

INTERNATIONAL ACADEMIC EVENTS

Dr. Miloš Živković

Assistant Professor

University of Belgrade Faculty of Law

THE FIRST REGIONAL CONFERENCE OF THE CIVIL LAW FORUM FOR SOUTH EAST EUROPE

The Civil Law Forum for South East Europe (CLFSEE) is a regional initiative sponsored by the German *Gessellschaft für Technische Zusammenarbeit (GTZ)*, since recently renamed in *Gessellschaft für Internationale Zusammenarbeit (GIZ)*, consisting of leading experts in the fields of civil and commercial law from Albania, Bosnia-Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Montenegro and Serbia, and two prominent German experts, both from the Max Planck Institute for Comparative and Private International Law from Hamburg as support.¹ The regional members were elected in a unique democratic way, based upon their scientific reputation – the members from each state were, in principle, elected by legal scholars from other states of the region. The aim of the CLFSEE is “to develop proposals and opinions for the reform and harmonization of the national legislations in the fields of civil and commercial law in the participating countries, and to monitor the reform measures in those countries from an academic and professional point of view”.²

The first of the CLFSEE activities was organization of a regional conference dedicated to subjects defined by the Forum. In order to successfully organize such conference, apart from its permanent members,

¹ The members are: Nada Dollani (Tirana), Gale Galev (Skoplje), Arsen Janevski (Skoplje), Tatjana Josipović (Zagreb), Branko Morait (Banja Luka), Ardian Nuni (Tirana), Miodrag Orlić (Belgrade), Slobodan Perović (Belgrade), Meliha Powlakić (Sarajevo), Zoran Rašović (Podgorica), Petar Simonetti (Rijeka), Mihajlo Velimirović (Podgorica), Ulrich Drobniig (Hamburg) and Christa Jessel Holst (Hamburg).

² See Mike Falke, “Introduction”, in: *Civil Law Forum For South East Europe, Collection of studies and analyses, First Regional Conference (Cavtat 2010)*, Vol. I, GTZ, Belgrade 2010, 5.

the CLFSEE also gathered relatively younger legal scientists who participated in legal research in the fields designated by the permanent members. This gave the younger generation an opportunity to get to know their counterparts from the region, both personally and from the point of view of their scientific interests, to exchange views and experiences and to publish works in a bi-lingual and regionally distributed collection of papers. This presentation shall, on the one hand, present the proceedings of the conference held in Cavtat, Croatia, on 28/29 October 2010, and on the other hand, present the contents of the collection of studies and analyses published as conference materials.

The CLFSEE has identified seven topics as priority fields of legal reforms and research in the region:

- 1) Extra-legal influences on legal systems;
- 2) Recent developments in the Law of Obligations;
- 3) Recent developments in the field of land ownership and construction land;
- 4) Security rights in movables;
- 5) Security rights in immovables;
- 6) Modern types of contracts;
- 7) EU Consumer Contract Law.

The proceeds of the Cavtat conference were organized in line with this choice of topics, so that after the initial panel discussion the work was divided into presentations of the research done by the seven Working groups, each dedicated to a specific topic. Given the relatively short time of the conference, though, only the first Working group, dedicated to extra-legal influences on legal systems, could present the results of its research in a plenary session. The remaining six Working groups presented their research two at a time, in two different rooms, so that recent developments in the Law of Obligations were presented at the same time as EU Consumer Contract Law, recent developments in the field of land ownership and construction land at the same time as security rights in immovables and security rights in movables at the same time as modern types of contracts. This forced the conference participants to choose only three of the six presentations, which made some of them unhappy. As for the contents of the presentations, they shall be presented through the presentation of the publication. However, it is well worth noting that the discussions at the Working group for recent developments in the Law of Obligations was especially interesting, for it showed the relatively low level of understanding of the purposes and techniques of the EU law in this area, making some of the distinguished older professors to even compare the European Union, Commission and Directives with another Union, which

also used to have Commissions and issued Directives – the Soviet Union, even though it is obvious that the comparison is in no way adequate. The presentation of Michèle Schmiegelow on the methods of comparing the quality of different legal systems was also received especially well, for it seems to have articulated a frustration shared by the lawyers across the region of SEE and beyond, which seems to be caused by the methods of comparison that seem to always result in supremacy of common law and Anglo-Saxon legal concepts in general. At the end, the closing panel discussion took place and a Declaration of Cavtat was adopted by the CLF-SEE permanent members. The Declaration stressed the importance of the exchange of views and ideas at a regional level, and emphasized that the regional co-operation between legal scholars and practitioners is a precondition for a successful EU integration of South East Europe. It also contained a summary of recommendations adopted by each Working group.

One would certainly fall short of one's duty to present the conference completely and accurately if the good and friendly atmosphere in which it took place would not be mentioned. The older scholars revisited their memories from the era of former Yugoslavia, and the younger ones used the opportunity to get to know their colleagues across the region. The Albanian colleagues, despite of not sharing the same language and the same former country, fitted in quite nicely. The beautiful surroundings in Cavtat and an excursion to nearby Dubrovnik facilitated the good mood of the conference participants.

One of the specific outcomes of the CLFSEE and its first conference is also an impressive bilingual publication of reports prepared by the conference participants in English and Serbian (i.e. Croatian, Bosnian, Montenegrin). The research which led to the conference lasted for almost two years, and the reports amounted to three ample volumes, having a bit over 2100 pages altogether.

The first volume contains the papers of the first three Working groups – on extra-legal influences on legal systems (WG 1), recent developments in the Law of Obligations (WG 2) and recent developments in the field of land ownership and construction land (WG 3). The first Working group published four papers: *Extra-legal factors and legal order universal values and cultural identity*, by academician Slobodan Perović of Belgrade, *Economic analysis of the transfer of inheritance matters from courts to notaries in the Republic of Slovenia*, by Tomaš Keresteš of Maribor, *Economic theories on the law in market relations*, by Rolf Knieper of Bremen and *Interdisciplinary approaches to comparing the quality of common law and civil law*, by Michèle Schmiegelow of Louvain. The second Working group published five papers: *Challenges to civil law harmonization by way of directives*, by Tatjana Josipović of Zagreb, *Viola-*

tions of personal rights as a requirement for responsibility for compensation of non-material damage, by Branko Morait of Banja Luka, *Tort liability and EC directives*, by Ardian Nuni and Evgjeni Bashari of Tirana, *Delictual liability based on fault in Serbian law*, by Miodrag Orlić of Belgrade and *Objective liability for damage* by Slobodan Perović of Belgrade. The third Working group published six papers: *Right of ownership of building land*, by Ilija Babić of Novi Sad, *Regulation of land ownership under the Albanian legislation*, by Nada Dollani of Tirana, *Legal regime of developed construction land in Montenegro*, by Zoran Rašović of Podgorica, *Establishment of right of ownership of socially/state-owned developed construction land in the Republic of Croatia and in Bosnia and Herzegovina*, by Petar Simonetti of Rijeka, *Establishment of property right and the right of long-term leasing of developed building land owned by the Republic of Macedonia*, by Rodna Živkovska and Tina Pržeska of Skopje and a comparative overview *Establishment of the right of ownership of developed construction land that used to be socially-owned or state-owned in countries of Southeast Europe*, prepared by Petar Simonetti of Rijeka.

The second volume contains the papers prepared by the following two Working groups, on security rights in movables (WG 4) and security rights in immovables (WG 5). These groups had a bit different methodology than the first three (and acted more as a team than as a simple group of individual researchers), so that they published six national reports each (for movables prepared by: Arsen Janevski and Tatjana Zoroska – Kamilovska for Macedonia, Hano Ernst for Croatia, Meliha Povolakić for Bosnia-Herzegovina, Nenad Tešić for Serbia, Erald Topi for Albania and Draginja Vuksanović for Montenegro; for immovables prepared by Erald Topi for Albania, Darja Softić for Bosnia-Herzegovina, Hano Ernst for Croatia, Rodna Živkovska and Tina Pržeska for Macedonia, Zoran Rašović for Montenegro and Miloš Živković for Serbia), followed by six papers containing comparative reports on particular topics presented in national reports.

The third volume contains the papers prepared by the last two Working groups, on modern types of contracts (WG 6) and on EU Consumer Contract Law (WG 7). The papers of WG 6 are organized in the same way as the papers presented in the previous two groups (WG 4 and 5, published in the second volume) – six national reports on franchising, factoring and financial leasing (prepared by: Ana Keglević for Croatia, Goran Koevski for Macedonia, Jelena Perović for Serbia, Eimir Salihović for Bosnia-Herzegovina, Aneta Spaić for Montenegro and Asim Vokshi for Albania), structured along the outlines set forth in a common questionnaire, are followed by six comparative analyses (two for each examined contract). Lastly, it seems that the WG 7 was the most integrated

group, because its paper consists not only of short country reports on legislative techniques of each respective state (prepared by Nada Dollani for Albania, Zlatan Meškić for Bosnia-Herzegovina, Emilija Čikara for Croatia, Jadranka Dabović Anastasovska, Neda Zdraveva and Nenad Gavrilović for Macedonia, Zvezdan Čadenović for Montenegro and Marija Karanikić Mirić for Serbia), but also of the part explaining the transposition of each of the four relevant EU directives in national legislation, the part on the future of consumer protection law both in EU and in participating countries and the part containing the abbreviations list and bibliography, which were all prepared as a collective effort. It seems that the seventh Working group was the nearest one to the idea of collaboration that CLFSEE was established to promote.

The three volumes contain valuable materials for legal scholars within the region about the legal systems of their neighbors, and for foreign legal scholars for the situation in the region as a whole. Then fact that the papers are also published in English, irrespective of the sometimes faulty or imperfect translation, enables a far bigger audience to familiarize itself with the examined topics. Therefore it is by no means premature to conclude that the presented publication is amongst the (academically) most important publications in the area of civil law in the SEE region in the last few decades.