

EDITORIAL

Dear Readers,

As a new editor-in-chief, I would like to welcome you to the first issue of the scientific journal *Facta Universitatis: Law and Politics* for the year 2021. This issue contains papers covering various fields of legal scholarly research. While some authors have used traditional legal research methods, we commend the endeavour of two authors who have taken the empirical research approach.

Dejan Janićijević, LL.D., Full Professor of the Faculty of Law, University of Niš (Serbia), submitted the paper titled „*The Role of the European Court of Human Rights in the Legal Recognition of Same-Sex Couples*”. Relying primarily on the normative and case law research method, the author presented the historical changes in the legal concept of family, with reference to the legal treatment, recognition and protection afforded to unmarried couples, single parents, couples without children, and same-sex partners. As a result of policy changes at the EU level, the issue of “same-sex partnerships“ was brought into legal life by changing relevant legislation, rather than by the activities of court jurisprudence, which was largely the case in common law systems. The activities of the European Court of Human Rights (ECtHR) have significantly contributed to changing the traditional concept of the family and adjusting the law to the contemporary family life. The ECtHR has long had the position that the issue of same-sex partnerships enjoys a wide margin of appreciation. In the landmark case *Schalk and Kopf v Austria*, the ECtHR decided that same-sex couples enjoy the right to “respect for family life” protected by Article 8 of the European Convention on Human Rights (ECHR). This case has provided the opportunity to analyze the ECtHR case law in this field, but it also opened the door for legal recognition and regulation of same-sex partnerships by all ECHR contracting states.

Aleksandar S. Mojašević, LL.D., Associate Professor, Faculty of Law, University of Niš, and **Aleksandar Jovanović**, PhD Student, Faculty of Law, University of Niš, submitted the paper titled “*Reasonable Time and Bankruptcy of Socially-Owned Enterprises*”. The authors examine the implications of bankruptcy proceedings involving socially-owned enterprises on the budget of the Republic of Serbia and its taxpayers. After presenting the World Bank indicators of efficient bankruptcy procedure, the authors use the research method of descriptive statistics to analyze the differences between the Commercial Courts in Belgrade, Niš and Kragujevac in terms of the length of bankruptcy proceedings, the length of individual cases, and the percentage of cases pending over four or three years. In that respect, the analyzed statistical data indicate that there are no significant differences between the three commercial courts. The findings show that the huge number of bankruptcy cases involving socially-owned enterprises and the unreasonable length of bankruptcy proceedings have a strong negative impact on the budget of the Republic of Serbia. The paper points to the eternal “conflict” between the intensity of legal protection prescribed by relevant legislation and the efficiency and effectiveness of legal proceedings. In terms of bankruptcy procedure, the authors recommend some legislative changes, the use of “pilot judgments” in cases involving claims of employees of insolvent socially-owned enterprise, and some alternative solutions for paying off debts owed to bankruptcy creditors.

Miloš Prica, LL.D., Assistant Professor, Faculty of Law, University of Niš, submitted the paper titled “*Legal Principles as Teleological Legal Attitudes in the Legal Order of a State of Law*”, where the author discusses numerous issues related to legal science. The paper was originally published in Serbian language but the English version aims to make the author’s viewpoint available to a broader academic audience, given that these scientific issues have not been sufficiently addressed in Serbian legal literature. Based on the distinction between regulatory, systemic and teleological legal attitudes in the legal order of a state of law, the author discusses the difference between legal norms and legal principles as radiating legal attitudes. Legal principles have a circular flow in the legal order, which is determined by the complementary roles of the institutional order of public authority, the institutional order of state authority, and the institutional order of a territorial community. Thus, the author differentiates two kinds of legal principles: the fundamental legal principles of a legal order and the legal principles governing different areas of a legal order. Considering the distinctive nature of legal principles as sources of law, the author analyzes the aspects of systemic and teleological understanding of legal principles as “canons” directly developed by jurisprudence.

Miljana Todorović, LL.D., a post-doc Scientific Researcher, Department of Interdisciplinary Study of Law, Private Law and Business Law, the University of Ghent (Belgium), submitted an interesting paper titled “*Converting DIFC Judgments into Arbitral Awards: Practice Direction No. 2 of 2015 and its Controversies*”. The author presents the latest developments in ADR law by examining the DIFC Practice Direction No.2, instituted by the Dubai International Financial Center (DIFC) in 2015. The possibility of converting judgments into arbitral decisions is a novelty in the theory and practice of Arbitration Law. The paper analyzes the legal mechanism that allows for the 'conversion' of a judgment into an arbitral award according to the rules established in the DIFC Practice Direction No.2 of 2015, provided that the parties in the DIFC Court litigation agree to refer a 'judgment payment dispute' to arbitration under the DIFC-LCIA arbitration rules. An arbitral award rendered in such proceedings could be enforced abroad by application of the New York Convention. After providing a detailed analysis of the DIFC Practice Direction No.2, the author discusses the controversies and the negative effects of this mechanism on the due process review and public policy.

Bojana Arsenijević, LL.M., Teaching Assistant, Faculty of Law, University of Niš, submitted the paper titled “*Exercising the Right to Maintenance between Spouses and Extramarital Partners in the Case Law of the Basic Court in Niš*”. The author discusses the efficiency of the established family-law mechanism by examining the case law of the Basic Court in Niš and presenting the results of empirical research on maintenance litigation proceedings conducted and finished by the end of 2018. The subject matter of analysis are cases involving the right to maintenance between spouses and extramarital partners. The author examines the adequacy of applying relevant legislation and the efficiency of legal protection mechanisms established by those rules. The research findings reveal the inefficiency of maintenance litigation proceedings, particularly in terms of access to court, lengthy proceedings and fair trial standards, as well as inadequate citizens’ awareness of procedural opportunities in maintenance lawsuits.

The multidisciplinary nature of the submitted papers and the authors’ choice of current legal issues indicate that our scientific journal *Facta Universitatis: Law and Politics* is open to different approaches to the legal matter and committed to publishing scientific articles across a wide range of social sciences and humanities. In that context, we invite you to

submit research papers on topics of your professional interest. We look forward to our prospective cooperation.

We would like to extend our appreciation and gratitude to our distinguished reviewers whose professional attitude to double-blind peer review has significantly contributed to the quality of this scientific journal.

Editor-in-Chief

Prof. Dejan Vučetić, LL.D.

Niš, 21st August 2021