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Bibliography

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FACTA UNIVERSITATIS, SERIES LAW AND POLITICS
(1997–2015)**

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016:[32+34]FACTA UNIVERSITATIS, SERIES LAW and POLITICS "1997/2015"

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FROM THE AUTHOR

Facta Universitatis, Series Law and Politics (print ISSN 1450-5517, online ISSN 2406-1786) is a biannual, peer-reviewed, scholarly journal of law and politics published by the University of Niš, Republic of Serbia. It has been edited and run by professors at the Faculty of Law of the University of Niš since it was established in 1997, when the first issue was published. The journal editors are as follows:

- Prof. Milan P. Petrović, LLD (1997-2011);
- Prof. Nataša D. Stojanović, (2012-2013);
- Prof. Zoran R. Radivojević, LLD (2013-2014);
- Prof. Miomira P. Kostić, LLD (2015-).

It is my great pleasure to announce that in 2016 the journal celebrates the 20th anniversary of its publication. During the twenty-year period, a total of 24 issues have been published. They focus on legal topics within all areas of law, as well as politics, philosophy, management, public administration, gender studies, social welfare, environment and history. Hence, I consider it important and necessary to provide an overview of the papers published in the journal from its first issue in 1997 up to the last one in 2015. The most important aim of this bibliography is to introduce the scientific and professional communities, especially new researchers, to the topics covered in this journal as well as to facilitate easier access to the journal and ensure its more convenient use. Every effort has been made to organize and classify pertinent papers within a separate issue of the journal. As a result of this effort, I am proud to introduce *An Annotated Bibliography of Facta Universitatis, Series Law and Politics: 1997-2015*.

This bibliography is based on the national library information platform, the COBISS system (Co-operative Online Bibliographic Systems and Services), which is run by the National Library of Serbia. The bibliography is compiled by using the *de visu* method, which entails the process of checking the physical copies of the journal.

The bibliography is retrospective and comprehensive. It includes a total of 171 scientific papers (the original scientific papers and review papers), professional papers, introductions, editorials, memories, biographies, in memoriam, book reviews, discussions, and commentaries, thus creating a total of 171 bibliographical entries and 124 authorships. All the papers are available through the union bibliographical/catalogue database COBIB.SR, i.e. the Virtual Library of Serbia at the web site location:

<http://www.vbs.rs/cobiss/>

It is equally important that the papers are successfully included into the CrossRef DOI Serbia System.

Organization, Classification and Methodology

In line with the topics presented in the papers, the bibliographical entries are classified by using the Universal Decimal Classification (UDC system) and are arranged alphabetically within each UDC group by author. Accordingly, a UDC scheme is given at the beginning of the bibliography, providing an insight into the topics of the entries throughout the groups and subgroups of the UDC system.

The bibliography is composed of the following parts:

- *Table of Contents Based on the Universal Decimal Classification,*
- *Bibliography Arranged upon the Universal Decimal Classification,*
- *Bibliography Arranged upon Authors,*
- *Index of Authors' Names,*
- *Index of Titles,*
- *Index of Subject Headings and Key Words.*

The bibliographical entries are continuously numbered. Each entry includes the following information: author's name as listed in the article (inverted), article title, and issue information which refers to volume, issue number, publication year, range of pages, UDC numbers, available abstract provided by the author, and pertinent retrieval information within the Serbian Online Public Access Catalog (Virtual Library of Serbia) and the Serbian Citation Index (SCIndeks information).

Apart from the listing within the UDC system, the entries are listed by the author's last name. In case of several papers pertaining to the same author, they are arranged chronologically, starting with the earliest. Each bibliographical entry contains the following information: author's last name, author's first name, article title, issue information which refers to volume, issue number, publication year, and range of pages.

The bibliography has three indices, each of which is linked with the number of the bibliographical entry.

Index of Authors' Names

The authors' names in the Index are linked with the number of the bibliographical entry, and are listed as they are cited in the journal, whereas the variant forms of the names or last names of the same author are placed in the Index of Authors' Names.

Female authors' names in the Index are listed by the authors' married names, whereas the maiden names and the variant forms of the names or the last names are also given in the Index.

In the Bibliography based on the Universal Decimal Classification, the papers authored by more than one author are listed by the first author, while the co-authors, alternative or secondary authors are listed behind the first author, in the order as they are cited in the journal. The papers that are classified into two or more basic UDC groups are only listed once, with the numbers denoting bibliographical records arranged by using the UDC system.

In the Bibliography arranged upon Authors, all the authors and co-authors are listed separately, as well as in the Index of Authors' Names.

Index of Titles

Index of Titles comprises the titles of the papers in English, French, German, Russian and the pertinent variant titles in Serbian. All the titles are arranged alphabetically under the Capitalization method, and each title is followed by the number denoting bibliographical record arranged by the UDC system.

Index of Subject Headings and Key Words

The given Index of Subject Headings is a controlled vocabulary (Thesaurus), listed in a single alphabetical sequence under a structured indexing system. It comprises subject headings (index terms, subject terms or descriptors), which capture the essence of the topic of the papers and show all relationships among the terms: hierarchical relationships, cross references, and see references. The subject terms are listed under the Sentence case method, whereas the official names and the titles are listed under the Capitalization method.

In order to provide a more detailed description of the topics covered in the journal, the author key words and references (as they are given in the paper) are also included in the Index. Key words and references are listed under the Lowercase method.

Both subject headings and key words and references are in English, French, German, Russian, Croatian, and Serbian.

I would like to express my sincere appreciation to **Mr. Robert S. Pesich**, *PAVIR / Stanford University School of Medicine*, and **Ms. Sanja Pesich**, *San José State University, College of International and Extended Studies*, for taking time to help me improve this extensive bibliography. Without their active help, it would not have been possible at all.

Vesna Danković,
Academic Law Librarian
Faculty of Law, University of Niš

Niš, May 31, 2016

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 347.7 COMMERCIAL LAW. COMPANY LAW
 347.9 LEGAL PROCEDURE. JUDICIARY PERSONNEL AND ORGANIZATION
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 353 MIDDLE LEVEL OF ADMINISTRATION. REGIONAL, PROVINCIAL GOVERNMENT. REGIONAL AUTHORITY

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616.89 PSYCHIATRY. PATHOLOGICAL PSYCHIATRY. PSYCHOPATHOLOGY.
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BEHAVIOURAL AND EMOTIONAL DISTURBANCES
623 MILITARY ENGINEERING
791 CINEMA. FILMS (MOTION PICTURES)
94(4) HISTORY OF EUROPE
94(4/9) HISTORY OF INDIVIDUAL REGIONS AND COUNTRIES OF THE MODERN WORLD
94(497.11) HISTORY OF SERBIA

BIBLIOGRAPHY
ARRANGED UPON THE UNIVERSAL DECIMAL CLASSIFICATION

004
COMPUTER SCIENCE AND TECHNOLOGY.
COMPUTING. DATA PROCESSING

ARSIĆ, Mirjana - MARKOTA, Saša

1. *Legal Problems in the National and International Administration of Domain Names*, Vol. 9, no. 2 (2011), pp. [159]-165.

UDC: 004.738.5:347.772 * 347.77:004.738

In this article, the authors provide an overview of the Internet domain names, possible problems concerning domain names and the legal regulation of these problems. The basic problem is protecting a registered trademark from being used in a domain name by someone other than a trademark holder. Disputes can only result in transferring a domain name from one user to another.

<http://facta.junis.ni.ac.rs/lap/lap201102/lap201102-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171102159A>

NAZARYAN, Ani - GRIDCHIN, Aleksandr Anatolevich

2. *The Influence of Internet on Language and "Email Stress"*, Vol. 4, no. 1 (2006), pp. [23]-27.

UDC: 004.773.3:316.77 * 316.77:004.773.3 * 81'276.6:004.738.5

The authors give a short analysis of the influence of Internet language to the lives and different spheres of human activities including the recent researches of "email stress" phenomenon.

<http://facta.junis.ni.ac.rs/lap/lap2006/lap2006-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170601023N>

VILIĆ, Vida

3. *Stalking and Sexual Harassment on the Internet*, Vol. 11, no. 1 (2013), pp. [39]-48.

UDC: 004.738.5:343.54 * 343.54:004.738.5

Given all the possibilities offered by the Internet and global social networks, there has been an increase of cyberspace abuse. Some of the most common forms of abuse are cyber stalking and sexual harassment on the Internet.

Illicit behaviors such as stalking and sexual harassment have always been exclusively related to close physical contact between the perpetrator and the victim. However, the issue of close physical contact has been made completely immaterial by the emergence of cyberstalking and sexual harassment on the Internet, which are still largely unregulated in the Serbian legislation. In this paper, the author's aim is to highlight the

characteristics of stalking and sexual harassment in cyberspace, point to the similarities and differences between such conduct in the online and offline environment, and examine the possibilities for preventing this type of abuse and violation of privacy.

The risk of abuse may only be reduced by providing for a further development of compatible standards and legislation. The existing legal standards and the emerging legislation must be very flexible in order to keep up with the daily developments in computer technology and innovations.

<http://facta.junis.ni.ac.rs/lap/lap201301/lap201301-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171301039V>

005

MANAGEMENT

VUČETIĆ, Dejan

4. *Milan Petrović, Science of Public Administration as a Prerequisite of Administrative Policy (the General Part), Faculty of Law, Publication Centre, Niš, 2006, 404 pp.: [book review]*, Vol. 2, no. 1 (2004), pp. [91]-95.

UDC: 005.1:35.07 Petrović M.(049.3) * 35.07 * 342.9

<http://facta.junis.ni.ac.rs/lap/lap2004/lap2004-07.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170401091V>

1

PHILOSOPHY. PSYCHOLOGY

KOPRIVICA, Časlav

5. *The Philosophico-Political Outline*, Vol. 7, no. 1 (2009), pp. [11]-29.

UDC: 13+329.18 * 329.18

The goal of our contribution is to provide a programmatic foundation of a binding political paradigm. The outline has two main parts, where the first one gives philosophical principles justifying a few most fundamental ("metaphysical") positions (1. Only that which is organized as a system can be sustainable. 2. The sustention of the entirety of being is a value in itself. 3. The system can be sustained because the totality of being is always orientated to a pre-given model, whose sustention does not depend on the current condition of everything that enters (or should enter) the whole of the system. 3a: The inherently assembled whole is different from the totality of a random variety as much as its "ingredients" are pervaded by the internal substantive form emerging from the principle of the whole.), while the second part lays out practical, both individually ethical and generally political implications of the postulates given above. The text also has three appendices in which, in accordance with the programmatic part of the contribution, we attempt to anticipate and initiate a dialogue with possible objections and dilemmas over our principal theses or their consequences. In an effort to avoid an ideological type of language, the contribution fundamentally and systematically abstains from classifications, alternatives, and affiliations intrinsic to traditional ideologies.

<http://facta.junis.ni.ac.rs/lap/lap2009/lap2009-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170901011K>

16

LOGIC. EPISTEMOLOGY. THEORY OF KNOWLEDGE. METHODOLOGY OF LOGIC

JARIĆ, Svetislav

6. *The Controversy over Scientific Cognition and Communication: the Methodological Sense of Scientific*, Vol. 1, no. 7 (2003), pp. [791]-814.

UDC: 165.191:316.772 * 316.772:165.191

This text deals with old, but always current problems of scientific cognition and communication by the mediation of scientific and common symbols. The author's point of view is critically directed at the results of empiric and rational scientific cognition. It is reproached to empirical approach that it is basically incorrect because it is based on elusive sensuality and relative illusionism. The rational direction of cognition would be ideal in its pure form, but for many thinkers it is mediated by experience, i.e. a rational dimension. The author has the stand point of pure scientific rationalism and, according to his opinion, science is, even in its simplest form, on the highest possible level of abstractedness. It can be applied to the so-called particularconceptual and general-conceptual, i.e. abstract-speculative sciences. The difference is gradual, i.e. quantitative, while their essence is the same. The character and sense of scientific communication represent the outcome of such a comprehension of science. The author is critical of the functional, behavioristic, pragmatic and logical-empirical, but also dialectical theory of meaning. He takes his own standpoint, which may be defined as the communication of an a priori form by the mediation of objective existence of scientific idealities. The text as a whole is set on premises of the logical methodology of science and the logical sense of objective existence of a scientific structure and scientific models. The text is abstract and it can be applied to the concept of science and its methodological sense in the widest meaning of the world.

<http://facta.junis.ni.ac.rs/lap/lap2003/lap2003-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170307791J>

17

MORAL PHILOSOPHY. ETHICS. PRACTICAL PHILOSOPHY

UJOMU, Philip Ogo - OLATUNJI, Felix O.

7. *Morality and the Sustenance of Social Order in Africa*, Vol. 13, no. 2 (2015), pp. [169]-186.

UDC: 177:316.3(6) * 316.3

A key basis of the recent problems in many social orders may appear to be a prevalence of ethical and/or moral decadence at all levels of social life: political, social and economic, etc. We need to answer the question what is morality and why

we need it in the society. This is important given the need to understand the fundamental roles of intolerance, prejudice, unfair actions towards other and a lack of empathy and sympathy towards others as features of almost every kind of human, political or social behaviour that results in discrimination, conflicts, hate, terrorism, and corruption. In that context, this paper discusses the relationship between morality and social order. It examines how morality underwrites social order and it locates the key moral values through which social order can be established and sustained.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/714/892>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502169U>

27

CHRISTIANITY.

CHRISTIAN CHURCHES AND DENOMINATIONS

PETROVIĆ, Milan

8. *The Principal Differences between Orthodox Church Law and the Law of the Roman Catholic Church*, Vol. 6, no. 1 (2008), pp. [1]-7.

UDC: 271-74:272-74 * 272-74 * 271.2 * 27-36:929 Petar, sveti * 348

When discussing church law one must first bear in mind its complex structure. The central, fundamental part of church law is canon law, which regulates the internal life of the Church, and this primarily means the organization of the Church as a community of priests and laypersons, their mutual rights and obligations, and the activity of the Church within this community: the clerical work; teaching; government and trial. Ecclesiastical law is also a part of church law, and it regulates matters of common interest to the Church and the state. Religious education in state schools in particular requires the coordination of Church and state. The fundamental source of church law in general and canon law in particular is found in divine laws. The point of departure between Orthodox and Roman Catholic church law is found precisely in the different interpretation of divine laws. The supreme authority of all Church, the Ecumenical Council decides on its own competences. It judges on teachings prominent in the Church and specifically condemns heresy. It regularizes the governance of the Church in general and hierarchical Churches in particular, and also deals with the rights of the Churches in governance. The conciliarity principle is valid for hierarchical Orthodox churches, too – their supreme bodies are regional councils. The Ecumenical Councils of the Orthodox Church are legitimate successors of the Apostolic Council, and are therefore also the institution of divine law. The Orthodox Church recognizes seven Ecumenical Councils, held in the period 325 – 787. That is to say, the Orthodox Church does not accept the position that the Roman popes are his successors. It remains unknown who founded the Roman church. However, this was certainly not the apostle Peter.

<http://facta.junis.ni.ac.rs/lap/lap2008/lap2008-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170801001P>

305

GENDER STUDIES

OLOMOJOBI, Yinka

9. *Sexual Politics & Democracy in Nigeria*, Vol. 13, no. 1 (2015), pp. 73-85.

UDC: 305-055.2:321.7](662.2) * 321.7:305-055.2

Nigeria's political transformation has been tainted by years of military dictatorship, which has played a decisive role in limiting social and political developments for women. Women's under-represented in the military regimes widened the gap between men and women in today's democratic governance. This explains Nigeria's weak democratic culture and the emergence of gender barriers wherein women are unrepresented in power structures and decision-making bodies. This article attempts to chart the *raison d'être* that women find challenging in vying for political office and the antecedent non-representation of women in public office as well as to explore the political conditions that account for women's exclusion from political participation. In that respect, laws should be promulgated to promote female representation in politics and awareness programs should be put in place to eradicate the deeply rooted beliefs and stereotypes. As women tend to co-operate with each other and build viable networks for establishing representation in political structures, an association of women politicians should be established. Given that women constitute half the population of Nigeria, it is quite clear that networking is likely to redress gender imbalance in politics. A united front of Nigerian women would go a long way in making positive impact on the political climate of Nigeria.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/951/875>

<http://scindeks.ceon.rs/article.aspx?artid=1450-551715010730>

316

SOCIOLOGY

KRSTIĆ, Ivana

10. *Affirmative Action in the United States and the European Union: Comparison and Analysis*, Vol. 1, no. 7 (2003), pp. 825-843.

UDC: 316.647.82-054/.57-055.2(73:4) * 364-787.84(73:4)

The existence of affirmative action (better known as "positive discrimination") demonstrates that there are areas where law as a neutral tool shows its limits as a means of resolution of social disputes. This paper undertakes a comparative exploration of affirmative action discourse in US and EU law. Affirmative action first appeared in the US in the 1960s and 1970s, and initially it was used only in the context of racial discrimination. More recently, however, affirmative action came to be extensively utilized in the EU, and it is primarily used to ensure women equality in the workforce. Both systems recognize that affirmative action constitutes a departure from the fundamental principle of formal equality, and because of that departure, requires further justification. However, in the EU, Article 2(4) of the Equal treatment Directive explicitly allows deviation from formal equality that makes the justification of positive action easier than in the US. The usual test applied by the European Court of Justice (ECJ) in reviewing a measure justified under derogation is that of proportionality, which has three parts:

suitability, necessity, and proportionality. In the US, there is the raging debate in the US Supreme Court over which is the correct standard of review with regard to race-based governmental actions. The ECJ sees positive action as a measure to diminish discrimination in the whole of society showing that women are not still an equal footing with the men in employment, and no evidence of past discrimination is required. On the contrary, the US Supreme Court's held in Croson that evidence of societal discrimination against minorities, by itself, would not suffice to justify a preferential treatment. Finally, the affirmative action plan in the EU is seen as a remedy for discrimination that women suffer due to persistent stereotypes. From another side, the US Supreme Court recognized in Bakke that "preferential programs may only reinforce common stereotypes holding that certain groups are unable to achieve success without special protection based on a factor having no relationship to individual worth." Today, it is evident that affirmative action in both systems sends both inspiring and disturbing messages. It is very important for us to study it's implementation in these two developed systems, especially after the adoption of the Charter on human and minority rights and civil liberties, which explicitly allows this measure in article 3, to enable every individual to equally enjoys its rights.

<http://facta.junis.ni.ac.rs/lap/lap2003/lap2003-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170307825K>

316.32

GLOBAL SOCIETIES

PEČUJLIĆ, Miroslav

11. *Globalization Drama*, Vol. 1, no. 7 (2003), pp. [737]-742.

UDC: 316.32 * 061.1(4-672EU)* 005.44

The chief argument of this article is to be found in the extremely dramatic complications of globalization. The miraculous technological, economic and cultural highs that man has attained provide an unimagined power for creating a more humane, peace-loving and democratic "World Society". However, at the same time their dark side becomes overpowering, turning the global arena into a World Society of risk. The democratic image of globalization or the Orwellian repressive world regime and an unbridled upsurge of risk are at stake. The new era brings about a new, epochal perspective: integration into a single and united European Union, the process of which will, however, have different rhythms for different European states.

<http://facta.junis.ni.ac.rs/lap/lap2003/lap2003-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170307737P>

PRICA, Miloš

12. *Jürgen Elsässer: the Nation State and Globalization - as Rescuers from the World Economic Crisis (Nationalstaat und Globalisierung - Als Linker vor der Preussischen Gesellschaft)*, Belgrade, Jasen, 2003, 273 pp.: [book review], Vol. 6,

no. 1 (2008), pp. [63]-64.

UDC: 316.62 Elsässer J.(049.3) * 316.334.3 * 342.2 * 005.44

<http://facta.junis.ni.ac.rs/lap/lap2008/lap2008-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170801063P>

VUČETIĆ, Dejan

13. Pečujlić Miroslav: *Globalizacija-dva sveta (Globalization-Two Worlds)*, Belgrade, 2002, 213 pp.: [book review], Vol. 1, no. 7 (2003), pp. [849]-856.

UDC: 316.32 Pečujlić M.(049.3) * 005.44

<http://facta.junis.ni.ac.rs/lap/lap2003/lap2003-08.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170307849V>

32

POLITICS

GINGOLD, Peter

14. *A Message From Peter Gingold, President of the Association of the Survived from Auschwitz, Frankfurt am Main: With "Nevermore Auschwitz!" the War against Yugoslavia!*, Vol. 1, no. 4 (2000), pp. [369]-370.

UDC: 32.019.5:327:355.1](73+4:497.1)"1999" * 355.244.1(73+4:497.1)"1999"

327:355.01](73+4:497.1)"1999" * 341.485(497.11)"1999" * 821.112.2-94=111

343.819.5(=411.16)(438 Oświęcim)"1939/1945"

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-02.pdf>

PETROVIĆ, Milan

15. *Vojislav Stanovčić: Political Ideas and Religion (Političke ideje i religija), 1-2 (370 and 359 pp.)*, Beograd, 1999, Published by Udruženje za političke nauke Jugoslavije, (Pocket-Size Book): [book review], Vol. 1, no. 3 (1999), pp. [361]-364.

UDC: 32.001:322 Stanovčić V.(049.3) * 322:32.001

<http://facta.junis.ni.ac.rs/lap/lap99/lap99-07.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179903361P>

321

FORMS OF POLITICAL ORGANIZATION. STATES AS POLITICAL POWER. GENESIS OF THE STATE AND FORMS OF GOVERNANCE

PETROVIĆ, Milan

16. *Democracy as a Worldwide Process and International Law Views of the United States of America*, Vol. 1, no. 4 (2000), pp. [271]-282.

UDC: 321.7:327(73) * 327:321.7(73)

Defeats of the fascist totalitarianism in World War II and that of the communist totalitarianism in the Cold War represent victories of the liberal democracy, personified in the United States of America as the indisputable leader of the demoliberal countries. The object of the liberal democracy is a world state, the

projection of which had already been given by Kant, the unvoidableness of which was pointed out by H. Cohen, his Jewish follower, as well as by A.J. Toynbee, the English theoretician of history. The legitimacy of the world state lies in preventing wars among peoples and in replacing national policies by the universal economy. Initial steps towards the world state were made in the 20th century, first of all, thanks to the will of the United States: the League of Nations created in 1919, followed by the United Nations in 1945. It is reasonable to put a question: Is the mankind today, when the United States is the only world-wide power, close to attaining this goal, or new political confrontations are arising within it.

To provide an answer, we must start from the essence of the liberal democracy: it is plutocracy. However, its realistic constitution – trinity of the financial capital, urban masses and intellectuals demagogues – cannot be found in the formal charters and human rights declarations. As a plutocracy, the United States of America has developed a characteristic "pacifistic-militant" imperialism the basic principle of which is: *Jujus economic, emus region*. It is important to note that the basic principle of the communist imperialism belongs here as well: *Cujus regio, ejus oeconomia*. Following their basic principle, the United States of America gives up the classical, annexational imperialism and strive to replace it with a form more appropriate to that principle: "control". "Control", in a particular sense, imparted to it by the plutocratic imperialism, means that a controlled state formally remains completely sovereign, but that its policy is really determined by the state having "control" over it. The most complete the "control" is when the power exerting it completely takes over the economy of the controlled state.

The doctrine which translate the North American imperialism into the world of the international law is called "Monroe Doctrine". What is particular about this doctrine is that the United States demands that other countries recognize it, but retain an exclusive right to its interpretation and application; under the "Monroe Doctrine", no one except the States can derive whatever pretensions.

In its original form, as that given by its creator, James Monroe, President of the Union, in 1823, it forbids European powers to intervene in the domain of the "Western Hemisphere"; in return, the United States promises not to mix into their conflicts. At that time, the "Western Hemisphere" covered the mainland of the North, Central and South Americas. The first significant correction took place during World War I, when the United States mixed into the European countries conflict on the side of Triple Entente, sticking to the viewpoint of banning any intervention with the "Western Hemisphere", the standpoint approved by all the Versailles Peace Treaty signatories. The next great correction took place after the war had broken in Europe in 1939. On the occasion the validity of the "Monroe Doctrine" was expanded to the expanses of the Atlantic and Pacific oceans extending, let us say, to Greenland, Iceland and New Zealand. Finally, President Truman expanded its validity to the whole "free world", the United States retaining the right to interpret which people are "free" and which are not. This evolution of the "Monroe Doctrine" is an expression of the strengthening of the North American major force imperialism.

Therefore, the perspective of the world state may be only through imposing the North American "control" to the rest of the world. But, this is impossible without further complications and conflicts. Particularly unavoidable is the conflict between the plutocratic and Islamic imperialism, since the latter is based upon the essentially

different basic principle: Cujus regio, ejus religio and Cujus religio, ejus regio, respectively, which the secular international law replaces by the political theology.

<http://facta.junis.ni.ac.rs/lap/lap99/lap99-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179903271P>

TRKULJA, Jovica

17. *Postkommunistische Eroberung der Demokratie*, Vol. 1, no. 1 (1997), pp. [125]-136.

UDC: 321.74:342.34 * 342.34 * 316.68

Diese Arbeit ist der Untersuchung der radikalen Änderungen in den politischen Systemen der ehemaligen sozialistischen Länder in den 90-er Jahren des 20. Jahrhunderts gewidmet. Es ist das Ziel des Autors, die widersprüchlichen Prozesse der Demokratisierung neuer gesellschaftlicher Ordnungen im mittelöstlichen Europa zu erklären. Der Schwerpunkt der Analyse liegt einerseits auf den Voraussetzungen und Möglichkeiten und andererseits auf den Hindernissen und Irrwegen der Demokratie in den postkommunistischen Ländern. Die Schlußfolgerung des Autors ist, daß heute schon, nach den anfänglichen bescheidenen Erfolgen der postkommunistischen Eroberung der Freiheit und Demokratie, offensichtlich ist, daß der dramatische Zusammenbruch des Realsozialismus 1989 eigentlich den Zusammenbruch des "alten Regimes", nicht aber der "alten Gesellschaft" darstellt, die, im Gegensatz zum Regime, nicht einfach durch ein Dekret geändert und in eine Zivilgesellschaft transformiert werden kann.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-11.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701125T>

323(497.11)

HOME AFFAIRS OF THE REPUBLIC OF SERBIA

PETROVIĆ, Milan

18. *Čedomir Popov, Greater Serbia: Reality and Myth, Sremski Karlovci, Novi Sad, 2007, 347 pp.: [book review]*, Vol. 2, no. 1 (2004), pp. [87]-89.

UDC: 323(497.11)"18/19" Popov Č.(049.3)

<http://facta.junis.ni.ac.rs/lap/lap2004/lap2004-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170401087P>

323

HOME AFFAIRS. INTERNAL POLICY

LAVRYNENKO, Anna

19. *The Role of Endogenous and Exogenous Factors in Ukrainian Modernization*, Vol. 12, no. 1 (2014), pp. [53]-58.

UDC: 323:316.733(477) * 316.733

In this article, the author examines the problems of Ukrainian modernization policy, in the context of which the author has analyzed the correlation of endogenous and exogenous factors, with specific reference to the socio-cultural component in the modernization process. The problem of rebirth of national cultural traditions has been foregrounded, with particular emphasis on the retraditionalization of state political system playing the key role in the process of further reformation of all spheres of public life. On the basis of retrospective analysis, the author discusses the advantages and disadvantages of the Ukrainian modernization process.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/669/249>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171401053L>

323.1

NATIONALIST, POPULAR, ETHNIC, MOVEMENTS AND PROBLEMS. NATIONAL AND ETHNIC MINORITIES

DENZLER, Georg

20. *Antijudaismus und Antisemitismus in der Theologie unseres Jahrhunderts*, Vol. 1, no. 1 (1997), pp. [11]-20.

UDC: 323.12(=411.16)(430)"19" * 27-67:26(430)"19" * 26-674(430)"19"

Die katholischen Bischöfe in Deutschland und Österreich erklärten in ihrem gemeinsamen Hirtenbrief zum 50jährigen Gedenken an die Judenpogromnacht des 9. November 1938 mit Blick auf eine "unselige Tradition" der Kirche, alte Vorurteile hätten "die Abwehrkräfte gegen das neue Phänomen des modernen Antisemitismus geschwächt, der die Rasse zum höchsten Prinzip erhoben hat". Im selben Sinn bekannten die katholischen Bischöfe der Niederlande die Mitverantwortung der Kirche für die Juden-verfolgungen während des Zweiten Weltkriegs. In ihrem Dokument steht, daß allein die Lehre, dass das Judentum nach dem Tod Christi ausgestossen worden sei, unheilvolle Wirkung gezeitigt habe.

Von diesem Schuldgeständnis der katholischen Kirche in den drei Staaten ausgehend, befasst sich die Abhandlung mit dem Phänomen des Antisemitismus in den Werken dreier prominenter Theologie-professoren in Deutschland zur Zeit der Hitlerdiktatur: K. Adam, M. Schmaus und A. Stonner. Bezeichnend ist, dass alle diese Theologen nach dem Zusammenbruch des Nationalsozialismus 1945 ihre Universität-stätigkeit in der BR Deutschland fortsetzen konnten und als Professoren emeritiert wurden. Weder katholische noch protestantische Theologen hatten nach dem Zweiten Weltkrieg die Mitverantwortung ihrer Kirchen für das Schicksal der Juden im Dritten Reich gestanden; die ehrliche Ausnahme stellte hier nur der katholische Kirchenhistoriker Joseph Lortz dar.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701011D>

327

**INTERNATIONAL RELATIONS. WORLD, GLOBAL POLITICS.
INTERNATIONAL AFFAIRS. FOREIGN POLICY**

MITROVIĆ, Ljubiša

21. *The Geopolitics of the Balkans in the 19th and 20th Centuries: Between National Emancipation Movements and Geostrategic Games of the Great Powers*, Vol. 9, no. 2 (2011), pp. [99]-107.

UDC: 327(497)"18/19" * 316:94

The paper analyses the geopolitical processes in the Balkans in the 19th and 20th centuries within the theoretical and methodological approach offered by historical sociology and from the perspective of contemporary geopolitics. It first problematizes the question of the production of historical events in the dialectics of history, pointing thereby to Brodel's and Marx's research of history as a complex, structural and contradictory process. Then it presents a sociological analysis of the geopolitical position of the Balkans and its bloody fate – as a cross, a crucifix, a crossroads at which different cultures and civilizations intersect and produce a "surplus of history", which makes the Balkans a "powder keg" and a region of the culture of death and incomplete peace.

It especially focuses on the bloody Balkan geopolitics in the 19th and 20th centuries, solving the Eastern Question, the national liberation movements, the rise of the old and the new imperialism in the Balkans and the implications of the given processes for peace, stability and development of the Balkans. It also analyses the geopolitical transition of the Balkans at the beginning of the new millennium, as well as the possibility of the renewal of the movement whose guiding idea was "the Balkans to the Balkan nations" in the era of globalization. The paper makes the point that the future of the Balkans does not lie in rewriting the past but in the culture of peace, in democratic integration and cooperation of the Balkan nations.

<http://facta.junis.ni.ac.rs/lap/lap201102/lap201102-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171102099M>

PETROVIĆ, Milan

22. *Yugoslav War Occurrences and the International and "Municipal" Law Problem Relations*, Vol. 1, no. 4 (2000), pp. [463]-491.

UDC: 327:341.311](497.1) * 341.311:327](497.1) * 327:355.01](73+4:497.1) * 355.01

This paper, first of all, resolves the old moot question – whether international law is really a law as a positive law or not. It provides an affirmative answer, starting from the positivistic definition of the law, such one which the concepts law and positive law considers the same. According to it, the law is an order which a state as a holder of a public power of compulsion, "imperium", creates, protects or recognizes. So, since international law is an order created, protected or recognized by states as holders of "imperium", it is obviously a positive law. That which makes illusion that there is within or above the positive law one more law, "natural law", is the fact that there are within the positive law certain absolute moral principles; but, they are not valid as such, thanks to their inherent properties, but through the acts of making positive, that is to say adoption by the competent state organs. Further, the paper's standpoint is that of the monist doctrine,

according to which international and "municipal" laws make one unique order, in the sense that international law is a branch of the "municipal" law. By means of a detailed analysis, the article proves inapplicableness of the dualist doctrines to the actual facts of the universal international law. Only, the former monist doctrine's viewpoint is either that the "municipal" law has greater legal force than that international (the teachings of the supremacy of the "municipal" law) or that international law has greater legal force than that "municipal" (the teachings of the supremacy of international law). This, however, proves that neither of the hereinbefore mentioned two teachings is correct, but that the "municipal" and international laws are of equal force. The "municipal" law is a territorial law of a state, while international law is an exterritorial law. A state, particularly its constituent power (*pouvoir constituant*) may – that being the essence of the monist doctrine – put out of force each norm both territorial and exterritorial laws, but, thus, it can violate both the territorial and the exterritorial laws of some other state – at the same time the activities of the state being both lawful and unlawful.

Subordinated to the idea of territoriality and exterritoriality are other basic legal concepts: the municipal sovereignty is reflected in the presence of the constituent power upon a territory; the international sovereignty exists when one more condition is fulfilled – that the subject territory is not at the same time the territory of some other state. The article, therefore, represents an outline of a whole theory of law as well.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-09.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004463P>

329

POLITICAL PARTIES AND MOVEMENTS

ELSÄSSER, Jürgen

23. *Terrorizing Europe: Londonistan*, Vol. 6, no. 1 (2008), pp. [9]-20.

UDC: 329.3:28(4) * 323.285:28(4) * 28:329.3(4)

With secret service permission, militant Islamic preachers establish the most important control room of the European Jihad.

<http://facta.junis.ni.ac.rs/lap/lap2008/lap2008-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170801009E>

ILIĆ, Aleksandra

24. *Origin and Development of Political Parties in Serbia and Their Influence on Political Life in the Period 1804-1918*, Vol. 4, no. 1 (2006), pp. [41]-50.

UDC: 329(497.11)"1804/1919" * 342.4(497.11)(091)

Formally speaking, political parties were formed only in 1881. However, they had been active in practice since the First Serbian Uprising. This article describes the development of political parties, their organization, and their mutual confrontations in the struggle for power. One clearly notices that the instability of the Serbian political scene started with the formation of the early political parties and has remained with us to the present day.

<http://facta.junis.ni.ac.rs/lap/lap2006/lap2006-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170601041I>

PETROVIĆ, Milan

25. *Students' Movements of 1968 - Unfinished Revolution*, Vol. 5, no. 1 (2007), pp. [1]-23.

UDC: 329.78 (497.11)"1968"

This study first defines the concepts of the "left" and the "right" as political phenomena. Then, after touching upon the student and black movement in the United States of America, it presents the basic features and development of student movements in the Federal Republic of Germany and France in the late 1960s. Most of the study is dedicated to the revolutionary commotion at Belgrade University in 1968, in which the author of this study personally participated. In a fully new way, the text interprets the activities of the Yugoslav President Tito and a group of professors and teaching assistants from Belgrade Faculty of Philosophy gathered around the journal "Praxis" ("The Praxis Group") during this commotion. The study also provides a contribution to the theory of revolution.

<http://facta.junis.ni.ac.rs/lap/lap2007/lap2007-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170701001P>

330

ECONOMICS. POLITICAL ECONOMY

SOKOLOV, Ivan

26. *Potentials and Guidelines for the Development of Public-Private Partnerships at the Local Level*, Vol. 10, no. 1 (2012), pp. [75]-89.

UDC: 330.322.16(4-672EU)

The examined experience of the EU countries and Bulgaria shows that the PPP is used by the local authorities as a tool to improve the quality of public services while minimizing the costs and achieving better value of the invested funds. The wider application of PPP in some European countries and in Bulgaria, however, faces a number of normative (inadequate normative basis for the functioning of the PPP), economic (undeveloped market relations), financial (insufficient funds) and management (lack of capacity) problems.

<http://facta.junis.ni.ac.rs/lap/lap201201/lap201201-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171201075S>

336

FINANCE. PUBLIC FINANCE. BANKING AND MONETARY POLICY

DIMITRIJEVIĆ, Marko

27. *The Role of Currency Transaction Taxes in Reducing Financial Instability*, Vol. 13, no. 2 (2015), pp. [201]-211.

UDC: 336.221

The subject of analysis in this article is the legal and fiscal role of currency transaction taxes in reducing the financial instability of the market. In that context, the introduction of these taxes is considered to be essential, particularly in terms of tax forms, tax object, tax base, tax

rate and tax incentives. The author discusses the requirements for the implementation of currency transaction taxes, benefits and shortcomings in their implementation, and makes some concrete proposals for improving their economic efficiency in the fiscal system.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1409/894>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502201D>

GOLUBOVIĆ, Srđan

28. *The European Standards on the Independence of the Central Bank and the Position of the Central Bank of Serbia*, Vol. 7, no. 1 (2009), pp. [1]-10.

UDC: 336.711(4-672EU:497:11)

The basic EU law principle which the European Monetary Union rests upon is the independence of the European Central Bank and the national central banks of the Member States. In line with this principle, the European Central Bank and other subjects of the single European Monetary System enjoy full independence in running the monetary policy. Moreover, the European standards on the status of the central bank are the legal acquisition (*acquis communautaire*) which must be incorporated into the legislation of each candidate country pursuing a full EU membership. Upon considering the arguments in favor of the central bank independence, the author analyzes the compatibility of the national legislation with the relevant EU legislation on the status of the central bank. Further on, the author identifies the legal solutions that depart from the EU standards and could possibly jeopardize the independence of this monetary institution. In the final part of the paper, the author emphasizes the need to define the boundaries of the central bank independence and strengthen the instruments for establishing the central bank accountability, including both the national parliament and the general public. This would help eliminate the recurrent complaints and objections on the insufficient democratic legitimacy of this supreme monetary authority.

<http://facta.junis.ni.ac.rs/lap/lap2009/lap2009-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170901001G>

338

ECONOMIC POLICY. MANAGEMENT OF THE ECONOMY. PLANNING. PRODUCTION. SERVICES. PRICES

POPOVIĆ, Slavoljub

29. *Privatization Subject Cannot Be Goods of General Interest: Public Goods*, Vol. 1, no. 6 (2002), pp. [645]-658.

UDC: 338.246.025.88:351.711]:340.5 * 351.711:338.246.025 * 340.5:338.246.025

First of all, the author deals with the problem of public goods in foreign law, that is, theory (French, German, Austrian). He points to the provisions of the Constitution of the Federal Republic of Yugoslavia of 1992 and the Constitution of Serbia of 1990 under which the concept of goods of general interest (public goods) is regulated, such as 1) according to positive law, 2) in view of types constituting a public good, 3) in view of origin of public goods, 4) in view of purpose and use of public goods. Protection of public goods is manifested in the following: 1) obligation of state organs and other organizations

administering public goods to maintain the substance of public goods, 2) inalienability of public goods, 3) impossibility of acquiring by presumption of whatever rights to public goods, 4) insusceptibility of the public good things to execution, 5) criminal law protection of the public good things.

<http://facta.junis.ni.ac.rs/lap/lap2002/lap2002-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170206645P>

339

**TRADE. COMMERCE. INTERNATIONAL ECONOMIC RELATIONS.
WORLD ECONOMY**

ANĐELIĆ, Kristina

30. *The Application of the Most Favored Nation Clause to the Procedural Provisions of Bilateral Investment Treaties: Possibilities for Establishing ICSID Jurisdiction for Resolving Investment Disputes*, Vol. 12, no. 2 (2014), pp. [113]-127.

UDC: 339.73

This article explores problems related to establishing the ICSID jurisdiction to the BITs dispute settlement provisions by application of the MFN clause. Being that the application of the clause asks for very extensive interpretation of the BIT which contains this clause, the practice of ICSID tribunals in this field has been very much debated in professional and academic circles. Not only has it raised concerns about stability, predictability and legal certainty in international investment law but, more importantly, about its further development in respect of arbitrators' powers. The article analyzes three representative cases in which ICSID tribunals made decisions on jurisdiction based on the usage of the MFN clause: Maffezini, Plama and Salini. On the basis of this analysis, certain guidelines are proposed that might be applied in future disputes brought before ICSID tribunals. These guidelines are in compliance with modern tendencies in international scene, which should be considered as the indicators of the direction for further development of this particular area of law.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/829/457>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171402113A>

POPOVIĆ, Vitomir

31. *The Experience of the Republic Srpska in the Harmonization of Law with EU Law*, Vol. 7, no. 1 (2009), pp. [45]-55.

UDC: 339.923:061.1EU(497.6) * 061.1EU * 340.137(4-672EU:497.6)

The experience of the Republic Srpska in the harmonization of law with the law of the European Union should be viewed within the overall position of Bosnia and Herzegovina on this regional organization, which will become particularly pronounced upon signing the Stabilization and Association Agreement.

This experience is neither small nor big enough to play an important role for other countries whose status with regard to the European Union is the same as that of Bosnia and Herzegovina. The stabilization and association process represents a major challenge for both the Republic Srpska and Bosnia and Herzegovina, while the fulfillment of

commitments which, among other issues, pertain to the harmonization of regulations, has been defined in a separate action plan, adopted by the Council of Ministers of Bosnia and Herzegovina. In accordance with the Agreement, the implementation of this document will be supervised by a body separately appointed for that purpose.

<http://facta.junis.ni.ac.rs/lap/lap2009/lap2009-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170901045P>

34

LAW. JURISPRUDENCE

KOSTIĆ, Miomira

32. Editorial, Vol. 13, no. 1 (2015), pp. [i]-iii.

UDC: 050:[34:32(497.11 Niš) * 34 * 32

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1456/867>

33. Editorial [2], Vol. 13, no. 2 (2015), pp. [i]-iii.

UDC: 050:[34:32(497.11 Niš) * 34 * 32

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1496/884>

PETROVIĆ, Milan

34. Miodrag Jovičić: In Memoriam, Vol. 1, no. 3 (1999), pp. [365]-366.

UDC: 34:929 Jovičić M. * 929 Jovičić M.

<http://facta.junis.ni.ac.rs/lap/lap99/lap99-08.pdf>

POPOVIĆ, Milijan

35. Methodological Models of the General Theory of Law, Vol. 1, br. 6 (2002), pp. [659]-682.

UDC: 340.12

There are two governing views on the general theory of law in the European law thought: synthetic and analytic. With the passage of time, the analytic model has emerged earlier, but synthetic model is the most widely spread model of the general theory of law.

1) Synthetic Model. In the general theory of law in Serbia, Toma Živanović and Radomir Lukić, particularly Živanović, have contributed their crowning achievements to the construction of the synthetic model.

Živanović's synthetic model of the general theory of law is based upon the far-reaching synthesis of the knowledge on law, starting from the basic concepts of the special law sciences, through intermediary and basic law concepts of higher law sciences to the basic law concepts of the highest law science (general theory of law).

The basic Živanović's method is the method of generalizing abstraction, synthesis - explicative noncausal synthesis. Also, he used other logical methods, first of all the method of analysis, which precedes the synthetic method. Lukić's attempt to construct the general theory of law, as a generalizing science, is less successful than Živanović's creative undertaking from the logical point of view.

2) Analytic Model. The general theory of law originally appeared as an analytic theory of law in England in the 30s of the 19th century with John Austin, its founder. With the advent of Kelsen and his pure theory of law, analytic theory of law gets almost perfect logical form.

The analytic theory of law affirms the general theory of law as a law science and the method of structural analysis as a principal method of study and creation of the general theory of law. Kelsen's methodical procedure of structural analysis falls in the explicative functional analysis (as a higher degree of descriptive analysis).

Contributions of the analytic theory of law, specifically those of Kelsen, are enormous. Kelsen has precisely confined the theory of law as a general law science from the sciences and disciplines on law: sociology of law, history of law, psychology of law and philosophy of law. In addition, analytic model has singled out some basic law concepts unknown to the synthetic theories of law, such as particularly is the concept of assignment. Also of paramount interest is Kelsen's understanding of validity of legal norms and understanding of legal norms as depseudologized commands, particularly his dynamic understanding of law as a process of self-creation of law, the process within which each legal act (except the act of carrying out) is at the same time the act of creation and act of application of law as well.

<http://facta.junis.ni.ac.rs/lap/lap2002/lap2002-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170206659P>

RADIVOJEVIĆ, Zoran

36. *Professor Dr. Branimir Janković - the First Rector of the University of Niš: (1920-1990)*, Vol. 1, no. 4 (2000), pp. [367]-368.

UDC: 34:929 Janković B. * 929 Janković B.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-01.pdf>

STOJANOVIĆ, Nataša

37. *Present in Case of Death in Our Law*, Vol. 1, no. 6 (2002), pp. [719]-728.

UDC: 347.65(497.1)

Discussed in this paper is a present in case of death observed, first of all, through the prism of the existing status of legislature in our law. Particular attention has been paid to determining legal nature of this civil law institute and its delimitation from delivery (legacy). Since the present in case of death has not, after the Second World War, because of a specific legislative law technique applied in this territory, found its place in none of law texts, the author proposes in this paper possible solutions for its legal norming. The existing decades-old legal vacuum, according to the author, must be "filled" by provisions of appropriate contents, for it is only in that way that uniformity of the court practice, respect of subjects equality principles in the legal commerce can be achieved as well as a certain level of legal safety.

<http://facta.junis.ni.ac.rs/lap/lap2002/lap2002-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170206719S>

340**LAW IN GENERAL.****LEGAL METHODS AND AUXILIARY LEGAL SCIENCE**

TRAJKOVIĆ, Marko

38. *Necessity of Axiological Education of Lawyers*, Vol. 12, no. 1 (2014), pp. [13]-20.

UDC: 340.1:378.096]:174 * 378.096 * 174

Education is a bridge that provides continuity of values. The task of legal education must be focused on the construction and protection of human values. Education should instruct us that it is necessary not only to acquire knowledge but also to live in compliance with it. Human judgment depends on education which must lead to sublimation. Education of lawyers must liberate its reality from “distorted lines”, nonvalues and “the princes of this world”. It must provide a safe climate for the action of both legal and other professionals. Can the entire legal education really be reduced to the following postulation: “We are studying what we need in order to appear before judges or to advise people in such a way as to keep them out of court.” The reason why it is a profession, why people will pay lawyers to argue for them or to advise them, is that in societies like ours the command of the public force is entrusted to the judges in certain case, and the power of the state will be put forth, if necessary, to carry out their judgments and decrees.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/666/246>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171401013T>

340.12**DIRECTIONS AND LEGAL THEORY. LEGAL SCHOOL.****PHILOSOPHY OF LAW. THEORY OF STATE AND LAW**

JELIĆ, Zoran

39. *An Observation on the Theory of Law of Hans Kelsen*, Vol. 1, no. 5 (2001), pp. [551]-570.

UDC: 340.12:929 Kelsen H. * 929 Kelsen H.

The author of this paper deals with the basic causes of numerous – often extremely negatively intoned – critical estimations said on the account of Kelsen's pure theory of law and exposes essential properties of certain phases of its development; point to the contribution of Merkl and Verdross to the making of pure theory of law and to the main determinants of Kelsen's attempts to formalize jurisprudence (the science of law) for the purpose of creating conditions for exact and objective study of positive law; analyzes the meaning and scope of Kelsen's normativisms and provides his views of further making of the pure theory of law.

<http://facta.junis.ni.ac.rs/lap/lap2001/lap2001-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170105551J>

MEDAR, Suzana

40. *Reflections on Values in Law*, Vol. 1, no. 6 (2002), pp. [729]-736.

UDC: 340.12 * 17.022.1:34

The task of axiology of law is at least twofold: establishment of a value of law as a particular phenomenon, of social order, in fact, on the one hand, and establishment of legal values, values produced by law, in fact, on the other hand. Connectivity of values, that is, of sense of law to the sense of life at all may be established by deductive and inductive methods, respectively. Metaphysical opinion asks for giving sense only in general principles, so that it draws a conclusion on the value of law from the value of the whole human existence, or, even further, from the whole world. By induction, the source of sense is found out in parts, individual forms of human existence, transferred then from them to the totality. Usually found in the vocabulary of values produced by law are justice, peace, order, security, truth, freedom, human dignity. In addition to these, so-called material values, which point to the fact on how the society should be brought to order and how power and goods should be distributed, there are also specific formal legal values that show what relations among the legal norms in a law system should be. There fall coherency, that is, legality, completeness and determination of legal norms.

<http://facta.junis.ni.ac.rs/lap/lap2002/lap2002-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170206729M>

MITROVIĆ, Dragan

41. *The New Path of Law from Theory of Chaos to Theory of Law*, Vol. 1, no. 5 (2001), pp. [605]-612.

UDC: 340.12

From chaos to the theory of chaos, from the primordial perception of the world as disorderedness to the scientific research of disorder a long distance has been covered. That path implies openness of mind and scientific boldness which connect mythological perceptions of the world with philosophical and scientific interpretations of phenomena throughout the world in a quite distinctive way resting on the creation of a model and application of computing. Owing to that, for the first time instead of asking "What awaits us in the future?", we can ask "What can be done in future?" and get a reliable scientific answer to that question.

<http://facta.junis.ni.ac.rs/lap/lap2001/lap2001-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170105605M>

PETROVIĆ, Milan

42. *Milijan Popović: Toma Živanović as a Legal Philosopher, Sremski Karlovci-Novi Sad, 2003, 273 pp.: [book review]*, Vol. 4, no. 1 (2006), pp. [51]-53.

UDC: 340.12 Popović M.(049.3) * 340.12:929 Živanović T. * 929 Živanović T.

<http://facta.junis.ni.ac.rs/lap/lap2006/lap2006-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170601051P>

340.13**POSITIVE LAW. SOURCES OF POSITIVE LAW. LEGAL NORM.
ENACTED LAW. STATUTE LAW. IUS SCRIPTUM.
OPERATION OF LEGAL NORM. RULES OF APPLICATION**

JOVANOVIĆ, Mila

43. *Aequitas and Bona Fides in the Legal Practice of Ancient Rome and the Prohibition of the Abuse of Rights*, Vol. 1, no. 7 (2003), pp. [763]-789.

UDC: 340.13 (37):347.132.14 * 347.132.14

The topic of this paper is a short overview of the principles *aequitas* and *bona fides* in the legal practice of ancient Rome and the analysis of a few examples of the prevention of the abuse of rights, based on these principles. The aim of the paper is to suggest the legislator that, in addition to a specific emphasis given to the prohibition of the abuse of rights, the future Serbian Civil Law Code (a project currently in progress) should stress the principles of justness, conscientiousness, and honesty, and that judges should be allowed more freedom in the application of these principles, in order for abuse of rights to be more successfully prevented in particular cases, much more numerous than legally expressible. This proposal implies the competence of judges, who should be up to this task both professionally and ethically in the very complex Serbian circumstances. In the end of the paper, dilemmas and opinions of some authors regarding ways to prevent present-day abuse of rights are given. An answer to the question from the beginning is also offered, i.e. it is concluded that judges should be given more freedom in the application of the principles *aequitas* and *bona fides*, in order for abuse of law to be prevented as successfully as possible (this especially applies to those new instances which cannot be foreseen in the legal acts). Along with this, a position is presented that perhaps, like old Romans, we should stress today that judicial application of law implies the respect of justice, and that in justice there is indeed something divine; this would, with a strong responsibility of the judge, imply a necessity to bring justice and law as close to each other as possible.

<http://facta.junis.ni.ac.rs/lap/lap2003/lap2003-03.pdf><http://scindeks.ceon.rs/article.aspx?artid=1450-55170307763J>

POPOVIĆ, Milijan

44. *Justice and Dushan's Legislature*, Vol. 1, no. 3 (1999), pp. [295]-323.

UDC: 340.134(497.11)(091) * 177.9:340.13(091)(497.11)

It is just 650 years since the passing of Dushan's Code, the final act of the universal codification of the law of the medieval Serbia, which together with Matthew Blastaros' Abridged Syntagm and the so-called Justinian Code make Dushan's legislature. Dushan's legislature, first of all Dushan's Code, was investigated from the axiological standpoint, according to Plato's and Aristotle's paradigms. Such an approach has enabled reasonableness of Dushan's legislature to be established, instead of establishing historical phenomenon, what the historians do. Dushan's estate monarchy was a timocracy (timarchy), which means a form of a state which at least deviates from Plato's perfectly righteous state. Secular lords, as a military estate, together with the ruler, the supreme military commander, performed the principal

function, military, in the Serbian medieval state, while the clergy performed those religious, cultural and social. It is, therefore, that those were privileged estates. According to the situational justice principle and in view of their merits in the state, the privileged estates had the right of property to the land (*dominium directum*) and the ruler the right of the supreme property to the land (*dominium eminens*), the so-called free heritage and many other privileges beyond the economic field. Dependent population, however, since its activities, although indispensable, were not directly connected with the principal, military function, had the right to use the land (*dominium utile*), the so-called subordinated heritage and in turn a lot of tributes and obligations. Also, existing in Dushan's legislature, and first of all in Dushan's Code, was Aristotle's general justice, understood as legitimacy, explicitly formulated at several places and particularly in Articles 171 and 172. Mostly containing provisions of the public law character, Dushan's Code feature distributive justice represented to a high degree, which is demonstrated in distributing honours and goods in proportion with merits. Also, there existed a special form of the distributive justice featured by an outstandingly social function. Namely, Dushan's Code takes care of the poor, wretched, sick and frees them from various burdens imposing obligations on the Church and courts to help them. Finally, Dushan's Code recognizes Aristotle's court and criminal justice as well, as a form of corrective or synalagmatic justice which is demonstrated in establishing the middle between the good and the evil, i.e. equivalency, done by the court. This special form of justice, however, was not consistently put into effect. As for its depth and reasonableness, Dushan's legislature, and first of all Dushan's Code, is an example of a majestic medieval law codification.

<http://facta.junis.ni.ac.rs/lap/lap99/lap99-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179903295P>

UJOMU, Philip Ogo - OLATUNJI, Felix O.

45. *Statism, Ethnicity and Power Politics as Threats to the Rule of Law in Africa's Social Order*, Vol. 12, no. 2 (2014), pp. [81]-92.

UDC: 340.131(6)

There is an acute problem of the rule of law in Africa, as seen in the need for methodologically reintegrating and re-theorizing the ethical elements underlying the values of power, justice and responsibility as core democratic imperatives. Presently, there is a manifest systematic disempowerment and de-legitimation of democracy that generates negative consequences for moral and material life. The crisis of the rule of law in democracy in African states has become life threatening due to the our multiethnic community where the shightly diverse difficulties and contradictions of societal life are usually reflected in the form of friction leading to oppression, deprivation, injustice, conflicts and insecurity. The concerns about life, values and society imply the need for a critical evaluation of Africa's institutions for human well-being, rule-following and progress.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/826/454>

341**INTERNATIONAL LAW (LAW OF NATIONS)**

ĐORĐEVIĆ, Stevan

46. *The Control of the Legality of the Acts of the United Nations Security Council*, Vol. 1, no. 4 (2000), pp. [371]-387.

UDC: 341.123

The end of the antagonisms between the East and West in the 90s of the 20th century has created, for many, conditions for more creative approach of the Security Council within the United Nations to maintain international peace and security. Tre author propounds a question of principle: Does not this initial state, created at the Security Council, impose at the same time the need of the appropriate control of such an organ with such vast authorizations? The author provides an answer to the question propounded in four sections: 1. The roots of propounding the question; 2. The Charter of the United Nations and the heritage from San Francisco in 1945; 3. The latest practice of the operation of the Security Council and suggestions for the control of legality of the international organs acts, in particular those of the Security Council; and 4. The aggression of NATO states on the Federal Republic of Yugoslavia in 1999.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004371D>

ILIĆ, Mile - JOVANOVIĆ, Milan

47. *Social Policy of the United Nations and Its Implementation in Local Communities*, Vol. 13, no. 2 (2015), pp. [115]-122.

UDC: 341.123:364 * 364 * 352

The study of social policy almost always has its outset in the Organization of the United Nations. It is also the source and the meeting place for local social policy, benchmark against which the standards are established. Poverty, illiteracy, hunger and social inequality have become serious reasons that can impair global relations, which is the main motive for the creation of the ECOSOC. Since its formation, the United Nations has made significant achievements in the field of social policy and has proven to be an indispensable instrument for international cooperation. With more or less success, the UN remained consistent to its proclaimed goals and principles. A large number of UN declarations in the field of protection of workers, women, children and many other aspects of social policy attain its final form and true value only after their implementation in local communities. Inequalities between regions, crime and unemployment must be accepted as a reality. But it is right there that the need for the UN activities emerges, which should create timely and appropriate measures in the field of social policy and be applied to the local level.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1402/887>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502115I>

PAUNOVIĆ, Milan

48. *The Collective System of Security and Yugoslav Crisis*, Vol. 1, no. 4 (2000), pp. [449]-462.

UDC: 341.123.043:341.311(497.1) * 341.311

The paper deals with the system of collective security of the United Nations - the normative aspect and practice of the United Nations. Particularly discussed is the concept of the collective security, collective measures of the United Nations Security Council as a concretization of the abstract model of the collective security, international military forces, incorrect start-up of the established collective system of security, that is, the first case of employing military forces in practice of the United Nations. Special attention is given to the importance of the peacekeeping forces of the United Nations, as an attempt of the United Nations to give rise to the survival of the system of collective security. At the conclusion of the first part, military measures of the United Nations relating to the attack on Iraq and Kuwait are assessed as a turn in the practice of the United Nations and contribution to the system of collective security. "Humanitarian interventions" are described as undermining of the modern system of the collective security, while especially treated is the case of aggression of NATO on the Federal Republic of Yugoslavia and a risky impact on the system of collective security, that is, repeated demonstration of serious faults in the system of collective security of the United Nations which has to be revised.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-08.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004449P>

341.1

LAW OF INTERNATIONAL ORGANIZATIONS. INTERGOVERNMENTAL ORGANIZATIONS

RAČIĆ, Obrad

49. *The United Nations between the Pacific Settlement of Disputes and Imposition Peace*, Vol. 1, no. 4 (2000), pp. [493]-508.

UDC: 341.123:[341.62+341.652 * 341.62 * 341.652

Today, when extensive discussions are being held within and around the United Nations on expanding the rights for interventions with internal conflicts and clashes - while discussions on the subject matter were commenced in the scientific literature a long time ago - one should be reminded that resorting to different modes of peaceful disputes resolution depends upon the agreement of disputants, on the other hand, the Security Council may give orders that enforcement measures should be taken. This is important, first of all, because the peace-keeping operations increasingly take on both functions. Just because of that to lessen, to the extent possible, the influence of the political factor (also including here the factor of unequal power of participants in the negotiation process and decision-making), consideration of these problems should be, first and foremost, directed to: establishing the circumstances under which the United Nations can get down to the peace-keeping (or even imposing) operations; creating the rules which will contribute both to the objectivization of establishing factual conditions and finding out what the international interest is; defining how these

operations should be carried out; and expanding the number of organs of the United Nations to take part in decision-making.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-10.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004493R>

341.2

LEGAL ENTITIES AND SUBJECTS OF INTERNATIONAL LAW (PERSONS AND THINGS IN INTERNATIONAL LAW)

ĐORĐEVIĆ-Aleksovski, Sanja

50. *Protocol 16 to the European Convention on Human Rights and Freedoms*, Vol. 12, no. 2 (2014), pp. [103]-111.

UDC: 341.231.14:341.645.2(4-672EU) * 341.645.2(4-672EU)

Although the primary jurisdiction of the European Court of Human Rights is the one relating to applications, the Court also has advisory jurisdiction which was established by adopting Protocol 2 in 1963. However, the scope of this Protocol was limited in a twofold manner: the circle of entities authorized to request an advisory opinion was very narrowly defined and there were also uncertainties as to the type of legal issues that may require review. Only the Committee of Ministers had the authority to request an advisory opinion, provided that the decision was made by a two-thirds majority vote. Moreover, the advisory opinion could only be requested on the questions that did not fall within the scope of content, interpretation and/or effects of the rights and freedoms guaranteed under the European Convention and the related protocols. As a result of this restrictive approach, Protocol 2 has been applied in only three cases so far, for which reason it is considered to have little practical significance.

The idea of expanding the Court's advisory jurisdiction was revived in the process of reforming the European human rights protection mechanism. The result of these endeavors was the adoption of Protocol 16 in 2013, which is yet expected to enter into force. Protocol 16 aims to achieve a dual objective: 1) to intensify and strengthen the dialogue between higher national courts and the European Court; and 2) to reduce the large backlog of applications. During the drafting process, the debate was concentrated on four key issues: a) the nature of the authorized national courts; b) the legal effect of advisory opinions; c) the category and type of questions which may be referred; and d) the process of adoption of advisory opinions. However, despite some good legal solutions, there are some reservations on the likelihood of accomplishing the goals envisaged in Protocol 16.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/828/456>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171402103D>

ILIĆ, Ivan

51. *Forced Sterilization as a Violation of Article 3 and Article 8 of the European Convention*, Vol. 13, no. 2 (2015), pp. [187]-200.

UDC: 341.231.14:616-089.856 * 616-089.856

Forced and coerced sterilization is a phenomenon that has a long history in Europe as well as on other continents. It is a violation of basic human rights, especially the rights of women, ethnic and racial minorities, mentally impaired persons, and the HIVinfected persons. Sterilization is a procedure that is abused for the purpose of implementing eugenic policies. The author examines the ECtHR cases referring to forced sterilization and presents the most important attitudes of the Court, regarding the violation of Articles 3 and 8 of the European Convention on Human Rights. The author criticizes the Court attitude not to consider the applicants' discrimination claims, and argues that this issue is of crucial importance for the further development of the Convention as a "living instrument".

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1424/893>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502187I>

MACHACEK, Rudolf

52. *Law and Justice: Two Sides of the Same Coin*, Vol. 1, no. 5 (2001), pp. [571]-580.

UDC: 341.231.14:351.941 * 351.941

To protect human rights in a peaceful democratic state, it is essential to achieve justice in addition to achieving law. In providing accomplishment of justice of crucial importance is the function of the institution of Ombudsman recently widespread all over the West Europe. That institution, however, is very old and originates from the Arab "Muhtasib" the roots of which go back to the times of the Prophet Muhammad in the 7th century. The text abounds in experiences the author has obtained while working as a practicing lawyer, the judge of the Austrian Supreme Court and Austrian Law Protector.

<http://facta.junis.ni.ac.rs/lap/lap2001/lap2001-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170105571M>

MILOJEVIĆ, Momir

53. *The Principle of Non-Interference in the Internal Affairs of States*, Vol. 1, no. 4 (2000), pp. [427]-447.

UDC: 341.231

Centuries-old relations among states have been based upon their sovereignty out of which significant political and legal consequences resulted. The most important consequences are related to designating the sovereignty as independence and supreme power. Hence, there resulted a conclusion that states are free in exercising their power over their respective territories, which must have understood, on the one hand, existence of exclusive internal competence of states and, on the other hand, that other states must not interfere in that. Such understanding is widely accepted in the international customary law and was mostly advocated in the doctrine by the representatives of the natural law school. There were differences among them only in view of the extent of the non-interference principle. Some of them thought that absolutely every interference was forbidden, while the others allowed certain exceptions, thus obliging those who justified all interventions as a form of use of force not forbidden in those times in the international relations.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-07.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004427M>

NASTIĆ, Maja

54. *The Importance of the European Convention for the Protection of Human Rights and Fundamental Freedoms in Constitutional Law and the Constitutional System of the Republic of Serbia*, Vol. 7, no. 1 (2009), pp. [31]-43.

UDC: 341.231.14:342.7(497.11:4-672EU) * 342.7(497.11:4-672EU) *
342.565.2:341.231.14

The paper analyzes the position of the European Convention in the Serbian national legal system within the framework provided by the new Serbian Constitution, which derives from the fact that our country has ratified the Declaration. The importance of the European Convention for constitutional law is discussed in the light of its specific legal nature, its position in comparative law, in particular in the system of constitutional law of the Republic of Serbia, and also in view of the activities of the Constitutional Court of Serbia, especially when it decides on constitutional appeals.

<http://facta.junis.ni.ac.rs/lap/lap2009/lap2009-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170901031N>

RADIVOJEVIĆ, Zoran

55. *European Union Directives: Between the Recognized Vertical and the Unaccepted Horizontal Direct Effect*, Vol. 12, no. 2 (2014), pp. [59]-68.

UDC: 341.24(4-672EU)

Directives are legal acts which bind Member States only in regard to the objectives and results to be achieved, while the choice of form and methods to achieve them is left to the discretion of national authorities. Due to their legal nature and place in the EU legal system, directives do not create direct rights and obligations for individual subjects but only for the Member State which it refers to. The problem, however, arises when a Member State, infringing its obligation, fails to implement the directive or adopt inadequate implementation measures within the prescribed deadline. Faced with this kind of situation, the Court of Justice recognized a vertical direct effect of EU directives, but is still hesitant in acknowledging a horizontal direct effect. In addition, the Court accepted their interpretative and incidental effect, as well as state liability in damages, in situations of non-implementation of directives.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/823/452>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171402059R>

56. *La personnalité juridique internationale et la capacité des organisations internationales universelles de conclure des traités*, Vol. 1, no. 1 (1997), pp. [95]-102.

UDC: 341.21:341.24 * 341.215.1: 347.155

Il existe aujourd'hui un large consentement que les organisations internationales universelles, particulièrement les Nations Unies et les agences spécialisées, possèdent la personnalité internationale et la capacité de conclure des traités avec des États et avec d'autres organisations. Cependant, la qualité de la personnalité juridique internationale par elle-même ne signifie pas que les organisations internationales disposent de la capacité de conclure des traités, mais qu'il s'agit là des catégories indépendantes qui puisent leur source dans le droit international.

Le fondement juridique de la capacité des organisations universelles de conclure des traités se résume en fin de compte à la reconnaissance contractuelle aux organisations de pouvoir conclure des traités internationaux. Cette reconnaissance est accordée par les États en forme de l'acte sur la création de l'organisation internationale et ceci non seulement par les règles qui prévoient directement la conclusion des traités, mais aussi de ceux par lesquelles on confie à l'organisation les fonctions dont l'exercice efficace sous-entend nécessairement la conclusion des contrats, même lorsqu'une telle autorisation n'est pas strictement citée.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-08.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701095R>

341.3

LAW OF WAR. INTERNATIONAL LEGAL RELATIONS IN WAR

GEISTLINGER, Michael

57. The Attack on SRJ - an Attack on Public International Law, Vol. 1, no. 4 (2000), pp. [397]-408.

UDC: 341.311(497.1)

Ćele Kula can be understood as a symbol for the role which the Federal Republic of Yugoslavia is currently playing with regard to the United Nations, the chapter VII of its Charter, and the supremacy of public international law to politics. NATO attack on FRY was neither legal nor legitimate, nor can it be justified under present public international law. It must be considered as an attempt to revolutionarily amend the United Nations Charter. The negligence of the NATO war on FRY by UN Security Council Resolution 1244 (1999) can be seen as the first step towards a final and definite reverse of the NATO attempt. So far, neither KFOR, nor UNMIK succeeded in even laying a fundament for the implementation of the operative part of the resolution. Serious human rights issues raised by the war and the lack of law and order after the implementation of the Military-technical agreement of June 15 1999 are at stake and also threaten the necessary success of the mission of the United Nations. The final success, which under the Charter of the United Nations and current public international law can be only a political and not a military one, will depend on Serbs and Albanian Kosovars. As soon as they find a way back to mutual understanding and peaceful cohabitation, public international law and the United Nations Charter will have got the better of NATO and its efforts to continue with the means and methods which were characteristic for the period of the former Cold War. It depends on a peaceful settlement of the Kosovo issue by Serbs and Kosovar Albanians as to whether finally NATO will be subject to law. Ćele Kula can also be understood as symbol for the possibility of an understanding of a minority by a majority, especially as the majority was also a minority in the past.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004397G>

MILOJEVIĆ, Momir

58. *Prohibition of Use of Force and Threats in International Relations*, Vol. 1, no. 5 (2001), pp. [581]-604.

UDC: 341.31 * 327:355.01 * 355.01

Force and threat have been old accompanying phenomena to international relations and in the political and legal theory they were considered to originate from the sovereignty of states, that is, their limitless right to use all means to protect their interests. The only limits could be found in moral views on just and unjust wars. The more war was connected with sovereignty as a legal concept the more it became a legal institution. Originating from the right to wage war was the war law. Development of social consciousness has resulted in gradual limiting and final abolishing of the right to wage war turning into prohibition of any force and threat in relations among states becoming a supreme norm of international law and at the same time a norm of international criminal law the violence of which entails international criminal responsibility.

<http://facta.junis.ni.ac.rs/lap/lap2001/lap2001-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170105581M>

STARČEVIĆ, Miodrag

59. *The Violations of the Proportionality Principle in Applying Force in NATO Air Raids on Yugoslavia*, Vol. 1, no. 4 (2000), pp. [541]-549.

UDC: 341.363(4+73:497.1)

The NATO aggression on Yugoslavia, in addition to the indisputable violations of the Charter of the United Nations, abounds in violations of international law of armed conflicts. Nearly all rules of international law of armed conflicts have been violated, but particularly drastic were violations of rules of war and, particularly, violations of obligations to employ unavoidable and necessary force to the extent enough to achieve military objectives. Those violations are so serious that it may be concluded that NATO has employed force with the intention to cause as large destructions as possible, applying a long ago forbidden and left concept of "total war" intended to frighten and torture the civilian population.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-13.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004541S>

341.4

INTERNATIONAL CRIMINAL LAW

GRIDCHIN, Aleksandr Anatolevich

60. *Basic Tendencies of Activities of International Police Organizations*, Vol. 3, no. 1 (2005), pp. [47]-51.

UDC: 341.456:343.341 * 343.341 * 351.74:061.1(100):343.341

The author gives a short analysis of the main activities and role of international police organizations and national police forces in fighting the globalization of terrorism. The reality and global character of the new type of terrorism is a serious concern of

international police organizations and national law enforcement, and defines their main objectives, roles and responsibilities. The author gives a short analysis of the main activities and role of international police organizations and national police forces in fighting smuggling of humans and trafficking of women and children for sexual exploitation. The article also touches upon the issue of international police and legal cooperation with regard to this criminal activity.

<http://facta.junis.ni.ac.rs/lap/lap2005/lap2005-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170501047G>

JOVAŠEVIĆ, Dragan

61. *The Genocide and the Command Responsibility in Criminal Law of the Republic of Serbia*, Vol. 12, no. 2 (2014), pp. [69]-79.

UDC: 341.49(497.11)

International criminal law, as a system of legal regulations embodied in the acts of international community and criminal legislations of individual states, establishes criminal liability and punishment for crimes against international law. These acts constitute breaches of the laws and customs of war (international humanitarian law) that violate or threaten peace among nations and the security of mankind. Penalties prescribed for these criminal offences are the most severe penalties in contemporary criminal legislation. In some cases, the international judicial (supranational) institutions such as the Nurnberg and the Tokyo Tribunal, the Hague Tribunal, the International Criminal Court (etc.) have primary jurisdiction over perpetrators of these criminal offences. The criminal act of genocide is defined as the killing of a nation or a tribe. In the UN General Assembly Resolution 96/I of 11th December 1946, genocide was proclaimed as “a crime under international law, which is in contradiction with the spirit and the aims of the OUN and condemned by the entire civilized world”. Although it emerged as a “subspecies of crime against humanity”, genocide rapidly obtained an autonomous status and contents as one of the most serious crimes of today. As a crime against international law, genocide is established on the basis of three elements: a) the objective component - actus reus; b) the subjective component - mens rea; c) the object of the act - the group (the victim). The source of this incrimination is found in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide which, in Article 2, defines the notion and the elements of this crime against international law. In legislation, theory and practice, this term can be interpreted in a broader sense as well. In this paper, the author analyses the theoretical and practical aspects of genocide in international criminal law and criminal law of the Republic of Serbia (including former FR Yugoslavia).

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/824/453>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171402069J>

MILOJEVIĆ, Momir

62. *Constitutional Competence for Conclusion and Enactment of International Treaties*, Vol. 3, no. 1 (2005), pp. [1]-15.

UDC: 341.42:342.4 * 342.4

Questions of international relations rarely found its place in constitutions because it was considered that the foreign policy represents the freedoms of acting which does not bear legal limitations. However, when the politics was submitted to certain legal rules it was considered that it belongs to the exclusive jurisdiction of a state in which other states and international community are not allowed to interfere. Today this standpoint is in a large measure changed, but has not been completely abandoned. Turning point are four French revolutionary Constitutions in which one can find provisions about the ratification of international conventions. This example was followed by the other state among which Serbia and Yugoslavia. In constitutions of European states in XIX and XX century one can notice enough similarities in respect of many solutions among which are conclusions of international conventions.

The widened jurisdiction of republics sets up the question of executions of international conventions. Constitutions usually pass or arrange indirectly this question. Therefore one should often start from the content of international conventions and obligations the state. International law imposes obligations only to a state and makes it responsible for the non-fulfillment of international obligations regardless it internal organization.

<http://facta.junis.ni.ac.rs/lap/lap2005/lap2005-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170501001M>

341.6

INTERNATIONAL ARBITRATION.

INTERNATIONAL ADJUDICATION, JURISDICTION

BELKIN, Mark Leonidovič

63. *Некоторые аспекты гарантий права на справедливое судебное разбирательство в решениях Европейского суда по правам человека относительно Сербии и влияние на правосудие Сербии таких решений, принятых относительно других государств*, Vol. 11, no. 2 (2013), pp. [135]-145.

UDC: 341.645(4-672EU):341.231.14 * 341.231.14 * 343.211:347.962.6 * 347.962.6

Рассматриваются решения Европейского суда по правам человека (ЕСПЧ) в спорах в сфере гарантий права на справедливое судебное разбирательство, с учетом прецедентной практики относительно Сербии. Рассматриваются такие аспекты права на справедливый суд: презумпция невиновности, гарантии права на защиту, гарантии права «быть услышанным». Показано, что в демократическом обществе право на справедливый суд является одним из важнейших прав человека.

Some Aspects of Warranties the Right to a Fair Trial in the Decisions of the European Court of Human Rights on Serbia and Impact on Justice of Serbia Such Decisions as to Other States

We consider the decision of the European Court of Human Rights (ECHR) in the disputes in the field of guarantees of the right to a fair trial, given the case law in relation to Serbia. The following aspects of the right to a fair trial: the presumption of innocence, the right to protection guarantees, guarantees the right "to be heard". It is shown that in a democratic society by the right to a fair trial is a fundamental human right.

<http://facta.junis.ni.ac.rs/lap/lap201302/lap201302-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171302135B>

ETINSKI, Rodoljub

64. *Appearance of Specialized Tribunals and the Question of the Balanced Application of International Law*, Vol. 1, no. 4 (2000), pp. [389]-395.

UDC: 341.645:341.018 * 341.018

The relations between the International Court of Justice and the specialized tribunals in the process of application of international law; states before the Court may influence the application of law, while nongovernmental subjects cannot do that before the tribunals; The Court is composed of experts of international law, while tribunals need not; it is necessary to provide an equalized application of international law through the Court as a principal judiciary organ in the system of the United Nations.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004389E>

JANIĆIJEVIĆ, Dejan

65. *Delocalization in International Commercial Arbitration*, Vol. 3, no. 1 (2005), pp. [63]-71.

UDC: 341.63:339.5 * 339.5:341.6

This paper analyzes the delocalization of international commercial arbitration, as a phenomenon which is gaining in popularity in arbitration theory, but in practical terms is still subject to hostility all over the world. The author identifies the basic elements of delocalization – detachment from national procedural and substantive law of the place of arbitration, or any other national law, and underlines the principle of party autonomy as the guiding idea pertaining to the process of delocalization. He further examines the problems related to the enforcement and powers of state courts to set aside arbitration awards deriving from delocalized arbitrations, as well as the application of mandatory provisions of lex fori and New York Convention with respect to such awards. The author concludes that the only legitimate limitation to delocalization may be the public policy concerns, and that nothing should be in the way of parties' choice to waive some legal protection mechanisms of the legal system of the place of arbitration.

<http://facta.junis.ni.ac.rs/lap/lap2005/lap2005-07.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170501063J>

KNEŽEVIĆ-Predić, Vesna

66. *An Agreement as a Basis of the Competence of the International Court of Justice in Disputes of the Federal Republic of Yugoslavia v. Member States of NATO*, Vol. 1, no. 4 (2000), pp. [409]-425.

UDC: 341.24:341.645.2(497.1:4+73) * 645.2

In this text, the author analyzes the effect of the agreement to which, as a basis of the competence of the International Court of Justice, the Federal Republic has referred to in procedures against ten member states of NATO. The primary purpose of this analysis is to identify the effects resulting from the application of the consensuality principle both the effects of its particular expressions – mutuality and reciprocity principle – and the consensuality test effects contained in the provisions of Article 36.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004409K>

RADIVOJEVIĆ, Zoran

67. *Reservations Pertaining to the Statements on the Acceptance of Compulsory Competence of the International Court of Justice in the Disputes of the Federal Republic of Yugoslavia v. the Members States of NATO*, Vol. 1, no. 4 (2000), pp. [509]-523.

UDC: 341.645.2:341.981(497.1:4+73) * 341.981

Having previously and under certain reservations delivered a statement on joining the optional clause from paragraph 2 of Article 32 of the Statute of the International Court of Justice, the Federal Republic of Yugoslavia, on 29 April, 1999, applied for the institution of proceedings and imposition of temporary injunctions against six member states of NATO, which had also accepted this clause. However, the Court has rejected the request for temporary injunctions finding out that it had no prima facie competence. When the states bound under an optional clause are in question, the Court has cited in favour of that clause the reservation *ratione temporis* as well contained in the Yugoslav statement on accepting a compulsory competence. Such determination of the main court organ of the United Nations has served the author as a cause to analyse compulsory competence of the International Court of Justice, permissibility and legal nature of the reservations, interpretation of rules as well as concrete reservations contained in the statements of Yugoslavia and the six member states of NATO on the acceptance of the compulsory competence of the Court.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-11.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004509R>

RADULOVIĆ, Drago

68. *Legality and Legitimacy of the Tribunal for the Prosecution of Persons Supposed To Be Responsible For Serious Violations of the International Humanitarian Law Committed in the Territory of Former Yugoslavia (The Hague tribunal)*, Vol. 1, no. 4 (2000), pp. [525]-539.

UDC: 341.645.2:341.49 * 341.49

The valid principle for establishment of an international criminal tribunal is *nullum forum sine lege*, which means that it can be established only under the corresponding international act. The notion "law", that is, "legal tribunal" in international criminal procedural law is observed here in the light of international contractual law, which is the way to reach the international criminal tribunal. The provisions of Article 29 of the United Nations Charter the Security Council refers to empowers the Security Council to establish subsidiary organs to take over measures under Articles 41 and 42 of the Charter, but such measures are taken only against the states, but not individuals. Therefore, establishment of the tribunal cannot be an enforcement measure for maintenance, that is, restoration of peace and security.

<http://facta.junis.ni.ac.rs/lap/lap2000/lap2000-12.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170004525R>

341.9

INTERNATIONAL PRIVATE LAW. CONFLICT OF LAWS

ROČKOMANOVIĆ, Milorad

69. *De la reconnaissance des jugements étrangers sur le statut personnel sur le tranchement de conflit des lois avec les lois des autres pays dans certains rapports de 1982*, Vol. 1, no. 3 (1999), pp. [325]-342.

UDC: 341.985(497.1)(094.5)"1982"

Dans son article l'auteur a mis à l'évidence divers positions du législateur yougoslave vis-à-vis de l'efficacité des jugements étrangers sur le statut personnel des personnes physiques en Yougoslavie. Tout d'abord, il exposait les conditions relatives aux décisions de ce genre portées par des citoyens yougoslaves prévues dans les articles 87, 88, 89, 90, 91 et 92 de la Loi sur le tranchement de conflit des lois avec les lois des autres pays dans certains rapports de 1982. Puis, il soulignait que la loi a admis un régime spécial pour les jugements tranchant certains problèmes du statut personnel des sujets ayant la nationalité du pays du for étranger (l'art. 94 al 1 de la Loi). Enfin, quand il s'agit de la même catégorie des décisions, mais cette fois-ci de celles relatives au statut des ressortissants étrangers qui le sont même pour l'état du for étranger (l'art. 95 de la Loi), le régime y établi se montre assez sévère selon la position dominante de la doctrine yougoslave. L'auteur en opposait les arguments persuasifs témoignant que cette doctrine n'était pas fondée sur la Loi et, en plus, il démontra qu'elle n'est guère acceptable à cause d'une sévérité exorbitante qui pourrait augmenter le risque de leur non reconnaissance en Yougoslavie aussi.

<http://facta.junis.ni.ac.rs/lap/lap99/lap99-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179903325R>

ŽIVKOVIĆ, Mirko

70. *Validity of the Hague Conventions in the Field of International Private Law in the Legal System of the Federal Republic of Yugoslavia After the Dissolution of the Socialist Federative Republic of Yugoslavia*, Vol. 1, no. 5 (2001), pp. [633]-644.

UDC: 341.948:340.13(497.1) * 340.13(497.1)

The paper discusses a legally and politically complex question whether the Hague Conventions in the field of international private law are valid in the law of FR Yugoslavia after the cessation of the Socialist Federal Republic of Yugoslavia in 1992, which was a member of those Conventions. The complexity of that question resulted from the fact that FR Yugoslavia aspired to extend the continuity of SFRY, while some member states of the Hague Conventions deemed that pretension ungrounded, because of which Yugoslavia may be only one of the successor states of that state. The consequence of that contradicting legal opinions was that the state organs of FR Yugoslavia thought that the subject conventions were still valid for her, while the states that did not get along with that refused to recognize that state as the member of the subject Conventions.

<http://facta.junis.ni.ac.rs/lap/lap2001/lap2001-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170105633Z>

342.1/9**PUBLIC LAW.****CONSTITUTIONAL LAW. ADMINISTRATIVE LAW**

DIMITRIJEVIĆ, Jelena

71. *An Appeal to the Constitutional Court and a Constitutional Appeal*, Vol. 8, no. 1 (2010), pp. [79]-92.

UDC: 342.565.2 (497.11)

The Constitution of the Republic of Serbia (2006) and the Constitutional Court Act (2007) envisage vast competences of the Constitutional Court. The competence which proves to be a rather interesting matter of current debate refers to lodging special appeals with this Court. The Constitution has envisaged that these special appeals may be filed in several cases, in two of which the Court has explicitly precluded the right to file a constitutional appeal. This yields a conclusion that an appeal to the Constitutional Court and the constitutional appeal are two different legal remedies which consequently imply different competences of the Constitutional Court. A constitutional appeal may be lodged against individual legal acts or actions of state bodies of authority or organizations vested with delegated public authorities whose legal acts or actions either violate or deny the human or minority rights and freedoms guaranteed under the Constitution. A constitutional appeal may be lodged only if the appellant has exhausted all other legal remedies envisaged by the law or if a legal remedy has not been prescribed (Article 170 of the Constitution). On the other hand, an appeal to the Constitutional Court may be lodged directly on the grounds of constitutional provisions only for the purpose of protecting specific rights, such as: the rights of judges, public prosecutors and deputy public prosecutors concerning the termination of their public offices; the rights of the members of parliament concerning the confirmation of their terms of office, and the right to the province autonomy and local self-government.

In spite of the apparent differences between these two legal remedies, the legal practice has recently encountered a problem regarding the application of these two types of appeal. The problem is related to a recent case on the termination of offices of judges, public prosecutors and deputy public prosecutors. In a large number of cases, the appellants concurrently lodged both legal remedies seeking adequate constitutional protection. The Constitutional Court was of the opinion that the unappointed judges and prosecutors are entitled to file an appeal with the Constitutional Court; thus, the Constitutional Court implicitly resolved the dilemma that was present in the general public on whether it was the issue of the judges' removal from office or a general judicial appointment.

Apart from the inexact general terminology, the Constitution contains quite an imprecise definition on the legal nature of an appeal to the Constitutional Court. Considering the fact that an appeal to the Constitutional Court may be filed against individual legal acts and actions in different procedural circumstances, this may lead to a (wrong) conclusion that these appeals are different modalities of the constitutional appeal.

<http://facta.junis.ni.ac.rs/lap/lap2010/lap2010-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171001079V>

GOLUBOVIĆ, Nataša - DŽUNIĆ, Marija - GOLUBOVIĆ, Srđan

72. *Trust in Political Institutions in Western Balkan Countries*, Vol. 13, no. 1 (2015), pp. [13]-21.

UDC: 342.5(497-15)

Trust in political institutions is very important for the stability of society and functioning of democracy, that is, for the legitimacy of a democratic regime. The question of legitimacy is especially important for the consolidation of new democracies, such as Western Balkan countries. Since trust in political institutions determines citizens' willingness to comply with the decisions of these institutions, as well as governability of modern society, a vicious circle could develop where low level of trust in political institutions impedes their efficient functioning, contributing to further decline of trust. Starting from the importance of trust in political institutions for the normal functioning of society, this paper explores the levels of trust in these institutions over time in Western Balkan countries for the purpose of establishing whether the existing levels of trust could be an obstacle to governance and further consolidation of democracy.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1425/869>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171501013G>

ILIĆ-Petković, Aleksandra

73. *Legal Status of Civil Servants: Basic Legislative Solutions*, Vol. 13, no. 2 (2015), pp. [139]-147.

UDC: 342.98:35.08 * 35.08

Different bodies of state administration employ a large number of people of different qualifications and different jobs. Some of them perform simple tasks, while others perform more complex managerial ones. The issue of legal status of civil servants has been thoroughly regulated by the Civil Servants Act of 2005 but individual issues are regulated by other laws. As the status of civil servants is regulated by many laws, the legal provisions seem to be inconsistent and unharmonized. Questions of legal status of civil servants are complex and may be discussed from various aspects. There are different standards and comparative experiences as well. A comprehensive understanding of the position of civil servants creates conditions for further improvement of the civil service system in the state administration and paves the way towards the creation of a new legal discipline: civil service law.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1411/889>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502139I>

LILIĆ, Stevan

74. *Challenges of Government Reconstruction: Turbulence in Administrative Transition: (from Administration as an Instrument of Government to Administration as Public Service)*, Vol. 1, no. 2 (1998), pp. [183]-193.

UDC: 342.51:35.076 * 35.076

Modern administrative systems derive from a relatively nondifferentiated state organizational structure of the absolutistic states of the seventeenth century. Reactions against the administration as the monarch's "personal instrument of government" were

inspired by the doctrines of the separation of powers and realized by revolutions at the end of the eighteenth century in Europe and America. However, as the administration steadily became an equal partner in the division of powers, the previous view of the administration as a "suspicious instrument of the monarch" started radically to change.

Today, the experience of developed countries indicate that an administrative system cannot be conceived as an "instrument" or "apparatus" (e.g. of the ruling class), nor can a modern administrative system be projected only as a legalistic normative model of structures and procedures (i.e. administrative agencies and the administrative process). Administrative models that are common to the developed countries (particularly in Europe) derive from the concept of the administration's social function. Under the conditions of a developed material and cultural social environment, state and government "transform" from an instrument of power and repression into an organization with a social function of rendering public services (e.g. education, medical care, scientific research and development, environmental protection, economic development, etc.) to citizens and other subjects in the social environment and protecting human rights. After the fall of the Berlin Wall in 1989, many former communist countries are going through a period of social and political turbulence that, inter alia, reflect on their administrative systems. The situation varies from country to country. References to the state of affairs of the administration in Yugoslavia (Serbia and Montenegro) are also given.

<http://facta.junis.ni.ac.rs/lap/lap98/lap98-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179802183L>

MARKOVIĆ, Ratko

75. *What Should Serbian Constitution Be Like*, Vol. 2, no. 1 (2004), pp. [1]-6.

UDC: 342.4(497.11)

Even if it does meet all requirements set before it, this does not mean the Serbian Constitution will be ideal. De Smith claimed that there is no predefined stereotype of an ideal constitution. He believed the form and content of the constitution would depend, first, on the political balance of power at the moment in which the constitution is proclaimed, second, on the commonsensical understanding of how practically useful certain constitutional solutions are, third, on traditional patterns available to politicians and their advisors writing the constitution. DeGaulle was referring to the same thing in his famous 1946 Bayeux Speech, where he quoted the response of the wise Solon to the question of a Greek, inquiring which constitution was the best. Solon replied: "First tell me for which people and for what epoch."

<http://facta.junis.ni.ac.rs/lap/lap2004/lap2004-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170401001M>

NASTIĆ, Maja

76. *Constitutional Review of International Agreements: Comparative Law Perspective*, Vol. 13, no. 1 (2015), pp. [59]-72.

UDC: 342.565.2:340.5 * 347.951.2:342.565.2]:340.5 * 340.5

After the Constitutional Court of Serbia dismissed the motion for assessment of constitutionality of the so-called Brussels Agreement in December a year ago, the issue of constitutional review of international agreements has been actualized. The aim of this paper is to provide a comparative analysis of legal provisions pertaining to the constitutional review of international agreements as envisaged in the following states: Austria, Germany, France, Spain and Serbia. The starting point is that the international treaty may be the subject matter as well as grounds of constitutional review, depending on its status in the national legal system. Further, we note that the constitutional review of international treaties has some specific features that distinguish it from the review of legislative or other legal act, particularly regarding the effects of the Constitutional Court decisions. Our intention is to analyze the legal provisions in our system by exploring this issue from the perspective of comparative law.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1414/874>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171501059N>

PAJVANČIĆ, Marijana

77. *The Basic Principle of the Constitutional State - the Constitution of Serbia*, Vol. 8, no. 1 (2010), pp. 43-64.

UDC: 342.4(497.11)

The principle of popular sovereignty is defined in the Basic Principles of the Serbian Constitution, which provides two basic types of popular sovereignty: the direct exercise of power (in a referendum or a popular initiative) and the free election of representative bodies. The Constitution proscribes that the state bodies of authority, political parties and individuals shall neither usurp popular sovereignty nor establish government in contradiction with the free will of the people expressed in free democratic elections. The citizens' sovereignty and the free will (by which they express their sovereignty) are protected as the basic values of the constitutional system.

The sovereignty of the state is first defined in the Preamble of the Serbian Constitution, in reference to the status of the Province of Kosovo and Metohija, where the Republic of Serbia is defined as a national state. However, this concept is differently defined in the normative part of the Constitution. The Basic Principles of the Constitution also contain legal provisions on the state sovereignty (including the state territory, state symbols, protection of citizens, the rights and the status of foreign nationals, etc). Being formal attributes of state sovereignty, state symbols are prescribed in the Basic Principles of the Serbian Constitution.

The principle of legal sovereignty and the rule of law are explicitly defined in the context of a unified legal order. The Constitution is the supreme law of the land which all other legal acts and general regulations have to comply with. There is no explicit provision that either the Constitution or the statutory legislation shall be binding, i.e. that everyone shall be obliged to abide by them, but there are explicit legal provisions on the duty of the state administration, the courts, the judiciary and the public prosecutors to abide by the Constitution and the statutory law. In the constitutional provisions, it is also possible to identify certain differences in terms of the rules defining the framework and the limitations of activities of certain bodies of authority.

The Constitution defines the rule of law principle as one of the vital and distinctive features of the legal state and the underlying principles it rests upon. The Republic of Serbia rests on the rule of law and social justice, on the principles of civic democracy, human rights and freedoms, and recognition of common European values. The legal content of the rule of law principle includes a hierarchy of legal rules, a unified legal order, a mandatory publication of legal rules, a prohibition of the reverse effect of legal acts and other regulations (except in cases permitted by the Constitution), judicial control of the legality of the administration activities. In a broader sense, the rule of law principle includes a functional, organizational and personal separation of powers (both horizontal and vertical).

The Constitution does not explicitly define the concept of democracy but it contains a number of provisions which either directly or indirectly refer to the concept of constitutional democracy, which is clearly apparent in the constitutional provisions on the separation of powers and the observance of the Constitution and the statutory law. The repudiation of a party-run state and the reaffirmation of constitutional democracy are most apparent in the provisions prohibiting the political parties to exercise governing power directly or to submit it to their control. The most distinctive feature of the multi-party democracy is the freedom to establish political parties, recognize and acknowledge their role in shaping the political will.

<http://facta.junis.ni.ac.rs/lap/lap2010/lap2010-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171001043P>

PETROVIĆ, Milan

78. *Abus du pouvoir suprême (de la souveraineté de l'État)*, Vol. 1, no. 1 (1997), pp. [65]-82.

UDC: 342.3:347.122 * 347.122

L'abus du pouvoir suprême apparaît comme une des formes de l'abus de droit. En partant de ce fait, cet article décrit d'abord brièvement les instituts de l'abus de droit dans le droit civil et l'abus du pouvoir discrétionnaire (le détournement de pouvoir) dans le droit administratif. Ensuite l'auteur nie la conception de l'illimité juridique du pouvoir suprême. Ce pouvoir qui apparaît en même temps comme le droit subjectif et comme la fonction de ses porteurs est soumis aux certaines limitations intérieures aussi bien qu'extérieures. Les limitations intérieures sont les règles du droit constitutionnel et du droit public international. Les limitations extérieures sont composées de certaines principes juridiques et juridico-éthiques dont la violation présente l'abus du pouvoir suprême. Cet abus n'est cependant pas le même dans tous les actes du pouvoir suprême. Il ressort dans des formes différentes à l'occasion de l'adoption des mesures "juridiques", des lois juridiques (formatives) et lors de l'adoption des "lois mesures", à l'occasion de l'exercice des droits internationaux de l'État et lors de l'entreprise des actes liée aux états des circonstances exceptionnelles, particulièrement des actes de la nécessité étatique. Les principes qui lient (limitent) le pouvoir suprême sont les principes de l'égalité, la prohibition du pouvoir arbitraire, le principe de la bonne foi et de loyauté et de confiance réciproque, l'interdiction des actes excessifs. Leurs effets dans le contexte du pouvoir suprême ont été examinés dans la pratique judiciaire en Allemagne, aux États Unis d'Amérique et en France, en cas des conflits entre des

raisons d'états et des droits fondamentaux de l'homme. À la fin deux cas particulièrement importants pour le droit yougoslave ont été analysés: la Loi de Serbie du 5 juillet 1990 par laquelle les droits et les obligations de l'Assemblée et du Conseil exécutif de Kosovo avaient été transmis aux organes de République et la reconnaissance des républiques sécessionnistes de RSFY de la part des États occidentaux.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701065P>

79. *The "Acts of Government" and the Legal Notion of Politics*, Vol. 9, no. 2 (2011), pp. [85]-97.

UDC: 342.924:342.54 * 342.5

Bearing in mind that "acts of government" are the original creation of the French law, the author of this paper first analyses the legal regime governing "the acts of government" as a legal institute envisaged in the French legislation throughout history until the present day. However, given the fact that the legislations of some other countries (such as England and Serbia) include a similar institute, the author points out that the qualification of certain administrative acts and acts of the administration as "the acts of government" is not merely a matter of historical coincidence but rather that it is deeply rooted in the nature of things. In that context, the author defines the legal nature of "the acts of government" and presents his original standpoint on the subjective public rights and the legal notion of politics as an exercise of absolute subjective public rights.

<http://facta.junis.ni.ac.rs/lap/lap201102/lap201102-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171102085P>

80. *Constitution and Legitimacy: Proclamation, Changes to and Validity of the Constitution, with Emphasis on the Question of Legitimacy as One of the Principal Concepts in the Theory of Constitution and Constitutional Law Theory*, Vol. 2, no. 1 (2004), pp. [7]-39.

UDC: 342.4:340.13 * 340.13

Legitimacy of constituent power is here not taken to be a pre-positive legitimacy (accorded with "natural law"). The very fact that there are nine groups of theories of natural law and that, especially in international law, "natural law" is today used as a means of arbitrariness, speak against the construction of legitimacy based on the allegedly "suprastate" law. For us, legitimacy has an empirical, thus alternative character. In our view, the most correct is M. Weber's theory of three types of legitimacy of authority: traditional, charismatic, and rational, to which one may add two more ideas: that of "social justice" and that of "common welfare". Central to this discussion is the difference between the constitution as a multitude of constitutional laws and constitution as the totality of constitutional decisions (C. Schmitt), i. e. principles based on which legitimizing ideas are concretized. Constitutional decisions define the identity of the constitution; as long as they are the same, the constitution remains the same, irrespective of the change of particular constitutional laws. Constitutional reform includes the cancellation of the previous constitution as a whole, or in parts, where constituent power remains the same. Need for constitutional reform arises mostly due to the involution of the constitution – the ever deeper constitutional crises which may end in the actual inability of the state, in both internal and external affairs. Constitutional reform can stem from certain forms of

dictatorship. As dictatorship is in general one of the fundamental issues related to constitution and legitimacy, a substantial part of this paper is dedicated to comprehending this phenomenon.

<http://facta.junis.ni.ac.rs/lap/lap2004/lap2004-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170401007P>

81. *The Essence of Regions: with a Particular View of the Latest Kinds of Regionalization: Scotland, Wales and Northern Ireland in the United Kingdom of Great Britain and Northern Ireland*, Vol. 1, no. 7 (2003), pp. [743]-761.

UDC: 342.25 * 342.25(410)

In the opinion polls and proposals related to the amendment of the Constitution of the Republic of Serbia, which have been conducted and presented from different sides in the public life of this republic, the need for Serbia's regionalization has often been underlined. The questions like "Is this need really existent?", and if this question is answered confirmatively, what this regionalization should be like, can only be answered correctly if one really gets to know what region or regions are in essence. A great confusion is present in regard to this issue, not only in the general public, but also among the experts. The reason is, after all, that regions arise as extremely volatile institutional forms, as "flowers of thousands of colours". Therefore, in an attempt to clear up the said confusion, a clear-cut scientific understanding is necessary, based on an adequate systematization and classification of all the phenomenal forms of region. In an ideal situation, this should be the intention behind this text. However, due to the vastness of the material, this intention cannot be completely realized here. Hence, this text will be confined, aside from the juridical-theoretic, logical considerations, to the analysis of the most current and perhaps the most authoritative forms of region. As long as the older forms are concerned, a depiction of sorts can be found in our study titled "Regions (Forms of Territorial Autonomy) in the Theory of Law and History of Law", which appeared in the issue 112-113/2002 of the journal *Letopis Matice srpske*, as well as in English, in the journal *Facta Universitatis, Series Law and Politics*, vol. 1 for the year 2002. First of all, it should be kept in mind that regionalization is founded upon larger or smaller political ramifications and contrasts; region is a political setting of boundaries in relation to the surrounding area.

<http://facta.junis.ni.ac.rs/lap/lap2003/lap2003-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170307743P>

82. *On Supremacy of the Executive-Administrative Authorities in the Western Countries and in Russia, Concurrently Establishing the Theory of Cyclic Creation of Legal Order*, Vol. 8, no. 1 (2010), pp. [1]-32.

UDC: 342.565.2 (497.11)

Being an extension of the author's considerations on the crisis of parliament and parliamentarism in the Western countries and in Russia, this article is an elaborate follow-up study on the process of turning the executive-administrative branch of government into the representative of the state, the process running along with the degradation of parliament as a representative body of the people. In reference to the current form of this process, the author poses a question: does this process ultimately lead to the dictatorship of the executive-administrative authorities? In that context, the

author points out to the presence of some latent and manifest forms of dictatorship as a form of governance, drawing a clear distinction between dictatorship as a form of governance and dictatorship as a political regime. At this point, the author gives his own contribution to the political philosophy and legal theory in terms of introducing and defining the concepts of commissary and decemvirate (decemviri) dictatorship. On the other hand, by analyzing the process of "presidentialization" in the actual political and legal environment of the aforementioned states, the author establishes the concept of "the hexagonal crystal of political philosophy". The results of this research have also provided grounds for another significant contribution to the general theory of law. Thus, in the final part of this study, the author presents and elaborates on the theory of cyclic creation (formation) of the legal order. Apart from the descending line in the creation of the legal order, there is also the ascending line in the creation of the legal order. The discovery and presentation of the ascending line is the author's individual contributions to the theory of the cyclic creation of the law. In the closing statements, the author explains the original concept of the real legal order which is to include social solidarity as the primary legal principle. This novelty is also the author's original standpoint.

<http://facta.junis.ni.ac.rs/lap/lap2010/lap2010-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171001001P>

83. 2006 Constitution of the Republic of Serbia as a Legal Framework for Party Oligocracy, Vol. 3, no. 1 (2005), pp. [17]-24.

UDC: 342.4(497.11)"2006" * 329:342.4](497.11)

One of the fundamental problems of constitutional policy in the contemporary representative regime is that of limiting the omnipotence of political parties. Constitutional judiciary has shown itself to be unsuccessful. For this reason, the author of the article vouches for the introduction of a senate of guardians of the constitution, as the second house of the Parliament, which would rely itself on social corporations-institutions and professional trade unions.

<http://facta.junis.ni.ac.rs/lap/lap2005/lap2005-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170501017P>

PRICA, Miloš

84. The Concept of Administrative Matter of Law in the Doctrine of Serbian Administrative Law, Vol. 7, no. 1 (2009), pp. [57]-64.

UDC: 342.9(497.11)

The administrative matter of law is an important feature of the concept of administrative act from positive law. Scholars specializing in the doctrine of administrative law do not have a single reply to the question what are the important characteristics of an administrative matter of law, which gives rise to different positions on the concept of administrative matter of law. With that regard, this paper presents the viewpoints of Serbian administrative lawyers on the concept and features of administrative matter of law. In the final part, the paper lays out the author's own view of the features of administrative matter of law.

<http://facta.junis.ni.ac.rs/lap/lap2009/lap2009-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170901057P>

SHIKOVA, Natalija

85. *Exercising the Right to Protest: the Indicator of Country's Democratic Capacity and the Case of Macedonia*, Vol. 12, no. 2 (2014), pp. [93]-102.

UDC: 342.729(497.7)

Stability of the institutions, safeguarding democracy, rule of law, human rights and respect for and protection of minorities are necessary political criteria for the states striving to become part of the EU. Democracy and rule of law are the fundamental values of the constitutional order of the Republic of Macedonia. The Constitution guarantees human rights and freedoms, civil liberties and national equality. Relying on the analysis of the practice of exercising the civic and political right to protest as envisaged in the Macedonian majoritarian democratic framework, the author of this paper points to insufficiently developed civil identity in Macedonia and proposes measures which may contribute to its improvement. It is necessary because, apart from meeting the political criteria which are prerequisite in the EU accession process, it is in the interest of the state to encourage greater civil activity in the process of making and adopting decisions that are aimed at advancing the democracy.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/827/455>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171402093S>

STOJANOVIĆ, Dragan

86. *Basic Characteristics and Contents of the 2006 Serbian Constitution*, Vol. 2, no. 1 (2004), pp. [67]-85.

UDC: 342.4(497.11)"2006"

The true value and firmness of the 2006 Constitution will be visible shortly after the commencement of its enactment. In order for its liberal-democratic orientation to be fully expressed, maintained, and developed, such that it could stabilize the legal and political system of the Republic of Serbia, the legislature and constitutional judiciary will have to fully support it through their authoritative interpretations. The Constitution has established the democratic system, but that system cannot survive by itself. Depending on the enactment of the Constitution, which can be fully adequate, arbitrary, or selective, legitimacy can persevere, but also fail, as was the case with the previous Serbian Constitution. Lack of legitimacy cannot be compensated by a demagogical interpretation of the Constitutionality.

<http://facta.junis.ni.ac.rs/lap/lap2004/lap2004-05n.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170401067S>

TOMIĆ, Zoran

87. *The Government and Ministries: de Constitutione Ferenda*, Vol. 2, no. 1 (2004), pp. [51]-66.

UDC: 342.518

As for the ministries (and other bodies executing public administrative affairs) – if we vouch for a more detailed definition of constitutional principles of the structure, responsibility, and control of public administration, the key "points" in this matter would be: (1) to satisfy and protect legitimate public interest in exercising public freedoms and

rights of citizens and their collectivities; (2) political responsibility of ministers and bodies they run before the Parliament (monitored by classical parliamentary supervision), and, particularly, criminal responsibility of ministers before the Constitutional Court; (3) deconcentration of state administration and its segmentation into degrees; (4) decentralization of non-state public administration; (5) constitutional institutionalization and legal enactment of the system of separate, specialized administrative judiciary, whose purpose would be to ensure a reliable, professional, and objective control of the legality of the work of public administration.

<http://facta.junis.ni.ac.rs/lap/lap2004/lap2004-04n.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170401051T>

VUČIĆ, Olivera

88. *Position and Functions of State Sovereign (Head of State)*, Vol. 2, no.1 (2004), pp. [41]-50.

UDC: 342.511

As proposed earlier, the President of the Republic should be a guarantor of continuous democratic transformation, and use his position in the system and authority granted by the Constitution so as to ensure the much needed development of democratic society and stable institutions. In line with Constant's view of the role of the sovereign, the head of state will be the "directing power", the fourth branch of sovereign power, and the necessary independence of his position will be possible due to the fact his power emerges directly from the people.

<http://facta.junis.ni.ac.rs/lap/lap2004/lap2004-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170401041V>

342.7

FUNDAMENTAL RIGHTS. HUMAN RIGHTS. RIGHTS AND DUTIES OF THE CITIZEN

ĐURĐEVIĆ, Snežana

89. *Obstacles for the Integration of the Ashkali Community into the Serbian Society*, Vol. 12, no. 1 (2014), pp. [43]-51.

UDC: 342.726-054.73(497.11)

The Ashkali community copes with serious problems in order to integrate into the Serbian society. It is considered to be the most vulnerable community among the other Internally Displaced Persons. The magnitude of their problem is very often hidden, as many of them have not registered with the authorities. Non-registration causes many other problems and prevents their access to some fundamental rights, such as employment, education, health and social assistance. Most of them live in truly deplorable conditions, and due to the lack of education and language differences they are often subject to discrimination. It is necessary to undertake measures for their registration and further protection within the society.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/668/248>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171401043D>

PETRUŠIĆ, Nevena

90. *The Right of the Child to Freedom of Expression under the New Family Legislation of the Republic of Serbia*, Vol. 5, no. 1 (2007), pp. [25]-37.

UDC: 342.727-053.2 * 347.6(497.11)

In the contemporary law, the child has been given the status of a legal personality which makes the child entitled to a corpus of independent and autonomous rights that are quite distinct from the rights of the parents and the family as a whole. In compliance with the contemporary concept of the rights of the child, there are two concurrent processes that can be observed in the field of expanding the legislative framework for the protection of these rights: the process of establishing special civil capacity of the child and the process of constituting the so-called participation rights of the child, with special reference to the right of the child to the freedom of expression.

The new Serbian Family Act has recognized the child's right to the freedom of expression as a qualified right which can be exercised in the field of family and other relations as well as in judicial and administrative proceedings concerning the child's rights.

The analysis of the statutory provisions on the legal proceedings for exercising the right of the child to express his/her views shows that the legislator has not provided relevant legislative instruments which would enable the child to exercise this right. In particular, the most disputable legal solutions are those pertaining to the right of the child to seek and receive all the information necessary to form his/her own views. Although the new Family Act has envisaged the right of the child to receive relevant information for the purpose of forming one's own opinion, the scope of actual implementation of this right has been laid down too narrowly as this right was originally envisaged to be exercised only in judicial and administrative proceedings where the child is expected to form and express his/her own opinion. Moreover, the new Family Act has not envisaged appropriate instruments which could help the child in case when the competent bodies of authority fail to provide the necessary information to the child.

<http://facta.junis.ni.ac.rs/lap/lap2007/lap2007-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170701025P>

SOOD, Geetika

91. *Comparative Analysis of Cyber Privacy Law in India and in the United States of America*, Vol. 12, no. 2 (2014), pp. [129]-135.

UDC: 342.738:004.738.5](540:73) * 004.738.5:34

In today's cut-throat competition life, everybody is concerned about one's own privacy. Due to the inculcation of technology in daily life, privacy factor is an increasingly important issue of significant concern for the human being. This paper is an attempt to make a comparative analysis of the cyber law relating to the privacy issue and also to study the applicable law and steps taken by the two countries: one already developed (United States of America) and one of the fastest developing countries (India).

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/830/458>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171402129S>

VELJANOVSKI, Rade

92. *Media Independence and Human Rights*, Vol. 10, No. 2 (2012), pp. [119]-129.

UDC: 342.727:659.3 * 659.3

In the modern world of ever-growing possibilities for mass communication, the challenges of the pursuance of the entire corpus of human rights, which is most often marginalised unless mediated by media, and the right to information and to express opinions itself, as a special and specific right, have been intertwined. At the international level and, increasingly, at the national level, contemporary human community endeavours to support a permanent debate on the degree of the pursuance of human rights that is only possible through democratically articulated and independent media that prefer social accountability. Their active involvement in regard to this theme can contribute to a timely diagnosis of the state and an organised, institutional and civil action for the protection of the rights.

However, there are numerous examples wherein individual/group particular interests overshadow and suppress the common interest. In the sphere of media, not infrequently, the influences of various power centres dominate over the general good as well as over the human rights. The proclaimed media independence, as one of the most significant articulations of the European media policy and regulations and many national media and legal systems, often remains just a normative framework that is not sufficiently implemented in practice. This leaves the door open to a public sphere of selfish, narrowminded aspirations and requests instead of satisfying the broadest communication needs of citizens and the human rights thereof. Essentially, this Essay sheds light on the significance of the independence of media themselves and regulatory and other bodies in this area through a prism of the European regulatory framework, Serbian media regulations and domestic practice.

<http://facta.junis.ni.ac.rs/lap/lap201202/lap201202-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171202119V>

VUČKOVIĆ-Šahović, Nevena

93. *The CRC Committee and Child Dignity*, Vol. 13, no. 2 (2015), pp. [87]-98.

UDC: 342.726-053.2 * 341.231.14-053.2

Dignity has different dimensions and features; it “belongs” to philosophy, sociology, psychology and law, but it is also closely related to science, in particular medicine and biology. Respect for human dignity is a supreme, overarching principle of human rights law. Even though dignity is not defined in international law, its place, contents and power become clear in the process of human rights implementation. Dignity, like human rights, is inherent and belongs to each and every human being. Human dignity principle is affirmed in the Universal Declaration on Human Rights of 1948 and subsequently in other human rights treaties, including the Convention on the Rights of the Child, where dignity appears both in the preamble and in several articles. The main question is how relevant dignity is for the implementation of that treaty. Dignity of the child is not among the general principles of the CRC (best interests of the child, non-discrimination, child participation and right to life, survival and development), even though it is an overarching principle of human rights. In 23- year life of the Convention on the Rights of the Child, there has not been a related event (meeting or

a document) devoted to the question of dignity of the child. The Committee on the Rights of the Child, monitoring body of the Convention on the Rights of the Child, uses in its documents wording such as ‘dignity’, ‘human dignity’, ‘inherent dignity’, ‘dignity of the child’, but it is not clear how beneficial, or even relevant at all, that is for the actual exercise of rights. Maybe now is a right moment for the Committee on the Rights of the Child to address the issue of child dignity and engage in a discussion, initiate a study or even adopt a related General Comment. Such document would be useful for the States Parties, the children and practitioners worldwide. But more than that, it would additionally credit the slight gain over disbelievers in child autonomy and additionally boast the so needed ‘implementation’. The rights-based approach to children still has a heavy odor of pure protection and will be so for as long as children are not perceived as human beings with inherent human dignity and worth. It may be so that ‘child dignity’ approach is a missing link towards full implementation of the rights of the child and change of attitudes so that children are perceived as human beings with autonomy, will, integrity and worth.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1491/885>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502087V>

342.8

ELECTORAL LAW.

VOTING. ELECTORAL SYSTEMS

VUČETIĆ, Dejan

94. *What Needs to Be Changed in Serbian Legal Regime on Electoral Rights Protection?*, Vol. 13, no. 2 (2015), pp. [149]-160.

UDC: 342.842(497.11)

This paper provides a comprehensive and thorough analysis of the Serbian system for protection of electoral rights, both parliamentary and municipal, and its shortcomings. The author first discusses the legal position, powers and competences, duties and responsibilities of electoral commissions (Republic and municipal ones), Administrative Court and the Constitutional Court. Thereupon, the author concludes that legal protection of electoral rights can be improved by increasing transparency, clarifying the nature of "silence" of the electoral administration actions, providing the electoral administration with power to protect electoral rights ex officio, expanding the scope of the Administrative Court's decisions in the dispute of full jurisdiction, and specifying the role of the Constitutional Court along with continuing re-education of all participants in the electoral process.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1485/890>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502149V>

343.1

CRIMINAL LAW. PENAL OFFENCES. CRIMINAL JUSTICE. CRIMINAL INVESTIGATION. CRIMINAL PROCEEDINGS

ĐURĐIĆ, Vojislav

95. *Le problème de la mise en accord de la procédure pénale avec la Constitution de la R. F. de Yougoslavie*, Vol. 1, no. 1 (1997), pp. [21]-39.

UDC: 343.1(497.1)(094.5):342.4(497.1) * 342.4(497.1)

Dans cet essai l'auteur explique en détail les raisons pour une novation indispensable et urgente de la Loi de procédure pénale, et puis, il fait une analyse des normes constitutionnelles et législatives sur les plus importants instituts crimino-procéduels, en donnant en même temps les raisons pour des changements et précisions concrets de la Loi. Au début, il explique les changements indispensables de la Loi qui sont liés à la compétence des organes judiciaires et à la langue officielle. La protection des droits de l'inculpé est l'objet d'une attention particulière et d'une exposition la plus complète où l'auteur expose son opinion sur la limitation du droit à la défense. Aussi, sur les mesures de contrainte procédurale (la détention obligatoire, les raisons des organes compétents pour décider de la détention, la privation de la liberté, la caution, le contrôle judiciaire et autre) et sur l'interdiction du renouvellement du procès dans le contexte de la protection procédurale du lésé. À la fin de l'essai sont analysés les changements nécessaires dans le système des remèdes juridiques. Tout le long de son travail, nous trouvons présente l'attitude de l'auteur et son idée pilote que certains droits et libertés de l'homme sont limités dans la Loi de procédure en vigueur, mais qui ne peuvent pas être limités par la loi, ni on peut reporter leur usage. D'où la conclusion qu'une révision urgente de la Loi de procédure pénale est indispensable.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701021D>

SIMOVIĆ, Miodrag - SIMOVIĆ, Marina - SIMOVIĆ, Vladimir

96. *Comparative Law Aspect of Prohibition of Using Illegal Evidence in Criminal Proceedings*, Vol. 13, no. 1 (2015), pp. [1]-12.

UDC: 343.14 * 341.6

Illegal evidence in criminal proceedings is one of the major problems in the modern law of evidence which gives rise to theoretical discussions and disputes. The complexity of this issue makes it one of the most difficult problems in criminal procedure. This complex criminal procedure concept is constantly developing and gradually evolving due to legal interventions but, above all, due to its practical value. Close examination of comparative law shows that the majority of legal systems do not apply absolute exclusion rules pertaining to illegal evidence in criminal proceedings. Quite the reverse, such a model is subject to criticism due to numerous lacks and negative consequences. The few legal systems that use the absolute exclusion of illegal evidence do not envisage a wide range of exclusionary rules and, thus, they apply various exceptions. The comparative law analysis confirms that it is necessary to focus not only on the existence of exclusionary rules but also on the scale of exclusion of illegal evidence in criminal proceedings.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1401/868>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171501001S>

343.2**CRIMINAL LAW PROPER**

DRAKIĆ, Dragiša

97. *The Ability to Undertake an Action That Constitutes a Criminal Offence: Mental Capacity and Guilt*, Vol. 13, no. 1 (2015), pp. [23]-32.

UDC: 343.222

From the standpoint of legal theory, the paper provides an analysis of the correlation between the ability to undertake an action that constitutes a criminal offence and mental capacity (on the one hand), and the correlation between mental capacity and guilt (on the other hand). In the first part of the paper, the author points to the significance of the conduct that constitutes a criminal offence and analyzes the minimal requirements pertaining to the existence of such conduct as an important element of the general concept of a criminal offence. In the second part of the paper, the author correlates the ability to undertake a criminal action and the offender's mental capacity. In the final part of the paper, the author discusses the interrelation between the offender's mental capacity and other integral parts of guilt (culpability) as well as the correlation between mental capacity and guilt as a higher theoretical notion. The author's position on these issues is presented in two main conclusions. Firstly, the author concludes that free will, as a subjective element of the concept of criminal act, is immanent to every human being, whereas the subjective element of the concept of mental capacity is only possessed by mentally sound and mature persons. Secondly, given the fact that mental capacity implies the ability to be guilty, the author concludes that guilt is a relationship between the psychological being and the value judgment based on the presumption of the existence of mental capacity.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1400/870>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171501023D>

MILADINOVIĆ-Stefanović, Dušica

98. *An Overview of the Concept of Pardon in the Serbian Criminal Legislation*, Vol. 5, no. 1 (2007), pp. [47]-60.

UDC: 343.293(497.11)(091)

Pardon is a criminal law institute of a long-standing tradition and profuse historical development which may be traced back to the earliest sources of Serbian law. The earliest Serbian legislation on pardoning dates back to the Middle Ages which bear witness to some of the most significant legal documents of the time, including not only the renowned Tzar Dushan's Code but also the most reputable Byzantine Code of 1335 called the Syntagma, which was translated and adapted by priest Matija Vlastar. The permanent historical development of this institute yields the question whether the ancient origin and the ongoing presence of this institute in the national legal system have ultimately generated good legal solutions or there are, nonetheless, some drawbacks calling for a further improvement and development of a more appropriate and logical concept of pardon.

<http://facta.junis.ni.ac.rs/lap/lap2007/lap2007-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170701048M>

99. *Sentencing Legal Entities as Perpretrators of Criminal Offence: Analysis of the Normative Framework of the Republic of Serbia*, Vol. 11, no. 1 (2013), pp. [23]-38.

UDC: 343.22:347.191]:343.21 * 347.191 * 343.241

The criminal liability of legal entities became an integral part of the Serbian criminal law system by adopting the 2008 Act on the Liability of Legal Entities for Criminal Offences. Under the formerly existing legislation, the criminal liability of legal entities had been based on the subjective liability of natural persons. However, this Act has not been put into effect yet, probably due to the extensive scope and depth of the envisaged reform. In that context, this paper is an attempt to elaborate on one segment of this Act – the legal framework for sentencing legal entities. In particular, the author focuses on all the stages involved in this process, the system of sanctions and the range of sentences, the purpose of sanctioning, the mitigating and aggravating circumstances, as well as the degree of the criminal liability of legal entities, the size of legal entities, the position and number of responsible persons in the legal entity who have committed a criminal offence, the measures that the legal entity has undertaken to prevent and uncover a criminal offence, and the measures undertaken against the responsible person after the commission of the criminal offence. Each of these factors has been examined with an aim to assist competent courts in interpreting and applying this Act, to identify possible drawbacks in the regulation of this issue and to propose adequate solutions to overcome these flaws.

<http://facta.junis.ni.ac.rs/lap/lap201301/lap201301-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171301023M>

343.3/7

PARTICULAR OFFENCES. SPECIFIC PUNISHABLE ACTS

DIMOVSKI, Darko - STANOJEVIĆ, Jelena

100. *Political Corruption: an Example of the United States*, Vol. 11, no. 2 (2013), pp. [83]-92.

UDC: 343.352:329](73) * 329(73)

In this paper, the authors explore the notion of political corruption, starting from political parties and politicians as holders of this form of corruption. The causes of corruption are generally similar in all political systems and largely depend on the structure of incentives, the scope of opportunities, risks and consequences underlying its detection. The consequences of political corruption are numerous and far-reaching; they hinder the country's social progress and undermine citizens' confidence in the basic social values and norms. Although political corruption is more or less present in many countries, the paper provides an insight into political corruption in the USA and the measures undertaken to suppress it through the adoption and implementation of appropriate legislation.

<http://facta.junis.ni.ac.rs/lap/lap201302/lap201302-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171302093D>

JOVAŠEVIĆ, Dragan

101. *Tax Evasion as a Criminal Offence in the New Criminal Code of the Republic of Serbia*, Vol. 11, no. 2 (2013), pp. [69]-82.

UDC: 343.359.2(497.11) * 336.225.68(497.11)

Securing an orderly, lawful, well-timed and flawless operation of public revenues and expenditures has always been a significant issue for any state since the ancient times. The system of public revenues and expenditures is based on the fiscal (tax) system. The wellorganized, efficient and flawless operation of the fiscal system has a considerable impact on the existence, survival and development of the State. Consequently, it is important and necessary for the State to prevent various forms of tax evasion by instituting a range of various measures, instruments and procedures at all levels aimed at counteracting various types of tax evasion (tax avoidance, concealing or failing to report taxes, failing or avoiding to pay taxes, contributions or other dues constituting the system of public revenues.

The infringement of regulations governing the fiscal system may entail various detrimental consequences. Depending on the kind of violation, the scope and intensity of incurred damage and imminent risk to protected social values, the legal system provides different sanctions while distinguishing between criminal offences and misdemeanors. The criminal offences in the field of taxation are the most serious and dangerous forms of tax law infringement, which may cause considerable damage to the society as a whole. One of the most serious criminal offences in tax law is the act of tax evasion. In terms of its significance, scope and characteristics, it is regarded as the most serious form of tax fraud and, as such, it is punishable under the criminal legislation which prescribes relevant criminal sanctions and penalties. In this article, the author deals with the criminal offence of tax evasion and elaborates on the efforts of the Republic of Serbia aimed at efficient suppression of various forms and types of tax fraud.

<http://facta.junis.ni.ac.rs/lap/lap201302/lap201302-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171302069J>

KOSTIĆ, Miomira - MIHAJLOVIĆ, Aleksandar

102. *Counteracting and Preventing Human Trafficking in the Republic of Serbia*, Vol. 10, no. 2 (2012), pp. [101]-110.

UDC: 343.545(497.11)

Human trafficking, as a form of crime and victimization of human beings, is an organized criminal activity which includes a range of diverse and interrelated activities aimed at obtaining financial benefits. At the international level, trafficking in human beings became the subject matter of consideration in the course of the 1990s, when the international community intensified its activities in pursuit of adequate mechanisms for combating this extremely dangerous social phenomenon. Although there is no special legal act regulating human trafficking in the Republic of Serbia, trafficking in persons has been legally recognized as a form of organized crime. Moreover, there is a number of legislative acts which contain provisions on the prevention, suppression and punishment of criminal acts involving human trafficking as well as provisions on the protection of victims and witnesses in the pre-trial, trial and post-trial proceedings. The relevant provisions are contained in the 2005 Criminal Code of the Republic of Serbia, the 2006 Criminal

Procedure Code, the Act on the Protection Program for the Participants in Criminal Proceedings, the Act on the Organization and Jurisdiction of State Authorities in Counteracting Organized Crime, the Foreigners' Act, the Misdemeanors Act, the Healthcare Act and the Administrative Taxes Act.

<http://facta.junis.ni.ac.rs/lap/lap201202/lap201202-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171202101K>

PAPOVIĆ, Jelena - MIHAJLOVIĆ, Aleksandar

103. *Suicide in Prisons*, Vol. 11, no. 1 (2013), pp. [59]-67.

UDC: 343.614:343.811 * 343.811 * 616.89-008.441.44

The paper deals with the problem of suicide in prisons. The authors first provide a general overview of the social impact of suicide and its consequences. Then, they analyze the factors that lead to committing suicide, with particular reference to the specific factors that induce suicide in penal institutions. Further on, the authors elaborate on the most common methods of committing suicide in prisons and examine some mechanisms for preventing suicide in prisons, primarily considering the active involvement of the formal penitentiary system and the system of monitoring risk groups. The authors also consider the suicide-prevention treatment programs aimed at preventing future suicide attempts in individuals who have already tried to commit suicide. Finally, the authors point out to further action that shall be taken by the state in order to reduce the suicide rate in prisons.

<http://facta.junis.ni.ac.rs/lap/lap201301/lap201301-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171301059P>

STANOJEVIĆ, Jelena - DIMOVSKI, Darko

104. *Benchmarking Analysis of the Balkan Countries According to the Corruption Perception Index*, Vol. 13, no. 2 (2015), pp. [161]-167.

UDC: 343.352(497:4-672EU)

The aim of this paper is to analyze the position of the Balkan countries according to the Corruption Perception Index (CPI). Due to the efforts of the Balkan countries to improve their level of economic development and, for some of them, to become members of the European Union (EU), the average of relevant indicator for the EU is used as a benchmark in this analysis. The purpose of the paper is to identify deviations of the Balkan countries in the level of corruption in relation to the EU and to each other. The ultimate aim is to formulate recommendations for the possible reduction of corruption and improvement of the position of these countries with regards to the CPI.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1403/891>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502161S>

343.8**PUNISHMENT. EXECUTION OF SENTENCE.
CRIME PREVENTION. DETERRENCE**

BOGOJEVIĆ, Rade

105. *Execution of Institutional Correctional Measures Imposed on Juvenile Perpetrators of Property Crime in the Positive Legislation of the Republic of Serbia*, Vol. 11, no. 1 (2013), pp. [49]-57.

UDC: 343.815:343.7 * 343.7

Pursuant to Article 1 of the Convention on the Rights of the Child, a child is defined as every human being below the age of eighteen unless, under the law applicable to the child, majority is attained earlier. The Serbian juvenile criminal law regulates the legal status of juvenile offenders. Thus, a juvenile is defined as a person over the age of 14 and under the age of 18 who, at the time of committing the crime, has not reached the age of maturity. Under the Act on Juvenile Offenders and Criminal Protection of Juveniles (2005), juveniles may be issued correctional measures, juvenile detention/prison sentence and security measures, except for the prohibition of engaging in a professional activity, occupation and duty. In this paper, the author focuses on the execution of institutional correctional measures imposed on juvenile offenders who have committed a property crime. Young persons under the age of fourteen are designated as children and they cannot be subjected to criminal sanctions or other measures provided under this Act, which ultimately implies that they cannot be active participants in crime.

<http://facta.junis.ni.ac.rs/lap/lap201301/lap201301-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171301049B>

BUKALEROVA, Ljudmila Aleksandrovna - MINJAZEVA, Tatjana Fedorovna

106. *Средства реализации целей наказания*, Vol. 10, no. 2 (2012), pp. [111]-118.

UDC: 343.8

В статье рассматриваются средства реализации целей наказания. Обращается внимание на то, что кара, объективно свойственна содержанию любой мере уголовно-правового характера и через неё преломляются все исправительные средства, применяемые в процессе исполнения наказания - режим, труд, обучение, воспитательное воздействие и общественное воздействие. Подчеркивается, что лишения и ограничения прав и свобод осужденных в период исполнения наказания должны быть настолько суровы, насколько это предусмотрено законом в интересах поддержания правопорядка в государстве. Они должны быть гуманны и нравственны постольку, поскольку необходимы для осуществления общественного прогресса.

Measures for Implementing the Objectives of Criminal Punishment

The article deals with the measures applied in accomplishing the objectives of criminal punishment. The authors draw attention to the fact that retribution is objectively inherent to the content of any measure applied in criminal law and that it actually reflects all the correctional measures which are applied in the process of execution of a criminal punishment (including: the regime of serving the sentence, occupational therapy,

professional education/training, educational measures and wider social involvement measures. The authors also emphasize that the prisoners' treatment during imprisonment and the limitation of the convicted persons' rights and freedoms during the term of serving the sentence should be in compliance with the prescribed legislation, primarily in the interest of maintaining the law and order in the state. Yet, these measures have to be based on the principle of humane and ethical treatment which is essential for the development of the society as a whole.

<http://facta.junis.ni.ac.rs/lap/lap201202/lap201202-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171202111B>

MIRIĆ, Filip

107. *Crime Prevention Policy: (in Serbian), Aauthors: Dragan Jovašević, Miomira Kostić, Publication Center, Faculty of Law, University of Niš, Niš, 2012, 458 pp.: [book review]*, Vol. 13, no. 2 (2015), pp. [213]-214.

UDC: 343.85 Jovašević D.(049.3) * 343.85 Kostić M.(049.3)

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1484/895>

343.9

CRIMINOLOGY. CRIMINAL SCIENCES. CRIMINALISTICS

DIMOVSKI, Darko

108. *Fundamental and Applied Research: Murderers in the Territory of Southeastern Serbia*, Vol. 11, no. 1 (2013), pp. [11]-21.

UDC: 343.91:343.611-051(497.11-12) * 343.611-051

In this paper, the author discusses the fundamental characteristic of criminological research methods, with specific reference to fundamental and applied research. The significance of these forms of research is invaluable particularly in terms of their joint implementation as it implies the process of detecting and collecting data on some form of criminal behavior and establishing the most effective measures to prevent such behavior. In that context, the author endeavors to demonstrate the importance of fundamental and applied research by focusing on the criminogenic factors associated with murderers in the territory of South-eastern Serbia. The subject matter is observed in light of the murderers' gender, age, mental capacity and culpability. The findings of the applied research conducted on this issue set solid grounds for developing efficient homicide prevention measures.

<http://facta.junis.ni.ac.rs/lap/lap201301/lap201301-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171301011D>

KOSTIĆ, Miomira

109. *Biological and Psychological Theories on Juvenile Delinquency*, Vol. 11, no. 1 (2013), pp. [1]-10.

UDC: 343.94/.95-053.6

In this paper, the author notes that a child is born with bio-psychological predispositions which are distinctive characteristics of humankind. Every single stage in human development is idiosyncratic and the process of human development involves moving from a lower to a higher and more qualitative stage of development. The roots of asocial behaviour and delinquency may be traced back to the early childhood. The child's psychological and physical characteristics in preadolescence may have a significant impact on one's deviant behaviour, such as commission of criminal acts, gang initiation and suicide. Puberty is the most significant transitional stage involving one's effort to be break free from any form of dependence. The age of adolescence is the most sensitive period in developing one's emotional maturity. Every stage in human development features specific psychological traits entailing not only a risk of child victimization but also the roots of child's propensity to deviant behaviour. The author particularly focuses on the basic tenets of anthropological, bio-psychological and psychological theories dealing with the causes of deviant behaviour among children and juveniles, their recidivism and victimization.

<http://facta.junis.ni.ac.rs/lap/lap201301/lap201301-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171301001K>

110. *The General Framework of Resilience in Victimology and Criminal Policy*, Vol. 9, no. 2 (2011), pp. [135]-143.

UDC: 343.988

In this paper, the author first discusses the significance of resilience as a concept that describes one's ability to preserve balance in times of hardship and adversity. Further on, the author elaborates on the contribution of Emmy Werner to this issue and explains the correlation between resilience and victimology. In the final part of the paper, the author provides an overview of the resilience theory which challenges the conception of sustainable development of nature, and correlates these theoretical standpoints on resilience with possible forms of crime prevention through environmental design by observing the life in urban agglomerations.

<http://facta.junis.ni.ac.rs/lap/lap201102/lap201102-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171102135K>

KOSTIĆ, Miomira - MIRIĆ, Filip

111. *Juvenile Delinquency or Juvenile Crime*, Vol. 13, no. 1 (2015), pp. 45-50.

UDC: 343.91-053.6

The subject matter of this paper is the concept of juvenile delinquency, its conceptual distinction from the concept of juvenile crime and other forms of juvenile deviant behaviour. The conceptual framework of a phenomenon is never a matter of purely linguistic and terminological designation because the definition of a concept has a significant impact not only on the social response of public authorities but also on the attitude of individual members of the specific society towards the phenomenon. This issue is particularly important when it comes to the socially unacceptable phenomena,

such as juvenile delinquency and juvenile crime. This paper is not aimed at advocating for the specific use of one or the other legal term in the process of defining the illicit behaviour of juvenile offenders. The authors underscore that the proper application of these legal terms largely depends on the scope and extent of illicit conduct that the specific term entails and conceptually defines.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1440/872>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171501045K>

KOSTIĆ, Miomira

112. *Victimology: A Contemporary Theoretical Approach to Crime and Its Victim*, Vol. 8, no. 1 (2010), pp. 65-78.

UDC: 343.98

In this article, the author has provided a brief overview of diverse theoretical conceptions generated in the course of development of victimology both as an independent scientific discipline and as a sub-discipline of criminology. Starting from the concept of penal victimology and moving towards the concept of general victimology, the author presents the victimologists' critical remarks on general victimology as well as the opinions speaking in favour to penal victimology and feminist-oriented victimology. Further on, the author explores the concept of resilience and its significance in the treatment of crime victim.

<http://facta.junis.ni.ac.rs/lap/lap2010/lap2010-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171001065K>

347.1

CIVIL LAW. GENERALITIES OF CIVIL LAW.

CIVIL STATUS. BIRTH CERTIFICATES. IDENTITY CARDS.

REGISTRY OFFICES. CIVIL REGISTER

KOVAČEVIĆ-Kuštrimović, Radmila

113. *Le domaine de l'application du principe de l'interdiction de l'abus de droit*, Vol. 1, no. 1 (1997), pp. [41]-55.

UDC: 347.124:35.076 * 35.076

Les premiers cas de l'abus de droit ont apparu en liaison avec l'exercice du droit de propriété foncière. Les décisions les plus anciennes interdisaient au propriétaire d'utiliser son terrain uniquement avec l'intention de porter dommage à autrui. On interdit l'abus de droit aussi à l'occasion de l'exercice des autres droits réels, comme les droits de famille. Alors le domaine originaire de l'interdiction de l'abus de droit est le champs des droits absolus pour lesquels on considérait qu'il offraient à leurs porteurs le pouvoir juridique illimité. La limitation des droits subjectifs absolus avait comme conséquence la répression de l'abus de droit.

Cependant l'abus de droit a envahi le domaine des pouvoirs publics. Le rôle accentué de l'État dans des États contemporains exigeait la garantie des attributions larges à ses organes, ce qui a rendu possible l'apparition de leurs abus. C'est pour cette raison qu'aujourd'hui les attributions publiques sont le domaine fréquent de l'abus de droit.

Le droit doit s'efforcer d'interdire l'abus des attributions publiques, car cet abus limite, rend même impossible la réalisation des droits subjectifs civils.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701041K>

NIKOLIĆ, Dragan

114. *Le travail à l'élaboration du Code civil serbe entre 1829 et 1835*, Vol. 1, no. 1 (1997), pp. [57]-64.

UDC: 347(497.11)"1829/1835"(094.5)

Le premier essai de l'élaboration du Code civil serbe témoigne des efforts législatifs initiaux, des dilemmes, des préjugés et de la désorientation d'un jeune pays et d'une société pas encore différenciée en classes, avec des intérêts de certains groupes, souvent encore indéfinis clairement, cachées et contradictoires; il y a assez de raisons de voir cet essai dans le cadre des tendances de ce temps, de plus en plus présentes alors, de limiter le pouvoir arbitraire du prince Miloš et, par intermédiaire de la législation, de créer des conditions formelles préalables pour une intégration plus large dans les courants économiques aussi de ces couches sociales qui ne se trouvaient pas dans l'entourage privilégié du prince. L'échec de cette entreprise législative a aussi ses arrière-plans: d'une côté, c'était la vraie indifférence, en mainte reprises manifestée indubitablement, de la part du prince Miloš, de donner à la Serbie de lois écrites, de l'autre côté - l'ignorance juridique des membres de la Commission législative et à la troisième place sont les raisons les plus difficiles à identifier, étant donné que leurs racines sont les plus profondes.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701057N>

STOJANOVIĆ, Dragoljub

115. *Les idées du droit naturel et les idées philosophiques dans les grandes codifications du droit civil du XIX-ème siècle et dans le Code civil serbe*, Vol. 1, no. 1 (1997), pp. [115]-123.

UDC: 347(094)(497.11)"18":340.12 * 340.12:347(094)(497.11)"18"

En Serbie, c'est Jovan Hadžić qui a élaboré le Code civil serbe, en amputant et en compilant dans une certaine mesure le Code civil d'Autriche de l'année 1811. Étant donné que le Code civil autrichien avait adopté les idées de l'École du droit naturel, celles-ci étaient entrées aussi dans le Code civil serbe, de façon qu'il garantissait à la Serbie d'alors le respect d'une suite de principes qui présenteraient la base pour la création d'une société démocratique. Ces principes étaient provenus des idées fondamentales du droit naturel. Dans le Code civil serbe ces principes garantissaient la protection des droits fondamentaux de l'homme, personnels et de propriété. C'est sous leurs influence qu'avaient été abolis les privilèges de classes de façon qu'à tous les hommes il a été garanti le droit à la propriété, la liberté de contracter, la liberté de tester, etc. En reprenant ces idées du Code civil d'Autriche et en les incorporant dans le Code civil serbe, Jovan Hadžić a posé la base du droit naturel: égalité, liberté et justice, les idées toujours vivantes et qui n'ont jamais été réalisées en totalité.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-10.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701115S>

347.2/.3

LAW OF REALTY. REAL THINGS. THINGS. CHATTELS. MOVABLES IN GENERAL. PERSONALTY

LAZIĆ, Miroslav

116. *The Concept and Types of Mortgage in Serbian Legislation*, Vol. 12, no. 1 (2014), pp. 1-11.

UDC: 347.27(497.11)

Mortgage is a real security right on another's immovable property which empowers the mortgage creditor to initiate a sale of mortgaged property (foreclosure) in order to settle the due debt claim from the proceeds of sale, i.e. out of the value obtained by sale of the mortgaged property. Although mortgage was originally created on immovable property (chattel real), in the contemporary legislation it may also be established on movable assets, primarily owing to the development of the so-called mortgage on movable assets (chattel mortgage) as a form of non-possessory pledge. Whereas the property owner (mortgagee) retains his right to possess, use and dispose of the mortgaged property, the mortgage creditor's right is secured by having his right entered in the public chattels register. In Serbian legislation, this "formula" is applied to the conventional mortgage of immovables (chattels real) and the registered pledge on movable assets (chattels personal) which may be constituted on ships and aircraft; however, in the last 10 years, it has also been applied to registered non-possessory pledge on movable assets (chattels mortgage). After introducing this new form of registered pledge in 2005, the Serbian legislator reformed the legal framework regulating the mortgage on immovable property.

In this article, the author provides a brief overview of the most significant forms of nonpossessory securities in Serbian legislation and their distinctive features. Focusing on the institutes on mortgage and registered pledge, the author provides a critical analysis of some legal solutions envisaged in the Serbian legislation as opposed to related comparative law solutions, particularly those envisaged in the German and Austrian legislation.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/665/245>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171401001L>

SIMONOVIĆ, Ivana

117. *Restitution and Civil Liability for Infringement of Subjective Rights*, Vol. 11, no. 2 (2013), pp. [105]-119.

UDC: 347.232

Transfer of assets between two or more parties may arise from a variety of distinctive facts, some of which are based on the parties' will (usually contractual will) while others are fully unrelated or even contrary to their will. In situations where this patrimonial transfer constitutes a loss for one party and an unjustified gain for another (either ill-founded or fully unjustified), the legal order demands that the enriched party shall return the unjustly acquired benefit and thus re-establish the prior state of affairs. The legal rules governing the re-establishment of patrimonial rights and interests constitute a legal institute called restitution. In this article, restitution is perceived as a specific instrument for the enforcement of civil liability and its

sanction, in cases where both liability and sanction are a reaction to the unjustified shift of benefit from one party to another. The author examines the most common legal grounds for seeking restitution: unjustified (unjust) enrichment and the reversal of performances rendered under a void, voidable or unilaterally breached contract, but also points out that restitutionary rules can also be applied for recovering benefit acquired by infringement of one's absolute rights (instead of rules on damages). Although these legal relations pertain to different parts of the law of obligations, their common denominators are: the unjustified acquisition of benefit (unjust enrichment) and the duty of the enriched party to reverse the enrichment to the disadvantaged (impoverished) party who is entitled to it. The primary aim of all restitution claims is the reversal of unjustly acquired benefit and this goal is accomplished by applying the restitutionary rules. We think that adjusting these rules to the characteristics of a specific legal relation does not undermine the cohesion of restitution as a legal institute, which is ensured by its common purpose – *restitutio in integrum*.

<http://facta.junis.ni.ac.rs/lap/lap201302/lap201302-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171302105S>

STOJANOVIĆ, Milica

118. *Expropriation in the Former and Current Law of the Republic of Serbia*, Vol. 10, no. 1 (2012), pp. [91]-100.

UDC: 347.234:332.26(497.11) * 332.26

In this paper, the author provides a chronological overview of legal texts and judicial practice concerning the institute of expropriation, starting from the first regulations in the 1866 until the present day. Over time, the institute has sustained numerous changes in its legal regulation as well as in the legal and theoretical understanding of its substance, content and prominent features. Considering that expropriation implies a limitation to the right of ownership imposed in the public interest, in different historical periods this institute was adapted to the regime and ideology of the time, which implies that it had a slightly different character and purpose than it has today. The analysis of case law on this matter reinforces the author's views on the issues concerning the abuse of power, the violation of legal certainty, the violation of basic human rights and constitutional guarantees.

<http://facta.junis.ni.ac.rs/lap/lap201201/lap201201-07.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171201091S>

347.4/.5

COMMITMENTS. CONTRACTUAL LIABILITIES. BONDS.

CONTRACTS. AGREEMENT.

NONCONTRACTUAL LIABILITIES. TORTS

STANKOVIĆ, Gordana

119. *Le dédommagement de préjudices causés par l'abus des attributions procédurales*, Vol. 1, no. 1 (1997), pp. [101]-113.

UDC: 347.513:347.922.6 * 347.922.6

L'interdiction de l'abus de droit est le principe général de la réglementation des relations humaines qui marque et caractérise une étape particulière dans l'évolution de la conscience juridique de chaque pays et imprègne tout le domaine de son droit. Le principe de l'abus du droit, immanent à toutes les branches du droit, présente un des principes juridiques primordiaux aussi dans le droit de procédure civile dont, chacun dans son domaine, le législateur et le juge, se rendent compte.

L'idée de l'interdiction de l'abus des attributions de procédure, comme produit de la théorie universellement adoptée sur l'abus de droit, dans le secteur procédural du système juridique est apparue comme l'expression de efforts d'empêcher la profanation juridique de la procédure ainsi que le comportement antisocial qui ne correspond pas aux buts et à la destination de la procédure elle-même, et aussi comme l'expression des efforts de réaliser certains buts juridicopolitiques et juridico-techniques. Ce principe fondamental de procédure est concrétisé par de nombreuses réglementations procédurales de telle façon que le législateur a prévu de différentes et diverses mesures préventives et répressives pour empêcher et réprimer des abus éventuels des attributions procédurales. Un de moyens répressifs est aussi le dédommagement du préjudice à cause de l'abus de attributions procedurals.

Bien que le dédommagement du préjudice à cause de l'abus des attributions de procédure soit une question juridique qui, à cause de sa nature et de son importance, peut attirer l'attention aussi des civilistes que des processualistes, elle est restée sur les marges des recherches scientifiques et de son élaboration.

Dans cet essai sont élaborés les droits au dédommagement du préjudice à cause da l'abus de attributions de procédure et les instruments de procédure par lesquels s'exerce ce droit dans la procédure de la protection juridique dans le droit contemporain yougoslave.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-09.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701103S>

347.61/.68

FAMILY LAW. MARRIAGE. DIVORCE. FILIATION. ADOPTION.

LAW OF INHERITANCE. HEIRS. SUCCESSORS. WILLS. TESTAMENTS

IGNJATOVIĆ, Marija

120. Prenuptial Agreement, Vol. 5, no. 1 (2007), pp. [61]-69.

UDC: 347.626.2:347.23 * 347.23

The new tendencies and developments in the positive law have generated a significant interest in the issue of regulating property relations between prospective marital partners. In line with the new legal concept, contractual agreements have an increasing significance in regulating property relations between prospective spouses, particularly the prenuptial agreement which is contracted before entering into marriage. The contractual regulation of these property relations, by signing such a specific agreement, may resemble a pragmatic business-like affair which meticulously concentrates on the details of protecting the proprietary interests of prospective spouses. However, the present-day legal practice is very supportive of the prenuptial agreement, which is perceived as an instrument which provides legal security and promotes the overall proprietary standing of prospective marital partners.

There is no doubt that the prenuptial agreement is a new development in the field of matrimonial law which may significantly improve the regulation of property relations in a prospective marriage. However, it cannot be denied that there is a certain resistance or reluctance to introduce the prenuptial agreement into the current legislations. In addition, the general public does not have sufficient information about this new kind of agreement and the opportunities it provides. For these reasons, the author of this paper will endeavour to objectively explore the concept of prenuptial agreement, considering all the arguments for and against the application of this instrument in regulating premarital property relations between prospective spouses.

<http://facta.junis.ni.ac.rs/lap/lap2007/lap2007-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170701061I>

JOVANOVIĆ, Mila

121. *Enigme a l'égard de l'esquive du manus de la loi des XII Tables*, Vol. 6, no. 1 (2008), pp. [29]-50.

UDC: 347.61/64(37)

Le but de ce travail est l'interprétation de la règle sur l'esquive du manus comme conséquence de l'usus, reconstruite selon Gaius, qui dit: "La Loi des XII tableaux prescrivait que la femme qui ne voulait pas de cette façon être soumise à manus de son époux doit chaque année s'absenter trois nuits (successivement) et de cette façon interrompre sa présence continue d'une année". En se heurtant aux interprétations existantes non adéquates et ne trouvant pas de solutions, Ihering a proclamé cette règle pour "l'énigme historique". Quoiqu'une telle idée, tant qu'on le sache, ne soit pas jusqu'à présent élaborée dans la romanistique, il semble que la solution pourrait être trouvée dans la tendance vers l'émancipation de la famille en face des communautés familiales plus larges et que la Loi des XII tableaux favorisait. La compréhension qu'il s'agissait des situations quand l'époux, au moment de la conclusion du mariage, était la personne *alieni iuris* et non nommé pour héritier du testateur, semble la plus adéquate. En désirant sa propre famille séparée et tendant à ce que les biens de son épouse ne soient pas transférés dans la propriété du *pater familias* de son mari (par quoi ceux-ci pourraient être diminués ou même perdus pour les enfants du couple conjugal concret), le couple conjugal esquivait le manus jusqu'au moment où l'époux ne devienne pas la personne *sui iuris* ou au moins ne soit pas sûr qu'il deviendra, en tant que héritier nommé, le chef de la famille. C'est en ce moment que s'établissait manus et les biens de l'épouse devenaient la propriété de l'époux et par cette voie, comme totalité, pouvaient être transférés aux enfants du couple conjugal. Pour les mêmes fins, dirait-on, servait aussi la règle de l'*usucapio* des *res mancipi* de l'épouse sous la tutelle de l'agnat, comme conjointe à la première, par laquelle on voulait empêcher que les biens de l'épouse dans le mariage sans manus, selon l'usage de la présence continue, soient transférés au *pater familias* de l'époux. De toute façon, les deux règles, l'une comme l'autre, avaient pour le but la stimulation du processus de la désagrégation des communautés familiales larges, c'est à dire l'émancipation de la *familia* en tant que famille patriarcale agnate plus restreinte, basée sur la propriété privée et personnalisée par *pater familias*.

<http://facta.junis.ni.ac.rs/lap/lap2008/lap2008-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170801029J>

MICKOVIK, Dejan - RISTOV, Angel

122. *Les changements dans les relations conjugales et familiales dans les pays Européens et dans le République de Macédoine*, Vol. 11, no. 2 (2013), pp. [83]-92.

UDC: 347.61/.63(4:497.7)

Dans cet article, les auteurs analysent les principales évolutions et les transformations de la famille qui se produisent au cours des dernières décennies dans tous les pays européens. Ces modifications consistent à changer la nature et l'importance du mariage dans la société contemporaine, l'augmentation spectaculaire du nombre de divorces, l'augmentation du nombre d'unions de fait et les enfants illégitimes, l'augmentation du nombre de familles recomposées, et de familles monoparentales, ainsi que la baisse de la fécondité. Les auteurs fournissent des informations statistiques concernant tous ces changements ainsi que l'analyse des causes principales des changements concernant le mariage et les relations familiales et les conséquences de ces changements. Les facteurs clés pour une «révolution» dans le mariage sont l'individualisme dans les sociétés modernes, où l'unité de base de la société n'est plus la famille, mais l'individu, ainsi que des changements du statut et du rôle de la femme dans la famille et la société. Dans la République de Macédoine des changements similaires se produisent dans le mariage et dans les relations familiales, ce qui ouvre un certain nombre de dilemmes en ce qui concerne la réglementation juridique des relations familiales.

<http://facta.junis.ni.ac.rs/lap/lap201302/lap201302-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171302083M>

PETRUŠIĆ, Nevena

123. *Legal Capacity of the Child in Serbian Legislation*, Vol. 13, no. 2 (2015), pp. [99]-113.

UDC: 347.61/.64(497.11) * 342.7-053.2(497.11)

In this paper the author provides a critical analysis of the statutory solutions of the Serbian Family Act 2005 and the Preliminary Draft of the Civil Code regarding the legal capacity of the child. The first part of the paper is devoted to childhood and the concept of the evolving capacities of the child in light of the UN Convention on the Rights of the Child. In the second part of the paper, the author critically analyzes the regulations which define the limits of the legal capacity of the child in Serbian legislation in the context of modern trends in the field of the rights of the child.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1417/886>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502099P>

STOJANOVIĆ, Nataša

124. *Legal Position of the Administrator of the Succession Estate: de Lege Lata and de Lege Ferenda*, Vol. 10, no. 1 (2012), pp. [13]-23.

UDC: 347.65/.68:347.96 * 347.96

In this paper, the author explores the legal position of the administrator of the succession estate in light of the current legislation, legal theory and judicial practice in some contemporary European legal systems, with specific reference to the Serbian

legislation. In the author's opinion, in order to promote legal certainty and provide for a more qualitative protection of successors' interests, it is necessary to introduce some changes in the current Serbian legislation on this matter. Thus, the legal provisions concerning the successors' right to designate the administrator of the estate should clearly stipulate whether the successors' joint agreement on the appointment of the administrator should be based on their unanimous or majority decision. In case the administrator is appointed by the decision of a competent court, it is necessary to specify the scope of the administrator's authorities, to precisely designate the types of costs and expenses the administrator is entitled to pay out of the succession estate and to lay down the normative framework on the termination of the administrator's powers and the legal consequences arising thereof. As far as procedural matters are concerned, the author urges that the prospective modifications and amendments to the Serbian Non-litigious Proceedings Act shall more explicitly regulate the procedure for designating the court-appointed administrator of the succession estate.

<http://facta.junis.ni.ac.rs/lap/lap201201/lap201201-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171201013S>

125. *Separatio Bonorum in Contemporary Law*, Vol. 4, no. 1 (2006), pp. 15-22.

UDC: 347.65/.68(4)

In this paper, the author focuses on the institute of *separatio bonorum*, through the standpoint of legal solutions, judicial practice and legal theory in French, Austrian, Bulgarian, Slovenian, Croatian and our law. In the paper, the author proposes that the inadequacies of the current acts of the Republic of Serbia related to law of succession be removed through: the broadening of the number of authorized individuals who would have the right to separation of succession from the property of the successors; proportionality in the reimbursement of claims, in case a number of defunct's creditors (or creditors from some other category of entitled individuals) request separation, when the value of succession is insufficient to fully compensate for their claims; by prescribing conditions for undertaking this action in order to secure the claims and by extending the deadline within which *separatio bonorum* may be requested.

<http://facta.junis.ni.ac.rs/lap/lap2006/lap2006-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170601015S>

VIDIĆ-Trninić, Jelena

126. *Position of Forced Heirs in the Countries of Roman Legal Tradition*, Vol. 10, no. 2 (2012), pp. [141]-156.

UDC: 347.65/.68(44)

This paper analyses the mandatory intestacy (forced heirship) in the countries of Roman legal tradition, in particular, the law of France, as a typical representative of the countries of the Roman legal circle, as well as the laws of Belgium, Spain and Italy, which also belong to this legal circle. The subject of the research was the way of determining the circle of potential forced heirs, but also of potential intestate heirs in the laws of this group of countries, because of the interconnectedness of these issues, as well as given the fact that the position of legislation of every particular country regarding their regulation, significantly reveals the hereditary position of relatives, spouses and concubinage partners

as forced heirs. The analysis particularly covers the specific legal position of each individual heir, belonging to the aforementioned circle, which depends on the regulation of a number of issues, the most important of which are those related to the amount of the forced share and the types of inheritance/hereditary rights/powers obtainable by each forced heir based on the forced share. In its conclusion, the author is trying to point out the influence that the facts of kinship, marriage and concubinage, as legally relevant facts, presently have in formulating the rules of inheritance in the countries of Roman legal tradition. The author is also trying to observe the extent of similarities of the legislative approach and that of legal theory among the said countries regarding this problematic.

<http://facta.junis.ni.ac.rs/lap/lap201202/lap201202-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171202141V>

347.7

COMMERCIAL LAW. COMPANY LAW

ĆIRIĆ, Aleksandar

127. *La non-exécution et l'exécution irrégulière des contrats selon le code civil Serbe*, Vol. 1, no. 1 (1997), pp. [1]-10.

UDC: 347(094)(497.11)"1844":347.42/.425 * 347.42/.425

Le Code civil serbe (1844), du point de vue de la qualité de la réglementation juridique concernant la violation des contrats, était au niveau de son époque. La violation des contrats présente une des conditions de la responsabilité et elle est le résultat du comportement du débiteur, comme le Code lui-même le souligne: "pas tout à fait conforme au contrat". L'article s'occupe du problème de la non-exécution ou de l'exécution irrégulière du contrat, selon le Code civil serbe, bien que ses règles à ce sujet ne soient pas posées au centre de la considération critique, mais sont plutôt données de la manière d'une revue restreinte. Les solutions du Code civil serbe dans ce domaine n'étaient ni révolutionnairement progressistes ni révolutionnairement rétrogrades. Nous voulons montrer qu'elles étaient, historiquement parlé, la partie intégrante d'une grande codification du droit civil au dix-neuvième siècle - du Code civil serbe. Ce Code était et il est resté le fondement de notre acquisition juridique contemporaine, de même que celle de l'avenir. Le fondement des normes correspondantes du Code des obligations en vigueur, sur les idées dirigeantes du Code civil serbe n'est qu'une preuve pour cette impression que nous avons.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701001C>

SERJEVIĆ, Vanja

128. *The Reformation of the Serbian Act on Insolvency Procedure (SAIP)*, Vol. 6, no. 1 (2008), pp. [51]-62.

UDC: 347.736(497.11)

The objective of the paper is to accentuate some of the major downsides of the Serbian Act on Insolvency Procedure. Those have been encountered by the author as practical obstacles in the administration of the bankruptcy cases pending before the Commercial Court in Nis.

The paper also contains the author's proposals for the amendment of the Act. They came about as the result of the comparative research in the US Bankruptcy Code. The main body of the paper comprises the following sub-sections: 1. The definition of 'insolvency', 2. Adjustment of debts of municipality, 3. Who may file a petition for insolvency, 4. Entering an order for relief (Entering a decision for commencement of the insolvency proceedings), 5. The jurisdictional authority of the court, 6. The trustee. Preliminary awards and compensations, 7. Creditors' representative bodies, 8. Allowance of the creditors' claims and interests, 9. Set-off, 10. Reorganization, 11. The protection of employees.

The references of the US Bankruptcy Code and the German Insolvency Statute, typed in bold, point to the very source of the author's ideas on the possible amendments of the Serbian Act.

<http://facta.junis.ni.ac.rs/lap/lap2008/lap2008-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170801051S>

347.9

LEGAL PROCEDURE.

JUDICIARY PERSONNEL AND ORGANIZATION

BORANIJAŠEVIĆ, Vladimir

129. *The Intervention Effect of a Verdict*, Vol. 10, no. 2 (2012), pp. [131]-139.

UDC: 347.95

The verdict brought in the litigation in which one litigant was joined by an intervener produces a specific process effect towards a common intervener. This effect of a verdict is called an intervention effect and it appears in the later litigation started against the intervener by the litigant the intervener had joined and who had lost the previous litigation. The author in the paper points to the characteristics and essence of the intervention effect of a verdict, to the conditions for appearance of this effect and a possibility for the intervener to use an objection to eliminate the effect of the verdict brought in the previous litigation. The author analyzes legal decisions in the Republic of Serbia and points to the legislation regarding this process concept in some legal systems in the region.

<http://facta.junis.ni.ac.rs/lap/lap201202/lap201202-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171202131B>

JANIĆIJEVIĆ, Dejan

130. *Language Rights in the Serbian Civil Procedure*, Vol. 1, no. 7 (2003), pp. [815]-823.

UDC: 347.973:342.725(497.11) * 342.725(497.11)

This Paper represents a critical analysis of the legislation pertaining to the use of native tongues of different ethnic groups in Serbian civil procedure. The differences between native tongues of the citizens of multinational countries, such as Serbia, can result in a wide range of problems referring to judicial protection of citizen's rights and interests in civil matters. For that reason, Serbian legislation provides for a variety of measures aimed at preventing inequality with respect to the realization of this public subjective right

guaranteed by the Constitution. However, statutory provisions related to this issue have certain drawbacks, and one of the most apparent shortcomings inherent to these measures is that their scope is limited only to communities granted with the formal status of "National Minority". The purpose of this paper is to identify some of the legislative drawbacks, as well as to suggest possible ways to overcome them. Even though the suggested solutions to the identified problems differ, their underlying principle is the principle of equality of all the citizens, disregarding their nationality and irrespective of whether their native tongue is the official language of the court or not.

<http://facta.junis.ni.ac.rs/lap/lap2003/lap2003-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170307815J>

131. *Multiparty Arbitration: Problems and Latest Developments*, Vol. 13, no. 1 (2015), pp. [33]-43.

UDC: 347.925

The author presents key issues related to participation of multiple parties in the arbitration procedure. Consolidation of arbitration proceeding, resulting in a multi-party procedural relationship, as well as joinder and intervention of third persons, nonsignatories to the arbitration agreement, are observed for the purpose of identifying possible problems that may be caused by their emergence in arbitration. The development of judicial approach to procedural questions raised by participation of multiple subjects in the contractual relationships giving rise to the dispute before the arbitral tribunal is showcased through the analysis of the 2010 United States Supreme Court decision, which sets grounds for restricting multi-party arbitration only to situations where participation of multiple parties in a single proceeding is expressly provided for in the arbitration agreement.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1407/871>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171501033J>

MOJAŠEVIĆ, Aleksandar

132. *The Lawyer's Role in Client Counseling: New Theoretical Approach of Behavioral Law and Economics*, Vol. 13, no. 1 (2015), pp. [51]-57.

UDC: 347.965

In this paper, the author first discusses the standard theoretical models of counseling clients (principals) by lawyers (agents), their advantages and limitations. In addition to these standard models, the paper focuses on the cognitive lawyer-client counseling model, developed within the framework of scientific discipline of Behavioral Law and Economics. This model casts a different light on the relationship between clients and lawyers, introducing certain psychological factors that are related to cognitive errors in client's reasoning. Some typical cognitive errors that justify a lawyer intervention in client's decision concerning the choice between a trial and settlement will be described. The author concludes that it is necessary to take into account the findings stem from a cognitive model to better understand the relationship between lawyers and clients.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1416/873>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171501051M>

NIKOLIĆ, Dragan

133. *Judiciary in Serbia from Mid 19th to Early 20th Century*, Vol. 4, no. 1 (2006), pp. [1]-14.

UDC: 347.9(497.11)"18/19"

In this paper, the author mostly uses the language of the legislator to discuss the development of the judiciary in Serbia from mid 19th to early 20th century. Such an approach has been chosen because by 1838 Constitution Serbian judiciary had not been based on any strong constitutional or legal framework. The organization of the judiciary was practically shaped and developed for this first time through legislation. Without a clear distinction between the executive and the judiciary by mid 19th century, in the thirty years that followed, in which state, judicial, and political institutions developed, Serbia passed the long way to reach some accepted values of developed European countries of the time, such as independent judiciary and permanent position of judges. Serbia entered the 20th century with a fully developed judiciary which was based on constitutional and legal principles identical or similar to the European countries of the time, even though, contrary to Serbia, those countries had built their judiciaries for a few consecutive centuries.

<http://facta.junis.ni.ac.rs/lap/lap2006/lap2006-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170601001N>

PETRUŠIĆ, Nevena

134. *Mediation - the Method of Collective Labour Disputes Resolution in the Yugoslav Law*, Vol. 1, no. 3 (1999), pp. [283]-293.

UDC: 347.919.1:331.109.6(497.1) * 331.109.6 * 349.2:347.9

Considered in this paper was a mediation mechanism, one of the methods for peaceful resolution of collective labour disputes in the Yugoslav law. Investigated were the contents and the purpose of the mediation procedure and the scope of its application. Organizational and functional rules on mediation in effect were critically analyzed. Considered were causes for sporadic use of mediation in the Yugoslav law and pointed out courses of further development of this procedural method, practical affirmation of which would stimulate development of labour and law relations and contribute to the establishment and stabilization of the "social peace".

<http://facta.junis.ni.ac.rs/lap/lap99/lap99-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179903283P>

135. *La modification de la demande dans des procès pour la réparation en argent du dommage immatériel*, Vol. 1, no 1 (1997), pp. [83]-93.

UDC: 347.922:347.426.4

Il a été, dans cet essai, analysé le problème de la modification de la demande dans des procès pour le dédommagement en argent du dommage immatériel dans un procès renouvelé ayant auparavant eu lieu devant le tribunal de première instance, après la suppression du verdict. Il a été examiné, s'il est permis, du point de vue de la règle "ne bis in idem" et du principe de la défense de la "reformatio in peius" que le requérant, dans un procès renouvelé devant le tribunal de première instance, modifie en totalité sa demande, même en cas lorsque contre le verdict, par lequel sa demande

a été partiellement refusée, n'a pas été déposée une plainte. À la base des résultats de l'analyse exercée, il a été conclu que le requérant qui n'a pas nié par une plainte la part refusée du verdict est autorisé de modifier, dans un procès renouvelé sa demande devant le tribunal de première instance, mais seulement par rapport à la part de la demande qui avait été auparavant acceptée par le tribunal de première instance.

<http://facta.junis.ni.ac.rs/lap/lap97/lap97-07.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179701083P>

STANKOVIĆ, Gordana

136. *Fictions on the Statement of the Appeal in the Legal Procedure*, Vol. 1, no. 3 (1999), pp. [343]-356.

UDC: 347.956

Analyzed in this paper are the law fictions as a means of the law technique, which is used in different branches of the modern law as well as in the field of civil procedure. The author points to certain fictions in the domain of the procedural law concerning the dispositional legal operations such as fictions on bringing complaints and fictions on withdrawing complaints no matter if they were directly or indirectly formulated in the legal text and points to a special law phenomenon - to fictions on the statement of the appeal.

Fictions on the statement of the appeal are encountered in the court of appeal procedure concerning the appeal to the decision by means of which a decision has been made on a possibly joined demands. They have resulted as a consequence of the legal gap which should have been filled by interpretation. The court practice has in this situation resorted to creating fictions on the statement of an appeal, thus practically contributing the court to participate in the law order elaboration.

Fictions on the statement of the appeal, as a legal phenomenon occurring in the court practice due to the failures of the lawmaker to norm a procedural situation, represent a phenomenon to be studied and analysed in details. This law phenomenon, which has not attracted attention of processualists deserves not only to be the subject of a special analysis due to the basic concrete dilemmas it causes, pointed to by the author, but to be legally normed as well.

<http://facta.junis.ni.ac.rs/lap/lap99/lap99-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179903343S>

TASIĆ, Anđelija

137. *Alternative Dispute Resolution in Light of the Civil Procedure Act*, Vol. 10, no. 2 (2012), pp. [157]-169.

UDC: 347.925

In this paper, the author analyzes the provisions of the new 2011 Civil Procedure Act on peaceful dispute resolution. In addition to the principle of peaceful dispute resolution which was proclaimed in the former legislative act, the new Act contains a brand new article which explicitly lays down this principle and introduces a compulsory attempt at peaceful dispute resolution between a claimant (a natural person or a legal entity) and a respondent (the Republic of Serbia, an autonomous

province or a local self-government unit. The author analyzes the provisions of this Act in light of the applicable principles governing peaceful dispute resolution, with specific reference to the position of potential litigants and their mutual relations. Finally, the author explores the possibilities of enacting alternative legal solutions on this issue.

<http://facta.junis.ni.ac.rs/lap/lap201202/lap201202-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171202157A>

349.2

EMPLOYMENT LAW

BARUN, Ivan

138. *International Standards on the Protection of Employees' Rights to Privacy*, Vol. 11, no. 2 (2013), pp. [121]-133.

UDC: 349.2(100):342.738 * 342.78

The author addresses the issues and challenges related to the protection of employees' rights to privacy in the modern information society. The use of information and communication technologies (ICT) in the workplace facilitates the collection, storage and processing of employees and job applicants' personal data, thus contributing to business efficiency, but it also facilitates various violations of privacy of employees and employers alike. In this article, the author analyzes some aspects of employees' right to privacy as envisaged in the international law instruments. The analysis is aimed at examining the methods and instruments for the collection and protection of personal data, as well as the procedure in case of any violation of privacy rights. In that context, the author particularly focuses on the issues pertaining to the supervision of employees' business correspondence, video surveillance in the workplace, monitoring employees through performance tests, etc. The author believes that prospective solutions in the legislation of the Republic of Serbia may be based on and perceived through the most important international sources in the field of protecting employees' privacy rights.

<http://facta.junis.ni.ac.rs/lap/lap201302/lap201302-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171302121B>

349.6

ENVIRONMENTAL LAW.

ENVIRONMENTAL SAFETY. ENVIRONMENTAL MANAGEMENT.

ECOLOGICAL PRINCIPLES

STOJANOVIĆ, Nataša

139. *Legal Protection of Experimental Animals in the European Union and the Republic of Serbia*, Vol. 7, no. 1 (2009), pp. [65]-78.

UDC: 349.6:636.028(497.11:4-672EU) * 636.028(497.11:4-672EU)

Despite the state-of-the-art achievements of modern technology, live animals are largely used today in diverse experimental procedures. The author of this paper shall not

discuss the issues related to man's cruelty to experimental animals, the inadequacy and actual uselessness of these experiments for human beings, nor the fact that these experiments may actually be an impediment to scientific discovery. In this article, the author analyses the legal aspects concerning the protection of experimental animals in the European Union and in the Republic of Serbia. In anticipation of the forthcoming harmonization of the national legislation in this area with the EU legislation, the author eventually suggests some measures for the protection of experimental animals in Serbia.

<http://facta.junis.ni.ac.rs/lap/lap2009/lap2009-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170901065S>

35

PUBLIC ADMINISTRATION. GOVERNMENT. MILITARY AFFAIRS

DAVITKOVSKI, Borče - PAVLOVSKA-DANEVA, Ana

140. *The Novelties in the Macedonian Law on General Administrative Procedure*,
Vol. 6, no. 1 (2008), pp. [21]-28.

IDC: 35.077.3(497.7)(094.5.072)

In this paper authors analyzed the new changes of Macedonian General Administrative Procedure Act, especially the ones regarding the so called "silence of administration", and in particular the consequences that these changes have on the two instances principle of administrative proceeding.

<http://facta.junis.ni.ac.rs/lap/lap2008/lap2008-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170801021D>

DIMITRIJEVIĆ, Predrag

141. *Towards a New General Administrative Procedure Act in the Republic of Serbia*,
Vol. 8, no. 1 (2010), pp. [33]-42.

UDC: 35.077.3(497.11)

The reform of administrative procedure is a constituent part of the complex processes underlying the public administration reform. The General Administrative Procedure Act is like a monastery in constant need of refurbishment by introducing new institutes which will make it more comprehensive, affluent and versatile. However, considering the circumstances of the New Public Management, the transformation of public administration from an administrative authority into a public service requires a change in the public administration procedures. Thus, the Administrative Procedure Act shall be appropriately amended so as to speed up and simplify the complicated administrative proceedings and to provide for a more efficient legal protection of both public and personal interests.

<http://facta.junis.ni.ac.rs/lap/lap2010/lap2010-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171001033D>

FIRA, Aleksandar

142. *Constitutional and Law Assumptions and Restrictions on the Local Self-Government in the Federal Republic of Yugoslavia*, Vol. 1, no. 2 (1998), pp. [137]-146.

UDC: 352.075:342.2](497.1) * 342.2

The greatest portion of this paper analyzes the most important constitutional provisions of the Federal and Republic Constitutions dealing with the local self-government. Concluding considerations formulated as a suggestion for further working out and discussions contain the basic attitudes and problems the author specifically emphasizes in the subject matter:

- In the constitutional and law system of the Federal Republic of Yugoslavia "the right to the local self-government has been proclaimed by the Constitution of FRY, thus being the category of the federal constitutionality. While organizing and accomplishing it, all those provisions of the Constitution of FRY, directly applied must be respected, which refer to the local self-government and if refer. The degree of the local self-government working out within the federal constitutionality, however, is not of that kind that the local self-government could be introduced much less to function, only on its basis, that is, on the basis of direct application of the Constitution of FRY.
- Within their sovereign rights, the member Republics organize and provide for the local self-government on their own. Then, in accordance with the constitutionality and legitimacy principle, they are obliged to do that in keeping with the Constitution of FRY and federal laws which contain more provisions directly or indirectly referring to the local self-government.
- The Constitutions of both member Republics contain more, but still only basic, provisions on the local self-government. The same concept of the local self-government basically features both Constitutions. That concept suits to the centralized state which independently and in a "sovereign" way determines which part of the power will be given to the local self-government. Clearly carried out is the thesis that the local-self government is the creation of the state and it depends upon its will.
- The weakest point of the constitutional organization of the local-self government is absence of the constitutional guarantees for the financial and material independence of the local self-government. Judging from the practice so far, this cannot be provided for by referring to the laws.
- The greatest restrictions on the local self-government results from the nature of the centralized state. It is most prominent in the sphere of performance, where the assumption of competencies is, contrary to the democratic traditions and the modern trend world-wide, directed in favour of the central state organs of power and administration.
- Finally, there is no efficiently developed mechanism in the constitutional system intended for the local self-government protection.

For all these reasons, vital improvements to the local self-government are possible only through the constitutional revision, and it is advisable this meeting to come for it.

<http://facta.junis.ni.ac.rs/lap/lap98/lap98-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179802137F>

ILIĆ, Mile

143. *A Critical Review on the New Solutions in the New Law on Local Self-Government in the Republic of Serbia*, Vol. 1, no. 6 (2002), pp. [711]-718.

UDC: 352(497.11)(094.5)

Over the last twelve years three laws regulating the problems of local selfgovernment have been passed in the Republic of Serbia.

The present Law on Local Self-Government of the Republic of Serbia represents harmonization of some solutions with the European standards that have been stipulated under the European Charter on Local Self-Government and, to the greatest extent, is coherent with the solutions in the field of local self-government of the European Union states.

That what can be noted are nearly identical solutions in the law of the Republic of Serbia and the laws that have already been passed or are prepared to be passed in the Balkans states and, first of all, in the states of former Socialist Federal Republic of Yugoslavia.

With regard to the previous law there are some new solutions, but there is no a completely new concept of the local self-government in the Republic that has otherwise been announced.

The solutions adopted are not radically new ones, so that wider authorizations of the local self-government, as expected, have not been defined.

Although the new law slightly differs from the previous one concerning some more modern solutions, a conclusion can be drawn that extent of changes expected is relatively low. There are still many questions that have not been covered under this law, but which should be regulated, while there are questions that should be differently regulated than in the adopted law.

Approaching in a relatively near future is enactment of one more, again new, Law on Local Self-Government.

That new law would have to regulate some more questions which have been so far beyond the legal regulations.

A conclusion can be drawn that at present there is no readiness, nor it has been earlier, for deeper changes in the system of local self-government. To be sure, it must be admitted that each law is somewhat better than the previous one, but it is not by far that what the expert and scientific public have been waiting for, and probably the citizens as well. Obviously, there is no political consensus for more fundamental changes in this field, so that is why the solutions adopted are at the level of classical and traditional solutions, without paying respects to the specifics and former experiences (whether good or bad).

Therefore, enactment of new laws that regulate the problems of the local self-government shall have to follow.

<http://facta.junis.ni.ac.rs/lap/lap2002/lap2002-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-551702067111>

144. *Current Questions of Constitutional Concept Realization Referring to Local Self-Government in Serbia*, Vol. 3, no. 1 (2005), pp. [37]-45.

UDC: 352(497.11)

Structuring of local self-government system in Serbia in period from 1990. to 2003. has general characteristic that each new law, comparing to previous, means more completely

structuring of local self government system, the way that is regulated in article 113. paragraph 2. of Serbian Republic Constitution.

By the self-government law from 1999. and 2002. all questions important for local selfgovernment system are regulated in complete and systematic way, and the special accent is on establishing independent local self-government unit sphere of activity, productive differing state and local self-government working area, citizen participation in making decisions in local public activities in local self-government unit, as well as questions of local selfgovernment financing and its legal protection. With these two laws, we can consider that, according to our opinion, the system of local self-government is legally regulated in coordination with Local Self-government European Chart.

<http://facta.junis.ni.ac.rs/lap/lap2005/lap2005-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170501037I>

JELIĆ, Zoran

145. *A Note on Adolf Merkl's Theory of Administrative Law: on the Occasion of the 70th Anniversary of the Publication of Merkl's "General Administrative Law"*, Vol. 1, no. 2 (1998), pp. [147]-155.

UDC: 35.001:340.12 * 340.12:929 Merkl A. J.

On the occasion of the 70th anniversary of the publication of the monograph "Allgemeines Verwaltungsrecht" (General Administrative Law), authored by Adolf Merkl, an eminent representative of the Viennese School of Law, this note succinctly presents the salient determinants of his theory of administrative law, enunciated in accordance with Kelsen's principles of what is known as his pure theory of law. It is indubitable that in the history of the science of administrative law great credit indeed goes to Merkl for having clearly and precisely defined, delineated and thoroughly theoretically elaborated a standard corpus of pertinent problems which should and must be studied by this relatively young legal discipline, placing it thus, as it were, side by side with its senior paragons, in particular the science of private law.

<http://facta.junis.ni.ac.rs/lap/lap98/lap98-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179802147J>

KRSTIĆ, Novak

146. *Animal Protection from Killing and Abuse in the European and Serbian Criminal Law*, Vol. 10, no. 1 (2012), pp. [43]-61.

UDC: 351.765:34](4-672EU:497.11) * 179.3:34](4-672EU:497.11)

In this paper, the author primarily deals with an issue of animal protection against unnecessary killing, torture and abuse in the EU law, with specific reference to the Serbian legislation on this issue. Many European countries have introduced into their criminal legislations some legal provisions defining the act of animal killing and abuse as a criminal offense. In order to observe the standards, forms and intensity of state response to men's cruelty to animals, the author will analyze the legal solutions adopted in Germany, France, Italy, Slovenia, Montenegro and Croatia, and compare them with the Serbian legislation. The author has endeavored to provide answers to a

number of questions: Are the current legal solutions relevant and sufficient? Does the legal protection include all animals? What is the subject matter of protection: the human being and his/her feelings towards some animals, or an animal itself? Is the prescribed punishment adequate to the social danger stemming from this criminal act? Concurrently, the author has endeavored to point to the possible courses of action which would provide for a more efficient and high-quality protection of animals from unnecessary killing and abuse in the future.

<http://facta.junis.ni.ac.rs/lap/lap201201/lap201201-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171201043K>

KUZMANOVIĆ, Rajko

147. *A Book of Manifold Value: Mile Ilić: Grad u Lokalnoj Samoupravi (City in Local Self-Government), Niš, 2001, 390 pp.: [book review]*, Vol. 1, no. 7 (2003), pp. [845]-847.

UDC: 352 Ilić M.(049.3)

<http://facta.junis.ni.ac.rs/lap/lap2003/lap2003-07.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170307845K>

PETROVIĆ, Milan

148. *Regions (Forms of Territorial Autonomy) in the Theory of Law and History of Law*, Vol. 1, no. 6 (2002), pp. [683]-710.

UDC: 353.1:340.12 * 340.12:353

This treatise consists of two main parts: theoretical and empirical. The objective of the first one is to establish the concept of a region as such, a problem that has not been sufficiently cleared up so far. Namely, a region shall indispensably be separated both from the concept of local self-government and from the concept of a state. A region differs from the local self-government in possessing qualitatively higher degree of power, power of original regulation of legal relations, legislature in the material sense. A region differs from a state in that only the social legal norm as the contents of the collective legal act of the stronger part of people of a state is, in principle, above the power of the state (constitutional) power. On the contrary, a region must be subordinated to the constitutional power of a state within which boundaries it exists. There are two principal types of regions: region state fragment and region public service. The former is similar to a state because it is in possession of its own state organs (organs featured by their own power of coercion), while the latter is not in possession of such organs. Further, regions may, in more details, be divided into nonincorporated autonomous territories, separate original parts of a state and regions within a regional state. This treatise shall adopt as politically most relevant division of regions the division into regions within a monarchy and regions within republics. (The third category, regions under the international legal regime, because of the limited space of this treatise is not incorporated). Naturally, in view of regions, this treatise cannot be an all-inclusive one, so that the most interesting examples are considered: out of regions within a monarchy, considered are dominions within the

British Empire and Finland within the Russian Empire; regions considered within a republic are those of Italy.

<http://facta.junis.ni.ac.rs/lap/lap2002/lap2002-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170206683P>

PRICA, Miloš

149. *The State's Liability in Damages for Wrongful Administrative Action*, Vol. 10, no. 1 (2012), pp. [63]-74.

UDC: 35.073(497.11)

The author basically engages in the analysis of the system of primary and direct liability of the state in damages for wrongful administrative actions. The Essay presents an explication of some aspects of legal regime of primary and direct state's liability in damages and provides a critical consideration of doctrinary and jurisprudential concepts on the reason of state's liability in damages, as a specific form of vicarious liability. The author ends his consideration of the questions posed with his personal view on the state's liability in damages for improper or irregular administrative performance.

<http://facta.junis.ni.ac.rs/lap/lap201201/lap201201-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171201063P>

SEROKA, Jim

150. *Trends in Municipal Administration and Impact on Democratization in the United States*, Vol. 1, no. 2 (1998), pp. [219]-231.

UDC: 352(73)

One of the most significant phenomena affecting political dynamics in the United States has been the virtual revolution which has occurred in how local governments perform their functions, how citizens relate to local government, how citizens have changed their expectations of local government, and how the citizens have changed their relationship to the city and urban community in positive and democratic ways. In general, these changes have resulted in enhanced citizen control, increased citizen responsibility, and heightened citizen awareness of community and sense of belonging in the urban community.

In my remarks, I briefly review the major social forces acting upon the fundamental restructuring of the character of local government in the United States, and how municipal government can now interact productively with its citizens. I also discuss some of the features in the US political landscape that underscore and give additional emphasis to these changes. Finally, I briefly describe some of the major techniques used to assist local governments meet the new expectations of democratic governance and the success which local governments have had with these approaches. They include: strategic planning, community development corporations, departments of neighborhood, total quality management, reinventing government, privatization, partnerships with NGOs, performance measurement, benchmarking, and customer service programs.

Some of the techniques used by citizens and municipal governments in the United States to forge a new democratic spirit may have applications outside the United

States, including Yugoslavia. It is imperative, however, that the philosophical and behavioral underpinnings of these efforts be understood fully before any transference of techniques are attempted.

<http://facta.junis.ni.ac.rs/lap/lap98/lap98-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179802219S>

STANOVČIĆ, Vojislav

151. *Local and Religious Self-Government in a Democratic Theory*, Vol. 1, no 2 (1998), pp. [233]-269.

UDC: 352.001

This paper points to a great role the local self-government played in the development of the so-called civilian society and democracy and what its place in the democratic theory is, among the ideas developed in the reformation and in the processes of limiting and overgrowing political absolutism by means of revolutions, uprisings for liberation of people. It is shown that the sense of theories on "separation of power" was establishment of the checks and balance among the various branches and levels (local, regional, state). As the so-called horizontal separation of power was taken as a condition to guarantee freedoms and a hindrance to absolutism, so the local self-government in theory can be observed as an important element of the vertical separation of power serving the same purpose. The importance of the relations, even conflicts, political interests and political wills of parts and wholes were pointed out by the democratic thought. Among the basic differences between the democratic and despotic and authoritarian systems on the other hand, also included are the differences in relations of parts and the whole, narrower communities and the authorities in them towards the authorities of the wider communities. To estimate the character of the government and self-government system, the nature and the scope of the circle of competencies and its character (original or transferred) are taken, whether and how much the separation of competences is based upon the constitution and how much the self-government is implemented, that is, participation of the population and other subjects (of corporate type) in administering or electing rulers. An entire scale of possible relations from the mere deconcentrating or detachment of affairs up to confederalism is given and what place in that scale of forms belongs to the local and regional self-government; also pointed out are the differences between the AngloSaxon and the continental European system. A lot depends upon the fact whether the basic principle-goal is administrative efficiency or meeting the population needs (everyday life quality improvement). Supported are the ideas that a truly democratic power is essentially federal and polyarchic in its character, which means that each must have some circle of competences stipulated under the constitution and on the rule of law principle which cannot be arbitrarily changed by some higher authorities. This paper points to great social, technological and political (state strengthening).

This paper points to great social, technological and political (state strengthening) changes that changed the character and position of the local communities in the categories given by the great European sociologists, as well as to the researches which dealt with stipulating the character of relations and decision making in the local communities, atomizing the society and manipulating the mass society within which lives a lonely crowd of people. A conclusion is drawn from this in favour of smaller

communes within which everyday questions are resolved and larger units of the regional self-government.

<http://facta.junis.ni.ac.rs/lap/lap98/lap98-07.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179802233S>

TOMIĆ, Zoran

152. *Die rechtlich inexistenten Verwaltungsakte*, Vol. 1, no. 3 (1999), pp. [357]-360.

UDC: 35.077.3

Die rechtliche Inexistenz ist keine Stufe der Rechts- bzw. der Gesetzwidrigkeit des Verwaltungsaktes. Sie ist ein faktischer Zustand von vornherein ungenügender Menge rechtlicher und verwaltungsrechtlicher Substanz, mit einer potentiell täuschender und irreführender Äusserung. Dieser Zustand hat wegen unüberbrückbaren, vorhergehenden, grundsätzlichen und normativen Mängel die Rechtsgeburt des Verwaltungsaktes, womit auch jeden seinen Rechtseinfluss nach aussen, verhindert.

<http://facta.junis.ni.ac.rs/lap/lap99/lap99-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179903357T>

VUČETIĆ, Dejan

153. *Improvement of Administrative Procedures and Reduction of Bureaucracy as a Legal Instrument for Enhancing Local Economic Development in the Republic of Serbia*, Vol. 10, no. 1 (2012), pp. [25]-41.

UDC: 35.077.3:352](497.11) * 352(407.11)

Local economic development is a relatively new function of Serbian local governments, which is transferred to them within the process of decentralization. According to Article 20 (paragraph 1, item 9) of the Local Government Act ("Official Gazette of RS", no. 129/2007) which regulates the self-governing competences of decentralized units in Serbia, local self-governments, in accordance with the Constitution and the special Acts: "adopt programs and projects of local economic development and ensure an improvement of the overall framework for economic activity in local government unit." This Act made a significant change from the socially-oriented concept of local government (providing for various public services, social protection and safety of the population residing in the territory of a local unit) to the economically oriented local government whose task is to stimulate local economic development and create a favorable and enabling environment for investments. In a narrow sense, local economic development is understood as a process of strategic planning through cooperation of local authorities, the private sector and NGOs, aimed at encouraging investments that will ensure high and long-term economic growth of local communities.

According to a survey conducted among investors in Serbia in 2008., regulatory and administrative legal barriers are the greatest weakness of the Serbian legal system in generamber 051. Therefore, within above mentioned framework, the author analyzes the possibilities and constrains of this very important instrument for local economic development which is starting to be used in Serbia improvement of administrative procedures on a local level such as managing municipal estate, development of planning documents and capital investment plans, local fiscal and tax system etc.

<http://facta.junis.ni.ac.rs/lap/lap201201/lap201201-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171201025V>

154. *The Most Important Changes in the Serbian System of Territorial Decentralization*, Vol. 5, no. 1 (2007), pp. [39]-46.

UDC: 35.071.55(497.11)

In this paper the author has studied the structure of articles that regulate territorial decentralization in the Constitution of Serbia 2006, and in three acts adopted in late 2007 (the Law on Territorial Organization, the Law on Local Government and the Law on Local Elections) in order to determine the meaning, characteristics of changes and possibilities for a further development of the Serbian system of territorial decentralization. After conducting a functional analysis of the system of territorial decentralization, he concluded that organization of decentralized units abandons the principle of division of powers, and then tried to evaluate the most important changes in relation to the previous system of decentralization, which relate to: restoring local property rights; modalities and criteria for the establishment of new provinces, cities and municipalities; rights of foreign nationals in the implementation of local self-government; authorization for creating public-private partnerships, new responsibilities in the hands of territorial decentralization units (including the right of a city to form a communal police); the position of the mayor and other local government bodies in the system of powers united in the hands of the local assembly; technical solutions which facilitate and accelerate the work of bodies of decentralized units; changes in the way of nomination and increasing the electoral threshold; controversies about the ways to end the councilor's mandate ("blank resignation") etc.

<http://facta.junis.ni.ac.rs/lap/lap2007/lap2007-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170701039V>

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PARTICULAR ACTIVITIES OF PUBLIC ADMINISTRATION

AKIMOVSKA-Maletić, Iskra

155. *European Legal Framework for Public Services*, Vol. 4, no. 1 (2006), pp. [29]-40.

UDC: 351.076/.077(4-672EU)

The author gives detailed analysis of public services in general as well as in European union jurisprudence. After that the author discusses European standards on services of general interest, communication on services of general interest and Leaken report, green paper on services of general interest and white paper on services of general interest.

<http://facta.junis.ni.ac.rs/lap/lap2006/lap2006-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170601029A>

DIMITRIJEVIĆ, Predrag

156. *Do We Need a Local Ombudsman - Protector of Human Rights*, Vol. 3, no. 1 (2005), pp. [25]-35.

UDC: 351.941

The institution of the local and regional ombudsman is well-known in the world. There are different models in respect of the organization of this institution: beside state ombudsmen, federal states have an ombudsman at the level of member states; there are also regional and local ombudsmen, as well as ombudsmen for general and special issues. Each of these institutions functions within the framework of its jurisdiction and powers of authorities.

In the Republic of Serbia, the local ombudsman is established only if there is a need for such a local institution, and if it can be organized and financed. In Serbia, this institution has been established only in 14 out of the total number of 167 cities and municipalities. What is the reason for such a small number of civil defenders (ombudsmen) at the local government level? The first reason is the lack of the binding character of statutory regulation on this matter; the second reason is the essential misunderstanding of the position and role of the local ombudsman. Namely, in the local political structures, the ombudsman is often perceived as an independent political person who shall control the legality of the work of the local government and is, therefore, seen as a danger for the local government authorities. The third reason is the problem of professional competence and financial assets, particularly in smaller and impoverished municipalities. Considering the fact that the role of the ombudsman presumes professional competence, previous work experience, good reputation in the society, etc, there is a problem of providing suitable qualified professionals for this position.

There is also the issue of political impartiality, as there is still a lack of relevant mechanisms for establishing full political neutrality. Another problem related to the ombudsman's independence is the funding. The third reason is the period of his term of office. The issue of his political independence and impartiality is directly related to the question whether the local ombudsman's term of office is directly corresponds and overlaps with the term of office of the municipal parliamentary assembly.

<http://facta.junis.ni.ac.rs/lap/lap2005/lap2005-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170501025D>

LONČAR, Zoran

157. *The organization of Public Administration in the Domain of Environmental Protection*, Vol. 9, no. 1 (2011), pp. [53]-68.

UDC: 351.777.6:502.14 * 502.14

Good organization of public administration is needed to efficiently implement numerous regulations that have been passed in recent years with the purpose of meeting international obligations in the environmental domain. A detailed analysis of the current organization of public administration tests the adequacy of current administration in the domain of environmental protection and stresses its basic legal inadequacies. If these are remedied, better conditions would be created for a more efficient and rational enactment of dozens of new regulations in the domain of environmental protection.

<http://facta.junis.ni.ac.rs/lap/lap201101/lap201101-04.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171101053L>

VUČETIĆ, Dejan

158. *Serbian Judicial Review of Administrative Acts and European Standards for Administrative Disputes*, Vol. 3, no. 1 (2005), pp. [73]-90.

UDC: 351.942

In Serbia, when a right or a direct personal interest, based on law, of a citizen or legal person has been violated by an individual decision of authority of some government administrative agency, or the law has been violated by such a decision in favor of an individual, judicial control of administrative action is exercised in a special form of action, the administrative lawsuit.

In first part of this paper author discusses in details this form of judicial control of administrative acts, indicating the specific nature of its purpose, grounds of competence, scope, and procedure according to Administrative Disputes Act 1996.

In second part of the paper author analyze basic European standards (specified in Council of Europe's Committee of Ministers Recommendations, other legal documents and ECHR case law) that are, or should be applied in administrative procedure and judicial reviewing of administrative acts.

<http://facta.junis.ni.ac.rs/lap/lap2005/lap2005-08.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170501073V>

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SOCIAL SECURITY

DIMITRIJEVIĆ, Marina - OBRADOVIĆ, Goran

159. *Funding Social Insurance: Theoretical Aspect*, Vol. 3, no. 1 (2005), pp. [53]-61.

UDC: 369:336 * 336 * 364.3

In this paper, the authors have analyzed the problems of funding social insurance, which are particularly present in the circumstances of the enormous growth of social insurance expenditures in both developed and transition countries. Drawing upon the Bismarck and the Beverage models of social insurance, the authors discuss the legal nature of the social insurance contribution, a duty intended for financing social security. The authors have specifically explored the social insurance funding systems, such as: the pay-asyou-go system (PAYG system of adjusting contributions and bring them in line with the social insurance expenditures), and the funded system (based on capital accumulation), considering their characteristics and their capacity to adequately respond to the complex needs of the modern world.

<http://facta.junis.ni.ac.rs/lap/lap2005/lap2005-06.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170501053D>

378

HIGHER EDUCATION. UNIVERSITIES. ACADEMIC STUDY

TOPIĆ, Marina

160. *Forging the Reform: Bologna Reform between the National and the European, the Traditional and the Modern*, Vol. 12, no. 1 (2014), pp. [21]-41.

UDC: 378.014.4(497.5)

This paper analyses the Bologna reform in Croatia in the context of a broader Europeanization debate. Hence, Bologna is analysed in line with Croatia's long-term struggle to enforce Europeanization under its own terms. This means that, throughout history, Croatia has made attempts to Europeanise and modernise the country but, at the same time, enforced and maintained the national. This particularly applies to the education sector that has always been the battlefield for enforcing the national. In more recent history, this mostly reflects on the primary and secondary education whereas the higher education is left on its own. However, the higher education is poorly managed and the reform is imposed from the above. Thus, the Bologna reform clearly failed in Croatia. The qualitative research conducted for this study shows dichotomy of the national and the European, as well as the traditional and the modern. The conclusion of the paper is that Croatia is trying to enforce Europeanization under its own terms, which clearly fails every time such attempt is made and results in Europhobia. As a consequence, every reform with European connotation fails, and this happened with Bologna reform of the higher education.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/667/247>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171401021T>

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ETHNOGRAPHY. CUSTOMS. MANNERS. TRADITIONS.**WAY OF LIFE. FOLKLORE**

JOVANOVIĆ, Mila

161. *Conclusions des recherches sur la position de la femme dans le plus ancien droit romain*, Vol. 1, no 2 (1998), pp. [157]-182.

UDC: 396.2(37)

Le but de ce travail est l'aperception et la réfutation des compréhensions fautives se rapportant à la position juridique et effective de la femme au cours des premiers siècles de la Rome antique. Comme une caractéristique particulière de l'ancienne société romaine, aperçue et notée déjà par les écrivains de la deuxième moitié du XIX siècle, apparaît un grand écart entre la position juridique et la position effective de la femme. La femme est très appréciée et très respectée non seulement dans la famille, mais aussi dans la société toute entière; elle a même de l'influence dans des événements très importants. En même temps, selon les compréhensions dominants dans la littérature, elle est presque absolument juridiquement soumise à l'homme et sans droits. Cet écart n'a pas pu être expliqué par des d'aucuns caractéristiques spirituelles particulières des Romains eux-mêmes. En réalité, l'écart n'est qu'apparent (fictif); à l'époque d'adoption de la loi des XII Tables cet écart n'eut pas lieu. Il est le résultat des opinions et des interprétations

postérieurs à l'égard de l'ancien droit romain. Bien qu'il existe une certaine priorité de l'homme, le contenu des instituts qui, directement ou indirectement, touche le status de la femme était différent de celui qu'on leur attribue postérieurement. L'écart apparaît seulement de la perspective d'une société totalement changée, d'une structure juridique tout à fait changée, des rapports entre des sexes changés (marqués par un antiféminisme accentués) et de différentes compréhensions en vigueur. Cet écart est plutôt le résultat d'une interprétation inadéquate des règles anciennes et d'une trop grande confiance à l'authenticité de toutes les règles sauvegardées; d'autant plus que certains d'entre elles, surtout celles du cadre des *soitdistants leges regiae*, c'est presque sûr, n'appartenaient pas du tout à l'époque à laquelle on les place. A cet égard, *leges regiae*, comme une collection (requel) inauthentique, présentent pratiquement la falsification de l'histoire. Ceci non seulement parce que Caton (antiféminist) ne les cite nulle part, mais parce que certaines de ses règles sur la position de la femme, comme sur les rapports conjugaux et familiaux, ne sont pas correspondants avec le temps de la fondation légendaire de Rome. Quant il en est de l'époque de l'ancienne Rome c'est seulement la loi de XII Tables qu'il fait considérer comme source du droit. Et, sur la base de cet loi, sans *leges regiae*, l'ancien droit romain ne pourrait d'aucune façon être compris si drastiquement patriarcal comme on l'a considéré de long des siècles. En réalité, les opinions traditionnelles sur la privation absolue de la femme et sur la soumission totale à l'homme, en droit romain ancien, sont fautives; et, l'écart entre la position juridique et la position effective de la femme n'est qu'apparent.

<http://facta.junis.ni.ac.rs/lap/lap98/lap98-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179802157J>

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ENVIRONMENTAL SCIENCE.

CONSERVATION OF NATURAL RESOURCES. THREATS TO THE ENVIRONMENT AND PROTECTION AGAINST THEM

DAVITKOVSKI, Borče - GOCEVSKI, Dragan

162. *Misdemeanor - a Basis for (Not) Protecting the Environment*, Vol. 9, no. 1 (2011), pp. [1]-18.

UDC: 502.14:343.34 * 343.3/.7

In this paper, an attempt is made to delineate the criminal act from administrative infractions. This delineation is essential to the imposition of sanctions (criminal or misdemeanor) in cases of violations against the natural environment. All exposed elements support the quantitative differences between criminal acts and violations based on different levels, higher or lower, of violations of the legal good, which indisputably are treated as criminal offenses and not as part of administrative infractions and represent the basis for an integrative approach to criminal acts. All this does not exclude the need for the correction of certain disadvantages of their treatment as punishable offenses in the jurisdiction, emphasized by the fact that there are numerous lesser infractions. Thus a revision of the Act on Misdemeanors is more than necessary. In addition to decriminalizing such violations, the court can become disburdened by introducing alternatives to tortuous liability and introduction of procedures in the form of mediation in the Act on Misdemeanors. This would leave such procedures to be dealt with by

competent police authorities and administrative authorities before they go to court, only leaving difficult and appealed cases to the judiciary. Likewise, changes in the Act on Misdemeanors should include further measures to simplify and accelerate the legal procedure for infractions and misdemeanors.

<http://facta.junis.ni.ac.rs/lap/lap201101/lap201101-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171101001D>

ETINSKI, Rodoljub

163. *National Judicial Control of the Performance of Some Obligations Accepted from the UN Framework Convention on Climate Change*, Vol. 9, no. 1 (2011), pp. [19]-33

UDC: 502.14:347.4 * 347.4/.5

If Serbia failed to perform its obligations based on the UN Framework Convention on Climate Change and if an individual in Serbia suffered some damage for this, would a court award a compensation for damages? This issue includes some hypothetical questions such as, for instance, the fact that the change of climate in Serbia causes damage to some individuals and that, by failing to perform its obligations, Serbia has contributed to the climate change and individual damages that have arisen. The question is whether the performance of obligations defined in the Convention is suitable for national judicial control? The change of climate is a complex process, caused by a variety of factors, many of which are beyond the control of the given state. Some crucial obligations established by the Convention and the Kyoto Protocol are defined very flexibly, leaving the contracting parties with a broad area to provide different implementation arrangements. Therefore, the possibility of national judicial control of the performance of obligations accepted from the UN Framework Convention on Climate Change is a complex question.

The Framework Convention on Climate Change belongs to international treaties with the most contracting parties – 195. However, only two of them have accepted international judicial competence for possible mutual disputes with regard to the interpretation and implementation of the Convention. States do not want external judicial control of the performance of obligations they have accepted based on the Framework Convention. Can internal judicial control compensate for the lack of external control and contribute to better effects of the Convention?

<http://facta.junis.ni.ac.rs/lap/lap201101/lap201101-02.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171101019E>

JOVAŠEVIĆ, Dragan

164. *Environmental Crime in the Republic of Serbia: Theory, Practice and Legislation*, Vol. 9, no. 2 (2011), pp. [109]-134.

UDC: 504.9:343.3/.7](497.11) * 343.3/.7

There are numerous activities by which human beings harm, destroy, pollute or endanger the environment. Most of these activities are the result of man's conscious omission or failure to abide by the rules, technical guidelines and standards in managing many dangerous sources of energy and raw materials or in handling hazardous appliances and technologies properly. Such misconduct generates a variety of risks, involving incidents of various kinds and scales of magnitude that may affect a specific location and everything within the hazard-affected

zone. Such activities, conducted either by individuals, groups and even entire states are illegal and punishable as criminal offences and misdemeanours (delicts). Considering that these activities are related to the unlawful conduct in the field of management, preservation, development and protection of man's immediate living and working environment either on the local or on the global scale, all these diverse types of harmful acts may be called environmental offences (ecological delicts). There are several kinds of environmental delicts, whose classification depends on the scope and intensity of the harmful effect on the environment, the specific type of activity at issue, the perpetrator's personality, the general normative framework prescribing specific conduct in the legislative and other regulatory acts, as well as on the kind of penalties prescribed for these specific criminal offences and misdemeanours. In this paper, the author analyses the theoretical and practical aspects of environmental offences as envisaged in the legal solutions of the new Criminal Code of the Republic of Serbia.

<http://facta.junis.ni.ac.rs/lap/lap201102/lap201102-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171102109J>

LILIĆ, Stevan

165. *Instruments of Environmental Justice*, Vol. 9, no. 1 (2011), pp. [35]-52.

UDC: 502.14:342.72/.73 * 347.7 * 349.6

Environmental justice has been developing as a movement and concept putting emphasis on the redefinition of the essential parts of environmental legislation and judicial protection of civil rights in cases related to environmental protection. Environmental and social justice entails efficient approach to the administrative and legal system whose purpose is to protect rights and implement legislation in the domain of environment and health protection. The Aarhus Convention is fundamentally related to international human rights and fundamental constitutional rights and freedoms. Access to justice, as defined in the Aarhus Convention, is based on the essential human right – that to a fair trial. This connection may be noticed in the link between the Aarhus Convention and other international documents dealing with the protection of human rights, such as the Universal Declaration of Human Rights (1948), International Pact on Civil and Political Rights (1966) and particularly European Convention on Human Rights and Fundamental Freedoms (1950). Standards of criminal law penalize behavior which stands in opposition to environmental provisions. Environmental standards of criminal law introduce criminal penalties so as to suppress illegal activities of legal entities in the domain of environmental law. According to the Recommendation of the European Parliament and Council of Europe, inspection in the environmental domain should be carried out by introducing a minimum of criteria into the organization and conduction of inspection, its procedures (decisions, charges, etc.) and into reporting on the activities of the inspection. The primary role of the environmental lawsuit is to act preventively against activities harming the environment. The environmental lawsuit may prevent the commencement of activities that could harm the environment before such harm occurs. In contrast to comparative law, our current judicial practice does not acknowledge intangible damages for the psychological pain caused by the harmful effect of industrial and adjacent industrial buildings, even though the right to a healthy environment is one of fundamental constitutional rights, paid as such due attention in Europe. According to the European Commission's Serbia 2010 Progress Report (4.2.3 Environment): "Overall, Serbia is moderately advanced in the area

of environmental protection towards fulfilling the European standards. The capacity to implement and enforce legislation remains to be strengthened.”

<http://facta.junis.ni.ac.rs/lap/lap201101/lap201101-03.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171101035L>

LONČARIĆ-Horvat, Olivera

166. *Legal Analysis of Environmental Taxes*, Vol. 10, No. 1 (2012), pp. [1]-12.

UDC: 502/504:336.2 * 336.2

Environment protection is not only the basic presumption for living in a healthy environment but also an important human right. The issue has been given much attention since the second half of the 20th century and it is now incorporated in the constitutions of many contemporary states, including the Republic of Croatia. In this paper, the author discusses the environment as a public good by analyzing taxes and subsidies as the major fiscal instruments for funding this public good. In that context, taxes are the preferential choice. Further on, the author explores the legal and taxation possibilities of eco-taxation, and provides a legal assessment of environmental taxes from the aspect of tax-law principles. Finally, the author discusses the position and the role of environmental taxes in the legal system of the European Union.

<http://facta.junis.ni.ac.rs/lap/lap201201/lap201201-01.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171201001L>

MEDVEDOVIĆ, Dragan - OFAK, Lana

167. *The Legal Position of Associations in Environmental Protection Procedures in the Republic of Croatia*, Vol. 9, no. 1 (2011), pp. [69]-84.

UDC: 502.14:061(497.5) * 061

Non-governmental organisation for environmental protection can significantly improve the implementation of environmental law. Their important role in environmental protection is recognised by the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters adopted in Aarhus in 1998 (the Aarhus Convention).

The Aarhus Convention came into force in the Republic of Croatia on June 25, 2007 upon the adoption of the Environmental Protection Act as the main act for implementing the Convention into the Croatian legislation. The Aarhus Convention guarantees the procedural environmental rights (access to information, public participation in decisionmaking and access to justice). The two acts which are particularly important for the implementation of the Convention in the Croatian legal system are the General Administrative Procedure Act and the Administrative Disputes Act.

In this paper, the author analyses the manifold legal status of non-governmental organisations (NGOs) in environmental protection proceedings. First, an NGO may have the status of a party whose rights, obligations or legal interests are being decided upon in the administrative procedure (for instance, an administrative proceeding on exercising the right of an NGO to access environmental information). Second, an NGO which is active in the field of environmental protection and meets all the requirements in accordance with the Environmental Protection Act shall be deemed to be a concerned party and shall,

therefore, have the right to participate in environmental protection proceedings in which the Act provides for the general public and/or concerned public participation (e. g. environmental impact assessment procedure).

Third, an NGO may have a procedural legitimacy to pursue a review and protection in the field of administrative law in case some other action of a public authority has violated certain right, obligation or legal interest of an NGO (for instance, depriving an NGO of the right to participate in the process of preparing the waste management plan). Forth, an NGO may submit information (a notice) to a relevant authority pointing to the need to initiate an administrative proceeding ex officio in order to protect the public interest (e. g. a notice to the inspection authorities about environmental pollution). Although the subject matter of this proceeding does not involve the NGO's right, obligation or legal interest (in which case it would be regarded as a disputing party), the General Administrative Procedure Act makes provisions for the legal protection in case when a public authority has issued an information that the motion to initiate an administrative proceeding has been denied, as well as in case when a public authority has failed to respond to the motion within the time limit.

<http://facta.junis.ni.ac.rs/lap/lap201101/lap201101-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171101069M>

STOJANOVIĆ, Nataša

168. *Legal Protection of Abandoned Animals under the Animal Welfare Act*, Vol. 9, no. 2 (2011), pp. [145]-157.

UDC: 502.211:592/599]:34(497.11) * 592/599

The problem of abandoned animals is not specific only to transitions countries, such as the Republic of Serbia. The global economic crisis has had a direct impact on the growing number of abandoned animals worldwide. Relying on the legislative models of a number of European countries, the Republic of Serbia adopted the Animal Welfare Act in 2009, which envisaged a different, qualitatively new and generally less discriminatory relationship of human beings towards animals. The adoption of this act has made provisions for an integral and comprehensive legal protection of animals in the territory of the Republic of Serbia. Yet, this Act has also given rise to a number of questions. What is the actual scope of legal protection of abandoned animals under the Serbian Animal Welfare Act? Has the application of this Act (and the accompanying regulations) yielded specific results in the field of reducing the number of abandoned animals? What kinds of problems are encountered by the local authorities in the City of Niš in the implementation of the Animal Welfare Act? What kind of action has been envisaged in the Animal Population Control Program aimed at controlling and reducing the population of abandoned dogs and cats in the territory of the City of Niš? Moreover, what are the prospects of accomplishing the envisaged goals in a recent future? These are some of the questions the author endeavours to address in this article.

<http://facta.junis.ni.ac.rs/lap/lap201102/lap201102-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171102145S>

623**MILITARY ENGINEERING**

RAIČEVIĆ, Nebojša

169. *The History of Prohibition of the Use of Chemical Weapons in International Humanitarian Law*, Vol. 1, no. 5 (2001), pp. [613]-632.

UDC: 623.45:341.33 * 341.3

The prohibition of the use of chemical weapons was first established under the customary law rules to be later on incorporated in international treaties. It was for a long time that only use of chemical weapons was prohibited, but existence of that prohibition only proved to be insufficient. Because of that the Chemical Weapons Convention of 1993 also includes, in addition to the prohibition of the use of chemical weapons, a prohibition of their production, stockpiling and transfer as well. Also, an obligation to destroy the existing stocks of chemical weapons was also established under the Convention. Such a wide circle of prohibitions will make the struggle against chemical weapons more effective.

<http://facta.junis.ni.ac.rs/lap/lap2001/lap2001-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55170105613R>

791**CINEMA. FILMS (MOTION PICTURES)**

SAVKOVIĆ, Miroslav

170. *Cinematography in Serbia: 1941-1945*, Vol. 1, no. 2 (1998), pp. [195]-218.

UDC: 791(497.11)"1941/1945" * 778.5(497.11)"1941/1945"

The fact that it is possible to exert powerful influence on people of different intellectual and cultural level by the use of the universal language of the moving pictures contributed to the importance of film during the Second World War, which became more important than any other media as far as the propaganda influence is concerned.

During the Second World War various diverse and active cinematographic undertakings took place. The form of such activities were different: from amateur endeavours of filming the important historic moments using the small format film cameras and sporadic cinematographic activities, all the way to the complete and well organized cinematographic ventures. The degree of the use of cinema in Serbia during the Second World War was conditioned and limited by the organizational and technical equipment and capabilities, so that cinematography was not equally used in all geographical communities, military units and organizations.

Quantitatively, the largest number of films shot on the locations in Serbia during the Second World War represents the reports intended for the newsreel presentations, mainly of German production. These films, as far as their present importance and role is concerned, represent priceless historical documents about the time and the participants in the events that shaped the present, a characteristic shared by the superb professionally produced films and the films made by the enthusiastic amateurs.

On the Serbian territory under the German rule a complete cinematographic activities were organized; both the fundamental activities such as production, distribution and

projections as well as the additional ones such as the legislation, publishing, education, etc. Cinematography was controlled by actively involved German administrative officials, however similar activities were undertaken by the local institutions and individuals.

Among the natives involved in cinematography in the occupied Serbia, the most prominent person is the cameraman Stevan Mišković.

From the organizational and technical aspect, the full length feature film by Dragoljub Aleksić "Innocence without protection" is the most important cinematographic project released in the occupied Serbia, successfully realized by local film makers in spite of the fact that the film must be characterized as naive and technically unsophisticated although it tried to approach the art form in the honest manner.

Among the numerous film materials made in Serbia during the Second World War, the majority were made by the Germans. Some of them still remain preserved in our archives although there are probably much more in the German film archives as well as in the archives of German allies and the archives of the Yugoslav allied countries. The film distribution on the Serbian territory under the German occupation was tightly controlled by the German occupier's administration so that the Belgrade film import companies, like Tesla-film or Jugoistok-film, were the censors at the same time since the imported films were of exclusively German production.

The movie theaters repertoire in the occupied Belgrade was dominated by German films and newsreels serving the propaganda aims of Hitler's Germany.

Kolarac People's University was the sole institution whose film repertoire consisted of educational and documentary films with moral themes, making a strong contrast to the repertoire of other cinemas in the occupied Belgrade and Serbia.

On the other Serbian territories occupied by Hungary, the Independent State of Croatia, Bulgaria and Italy, the cinematographic activities were differently developed although film as a medium had an important role mainly as a powerful propaganda means.

The large amount of film material on the Serbian territory was shot by the war reporters of allied countries, from the Soviet Union and Great Britain. These film materials are being kept in our film archives and the archives of the allied countries, where, regretfully, they are beyond our reach along with the materials filmed by the occupier's troops.

The successful beginning of the organizational shaping of an important professional, artistic, cultural and economic activity on Serbian territory - the national cinematography was the outcome of the activities of three war cinematographic institutions: The Film Section of Serbia, The Film Section of Yugoslavia and the National Film Company. This process ended on July 3, 1945, when the war cinematographic institutions were dismissed and their place resumed by the Film Company of the Democratic Federative Yugoslavia, the first civil cinematographic institution founded in Serbia (and Yugoslavia) after the Second World War, in the just liberated country.

<http://facta.junis.ni.ac.rs/lap/lap98/lap98-05.pdf>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55179802195S>

94(497.11)
HISTORY OF SERBIA

RANĐELOVIĆ, Nebojša

171. *The Political and Legal Framework of the Position of Serbia at the Berlin Congress*, Vol. 13, no. 2 (2015), pp. [123]-138.

UDC: 94(497.11)"1878" * 325.8(497.11)"1878" * 341.382(560 San Stefan)"1878"

The Treaty of San Stefano brought peace after the Russian-Turkish and the second Serbian-Turkish wars. The Russian interests prevailed in this Treaty, which among other things contributed to creating Greater Bulgaria as a Russian interest sphere. This state of affairs did not bode well with European powers, which found the possibility of regulating the new state of Europe by convening the Congress of Berlin and revising the Treaty of San Stefano. Serbia, still a vassal country de jure, could not participate at the Congress and it defended its interests by a whole array of diplomatic activities, on the margins of the Congress and in the European capitals that had the power to decide at the Congress. Serbia did not manage to accomplish the maximum of its objectives and interests but what it did attain was much more than what the Treaty of San Stefano had offered.

<http://casopisi.junis.ni.ac.rs/index.php/FULawPol/article/view/1448/888>

<http://scindeks.ceon.rs/article.aspx?artid=1450-55171502123R>

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