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# ZAKONODAVNI OKVIRI RADA SRPSKIH AKCIONARSKIH BANAKA DRUGE POLOVINE XIX I PRVE POLOVINE XX VEKA

Prof. dr Vesna Aleksić

Institut ekonomskih nauka Beograd
vesna.alexic@gmail.com

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## Rezime

Donošenje zakonskih okvira za rad privatnih akcionarskih banaka u Srbiji bio je dug, evolutivni proces. Ovaj rad nastoji da kroz analizu evropskih i domaćih privrednih prilika u vreme donošenja srpskog *Trgovačkog zakona* kao i *Zakona o akcionarskim društvima* i njegovim izmenama i dopunama u različitim istorijskim vremenima, objasni stepen prilagodljivosti srpskih novčanih zavoda, njihovu sposobnost da prikupljanjem malih uloga stvore velika novčana sredstva, kao i da udruživanjem ljudi i kapitala omogući brži i sveobuhvatniji privredni razvoj zemlje. Ulazak u sastav Kraljevine SHS/ Jugoslavije stavio je srpske preduzetnike i bankare pred nove i velike izazove, kojima nisu uvek uspevali da odgovore, pa se zarad ostvarivanja željenih interesa sve češće pribegavalo korupciji i nepotizmu. Rad nastoji da ukaže i na sve one zdrave pokretačke snage društva koje, ne samo da su javno ukazivale na ove manjkavosti, već su i spremno nudile dovoljno valjana rešenja koja su vremenom nalazila svoj put do primene kroz nove zakonske mere.

**Ključne reči:** banka, akcionarsko društvo, zakoni, bankokratija, Kraljevina Srbija/Jugoslavija

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# LEGISLATIVE FRAMEWORKS REGULATING THE OPERATIONS OF SERBIAN SHAREHOLDING BANKS IN THE SECOND HALF OF THE 19TH AND THE FIRST HALF OF THE 20TH CENTURY

Prof. Vesna Aleksić, PhD

Institute of Economic Sciences Belgrade
vesna.alexic@gmail.com

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**Summary**

The procedure of adopting legislative frameworks for the operation of the private shareholding banks in Serbia was a long and an evolutionary process. This paper offers an analysis of the European and domestic economic circumstances prevailing at the time of adoption of the Serbian *Commercial Law* and the *Law on Shareholding Companies* and its amendments over different historical periods, tending to explain the degree of adaptability of the Serbian monetary institutes, their ability to create from collecting small deposits a large money mass, and by pooling people and capital together to allow for a faster and a more comprehensive economic development of the entire country. The accession to the Kingdom of Serbs, Croats and Slovenes/Yugoslavia positioned Serbian entrepreneurs and bankers challenged with new and major challenges that they were not always able to overcome, and for the sake of achieving desired interests what was frequently applied were the corruptive practices and nepotism. This work strives to highlight also those sound driving forces in the society that were not only publicly pointing a finger at those shortcomings and drawbacks, but were ready to offer sufficiently salient and viable solutions that were in time finding their path through to the implementation by means of new and innovative legislative measures.

**Key words:** Bank, Shareholding Company, laws, Bancocracy, Kingdom of Serbia/Yugoslavia

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## Uvod

U Zapadnoj i Centralnoj Evropi banka je vekovima unazad bila sastavni deo privrede koji se podrazumeva. U ekonomskoj istoriji Srbije, kojoj je poseban pečat dala osmanlijska privreda, sve do druge polovine XIX veka banke uopšte nije bilo. Ako se tome pridoda i činjenica da se u zapadnoevropskim zemljama paralelno uz industrijsku, odvijala i snažna bankarska revolucija, jasno je da je put do modernizacije srpske privrede i razvoja bankarstva morao biti veoma dug i težak. Ipak, već krajem 40-ih godina XIX veka, u Srbiji je po prvi put javno izneta ideja o potrebi osnivanja novčane ustanove koja bi se bavila poslovima kratkoročnih zajmova i zaloga od zlata i srebra do vrednosnih hartija, žiro računa kao i zapisa, banknota i menica. Početna intencija je bila da se sakupljenom velikom sumom (petstotina hiljada dukata podeljenih na pet hiljada akcija u vrednosti od sto dinara) stvori osnovica za podršku trgovcima i to kako u vreme velikih besparica tako i dugoročno, pozajmicama za redovno i vanredno poslovanje. Bila bi to banka kolektivnog privatnog, anonimnog kapitala, koji bi bio organizovan u akcionarsko društvo. Njega bi činili dobrovoljno okupljeni ulagači vođeni interesima neposredne zarade, što uključuje i poslovne poduhvate investiranja u postojeće ali i buduće privredne projekte. Prema ovoj ideji iz 1847. godine, cilj banke je trebalo da bude da pomogne najuspešnijoj srpskoj privrednoj grani tog doba, trgovini, ali je za njeno osnivanje i uspešan i dugovečan rad, veoma važno bilo da je upravo ona i pomogne. Naime, u Srbiji su trgovci već tada bili oformljen društveni sloj koji je imao novac, bavio se poslovima kojima se novac mogao umnožiti i koji je mogao da taj novac uloži u banku. Predlog da se akcionarska banka osnuje sa sumom od pola miliona dukata (što je bio ogroman iznos ne samo za sredinu nego i za kraj XIX veka, kada je vredeo deset miliona francuskih franaka u zlatu) nije mogao biti iznet da nije postojala određena procena o realno raspoloživoj novčanoj snazi imućnog sloja tadašnje Srbije. [A. Mitrović, 22-34] I mada se kroz ovu ideju pokazalo da je poluvazalna Srbija već tada imala političke, privredne i intelektualne krugove koji su razumeli značaj osnivanja akcionarske banke, ipak je sama ideja privrednog i društvenog razvoja koji se planira osnivanjem novčanih zavoda, za većinu stanovništva bila previše nova i daleka.

Ideja stvaranja akcionarskih banaka probijala se svojevremeno i u evropskim zemljama kroz velike otpore. Dug proces privredne integracije Evrope na osnovama liberalnog kapitalizma, ispunjenog novinama koje su nastale spajanjem naučnog, tehničkog i tehnološkog razvoja, započeo je tek nakon završetka tzv. francuskih ratova (1792-1815). Tako je i osnivanje akcionarskih banaka bila ideja visokoposlovnog, liberalnog sveta, pa je u svojoj osnovi pre svega bila politična, upravo zato što je bila nerazdvojna od liberalnog građanstva i njegovih demokrtskih težnji. U Velikoj Britaniji je čak duže vreme bila zakonom zabranjena, da bi upravo u ovoj zemlji nešto kasnije (1826) bila prvi put i ostvarena. Dvadeset godina kasnije glavni privredni trend u razvijenim evropskim zemljama već je bio usmeren na velike investicije akcionarskih banaka u industriju, posebno tešku industriju kao i u gradnju i opremanje železnica. Da bi se ovaj ogroman posao mogao da sprovede bez većih finansijskih potresa, bilo je neophodno da parlamenti i vlade evropskih država postave jasan zakonski okvir osnivanja akcionarskih banaka, njihovog delokruga rada i naročito zaštite njenih ulagača. Opreznost pri davanju odobrenja za osnivanje novih društava i mere predostrožnosti za pravilnost uplate kapitala, morala su biti takva da onemoguće osnivanja na lažnoj osnovi i sa nesolidnim osnivačima. Narednih decenija XIX veka se toliko radilo na ovim zakonima, da se često kaže kako su upravo zakoni i izmene u zakonima o akcionarskim društvima zadavale najviše posla zakonodavnim telima u svim kapitalističkim zemljama.

## Trgovački zakoni kao podloga osnivanju akcionarskih društava

Svi trgovački zakoni zapadnoevropskih država XIX veka bili su veoma slični, jer su vodili poreklo od francuskog *Code de Commerce*, koji je na snagu stupio još 1808. godine. U druge zemlje je vremenom prenet ili u celosti ili sa neznatnim izmenama. U vreme Napolenovog carstva, francusko trgovačko pravo prodrlo je u nemačke oblasti na Rajni, u Baden, Luksemburg, Italiju, Belgiju, Poljsku i Holandiju, pa se tako

## Introduction

In the Western and Central Europe, the bank has for centuries been implicitly an integral part of the economy. In the economic history of Serbia, where the Ottoman economy left its specific mark that lasted up to the second half of the 19th century, banks were not in existence at all. If we also recognize here the fact that in the West European countries, parallel with the industrial there was also a robust banking revolution, it is clear that the path towards modernisation of the Serbian economy and development of banking had to be a protracted and a tedious one. Nevertheless, already by the end of the 1840s, what appeared in Serbia was for the first time publicly pronounced idea on the need to establish monetary institution that would engage in business of short-term lending and taking pledges both in gold and silver and up to the securities, gyro accounts and commercial papers, banknotes and draft bills and notes. The initial intention was to create, with the collected massive amount of funds (five hundred thousand ducats divided into five thousand shares in the value of one hundred dinars each), a viable basis for support to the merchants, both in the times of great austerity, but also over a longer-term period, through the loans offered for both regular and extraordinary business operations. It was envisaged to be a bank of collective private, anonymous capital, which would be organised as a shareholding company. It would be composed of voluntarily joined together depositors led by the mutual interest to make direct gains, including business ventures of investing into the current but also future commercial projects. According to this idea presented in 1847, the objective of the bank was to be rendering support to the most successful Serbian economic branch of that time, the trading, but for its establishment and successful work over a long period, it was very important for the bank itself to give its support to the trading endeavours. Namely, in Serbia of that time merchants were an already well-established social stratum that was opulent, with its money engaged in business ventures that could magnify money invested in trading and that was able to invest such money in a bank. The proposal was for the shareholding bank to be established with the initial capital of half a million ducats (the sum that was an enormous amount not only in the domestic circumstances, but also for the end of the 19th century, when it was worth its equivalent of ten million French francs in gold), but it could not have been tabled without a certain assessment already present on the available monetary power of the opulent social class present in Serbia at that time [A. Mitrovic, 22-34]. And although this idea shows that Serbia at that time, albeit still in a semi-vassal status, had its political, economic and intellectual circles who understood the importance that the formation of a shareholding bank would have, nevertheless the idea itself of the economic and social development planned through the development of the monetary institutes, for the majority of local population was by far too novel and a very distant one.

The idea of creating shareholding banks in those days was finding its difficult path in the European countries as well. The protracted process of economic integration of Europe along the lines of liberal capitalism, filled with novelties arising from the merger between scientific, technical and technological development, started only after the termination of the so-called French Wars (1792-1815). Hence the establishment of the shareholding banks was an idea of the highly-business minded liberal world and in its essence was primarily political actually because it was inseparable from the liberal middle-class and its democratic tendencies. In Great Britain, it remained even for quite some time prohibited by law, yet it was actually in that very country that, at some later date (1826), it was to be brought into life for the first time. Twenty years later, the main economic trend in the developed European countries was already focused on major investments of the shareholding banks in industry, especially heavy industry as well as construction works and railways facilities. In order to be able to conduct this enormous job without any major disturbances, it was necessary that both the parliaments and the governments of the European states set up a clear and unambiguous legal framework for the formation of the shareholding banks, their scope of operation, and especially protection of their investors. The caution manifested in the process of granting permission for the establishment of

njegov uticaj zadržao u kasnijim zakonima koji su donošeni za pojedine zemlje. Ovo je posebno bio slučaj sa austrijskim trgovačkim zakonom iz 1863. godine, koji je važio i na teritoriji Saveza nemačkih država ali i na teritoriji Slovenije i Dalmacije. Sa pojavom ideje o osnivanju akcionarskih društava i potrebom za njihovim zakonskim okvirom, *Code de Commerce* je 1867. godine dopunjen novim odredbama pa su i one kasnije prepisivane i podražavane u drugim evropskim zemljama. [M. Zebić, *Akcijsko pravo*, 5]

Zanimljivo je da je Ugarska, iako u sastavu Austro-Ugarske monarhije, sama radila na svom trgovačkom zakonu iz 1875. godine. On se dobrim delom oslanjao na austrijski ali je pozajmio i pojedine propise iz francuskog i belgijskog zakonodavstva. Ovaj zakon je bio utoliko napredniji od austrijskog jer je u svojoj desetoj glavi sadržao i odredbe o akcionarskim društvima koji su se osnivali na njenoj teritoriji (pa samim tim i u Hrvatskoj i Vojvodini). Isti trgovački zakon sa paragrafima o akcionarskim društvima i samo sa malim izmenama, stupio je na snagu i u Bosni i Hercegovini 1883. godine.

Austrijski trgovački zakon nije bio dovoljan da bi omogućio brzo i uspešno osnivanje akcionarskih banaka iako se u tom delu oslanjao na Carsku naredbu iz 1852. godine. U periodu od 1869. do 1873. godine bilo je izdato čak 947 odobrenja za osnivanje akcionarskih društava što je bilo pet puta više nego u periodu između 1830. i 1869. godine. Samo za osnivanje novih akcionarskih banaka bilo je dato 262 koncesije. Poslovi su se započinjali uz neograničeni lakoverni optimizam i na nerealnoj osnovi. Zato od tih 947 odobrenih društava čak 314 uopšte nije osnovano. Od ostalih 633, više od polovine je palo pod stečaj ili je bilo likvidirano. Tako „milijarde vrednosti, koje su predstavljale hartije beležene u berzanskim listama, iščezoše. Hiljade građana behu izgubili svoje jedino imanje". Ovaj krah banaka iz 1873. godine dao je povoda za teške optužbe na račun postojeće zakonske regulative i pokrenuo je pitanje „da se zakonima osigura jača zaštita dobroćudne publike od prepredenih i nepoštenih ljudi, koji u svojoj koristi izopačuju ustanovu akcionarskog društva, sejući propast i nedaće oko sebe" [M. Zebić, *Akcijsko pravo*, 9]. Nakon nekoliko neuspelih zakonskih projekata, tek 20. septembra 1899. godine donet je Akcijski Regulativ kao pravilnik za primenu pomenute Carske naredbe iz 1852. godine. Njime nisu bile zamenjene postojeće zakonske odredbe ali im je kroz popunjavanje mnogih praznina dat jasniji smisao. Ovaj Regulativ je rađen na osnovu opsežnog materijala i višegodišnjeg iskustva u radu akcionarskih društava, zbog čega je predstavljao veliki napredak u propisima i odredbama koje su se odnosile na osnivanje i rad austrijskih akcionarskih društava.

Koliki značaj je za srpske vlasti imao rastući i sve bogatiji trgovački sloj, govori činjenica da je *Zakon trgovački za Knjaževstvo Srbiju* uz odobrenje „Miloša Obrenovića Prvog Knjaza Srpskog i sa saglasijem Soveta i na predloženje Narodne skupštine" donet već 26. januara 1860. godine, dakle tri godine pre austrijskog i čak petnaest godina pre ugarskog trgovačkog zakona. [G. Niketić, 147] Srpski trgovački zakon se, naročito u odredbama koje su se odnosile na osnivanje i rad trgovačkih društava, snažno oslanjao na francuski trgovački zakon ali i na *Građanski zakonik Kneževine Srbije* iz 1844. godine, čiji je autor bio Jovan Hadžić. U nastajanju *Građanskog zakonika* veliki uticaj je imao austrijski *Opšti građanski zakonik* iz 1811. koji je, opet, bio napravljen po uzoru na francuski *Code civil des francais*, nastao u vreme vladavine Napoleona, 1804. godine. Srbija se donošenjem ovog zakona priključila

Knjaz Miloš (1848. rad austrijskog slikara Morica Dafingera, Narodni muzej)

Prince Milos (a 1848 painting by Moritz Daffinger, an Austrian painter, The National Museum)

the new societies and precautionary measures for the proper payment of capital, had to be such that would prevent any establishment on fraudulent basis and with nonsolid founders. Over the next decades of the 19th century there was so much work invested in the elaboration and drafting of these laws that it is often said that it was actually laws and amendment to the laws on shareholding companies that were putting the greatest burden of work on the legislative bodies in all of the capitalist countries of those times.

## Commercial laws as the basis for the establishment of the shareholding companies

All of the commercial laws enacted in the West European countries in the 19th century were very similar as they derived from the French *Code de Commerce* that came into force as early as 1808. Over the time, it was transposed into other countries, either in full or in part, or with only some minor amendments. At the time of the Napoleonic Empire, the French Commercial Law penetrated into the German regions on the Rhine, but also in Baden, Luxembourg, Italy, Belgium, Poland, and Netherlands, so that its influence prevailed also in the later-date laws that were being enacted in individual countries. This was especially the case with the Austrian Commercial Law of 1863, which was in force for the territory of the Alliance of the German States, but also for the territories of Slovenia and Dalmatia. With the emergence of the idea on the establishment of the shareholding companies and the need for their regulatory framework to be present, *Code de Commerce* was ammended in 1867 with some new clauses that were later copied and implemented in the other European countries [M. Zebic, Akcijsko pravo, 5].

It is interesting to note that Hungary, although within the territorial entity of the Austro-Hungarian Empire, was engaging independently of its own on the drafting of its Commercial Law in 1875. It was in good part relying on the Austrian law but had borrowed also certain provisions from the French and from the Belgian legislature. This law was more progressive than the Austrian one in as much as in its Chapter Ten it contained clauses and provisions regulating shareholding companies established in its territory (thus also in Croatia and in Vojvodina). The same commercial law, with its paragraphs regulating shareholding companies and with only some very slight changes, came into force and effect also in Bosnia and Herzegovina in 1883.

The Austrian Commercial Law was not sufficient to allow for a prompt and successful establishment of the shareholding companies, although in that part of its provisions it relied on the Imperial Order of 1852. In the period from 1869 to 1873, there were as many as 947 permissions issued for the establishment of the shareholding companies which was five times more than in the period from 1830 to 1869. For the establishment of the new shareholding banks alone some 262 concessions were granted. Businesses started with a boundless credulous optimism and on unrealistic grounds. Hence from those 947 licensed companies as much as 314 have never even been founded. From amongst the remaining 633 more than half went bankrupt or into receivership. Thus "billions worth of stocks quoted in the stock exchange listings simply disappeared. Thousands of citizens lost the only assets that they had". This crash of the banks in 1873 gave cause for harsh blame to be put on the prevailing regulatory framework and the question was raised "of the need to set up legislature that would insure robust legal protection of the naive public from the conniving and dishonest people who are in their devious minded interest distorting the institute of a shareholding company, spreading calamity and disaster all around themselves." [M. Zebic, Akcijsko pravo, 9]. After several unsuccessful legal projects, only as late as 20 September 1899 was the Shareholding Regulation, serving as a rule book for the implementation of the above mentioned Imperial Order of 1852, enacted. It did not serve as a replacement of the current legal regulations that were in force, but by filling-in of many existing gaps more clarity and meaning was introduced. This Regulation was drafted on the basis of an extensive material and many years of experience in the work of the shareholding companies, having thus made a great progress in the rules and regulations pertaining to the establishment and activities of the Austrian shareholding companies.

Just how important the growing and ever

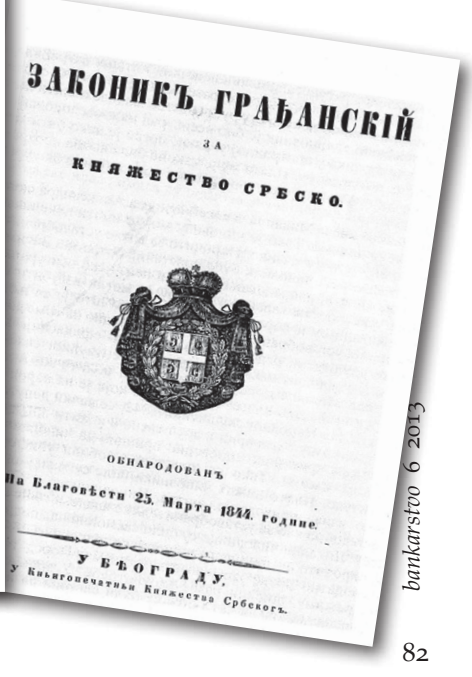
tradiciji kontinentalnog, odnosno rimskog prava. Jovan Hadžić se, pišući ga jezičkim stilom kakvim se pričalo u Vojvodini u XIX veku, oslanjao uglavnom na austrijski original, ali ga je prilagodio prilikama tadašnje Srbije, odnosno tadašnjim srpskim običajima, dopunivši ga elementima iz srednjovjekovnog *Zakonoporavila*. [M. Đorđević, 62-84]

U Srbiji se zapravo u vreme donošenja *Zakona trgovačkog za Knjaževstvo Srbiju* polako stvarala politička atmosfera koja je mogla da omogući prodor novih ideja u svim oblastima društvenog života. Tako se osnivanje prve akcionarske banke - *Prve srpske banke* 1869. godine, poklopilo sa dolaskom na vlast liberala i donošenjem novog ustava iste godine. Jovan Ristić, tvorac ovog ustava, duboko je verovao da nerazvijeno društvo pod vođstvom neobrazovane skupštinske većine ne može da napreduje. Zato je i osnivanje prve akcionarske banke prepustio jednom od najobrazovanjih ljudi onog vremena, Živku Karabiberoviću, koji je u Nemačkoj završio političko-ekonomske nauke, da bi po povratku u Srbiju bio postavljen za „praviteljstvenog bankera" [M. Kostić, 133, 180]. Zadužen za finansijske transakcije sa inostranstvom, Karabiberović je ubrzo došao u kontakt sa jednom od velikih evropskih banaka koja je ponudila i konkretnu poslovnu saradnju. Tako je, februara 1869. godine, Ministarstvo finansija upravo na osnovu člana 38 *Zakona trgovačkog za Knjaževstvo Srbije* izdalo dozvolu za osnivanje ovog prvog privatnog novčanog zavoda u Srbiji sa početnim kapitalom od million dukata. Međutim, kada je *Prva srpska banka* otpočela sa radom, 2. oktobra 1869. godine, raspolagala je sa prikupljenih samo 120.000 dukata (1.440.000 tadašnjih francuskih franaka) [A. Mitrović, 33]. Zbog činjenice da su odredbe srpskog trgovačkog zakona bile previše oskudne i nedovoljne za osnivanje ovako složenih društava kao i zbog pokušaja same banke da deluje kao univerzalna poslovna banka finansirajući čak i gradnju pruge kod Trsta kao i zbog čisto špekulativnog poslovanja, dovela je do toga da već 1871. godine finasijski stradaju ne samo njeni osnivači i poverioci nego i država.

Da je propast *Prve srpske banke* predstavljala važno finansijsko iskustvo za mladu srpsku državu govori i činjenica da je iste 1871. godine, prilikom osnivanja prvih akcionarskih banaka sa domaćim kapitalom (*Beogradskog kreditnog zavoda*, *Smederevske kreditne banke* i *Požarevačke banke*), odlučila da donošenjem posebnih uredbi što jasnije precizira njihovu delatnost, kao i prava i obaveze. Naime, u nekoliko paragrafa srpskog trgovačkog zakona koji su se odnosili na osnivanje akcionarskih društava (§31-38, §41 i §44) nisu bile navedene nikakve sankcije prema osnivačima zbog nesavesnog poslovanja. Zato je u uredbi o poslovanju ovih banaka, donetoj 24. septembra 1871. godine, već u prvom članu naglašeno da „lažno pravljenje kao i podražavanje ma kog roda isprava, koje pomenuti zavodi izdavali budu, kazniće se onim kaznama, koje su opredeljene za lažno pravljenje ili podražavanje javnih isprava". [M. Zebić, Zakoni i raspisi, 173] Narednih godina, odnosno do osnivanja *Privilegovane Narodne banke* 1884. godine, u Srbiji su pored ove tri, osnovane prema postojećem trgovačkom zakonu samo još četiri, uglavnom lokalne banke, sa ukupnim osnivačkim kapitalom od skromnih 3,2 miliona dinara.

Jovan Hadžić, tvorac Srbijanskog građanskog zakonika 1844.

Jovan Hadžić, creator of the Serbian Code Civile 1844.



more opulent merchant class was becoming for the Serbian authorities is best illustrated by the fact that the *Commercial Law for the Principality of Serbia,* under the auspices of "Milos Obrenovic, the First Serbian Prince, and with the endorsement of the Soviet at the proposal of the National Assembly", was passed already on 26 January 1860, thus three years earlier than the Austrian, and even fifteen years before the Hungarian Commercial Law [G. Niketic, 147]. Serbian Commercial Law, especially in the clauses pertaining to the establishment and operations of the trading companies was strongly reliant on the French Commercial Law, but also on the *Civil Code of the Principality of Serbia* of 1844, authored by Jovan Hadzic. In the creation of the *Civil Code* great influence was exerted by the Austrian *General Civil Code* of 1811, which in turn was drafted after the French *Code civil des francais,* introduced during the rule of Napoleon, in 1804. With the passing of this Law, Serbia actually joined the tradition of the Continental, i.e. Roman law. Jovan Hadzic, when drafting the law phrasing it after the style and fashion of the colloquial language spoken in Vojvodina of the 19th century, mainly relied on the Austrian original, yet adapting it to the circumstances prevailing in the then Serbia, i.e. Serbian customs of that time, while supplementing it with the elements from the Mediaeval *Zakonoporavila,* or legal enactments [M. Djordjevic, 62-84].

At the time when the *Commercial Law for the Principality of Serbia* was being enacted, what was surfacing in Serbia was a gradual creation of a political climate that could have allowed for the emergence of new ideas in all the fields of social life. Thus the establishment of the first shareholding bank - *The First Serbian Bank,* in 1869, coincided with the accession to power of the Liberals and the adoption of the new Constitution that same year. Jovan Ristic, the author of this constitution, had a profound belief that an unenlightened society, led by an uneducated parliamentary majority, could not progress. That was the reason why he entrusted the establishment of the first shareholding bank in the country to one of the best educated persons in Serbia of that time, Zivko Karabiberovic, who graduated in Germany in political and economic sciences, and upon his return to Serbia was appointed the "rightly honourable appointed banker" ("praviteljstveni banker") [M. Kostic, 133, 180]. Karabiberovic, now in charge of financial cross-border transactions, soon established contacts with one of the major European banks that offered also its concrete business cooperation. Thus by February 1869, Ministry of Finance actually, pursuant to the provisions of Article 39 of the *Commercial Law for the Principality of Serbia,* issued a permission for the establishment of the first private monetary institute in Serbia with the initial capital of one million ducats. However, when *The First Serbian Bank* started work on 2 October 1869, it had at its disposal the amount of only 120,000 ducats collected (an equivalent of 1,440,000 of the then French francs) [A. Mitrovic, 33]. Due to the fact that the provisions of the Serbian Commercial Law were too obscure and insufficient for the establishment of such a complex company but also because of the attempt by the Bank itself to act as a universal business bank, financing even the construction of a railway line near Trieste, and engaging in purely speculative business operations, it caused already by 1871 financial distress for not only its founding members and creditors, but also the failure of the state.

That the collapse of *The First Serbian Bank* was an important financial experience for the young Serbian state is best witnessed by the fact that during that same year, 1871, during the establishment of the first shareholding banks with the domestic capital (*Belgrade Credit Institute, Smederevo Credit Bank, and Pozarevac Bank),* it decided by enactment of special decrees to specify more clearly their activities, but also their rights and obligations. Namely, in several paragraphs of the Commercial Law for the Principality of Serbia, pertaining to the establishment of the shareholding companies (Articles 31-38, Article 41, and Article 44) there was no mention of any sanctions against founders due to improper business conduct. Thus in the Regulation on the business operations of these banks, passed on 24 September 1871, already in Article 1 it was stipulated that "fraudulent preparation and falsifying of any kind of official documents that the mentioned institutes would be issuing, will be punished by those penalties as prescribed for false presentation or falsification of official documents." [M. Zebic, Zakoni i raspisi, 173]. Over the next several years, i.e. up

## Donošenje *Zakona o akcionarskim društvima iz 1896. sa izmenama i dopunama iz 1898. godine*

Osnivanjem *Privilegovane Narodne banke Kraljevine Srbije* 1884. godine, stvoreni su uslovi za izdavanje i trgovinu hartijama od vrednosti, posebno je podstaknut razvoj trgovine kao i dinamičniji razvoj ostalih privrednih grana. Njeno osnivanje predstavljalo je veliku prekretnicu ali i veliki zamajac u razvoju srpskog bankarstva. Značajno uvećana novčana sredstva stvorila su uslove za dinamičnije kreditne poslove, zbog čega je u periodu od 1884. do 1896. godine bilo osnovano čak 62 novčana zavoda. Skromni paragrafi o „bezimenim društvima" *Zakona trgovačkog za Knjaževstvo Srbiju* iz 1860. godine, nisu više mogli da zadovolje rastuću potrebu za zakonskim uređenjem rada akcionarskih društava u Srbiji. Ali kako su devedesete godine XIX veka bile u znaku velike borbe između lične vlasti monarha (kralja Milana Obrenovića) i *partijske* vlasti Narodne radikalne stranke, eventualna modernizacija srpskih privrednih zakona zavisila je od ishoda ove borbe. Tek nakon dolaska Nikole Pašića na mesto predsednika vlade 1889. godine, i njegovim preuzimanjem dva ključna ministarstva, ministarstva finansija i ministarstva spoljnih poslova, stvoreni su uslovi da već odavno pripremljen *Zakon o akcionarskim društvima* konačno ugleda svetlost dana, 10. decembra 1896. godine. [V. Aleksić, Beogradska zadruga, 116]

Tvorci ovog zakona posebnu inspiraciju su našli u odredbama o akcionarskim društvima ugarskog trgovačkog zakona iz 1875. godine kao i dopunama francuskog trgovačkog zakona iz 1867. godine. Ali prema mišljenju jednog od najvećih stručnjaka za akcijsko pravo između dva svetska rata, Milorada Zebića, srpski zakon je, kada su u pitanju odredbe o sazivu, konsituisanju zborova akcionara, o njihovom kvorumu i kompetenciji, potpuniji i moderniji od ugarskog i austrijskog trgovačkog zakona, koji zapravo uopšte nemaju precizne odredbe o zborovima akcionara. "Uopšte uzevši zakon od 1896. godine opsežniji je od ostalih zakona koji važe na našoj teritoriji (Kraljevini Jugoslaviji prim. aut). On sadrži 104 člana… trgovački zakon za Bosnu i Hercegovinu ima 93, a onaj za Hrvatsku 76 paragrafa." [M. Zebić, Akcijsko pravo, 7] Istovremeno, određena pozajmljivanja iz francuskog zakona nisu bila dovoljno uspešna; srpskom zakonu se zameralo i to što ima mnogo propisa i naredbi a premalo sankcija, zbog čega je postojala opasnost da mogu da ostanu bez dejstva.

Tokom naredne dve godine od stupanja na snagu *Zakona o akcionarskim društvima Kraljevine Srbije*, pokazalo se da pojedine njegove članove treba detaljnije pojasniti a neke i ukinuti. Tako su *Zakonom od 17. novembra 1898. godine* ukinuta dva sporna člana (7 i 55) koja su svojevremeno izazvala veliku raspravu u Narodnoj skupštini. Članom 7 *Zakona* bilo je predviđeno da u osnivanju akcionarskog društva mogu da učestvuju strani državljani ali tako da ih ne može biti više od četvrtine ukupnog broja osnivača. Ovo je zapravo značilo da Srbija ne dozvoljava osnivanje akcionarskih društava sa većinskim stranim kapitalom na svojoj teritoriji. Sima Lozanić, tadašnji ministar narodne privrede i akademik, apelovao je pred poslanicima Narodne skuštine da se ovaj član zakona ukine objašnjavajući da "strani kapitalisti neće dozvoliti da neko drugi upravlja njihovim poslovima. Ta se odredba odista pokazala kao nezgodna, jer se mnoga akcionarska društva koja su imala pojedine naše privredne grane da unaprede, nisu ni konstituisala, čim je ovaj zakon stupio u život". [M. Zebić, Akcijsko pravo, 22] Nakon što je usvojen predlog o ukidanju ovog člana, ostavljeno je ministru narodne privrede da sam donese procenu koliko među osnivačima može biti stranih državljana.

Dok je ukidanjem člana 7 otvoren put za nesmetaniji ulazak stranog kapitala u Srbiju, ukidanje člana 55 pokazaće se pogubnim za mnoga akcionarska društva. Naime, ovaj član *Zakona o akcionarskim društvima Kraljevine Srbije* zabranjivao je članovima upravnog i nadzornog odbora, kao i službenicima, da uzimaju kredit kod sopstvenog novčanog zavoda. Ministar Lozanić kao i biviš radikalski prvak Pera Todorović uporno su nastojali da dokažu da bi ukidanje ovog člana bilo veoma opasno i da bi dovelo u neravnopravan položaj male ulagače, kojima je kredit daleko potrebniji i koji bi do njega mnogo teže dolazili ukoliko bi bogatiji ljudi iz uprave za sebe zadržali veće iznose kredita. Međutim, radikalska većina smatrala je da su u upravama

to the establishment of the *Privileged National Bank* in 1884, in addition to these three banks, in Serbia were established under the provisions of the current Commercial Law, only another four mainly local banks, with the total founding capital of some modest 3.2 million dinars.

## Adoption of the *Law on Shareholding Companies of 1896, with the amendments of 1898*

With the establishment of the *Privileged National Bank* in 1884, conditions were created for the issuance and trading in securities, development of trade was especially enhanced as well as the dynamic development of other economic branches. The establishment of this bank was a major turning point, but also a robust impetus to the development of the Serbian banking. Significantly enlarged monetary assets created conditions for more dynamic crediting activities, resulting in the period from 1884 to 1896 in the creation of as much as 62 monetary institutes. Modest paragraphs regulating "nameless companies" contained in the *Commercial Law for the Principality of Serbia* of 1860 could no longer satisfy the growing need for the legal regulation of the shareholding companies' activities in Serbia. But as the 1890s developed in the sign of a great fight between personal ruling power of the monarch (King Milan Obrenovic) and the *party* power of the People's Radical Party, any eventual modernisation of the Serbian commercial laws was highly dependent on the outcome of this fight. It was only with the advent of Nikola Pasic to the position of the prime minister in 1889, and his take over of the two key ministries, the ministry of finance and the ministry of foreign affairs, that conditions were created for the already long ago prepared *Law on Shareholding Companies* to be finally brought into life and adopted on 10 December 1896 [V. Aleksic, Beogradska zadruga, 11b).

The authors of this law found especial inspiration in the provisions regulating shareholding companies in the Hungarian Commercial Law of 1875, as well as the ammendments to the French Commercial Law of 1867. Yet in the view of one of the greatest experts for the shareholding law between the two world wars, Milorad Zebic, Serbian law was, when speaking of the provisions on convention, constitution of the shareholding assemblies, their quorum and competencies, more comprehensive and modern than the Hungarian and Austrian commercial laws which actually do not comprise precise stipulations on the shareholding assemblies. "Generally speaking, the Law of 1896 is a more comprehensive one than the other laws that are in force in our territory (Kingdom of Yugoslavia, author). It contains 104 articles…Commercial Law for Bosnia and Herzegovina has 93 articles, while the one for Croatia has 76 articles." [M. Zebic, Akcijsko pravo, 7]. Concurrently, certain borrowings from the French law were not sufficiently successful; the Serbian law was rather challenged for having too many rules and regulations, and too few sanctions, hence the danger of remaining without force and effect.

During the following two years from the date of adoption of the *Law on Shareholding Companies of the Kingdom of Serbia,* it appeared that some of its articles should be clarified in more detail, and some others deleted. Thus the *Law of 17 November 1898* deleted two disputable articles (7 and 55), which at the time caused a great debate to ensue at the National Assembly. Article 7 of the Law prescribed that the establishment of the shareholding company may be joined by foreign nationals, but in such a manner that they must not exceed one quarter of the total number of founding members. This actually designated that Serbia was not allowing shareholding companies with the majority of foreign capital in its territory. Sima Lozanic, the then Minister of National Economy and an academician, appealed before the deputies of the National Assembly for this article of the Law to be deleted explaining that "foreign capitalists will not allow for some other persons to manage their business. This provision truly had proven itself to be inconvenient as many shareholding companies that were intended to promote certain of our economic branches, were not even constituted as soon as this Law came into life". [M. Zebic, Akcijsko pravo, 22]. Once the proposal to delete this article was adopted, it was left up to the Minister for National Economy himself to make an assessment as to how many foreign nationals may be allowed amongst the founding members.

banaka "prvi ljudi po imanju i karakteru, pa kad se oni izuzmu, onda nema ko jemčiti zavodu" [M. Zebić, Akcijsko pravo, 81] zbog čega je izglasala ukidanje ovog člana, što je za mnoga akcionarska društva u Srbiji bilo kobno. Zapravo je ovim bila omogućena lažna uplata kapitala s obzirom da su članovi upravnog i nadzornog odbora istovremeno sa osnivanjem banke otvarali sebi i tekuće račune. Kako su mnogi u Srbiji nastojali da se domognu jeftinih kredita *Narodne banke*, osnivali bi društva samo sa neznatnim kapitalom čime se povećavalo opšte nepoverenje prema akcionarskim društvima.

U periodu od donošenja ovog zakona pa do početka Prvog svetskog rata, u Srbiji je bilo osnovano 270 akcionarskih društava od koji je bilo 255 banaka i samo 41 trgovačko, industrijsko i osiguravajuće društvo. Jasno je da čak i sistem prethodnog odobrenja ministra narodne privrede, koji je bio propisan *Zakonom o akcionarskim društvima*, nije uticao na osnivanje ovako velikog broja novih banaka. Sve do 1914. godine, zahtevalo se da osnivačka glavnica za banke u Beogradu bude najmanje 500 hiljada dinara, u ostalim gradovima u unutrašnjosti 200 hiljada i za banke u varošicama 100 hiljada dinara. Ona je morala da bude uplaćena najkasnije u roku od dve godine od osnivanja društva. [M. Zebić, Prestanak i likvidacija, 4-5] Očigledno da je država u nastojanju da uhvati korak sa privredno razvijenijim susednim državama, lako odobravala osnivanje akcionarskih društava, zbog čega su mnoge odredbe ovog odličnog zakona sve do osnivanja Kraljevine Srba, Hrvata i Slovenaca ostale mrtvo slovo na papiru.

## Pokušaji izjednačavanja zakonodavstva o akcionarskim društvima

Nakon završetka Prvog svetskog rata i osnivanja Kraljevine Srba, Hrvata i Slovenaca, postavio se problem zakonskog uređenja rada novčano-kreditnih ustanova. Ove ustanove po svojoj organizaciji inače najraznovrsnije, nisu do tada bile podvrgnute nikakvim zakonskim propisima u pogledu svojih operacija na novčanom tržištu. Važio je samo koncesioni sistem osnivanja, u pogledu kreditnih ustanova kao i u akcionarskom obliku, dok je sloboda poslovanja ostala. Akcionarske banke bile su tada gotovo isključiv oblik u kome su postojali jugoslovenski privatni novčani zavodi. Kada se govori o privatnom bankarstvu Kraljevine Jugoslavije, uvek se misli na akcionarske banke, jer su one predstavljale većinu kreditnog aparata u zemlji, odnosno skoro isključivo neposrednog kreditora privredne delatnosti. Međutim, one nisu poslovale na osnovu jedinstvenog zakona o akcionarskim društvima. Naime, na teritoriji Srbije važio je pomenuti *Zakon o akcionarskim društvima Kraljevine Srbije iz 1896. godine sa izmenama iz 1898. godine*, s tim što je 1922. godine proširen i na teritoriju Crne Gore. Na nekadašnjim teritorijama Austro-Ugarske Monarhije važili su već pomenuti trgovački zakoni u okviru kojih su postojale zakonske odredbe i o akcionarskim društvima. Tako je na teritoriji Slovenije i Dalmacije važio austrijski trgovački zakon iz 1863, a na teritoriji Hrvatske i Vojvodine ugarski zakon iz 1875. godine, koji je sa manjim modifikacijama važio i u Bosni i Hervegovini od 1883. godine. [V. Aleksić, Banka i moć, 31-36]

S obzirom na potencijalnu samostalnost ovakvih društava sa pomenutih teritorija ali i pometnju koja bi nastala primenom ovih različitih zakona, Ministarski savet Kraljevine SHS doneo je novembra 1919. godine odluku da sva akcionarska društva koja se osnivaju ili svoju delatnost proširuju na celu teritoriju države, moraju imati odobrenje Ministarstva trgovine i industrije. [Službene novine Kraljevine SHS, 161, 1919] Ova odluka bila je 1922. godine osnov za donošenje *Zakona o osnivanju akcionarskih društava na teritoriji Hrvatske, Slavonije, Banata, Bačke i Baranje*, kada je osnivanje svih akcionarskih društava zavisilo od odobrenja Ministarstva trgovine i industrije i podlegalo njegovoj kontroli. Ovo Ministarstvo davalo je i specijalna odobrenja u slučajevima kada su se osnivala akcionarska društva koja su bila afilacije stranih preduzeća ili banaka. [F. Kohn, 16]

Uvođenje sistema prethodnog odobrenja, koji je već postojao u pojedinim krajevima zemlje i pre ujedinjenja, bilo je od vema važnog nacionalnog interesa u smislu zaštite razvoja domaće privrede. Naime, odmah nakon završetka rata u Hrvatskoj i Vojvodini (gde nije postojao sistem prthodnog odobrenja) pojavio se ogroman broj stranih društava koji su svoje poslove organizovali kroz osnivanje malih domaćih akcionarska društva uz minimalni osnivački kapital od samo 25 ili 30

While the deletion of Article 7 opened the road for an unobstructed entry of foreign capital into Serbia, the deletion of Article 55 proved to be disastrous for many shareholding companies. Namely, this article of the *Law on Shareholding Companies of the Kingdom of Serbia* prohibited members of the board of directors and those of the supervisory board, as well as the staff employed, to take credit from their own monetary institute. Minister Lozanic, and also the former leading Radical, Pera Todorovic, were unrelenting in their claims that the deletion of this article would be very dangerous and that it would bring into an inequitable position the small depositors who were in a far more dire need of credit, and that they would find it much harder to obtain a credit if the opulent people from the board would keep for themselves higher credit sums. However, the Radical majority was of the view that on the boards of the banks "those prime amongst men are seated both in wealth and in character, and if they are to be exempted, then there would be no one left to provide guarantee for the institute" [M. Zebic, Akcijsko pravo, 81), and voted in favour of the deletion of this article, which was a fatal decision for many shareholding companies in Serbia. This was actually the act that allowed for the false payment of capital in view of the fact that members on the board of directors and on the supervisory board, simultaneously with the establishment of the bank, would be opening also for themselves their current accounts. As many people in Serbia were striving to obtain cheap credits from the *National Bank*, they would establish companies with only a very slight capital thus giving cause for a growing mistrust into the shareholding companies.

In the period from the adoption of this law and up to the eruption of the First World War, there were 270 shareholding companies established in Serbia, among them there were 255 banks and only 41 trading, industrial and insurance companies. It is clear that even the system of previous licensing by the minister of national economy, which was prescribed in the *Law on Shareholding Companies* did not have an impact on the establishment of such a large number of the new banks. Throughout the time up to 1914 it was required that the founding equity capital of the bank in Belgrade shall be not lower than 500 thousand dinars, in other towns in the countryside 200 thousand, and for the banks in the smaller townships 100 thousand dinars. It had to be paid in not later than two years from the establishment of the company. [M. Zebic, Termination and Liquidation, 4-5]. Obviously, the State in its efforts to keep pace with the economically developed neighbouring states, was easily granting licenses for the establishment of the shareholding companies, which caused many of the provisions of this excellent law, all the time until the founding of the Kingdom of Serbs, Croats and Slovenes, to remain just so much ink on paper.

## Attempts to harmonise legislature regulating shareholding companies

After the end of the First World War and the founding of the Kingdom of Serbs, Croats, and Slovenes, the problem emerged of the legislative regulation of the monetary-crediting institutions. These institutions, although the most diversified in the manner of their organisation, have not been until that time subjected to any legal regulations regarding their operation on the money market. The only system that prevailed was the concession founding system regarding credit institutions and in the shareholding form, while the freedom of operation remained unchallenged. Shareholding banks were, at that time, almost the only form embodying Yugoslav private monetary institutes. When speaking of the private banking in the Kingdom of Yugoslavia, the focus is always on the shareholding banks as they were making the majority of the crediting apparatus in the country, i.e. an almost exclusive direct creditor of economic activities. However, they were not operating on the basis of a single law covering all the shareholding companies. Namely, in the territory of Serbia the above mentioned *Law on Shareholding Companies of the Kingdom of Serbia of 1896 with the amendments of 1898* was still in force, although in 1922 it was extended to cover also the territory of Montenegro. In the former territories of the Austro-Hungarian Empire, the above mentioned commercial laws were in force containing within their scope legal provisions on the shareholding companies as well. Thus in the territory of Slovenia and Dalmatia, the Austrian Commercial Law of 1863 prevailed,

hiljada dinara. Radilo se zapravo o kamufliranim stranim ekspoziturama koje su, baveći se isključivo prodajom strane robe ugrožavale rad mnogih domaćih i uglednih preduzeća. S toga je sistem prethodnog odbrenja bio prvi uspešni poduhvat u izjednačavanju državnog zakonodavstva o akcionarskim društvima. Ipak, sledeće planirane etape ovog velikog i važnog procesa neće biti sprovedene ni lako ni brzo. Naime, prva nova promena dogodiće se tek 1930. godine donošenjem *Zakona o izmenama Zakona o akcionarskim društvima od 10. decembra 1896. godine* a biće vezana za izjednačavanja u pogledu prava glasa akcionara. [Službene novine KJ, 29-X, 1930]

U odredbama o akcionarskim društvima svih prečanskih trgovačkih zakona stajalo je da svaka akcija daje pravo na jedan glas i da ne postoje ograničenja u broju glasova. U Srbiji i Crnoj Gori, prema članu 65 i 66 *Zakona o akcionarskim društvima* tri akcije su davale jedan glas, s tim što ni jedan akcionar nije mogao imati više od deset glasova, bez obzira na broj akcija. Posmatrane u duhu vremena kada je ovaj zakon nastao, odredbe su imale svoju važnu ekonomsku i političku svrhu. Na ovaj način su se pre svega štitili interesi malih akcionara, jer su odredbe onemogućavale da se akcionarsko društvo svede na puku formalnost u kojoj će dominirati interesi velikih akcionara; takođe, društva su bila prinuđena da imaju veći broj akcionara čija je kontrolna funkcija u tom smislu bila mnogo ozbiljnija, pa su samim tim i podaci o poslovanju bili transparentniji. Međutim, veliki akcionari su još u vreme Kraljevine Srbije bili „stalno prinuđeni da udešavaju raspored svojih akcija uvođenjem na zbor fiktivnih akcionara, da bi svome učešću u društvenoj glavnici pribavili odgovarajući uticaj". [Narodno blagostanje, 6, 1930] Tako je vršeno javno falsifikovanje volje akcionara iako je prema *Zakonu o akcionarskim društvima,* članom 65 bilo propisano da ukoliko se ustanove ovakve nepravilnosti, može biti poništen rad zbora akcionara, oštećeni akcionari mogu podneti krivičnu tužbu za naknadu štete a članovi upravnog odbora, koji svesno omoguće ovakvu vrstu falsifikata, mogu biti kažnjeni zatvorskim kaznama u trajanju do 5 godina i novčanim kaznama do 10 hiljada dinara. Ipak, prema tvrdnji uglednog međuratnog ekonomskog časopisa *Narodno blagostanje* „u nas se to primalo kao nešto po sebi razumljivo, toliko je život bio razlomio ovaj nerazuman propis i načinio ga zastarelim i nemogućim i smetnjom za razvitak. Ali i to je imalo svojih nezgoda i često udaljavalo skrupulozne ljude od akcionarskih društava". Međutim, članovi 65 i 66 *Zakona* su istovremeno bili veoma problematični i za ulazak stranog kapitala u srpska akcionarska društva. Strani predstavnici nisu ni mogli a ni želeli da se bave „udešavanjima da ne bi bili majorizirani od strane neznatne manjine. Stoga su oni tražili 100% akcija u jednom društvu, inače nisu ulaziti hteli. Tako je bila onemogućena saradnja stranog kapitala sa našim". [Narodno blagostanje, 6, 1930] Problem je postao još očigledniji sa osnivanjem nove, prostrane države u kojoj su sve češće strani kapitalisti, u želji da izbegnu ovakve zakonske regulative, umesto u Beogradu, svoja akcionarska društva osnivali u Zagrebu. Nakon višegodišnjih apela pojedinih srpskih ekonomista i privrednika za izmenom pomenutih odredaba *Zakona o akcionarskim društvima*, to je konačno i učinjeno 1930. godine. Na ovaj način su donete dve krupne i važne novine, od kojih je prva bila da svaki akcionar ima prava i uticaj na tok, rad i život akcionarskog društva srazmerno svom učešću u akcionarskoj glavnici, dok je druga bila da svaki akcionar može na zboru akcionara zastupati više akcionara. Takođe, ovim je preduzet još jedan važan korak ka izjednačavanju zakonodavstva o akcionarskim društvima u Kraljevini Jugoslaviji.

Ohrabreno ovim novim poduhvatom u izjednačavanju državnog zakonodavstva o akcionarskim društvima, Ministarstvo trgovine i industrije Kraljevine, u čijoj je nadležnosti bilo bankarsko-kreditno poslovanje novčanih zavoda u zemlji, preduzelo je mere i za donošenje posebnog zakona o bankama, čime bi se njihov rad i pravno regulisao. Međutim, zbog velike krize jugoslovenskog bankarstva od 1931. godine, kao posledice teške kreditne krize koja je u to vreme vladala u Nemačkoj i Austriji, ovakav zakon nikada nije donet. Umesto njega, usledila je *Uredba o zaštiti novčanih zavoda i njihovih verovnika* i *Uredba o zaštiti kreditnih zadruga i njihovih saveza*, obe donete 22. novembra 1933. godine. [Službene

while in the territory of Croatia and Vojvodina the Hungarian Law of 1875 was in force, which was with slight modifications also prevalent in Bosnia and Herzegovina ever since 1883. [V. Aleksic, Bank and Power, 31-36].

Mindful of the potential independence of such companies in the above mentioned territories, but also the disturbance that would ensue through the implementation of different laws, the Ministerial Council of the Kingdom of Serbs, Croats and Slovenes passed, in November 1919, a decision that all of the shareholding companies that are being established or expanding their operation on to the entire territory of the state, would be required to have permission issued by the Ministry of Trade and Industry [Official Gazette of the Kingdom of SCS, 161, 1919]. This decision, in 1922, served as basis for the adoption of the *Law on Establishment of the Shareholding Companies in the Territory of Croatia, Slavonia, Banat, Backa and Baranja,* when the founding of all of these shareholding companies was dependent on the permission granted by the Ministry of Trade and Industry, and was subject to Ministry's control. This Ministry was also granting special licenses in cases when the shareholding companies were being established as affiliations of the foreign companies or banks [F. Kohn, 16].

Introduction of the system of previous licensing, which already existed in certain parts of the country even before unification, was an extremely important national interest in the sense of protection for the development of the domestic economy. Namely, immediately after the war had ended, what appeared in Croatia and Vojvodina (where there was nosystem of prior licensing) was an enormous number of foreign companies that were organising their business through the establishment of small-sized domestic shareholding companies, with a minimum of the founding capital of only some 25 or 30 thousand dinars. It was actually the case of a camouflage of the foreign branches which were, being in engaged in the sale of foreign goods, jeopardizing the work of many domestic and reputable enterprises. Hence the system of prior licensing was the first successful endeavour in harmonising and equalizing the state legislature on the shareholding companies. Nevertheless, the successive stages planned for this major and important process were not destined to be implemented either smoothly or swiftly. Namely, the first of the changes to emerge was the one of a much later date, in 1930, when the *Law on Amendments to the Law on Shareholding Companies of 10 December 1896* was to be passed, and it would be linked to the harmonisation and equalization of the voting rights of the shareholders. [Official Gazette of the Kingdom of Yugoslavia, 29-X, 1930]

In the provisions prescribed by all the commercial laws passed for the shareholding companies in the territories North of Sava and Danube Rivers it reads that for every one share one voting right is granted and that there are no limitations to the number of votes. In Serbia and Montenegro, under Articles 65 and 66 of the *Law on Shareholding Companies,* three shares were granting one voting right, provided that none of the shareholders could hold more than ten voting rights, regardless of the number of shares in his possession. When observed in the spirit of time in which this law was created, the provisions did have their important economic and political objective. This was primarily the manner in which the interests of small shareholders were protected, as the provisions prevented a shareholding company of coming down to a mere formality in which the interests of large-scale shareholders would be predominant; but the shareholding companies were also forced to have a larger number of shareholders whose control function to that end was much more serious, hence rendering business data more transparent. However, the large-scale shareholders have even as early as the times of the Kingdom of Serbia "constantly forced to manipulate schedule of their shares by introducing into the shareholding meetings fictitious shareholders in order to secure for their share in the social equity capital an appropriate influence". [Narodno blagostanje, 6, 1930]. Thus what was done was public falsification of the will of shareholders, although under the *Law on Shareholding Companies,* in its Article 65, it was prescribed that in case of identifying any such irregularities, the work of the shareholding meeting may be annulled, damaged shareholders being free to file criminal charges for compensation of damages, and members of the board of directors, who have willingly

novine KJ, 278-LXXXII, 1933] One su godinu dana kasnije zamenjene novim uredbama [Službene novine KJ, 272-LXXI, 1934] a imale su za cilj sanaciju i konačno uređenje inače teških prilika u bankarstvu, posebno u oblasti zemljoradničkog kredita.

## Akcijsko pravo i njegove zloupotrebe

U kontekstu analize rada na izjednačavanju zakona o akcionarskim društvima i njegovom prilagođavanju duhu novog vremena, posebnu pažnju treba posvetiti naporima pojedinih međuratnih ekonomista da ukažu na rastuću korupciju i pojavu bankokratije u jugoslovenskom društvu. Tako je poznati ekonomista Nikola Stanarević u uglednom zagrebačkom časopisu *Bankarstvo*, pisao još 1924. godine da je uticaj banaka i bankara na politiku, odnosno zavisnost političara od plutokratije toliki, da se to deset godina ranije nije moglo ni da zamisli. „Banke u Zagrebu finansiraju dnevne listove i sprovode tu svoju politiku i ovde. Naši ministri, aktivni i bivši, javno učestvuju u osnivanju i upravi akcionarskih društava, i ako postoje čak i pisani zakoni koji to zabranjuju... Ima ministara koji imaju neposrednih veza, kao članovi upravnih odbora u desetak novčanih zavoda i velikih akcionarskih preduzeća... U poslednje vreme


nema ni jednog velikog posla da u nj nije umešan kakav istaknuti političar, narodni poslanik ili visoki državni činovnik. Šumska i rudarska preduzeća uzimaju gospodu iz te struke, druga se obraćaju na uticajne ljude iz Uprave Fondova, Državnih Monopola itd. Čak i u Upravi Narodne banke, dolaze, izgleda mi, po onom famoznom ključu koji je nekada utvrđen između radikala i demokrata za broj mesta u kabinetu i policijskih činovnika". Pokazalo se da ni *Zakon o uvođenju državnog računovodstva*, kao ni *Zakon o izboru narodnih poslanika* niti *Činovnički zakon* nisu mogli ovo da spreče. „Intervencije narodnih poslanika, advociranje ministara, angažovanje najbližih srodnika predsednika vlade na svršavanju poslova u raznim ministarstvima, a sve na štetu opštih interesa i državne kase." Zato, po njegovim rečima, više nije mogao da pomogne ni jedan zakon o *ikompatibilitetu* jer se zbog njegovog neprimenjivanja korupcija i dalje širila. „Bankokratija dvojako deluje. S jedne strane pomoću politički ili po položaju uticajnih ljudi (ministri, narodni poslanici, visoki državni činovnici u upravnim odborima) povoljno se uz pomoć države završavaju poslovi: zakupi dobara, skidanje sekvestra; dobijanje šuma, liferacija i koncesija. S druge strane, pomoću takvih banaka, utiče se na listove, kupuju se savesti, dovode se birači u zavistan položaj". [N. Stanarević, 398]

Da bi se ovako štetnim pojavama u ekonomiji i politici zemlje stalo na put, predlagani su različiti načini za njihovo suzbijanje. Dr Janko Hacin, direktor *Prve hrvatske štedionice* kao i *Udruženje banaka u Beogradu* ukazivali su na potrebu uvođenja mera koje bi omogućile da se kreditne prilike, naročito u Srbiji postave na zdraviju osnovu, kao i da se smanje rizici i gubici novčanih zavoda, što je bio neizostavan uslov za smanjenje kamatnih stopa na bankarske kredite. Zapravo, pokazalo se da su, zbog zakonom propisane tajnosti poslovanja ali i nepostojanja kontrole *Narodne banke* nad radom srpskih akcionarskih banaka, mnogi privrednici koji bi ostajali bez novčanih sredstava, kredite tražili i dobijali u čak pet i više banaka istovremeno. „Tu se najedanput pokazuje, da je firma, koja se je smatrala dobrom za 100 hiljada dinara, uživala kredit u tom iznosu ne kod jedne, nego kod pet, deset a u jednom slučaju čak

allowed for such falsification, to be punished by prison sentences in the duration of up to 5 years of incarceration, but also fines of up to 10 thousand dinars. Nevertheless, according to the arguments of a reputable economic journal, *People's Welfare (Narodno blagoslanje),* published between the two Wars, "this was perceived in our ranks as something understandable in itself, showing just how much had life dismembered this unreasonable regulation rendering it obsolete and untenable, and an obstacle to development. Yet this also had its downfalls and had often alienated scrupulous men from the shareholding companies". However, Articles 65 and 66 of the *Law* were concurrently very problematic also for the entry of foreign capital into the Serbian shareholding companies. Foreign representatives were neither able nor willing to engage "in adjustment-manipulation in order to avoid losing majority to an insignificant minority. Hence they demanded 100% shares in any given company, or otherwise were not ready to enter. This rendered impossible cooperation of foreign capital with our domestic one" [Narodno blagostanje, 6, 1930]. The problem became even more evident with the founding of the new, spacious State, in which with growing frequency foreign capitalists, in their will to avoid such legal regulations, instead of in Belgrade, started establishing their shareholding companies in Zagreb. After many years of appeal by certain Serbian economists and businessmen for the amendments to be made to the above mentioned provisions of the *Law on Shareholding Companies,* this was finally done in 1930. In this way, two major and important novelties were introduced, the first one being that every shareholder shall be granted the right and influence on the development, operations and life of the shareholding company in proportion with his share in the shareholding equity capital, while the second one was that every shareholder is free to represent, by proxy, at the shareholders meeting several shareholders. In addition, this designated yet another important step that has been taken towards harmonizing and equalising legislature regulating shareholding companies throughout the Kingdom of Yugoslavia.

Encouraged by this new venture to harmonise state legislature regulating shareholding companies, Ministry of Trade and Industry of the Kingdom of Yugoslavia, that was in charge also for the banking and crediting business of the monetary institutes in the country, undertook measures for the enactment of a special law on banks, in order to regulate legally their work. However, due to a major crisis that erupted in the Yugoslav banking from 1931, as the consequence of the great credit crisis prevailing at that time in Germany and Austria, such a law was never passed. In its stead, what ensued was the *Decree on protection of monetary institutes and their creditors,* and the *Decree on protection of crediting cooperatives and their alliances,* both of them passed on 22 November 1933. [Official Gazette of the Kingdom of Yugoslavia, 278-LXXXII, 1933] One year later, those Decrees were to be replaced by the new regulations [Official Gazette of the Kingdom of Yugoslavia, 272-LXXI, 1934], that were aimed at rehabilitation and final regulation of already very tedious circumstances in the banking, especially in the field of agrarian crediting.

## Shareholding rights and their abuse

In the context of analysis made of the work on equalisation of the law on shareholding companies and its harmonisation with the spirit of new times, particular attention should be paid to the efforts made by certain economists, between the two Wars, in their effort to point out at a growing corruption and the emergence of bancocracy in the Yugoslav society. Thus the renown economist, Nikola Stanarevic, wrote in the reputable Zagreb magazine *Banking*, as early as 1924, that the influence of banks and bankers on the politics, i.e. the dependency of politicians on plutocracy is so massive that it was even completely inconceivable only ten years earlier. "Banks in Zagreb are financing daily newspapers and are conducting their policy even here. Our ministers, both those in active service and the former ones, are publicly participating in the establishment and management of the shareholding companies, although there are even written laws prohibiting this… There are ministers who have direct connections, as members of the board of directors, in dozens of monetary institutes and large-scale shareholding companies… Lately there has been no major deal that did not see involvement of some of

osamnaest banaka. A svaka banka živela je u uverenju da je ona jedini firmin finansijer". [J. Hacin, Obaveštajni kreditni odseci, 6-8] Da bi se srpske banke dovele u međusobni kontakt a u cilju uspešnije odbrane svojih interesa, ukazivano je na primer ljubljanskih banaka koje su svakog meseca slale filijali *Narodne banke* stanje obaveza svojih dužnika i od nje primali izveštaje o stanju njihovih obaveza kod ostalih ljubljanskih novčanih zavoda. Zahvaljujući ovakvim angažovanjima, 1929. godine su uvedeni *Obaveštajni kreditni odseci kod Narodne banke*, koji su umnogome doprineli sređivanju kreditnih prilika u Srbiji.

Za ozbiljnije suzbijanje korupcije u srpskim bankama bilo je potrebno izmeniti odredbe *Zakona o akcionarskim društvima iz 1896. sa izmenama iz 1898. godine* koje su se odnosile na kontrolu rada novčanih zavoda. Naime, organizacija akcionarskih društava je bila takva da pojedini akcionari nisu imali pravne a svi zajedno ni faktičke mogućnosti da kontrolišu rad uprave. Oni su morali da se oslone na nadzorni odbor čije članove su, suprotno praksi u razvijenim zapadnim zemljama, birali članovi uprave. Umesto da kontrolnu funkciju vrše najstručniji ljudi sa najviše poslovnog iskustva, u srpskim bankama su u ove odbore dolazili oni koji su bili „suviše mladi i suviše slabi" da bi se našli u upravnom odboru. „Često nađemo u upravi oca ili strica a u nadzornom odboru sina ili nećaka. Naročito kod akcionarskih banaka, vidimo u upravi redovno direktore a u nadzornim odborima potčinjene im činovnike koji treba da vrše nadzor nad svojim šefovima. Ovaj paradoks postao je pravilo kod kojeg radi njegove pravilnosti više ne osećamo njegovu paradoksalnost. Za paradoks će se napokon smatrati zahtev da se izmeni ova čudnovata, nerazumljiva praksa." [J. Hacin, Nadzorni odbori, 51-53] Ona je, ipak, nakon punih trideset godina od donošenja *Zakona o akcionarskim društvima Kraljevine Srbije* izmenjena. Novi *Trgovački zakon Kraljevine Jugoslavije* iz 1937. godine, pored toga što je na čitavoj teritoriji države dozvolio osnivanje akcionarskih društava sa ograničenom odgovornošću, jasno je precizirao dužnosti i obaveze nadzornog odbora kao kontrolnog organa, a uvedene su i institucije poverenika i spoljašnjeg nadzora društva. [Tauber, L, 627-629, Đ, Mirković, 52. ] Za mnoge srpske banke *Trgovački zakon* došao je suviše kasno, o čemu govori i veliki broj bankrotstava i prinudnih likvidacija, naročito u periodu od 1931. do 1936. godine. Novi svetski rat, koji je na naše prostore stigao četiri godine kasnije, nije ostavio dovoljno vremena da ovaj zakon zaživi u punoj meri da bi zaista mogao da pokaže svu svoju efikasnost.

## Zaključak

Rana pojava ideje o osnivanju akcionarske banke u Srbiji, sa sumom od čak pola miliona dukata, ne govori samo o realno raspoloživoj novčanoj snazi tadašnjeg najimućnijeg sloja društva, nego ukazuje i na činjenicu da su već tada postojali politički, privredni i intelektualni krugovi koji su razumeli značaj akcionarskih banaka u privrednom i društvenom razvoju zemlje. Otuda ne može da čudi što u jednom od najstarijih trgovačkih zakona ovog dela Evrope, *Zakonu trgovačkom za Knjaževstvo Srbiju* iz 1860 godine, nalazimo jasne odredbe o osnivanju upravo akcionarskih društava. Ove odredbe bile su samo zamajac za osnivanje prvih akcionarskih banaka u Srbiji. Međutim, usled slabe akumulacije kapitala, njihova finansijska sredstva nisu bila dovoljna da bi mogla da podmire narastajuće finansijske potrebe srpskih privrednika.

Zato je osnivanje *Privilegovane Narodne banke Kraljevine Srbije*, kao centralne kreditne ustanove koja u svojim trezorima čuva zlato i srebro povučeno iz opticaja i koja na osnovu tog zlata i srebra izdaje, u određenoj srazmeri, veći broj papirnih novčanica, bio od najvećeg značaja za dalji razvoj srpskog bankarstva. Zahvaljujući njoj, domaći kapital se uvećao dva do tri puta, a emisiona ustanova je imala interesa da, zbog emisije novčanica u većoj količini od podloge, daje zajmove po jeftinijoj kamatnoj stopi. Postojeće odredbe *Trgovačkog zakona* morale su biti prilagođene novom duhu vremena u kojem je došlo do masovnog osnivanja novih akcionarskih banaka. Tvorci *Zakona o akcionarskim društvima Kraljevine Srbije* stajali su na stanovištu da je mladoj srpskoj državi potrebniji novi zakon umesto dopuna davno zastarelih odredbi trgovačkog zakona. Inspiraciju su tražili i našli u najboljim evropskim zakonima onog vremena, potrudivši

the outstanding politicians, national deputies or high-ranking state officials. Forestry and mining companies are engaging gentlemen from this profession, while some other ones are contacting influential persons at the Funds Directorate, State Monopolies, etc. Even in the National Bank headquarters, it would appear to me, they are being engaged according to that famous quota or key that was at one time set up between Radicals and the Democrats for the number of posts in the cabinet, and amongst the police force civil servants". It would appear that neither had the *Law on Introduction of State Accounting,* and neither the *Law on Election of National Deputies,* but also the *Law on Civil Servants* were able to prevent this from happening. "Interventions of national deputies, support rendered by ministers, engagement of the nearest of kin of the prime minister for getting things done through various ministries, and all this at the detriment of the general interests and at the expense of the state coffers." Therefore, according to his words, there was no longer any law on *incompatibility* that could have helped because it would have certainly remained unimplemented, and the corruption could freely continue to spread and flourish. "Bancocracy is having a dual action. On the one hand, by aid of political or high-ranking influential people (ministers, national deputies, high-ranking state officials on the board of directors) business deals are being contracted with the aid of the state: property rentals, lifting of sequester, granting of forests, supply and deliveries, and concessions. On the other hand, with the aid of such banks, an influence is exerted on the newspapers, the concience being bought, and the voters brought in a position of dependency." [N. Stanarevic, 398]

In order to put a stop to such detrimental practices in the economy and the politics of the country, different ways have been proposed for their suppression. Dr. Janko Hacin, director of the *First Croat Savings Bank*, but also the *Banking Association in Belgrade* were pointing out at the need to introduce measures that would allow for the crediting environment, especially in Serbia, to be placed on more sound basis, and also to reduce risks and losses of the monetary institutes, which was an obligatory condition for the lowering of the interest rates on banking credits. In actual fact, it appeared that because of the legally prescribed business confidentiality, and also the absence of *National Bank* control and supervision over the Serbian shareholding banks, many businessmen, who have been left devoid of monetary funds, were seeking credit and were receiving it from even five or more banks simultaneously. "Suddenly it would appear that the firm that was deemed to be worth 100 thousand dinars would enjoy credit to that amount granted by not one, but five, ten, and in one case by even eighteen banks. And every bank was living in the delusion and belief that it was the firm's only financier." [J. Hacin, Obavestajni kreditni odseci, 6-8]. That the Serbian banks should be brought into mutual contact for purpose of more successful defence of their interests was illustrated with the example of the Ljubljana banks that were sending, every month, to the branch office of the *National Bank,* the balance sheet of their debtors liabilities and were receiving from it, in turn, the report on the balance of their liabilities with the other Ljubljana monetary institutes. Thanks to such engagements, in 1929 introduced were the *Intelligence Credit Departments at the National Bank*, which have greatly contributed to the proper regulation of the crediting environment in Serbia.

For purpose of a more robust suppression of corruption in the Serbian banks it was necessary to amend provisions of the *Law on the Shareholding Companies of 1896 with the amendments of 1898,* which pertained to the control of monetary institutes. Namely, the organisation of the shareholding companies was such that individual shareholders had no legal options and all of them together neither the factual possibility to control work of the board. They had to rely on the work of the supervisory board whose members were, contrary to the practice applied in the developed Western countries, being elected by the members of the board of directors. Instead of having a control function exercised by the best qualified persons with the highest business experience, in the Serbian banks members appointed to the supervisory boards were those who were "either too young and too weak" for themselves to be found on the board of directors. "We can often find on the board of directors a father or an uncle and in the supervisory board the son, or a nephew. Especially in the case of shareholding banks, we see regularly on the board of directors those who are directors while on the supervisory

se da ga dodatano obogate u delovima koja su za domaće prilike mogli da budu posebno problematični.

Veliki broj propisa i naredbi a veoma malo sankcija, pokazaće se kao ozbiljna slabost ovog zakona u vremenu u kom je Srbija postala deo nove Kraljevine Srba, Hrvata i Slovenaca. Srpska ekonomsko-politička elita, suočena sa novim, velikim i dobro uređenim privrednim i finansijskim tržištem, hvatala je korak sporo i gotovo nevoljno. Ograničavajući svoje poslove uglavnom na teritoriju nekadašnje Kraljevine Srbije, nije uspevala da pravovremeno odgovori na izazove novog vremena, zbog čega je sve češće u ostvarivanju svojih ciljeva pribegavala korupciji i nepotizmu. Oni koji su verovali u srpski preduzetnički potencijal nisu se libili da javno ukažu na ove društvene manjkavosti ali i da ponude dovoljno valjana rešenja koja su vremenom nalazila svoj put do primene, kroz nove zakonodavne okvire.

## Literatura / References


**Knjige i članci / Books and articles**

1. Aleksić, Vesna, Banka i moć, Beograd, 2002. [V. Aleksić, Banka i moć]
2. Aleksić, Vesna, Beogradska zadruga i njena uloga u privrednom razvoju Srbije krajem XIX i početkom XX veka, *Bankarstvo, Časopis Udruženja banaka Srbije*, br. 6, 2012, 108-133. [V. Aleksić, Beogradska zadruga]
3. Đorđević, Miroslav, Pravni transplanti i Srbijanski građanski zakonik iz 1844, Strani pravni život, br. 1, Beograd, 2008, 62-84. [M. Đorđević]
4. Hacin, dr Janko, Nadzorni odbori akcionarskog društva u teoriji i praksi, „Narodno blagostanje“, br. 4, 02.03.1929, 51-53. [J. Hacin, Nadzorni odbori]
5. Hacin, dr Janko, Obaveštajni kreditni odseci kod Narodne Banke, „Narodno blagostanje“, br. 1, 09.02.1929, 6-8. [J. Hacin, Obaveštajni kreditni odseci]
6. Kohn, Feliks, *Trgovački i pravni leksikon*, Osijek, 1937. [F. Kohn]
7. Kostić M. Milivoje, *Uspon Beograda I*, *Poslovi i dani trgovaca, privrednika i bankara u Beogradu XIX i XX veka*, knjiga I, Istorijski arhiv Beograda, Beograd, 1994. [M. Kostić]
8. Mirković, dr Đorđe, Pravna priroda pravila trgovačkih društava (s posebnim osvrtom na akcionarska društva s.o.o), Beograd, 1940. [Đ. Mirković]
9. Mitrović Andrej, *Strane banke u Srbiji 1878 - 1914, politika, progres, evropski okviri*, Stubovi kulture, Beograd, 2004. [A. Mitrović]
10. Niketić, Gojko, Trgovački zakonik i Stecišni postupak Kraljevine Srbije, Beograd, 1923. [G. Niketić]
11. Stanarević, Nikola, Bankarska hronika, „Bankarstvo“ br. 8 1924, 398. [N. Stanarević]
12. Tauber, L, Kontrola kod akcionarskih društava (po nacrtu trgovačkog zakonika), „Narodno blagostanje“, br. 40, 30.09.1933, 627-629. [L. Tauber]
13. Zebić, Milorad, Akcijsko pravo Kraljevine Srba, Hrvata i Slovenaca, Komentari zakona, Beograd, 1928. [M. Zebić, *Akcijsko pravo*]
14. Zebić, Milorad, Prestanak i likvidacija akcionarskih društava, Beograd, 1935. [M. Zebić, Prestanak i likvidacija]

**Neautorizovana izdanja / Non-copyrighted references**

1. *Narodno blagostanje*, Zakon o izmeni zakona o akcionarskim društvima od 10. decembra 1896, br. 6, Beograd, 08.02.1929. [Narodno blagostanje, 6, 1929]
2. *Službene novine Kraljevine SHS*, br. 161, 13.12.1919. [Službene novine Kraljevine SHS, 161, 1919]
3. *Službene novine KJ*, br. 29-X, 07.02.1930. [Službene novine KJ, 29-X, 1930]
4. *Službene novine KJ*, br. 278-LXXXII, 04.12.1933. [Službene novine KJ, 278-LXXXII, 1933]
5. *Službene novine KJ*, br. 272-LXXI, 24.11.1934. [Službene novine KJ, 272-LXXI, 1934]

board seated are their subordinate clerks who are supposed to exercise supervision over their own chiefs. This paradox has now become a rule, and because of its regularity of occurrence we no longer feel how paradoxically it stands. What would probably and ultimately be considered a paradox is the demand for this strange, distorted and confusing practice to be changed." [J. Hacin, Supervisory Boards, 51-53]. Nevertheless, after an entire period of thirty years from the adoption of the *Law on Shareholding Companies of the Kingdom of Serbia*, it was to be amended. The new *Commercial Law of the Kingdom of Yugoslavia of 1937,* in addition to allowing for the establishment of the shareholding companies with limited liability throughout the territory of the State, had also clearly specified the duties and obligations of the supervisory board as a control body, while introducing at the same time institutions of the trustee and of the external supervision of the company. [Tauber, L., 627-629, D. Mirkovic, 52]. For many of the Serbian banks, the *Commercial Law* was too late in coming, as witnessed by a large number of bankruptcies and enforced receiverships, especially in the period from 1931 to 1936. The new world war, which descended on our lands some four years latter, did not allow any sufficient time for this law to be brought into life in its full extent so that it could manifest in full its efficacy.

## Conclusion

An early advent of the idea of the establishment of the shareholding banks in Serbia, with the sum of even as high as half a million ducats, does not speak only of the really available monetary strength of the then most opulent social class, but also points out at the fact that already at that time there existed political, business and intellectual circles that were well aware of the importance that the shareholding banks have in the economic and social development of the country. Thus it is not surprising that in one of the oldest commercial laws to be enacted in this entire part of Europe, the *Commercial Law for the Principality of Serbia* of 1860, we find clear provisions on the establishment actually of those shareholding companies. These provisions were only an impetus for the establishment of the initial shareholding banks in Serbia. However, due to modest accumulation of capital, their financial funds were not sufficient in order to cover the growing financial needs of the Serbian businessmen.

Thus the establishment of the *Privileged National Bank of the Kingdom of Serbia,* as the central credit institution which in its treasury kept gold and silver withdrawn from circulation, and which on the basis of these gold and silver reserves was issuing, in the given proportion, a large number of paper banknotes, was of the highest importance for the further development of the Serbian banking. Thanks to this bank, the domestic capital increased and grew two or three-fold, and the issuing institution had the interest, because of the issuance of banknotes in the higher quantity than the basic reserve, to grant loans at a low interest rate. The prevailing provisions of the *Commercial Law* had to be adjusted to the new mindset of the new times, where a massive establishment of the new shareholding banks was in progress. The authors of the *Law on Shareholding Companies of the Kingdom of Serbia* were of the view that the young Serbian state would be better served with the new law rather than with the amendments to some long-past and obsolete provisions of the commercial law. They were looking for inspiration, and indeed did find it, in the best European laws of that time, striving to provide additional impetus in those parts that for the domestic circumstances could be especially problematic.

The large number of regulations and decrees, yet with very few sanctions, was to become a serious drawback of this law at the time when Serbia became an integral part of the new Kingdom of Serbs, Croats and Slovenes. Serbian economic and political elite, when faced with the new, large and well regulated economic and financial market, started catching pace rather slowly and almost reluctantly. Together with limiting its business operations mainly within the territory of the former Kingdom of Serbia, it did not succeed in providing a timely response to the challenges of the new times, and thus in the achievement of its goals it took a growing recourse to corruption and nepotism. Those who believed in the Serbian entrepreneurial potential did not fail to publicly point out at these social shortfalls, but also to offer viable solutions which in time did find their road to fruition, through the new regulatory framework.