

Private partnerships in early modern Antwerp (1621–1791)

Citation for published version (APA):

Naaktgeboren, P. (2024). Private partnerships in early modern Antwerp (1621–1791). [Doctoral Thesis, Maastricht University, University of Antwerp]. Maastricht University. <https://doi.org/10.26481/dis.20240111pn>

Document status and date:

Published: 01/01/2024

DOI:

[10.26481/dis.20240111pn](https://doi.org/10.26481/dis.20240111pn)

Document Version:

Publisher's PDF, also known as Version of record

Please check the document version of this publication:

- A submitted manuscript is the version of the article upon submission and before peer-review. There can be important differences between the submitted version and the official published version of record. People interested in the research are advised to contact the author for the final version of the publication, or visit the DOI to the publisher's website.
- The final author version and the galley proof are versions of the publication after peer review.
- The final published version features the final layout of the paper including the volume, issue and page numbers.

[Link to publication](#)

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain
- You may freely distribute the URL identifying the publication in the public portal.

If the publication is distributed under the terms of Article 25fa of the Dutch Copyright Act, indicated by the "Taverne" license above, please follow below link for the End User Agreement:

www.umlib.nl/taverne-license

Take down policy

If you believe that this document breaches copyright please contact us at:

repository@maastrichtuniversity.nl

providing details and we will investigate your claim.

Statement impact research

This dissertation focuses on private partnerships in early modern Antwerp (1621–1791) and aims to gain more insight into the development and use of this commercial instrument in daily business life. A partnership was an agreement between two or more people that was concluded for a limited or unlimited period with the main goal of making profits and reducing mutual risks and costs. The narrative of the dissertation is built on two pillars. Whereas the first pillar is legal-historical and draws a comparison between local regulations and legal treatises (‘law in books’) related to the partners’ practical intentions described in partnership contracts (‘law in practice’), the second pillar is socioeconomic and centres on the underlying arguments for establishing a partnership. In this regard, early modern Antwerp makes for an excellent case study, since the city went through challenging geopolitical and fluctuating economic circumstances in the seventeenth and eighteenth centuries. One example in this regard was a trade barrier, consisting of taxes levied on ships entering the river Scheldt, which came into being after the city was sacked in 1585. As a result, entrepreneurs were forced to continuously adjust their business strategies in order to make ends meet.

The main sources for the ‘law in books’ were two local Antwerp legal compilations—the *Consuetudines impressae* (1582) and the *Consuetudines compilatae* (1608)—which stipulated several rules regarding creating, conducting, and dissolving a partnership. While the 1608 compilation included more clauses regarding partnerships than its 1582 counterpart, the latter was sometimes used as a point of reference due to the fact it was widely available in print form. Additionally, the sources for the ‘law in books’ also encompassed (parts of) books that several early modern jurists had written about legal-theoretical concepts on partnerships. Both sources emphasised that contractual freedom was the most essential legal principle concerning establishing partnerships. Entrepreneurs had thus the ability to do things such as select the partners and determine the main activity, as well as adapt a partnership contract to external circumstances and personal preferences. Nevertheless, the compilations also contained several mandatory rules, regarding issues such as external liability, that is, the partners’ relationship to third parties, which entrepreneurs were not allowed to violate. Furthermore, if a partnership contract did not cover a certain aspect, several clauses in the compilations could function as default rules, which means that legal rules could theoretically fill some gaps that a contract had left open.

For the ‘law in practice’, the registers compiled by notaries, who besides partnerships also registered other legal transactions, such as wills and purchase/rental contracts, served as

the main source for collecting a research sample of 221 partnership contracts. When analysing these contracts, it stood out that notaries did not use a template but rather laid down the information that was provided to them by entrepreneurs, either verbally or in written form. However, as several documents from other archival sources indicate, instead of opting for a notarised partnership contract, most entrepreneurs were content with a privately drafted agreements, despite the fact that the registration of a partnership contract before a notary was mandatory according to a legal rule in Antwerp. Moreover, several contracts make clear that a partnership could have already been in effect for a substantial period before the entrepreneurs asked a notary to register an agreement. These case studies illustrate that the local community had adequate knowledge concerning the creation of partnerships that fulfilled their needs and concerning putting this knowledge into practice without the help of a notary.

Generally speaking, a partnership contract consisted of an introduction in which the partners' identity and socioeconomic background were set out, a main body in which several clauses pertaining the partnership were written down, and a conclusion in which the partners promised to adhere to the agreement. Following contractual freedom that entrepreneurs had at their disposal, partnership contracts differed not only in length, but also in content. As a result, these sources served as a useful point of entry for studying organisational features of partnership contracts and the goals for establishing a partnership. To begin with, all tiers of society were represented in the partnership contracts. Overall, male entrepreneurs were the dominant group, but female and underage entrepreneurs as well as some foreign entrepreneurs could also be found in some of the contracts. In terms of the partners' occupational background, merchants as well as higher- and lower-skilled people, such as craftspeople and labourers, resorted regularly to this commercial instrument. Over the course of the early modern period, though, partnerships became less usual in the commercial sector and more prominent in the industrial sector.

While early modern jurists considered external liability an indispensable part of any partnership, the partnership contracts predominantly neglected describing relations with third parties. Nonetheless, partners must have been aware of the ins and out of the different forms of liability, such as limited liability, which is that a partner could only be held accountable up to the amount he had invested in a partnership. Notwithstanding the fact that several early modern jurists argued that limited liability was fundamental for economic development, an analysis of the partnership contracts demonstrates that this form of liability could never have been a major contributing factor for the Antwerp economy. An additional finding is that the legal compilations were not an important factor when establishing a partnership contract. A prime

example in this regard are eighteenth-century partnerships that required a substantial investment for establishing a factory and consisted of transferable shares that the partners could use to attract as much capital as possible so that investment risks could be mitigated. Since the option of including shares was not dealt with under the section on partnerships in the legal compilations, this finding shows that business practices slowly deviated from the existing regulations.

Instead of paying attention to external matters, partnership contracts were more concerned with maintaining internal relationships. Moreover, a close study of the partnership contracts reveals that they resorted to partnerships not only to gain profits and share risks and costs, but also for additional socioeconomic reasons related to creating legal security, to circulating knowledge and skills, and to preventing and resolving conflicts. Multiple partnership contracts included clauses that provided guidelines for partners and family members for the actions they were required to take in the event of a hypothetical situation, such as a premature dissolution or the unexpected death of one of the partners. As an example, widows and heirs could often benefit from financial compensation or even join a partnership when her husband or family member had died. Although clauses on transferring knowledge and skills and on managing conflicts were less frequent, they still indicate that a partnership could be a useful instrument for strengthening a person's position in the job market and facilitating business relations. In this way, from an overall perspective, partnerships as such contributed to the creation of a resilient society that could cope with unforeseen trends and developments.

The main results summarised above are relevant for legal historians who want to study the interaction between the 'law in books' and the 'law in practice' in an early modern society as well as for socioeconomic historians who want to learn more about the entrepreneurs' coping strategies in a city that experienced challenging circumstances. Moreover, the dissertation provides lessons on the extent to which (city) governments were able to legally influence entrepreneurs' economic choices and the extent to which entrepreneurs were able to construct a partnership contract that met the legal criteria as well as their business and socioeconomic goals. Therefore, academics, such as in the fields of law, economics, and the social sciences, as well as in more practically oriented professions, such as jurists and lawyers, may also benefit from the analyses presented in the dissertation. Since both the transcriptions of the partnership contracts and the quantitative and qualitative data sheets have been made available on a digital platform for a wider audience, future researchers can utilise these documents for the research questions they are striving to answer.