



Conference Report: Preserving Family Business and Agricultural Assets – Historical and Modern Perspectives

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Abstract. This conference report presents the main scholarly contributions and discussions of the international conference ‘Instruments for preserving the unity of family businesses and agricultural assets – Perspectives of legal history’, held on 7 June 2024 in Budapest by the Central European Academy of the University of Miskolc in cooperation with leading comparative law institutions. The event examined historical and contemporary legal mechanisms designed to maintain the integrity of family-owned enterprises and agricultural property across diverse legal traditions. The report outlines how speakers approached the subject through a comparative and interdisciplinary lens, analysing institutions such as trusts, fideicommissum, mayorazgo, private and family foundations, and special inheritance regimes, as well as contractual and asset management structures. Contributions ranged from the historical development of English trading trusts and ancestral property systems in Qing China to the evolution of Austrian private foundations, Italian and Spanish inheritance models, and the regulation of family property in Romanian and Hungarian law. Particular attention was paid to the tension between asset preservation, creditor protection, and the demands of economic modernization. By situating these legal instruments within their broader socio-economic and political contexts, the conference highlighted both the continuity and transformation of family asset preservation strategies from pre-modern societies to contemporary legal systems. The report concludes by emphasizing the value of legal history and comparative analysis in informing current legislative debates and policy choices and underscores the importance of international scholarly dialogue in developing legal frameworks that balance intergenerational continuity with market flexibility and social change.

Keywords: family business asset preservation, fideicommissum and inheritance law, comparative legal history, agricultural property and succession, trusts and asset management structures

On 7 June 2024, the Central European Academy of the University of Miskolc (hereinafter: CEA) organized the conference entitled ‘Instruments for preserving the unity of family businesses and agricultural assets – Perspectives of legal history’, with the collaboration of the Ferenc Mádl Institute of Comparative Law, the Central European Association for Comparative Law, and the Hungarian Association for Comparative Law. The conference took place in Budapest, at the headquarters of the CEA.

The conference focused on the unity of family agricultural and business assets. Key themes included strategies for preserving the family character of companies and the role of regulations, contracts, and asset management structures in achieving this goal. The aim was to identify the techniques used in different states to prevent the fragmentation of family assets, to preserve the family character of the company and to keep it in family hands. These can be created by state regulation, by contract, and/or by asset management structures. The basic aim of the conference was to identify possible historical models, and anything that can legitimately be transferred to the law of the 21st century.

The conference was attended by a number of speakers who shed light on various aspects of tools used to maintain the unity of family agricultural and business assets from a legal historical perspective. The event was opened by a welcome speech by Dr Katarzyna Zombory, Senior Researcher at the CEA, followed by the opening address of Dr János Ede Szilágyi, Professor of Civil Law and Strategic Director of the CEA.

The first presenter of the conference, Prof. Dr Andreas Televantos (England) from the University of Oxford, explored the evolving dynamics and legal frameworks that have shaped trusts over time, focusing in his presentation also on the historical and modern perspectives of trusts for family businesses. The presentation began by defining a trust as a legal institution for holding property, distinct from company law or agency. Historically, trusts were used in English wills during the 18th and 19th centuries to manage family business assets and provide for family members, with trustees holding legal title and beneficiaries having equitable rights. The presentation provided examples of how testamentary trading trusts functioned, including protections against creditors and provisions for family maintenance. In modern times, trading trusts involve business assets held by a limited liability corporation acting as a trustee, allowing for asset protection and potential tax advantages. The presentation also highlighted problems for creditors, who may have limited claims on trust assets if the trustee incurs liabilities without authority. Finally, it discussed the complexities of how

statutory insolvency rules apply to trusts of businesses, raising questions about the balance between protecting beneficiaries and creditor rights.

Next, in his presentation discussing commercial innovation facilitated by ancestral worship in Qing China and its interaction with British colonial law, Prof. Dr Kentaro Matsubara (Japan), Full Professor at the University of Tokyo, examined the complex dynamics between traditional socio-legal structures and the legal challenges brought by British colonial policies, illustrating how ancestral worship spurred entrepreneurial creativity despite legal complexities. He began by exploring the Qing South China's notions of death and property, where households functioned as both business units and property holders, guided by the ancestral principle of 'zong'. Prof. Matsubara highlighted how ancestral property, conceptualized through posthumous donations, paralleled trust structures but conflicted with British laws such as the Rule Against Perpetuities in colonial Hong Kong. He compared the legal systems of China and Japan, questioning how the Chinese Empire sustained itself with minimal bureaucracy and property protection. Through a comparative lens, Prof. Matsubara discussed the role of colonial history in integrating local institutions into transnational norms, revealing the dynamic nature of state formation and legal systems. Concluding, he emphasized the significance of lineages and agnatic kinship in local social organization and property law, illustrating the complex interaction between indigenous practices and colonial legal frameworks.

Prof. Dr Gerald Kohl (Austria), from the University of Vienna, provided an analysis of the tools and methods used to preserve the unity of family property in Austria. He highlighted the Private Foundation Act of 1993, emphasizing its role in asset preservation through private and family foundations, entailments, and the special peasant inheritance law known as '*Anerbenrecht*'. Prof. Kohl discussed the establishment requirements for private foundations, including a minimum asset threshold of EUR 70,000, and detailed the necessary information on the foundation's duration, purpose, and beneficiaries. He underscored the cost-intensive nature of maintaining such foundations, noting that the minimum asset requirement is often insufficient in practice. The presentation also covered the evolution of agricultural communities, illustrating changes in farm structures and sustainability practices. Prof. Kohl reviewed the historical Tyrolean Forest regulation of 1847, which transformed limited timber rights into collective property, showcasing the state's role in managing undivided assets. This comprehensive overview highlighted the continuing challenges and strategies in preserving family property within the Austrian legal framework.

The next speaker, Prof. Dr Giacomo Pace Gravina (Italy), Full Professor at the University of Messina, discussed strategies for preserving family heritage across the transition from the modern to contemporary ages, focusing on effective approaches amidst evolving socio-economic conditions. The presentation

explored the evolution of the fideicommissum as a strategy for preserving family assets from antiquity to modern times. Historically, the fideicommissum allowed testators to ensure their assets passed down undivided through generations, particularly favouring male primogeniture. This legal mechanism, originating in Roman law, gained prominence in medieval and early modern Europe, especially in Spain and Italy, to maintain family wealth and status. The Enlightenment and subsequent legal reforms in the 18th and 19th centuries criticized and restricted fideicommissary practices, viewing them as barriers to economic progress and free asset circulation. Despite these challenges, the Italian Civil Code of 1942 briefly revived the fideicommissum, emphasizing family and charitable purposes, although its application was limited and eventually reformed in 1975 to focus on protecting disabled descendants. Today, while traditional *fideicommissa* are rare, modern institutions like foundations and trusts serve similar purposes, maintaining family assets and heritage. The presentation highlighted the enduring human desire to project familial and socio-economic ideals beyond one's lifetime.

Prof. Dr Mircea-Dan Bob-Bocșan (Romania), from Babeș-Bolyai University of Cluj-Napoca, presented a proposal advocating for the reform of the former Romanian Civil Code to regulate family property. The presentation of Prof. Bob-Bocșan examined the inadequacies of the Romanian Civil Code of 1865, which was largely based on the French Civil Code. At the time of its enactment, Romania's predominantly poor and illiterate peasant population struggled to apply its principles, particularly regarding property division. The insufficient agrarian reform of 1862 further exacerbated economic conditions, leading to the disastrous 1907 peasant uprising. Despite the civil code's introduction, peasants avoided it in favour of customary laws that allowed the property to remain within the family, usually managed by an eldest or youngest son. In 1930–1931, Constantin Hamangiu, the Romanian Minister of Justice, introduced an extensive legislative reform programme, including a project to establish special rules for family property. His proposal drew from two models: the U.S. Household Enactment Act of 1839 and the French reform of 1909, as well as Swiss legislation. Unfortunately, Hamangiu died in January 1932, and his political opponents blocked the project. Further discussions were halted in 1938 when King Charles II established a dictatorship. Later, communism led to the confiscation (nationalization and collectivization) of agricultural land (1950–1962), ending discussions on private property regulation. The discussion on regulating family property remains postponed due to historical and political developments.

Dr Zsuzsanna Peres (Hungary), Associate Professor at Ludovika University of Public Service, discussed legal techniques employed for expanding and preserving noble family fortunes in the pre-1848 era. The presentation examined historical strategies and their implications for understanding aristocratic wealth

management practices during that period. Dr Peres distinguished between common nobility and aristocracy, noting their unified rights and duties, including tax exemption and military service. The presenter has also highlighted the pre- and post-Mohács periods, emphasizing the institution of entailment (*aviticitas*), which ensured family property remained within the family and promoted equality among male heirs. Post-Mohács, the rise of a new aristocracy saw an increased focus on property acquired through royal donation and testamentary succession. The introduction of fideicommissum in 1687 further concentrated wealth by preventing property division and favouring the firstborn male heir. Over time, the role of entailment diminished, leading to its abolition in 1848 to promote legal equality, capitalism, and industrialization. Dr Peres concluded by discussing how these legal institutions shaped the political and economic landscape of the Hungarian nobility until their eventual dissolution.

Francesco Ciccolo (Italy), PhD student from the University of Messina, provided insights into the role of agricultural assets and family businesses in shaping the Italian civil law model. Ciccolo's presentation explored the evolution of rural society and agricultural practices in Europe during the late 19th and early 20th centuries, focusing on Italy's unique experience post-unification. Ciccolo highlighted the significant transformations in agriculture, legal frameworks, and property rights, influenced by the industrialization, commercialization, and societal shifts of the era. He discussed the Italian Civil Code's inadequacies concerning agricultural property, emphasizing the role of family businesses and communal land use, often ignored by formal legislation. The presentation also examined the ideological debates between jurists Filippo Vassalli and Enrico Finzi regarding the social function of property, against the backdrop of the rise of Fascism and its impact on legal reforms. Finally, Ciccolo discussed how these historical dynamics culminated in the preparatory work for the 1942 Civil Code, reflecting traditional practices and modern legal concepts.

Kinga Ilyés (Hungary), researcher at the CEA and Junior Lecturer at Sapientia Hungarian University of Transylvania (Romania), explored the historical context underlying the current regulation of fideicommissary substitution in Romania. The presentation provided a comprehensive overview of the evolution of these regulations, shedding light on their development and implications within Romania's legal framework. This legal institution, rooted in Roman law, was designed to ensure smooth transgenerational property transmission and preserve family assets. Banned in the 19th century as a feudal relic, it was revived in the 2011 Romanian Civil Code with modernized regulations. The new Civil Code has limited the right of the disposer to create fideicommissary substitution to infinity and has therefore limited the substitution to a single degree, the substitute not being subject by the disposer to the obligation of preservation and transmission of the goods in favour of another substitute. The presentation concluded on an

intriguing: note the institution of fideicommissary substitution was considered outdated by the legislator in the 19th century, therefore it was prohibited under the provisions of the old Civil Code; however, in 2011, when the current Romanian Civil Code entered into force, it was not perceived as outdated anymore because, on the contrary, the legislator noted the anachronistic nature of the provisions of the old legislation that completely prohibited fideicommissary substitutions. Almost a century and a half later, following the prohibition, fideicommissary substitution was reintroduced into the current Civil Code and properly regulated. This means that fideicommissary substitution, considered too conservative at the dawn of modernity, was revalued by the legislator in the context of the new social realities.

Marta Cantín Larumbe (Spain), researcher at the University of Valencia, examined the mayorazgo system through a legal-historical lens, tracing its origins and evolution. Her presentation highlighted the historical significance of the mayorazgos and discussed their contemporary implications within the framework of property and inheritance laws. Originating in the 12th century, mayorazgo was a legal mechanism ensuring that estates remained intact and passed to a single heir, typically the eldest son. The holder enjoyed the benefits of the estate but could not sell or mortgage it. This institution aimed to preserve family wealth and status across generations. The presenter highlighted that mayorazgo existed in various forms across Spain, including Catalonia and Galicia. By the 18th century, the rise of the bourgeoisie and new liberal ideas challenged its relevance, leading to reforms and eventual abolition in the 19th century. Despite its obsolescence, the historical significance of mayorazgo in maintaining noble family estates and influencing social hierarchies was underscored. In her presentation, Marta Cantín-Larumbe concluded that the mayorazgo was essential for maintaining noble families' estates and status from the 12th to the 18th century. This shift reflected societal changes favouring property freedom and economic modernization, rendering the mayorazgo obsolete in contemporary times.

Dr Abdullah İslamoğlu (Turkey), Associate Professor at Istanbul University, analysed the land structure and agricultural system of the Ottoman Empire. His presentation provided an in-depth look at the organization and management of land, highlighting its impact on agricultural productivity and socio-economic dynamics within the empire. Abdullah İslamoğlu's presentation explored the unique characteristics of the Ottoman land system, which was influenced by Roman, medieval, and Islamic land systems. The miri land regime, central to this system, involved state ownership of the land, while private individuals had usage rights, similar to an indefinite lease. The system also imposed obligations on landholders, such as cultivating the land continuously and providing soldiers during wartime. However, this land was not granted outright but was aimed at ensuring tax collection. Over time, the timar system, a key part of this regime,

deteriorated due to corruption and mismanagement, leading to its eventual abolition in the 19th century. The presenter highlighted how these changes necessitated a re-evaluation of land rights within the Ottoman Empire.

Dr Zsófia Hornyák (Hungary), Assistant Professor at the University of Miskolc, explored the various methods for transferring agricultural holdings in Hungary. The presentation discussed the legal framework for transferring agricultural holdings in Hungary, emphasizing the distinction between land and whole farms. Historically, the fideicommissum system, established in 1687, aimed to keep estates intact and within families by excluding them from general succession rules and prohibiting their division. Despite reforms in 1936 to allow for smallholdings, this system eventually became obsolete. Currently, many Hungarian farmers face challenges in transferring their farms due to incoherent succession regulations. To address this, the 2021 Act on the Transfer of Agricultural Holdings introduced farm transfer contracts to ease generational transitions and reduce administrative burdens. These contracts include options for sale, gifts, maintenance, and life annuity, ensuring the continuity of farm operations within families. The new legislation aims to support family farms and prevent the fragmentation of agricultural holdings.

Prof. Dr Emőd Veress (Hungary), from the University of Miskolc, focused in his presentation on the challenges of managing a large family business in Transylvania during turbulent historical times. He began by discussing the early 20th-century establishment of a family-run leather company in Kolozsvár (Cluj), a town that experienced multiple sovereignty changes. Despite these shifts, the company, founded by three families, managed to grow and thrive. Key to their success was strong internal cooperation and the use of legal tools like shareholders' agreements to maintain control. The company expanded rapidly, benefiting from state subsidies and producing goods for military purposes during World War I. However, political changes in the region led to complex adjustments, including integrating Romanian politicians into the company's board. The company's ultimate downfall came with its nationalization in 1948, marking the end of its flourishing era and leading to tragic outcomes for some family members.

The conference was concluded by Dr János Ede Szilágyi, who evaluated the experiences of the conference, emphasizing the importance of interdisciplinary dialogue in addressing the complexities of preserving family business and agricultural assets and the lessons of the past in the interest of the future. Dr Szilágyi concluded by stressing the need for continued research and international collaboration to refine legal instruments that can effectively balance asset preservation with economic progress, ensuring that family businesses remain viable across generations.