



# From Capitalism to Utopia – Communist Nationalization of Companies in Central and Eastern Europe

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**Abstract.** This article gives an inside look on a current research project regarding the history of company law in Central and Eastern Europe. This project has a special focus on a certain company: the Renner Brothers & CO, later on called Dermata, János Herbák, and finally Clujana. But, on the basis of the particular legal history of this business entity, general questions of company law are also addressed: nationalization, privatization, and present-day effects of the historical evolution.

After a short overview of the research, the pivotal question raised by the present article is nationalization, or more precisely the need to understand better the legal nature of nationalizations in Central and Eastern Europe in contrast to nationalizations in Western Europe, which took place in a very different economic and political context. Nationalization in Soviet-type regimes was totally different as compared to nationalizations realized in democratic societies. There are certain particularities which differentiate the two kinds of nationalizations, and the purpose of this article is to briefly highlight at least some of these disparities and try to design a precise legal theory of nationalization in Central and Eastern European context.

**Keywords:** history of company law in Central and Eastern Europe, nationalization, effects of nationalization, compensation

## I. From Particular towards General – Basic Directions of a Research Project

Cluj (in Hungarian: Kolozsvár, in German: Klausenburg) is a town in the western part of present-day Romania; there are three different names for the same town because of its multi-ethnic character.

In this town was founded the Renner Brothers & CO in 1911, a company limited by shares, practically a leather and shoe factory employing thousands of workers

in its best years and being an important player of leather industry not only at national level. The similarities with the Bata Shoe Company, founded in Zlín in 1894 (that time Austria–Hungary, in present, the Czech Republic) are obtrusive.

At the moment of the company’s foundation, Cluj – just as the whole Transylvanian region – was part of the Austro–Hungarian Empire. From a legal point of view, the applicable law for company foundation was the Hungarian Commercial Code (Act No XXXVII of 1875). After WWI, the town became part of Romania and the company subject to Romanian law.

We started in 2013, a small research group having as its purpose an interesting and still ongoing project: to unfold the legal history of this factory, which is functioning even in the present days. We considered that it would be of interest to see how the life of a business organization was shaped by the law in the XXth century. We got the opportunity to observe a very interesting and complex evolution. Human faiths were connected with the factory as well, and we can find a whole frame of marvellous, woeful, and in many cases tragic images, which cannot be neglected if we want a deeper understanding of Central and Eastern Europe.

To highlight our approach and also the elaborated methods, I would like to underline the difficulties of the periodization. In any historical analysis, an important issue is how to divide, based on scientific methods, the time of an investigated period into named blocks. Of course, any result is subjective, but this approach is necessary if we want to systematize our historical knowledge.

We can use in our analysis different techniques and arrangements. First, if we take into account the basic social order and the economic system, we have a first capitalist period (1911–1948), a “communist” period (1948–1989), and a second capitalist period (starting with 1989). But this perspective is not totally accurate or errorless. For example, in the Soviet Union and in the Eastern-European states, there was no communism at all, and not only because the status of communism was not reached by the social and political evolutions; in fact, the status of communism is not reachable due to its – proven – utopian character. Instead of communism, we had something different, a failed social experiment. We cannot call it “socialism” because this term is misleading and has other meanings as well. So, we must refine this periodicity: we have a first capitalist period (1911–1945), a first transition period (1945–1948), a period of leftist dictatorship (1948–1989), a second transition period (1989–2000), and a second capitalist period (2000–present day). Summarized, this research is a journey of legal history of company law from capitalism through utopia and back to capitalism again. But, for sure, the two capitalisms – the first and the second one – are not the same.

Another method is to take into account the state which was exercising its sovereignty over our company. Under this approach, we have a first period in which our company belonged to the Austro–Hungarian Empire and functioned under the Hungarian law (1911–1920). After that, Transylvania became part of

Romania and the company was subject to Romanian law (1920–1940 and 1944–present day). Between 1940 and 1944, based on the Second Vienna Award, a part of Transylvania was reassigned to Hungary and our company was again subject to Hungarian law. This approach is only partial: for example, belonging to the Romanian law gives a homogenous impression. This is not the case: for a certain period, we have a capitalist regulation in its spirit (before 1947/48), but after that, through nationalization, the ownership of the company and its assets were transferred to the state. The organizational structure of the company was also transformed because, from a legal point of view, a state-owned enterprise is something totally different from a company limited by shares. State-owned enterprises in the Soviet-type legislations are structures situated on the frontier between administrative law and private law and being integrated into the administrative structure of the state, subordinated to the resort ministry.

The third way is to use the different names under which the company existed: “Renner Brothers & CO,” “Dermata” (after a takeover of a similar company), “Uzinele János Herbák,” and finally “Clujana”. But this is the most subjective of all the periodization attempts. This method reflects the different changes in the status of the company (for example, János Herbák was a leftist activist employed by the factory for a very short time), but just for the ones who are familiarized with the history of this entity.

We must take into account that our goal is to give a synthesis of legal history of a certain company and through this synthesis to analyse how company law worked in very different economic, legal, social, and ideological backgrounds in practice. The best approach is the combination of the three periodization methods. In this way, starting from a particular history of a company, we can proceed to a general analysis of legislation and legal practice, which will serve as a basis for some broader inductions on comparative company law in Central and Eastern Europe.

## **II. Nationalization – The Context**

From this research, I would like to emphasize some broad issues regarding one of the key changes which influenced the company regulation in Central and Eastern Europe fallen into the Soviet sphere of influence after WWII, namely the nationalization.<sup>1</sup>

Most of the companies, and certainly every middle-sized and major company, experienced the radical transformation of the economic order, based generically on the theories of Karl Marx but more directly on the Soviet practice. This economic transformation was achieved with different means and arrangements,

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1 For a previous version of this article, see Veress 2014. For a general overview regarding nationalization, see Katzarov 1964.

nationalization being one of the most important methods for the purposes of these profound changes. A legal theory of nationalization was elaborated, but this theory had a very practical and limited purpose: to legitimate the nationalization. So, we need to re-elaborate such a legal theory in order to understand the real nature of nationalizations and also the present consequences.

To understand the logic behind nationalization, we must start from the notions of capitalism and the economic foundation of capitalism, namely the market economy. Private property – in the concept of Marxism – is the basis of class exploitation; therefore, private property must be eliminated or severely limited. A private property of value-producing assets in the Marxist view is something very negative: if these assets are owned by a class who engrossed them, namely the bourgeoisie, the automatic conclusion is that this class exploits the masses of the workers for their own interests.

The interest of the mass of workers is antagonistic toward the interest of the bourgeoisie. The workers' purpose must be elimination of the private property of value-producing assets, and therefore the elimination of the bourgeoisie, which is, on the one hand, a revolutionary act which will lead to a much fairer society. On the other hand, this is a historical necessity, an inevitable course of history. I do not wish to endeavour to criticize the Marxist theory, the goal is just to analyse its effects on company law.

Marx and Engels stated in the Communist Manifesto (*Das Kommunistische Manifest*, 1848):

In this sense, the theory of the Communists may be summed up in the single sentence: Abolition of private property.

We, Communists, have been reproached with the desire of abolishing the right of personally acquired property as the fruit of a man's own labour, which property is alleged to be the groundwork of all personal freedom, activity, and independence. Hard-won, self-acquired, self-earned property! Do you mean the property of the petty artisan and of the small peasant, a form of property that preceded the bourgeois form? There is no need to abolish that; the development of industry has to a great extent already destroyed it, and is still destroying it daily.

Or do you mean the modern bourgeois private property?

But does wage labour create any property for the labourer? Not a bit. It creates capital, i.e., that kind of property which exploits wage labour and which cannot increase except upon conditions of begetting a new supply of wage labour for fresh exploitation. Property, in its present form, is based on the antagonism of capital and wage labour. Let us examine both sides of this antagonism.

To be a capitalist, is to have not only a purely personal but a social status in production. Capital is a collective product, and only by the united action of many members, nay, in the last resort, only by the united action of all members of society can it be set in motion.

Capital is therefore not only personal: it is a social power.

When, therefore, capital is converted into common property, into the property of all members of society, personal property is not thereby transformed into social property. It is only the social character of the property that is changed. It loses its class character.<sup>2</sup>

According to the Marxist theory and Soviet-type practice, the working class, or more precisely the revolutionary vanguard of this class, takes over the political power. It is a revolutionary act to rush and enforce something already determined by the historical necessity. The shift to the concentration of political power is just a first step because the exploiting social class keeps important economic, industrial, commercial, and agricultural positions. These positions must be exterminated in order to create the desired ideal society, and the principal mean for this objective is nationalization. Private ownership of companies must be replaced by the ownership of the state through a takeover called nationalization.

### **III. Constitutional and Legal Basis for Nationalization in Romania**

The preparation for nationalizations started in 1947. Between 15 and 24 October 1947, there was conducted a confidential stock-taking of industrial, commercial, and financial enterprises. This stock-taking concerned 56,315 enterprises, from which 47,479 were private and 6,836 state-owned.

The labour force was made up of 976,171 persons, with 649,188 working in private and 326,983 in state-owned enterprises. This means an average of 47 persons per each state-owned enterprise and 16 persons per each private enterprise.<sup>3</sup>

At the end of December 1947, King Michael I. abdicated, and the republic was proclaimed. The full political power was gained by the communists. In the first months of 1948 the first Soviet-type constitution of Romania was adopted.

According to its texts, the Romanian People's Republic was founded by the struggle of the people, led by the working class against fascism, reaction, and imperialism.<sup>4</sup> This marks a totally new era in comparison with all previous periods of history, and the constitution points out these changes. Here we are interested in the economic transformations predicted by this basic law.

This fundamental law gave the legal basis of nationalization. Article 11 from the new constitution stated that “when the general interest requires, means of production, banks and insurance companies that are owned by private individuals

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2 Elster 1986, 260.

3 Giurescu 2013, 56.

4 Article 2 of the 1948 Constitution.

or legal entities may become state properties, namely properties of the people, subject to the conditions provided by law.”

What can we observe from the analysis of the text of this constitution? There are some mentions of private property, but the legal text had a prognostic value regarding state ownership. The basic change in the optic is signalled by the constitutional texts, and we have to underline the essential predictive elements.

*a)* Instead of market economy, a planned economy (or command economy) is envisaged. In concordance with the basic law, the state directs and plans the national economy to develop the economic strength of the country, to ensure the good status of the people and guarantee national independence.<sup>5</sup>

*b)* Private property is mentioned several times, but the forthcoming importance of state ownership (“property of the whole people”) is anticipated. In the People’s Republic of Romania, as the basic law states, the means of production belong to the state as property of the whole people or to co-operative organizations or particular individuals and companies.<sup>6</sup> Common goods of the people make the material foundation of economic prosperity and national independence of the People’s Republic of Romania.<sup>7</sup>

Any kind of underground riches, mining fields, forests, waters, natural energy sources, means of rail, road, water and air communication, the postal services, telegraph, telephone, and radio belongs to the state as common property of the people.<sup>8</sup> A law will determine how to pass into state ownership the goods listed here, which in the moment of the entry into force of the constitution were in private hands.

The previously mentioned Article 11 can be also included here because it gives the basis for the nationalization of any means of production not covered by the constitutionally itemized list.

*c)* According to the 1948 Constitution, work is the underlying factor of the economic life of the State<sup>9</sup> (in contrast with the capital or with property in general). Work is the duty of every citizen. The State support all those who work to protect them from exploitation and to raise their standard of living.

*d)* Furthermore, as the basic law outlined, internal and external trade is regulated and controlled by the state and is exercised by state-owned, private, and co-operative trading enterprises.<sup>10</sup> The focus is again on the state-owned trading enterprise, first in this enumeration.

5 Article 15 of the 1948 Constitution.

6 Article 5 of the 1948 Constitution.

7 Art. 7 of the 1948 Constitution.

8 Art. 6 of the 1948 Constitution. Television programmes started in Romania from 1955. On 31<sup>st</sup> December 1956, the Romanian Television was founded.

9 Article 12 of the 1948 Constitution.

10 Article 14 of the 1948 Constitution.

The 1948 Constitution marks the starting point of the mandatory economic transformation. The communist party before 1948 had as its principal goal the acquirement of power. But once the power was fully seized, they started to put their programme into practice.

The constitutional basis of nationalization was established. Nationalization itself is a propagandistic term, meaning seizure and confiscation.

The law of nationalization was passed with the speed of light. In just one morning, on the 11<sup>th</sup> June 1948, this law was adopted by the Central Committee, the Government, and the Grand National Assembly. This is Act No 119/1948 on the nationalization of industrial, banking, insurance, mining, and transport enterprises. The official newspaper, *Scântea* (The Sparkle), stated that “the nationalized enterprises belong to the state, the state belongs to the working people, and therefore the factories belong to the working people.”<sup>11</sup>

As a result of the law, 8,894 enterprises – out of which 3,600 of local interest – were immediately nationalized, and our company at issue, called *Dermata*, was among them at that time.<sup>12</sup>

After the nationalization, a new stock-taking was conducted. In 1948, there were 18,569 state-owned companies, of which 193 *SovRoms*,<sup>13</sup> with 911,071 strong labour force, an average of 50 persons per enterprise. The private sector is seriously reduced: 110,036 private entities with 161,222 strong labour force, an average of just 1.46 persons per each entity.<sup>14</sup>

On 2<sup>nd</sup> July 1948, the State Commission of Planning (*Comisiunea de Stat a Planificării*) was created. This will work until December 1989, the time when the communist regime is overthrown. One-year plans are adopted for 1949 and 1950, and starting from 1951 until 1989 the foundations of the economic cycles were determined by five-year plans.

Act No 119/1948 was just the first step, followed by other normative acts on nationalization. The most important are the following:

– Decree No 197/13<sup>th</sup> August 1948 – nationalization of banking and credit enterprises;

– Decree No 232/9<sup>th</sup> September 1948 – nationalization of nine railway companies;

– Decree No 302/3<sup>rd</sup> November 1948 – nationalization of private sanitary institutions;

– Decree No 303/3<sup>rd</sup> November 1948 – nationalization of the entire film industry, including 409 cinematographs, 37 film studios, and 7 film laboratories;

11 *Scântea*, 19<sup>th</sup> June 1948, No 1149.

12 It was nationalized as an enterprise producing various chemicals, according to the Annex 18 of Law No 119/1948.

13 Joint Romanian–Soviet ventures, technically serving the Soviet interests in exploiting natural resources.

14 Giurescu 2013, 57.

- Decree No 61/18<sup>th</sup> February 1948 – abolition of the Stock Exchange;
- a new wave of nationalization in February 1949 – 1,858 business entities which were not nationalized under Act No 119/1948;
- Decree No 134/2<sup>nd</sup> April 1949 – nationalization of 1,615 pharmacies, 121 medical drugstores, 198 laboratories, and 95 medicine deposits;
- Decree No 92/20<sup>th</sup> April 1950 – nationalization of immovable goods of other exploiters, including hotels;
- Decree No 418/16<sup>th</sup> May 1953 – nationalization of private pharmacies.

The Stock Exchange (Bursa de Mărfuri) was no longer necessary because there were no more companies limited by shares (societăți pe acțiuni).<sup>15</sup>

The period of nationalizations ended in 1953, when all the remaining productive entities were nationalized.<sup>16</sup> The process was very similar in the other CEE countries under Soviet influence.

## IV. Towards a Realist Theory of Nationalization

To understand a realist (not ideologically limited) theory of these nationalizations, a comparative approach is needed.

Nationalization is a legal institution as well. As a legal institution, nationalization is very different compared to two similar legal techniques: *nationalization in capitalist market economies*, where it is an extraordinary and exceptional measure, respectively *expropriation by reason of public utility*. Their common nominator is that a certain asset is transferred from private property into state property, without the approval, without the consent of the former owner. But the differences are essential, and it is necessary to discuss these contrasts.

The nationalization we are focusing on is also very different compared to the ways of *acquiring a property by the means of private law*, for example by the means of a contract of sale, exchange contract or even a donation contract. A contractual relation is based on the principles of equality between the contracting parties; so, any transfer of property is not possible without the mutual consent, for example of the seller and the buyer. The consent of the former owner is indispensable for a valid drawing up of such a contract. These means of private law had only a very subsidiary and limited role in the creation of the new social order based on state ownership. There are some cases where state property was acquired by way of donations, but the free will of the grantor is questionable in these cases as well.

We have to differentiate nationalization from *agricultural co-operativization* as well. In the case of agricultural property, the basic concept – achievable in

15 Aktiengesellschaft in Germany, société anonyme in France, società per azioni in Italy. In the common law terminology, there is no perfect match for these types of companies.

16 Bucur 1994, 313–321.



the context of an oppressive dictatorship – is that the agricultural co-operative is constituted based on the free will of the association of peasants, based on the true belief of peasants in the superiority of this form of agriculture why they have transferred their property into common, co-operative property. In reality, the agricultural transformation was made based on oppression, on use of military force, aggressive measures against the “kulaks” (relatively “rich” farmers), crushed peasant uprisings. But there was no need for a legal basis of nationalization because the dictatorship possessed all the methods to say openly that there is a transformation wanted and requested by the peasants and parallel to imposing these goals by force. We must not forget that there is no rule of law anymore. In the words of Gheorghe Gheorghiu-Dej: “Marxism–Leninism teaches that the peasantry has no other way to escape exploitation, needs, and deprivation than the union of smaller households into the co-operative. The only way to train small and medium households on the track of socialism is the belief. Marxism–Leninism condemns any attempt to use violence against small production. Conducting a wider persuading activity in relation to peasants regarding the superiority of socialist agriculture, we will strengthen the idea of collective agriculture.”<sup>17</sup> Co-operativization is a different process in scope, methods, and outcomes compared to nationalization.

## V. A Theory of Nationalization in Six Questions and Answers

A legal analysis of nationalization must concentrate on several elements. Maybe we can define the main characteristics of nationalization in Central and Eastern European context and especially in Romania in six questions and answers.

*a) What are the legal means of nationalization?* Any juridical act requires a manifestation of will. In the case of nationalization – as shown before –, the consent of the private owner is not necessary, but the will of the state must be expressed in a certain form to produce legal effects.

These acts in Romania were the law and the decree of the Presidium of the Grand National Assembly approved later by the Grand National Assembly, transformed into laws by this approval. But if we analyse these acts in particular, we can identify a large variety.

In some cases, these means of nationalization determine their scope only abstractly. They do not name certain enterprises but define general categories. In other cases, there are no categories but an actual listing of the nationalized enterprises. The law in those cases acts through individual provisions.

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17 Gheorghe Gheorghiu-Dej was the leader of communist Romania between 1947 and his death in 1965. His successor was Nicolae Ceaușescu (1918–1989).

And third, there are mixed solutions, as is the case of Act No 119/1948, where there are general categories defined by the law (for example, all private slaughterhouses with a daily cutting capacity of at least 100 cattle or 150 pigs) but also enterprises enlisted for nationalization (the case of Dermata).

At first sight, there is another version of the mixed type, but in reality we are in the second category when we encounter set general conditions, but then follows a full listing of the companies determined on the basis of the general categories. In practice, these listings were conceived just to exemplify the general categories, and these lists were extended by individual administrative acts.

In the situation in which only general categories are determined, the nationalization became effective through individual acts issued by the state administration.

There is a huge difference as compared to nationalization in the capitalist context. In Western Europe, in general, the act of nationalization is the law, and the law determines individually which enterprise is nationalized. The administrative authorities had no power of decision in this regard in the sense of formal initiative (we are not talking about legislative initiative but the initiative to determine a certain company to be nationalized based on a set of rules given by the law).<sup>18</sup>

Another difference compared to “capitalist nationalizations” is that there is no appeal against nationalization. The Supreme Tribunal in Romania decided that an appeal against an administrative act exists only in cases where the law establishes such means. If there is a supervising administrative authority, one can complain to that authority, but not to the courts.<sup>19</sup> So, if a certain company was nationalized by an administrative act, but that company did not meet the conditions set by the law, the courts had no power to control the act of nationalization.

*b) What are the objects of nationalization?* We have a general scope determined by the 1948 Constitution: the means of production. It is based on the Marxist terminology and it refers on productive (value-producing) assets.

This text of the fundamental law envisaged all immovable or movable properties used directly or indirectly in production. There is an interpretation given to this notion, made by a Commission functioning subordinated to the Council of Ministers, namely that the means of production also include the *offices, warehouses, retail stores, canteens, worker homes, or union halls*, and not only the immovable or movable property directly used in production because these all serve the enterprise. The “label” was not important regarding a means of production. For example, if a certain building was only rented by an enterprise, it was object of nationalization because it served the activity of the enterprise.

18 Duez, P; Debeyre, G. 1952, 883. An exception was the Act of 11<sup>th</sup> August 1936, which made possible the nationalization of war industries by the Government.

19 Decision No 2215 of 31<sup>st</sup> October 1955 of the Supreme Tribunal of the People’s Republic of Romania, *Legalitatea Populară*, 1/1956, 111–113.

As a conclusion, the object of nationalization is the organized totality of the means of production, namely the enterprise as legal entity and all of its assets.

In capitalist context, the nationalization generally envisaged the shares of a company, and not the means of production. Another primary difference is an issue of scale because in capitalist context the nationalization is a relatively isolated act. On the contrary, as a Soviet-type policy, nationalization was universal and inclusive, affecting the economy as a whole, not just certain and limited sectors of it.

*c) What are the effects of nationalization?* The effect of nationalization is the transfer of property from the private owner to the state.

In Central and Eastern Europe, the transfer took place free of any burdens. For example, if a mortgage guaranteed a bank loan, the transfer erased the mortgage. The transfer operates, according to the Law No 119/1948, regarding social parts and shares as well. But the result will not be a commercial company owned by a new sole shareholder, the state, but a new type of economic organization: a state-owned enterprise. In consequence, there was not just a simple transfer of ownership but also a transformation of the legal entity into a new organizational form. Certain legal institutions “formerly regarded without question as coming under private law, they became institutions of a mixed or doubtful nature...”<sup>20</sup>

The nationalization in capitalist context is very different. Nationalization is not in all cases a transfer of property, but it can be just a public management of the company or limiting the profits or the activity in general. Another difference is that in capitalist context nationalization transfers also the debts of the company.<sup>21</sup> In capitalist context, only the shares are nationalized, not the means of production and not necessarily totally: the state can simply act as one of the shareholders or as a majority shareholder.<sup>22</sup> Nationalization in capitalist context can also take the form of nationalization of certain assets, without nationalizing the shares or the company, which remains private.

*d) Who is the beneficiary of nationalization?* The beneficiary is the state. Every means of production belongs to the state, so only the state-owned enterprise has a right of use regarding the means of production.<sup>23</sup> In capitalist context, the beneficiary can be another public entity or another state-controlled company as well. In the Marxist concept, the indirect beneficiaries are, of course, the people.

*e) What is the purpose of nationalization?* This question leads us back to the ideological backgrounds of nationalization. The purpose of nationalization is the achievement of a socialist economic order, the abolition of exploitation, and

20 Katzarov 1964. 95–96.

21 Vedel 1946, 51; Duez, Debeyre 1952, 885.

22 For example, the aircraft manufacturer Gnome et Rhône from France, nationalized in 1949.

23 It is very interesting that the legislation regarding nationalization made possible that a foreign state according to the Peace Treaty or based on compensations may keep their shares in a Romanian company. So, there was a possibility to have a joint ownership of the Romanian state and especially the Soviet Union regarding a company.

the abolition of the exploiting classes. In the case of nationalization in Soviet context, there is this unique purpose and goal. In capitalist context, creating a new economic order is, of course, not in the scope of nationalization.

For example, the Renault Company in France was nationalized for the reason that Louis Renault collaborated with the Germans during WWII. Furthermore, there can be military reasons or even social ones. And in de Gaulle's own words, there is no reason why Renault should remain nationalized forever, once Louis Renault is dead.<sup>24</sup> The Soviet-type nationalization was intended to last forever, being a revolutionary activity, with the aim to fundamentally transform the social and economic order.

*f) Is there any compensation?* Article 10 of the 1948 Constitution envisages a just compensation in case of expropriation by reason of public utility. Article 11 on nationalization does not impose such a rule. So, there was no constitutional requirement to give a compensation, and regarding compensation the act of nationalization is decisive. (The necessity of compensation is one of the distinctive characteristics of expropriation in comparison to nationalization).

A set of acts of nationalization contains a general rule that the state will provide compensation, but no further rules were established. In 1948, a mechanism was designed but never put into practice. According to this mechanism, the Nationalized Industry Fund was created, organized through a decision of the Council of Ministers in a form of Autonomous House.<sup>25</sup> Theoretically, this structure had the plan to issue bonds, which could be subsequently redeemed and paid out from a share of the benefits of nationalized enterprises.

At this moment of the research, we do not have sufficient data as to whether this mechanism only served as a message to the former owners that there would be a compensation without any genuine desire to give compensations or there existed an initial intention to give a certain compensation. In practice, compensation was generally not given. The rules on compensation had only a declarative effect, not a normative one, and very easily we can see today just as a premeditated policy to create a reassuring but misleading appearance, in the form of law. Law itself can be a method of manipulation in a dictatorship to ease the nationalization process.

The law excludes some categories of people from the benefit of the (inexistent) compensation, for example those who left the country clandestinely or fraudulently or will not return to the country after the expiry of the validity of travel documents issued by the Romanian authorities.

The explanation of this approach towards compensation is simple: a just compensation is a measure which would lead to a return to capitalism, a revival of capitalism. Compensation has the effect of preservation regarding the exploiting class. Therefore, a real compensation is not possible.

<sup>24</sup> Jacquillat 1988, 16.

<sup>25</sup> Decision No 1421/1948, M. Of. of 14<sup>th</sup> October 1948.

Another set of acts of nationalization provides that nationalization took place without any compensation (for example, Decree No 92/1952).

In capitalist context, nationalization is generally based on compensatory mechanisms, on the principle of protection of private property. For example, in the Renault nationalization case, compensation was given to all shareholders, except those who collaborated with the Nazi Germany.

## VI. Conclusions

Our research continues to struggle with questions such as how these state-owned enterprises functioned in practice after nationalization, how these enterprises after the end of the rule of the Communist Party in 1989 were transformed into commercial companies again and how they were attempted to be privatized, and if the former, pre-nationalization owners of shares have got any compensation in the context of privatization procedures.

From the point of view of legal theory, nationalization in Eastern Europe was a unique, distinctive institution similar only to the nationalization which took place in the Soviet Union. In this short overview, I tried to provide an insight into our research and into how we try — starting from a particular company and its legal struggles — to reanalyse some general ideas, to verify and make certain their validity or make queries and reject those interpretations of legal reality which are tainted by purposeful ideologies and lack a solid scientific basis.

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