BRATISLAVA LAW REVIEW

PUBLISHED BY
COMENIUS UNIVERSITY BRATISLAVA
FACULTY OF LAW

p-ISSN 2585-7088
e-ISSN 2644-6359

PROPOSALS OF PUBLIC LAW INSTRUMENTS FOR STRENGTHENING THE PRIVATE LAW PROTECTION OF FRANCHISEES

prof. dr hab. Rafał Adamus, PhD.
Department of Commercial and Financial Law
Universty of Opole
plac Kopernika 11A
45-040 Opole, Poland
Collegium Iuridicum
Ul. Katowicka 87a, 45-040 Opole
radamus@uni.opole.pl
ORCID: 0000-0003-4968-459X

Abstract: *There are presented proposals for public law instruments aimed at strengthening the legal protection of franchisees, who are often in a weaker economic position in relation to the organisers of franchise networks. The main objective of the study is to present and discuss ways of legally increasing the effectiveness of franchisee protection, which is currently regulated in private law. The author postulates that regulations in private law are not sufficient due to the strong economic disproportions between the parties to the franchise agreement. Different approaches to the regulation of the franchise agreement can be observed in different legal systems. Many countries do not have detailed legal regulations regarding the franchise agreement, and these agreements are often based on general principles of freedom of contract. However, the need to protect franchisees, who are usually weaker contractors, is increasingly being noticed. International initiatives such as the "UNIDROIT Model Franchise Disclosure Law" were also indicated, which aim to protect franchisees by regulating the information obligations of franchise network organisers. Models of legal regulation of the franchise agreement. The proposals also include more advanced regulations that define the rights and obligations of the parties to the franchise agreement and issues related to unfair competition. The document presents arguments for the introduction of instruments for the protection of franchisees in public law. It was noted that franchising is a phenomenon of social importance that deserves the attention of the legislator. There are also concerns about pathological phenomena in the area of franchising, such as excessive exploitation of franchisees or the risk of unfair practices The document emphasises that franchisees should have access to similar forms of protection for consumers and employee. The document ends with the statement that private law regulations may not be sufficient to protect franchisees. It is proposed that protection in public law should complement private law regulations, which could increase the effectiveness of protecting franchisees' interests.*

Key words: *Franchisee; Franchisor; Collective Interests of Franchisees; Weaker Party; Private Law; Public Law*

Suggested citation:
Adamus, R. (2025). Proposals of Public Law Instruments for Strengthening the Private Law Protection of Franchisees. *Bratislava Law Review*, 9(1), 101-112. https://doi.org/10.46282/blr.2025.9.1.875

Submitted: 28 May 2024
Accepted: 31 March 2025
Published: 08 July 2025

1. PURPOSE OF THE STUDY

The essential aim of this study is to generally present and discuss proposals on how to legally increase the effectiveness of the legal franchisee protection, which is regulated in the private law (Harlow, 1980). The study concerns of possible and universal

legal measures through the special „leverage" of public law institutions.[1] Therefore, the research assumption is the following: if the franchise contract has been regulated in private law (e.g., in the sphere of pre-contractual obligations of the organiser of the franchise network and/or in the sphere of the rights and obligations of the parties to the contract), the level of legal protection of franchisees achieved in this way is not sufficient, due to usually strong economic disproportions between the parties to the franchise contract. The basic research method used in the study will be the formal-dogmatic method.

Franchising as a complex socio-economic phenomenon may be regulated not only by provisions belonging to the group *of ius privatum* rules (civil law or commercial law). With regard to certain issues, franchising is the obvious subject of *ius publicum* direct regulation, in particular in the field of public competition law or tax law (Goyder, 1989). In the study there are shortly presented general remarks on the possible scope of the regulation of the franchising agreement in private law and arguments in favour of increased legal private law protection for franchisees (Adamus, 2024b). Finally, there are recommended some possible universal instruments of public law which could be used to increase the legal protection of all franchisees and only them.

2. EXAMPLES OF LEGAL REGULATION OF FRANCHISING IN PRIVATE LAW IN DIFFERENT LEGAL SYSTEMS

It is necessary to emphasise the economic disproportions between the organiser of the franchise network (a global, regional, national, or even local entrepreneur; with the advantage of practice, experience, economic potential) and the franchisee (very often a natural person for whom franchising is an alternative to an employment contract that protects the employee, see, e.g., Mathewson and Winter, 1985; Klein, 1995). Often, a candidate for a franchisee has no previous experience with running any business at his own risk (Bar-Gill, 2007, p. 749). This applies not only to cases in those countries where franchising is experiencing dynamic development.

Not all legal systems provide for detailed private law regulation of the franchise contract (Teubner, 1991; Abell, 2013; Jankalowa and Jankal, 2004; Sotiroski, 2016; Adamus, 2020, 2022a, 2023). However, a franchise contract may exist in commercial practice without its detailed regulation in private law, simply based on the general principle of freedom of contract. Nevertheless, it is more and more often perceived as a subject of legislation serving mainly to protect the private (personal) interests of franchisees (Kerkovic, 2010, p. 104). Franchisees are – as a rule – economically weaker contractors and mainly for this reason they deserve special legal support through private and public law (Vdovichen and Voroniatnikov, 2019, pp. 27-32). Contemporary conducted research indicates the need for protection of the weaker party of the contract in private law regulations (Micklitz, 2004; Jagielska, 2023, 2024).

Protection of the franchisee against exploitation within the framework of contractual relationships is possible on the basis of general principles of private law (in the absence of specialised legal defence instruments). Nevertheless, it is less effective than with the existence of specialised legal institutions directly devoted to franchise agreement.

[1] It is possible to protect the interests of all franchisees under public competition law completely independently of the regulation of franchising under private law. However, this text is not about traditional public competition law. It is not about protecting competition in general. It is about protecting the collective interests of contractors of franchise network organisers.

The International Institute for the Unification of Private Law (UNIDROIT) recommended the „UNIDROIT Model Franchise Disclosure Law" (2002). UNIDROIT essentially addresses (a) the issue of documents disclosed by the franchise network organiser prior to the conclusion of the agreement and (b) the legal consequences of the network organiser's failure to comply with this obligation (Kerkovic, 2010, pp. 103-118). The proposed model law clearly aims at the legal protection of franchisees (Soliyenko, 2015). The structure of the Model Law, which places strong emphasis on the pre-contractual relationship, is reminiscent of consumer protection standards in European Union law (Cretu and Spasici, 2020, p. 31).

Another international scientific initiative should also be mentioned. „The Draft Common Frame of Reference (DCFR): Part E. Commercial agency, franchise, and distributorship" also addresses the issue of franchising in private law. The document was prepared by the „Study Group on a European Civil Code and Research Group on EC Private Law" („Acquis Group"). This project refers not only to the franchisor's disclosure obligations prior to concluding a franchise agreement, although here the draft regulation is rather modest, but indicates the manner of regulating the rights and obligations of the parties to the franchise agreement as a type of named agreement – *contractus nominatus* (in the case of the franchise distribution model) (Nils and Zimmermann, 2010). The draft indicates that a number of provisions concerning the franchise agreement should take not so much a dispositive form, but the form of mandatory provisions (*ius cogens*) of private law.

The European Union law does not generally address the issue of the civil rights and obligations of the parties to the franchise agreement. In the vast majority of European Union countries, no specific legal regulation concerning the franchise agreement has been adopted (Abell, 2012, p. 19). There is no special regulation codifying franchising as a type of obligation relationship (*contratus nominatus)* in Germany (Cochet and Kumar Garg, 2008), Austria (Spiegelfeld and Krenn, 2008, p. 5), Denmark, Czech Republic (Antonowicz, 2011; Ctibor and Horackova, 2017), Finland, Greece, Portugal, Poland, Slovenia, Slovakia (Petrova, 2020, pp. 30-36). The United Kingdom (ceased to be a member of the European Union) has not adopted any special private rules for franchising activity.

In the second group, there is a minimalist regulation of private-law issues related to the institution of franchising. The legislation boils down to specifying the requirements that are expected from the franchisor in terms of informing franchisee candidates about the franchise network. These laws do not define the rights and obligations of the parties to the franchise agreement. These countries include: Belgium (Wormald and Maude, 2005, p. 3), France (Loewinger and Lindsey, 2006, pp. 11-16), Spain and Sweden. Finally, some countries of the European Union have adopted the original regulation on franchising (Italy, Lithuania, Latvia, the Netherlands, Romania). Franchising is regulated in other countries of the world, such as: Australia (Spencer, 2007, pp. 27-30), China (Jones and Wulff, 2007, p. 57), Vietnam (Nguyen and Wisuttisak, 2023), Brazil (McGahey, 2014), Chile (Carey, Samples and Silva, 2014), USA (Gurnick and Vieux, 1999, p. 37), Argentina (Marzorati, 2001, pp. 43-46), Mexico, Malaysia (Harif and Azhar, 2001), Russian Federation (Nikulin and Shatalov, 2013, p. 89). Therefore, different approaches to the problem of franchising as well as different models of regulation could be observed.

3. POSSIBLE MODELS OF LEGAL REGULATION OF THE FRANCHISE AGREEMENT

The legislator has several options as to the scope of the franchising activity regulation. Legal regulation of the franchising agreement can take place in subsequent

DOI: 10.46282/blr.2025.9.1.875

stages. There is the possibility of the so-called minimalist regulation based on the model law, covering such issues as the protection of franchisees at the pre-contractual stage, i.e.: (a) regulating the franchisor's obligation to provide minimum information about the franchise network provided to the person interested in franchising, including the regulation of the scope of information obligations; (b) regulation of the deadline for the franchisor to provide the information. The legal protection of a franchisee candidate at the pre-contractual stage is an entitlement instrument characteristic of consumer law, which also emphasises consumer protection even before the conclusion of the contract.

The next level is to regulate the franchise taking into account the scope of the model law regulations, as well as additionally defining the rights and obligations of the parties to the franchise agreement. Through such a legislative procedure, the franchise agreement will undoubtedly become a named agreement (*contractus nominatus*). In most cases, the provisions relating to the franchise agreement will be dispositive in nature (such a legal norm applies in the absence of a different will of the parties).

A level that includes a) regulation covered by the model law, b) defining the rights and obligations of the parties to the franchise agreement, and c) regulating other issues related to private law, including typical examples of forbidden acts of unfair competition (in private law) in connection with franchising (for example, offering to others the possibility of joining a franchise network without prior thorough and sufficiently lengthy examination of its business model, and in particular through the organiser of the network or its legal predecessor; significantly different treatment of franchisee applicants and franchisees under similar conditions) goes a step further.

4. ARGUMENTS IN FAVOUR OF FRANCHISEES PROTECTON IN PUBLIC LAW

From an axiological point of view, there are many arguments for regulating protective instruments for franchisees in public law.

1) Undoubtedly, franchising is a momentous social phenomenon that deserves the attention of the legislator. This is evidenced by the number of franchise networks available, as well as the number of people involved in franchising. There is a strong trend of increasing the popularity of franchising (argument referring to the socio-economic significance of franchising).
2) Legal regulation of successive areas of social and economic activity is a natural consequence of the progress and development of the law. Many sorts of commercial activity have been subject to detailed regulation (the argument referring to the civilisational mission of the law).
3) Franchising is a playground of selfish market games focused on maximising profits. As a consequence, it is prone to taking advantage of the actual advantages that exist in business transactions. The natural imperative of business activity is to maximise profits, not social responsibility. Factors such as the global size of some franchise networks, their international nature, the ease of using the services of the best law firms (which is important that procedural law is usually governed by the principle of formal truth), and the length of court proceedings should be taken into account. In such circumstances, the operation of private law norms in the event of a serious civil dispute may not be sufficiently effective (the argument referring to franchising as an instrument of the market game).
4) The last argument for regulation is the existence of pathological phenomena in the field of franchising. The risk of disproportionate exploitation of the franchisee and shifting a disproportionately large part of the costs of market

expansion to the franchisee („slave franchise"), Risk of loosing of initial charges for a not prepared and worthless franchise („black franchise"). The risk of taking away the franchise if the activity is profitable („franchise that does not tolerate success"). The risk of illegal use of *the* franchisor's know-how („franchise theft"), and the risk of lack of competence to run a business on the part of the franchisee („franchise ineptitude") (Dnes, 1992; Adamus, 2024a, pp. 2-9).

The idea of regulating franchise protection in public law has its pros and cons. Any normative regulation is likely to increase the costs of running a business by franchisors (costs resulting from adapting their operations to the new regulations). However, these are not key or critical costs for franchisors' business operations. However, if the legal guarantees are attractive to franchisees, the security of this activity may encourage more candidates to take up the franchise business and consequently translate into profits for franchisors.

5. LEGAL PROTECTION PROVIDED FOR CONSUMERS, EMPLOYEES IN PUBLIC LAW

In the international discussion, the question of whether a franchisee is a consumer or not is more and more often asked (Buchan, 2012; Rodríguez-Yong, 2011; Adamus, 2022b). Paradoxically, the answer to this question is not unambiguous. No doubt, the debate on the international forum is simplistic. This is because it detaches itself from specific concepts, such as "entrepreneur"/"consumer" used in a given legal system. By its very nature, a franchisee is an entrepreneur who is a separate person from the franchisor. Even if a franchisee is a natural person, it does not establish an employment relationship with the organiser of the franchise network. In civil-law transactions, a franchisee acts as an entrepreneur in its own name and on its own risk.

Franchisees are very often natural persons (individuals). The status of franchisees excludes these individuals from being treated as "consumers" or "employees" in their relationship with the network organiser, although the status of a franchisee (who is an individual) is quite similar to a consumer or employee. Meanwhile, consumers and employees enjoy multi-level legal protection. Using an analogy to modern consumer law: mature legal systems not only give the consumer the right to privately file a complaint to the court but also strengthen consumer protection in the public interest by granting specific competences to special public administration bodies in order to protect consumers. From the point of view of the interests of a specific consumer, public law regulations, through their preventive and repressive functions, have an impact on improving consumer service standards. An analogous legal solution can be adopted with regard to strengthening the private law protection of franchisees. Similarly, employees, although the employment contract is subject to private law, enjoy the benefits of legal protection that has its source in public law. Legislators usually do not stop at regulating the employment contract in private law because this is not a sufficient solution. Legislators establish state institutions to control employment conditions, occupational safety, etc.

For the economically weaker party to the legal relationship, theoretically the legal system may offer legal protection to the franchisee a) based on certain consumer protection standards, b) based on certain employee protection standards, c) according to the original concept designed directly for franchising, and d) according to a mixed variant combining the previously mentioned elements.

DOI: 10.46282/blr.2025.9.1.875

Some of the proposed franchisee protection schemes are similar to legal measures used to protect consumers. Consumer law places particular emphasis on protecting the consumer even before a legal relationship is established. Meanwhile, in many legal systems, certain information obligations for a franchisee candidate reduce the scope of permissible advertising and marketing tools in the acquisition of franchisees. In some legal systems, the fundamental rule of civil law *pacta sunt servanda* is weakened in order to protect consumers. This applies to the possibility of easy withdrawal from consumer contracts concluded at a distance and from consumer contracts concluded outside the entrepreneur's place of business (Riefa and Hörnle, 2009). The franchisee is allowed to withdraw from the franchise agreement within a limited period of time.

6. ENTREPRENEUR AS A WEAKER CONTRACTOR

European Union law deals with the issue of protecting the actually weaker party in a legal relationship. However, this is more of an occasional regulation than a systemic one.

However, this is more of an occasional regulation than a systemic one in some special circumstances (Schebesta et al., 2018; Daskalova, 2019, 2020; Knapp, 2020, p. 62). Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain[2] stipulates that: „Within the agricultural and food supply chain, significant imbalances in bargaining power between suppliers and buyers of agricultural and food products are a common occurrence. Those imbalances in bargaining power are likely to lead to unfair trading practices when larger and more powerful trading partners seek to impose certain practices or contractual arrangements which are to their advantage in relation to a sales transaction. Such practices may, for example: grossly deviate from good commercial conduct, be contrary to good faith and fair dealing, and be unilaterally imposed by one trading partner on the other; impose an unjustified and disproportionate transfer of economic risk from one trading partner to another; or impose a significant imbalance of rights and obligations on one trading partner. Certain practices might be manifestly unfair, even when both parties agree to them. A minimum Union standard of protection against unfair trading practices should be introduced to reduce the occurrence of such practices, which are likely to have a negative impact on the living standards of the agricultural community. The minimum harmonisation approach in this Directive allows Member States to adopt or maintain national rules which go beyond the unfair trading practices listed in this Directive". The Directive deals with the prohibition of unfair trading practices. Each Member State shall designate one or more authorities to enforce the prohibitions at national level ('enforcement authority').

7. REGULATION OF PUBLIC PROTECTION OF COLLECTIVE INTERESTS OF FRANCHISEES

There is always a risk that the economically stronger party to the contract will, in practice, ignore private law regulations adopted for the protection of the weaker party of the contract. Incurring liability for a violation of private law requires a lengthy civil trial. At the same time, civil procedures are very often based on the principle of formal truth (which in practice requires considerable activity of the parties to the proceedings) and

[2] Official Journal of the European Union L 111/59.

not on the principle of substantive truth (which requires the court to independently strive to establish objective truth, even with a passive attitude of the party or parties) (Summers, 1999; Kotz, 2003, p. 61). Not always the weaker party will benefit from court protection instruments. Therefore, establishing legal norms of private law is the first level of regulation and ensuring their effectiveness is the next level of legislation. In some circumstances, even the best private regulation of franchising activity may not be effective in practice (Adamus, 2021, 2024b).

There is no doubt that the global standards of franchise law lead to the thesis that franchisees, although they have the status of entrepreneurs, are subject to special legal protection, similar to the protection designed for consumers or employees both in private and public law.

As a consequence, it should be mentioned the following example of legal protection of consumers or employees. A specialised public administration body may take action to determine, prohibit, and eliminate the effects of harmful practices by entrepreneurs in order to protect consumers or employees (who are not individualised). In such cases, the public interest is protected. As a result of the instruments used by the administrative body (including fines for entrepreneurs or fines for decision-makers at entrepreneurs), there is usually some improvement in the standards of treatment of consumers or employees.

One should formulate the proposal of protection of collective interests of franchisees who are natural persons. Legal protection should be implemented by the competent public administration body (bodies). The direct purpose of this idea is to protect the interests of not individualised franchisees (franchisees in general.) It is not about protecting the interests of competing franchise networks (protection of business competitors, protection of the competition itself) or about protecting the interests of consumers (who are customers of franchisees).

The legislator could prohibit in the public law, in a general way, the commercial practices of franchisors violating the collective interests of franchisees. The clarification of prohibition should be made at a general level, using typical general clauses. Therefore, a practice infringing the collective interests of franchisees could be understood as the conduct of an entrepreneur who is the organiser of a franchise network that is contrary to the law or generally accepted ethic rules. It would be necessary to give specific examples of prohibited practices. The legislator should exemplify in particular: breaching the contractual obligation to provide franchisees with reliable, true, properly verified and complete information about the conditions of joining and participating in the franchise network. Another prohibited practice should involve repeated (not exceptional) abuse of certain rights of franchisees. The practice that infringes the collective interests of franchisees should be stipulating contractual penalties, severance fees and other such lump-sum charges for franchisees in excessive, disproportionate amounts; abuse of the right to impose contractual penalties and other lump-sum charges on franchisees. The next example of the practice that infringe the collective interests of franchisees are deeds of unfair competition against franchisees.

The legislator should clarify the concept of collective interest of franchisees. It is not an individual (personal) interest. It is a kind of public interest. The sum of the individual interests of franchisees is not the collective interest of franchisees.

It would be necessary to provide a fundamental norm that in cases of practices infringing the collective interests of franchisees, the competent public authority (special or existing and performing tasks in the field of public competition protection) should be required. The competent administrative authority should have the power to determine that the collective interests of franchisees have been violated; the power to prohibit

DOI: 10.46282/blr.2025.9.1.875

infringement of the collective interests of franchisees; the power to take decisions imposing an administrative penalty; the competence to issue a decision accepting the franchisor's obligation to behave in a specific way (e.g. aimed at removing the effects of infringing the collective interests of franchisees. In the latter case, the authority would not impose an administrative penalty. Decisions of an administrative body should, in accordance with general rules, be subject to review by an administrative court or any other proper authority.

The essence of the concept is the protection of the public interest of franchisees in relation to the collective interests of franchisees. In other words, such a statutory regulation would not protect the individual interests of a particular franchisee, but the interest of franchisees as a whole. The protection of the collective interests of franchisees would have both a punitive and preventive value.

8. CONCLUSIONS

In the modern doctrine of civil law, one postulates: (1) recognition of the protection of the weaker party (without limiting it to the entrepreneur-consumer relationship) as one of the basic principles of contract law; (2) acceptance that the protection of the weaker party does not conflict with the principle of freedom of contract but complements it; (3) adoption in the provisions of contract law (e.g., the general part of obligations) of a regulation protecting the weaker party, e.g., based on the solution found in the Czech Civil Code (Jagielska, 2023, 2024). However, the weaker party to the contract could be protected by public law.

Regulating in the private law issues of franchising activity may not be sufficient. In practice, the exercise of rights before the court is associated with very high costs for franchisees. On the other hand, for franchisors a court dispute does not require considerable expenses. Thus, even the best-written rules of private law may not be effective enough if judicial protection is only illusory.

It should be assumed that public law protection of franchisee interests will rather be a "second-line" regulation. First, the legislator will introduce private law regulation, although parallel regulation of both issues cannot be ruled out.

The "leverage" that increases the effectiveness of private law norms may be public law norms, including the so-called „prohibition of infringing the collective interests of franchisees". However, it is only one of many applicable public law institutions to protect franchisees.

Delegation of competence to the administrative body to examine the manner in which the franchise agreement is performed would be subject to review by administrative courts.

The introduction of this reinforcement may take place at the same time as the introduction of the franchise private regulation into the legal system or as part of the next issue of legal protection.

BIBLIOGRAPHY:

Abell, M. (2012). In which EU Jurisdictions is Franchising Most Heavily Regulated and How Effective/Appropriate is that Regulation. *International Journal of Franchising*, 10(3), 19.

Abell, M. (2013). *The Law and Regulation of Franchising in the EU*. Cheltenham UK, Northhampton USA: Edward Elgar Publishing Limited.

Adamus, R. (2020). *Faktyczna nierówność stron umowy franczyzy w Polsce* [*The actual inequality of the parties to the franchise agreement in Poland*]. Warsaw: Instytut Wymiaru Sprawiedliwości [Institute of Justice]. Available at: https://iws.gov.pl/wp-content/uploads/2020/10/IWS_Adamus-R._Faktyczna-nier%C3%B3wno%C5%9B%C4%87-stron-umowy-franczyzy-w-Polsce.pdf (accessed on 15.06.2025).

Adamus, R. (2021). W sprawie potrzeby uregulowania franczyzy w Polsce [On the need to regulate franchising in Poland]. *Prawo w Działaniu* [*Law in Action*], 48, 120-158, https://doi.org/10.32041/pwd.4805

Adamus, R. (2022). Projekt regulacji franczyzy w Polsce na tle ustawodawstw innych państw [Draft regulation of franchising in Poland in the context of the legislation of other countries]. Warsaw: Instytut Wymiaru Sprawiedliwości [Institut of Justice]. Available at: https://iws.gov.pl/wp-content/uploads/2022/08/IWS_Adamus-R._Projekt-regulacji-franczyzy-w-Polsce.pdf (accessed on 15.06.2025).

Adamus, R. (2022a). Franchise Regulation in the European Jurisdictions as a Basis for Its Adoption in Poland. *Societas et iurisprudentia,* 11(4), 21-48, https://doi.org/10.31262/1339-5467/2023/11/4/21-48

Adamus, R. (2022b). Franczyzobiorca: między konsumentem a przedsiębiorcą. Mity o regulacji franczyzy [Franchisee: Between Consumer and Entrepreneur. Myths about Franchising Regulation]. *Monitor Prawa Handlowego* [*Commercial Law Monitor]*, 2, 30-35.

Adamus, R. (2024a). Konsekwencje prawne wymuszonej sprzedaży przedsiębiorstwa byłego franczyzobiorcy na rzecz organizatora sieci franczyzowej [Legal consequences of the forced sale of a former franchisee's business to the organizer of a franchise network]. *Przegląd Ustawodawstwa Gospodarczego* [*Review of Economic Legislation*], 8/2024, 2-9. DOI: 10.33226/0137-5490.2024.8.1

Adamus, R. (2024b). Koncepcja zwiększenia prywatnoprawnej ochrony franczyzobiorcy poprzez instytucje prawa publicznego [The concept of increasing the private law protection of the franchisee through public law institutions. Monitor Prawniczy]. *Monitor Prawniczy* [*Legal Monitor*], 1, 32- 37.

Antonowicz, A. (2011). Franchising in Poland and the Czech Republic - the comparison of pace and directions of development. *Ad Alta,* 8-11. Available at: https://www.magnanimitas.cz/ADALTA/0102/papers/A_antonowicz_a.pdf (accessed on 15.06.2025).

Bar-Gill, O. (2007). The Behavioral Economics of Consumer Contracts. *Minnesota Law Review,* 92, 749-802. Available at: https://www.minnesotalawreview.org/wp-content/uploads/2011/08/Bar-Gill_final.pdf (accessed on 15.06.2025).

Buchan, J. (2012). *Franchisees as Consumers: Benchmarks, Perspectives and Consequences*. NY: Springer New York, https://doi.org/10.1007/978-1-4614-5614-8

Carey, G., Samples, T. R., Silva, P. (2014). Franchise Law in Chile: Current Issues and Future Outlook. *Law and Business Review of the Americas*, 20(1), 107-118.

Cochet, O. and Garg, V.K. (2008). How Do Franchise Contracts Evolve? A Study of Three German SMEs*. *Journal of Small Business Management*, 46(1), 134-151, https://doi.org/10.1111/j.1540-627X.2007.00236.x

Cretu, G. and Spasici, C. (2020). The Legal Nature of "Pre-Contractul Obligations": Conditions of Validity in the Consumer Contract. *Jurnalul de Studii Juridice*, 15, 30-42.

Ctibor, J. and Horackova, I. (2017). Pre-Contractual Misrepresentation in Franchising in the Czech Republic. *International Law of Journal Franchising*, 15.

Daskalova, V. (2019). The New Directive on Unfair Trading Practices in Food and EU Competition Law: Complementary or Divergent Normative Frameworks?, *Journal of European Competition Law & Practice*, 10(5), 281–296, https://doi.org/10.1093/jeclap/lpz032

Daskalova, V. (2020). Regulating Unfair Trading Practices in the EU Agri-food Supply Chain: A Case of Counterproductive Regulation?. *Yearbook of Antitrust and Regulatory Studies*, 13(21), 7-54, https://doi.org/10.7172/1689-9024.YARS.2020.13.21.1

Dnes, A. (1992). 'Unfair' Contractual Practices and Hostages in Franchise Contracts. *Journal of Institutional and Theoretical Economics (JITE)/Zeitschrift für Die Gesamte Staatswissenschaft*, 148, 484-504.

Goyder, J. (1989). *Business format franchising and EEC competition law.* Florence: European University Institute.

Gurnick, D. and Vieux, S. (1999). Case History of the American Business Franchise. Oklahoma City University Law Review, 37(24).

Harif, M. and Azhar, M. A. (2011). The structure of a franchise disclosure document for a new franchise system in Malaysia. In: Harif, M. et al. (eds.), *Australian and New Zealand Marketing Academy Conference , 1st - 5th December 2001*. Auckland New Zealand: Massey University Albany Campus.

Harlow, C. (1980). "Public" and" Private" Law: Definition Without Distinction. *The Modern Law Review*, 43(3), 241-265, https://doi.org/10.1111/j.1468-2230.1980.tb01592.x

Jagielska, M. (2023). Ochrona słabszej strony obrotu a zasada swobody umów [Protection of the weaker party in trade and the principle of freedom of contract]. *Kwartalnik Prawa Prywatnego* [*Private Law Quarterly*], XXXII(2), 231-250.

Jagielska, M. (2024). *Strona słabsza umowy i jej ochrona [The weaker party to the contract and its protection*]. Warsaw: C. H. Beck.

Jankalowa, M. and Jankal, R. (2004). National legislation related to franchising and its aspects in condition of selected countries. *Journal of Information, Control and Management Systems*, 2(1), 1-10.

Jones, P. and Wulff, E. (2007). Franchise Regulation in China: Law, Regulations, and Guidelines. *Franchise Law Journal*, 27(1), 57-63.

Klein, B. (1995). The economics of franchise contracts. *Journal of corporate finance*, 2(1-2), 9-37, https://doi.org/10.1016/0929-1199(95)00003-Q

Knapp, M. (2021). Protection of a Weaker Party in Public Interest – Material Scope of the Directive on Unfair Trading Practices in Business-to-Business Relationships in the Agricultural and Food Supply Chain. *Public Governance, Administration and Finances Law Review*, *5*(1), 62–72. https://doi.org/10.53116/pgaflr.2020.1.4

Kotz, H. (2003). Civil justice systems in Europe and the United States. *Duke Law School Public Law and Legal Theory Research Paper Series Research Paper No. 50* December 2003, http://dx.doi.org/10.2139/ssrn.471241

Loewinger, A.P. and Lindsey, M.K. (2006). *International Franchise Sales Laws*. American Bar Association.

Marzorati, O.J. (2001). Argentina: New State Legislation that Curtails Franchise Expansion. *International Journal of Franchising and Distribution Law*, 3.

Mathewson, F. and Winter, R. (1985). The economics of franchise contracts. *The Journal of Law and Economics*, 28(3), 503-526.

McGahey, K. (2014). Update: franchising in Brazil. *Law and Business Review of the Americas,* 20(1), 95-105.

Micklitz, H. (2004). The principles of European contract law and the protection of the weaker party. *Journal of Consumer Policy*, 27(3), 339-356.

Milenkovic Kerkovic, T. (2010). The Main Directions in Comparative Franchising Regulation – Unidroit Initiative and its Influence. *European Research Studies*, XIII (1), 103-118. DOI: 10.35808/ersj/260

Nguyen B. B, and Wisuttisak, P. (2023). Critical Assessment and International Comparisons of Vietnam's' Franchise Law. *Baltic Journal of Law & Politics*, 16(3), 455-470. DOI: 10.2478/bjlp-2023-0000039

Nikulin, E.D. and Shatalov, A. I. (2013). Franchising in Russia: does an optimal franchise proportion exist? *Asian Journal of Business Research*, 3, 1-17, DOI: 10.14707/ajbr.130015

Nils, J. and Zimmermann, R. (2010). 'A European Civil Code in All But Name': Discussing the Nature and Purposes of the Draft Common Frame of Reference. *Cambridge Law Journal*, 69(1), 98-112.

Petrova, Z. (2020). Protection of franchisees in the United States and Europe. Lessons for Slovakia (LL.M. Capstone Thesis). Budapest: Central European University.

Riefa, Ch. and Hörnle, J. (2009). The Changing Face of Electronic Consumer Contracts In the 21st Century: Fit for Purpose?. *Law and the Internet* (Hart Publishing), pp 89-119. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3361199 (accessed on 15.06.2025).

Rodríguez Yong, C.A. (2011). Abusive Clauses in Concession Agreements from the U.S. Perspective. *Vniversitas*, *60* (122), 519–540, https://doi.org/10.11144/Javeriana.vj60-122.cccd

Schebesta, H., Verdonk, T., Purnhagen, K. P. and Keirsbilck, B. (2018). Unfair Trading Practices in the Food Supply Chain: Regulating Right? *European Journal of Risk Regulation*, *9*(4), 690–700. doi:10.1017/err.2019.2

Soliyenko, J.S. (2015). The Regulation of Pre-contractual Franchise Disclosure in the European Union. Visegrad Journal on Human Rights, 2, 69-73. Available at: https://dspace.uzhnu.edu.ua/jspui/bitstream/lib/11124/1/%D0%A1%D0%A2%D0%90%D0%A2%D0%A2%D0%AF%20%D0%92%D1%8B%D1%88%D0%B5%D0%B3%D1%80%D0%B0%D0%B4%20%E2%84%96%202%202015%20The%20Regulation%20of%20Pre-contractual%20Franchise%20Disclosure%20in%20the%20European%20Union.pdf (accessed on 15.06.2025).

Sotiroski, L. (2016). EU Perspective of the Legal and Economic Aspects of Franchising. *International Journal of Sciences: Basic and Applied Research (IJSBAR)*, 25(1), 314-326.

Spencer, E.C. (2007). The regulation of the franchise relationship in Australia: a contractual analysis. Bond University: Doctoral thesis.

Spiegelfeld, B. and Krenn, M. (2008). Termination of Master Franchise Agreements in Austria. *International Law Journal Franchising*, 7(6), 17-18.

Summers, R. (1999). Formal legal truth and substantive truth in judicial fact-finding--their justified divergence in some particular cases. *Law and Philosophy*, 18(5), 497-511.

Teubner, G. (1991). Beyond contract and organization? External liability of franchising systems in German law. In: Ch. Joerges (ed.), *Franchising And The Law: Theorectical And Comparative Approaches In Europe And The United States* (105-132), Baden-Baden. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=896501 (accessed on 15.06.2025).

Vdovichen, V. and Voroniatnikov, O. (2019). Franchise agreement in Romania as a form to provide economic efficiency of business activity. *Baltic Journal of Economic Studies*, 5(1), 27-32. DOI: 10.30525/2256-0742/2019-5-1-27-32

Wormald, C. and Berthoumieux, M. (2005). Belgian Franchise Law. *International Law Journal Franchising*, 3.