



Ondřej Frinta

Legal Entities



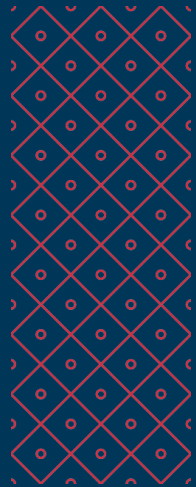
Co-funded by
the European Union





Content

1. Concept and Terminology
2. Historical Development
3. The Doctrine
4. Classification
5. Legal Personality of Legal Entity
6. Legal Capacity of Legal Entity
7. Brief overview of individual legal entities



Chapter 1

Concept and Terminology



Concept and Terminology

Addressees of legal norms:

1) People (and ultimately only them)

2) Other entities capable of holding rights and obligations

= other than people

= Legal Entities

= negative definition: other legal entity than a human being, which is also capable of holding rights and duties (= has legal personality)

(positive definition – see slide 39)

Concept and Terminology

group of persons (both natural and legal)



A new holder of rights and obligations is created

= a new person (in legal, abstract sense of this word) is created



property separated to reach certain purpose



Concept and Terminology

General Civil Code (ABGB 1811)

“moralische Person“ (e. g. Sect. 286)

“moralische Körper“ (e. g. Sect. 1454) (“body“)

Czech translation of ABGB:

both “morální osoba“ (“moral person/entity“; e. g. title of Sect. 26) and “právnícká osoba“ (“legal person/entity“; e. g. Sect. 286, 529)



Concept and Terminology

Civil Code No. 141/1950 Coll.: legal person/entity (“právnícká osoba”; terminology unified)

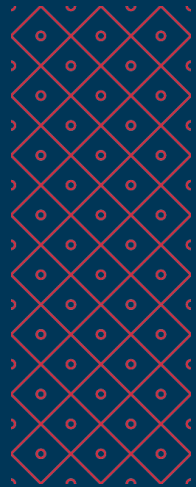
Civil Code No. 40/1964 Coll.: “socialist organisation”

+ instead of “natural person” used the notion “citizen”

+ amendment No. 509/1991 Coll. of Civil Code: replaced “socialist organisation” with “legal person/entity”

The Code of International Trade No. 101/1963 Coll.: legal person/entity (“právnícká osoba”)

Civil Code No. 89/2012 Coll. – legal person/entity



Chapter 2

Historical Development



Historical Development

Roman Law:

*“Neque societas neque collegium neque huiusmodi **corpus passim omnibus habere** conceditur: nam et legibus et senatus consultis et principalibus constitutionibus ea res coercetur. **paucis admodum in causis concessa sunt huiusmodi corpora**: ut ecce vectigalium publicorum sociis permissum est corpus habere vel aurifodinarum vel argentifodinarum et salinarum. item collegia romae certa sunt, quorum corpus senatus consultis atque constitutionibus principalibus confirmatum est, veluti pistorum et quorundam aliorum, et naviculariorum, qui et in provinciis sunt.”*

Dig. 3.4.1 pr. (Gaius 3 ad ed. provinc)



Historical Development

Roman Law:

*“All persons are not permitted indiscriminately **to form corporations**, associations, or similar bodies, for this is regulated by laws, Decrees of the Senate, and constitutions of the Emperors. **Associations of this description are authorized, in very few instances**; as, for example, the **right to form corporations is permitted to** those engaged as partners in the collection of public taxes, or associated together in working gold, silver, and salt mines. There are also certain guilds at Rome whose organization has been confirmed by Decrees of the Senate, and Edicts of the Emperors; as, for instance, those of bakers, and some others, as well as that of ship-owners, which also exists in the provinces.”*

Dig. 3.4.1 pr. (Gaius 3 ad ed. provinc)



Historical Development

Roman Law:

“Quibus autem permissum est corpus habere collegii societatis sive cuiusque alterius eorum nomine, proprium est ad exemplum rei publicae habere res communes, arcam communem et actorem sive syndicum, per quem tamquam in re publica, quod communiter agi fierique oporteat, agatur fiat.”

Dig. 3.4.1.1 (Gaius 3 ad ed. provinc)



Historical Development

Roman Law:

“When persons are allowed to form associations under the title of a corporation, guild, or any other body of this kind, they are, like a municipality, entitled to have common property, a common treasure chest, and an agent or a syndic, and, **as in the case of a municipality, whatever is transacted and done by him is considered to be transacted and done by all.**”

Dig. 3.4.1.1 (Gaius 3 ad ed. provinc)



Historical Development

Roman Law:

*“Si quid **universitati** debetur, singulis non debetur: nec quod debet **universitas** singuli debent.”*

Dig. 3.4.7.1 (Ulpianus 10 ad ed.)



Historical Development

Roman Law:

*“Where anything is owing to a **corporation**, it is not due to the individual members of the same, nor do the latter owe what the **entire association** does.”*

Dig. 3.4.7.1 (Ulpianus 10 ad ed.)

= the initial attempt to transfer human characteristics to another entity



Historical Development

Roman Law:

*“Heres et hereditas tametsi duas appellationes recipiunt, **unius personae tamen vice funguntur (fungitur).**”*

Dig. 41.3.22 (Iavolenus 7 epist.)



Historical Development

Roman Law:

*“An heir and an estate, although they have two different names, **are still regarded as one person.**”*

Dig. 41.3.22 (Iavolenus 7 epist.)



Historical Development

Roman Law:

- 1) The notion of “legal entity“ or“ legal person“ wasn’t used.
- 2) The organization of certain entities was likened to the organization of the state (*Populus Romanus*).
- 3) It was not primarily a matter of distinguishing between entities with and without legal personality, but rather that any association or *societas* were subject to state approval (decrees of Senate or edicts of the Emperors).
- 4) The concept was at the same beginning of its development.

Historical Development

Traditional Interpretation

Association (collegium)  prototype of a legal entity (independent subject)

X

Company (societas)  prototype of an association without legal personality

! This interpretation developed later !



Historical Development

Roman Law:

- 1) Notions like *corpus*, *collegium*, *universitas* were used, but not “legal entity” or “legal person”.
- 2) The organization of certain entities was likened to the organization of the state (*Populus Romanus*).
- 3) It was not primarily a matter of distinguishing between entities with and without legal personality, but rather that any association or *societas* were subject to state approval (decrees of Senate or edicts of the Emperors).
- 4) The concept was at the same beginning of its development.



Historical Development

Development of Foundations – Roman Law:

donation with instructions (what to do with the property, e. g. to use it for funeral ceremony = private purpose)

donation to a corporation with determined purpose for public needs

imperial alimony system = The emperor entrusted his capital to **municipalities** (the emperor remained the owner), which then managed it by providing loans to landowners (at 5 % interest), while securing repayment with a lien on the land (*obligatio praediorum*). The income from these loans again became the property of the emperor, but the municipality had to use it according to his orders so that, by imperial grace, "***pueri puellaeque alimenta accipiant***." (to boys and girls obtain maintenance).

!!! Still not a separate (independent) legal entity !!!



Historical Development

Development of Foundations – Roman Law – Christian emperors:

foundations for charitable purposes, with separate institutions (*pia corpora*) serving a specific purpose directly and **independently**: e. g. hospitals (*nosocomia*), orphanages (*orphanotrophia*), poorhouses (*ptochotrophia*), hostels for travellers (*xenodochia*), for the education of children (*brephotrophia*), etc.

The assets do not belong to the state, municipality, or other corporation, nor to an individual natural person.

These are subjects of rights and legal obligations pertaining to the purpose of the foundation.

+ Christian churches (*ecclesiae*), monasteries (*monasteria*), and other places of worship are also recognized as subjects of their own property.

They may **generally be appointed as heirs** (+ enjoy other legal advantages).

= these are foundations in today's sense of the word



Historical Development

Development of Foundations – Middle Ages:

Guilds

= economic associations that defended the interests of their members

the rights and obligations of individual members were not identified with the rights and obligations of the guild as an association of persons practicing the same craft.

= independent property of a member and of a guild ► **legal personality of a guild**



Historical Development

USA: “personalisation of corporations“

Santa Clara County v. Southern Pacific Railroad: 118 U.S. 394 (1886)

Before argument, MR. CHIEF JUSTICE WAITE said:

*"The Court does not wish to hear argument on the question **whether the provision in the Fourteenth Amendment to the Constitution which forbids a state to deny to any **person** within its jurisdiction the equal protection of the laws applies to these corporations. We are all of opinion that it does.**"*



Historical Development

The beginning of the 19th century

Q: What important happened in terms of industrial development?

“The age of steam“, “The steam age“

= steam engine = development of industry, transport
+ in advance also **overseas voyages**

= the period of social and economic change transforming agrarian and feudal society into an **industrial society**

= need for money to be gathered from smaller investors to large amounts



Historical Development

The beginning of the 19th century

distinction

persons without capital, but competent to carry out this risky venture

X

an investor has free capital and is willing to pool it with others and to invest into a risky venture (oversea voyage, construction of railroad)

= they need to limit their risk and liability as much as possible ► **pressure to institutionally separate part of an individual's assets.** Losses incurred in connection with a separated assets **must not have a negative impact on the investor's remaining assets.**



Historical Development

The beginning of the 19th century

Legal entity as a suitable tool (legal mechanism) for the purpose of isolating a property ► legal entity as a shield between:

- 1) **the investor and the state (sovereign)**, which, by recognizing this entity, this formation, as a legal entity, was forced to tolerate this entity and could no longer interfere in its internal affairs.
- 2) **two masses of assets of one person** (the entire personal property versus the part of it that was invested in a commercial company as a share in it).

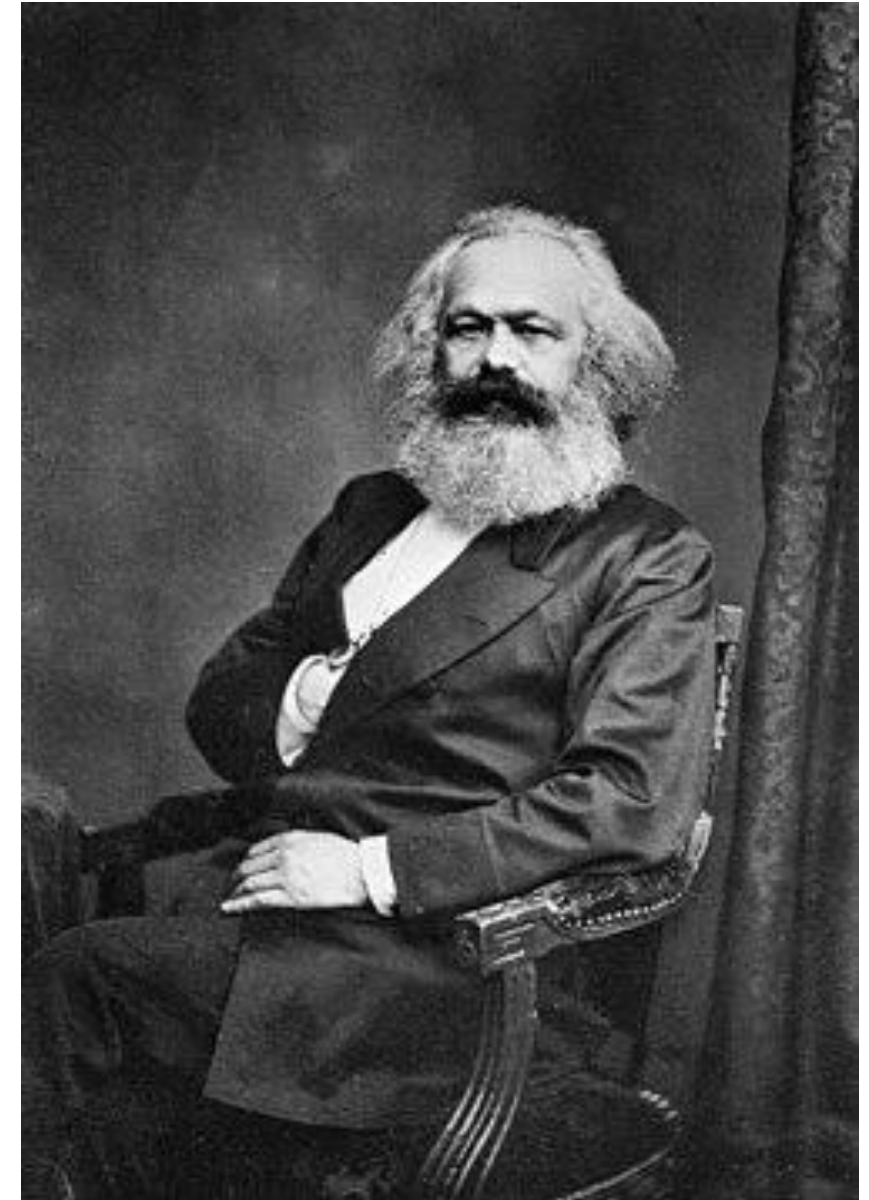
Historical Development

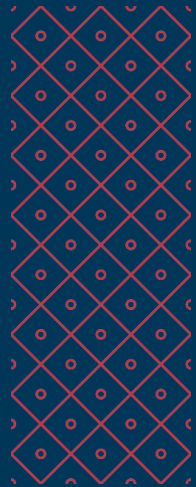
"The world would still be without railways if it had had to wait until accumulation had got a few individual capitals far enough to be adequate for the construction of a railway. Centralization, however, accomplished this in the twinkling of an eye, by means of joint-stock companies.,,

Capital, vol. I, chapter 25

Marx, K. Capital. A Critique of Political Economy. Volume One. Harmondsworth: Penguin Books Ltd., 1976, p. 780.
Available at: <chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://www.surplusvalue.org.au/Marxism/Capital%20-%20Vol.%201%20Penguin.pdf> [visited 2025-12-30].

Picture source: https://commons.wikimedia.org/wiki/File:Karl_Marx_001.jpg [visited 2025-12-30]





Chapter 3

The Doctrine

The Doctrine

Theory of Fiction

Thomas Hobbes

* 5 April 1588, Westport, Wiltshire, England

+ 4 December 1679, Ault Hucknall, Derbyshire, England

Leviathan

(Chapter XVI. of Persons, Authors and Things Personated)

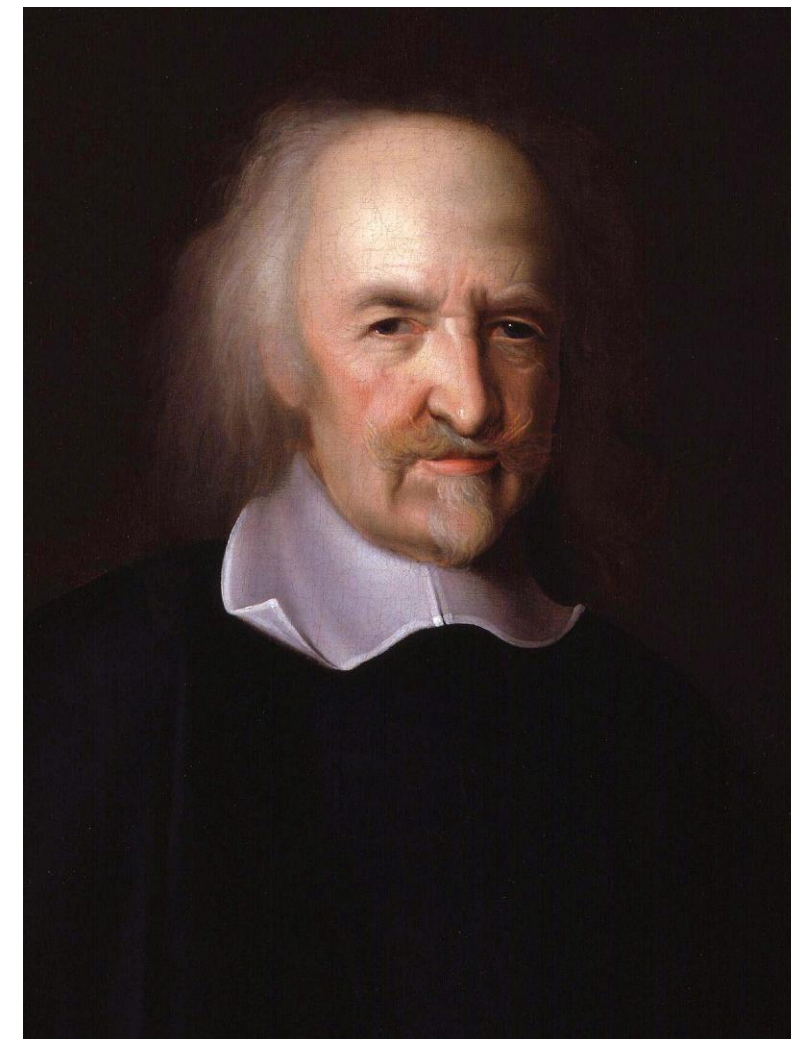
A PERSON, is he “whose words or actions are considered, either as his own, or as representing the words or actions of an other man, or of any other thing to whom they are attributed, whether Truly **or by Fiction**.”

Person Naturall, And Artificiall

“When they are considered as his owne, then is he called a Naturall Person:
And when they **are considered as representing the words and actions of an other, then is he a Feigned or Artificiall person.**”

Hobbes, T. Leviathan or the Matter, Forme, & Power of a Common-wealth Ecclesiasticall and Civil. London: Andrew Crooke, 1651, p. 98.
Available at: <chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://historyofeconomicthought.mcmaster.ca/hobbes/Leviathan.pdf>
[visited 2025-12-30]

Picture source: [https://en.wikipedia.org/wiki/Thomas_Hobbes#/media/File:Thomas_Hobbes_by_John_Michael_Wright_\(colour\)_3x4_cropped.jpg](https://en.wikipedia.org/wiki/Thomas_Hobbes#/media/File:Thomas_Hobbes_by_John_Michael_Wright_(colour)_3x4_cropped.jpg)
[visited 2025-12-30]



The Doctrine

Theory of Fiction

Friedrich Carl von Savigny

* 21 February 1779, Frankfurt am Main

+ 25 October 1861, Berlin

“The will of the supreme power (...) creates artificial legal subjects.”

von Savigny, F. C. System des heutigen Römischen Rechts. Zweyter Band. Berlin: Veit und Comp., 1840, p. 278.

Note: because in terms of the doctrine of natural (innate) rights there comes no other entity to be legal person than a human being

Picture source: https://cs.wikipedia.org/wiki/Friedrich_Carl_von_Savigny#/media/Soubor:Friedrich_Carl_von_Savigny_-_Images_philologorum.jpg [visited 2025-12-30].





The Doctrine

Therory of Fiction

“Der einzelne Mensch trägt seinen Anspruch auf Rechtsfähigkeit in seiner leiblichen Erscheinung mit sich [...].“

“The individual human carries his claim to legal capacity within his living appearance [...].”

Savigny, System, II, p. 277

*“[...] nur der Wille der höchsten Gewalt kann dieselbe erseßen, indem **er künstliche Rechtsubjecte schafft** [...].“*

“[...] only the will of the highest authority can create it by establishing artificial legal subjects [...].“

Savigny, System, II, p. 278

The Doctrine

Theorie von der realen Verbandspersönlichkeit
Theory of Reality (shortly)

Otto Friedrich von Gierke

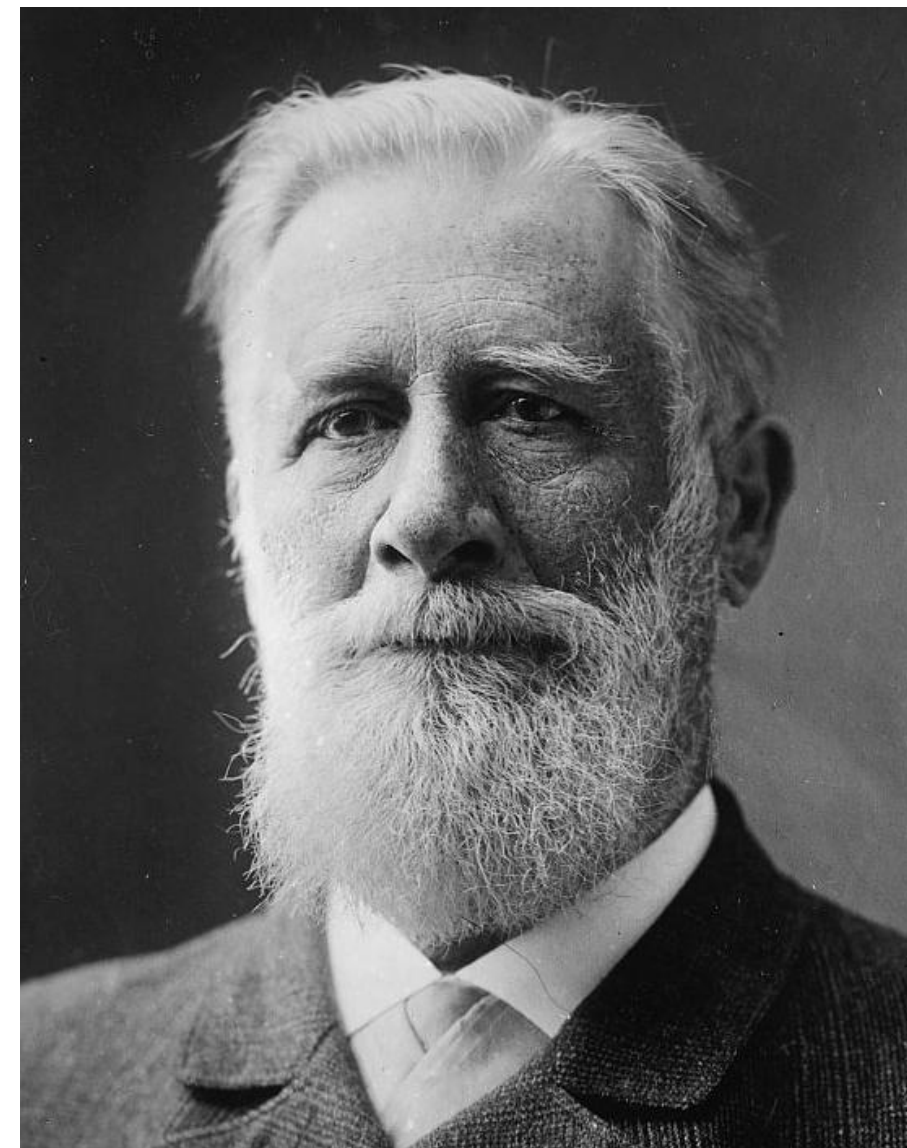
* 11 January 1841, Stettin

+ 10 October 1921, Berlin

“It is real and complete, not merely a fictitious person.”

Gierke, O. Deutsches Privatrecht, unveränderter Nachdruck der 1. Aufl, Bd. 1. München - Leipzig: Duncker & Humblot, 1936, p. 471.

Picture source: https://en.wikipedia.org/wiki/Otto_von_Gierke#/media/File:Otto_von_Gierke_02.jpg [visited 2025-12-30].



The Doctrine

The dispute...

Emanuel Tilsch

* 8 April 1866, Opočno

+ 7 August 1912, Prague

*“The debate over whether legal entities are real or fictitious persons is **completely fruitless**. If the word “person” is understood as a synonym for “legal entity,” then legal entities are real persons; however, if the word “person” is understood as a synonym for “human being,” then they are only fictitious persons.”*

Tilsch, E.: Rakouského práva občanského číst všeobecná. Provisorní vydání. Praha: 1909, s. 81.

Picture source:

[https://cs.wikipedia.org/wiki/Emanuel_Tilsch#/media/Soubor:Emanuel_Tilsch_\(%C4%8Cesk%C3%BD_sv%C4%9Bt,_no._50,_1912\).png](https://cs.wikipedia.org/wiki/Emanuel_Tilsch#/media/Soubor:Emanuel_Tilsch_(%C4%8Cesk%C3%BD_sv%C4%9Bt,_no._50,_1912).png) [visited 2025-12-30]



Fot. Langhans,
Vodičkova ul.

The Doctrine

The dispute...

Jaromír Sedláček

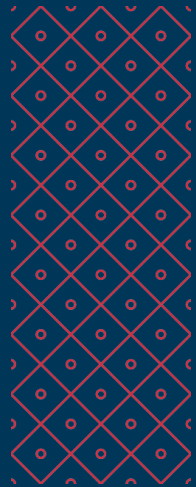
* 2 September 1885, Slavkov u Brna

+ 12 April 1945, Brno

*“The entire body of literature on legal entities is nothing more than variations on **controversial interpretations of Justinian's Digest** on legal entities.”*

Sedláček, J.: Právnícká osoba. Legislativní problém občanského zákoníka. In Právník č. 11/1933, p. 330.





Chapter 4

Classification



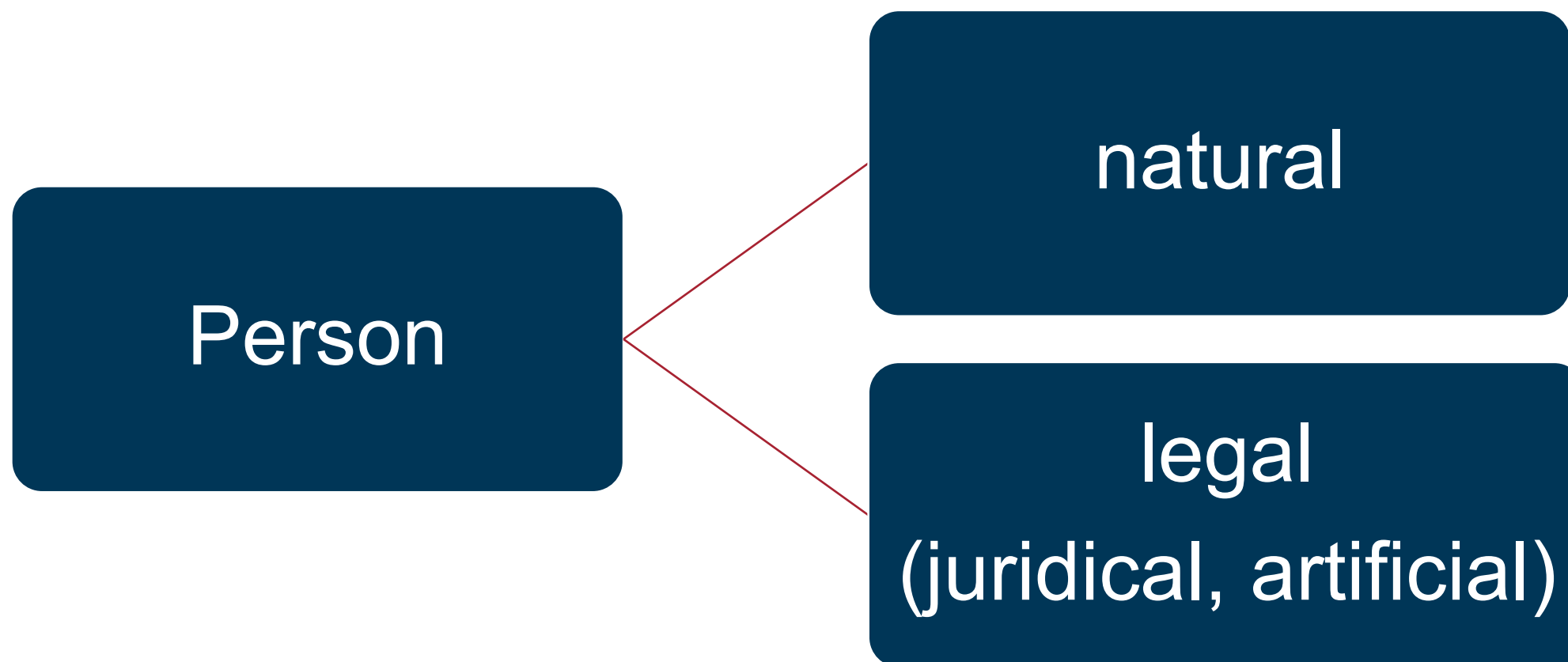
To recall...

Only a person has rights and duties: § 17 CC

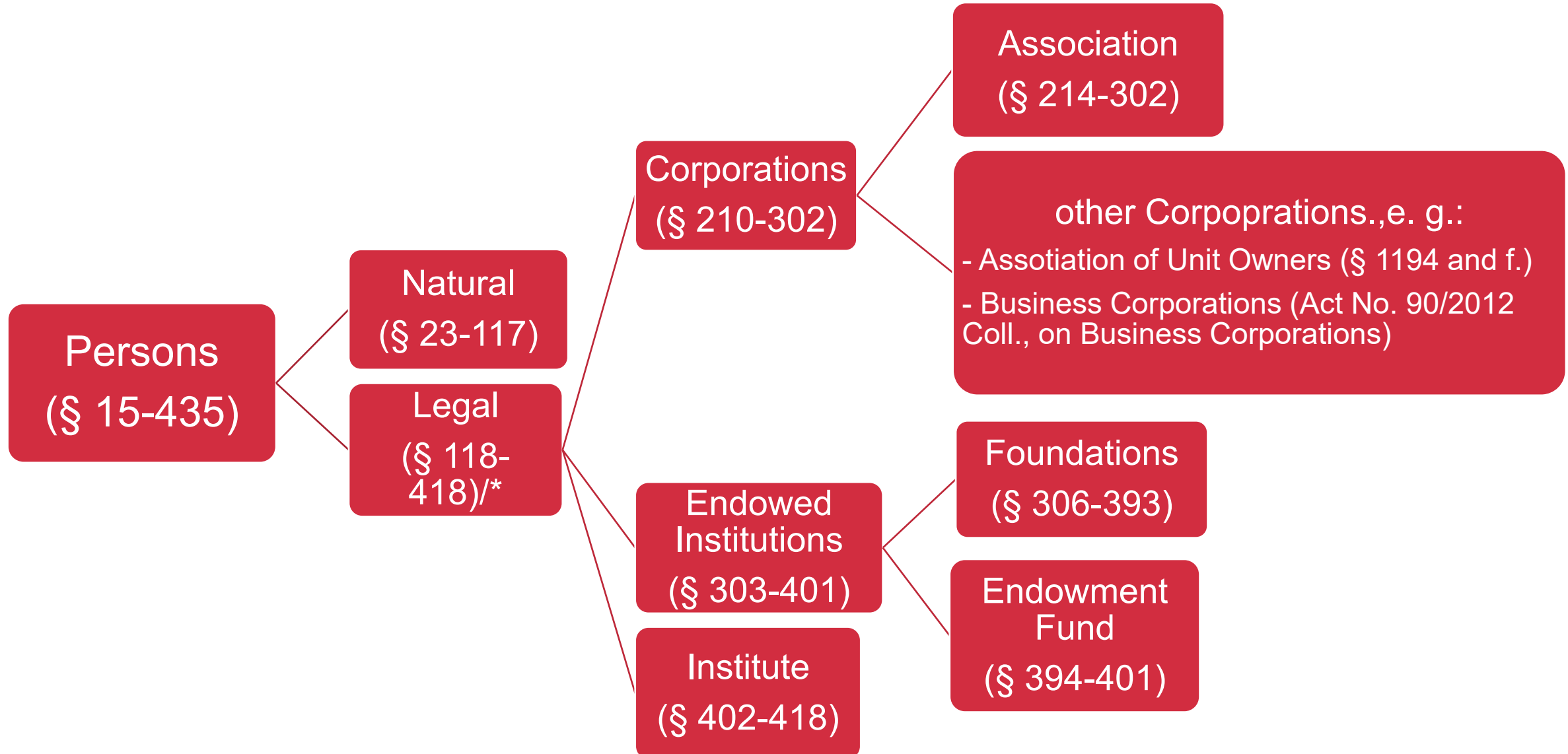
- ▶ Rights and duties can be attributed only to what is a person
- ▶ Person = point of attribution of rights and duties

Abstract concept = do not confuse with a human being!

To recall... Sect. 18 CC



To recall...



/* Sects. 118-209 = general provisions on legal persons



Classification

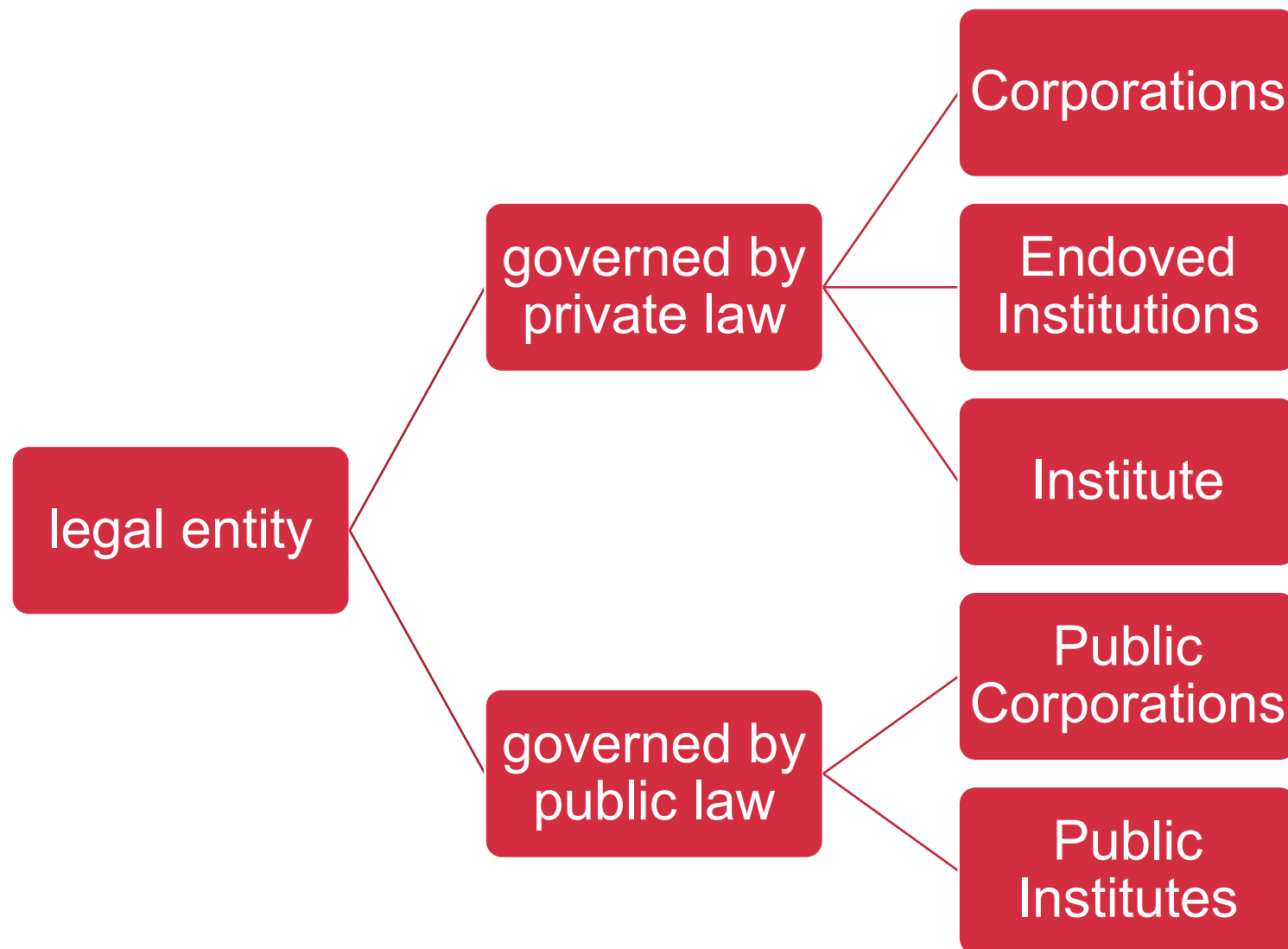
Sect. 20:

(1) A legal person is an organised body whose legal personality **is provided or recognised by a statute**. A legal person may, without regard to its objects of activities, **have rights and duties consistent with its legal nature**.

(2) **Legal persons governed by public law** are subject to statutes under which they have been established; the provisions of this Act only apply if they are consistent with the legal nature of these persons.

= theory of fiction

Classification





Classification

business corporations

non-profit
corporations

commercial companies

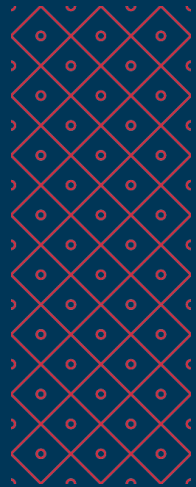
cooperatives

association

association
of unit
owners

partnerships
(„personal
companies“)

capital
companies



Chapter 5

Legal Personality of Legal Entity



Legal Personality of Legal Entity

Defined in Sect. 20 para 1, last sentence

A legal person may, **without regard to its objects of activities, have rights and duties consistent with its legal nature.**

= **General legal capacity** ► **all** rights and duties consistent with its legal nature

X

Ultra vires doctrine = A legal person must not perform acts outside its stated purpose. Acts contrary to this principle are invalid.

(Civil Code does NOT follow this principle IN GENERAL = with some exceptions)



Legal Personality of Legal Entity

Exceptions from general capacity of legal entities:

1) **Subsidiary Association** (Sect. 228 et seq.)

The **legal personality of a subsidiary association derives from the legal personality of the principal association**. A subsidiary association may have rights and duties and acquire them to the extent specified by the articles of association and recorded in a public register.

2) **Association of Unit Owners** (Sect. 1194 et seq.)

may **acquire and dispose of property only for the purpose of** administering the building and tract of land.



Legal Personality of Legal Entity

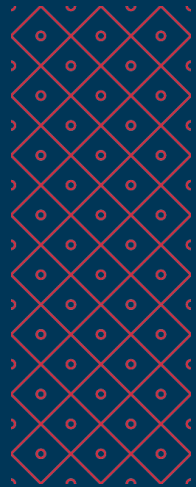
General capacity of legal entity compared with natural person

Legal personality of both is complete in its scope.

Content of legal personality differs:

Legal persons cannot marry, adopt, make a will, etc.

Legal personality lasts from creation to dissolution (Sect. 118)



Chapter 6

Legal Capacity of Legal Entity



Legal Capacity of Legal Entity

Q.: Take into account your knowledge about capacity to perform legal acts (see lecture on natural persons) and think about if legal entity can have legal capacity.

For your help:

To recall Sect. 31

*Any minor who has not yet acquired full legal capacity is presumed to be capable of making juridical acts which are, as to their nature, **appropriate to the intellectual and volitional maturity of the minors of his age.***



Legal Capacity of Legal Entity

Sect. 31

*Any minor who has not yet acquired full legal capacity is presumed to be capable of making juridical acts which are, as to their nature, **appropriate to the intellectual and volitional maturity of the minors of his age.***

- ▶ legal capacity under Czech Civil Code is defined **by intellectual and volitional maturity**
- ▶ ▶ these features are linked only with human being
- ▶ a dispute over legal capacity of legal entity in Czech doctrine



Legal Capacity of Legal Entity

► a dispute over legal capacity of legal entity in Czech doctrine

Opinion no. 1:

Legal entity has no legal capacity, the reason and will are always attributed from a “foreign” person.

E. g. Beran, K. Může být právnická osoba svéprávná? In Právník, 2018, No 8, p. 657 et seq.

Analogy: a child has only partial legal capacity, so there is a representative (usually a parent) who will supply the missing reason and will of the child.

Complies with theory of fiction (legal entity is not real, so it hasn't its own reason and will, even not created e. g. by voting of its members)



Legal Capacity of Legal Entity

► a dispute over legal capacity of legal entity in Czech doctrine

Opinion no. 2:

Legal entity has legal capacity (at least by the virtue of legal fiction)

E. g. (MUZIKÁŘ, Martin. § 15 [Právní osobnost a svéprávnost]. In: PETROV, Jan, VÝTISK, Michal, BERAN, Vladimír a kol. Občanský zákoník. 2. vydání (3. aktualizace). Praha: C. H. Beck, 2024, marg. č. 14. Dostupné na beck-online.cz.)

AT: Case No 5 Ob 10/03m

= it comes from same legal tradition (§ 26 ABGB on legal entity)



Legal Capacity of Legal Entity

AT: Case No 5 Ob 10/03m

Das Grundbuchsgesetz enthalte nun keine näheren Vorschriften, ob und in welcher Form ein urkundlicher Nachweis der Zeichnungsberechtigung der **für eine juristische Person einschreitenden Organe zu erbringen ist**. [...]. Anders verhalte sich der Fall hingegen, wenn eine juristische Person als Vertragspartner auftritt **und nicht deren vertretungsbefugte Organe**, sondern deren Angestellte eine Vertragsurkunde im Vollmachtsnamen der juristischen Person unterfertigen.

The Land Registry Act does not contain any detailed provisions on whether and in what form documentary evidence of the signing authority **of the bodies acting on behalf of a legal entity must be provided**. [...]. However, the situation is different if a legal entity acts as a contractual partner **and it is not its bodies authorized to represent it**, but its employees who sign a contractual document based on a power of attorney of the legal entity.



Legal Capacity of Legal Entity

AT: Case No 5 Ob 10/03m

The Land Registry Act does not contain any detailed provisions on whether and in what form documentary evidence of the signing authority **of the bodies acting on behalf of a legal entity must be provided**. [...]. However, the situation is different if a legal entity acts as a contractual partner **and it is not its bodies authorized to represent it**, but its employees who sign a contractual document based on a power of attorney of the legal entity.

= once the bodies of legal entity are acting ► so the legal entity has legal capacity

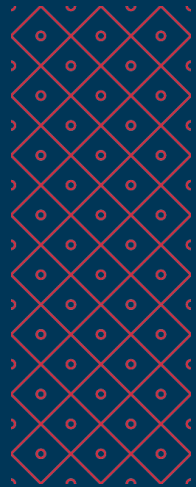
= in other situation legal entity is represented based on a power of attorney



Legal Capacity of Legal Entity

*“It leads to erroneous consequences if a legal entity is designated as completely incapable of performing legal acts. In § 26, sentence 2 (note: ABGB), a legal entity is not equated with an insane (mad, stupid, or child) person, but with a normal person (cf. § 337). [...]. **The term “legal capacity or incapacity” is not at all applicable to a legal entity.**”*

Tilsch, Emanuel. Občanské právo. Část všeobecná. Praha: Všehrad, 1925, p. 138.



Chapter 7

Brief overview of individual legal entities



Brief overview of individual legal entities

Corporation (Sect. 210 et seq.)

A corporation is created as a legal person **by a community of persons**.

A legal person **composed of a sole member is considered to be a corporation**.



Brief overview of individual legal entities

Corporation ► **Association** (Sect. 214 et seq.)

At least **three persons** (*tres faciunt collegium*) driven by a common interest may implement this interest by forming an association as a **self-governing and voluntary** group of members to associate with each other.

- No one may be forced to participate in an association, and no one may be prevented from withdrawing from it.
- Members of an association are not liable for its debts.

Union = associations implement their common interest **by founding a new association**



Brief overview of individual legal entities

Corporation ► **Association** (Sect. 214 et seq.)

The primary activity of an association

= only satisfying and protecting those interests it was formed to implement.

= **not business** or other gainful activities.

The secondary economic activity

= business or other gainful activities if their purpose is to support the primary activity or for the economical use of the association's property.

Profits from the association's activities = only be used for its activities, including the administration of the association.



Brief overview of individual legal entities

Corporation ► **Association of Unit Owners** (Sect. 1194 et seq.)

= legal person formed for the purpose of ensuring the administration of a building and tract of land

= may not directly pursue business activities or be indirectly involved in the business or other activities of entrepreneurs or be their shareholder or member

= membership is indivisibly **connected with the ownership of a unit.**

= **a member is liable as a surety for the debts of the association** of unit owners in proportion to the percentage of his share in the common areas.



Brief overview of individual legal entities

Act 90/2012 Coll., on Commercial Companies and Cooperatives (Business Corporations Act)

business corporations ► commercial companies ► **partnerships („personal companies“):**

participating persons in its business being liable for its debts

► **unlimited partnership** (Sect. 95 et seq.) (“veřejná obchodní společnost”)
at least two persons participating in its business activities or the management of its assets and being jointly and severally liable for its debts

► **limited partnership** (Sect. 118 et seq.) (“komanditní společnost”)
at least one member has limited liability (the “limited partner”) and at least one member has unlimited liability (the “general partner”) for the company’s debts



Brief overview of individual legal entities

Act 90/2012 Coll., on Commercial Companies and Cooperatives (Business Corporations Act)

business corporations ► commercial companies ► **capital companies:**

participating persons in its business **NOT** being liable for its debts

- **limited liability company** (Sect. 132 et seq.) (“společnost s ručením omezeným”)
members are jointly and severally liable for the company’s debts up to the amount at which they have not fulfilled their contribution obligation, pursuant to the record in the commercial register at the time when fulfilment was demanded by a creditor
- **joint-stock company** (Sect. 243 et seq.) (“akciová společnost”)
a company whose registered capital is apportioned among a certain number of shares



Brief overview of individual legal entities

Act 90/2012 Coll., on Commercial Companies and Cooperatives (Business Corporations Act)

business corporations ► **cooperative**: (“družstvo“)

A cooperative shall be a community of an indefinite number of persons, established for the purpose of mutual support of its members or third parties or, where appropriate, for the purpose of doing business.
(Sect. 552 et seq.)

► **housing cooperative** (Sect. 727 et seq.) (“bytové družstvo“)

may only be established for the purpose of securing the housing needs of its members

► **social cooperative** (Sect. 758 et seq.) (“sociální družstvo“)

*continuously carries out activities for public benefit, aimed at supporting social cohesion in order to ensure **labour and social integration of disadvantaged groups into the society**, preferably by meeting the needs and using the resources local to the registered office and sphere of activities of the social cooperative, particularly in the areas of job creation, social services and health care, education, housing and sustainable development*



Brief overview of individual legal entities

Endowed Institutions (Sect. 303 et seq.)

a legal person created **using property designated for a specific purpose.**

Its activities are linked to the purpose for which it has been established.



Brief overview of individual legal entities

Endowed Institutions ► **Foundations** (Sect. 306 et seq.)

to **permanently** serve a socially or economically beneficial purpose. A foundation may have

a publicly beneficial purpose if it aims to promote common welfare, as well as

a charitable purpose if it aims to support a specific group of persons defined individually or otherwise.

business activities allowed if they are **merely secondary** and their proceeds are solely **used to support its purpose** (the founder can exclude this possibility in the foundation charter)



Brief overview of individual legal entities

Endowed Institutions ► **Endowment fund** (Sect. 394 et seq.)

to serve a socially or economically useful purpose

= **not permanently**

= The property of an endowment fund are made up of a set created from contributions and gifts, the subject of **which need not fulfil the condition of generating a permanent yield.**



Brief overview of individual legal entities

Institute (Sect. 402 et seq.)

created for the purpose of **pursuing socially or economically useful activities** using its **personal and property resources**

pursues activities **the results of which are equally available to everyone** under predetermined conditions

The director is the governing body of an institute.



Brief overview of individual legal entities

Public law legal entities

Recall ... Sect. 20 para 2: Legal persons **governed by public law are subject to statutes under which they have been established**; the provisions of this Act only apply **if they are consistent with the legal nature of these persons**.

- 1) public law corporations** (e. g. municipalities, regions; Czech Bar Association)
(established by public act, own assets, personal substrate, exercise public authority)
- 2) public institutes** (e. g. schools, hospitals, museums, libraries)
- 3) funds** (endowment institutions governed by public law, e. g. State Environmental Fund of the Czech Republic)



List of Sources – Civil Code, Case Law

Relevant provisions of Czech Civil Code:

Sects. 15-435

Case law:

USA: Santa Clara County v. Southern Pacific Railroad: 118 U.S. 394 (1886)

AT: OGH Case No 5 Ob 10/03m



List of Sources – Literature

- * Beran, K. Komentář k § 15 až 21. In Švestka, J.; Dvořák, J.; Fiala, J. a kol. Občanský zákoník. Komentář Svazek I. 2. vyd. Praha: Wolters Kluwer ČR, 2020, pp. 69-115.
- * Beran, K. The Concept of Juristic Person. Prague, Warsaw, Bratislava, Budapest: Wolters Kluwer, 2020, p. 66 et seq.
- * Dvořák, J.; Švestka, J.; Zuklínová, M. a kol. Občanské právo hmotné. Svazek 1. Díl první: Obecná část. 2., aktualizované a doplněné vydání. Praha: Wolters Kluwer ČR, a. s., 2016, pp. 267-317.
- * Eliáš, K.; Zuklínová, M. Principy a východiska nového kodexu soukromého práva. Praha: Linde Praha a. s., 2001, pp. 136-148.
- * Frinta, O. Právnícké osoby. Prameny a nové proudy právní vědy no. 40. Praha: Univerzita Karlova v Praze, Právnícká fakulta, 2008, p. 54 et seq.
- * Frinta, O. Private Law in the Czech Republic – Development, Presence and Prospects, In Moon, J.; Tomášek, M. et al. Law Crossing Eurasia. From Korea to the Czech Republic. Passau-Berlin-Prague: rw&w, 2015, pp. 63-89.
- * Gierke, O. Deutsches Privatrecht, unveränderter Nachdruck der 1. Aufl., Bd. 1. München - Leipzig: Duncker & Humblot, 1936, p. 471.
- * Hobbes, T. Leviathan or the Matter, Forme, & Power of a Common-wealth Ecclesiasticall and Civil. London: Andrew Crooke, 1651, p. 98. Available at: <chrome-extension://efaidnbmninnibpcajpcgclclefindmkaj/https://historyofeconomicthought.mcmaster.ca/hobbes/Leviathan.pdf> [visited 2025-12-30].
- * Marx, K. Capital. A Critique of Political Economy. Volume One. Harmondsworth: Penguin Books Ltd., 1976, p. 780. Available at: <chrome-extension://efaidnbmninnibpcajpcgclclefindmkaj/https://www.surplusvalue.org.au/Marxism/Capital%20-%20Vol.%201%20Penguin.pdf> [visited 2025-12-30].
- * Knapp, V. Teorie práva. Praha: C. H. Beck, 1995, p. 70 et seq.
- * Sedláček, J.: Právnícká osoba. Legislativní problém občanského zákoníka. In Právník č. 11/1933, p. 330.
- * Sedláček, J. Komentář k § 26. In Rouček, F.; Sedláček, J. (reds). Komentář k Československého obecnému zákoníku občanskému a občanské právo platné na Slovensku a v Podkarpatské Rusi. Díl první (§§ 1 až 284). Praha: V. Linhart, 1935, p. 247 et seq.
- * Von Savigny, F. C. System des heutigen Römischen Rechts. Zweyter Band. Berlin: Veit und Comp., 1840, p. 277-278.
- * Tilsch, E.: Rakouského práva občanského čist všeobecná. Provisorní vydání. Praha: 1909, s. 81.
- * Tilsch, E. Občanské právo rakouské. Část všeobecná. Praha: Unie, 1910, p. 110 et seq.



List of Sources – Web Pages

https://commons.wikimedia.org/wiki/File:Karl_Marx_001.jpg [visited 2025-12-30]

https://cs.wikipedia.org/wiki/Friedrich_Carl_von_Savigny#/media/Soubor:Friedrich_Carl_von_Savigny_-_Imagines_philologorum.jpg [visited 2025-12-30]

[https://cs.wikipedia.org/wiki/Emanuel_Tilsch#/media/Soubor:Emanuel_Tilsch_\(%C4%8Cesk%C3%BD_sv%C4%9Bt,_no._50,_1912\).png](https://cs.wikipedia.org/wiki/Emanuel_Tilsch#/media/Soubor:Emanuel_Tilsch_(%C4%8Cesk%C3%BD_sv%C4%9Bt,_no._50,_1912).png) [visited 2025-12-30].

https://en.wikipedia.org/wiki/Otto_von_Gierke#/media/File:Otto_von_Gierke_02.jpg [visited 2025-12-30]

https://droitromain.univ-grenoble-alpes.fr/Anglica/digest_Scott.htm [visited 2025-12-30]

[https://en.wikipedia.org/wiki/Thomas_Hobbes#/media/File:Thomas_Hobbes_by_John_Michael_Wright_\(colour\)_ \(3x4_cropped\).jpg](https://en.wikipedia.org/wiki/Thomas_Hobbes#/media/File:Thomas_Hobbes_by_John_Michael_Wright_(colour)_ (3x4_cropped).jpg) [visited 2025-12-30]

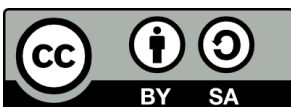
<https://www.archiv.muni.cz/historie-masarykovy-univerzity/osobnosti/historie-rektoru-a-vedeni/70915-jaromir-sedlacek> [visited 2025-12-30]

<https://www.thelatinlibrary.com/justinian.html> [visited 2025-12-30]



The project “ESF+ na UK“, reg. no. CZ.02.02.XX/00/23_022/0008957,
is supported by the Programme Johannes Amos Comenius.

Faculty of Law
nám. Curieových 901/7
116 40 Prague 1
www.prf.cuni.cz



 **Charles University**

