

1. Business law: institutions, systems and legal reasoning

- Economic, political and legal systems are interdependent. Economic organisation concerns production and exchange; political institutions allocate public power; law defines rights, obligations and enforceable rules. Property rights, contract enforcement and predictable courts reduce commercial uncertainty.
- Separation of powers: the legislature adopts laws, the executive implements them, and the judiciary resolves disputes and reviews legality. Judicial independence, legal certainty and effective administrative control are important conditions for investment.
- Civil law and criminal law have different functions. Civil law typically addresses private rights, contracts, property and compensation; criminal law concerns offences prosecuted in the public interest and sanctions such as fines or imprisonment. Procedures and standards of proof differ.

The three major legal traditions

- Common law developed through English courts. Judicial precedent (stare decisis) is central, but statutes are also fundamental. Equity developed alongside common law to supply distinct remedies and principles. England and Wales and the United States should not be treated as one uniform legal system.
- Civil law draws on Roman law and codification. Codes and legislation are the primary organising sources; courts interpret and apply them. France, Germany and Poland belong to this broad tradition, although their rules and institutional structures differ.
- Religious legal systems, including Sharia-based systems, may draw legal norms from religious sources and their interpretation. Their actual relationship with state law differs substantially across jurisdictions.

Key vocabulary

- Legal personality means being a distinct legal person. Legal capacity concerns the ability to hold rights and obligations. Neither concept automatically means that members enjoy limited liability.
- Internal management (“conduct of affairs”) concerns who decides how the enterprise operates; external representation concerns who can legally bind it in dealings with third parties.
- Partnership and company are used as comparative teaching categories in this course, not as universal translations of national statutory classifications.

2. How modern business organisations emerged

Contractual cooperation and merchant partnerships

- Roman *societas* was a consensual contract for a common purpose; it did not create a separate legal person. Its roots include the family property community (*consortium ercto non cito*), later voluntary associations and *societas omnium bonorum*.
- The Roman contractual model influenced European civil codes through the reception of Roman law. The Polish *spółka cywilna* retains a particularly clear contractual structure; the modern German GbR has developed its own external legal capacity.
- General commercial partnerships arose more directly from medieval merchant households and the northern Italian *compagnia*. The central innovation was an externally recognisable firm, mutual representation in commerce and partners' personal liability.
- The classic sequence is common name → common business → common liability. Its descendants include the French SNC, German OHG and Polish *spółka jawna*.

Capital accumulation and incorporated enterprise

- Large trading ventures required durable pooled capital. Chartered and joint-stock enterprises, including the Dutch VOC and English trading companies, contributed to the development of transferable shares, continuity, distinct organisation and separation of owners from managers.
- Limited liability became a general feature gradually; it was not an automatic attribute of every early joint-stock venture. Modern company law makes large-scale capital raising possible without making every investor a manager.
- The private limited-liability company is a later response to small and medium-sized business needs. The German GmbH of 1892 was a decisive innovation: separate legal personality and limited liability without the full structure of a large *Aktiengesellschaft*.
- French SARL, Polish *sp. z o.o.*, UK private Ltd and US LLC solve similar commercial problems through legally different mechanisms.

Five recurring organisational solutions

- General partnership: active partners, flexible management, broad personal liability.
- Limited partnership: active general partners plus limited-risk investors.
- Joint-stock company/corporation: transferable shares, separate personality, professionalised governance.
- Private or simplified limited-liability company: liability shield with more flexible or closed ownership.
- Professional limited-liability structure: tailored governance and liability for professional practices.

3. French law: partnerships

Principal sources include the Code de commerce and Code civil. Registration in the Registre du commerce et des sociétés (RCS) generally gives registered commercial sociétés legal personality. French terminology does not map perfectly onto English “partnership” and “company”.

Société en nom collectif (SNC)

- Registered commercial partnership; at least two partners, who have commerçant status. No general minimum capital. Contributions may include money, assets or services.
- One or more gérants manage and represent the SNC. Profits and losses follow the agreement, subject to mandatory limits. Partners have personal, unlimited, joint and several liability for partnership debts, subject to creditor-demand rules.
- Closest analogues: German OHG, Polish spółka jawna and UK general partnership. Unlike an ordinary partnership in England and Wales, the registered SNC has legal personality.

Société en commandite simple (SCS)

- Two categories: commandités (general partners) and commanditaires (limited partners). General partners manage and bear unlimited liability; limited partners normally risk their contribution.
- The gérant represents the partnership. Commanditaires must not perform external management acts; statutory liability consequences may follow. A contribution consisting solely of services is not permitted for a commanditaire.
- Functional analogues: German KG, Polish spółka komandytowa, UK and US limited partnership.

Société en participation

- Unregistered contractual partnership without legal personality. The participants arrange contributions, management and allocation of results by contract.
- A participant generally contracts in their own name; liability of others depends on particular circumstances. It illustrates cooperation without incorporation or separate legal subjectivity.

Société en commandite par actions (SCA)

- A share-based hybrid combining commandités, who carry unlimited liability and have a management role, with shareholders/commanditaires whose financial exposure is limited. It is functionally comparable to German KGaA and Polish spółka komandytowo-akcyjna.

Comparative reminder

Legal personality, liability and management are three separate questions. A registered SNC has legal personality but still exposes its partners to unlimited liability; a société en participation has no separate legal personality at all.

4. French law: companies and governance

Société anonyme (SA)

- Classic share company with legal personality; minimum capital generally €37,000. Ordinarily at least two shareholders (seven for listed shares). Shareholders' risk is normally limited to subscribed capital.
- The SA can adopt two governance models. In the conseil d'administration model, the board sets strategic direction and supervises implementation; executive direction and external representation belong principally to the directeur général, either separately or combined with the chair as PDG.
- In the dualist model, the directoire manages and the conseil de surveillance supervises. Do not confuse supervision with day-to-day management. Dividends depend on distributable profits and shareholder decisions.
- Functional counterparts: German AG, Polish S.A., UK plc and US corporation. Unlike the German AG, the French SA offers a choice between governance models.

Société par actions simplifiée (SAS) and SASU

- The SAS is a flexible share company with broad contractual freedom in internal governance. A président is mandatory and represents it externally; other organs may be designed in the statutes. SASU is its single-shareholder version.
- There is no general €37,000 minimum capital for SAS. The form is attractive for closely held businesses, investment arrangements and subsidiaries. Compare US LLC for flexibility, but not as an exact legal equivalent.

Société à responsabilité limitée (SARL) and EURL

- SARL is a closely held limited-liability company. Members' exposure is generally limited to their contributions; its capital and governance are more structured than SAS, with one or more gérants conducting and representing the company.
- EURL is the single-member SARL. Functional counterparts include German GmbH, Polish sp. z o.o. and UK private Ltd; however, capital, share-transfer and governance rules differ.

The essential French contrast

- SA: traditional joint-stock company, suitable for more institutionalised governance and capital raising.
- SAS/SASU: share company with high flexibility in internal organisation.
- SARL/EURL: private limited-liability model with more standardised statutory governance.

The French one-tier SA still distinguishes the board's strategic and oversight functions from executive direction. It should not be described as though every board member personally runs the company.

5. German law: partnerships

Main sources: BGB (GbR), HGB (OHG, KG, stille Gesellschaft), PartGG (professional partnerships). The MoPeG partnership reform took effect on 1 January 2024; older accounts of GbR legal capacity and partnership assets may be outdated.

Gesellschaft bürgerlichen Rechts (GbR)

- Contractual association of at least two persons pursuing a common purpose. An external rechtsfähige GbR can acquire rights and incur obligations in its own name; an internal GbR does not operate as a separate external legal subject.
- Registration in the Gesellschaftsregister is generally optional, though relevant to certain transactions; a registered entity uses eGbR. Partners can contribute assets or services. Management and representation follow statutory defaults subject to valid agreement.
- Partners remain personally and jointly and severally liable. Compare Polish spółka cywilna, which lacks separate civil-law legal subjectivity.

Offene Handelsgesellschaft (OHG)

- Registered general commercial partnership operating under a common firm. Each partner generally participates in ordinary management and has individual external representation unless valid alternative arrangements apply.
- No general minimum capital; all partners bear personal, unlimited, joint and several liability. Polish counterpart: spółka jawna, with a distinctive subsidiary enforcement mechanism against partners.

Kommanditgesellschaft (KG)

- At least one Komplementär (unlimited liability, management) and one Kommanditist (limited liability, ordinarily outside daily management). General partners represent the KG.
- For limited partners, distinguish the promised contribution (Pflichteinlage) from the registered liability amount (Haftsumme). Compare Polish spółka komandytowa and French SCS.

Other partnership forms

- Stille Gesellschaft: a silent investor participates contractually in another person's business without creating an outward-facing partnership entity; no direct Polish KSH counterpart.
- Partnerschaftsgesellschaft (PartG): a registered professional partnership, with special liability variants such as PartG mbB; compare Polish spółka partnerska, but do not assume identical protection.
- Kommanditgesellschaft auf Aktien (KGaA): hybrid with share capital and at least one personally liable general partner; compare French SCA and Polish SKA.

6. German and Polish capital companies

Gesellschaft mit beschränkter Haftung (GmbH)

- Separate legal person, typically used for closely held business. Minimum share capital is generally €25,000; the entrepreneurial company UG (haftungsbeschränkt) is a special GmbH variant with different capital and reserve rules.
- Shareholders' meeting takes fundamental ownership decisions. One or more Geschäftsführer manage and represent the GmbH. Shareholders are generally not personally liable merely because they own shares.
- Polish counterpart: spółka z ograniczoną odpowiedzialnością, also a separate legal person with limited shareholder liability, but with its own minimum capital, formation and governance rules.

Aktiengesellschaft (AG)

- German joint-stock company, generally with minimum capital €50,000. Ownership is divided into shares; shareholders are normally not personally liable for company debts.
- Mandatory dualist governance: Vorstand independently manages and represents the AG; Aufsichtsrat appoints and supervises the Vorstand; Hauptversammlung exercises statutory shareholder powers. The supervisory board does not ordinarily manage operations.
- Compare the classic Polish S.A., which also uses a management board and supervisory board. The French SA may instead choose between dualist and monist models; UK/US corporations generally rely on a board-centred model.

Polish prosta spółka akcyjna (P.S.A.)

- P.S.A. is a Polish capital company, not a partnership. It combines share-based ownership with a flexible organisational model and a very low initial share-capital threshold, using a share-capital regime distinct from traditional registered share capital.
- It can choose a management board plus optional supervisory board or a board of directors (rada dyrektorów). There is no exact German counterpart; the UG is not the German version of P.S.A.

A comparative governance principle

Separate three questions: who owns the enterprise, who manages its affairs, and who represents it externally. In a large capital company, shareholders generally do not acquire individual powers to bind the company merely by holding shares.

7. United Kingdom: partnerships and companies

The UK is not legally uniform in every respect: an ordinary partnership in England and Wales lacks separate legal personality, whereas a Scottish partnership is a separate legal person. The main statutes include the Partnership Act 1890, Limited Partnerships Act 1907, LLP Act 2000 and Companies Act 2006.

General partnership and limited partnership

- General partnership: persons carrying on business in common with a view of profit. It can arise by conduct, without incorporation. Partners ordinarily participate in management; each is an agent for business conducted in the usual way. Personal liability is broad, with different statutory formulations for debts and wrongs.
- Limited partnership: registered arrangement with general partners who manage and carry unlimited liability, and limited partners who principally invest. Traditional management restrictions protect the distinction, subject to special regimes and exceptions.

Limited liability partnership (LLP)

- An LLP is incorporated and has separate legal personality, although its internal governance is flexible and partnership-like. Members are agents of the LLP, not automatically agents of one another.
- The LLP bears its own debts; membership alone does not create personal liability. Independent liability for a member's own wrongdoing or guarantees remains possible. No exact French equivalent among the basic forms discussed.

Private company limited by shares (Ltd)

- Separate legal person with shareholders and directors. Shares are not offered to the public as in a public company; shareholders' liability is generally limited to unpaid amounts on shares. The board manages subject to the articles and statutory duties.

Other UK company forms

- Company limited by guarantee: members undertake a specified contribution on winding up; often used for non-profit organisations rather than ordinary share investment.
- Public limited company (plc): public-company form with more demanding capital and governance rules; not every plc is listed. Minimum allotted share capital is generally £50,000 or the prescribed euro equivalent.
- Private unlimited company: incorporated company whose members can have unlimited liability on winding up, illustrating that incorporation does not invariably mean limited liability.

8. United States: state-law business organisations

There is no single federal company code. Formation, internal governance and liability primarily follow state law; uniform and model acts influence state legislation. Federal taxation is a distinct layer. “Merchant” under the UCC is a transaction-specific category, not a universal label for every business operator.

General partnership (GP) and limited partnership (LP)

- A GP can arise from carrying on a business for profit as co-owners, even without a formal filing. Partners generally manage and can bind the business within their authority; they bear broad personal liability under the applicable state act.
- An LP is a registered structure with general and limited partners. General partners manage and ordinarily have unlimited liability, while limited partners generally enjoy a liability shield. Modern statutes do not always reproduce older prohibitions on limited-partner control.

Limited liability partnership (LLP)

- An American LLP is typically a registered liability-shield status of a partnership, rather than the same corporate form as a UK LLP. Its precise scope and formalities depend on state law.

Limited liability company (LLC)

- An LLC is a separate state-law entity with limited liability for members and flexible governance under an operating agreement. It may be member-managed or manager-managed. Members’ economic rights and management rights need not coincide.
- An LLC may have pass-through federal tax treatment by default or elect different classification where permitted. Tax treatment is not the same as its state-law legal form. Compare French SAS or SARL and German GmbH functionally, not as exact equivalents.

Corporation

- A corporation has separate legal personality, shares and limited shareholder liability. Shareholders elect directors; the board directs or oversees corporate business; officers implement daily management and act within their authority.
- A C corporation and an S corporation are primarily federal tax classifications, not two separate state-law company forms. S status requires eligibility and an election. A benefit corporation is a state-law governance form addressing public-benefit objectives, not simply a tax status.

A core transatlantic distinction

UK LLP: incorporated body corporate with members acting as its agents. US LLP: ordinarily a partnership with a statutory liability shield. Identical abbreviations do not guarantee identical legal structures.

9. Societas Europaea (SE): the European company

The SE is established under Council Regulation (EC) No 2157/2001, complemented by Directive 2001/86/EC on employee involvement. It is a European public limited-liability company, but national law remains important under Article 9 of the Regulation.

Formation and capital

- Four main formation routes: cross-border merger of qualifying public companies; creation of a holding SE; creation of a subsidiary SE; and conversion of a qualifying national public company with the required cross-border subsidiary connection.
- The SE acquires legal personality on registration. Minimum subscribed capital: €120,000. Capital is divided into shares; shareholders are generally liable only to the extent of capital subscribed.
- The registered office and head office must be in the same Member State. The SE can transfer its registered office between Member States without winding up or creating a new legal person, subject to procedural safeguards.

Corporate governance

- The SE must have a general meeting and may choose a two-tier model (management organ plus supervisory organ) or a one-tier model (administrative organ). The two-tier model resembles German AG and Polish S.A.; the one-tier model is closer to board-centred structures.
- The management organ manages in the two-tier system; the supervisory organ supervises rather than manages. In the one-tier system, the administrative organ has the statutory management role, with executive arrangements determined under the applicable framework.

Employees, national law and practical importance

- Employee involvement is not an optional detail. Formation requires the employee-involvement procedure laid down by the Directive, normally through negotiation and, where applicable, standard rules.
- Accounting, tax, capital maintenance and many operational questions depend on the national law supplementing the Regulation. An SE registered in Germany is not regulated identically in every detail to an SE registered in France or Poland.

The SE illustrates a central theme of European company law: a common legal vehicle can coexist with important national differences.

10. Final comparative synthesis

Functional models across legal systems

- General partnership: French SNC · German OHG · Polish spółka jawna · UK/US general partnership. Similar commercial function, but different rules on personality, representation and creditor enforcement.
- Limited partnership: French SCS · German KG · Polish spółka komandytowa · UK/US limited partnership. General partners combine control and personal exposure; limited partners primarily contribute capital.
- Large share company: French SA · German AG · Polish S.A. · UK plc · US corporation · European SE. Shared economic logic of capital pooling, continuity and limited shareholder risk; governance structures vary.
- Private/simplified company: French SARL/EURL or SAS/SASU · German GmbH · Polish sp. z o.o./P.S.A. · UK Ltd · US LLC. These are functional comparisons, not identical statutory forms.
- Professional limited-liability models: German PartG mbB, Polish spółka partnerska, UK LLP and various US LLP arrangements address professional risk through different techniques.

Eight questions to ask about every legal form

- Is it a contract, a legally capable partnership or a legal person?
- How is it formed and registered?
- What capital or contributions are required?
- Who conducts internal affairs?
- Who has authority to represent it externally?
- How are profits and losses allocated?
- Who bears liability, and is that liability limited, subsidiary or joint and several?
- How can ownership, governance or registered office change?

From persons to capital

At one end, personal partnerships closely connect membership, management and liability. Limited partnerships separate active entrepreneurs from passive investors. Private limited-liability companies protect members while retaining concentrated ownership. Joint-stock companies institutionalise the separation of ownership and management and facilitate capital raising.

Final takeaway

Different legal systems use different names, sources and doctrinal classifications to solve recurring economic problems. Comparative company law therefore requires attention to function as well as legal form: legal personality is not the same as limited liability; management is not the same as representation; and the same name does not always describe the same institution.