Importance of regulations for business: interaction between Social Europe and European economical integration
Znaczenie przepisów dla biznesu: interakcja między Social Europe a europejską integracją ekonomiczną


Abstract: The paper explores the role of Europeanization process for business entities and humans in Central and Eastern Europe states. The purpose of the paper is three-fold. Firstly, the paper seeks to bring out into the open various aspects of the European integration – from process and outcome perspectives. Secondly it provides evaluation of conflicting values. Specifically the paper provides an analysis and proposes avenues for further thought as regards the growing interactions between European economic policies in private law area and social protection standards. So even though economical dimension at first stages of European integration has prevailed and it decreased transaction costs for companies, the profound changes resulting from European economic integration have a major impact on national social security systems. At the current level of European integration purely economical dimension has lost its sense and purely economical consideration could not be a stimulus for further European integration. On the other hand social protection standards in the member states are not yet converging. Furthermore the role of social dimension in regulation is discussed and analysis of European integration process is provided. Finally the paper provides analysis of European private law and its importance for business entities. Europeanization of private law itself is a part of the general di-
Introduction

A company is one of the main vehicles of the free market economy. Even then a company by its nature, is an artificial creature, and is formed for a simple reason: to receive profit, it has not been isolated from outside world. Furthermore an overwhelming human factor influences this entity, due to a company’s structure and functions, and could be useful or not, be a burden or the main instrument of profit making. Decisions to create this entity, get sources for this expansion, all daily functions have been made by humans with their own ambitions, concerns and interests. Actions of companies make an impact on groups of people and local communities. Business entities are not immune either from decisions of public authorities and transnational integration. So for example recognition of a company’s legal rights is made by public authorities according to settled standards for a company’s legal personality. European integration is another challenge for business entities. Noticeable that at the first stages of European integration economic interests has prevailed and companies could enjoy decreased transaction costs in European single market. Those interests are protected by European law. The key legal principles for business entities and humans in the EU are rather economical by its nature, namely so called four great freedoms (freedom of movement of goods, services, capital and people) and they shouldn’t be compromised to achieve unclearly defined public goals. Humans at first stages of European integration have been treated purely from the economic perspective, namely as one of the factors of production and was a “worker”. Only when certain levels of economic integration has been achieved in Europe, humans become “persons” with certain relevant rights attached. Specifically, freedom of movement of persons in the EU includes the social security of migrants and related problems of migration such as education and language problems. So the profound changes resulting from European economic integration have a major impact on national social security systems: for example at the initial stages of European integration European private law rules have aimed to create better conditions for transactions for business entities, those rules have been remodeled according to social protection standards and European private law has addressed some of them by introducing mandatory standards. Furthermore, especially during this current economic crisis, European economic growth strategy and financial assistance for entrepreneurs as never before are important in Central and Eastern Europe countries (further in the text CEEC).
Interdisciplinary methods are used for this paper while the topic is related to law, economics and partially to political science. To develop arguments, further balances of values approach have been applied. So in this paper one of the key questions is: how economical integration and reduction of transaction costs and other benefits for business entities could be considered as value or should it be evaluated as an element of more complex social, economical and political mechanisms.

To make research practically applicable and to receive up-to-date factual information a questionnaire research method has been used. The outcome of the analysis of theoretical literature and European institution and Member States policy documents, private law rules, have served as a basis to formulate the questionnaire questions. In addition to that interviews with representatives have been made to prove the outcome of the questionnaire.

Objects of research are:
1. Evaluate role of regulation for business entities;
2. Assess different factors of Europeanization and nature of European integration;
3. Distinguish different methods of the Europeanization of private law and their economical significance;
4. Formulate practical suggestions for public authorities.

Interaction between Social Europe and European economical integration

*Market is guarantee of our freedom*¹
Norbert Walter, chief economist at Deutsch Bank

The humans and business entities have to be newly defined in the CEEC due to European integration. During integration process, different legal provisions protecting interests of persons, guarantees of their rights have been adopted. On the other hand the novelty of integration itself in the CEEC initiated discourse how European Community actions could be justified especially when decisions of European institutions are unpopular in the community and when measures taken by European institutions have any negative outcome. Currently discourse about the nature of the EU in the CEEC is limited and integration into European Union initially has been associated with economic growth and prosperity. Noticeably there are several positions about European integration; one is that the EU is an intergovernmental organization, another that it has features of a federal state. The third way is to combine these two models and assume that the EU has a multi-level system of governance. According to this approach, balance is not shi-

fted towards national sovereignty or growth of regulatory powers. This system of governance is justified by a new model of democracy. Accordingly Robert A. Dahl democracy could be created in supranational institutions and that to implement the will of the majority is not the main element of democracy, and democracy could be achieved not only through direct connection and responsibility of institutions to individuals in these communities, but as well through improving the institutions working procedure. Multilevel system of governance could justify European Community actions (especially after failure to adopt the EU constitution) in areas traditionally assumed by state authorities, even then according to the traditional position only states authorities have the monopoly.

By its nature European integration has been torn between social protection and economic integration. The social protection issues in the EU are not unique and are rather based on theoretical discourse about equality in legal theory literature, namely the welfare state model which became predominant in Europe after the Second World War. Equality has been understood in several ways. Firstly the welfare of the worst off people has to be maximum or as extensive as possible with the consequence to give absolute priority to improvements of the situation of those worst off over any improvements for better-off persons. Secondly an individual welfare should be distributed as equally as possible (and, additionally, the sum of the individual welfare should be as high as possible). It emphasizes efficiency and priority for worse-off people – without possessing their disadvantages. On the other hand the main issue of equality is not to create average equality in state or by helping the worse off affecting the better off (the remainder of the population). Otherwise European integration and European social model could become similar to totalitarian state welfare models created in socialist states. Specifically such communities could lose their creative people who are not afraid to take risks and whose contribution to society is huge (especially then they are free to leave that community). They can emigrate to other societies with smaller burdens, with more flexible taxation system and not so heavy mandatory requirements upon them. So equality itself may not be a virtue because there are many other conflicting virtues in society, taking liberty, human dignity, and freedoms etc. into account. Public institutions should only create opportunities for the worst off, not to introduce total equality amongst people; otherwise balance between virtues will be destroyed and competitive advantages could be destroyed. Only justified measures could be used and rule of law principles should be observed.

But the EU measures in social protection are not unanimous and shared with the member states according to the subsidiarity principle. So de-

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spite the European Union initiatives in the social field, European integration has not led to convergence on one welfare state model, either with regard to size – measured as the proportion of GDP devoted to social spending – or in terms of its composition. On the other hand leaning of the EU towards social Europe is obvious from the new Lisbon Treaty, Article 3(3) which describes the internal market in the following way:

“The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth … a highly competitive social market economy, aiming at full employment and social progress”.

But critics of such broad EU social policy definition argued that one of the central elements of the EU economy underperformance is namely a social issue and too generous welfare states represented a constraint on competitiveness. Even then high social protection standards have been maintained and financed the EU and the member states had to face the consequences of rapid and massive internationalization of the economy. Currently globalization in the EU has been understood as a threat to balanced economic growth and the idea to create European Globalization adjustment fund proves that.

Ideologies deal with crossroads between economic and social dimensions of European integration differently. There are different political positions on how to deal with European economic integration and social protection depending on political ideologies. From one side neoliberalism seeks to insure that the European- internal market has been not affected by political interference and European market integration has been regulated by minimal set of rules. Furthermore there are market-liberals seeking selective European and national regulation of market forces, and, in part, nationalists intent on sustaining state sovereignty. Opposing them are social Christian democrats and market-oriented social democrats supporting regulated capitalism at the EU level, and increasing the EU role in regulation to achieve a European-wide social market economy. Many of these proponents concede that markets rather than governments should allocate investment, but many also insist that markets work more efficiently if the state helps to provide collective goods including trans- port infrastructure, workforce skills, and cooperative industrial relations.

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6 Lisbon Treaty of 17 December 2007, Article 2 (treaty is not ratified yet).
Europeanization of private law

The debate in Europeanization of private law as a part of general discourse of role of regulation in the EU has become particularly intense with the emergence of European Community institution initiatives to promote a “European code” or something below that level like a “common frame of reference”. The proposal for a single source of the EU private law could be used as a tool to decrease transaction costs in the Single Market and is one of the tools for the creation of European identity. Especially significant is regulation of transnational elements while it significantly reduces costs of transactions. For example in the EU more than one in every three takeovers is of a cross-border nature and harmonization of takeover regulations will benefit the German economy in particular, since more than 70% of all takeovers there are conducted across borders. But despite plans to draft a single source of European private law, the process of Europeanization of private law has been rather unsystematic and only several institutes of private law have been harmonized (for example Unfair Contract Terms, Consumer Credit institutions).

In addition to purely economic logic based on formal legal rationality, for discourse of Europeanization of private law, social protection law is a significant part of Single European Code because most of the EU legislation in the private law field introduced mandatory requirements defending common social protection standards. But social protection standards is one of the areas to be compromised at least in some EU member states because even then some of the social provisions of private law systems of the member states could be incorporated into European Code, some of the provisions will be not incorporated into European Code. Therefore there is an expressed fear especially from countries with a high level of social protection that as an outcome of Europeanization of private law the level of social protection will be downgraded. So we will constantly confront two logics and the tensions between them, namely the economic logic of the Europeanization of private law and welfare model. Especially inclusion of social standards into European Civil code could be problematic due to the nature of private law itself. Private law system itself is a state resistant and was independent from political will and traditionally private law rules have been used to facilitate

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11 The concept of “Europeanization” is employed in theoretical literature to assess the European sources of domestic politics.
business transactions in politically divided Europe. Only from 19th century development of private law has been restricted by state borders and authorized by state authorities because private law has been used as one of factors to create central governance in a state. It is seen as a natural corollary that creation of modern state and creation of civil codes had occurred at the same time (France, Germany, and Italy)\textsuperscript{15}. This movement destroyed common development of European private law because there was a period of European history when European countries had substantially uniform legal rules and private relationships have been regulated by European common law\textsuperscript{16}.

Despite public authorities preoccupation with private law, many informal substitutes for legal enforcement and protection of property and contract rights are created. Even then some of them are enforced by law, for example arbitration or ADR, other institutes are based more on pure power such as alternative merger (so that disputes between independent firms become purely internal); bilateral monopoly, which can provide a substitute for legally enforceable employment contracts, strong-arm tactics, such as those used in illegal markets; and altruism, which enables many family-owned firms to operate effectively outside a legal framework. The importance of such substitutes is confirmed by the fact that property rights and contract enforcement are methods of coordinating and optimizing economic activity that long predate the state and formal legal institutions\textsuperscript{17}. Some of those substitutes are promoted by state institutions; some substitutions create substantial problems while it leaves social vulnerable groups unprotected. On the other hand even then the European Code will include high standards of social protection, it could not guarantee any positive outcome for social protection and capabilities of public authorities should be improved firstly.

**Competition of laws**

Business entities react to the changes of private law systems and they can choose between specially business friendly tailored legal rules. When public authorities ignore needs of companies, they can choose countries outside the EU to conduct business. Noticeable that competition for scarce factor of production capital is extremely high. So called “regulatory competition” could be used to insure dynamic nature of European private law, to achieve the best results for competition for capital. As an outcome of competition the best tailored rules from one member state will be adopted by other states, otherwise it could create an unbalanced movement of factors of production. The debates of the EU about regulatory competition had been initiated by the Padoa-Schioppa Report\textsuperscript{18}. The basic conditions according to


Catherine Barnard for regulatory competition are a wide choice of different jurisdictions and knowledge of these differences. First should be diversity in the laws of the individual member states, and their private law systems should survive attempts of harmonization, making it possible for the member states to look for efficient and workable rules. Secondly, knowledge about differences, when knowledge of member states legal systems could be increased by transnational legal science and transnational legal firms. Discussions about regulatory competition are focusing an evaluation of regulation outcome because only that regulation can be justified if it repairs market failures, and minimizes regulatory costs. Economics of federalism studies contributed as well to competition of private law research, while it deals with how federalism fosters and distorts markets, and functioning of redistributive politics work in decentralized settings. In theoretical literature there are different positions towards regulatory competition. As it has been argued firstly it could strengthen diversity of rules best tailored for business entities or it could lead to de facto uniformity of laws. Furthermore it could lead to removal of ineffective rules. EU harmonization praxis may supplement or even encourage the process of evolutionary adoption in laws in the member states. US debates show the difference between areas of law which are left to competition between states, and other areas which are governed by federal legislature as a monopoly regulator. On the other hand regulatory competition leads to so called rise to the bottom issue when all possible standards for business entities could be downgraded in one state and others follow in order to be attractive for business entities. Such development could produce undesirable outcomes for the whole community and individuals while it could be only orientated to short term goals but interests of the community as a stakeholder will be ignored. Especially with recent European Union enlargement, new Eastern-European member states would imply that the differences between the various systems could increase, and certain business praxis and not so strong supervision of mandatory requirements could create a basis for social dumping, or migration of capital. But space for dumping is a rather tiny one if there is still a space for a countries to compete in the EU because one of the central elements of the EU is a social issue and for instance the EU company law deals mainly with it. On the other hand even

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then welfare standards are diminished as it has been argued the benefits from welfare reform tend to be diffuse and visible only in the long term, whereas its costs are concentrated on the same generation of wage earners that would pay for implementing reform but miss the benefits from it\textsuperscript{22}.

**Legal framework for business**

 Freedoms of movement of goods and services guarantee that transaction costs in the Single Market have been reduced. Experience of CEEC integration into European single market shows, that in the CEEC one of the main factors of continued economic growth are exports to Western Europe which takes between 60 and 70\% of CEEC-8 exports\textsuperscript{23}. Foreign direct investments (further in text- FDI) is another factor for economical growth and is important to create workplaces in country. There are several arguments why the effectiveness of the legal system should be determinant of FDI even when there isn't any empirical evidence\textsuperscript{24}. Specifically one of the key factors for FDI is suitably tailored for investors' needs company law institute. Company itself is “an artificial being, invisible, intangible, and existing only in contemplation of law”\textsuperscript{25}. By company law different interests of groups (shareholders, management, stakeholders or financial institutions) could be protected and countries could choose whom to prefer in their legislation. Especially unbearable could be when a country could choose to downgrade standards in order to affect decisions made by one interest group which makes decisions for the company and other countries could choose this example (so called “rise to the bottom” issue).

 Recognition of companies legal personality created in other countries is crucial for business entities decisions to conduct business in other countries. Noticeable that existing competing theories of recognition make it difficult to recognize a company created in one state which would be problematic in another because of division between the member states doctrines in company law, namely real seat theory and incorporation theory has been not solved yet. According to real seat doctrine a state has jurisdiction over company operating in its borders, even if they are registered or have seats in undertakings for the purposes of informing and consulting employees, Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies, Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees’ rights in the event of transfers of undertakings, business or parts of undertakings or business, European Parliament and Council Framework Directive 2002/14/EC of 11 March 2002 for informing and consulting employees establishing a general framework for informing and consulting employees in the European Community.

\textsuperscript{22} Marzinotto B., 2006: The unnecessary European social model.
\textsuperscript{23} Schröder U., 2003: Resilient growth in the EU acceding, Countries, in Reports on European integration, EU Monitor, No. 1, Deutsche Bank Research, 18.
other countries. Especially, this doctrine is used to justify protection of social protection standards in a state. Furthermore, as a rule, a host state has an interest in obtaining information on the business activity of foreign corporations within its borders. Interference of European institutions especially in the form of transnational rules is helpful to overcome stubbornness of a state. Even then there are certain numbers of EU legislation in company law field, differences between national companies laws of member states still exist. With existing differences one of the key issues is recognition of a company created in one state in another member state. Initially freedom of movement of companies has been developed by the case law of the ECJ\(^{26}\). In the treaty of Lisbon recognition of company even more elaborated and recognition of companies personality is protected by freedom of movement of person’s institute\(^{27}\). Those changes could be based on evaluation that corporate mobility could be one of the main factors to improve significantly in the performance of European firms. Furthermore corporate mobility plays a crucial role in fuelling economic growth, creating new jobs, and providing for innovative and new technologies. It ensures that firms of all sizes could operate throughout the Single Market without being hampered by severe constraints resulting from the different corporate laws in each state. But corporate mobility could be insured only by application of incorporation theory and based on federal state model experience from the United States. But European institutions and member states should safeguard social protection to avoid “rise to the bottom” issue. Noticeable even then competition of private law meets the needs of business entities and they could react to those needs, human beings are rather more attached to the places. Initially, in the “real” world, mobility of persons should have two prerequisites for making exit effective, that is: legal guarantees of freedom of movement for persons and resources, and application of the principle of mutual recognition\(^{28}\). On the other hand only the EU provides such level of protection for persons in transnational mobility. But waves of emigration from one member state to another are signs of lacking social protection in some member states.

Social protection and other public interests should be included into the private law system, because even private law rules regulate relationship between private persons, some of the institutes of private law have public significance. Public interests in private law European wide have been protected by mandatory requirements and indirectly through financial instruments. So for example as an alternative factor for economic growth would be the creation of entrepreneurship culture and financial instruments have been directed towards it through EU financial instruments for Small and Medium enterprises (further in text - SME). Those measures even though they are indirectly associated with social protection, could radically change economi-

\(^{26}\) Case C-212/97, Centros Ltd. v. Erhvervs-og Selskabsstyrelsen. Case C-208/00, Überseering BV v. Nordic Construction Co Baumanagement GmbH. Case C-167/01, Kamer van Koophandel en Fabrieken voor Amsterdam v. Inspire Art Ltd. 

\(^{27}\) Lisbon Treaty of 17 December 2007 (treaty is not ratified yet).

cal development in the CEEC because current economic growth in those countries have been based on FDI. Specifically SME still could be regarded as one of the most important tools for employment in the country and regarded as one of the engines of economic growth. SME success is closely connected to the unprecedented changes in private law caused by European integration and increasing transboundary trade within the EU. The reduction of regulatory red tape, in particular, is helpful to stimulate innovation and success in Europe's SME sector. In the current financial crisis importance of EU initiatives and measures for SME are significant because in continental Europe SME expansion has been based rather on loans than attraction of capital in the stock market. Noticeable that financing innovative SME is considered by many finance providers as a risky activity due to high transaction costs and low returns, especially at the early-stage. So the European Commission initiated measures to generate more risk capital investments, to develop bank finance for innovation and to make existing financing systems more SME friendly while there is a lack of an equity investment culture, informational problems and market fragmentation. But European institutions deal with SME in rather unsystematic ways and only several of the problems have been addressed by EU legislation. One of the few examples would be late payment directive. It addressed excessive payment periods and late payment while these problems are a major cause of insolvencies threatening the survival of businesses and result in numerous job losses. Finally is up to the Member States to ensure that the regulatory and fiscal environment will be suitable for SME.

Materials of research for European integration in business from CEEC

Lithuanian integration into European single market is one of the challenges to be faced by Lithuanian entrepreneurs. Research has been made to find out how economic integration affected business entities and their decisions and how national and local public authorities cooperate with representatives of SME. A questionnaire about some aspects of human factor in business was developed for getting information for analysis and was given to 70 respondents from representatives of SME chosen coincidently in Kaunas region, Lithuania in September, 2007. 12 respondents refused to provide any data and motivated it by lack of confidence, time, and possibility.

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30 EU Commission, 2006: Press release IP/06/893, Initiative to boost growth of SMEs: EU wants to triple early-stage capital investments.
32 European Commission, 2006: Growth and jobs: Commission provides more means to finance innovative SMEs MEMO/06/259.
34 Initiative to boost growth of SMEs: EU wants to triple early-stage capital investments, Press release IP/06/893, 30/06/2006.
to see any results. Research has been used to prove hypothesis of theoretical literature:

1. Law is an important factor for decisions made by business entities;
2. European integration created new perspectives for business;
3. Dialogue between representatives of SME and public institution should be improved;
4. Representatives of SME should be included into decision making procedure;
5. SME needs not only financial support but as well proper infrastructure to compensate lack of knowledge and possibility to invest into human resources.

The results of the questionnaire shows some aspects of the results of European integration for business entities in the CEEC. The results of the research show that even though European integration gives more beneficial conditions to do business, they have been not used practically and expansion to other EU member states is limited (figure 1). Specifically to question “Is European integration beneficial for business in the CEEC” respondents gave an affirmative answer (figure 2).

Figure 1. Benefits for business entity from integration into Single Market
Rysunek 1. Korzyści dla podmiotu gospodarczego wynikające z jednolitego rynku

Figure 2. Conditions for business entities after European integration
Rysunek 2. Warunki prowadzenia działalności gospodarczej po integracji europejskiej
The answer shows us that business entities in most cases are rather orientated to the national market then to the Single Market. It means that companies are not looking to European economic integration as one of the factors for their business and are not using benefits from it and they are not focusing to build up and strengthen competitive advantages. Especially important for efficient competition in the Single Market are European economic growth agenda and relevant documents. As data (figure 3) shows respondents in Kaunas region have some general ideas about economic growth policies as far as it is correlated with their business but they are not familiar with growth strategies in general.

Respondents are familiar with growth strategies and apply them in praxis 21%  
Respondents are not familiar but wish to know them 9%  
Respondents know so far they are related to activities of business entity 70%  

Even though respondents are familiar with economic growth strategies to a limited extent, most of them provided information that European growth strategies are important for business (figure 4).

Important 71%  
Not important 17%  
Difficult to say 12%  

Figure 3. Familiarity with economic growth strategies  
Rysunek 3. Znajomość gospodarczych strategii rozwoju  
Figure 4. Importance of EU business strategies  
Rysunek 4. Znaczenie biznesowej strategii EU
All respondents provided information that legal knowledge is important for business. But most business entities do not have lawyers (figure 5). Furthermore around one third of respondents are not sure if law is important for business entities. Especially it could be difficult for business entities to make decisions according to legal requirements existing in other countries and so competition of private law systems have rather limited effect in the CEEC.
Respondents wish from the EU and national and local institutions that institutions would provide information about possible changes – especially high number of average answers (5.19) and low standard deviation (1.235) show that. As well respondents expect legal information (average – 4.83, standard deviation – 1,286), effective application of legal norms (average – 4.84, standard deviation – 1,240) and professional consultation (average – 4.72, standard deviation – 1,399). Less important for respondents is participation in decision making procedure (average – 3.17, standard deviation – 1,477). Noticeable that EU institutions emphasize the importance of participation in decision making procedure but most likely it would be difficult for representatives of business entities to participate in this process without participation in professional organizations.

Outcome of research:

- Even though after European integration conditions for business entities are recognized as have been improved, organizations do not participate actively enough in the European single market;
- Most business entities can not hire lawyers but they are not cooperating with each other because there isn’t any tradition for cooperation between business entities;
- Even then all respondents agree that legal knowledge is important for business, only some of the respondents doubt about the importance of law for business;
- Cooperation between public authorities and business entities should be improved;
- Participation in decision making procedure has been neglected by business entities.

**Practical suggestions for public authorities**

1. Law is one of the key factors for decisions made in organizations but they do not have a lawyer. Participation in associations could be one of the solutions and public authorities should take initiatives in this field.

2. Currently active participation in the European single market is not a priority for firms from the CEEC even after integration to the EU. That has been caused partially by lack of information, as well as lack of initiatives. Even then economic development strategies could help to expand business and compete in the European single market, more coherent implementation plans would be helpful, especially when they would be drafted with participation of representatives of business entities.

3. In the CEEC (at least in Lithuania) creation of an entrepreneurship culture should be one of the main priorities as state institutions as municipalities, mistrust of public authorities towards private bodies and SME still exist and is characteristic for the period of transformation. Furthermore interests of private bodies and SME are not adequately represented at public administration. Increasing qualification of personal of public administration, better public relations and with more defined procedures and responsibility would be helpful.

4. It would be useful for public authorities to evaluate the process of Europeanization of private law in their plans and strategy documents and promote soft law initiatives by endorsing them.

5. In public administration, namely in the field of administrative regulation, effect analysis of decisions should be made. Representatives of SME should be included into the process of decision making.

5. Private law should be considered as one of the economic growth factors in economic development strategies. Measures in private law field based on public interests (mandatory requirements) should be justified and explained for business entities.

**Conclusions**

Europeanization of private law is a part of general discourse about competence, role of regulation, and evaluation of public and private interests. In this discourse European scholars made main distinction between the social core of the European integration and purely economical element of the Europeanization then European integration has been based on purely economical logic: namely creation of the European single market, which represents a form of homogenization and has been based upon the norms of liberal school. Representatives of the purely economical argument of the European integration quite often had been blamed for the negligence of social issue of the European integration. They have considered social protection
issues from a purely economical perspective, as one of the burdens in competition which is often too heavy to accept. On the other hand the representatives of so called social school are rather more concerned with the social rights than general issues of the European integration, and interests of employees are neglected. Such situation could lead to the assumption that two potential, and obviously rival, institutes – namely the economical and social coexist with each other. Specifically current process of Europeanization of private law is significant from several perspectives: firstly European private law could be an important factor to achieve economic growth. Secondly common European social protection standards could cure so called “free riding” problem when competition for investments could decrease social standards in Europe. European institutions are active to introduce mandatory standards and several institutes of private law with a transnational element have been harmonized. The social model should be not understood, especially in time of financial crisis, as an aim to be achieved at any costs, and economic interests should always prevail. Problematic issue of the EU social protection is that high mandatory requirements could be overcome by using parallel legal institutes to avoid social protection law. Specifically the CEES are dealing with their own peculiar problems such as the role of shadow economy, for example in employment relationship when wages have been paid “in envelopes” or in other words unofficially using shadow accounting systems, then incomes have been hidden from tax and other public authorities. The best cure for it would be downsizing of tax burden towards employees while the social burden is too high especially for SME. As well while CEES SME do not have experience to attract capital from the share market, the role of banks is extremely important. Currently the CEES do not have enough financial sources to pour money into financial institutions to deal with deteriorating conditions to get a loan from the banks. European initiatives to attract capital for SME would be helpful. Finally national policy in Europeanization of the private law area should be a part of countries economic development policy. And even if a country chooses to take a patriotic stand as a reaction to growing economic interdependence, it should be viewed not in isolation any more but has to be seen in a global context. It could not be isolated and treated as a national private law affecting national economic development only for one simple reason - it will affect the decisions made by business entities from the Single Market, so it will definitely have European dimension. Especially corporate social responsibility institute in the EU needs further elaboration and corporations, their shareholders, management and credit institutions should make decisions without breach of social protection requirements by their own will. Namely companies themselves could obligate to certain standards of behavior in order to have long term commitments and take interests groups’ considerations into their planning. Standards of so called soft law could be used to protect interests of stakeholders, while it is more useful for companies to react themselves to cure social illness then to wait for response from public institutions from costs.
perspectives. But especially in the CEEC effective cooperation between business entities still has to be improved.

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