Internal Market acquis as well as on other trade-related areas, on the basis of a programme to be agreed between the Commission of the European Communities and Croatia. Croatia will also define, in agreement with the Commission of the European Communities, the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken.”

<sup>36</sup> Barbić, J., Utjecaj Njemačkog prava na stvaranje hrvatskog prava društava, Zbornik radova Pravnog fakulteta u Splitu, vol. 44 (3-4), 2007, p. 347.

Such an outcome was mainly caused by two factors. Firstly, Croatian Company Law was grossly influenced and crafted on the model of German Company Law. Therefore, among the others, it accepted indirectly, some basic rules of the European Company Law that were already incorporated in German Company Law at that time.<sup>37</sup> Secondly, as a young nation, Croatia intended to open its market to foreign investors and entrepreneurs especially from Western Europe, and one of the conditions to achieve that was building well known and friendly legal infrastructure.

Even though the initial harmonization was somehow sporadic and rather random it pointed the direction of the future Croatian company law development and created the strong grounds for the further harmonization which will become more topical after SAA signing.

### 3.2. FURTHER HARMONIZATION

The more intensive work on harmonization of the Croatian company law with the law of community started after SAA was signed. At that time the European company law itself faced many changes and improvements,<sup>38</sup> which fact made the harmonization process more difficult and complex - accelerated development of the law at the European level requested not only filling the gaps that were left out when the law was brought but rather systematic monitoring of the situation and constant real time alignment. Such situation has caused three major revisions of the CA in 2003, 2007 and 2009 along with few smaller.

In 2003 the CA was almost completely harmonized with EU Company Law requirements concerning transparency, capital, internal mergers, divisions, transparency of the branches and single member limited liability companies. At that time only solutions exclusively applicable in the Member states were left out.<sup>39</sup> In 2007 the cross-border merger directive was implemented while the shareholders' rights directive was implemented two years after. All the changes to CA were consecutively followed by the appropriate Registry Act revisions, keeping the substantive and procedural law in conformity.<sup>40</sup>

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<sup>37</sup> Ibid.

<sup>38</sup> Introduction of SE (2001) and SCE (2003) Regulations with supportive directives as well as completely new directives concerning takeover bids (2004), cross border mergers (2005) and shareholders rights (2007).

<sup>39</sup> Barbić, J., op. cit., (ref. 36), p. 350.

<sup>40</sup> Horak, H., Dumančić, K., Usklađivanje u području prava društava RH s pravnom stečevinom EU, Pravo i porezi, vol. 20 (5), 2011., p. 86.

Other than that Accounting Act implemented the rules on annual and consolidated accounts contained in 4th and 7th Company Law Directives while the 8th Company Law directive concerning the approval of persons responsible for carrying out the statutory audits of accounting documents was implemented through the Auditing Act.

Furthermore 2007 takeover bids Act implemented incorporated the aims prescribed by the Directive 2004/25/EC of 21.04.2004 on takeover bids. The same year the Act on Introduction was brought.

### 3.3. SIDE EFFECTS

Beside the fact that European Company law has shaped the Croatian company law the way it supposed to, by achieving the aims provided by Company Law directives and building up legal infrastructure which enables the direct application of Company Law Regulations, it is impossible to neglect the fact that it also affected many areas that were not necessarily aimed by European lawmakers. The side effects of the European Company Law such as implementation of directives with extended output or the creation of new business forms modeled on the European supranational corporations is a common occurrence in the legislation of many Member States. The reasons for such approach could be found in order to simplify the complete regulatory framework as well as to make it attractive to foreign investors and keep it competitive to other Member States legislations.

Croatian lawmakers haven't done anything revolutionary regarding that matter. The side effects of European company law on Croatian company law had already been tested in other Member States before. However, it is quite interesting that Croatia, in respect of certain solutions related to the side effects of European law, abandoned her major model - Germany.

Already, 1993 CA introduced the national version of EEIG – so called *Gospodarsko interesno udruženje (GIU)*. GIU was almost entirely modeled on the EEIG, in particular in terms of aims, business activities, members, liability issues, internal organization etc. The only practical difference compared to its supranational model was lack of transnational character regarding members as one of the requirements.

Furthermore, 2007 CA revision introduced the single board system as alternative to already existed dual board system in Croatian Public Limited Companies. The solution came out at the same time as Act on the introduction of the European Company (SE) and European Economic Interest grouping (EEIG) was brought, thus extending the SE options of corporate governance models to domestic PLCs.

Also, in numerous situations the scope of company law directives regulating PLC issues was extended to Limited Liability Companies and even further to all business forms including partnerships, e.g. the provisions of the First company Law Directive.

### *3.4. CHANGES BROUGHT BY MEMBERSHIP*

By Croatian accession to the European Union, its Company Law became richer for two business forms. Given that Company Law Regulations are directly applicable in Croatia since 1 July 2013, along with national business forms, the establishment of SE or EEIG has been enabled in Croatia. So far neither EEIG nor SE was established in Croatia so it might be too early to evaluate the solutions brought by The Act on the introduction of the European Company (SE) and European Economic Interest grouping (EEIG).

## **4. CONCLUSION**

Even though Croatian company law faced three big and few smaller reforms in order to keep the pace with recent company law developments at the EU level it would be yet modest to talk about full harmonization. True, the substance of the company law directives has been implemented through the various acts such as CA, CRA... Also the legal infrastructure for the supranational EU companies has been built. Thus we could be generally satisfied with the level of implementation of the “written law”.

However, the full harmonization, would take much more than a simple transmission of the European norms into national body of law. It is widely known that law, if not properly applied in practice, won't achieve its purpose and will remain pointless in its substance. And regarding the “living law” Croatia is just at the beginnings. It will take some time until courts and lawyers adopt the principles of EU Company law as something common and natural rather than something new and unknown.

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