

SELECTED IRZ ACTIVITIES IN SOUTHEAST EUROPE

1. INTRODUCTION

The German Foundation for International Legal Cooperation (Deutsche Stiftung für internationale rechtliche Zusammenarbeit e.V.), IRZ for short, was again active along a broad front in the Western Balkan states last year. Among other things, legislative consultations, regional conferences for constitutional courts and events with various institutions were held to train judges and public prosecutors. The purpose of this report is to report on activities that may be of particular interest to readers of this journal, either because these activities relate to the training of young lawyers or to publications on the activities of IRZ, or because members of the Harmonius network have been involved in these.

2. SELECTED ACTIVITIES

2.1. Bosnia and Herzegovina:

2.1.1. “Collective legal protection in the law of Bosnia and Herzegovina from the perspective of EU law (consumer protection and the prohibition against discrimination)”

As part of the training of judges, an event on “Collective legal protection in the law of Bosnia and Herzegovina in the light of EU law (consumer protection and the prohibition against discrimination)” was staged on 26 February 2019 at the Judicial Educational Centre of the

* The author is the head of section for Bosnia and Herzegovina, Montenegro, Northern Macedonia and Serbia at the German Foundation for International Legal Cooperation (Deutsche Stiftung für internationale rechtliche Zusammenarbeit e.V.), or IRZ for short. The article expresses the author’s personal opinion.

Federation of Bosnia and Herzegovina. Professor Dr. Zlatan Meskić, who completed his legal training at the University of Vienna and received his doctorate there on “European consumer law with special attention to the 2007 Green Paper“, was the keynote speaker. His technical background allowed him to analyse European arrangements in relation to national provisions and case law handed down by national courts and the Competition Council (which is responsible for various complaints filed by associations). The lively discussion that ensued focused on protection against inappropriate contractual terms and conditions and collective legal protection in the area of consumer law. The latter was supposed to be improved by reform of the Code of Civil Procedure in 2015 through the introduction of a possibility to “file a complaint to protect collective interests” (Art. 453 a to h of the Civil Procedure Code of the Federation of Bosnia and Herzegovina). In practice, however, various deficits have cropped up in the implementation. These range from a lack of knowledge of consumer protection law on the part of judges to inadequate legal provisions and failure to establish the necessary organisational preconditions, e.g. a register for consumer complaints.

2.1.2. Ten years’ practical application of the “Prohibition against Discrimination Act”.

In Bosnia and Herzegovina, the IRZ is also committed to further training for members of professions providing legal advice. Financial resources furnished by the German Federal Foreign Office as part of the German contribution to the Stability Pact for South-Eastern Europe are used in collaboration with the non-governmental organisation *Vaša Prava*, which operates a cross-entity network of offices providing legal aid to needy and vulnerable groups. On 12 December 2018, practical application of the State of Bosnia and Herzegovina’s “Prohibition against Discrimination Act” was analysed. This was on the tenth anniversary this act’s entry into force. The conference was kicked off with two presentations establishing the theoretical foundations. At the same time, however, attention was also devoted to numerous cases from the field of practice. The speakers were Professor Dr. Zlatan Meskić, Zenica, and the German lawyer Holger Hembach, who in his capacity as a former OSCE staff member in Macedonia and Serbia has had considerable experience in the region. These opening speeches were

followed by presentations on application of the aforementioned act in Bosnia and Herzegovina given by Ahmet Salčin and Adnan Kadribašić, both legal advisors to Vaša Prava. In their speeches, they not only conveyed information on actual practice in law, but also provided their audience with specific advice on how to properly formulate claims. These presentations were followed by lively discussions in which the participants also related their own experiences as advisors and counsel for the citizens involved. Several problem areas were identified that need to be addressed in the future. In Bosnia and Herzegovina, for example, there have been scattered cases of discrimination which have attracted national attention. In sum total, however, the number of legal disputes in this area is much lower than social conditions in the country would lead one to expect. One of the reasons for this may be that the population has not yet become aware that it is possible for individuals to take action against discrimination and win in court. Another reason is probably to be found in inconsistent, and often even contradictory, case law handed down by individual courts. Some of the participants in the discussion were of the opinion that this is attributable to there not being any supreme court having jurisdiction over the entire state of Bosnia and Herzegovina due to the special nature of the state structure. Sustainability of the event was encouraged by the fact that all participants received two comprehensive book publications in the national language on relevant case law developed by the ECtHR and ECJ, which the IRZ had produced in preceding projects.

2.1.3. Award of certificates to the third generation of German-language supplemental studies in German law at the Sarajevo Faculty of Law

In the field of jurisprudence education, certificates were awarded to the third generation of the German-language supplemental studies in German jurisprudence at the Sarajevo Faculty of Law in Sarajevo on 29 January 2019. The event was opened by the Vice Dean for International Cooperation, Prof. Dr. Zinka Grebo, who also provided an overview of the wide-ranging activities that have taken place during the almost 20 years of cooperation between the faculty and the IRZ. After this, Christian Sedat, who was representing German Ambassador Christine Hohmann, then stressed the importance and sustainability of support for the training of future lawyers in his welcoming address. Moreover,

he characterised graduates of the supplementary studies programme as special ambassadors of cooperation between Germany and Bosnia and Herzegovina. Prof. Dr. Meliha Povlakć, who supervises the supplemental studies programme, then delivered a lecture on the influence of German law on the law of Bosnia and Herzegovina. She began by noting that previous graduates of the supplementary studies programme had reported that they had benefited considerably from their degree when applying for jobs. With regard to the influence of German law on the law of Bosnia and Herzegovina, she underscored that this influence was subject to cyclical fluctuations. She also expressed her regret that reforms that were clearly based on German law had been subsequently reversed, in this context referring to a “circulation of legal models”. In the following presentation on “Selected Problems Involving Translation in the Field of Law”, the author of this report pointed out that when translating EU legal texts into Bosnian, the use of German source texts was clearly preferable to English. As grounds for this assertion, he stated that both the languages and the legal systems of Bosnia and Herzegovina and Germany were compatible in this regard, whereas this was not the case with regard to the English language and common law. This is why learning German offered a tremendous advantage for prospective lawyers from Bosnia and Herzegovina. The focus of the event was the report on experience gained by Kanita Pruščanović, a graduate of the supplemental studies programme, who is now working as research assistant at a professorship for penal law. She provided a description of the course of studies, the additional knowledge acquired through it, and joint courses with students from other successor states of the former Yugoslavia.

2.2. Montenegro: State television report on IRZ event

In an extensive report on a documentary programme aired on 27 March 2019, Montenegrin State Television featured a lecture delivered by the author on legal education in Germany organised by the IRZ together with the Montenegrin Lawyers’ Association at the Faculty of Law in Podgorica. The reason for the major interest shown was the current discussion taking place on modifications of, or even an end to, the Bologna system, which has also been introduced in the area of jurisprudence studies. Because of the double anonymous correction of examinations, the very differentiated grading system, but also the

scope of examinations, particular attention was devoted to the Bavarian examination and grading system in the report. The prominent positioning of this topic was certainly also aided by the fact that the lecture was held in the national language, making it possible to use the original sound in the television report.

2.3. Northern Macedonia: Cooperation with the Institute for Eastern European Law, Regensburg

IRZ activities are primarily oriented towards the field of practice, but also need to be supported by jurisprudence science. For this reason, regular contact takes place with relevant jurisprudence science institutions in partner countries and Germany. Within the framework of the cooperation between the IRZ and the Institut für Ostrecht München e.V. (or “IOR”: Institute for Eastern European Law, Munich) in this area, Dr. Mirijana Lazarova Trajkovska, former judge of present-day Northern Macedonia at the European Court of Human Rights, took part in an expert discussion staged by the Institute on 26 June 2019 at its main campus in Regensburg, the centre-piece of which was a discussion between the research director of the Institute, Prof. Dr. Dres. h.c. Friedrich-Christian Schroeder, IOR Managing Director Prof. Dr. Dres. h.c. Herbert Küpper and Tomislav Pinarić, the country officer responsible for Northern Macedonia. Dr. Lazarova Trajkovska and the author informed their hosts about the current status of judicial reform in Northern Macedonia and supporting activities of the IRZ. In the course of the expert exchange, the participants also identified similarities and differences with other states which are the subject of research by the Institute for Eastern European Law. The discussion focused in particular on demands placed on the judiciary and the role of judiciary councils, which were regarded by all participants as very important (and in some cases in need of change). Dr. Lazarova Trajkovska also used the visit to Regensburg to acquaint herself with the Institute’s activities in order to be able to inform suitable young scholars about the possibility of research stays at the Institute for Eastern European Law after returning to Northern Macedonia.

2.4. Serbia: First workshop on “current news from the field of German law and the law of the region” for German-speaking IRZ Alumni

The first workshop within the framework of “current news from the field of German law and the law of the region” was staged in Belgrade for German-speaking IRZ alumni from Bosnia and Herzegovina, Northern Macedonia, Montenegro and Serbia from 7 to 9 December 2018. Various German experts (Eva Weinbeer, staff member at the Professorship for Public Law at the University of Regensburg; Presiding Judge at the Regional Court Dr. Ulrike Phieler-Morbach, Potsdam Regional Court, and Dr. Karoline Mihaljevic-Schulze, Attorney at Law, Berlin) provided information on current developments in German law, helping participants update their knowledge of German law while discussing legal issues and developments in German. In addition, almost twenty of the more than fifty participants gave brief presentations on new developments in the law of their own countries of origin. Finally, the event also offered participants an opportunity to expand their own professional networks. The opening address was delivered by Matthias Schikorski, from the German Embassy in Belgrade, who stressed in particular that measures such as the workshop, which was providing an “update on German law”, would considerably strengthen the sustainability of previous IRZ measures. Various German-speaking lawyers from Serbia, including a judge from the Serbian Constitutional Court, Professor Dr. Milan Skulić, reported on their respective connections with Germany and German law as well as on developments in German law, which they considered to be of particular importance to transformation states, in the course of the first evening.

3. TRANSNATIONAL NEWS

3.1. Cooperation with the Southeast Europe Society (SOG)

Within the scope of its activities, the IRZ strives to achieve the greatest transparency possible while making possible a comprehensive exchange of information, including across organisational lines and disciplines. This is the purpose of events staged with hand-picked partners in Germany, which accompany and support project work in the

partner states and whose results are also published in appropriate cases. One example of this is the documentation of the interdisciplinary Southeast Europe Symposium “Legal Transformation in Southeast Europe: the Example of the Former Yugoslavia: Initial conditions, actors, successes and failures – a preliminary stocktaking” published in the March issue of the journal “Südosteuropa-Mitteilungen”, put out by the Southeast Europe Society. The documentation includes the articles “Framework conditions underlying transformation – the initial situation, actors and external factors” (Dr. Stefan Pürner), “Coming to terms with the past: a precondition for transformation – the case of Macedonia” (lecturer Dr. Aleksandar Lj. Spasov), “Transformation of law in Bosnia and Herzegovina – the constitutional perspective” (Prof. Dr. Zlatan Meškić), “Legal Transformation in Serbia” (Prof. Dr. Miloš Živković), “The framework of transformation – initial situation, actors and external factors: the example of criminal procedure law” (Nobert Koster, judge at the Superior Regional Court) and a summary of the panel discussion. The concept of the documented event included a comparison of observations and opinions of lawyers from the transition states on the one hand and foreign advisors on the other. Despite this heterogeneous composition on the part of the speakers, considerable parallels were identified in the assessments. These particularly related to the importance of further development of the law at a moderate pace in line with currently applicable continental European principles and the importance of education and training measures in support of legislative activities. This publication can also be downloaded as a PDF document from the IRZ website.

3.2. Cooperation with the Aspen Institute Germany

In addition, a print version of the documentation for the conference “Rule of Law in the Western Balkans: Exploring the New EU Enlargement Strategy and Necessary Steps Ahead”, organised by Aspen Institute Germany with financial resources from the Federal Foreign Office, was published this summer. The author of this report gave a presentation at the conference entitled “Depoliticization and Professionalization of Public Institutions: How Should It (Not) Be Done?”. The publication can be downloaded as a PDF file at <https://www.aspeninstitute.de/wp-content/uploads/2018-Rule-of-Law-Reforms-in-the-Western-Balkans.pdf>.

3.3. *The IRZ at the “Executive Seminar for Diplomats from the Western Balkans” organised by the German Ministry of Foreign Affairs*

In addition, IRZ activities are rounded off by the provision of information to important multipliers in partner states, which increases the acceptance and visibility of German international legal advice. For some years now, the German Federal Foreign Office has also been providing the IRZ the opportunity to give young diplomats from various South Eastern European countries presentations on its activities in their home countries as part of the multilateral Executive Seminar for Diplomats from the Western Balkans. At this year’s event, held on 27 June 2019 and once again chaired and moderated by former Ambassador Gudrun Steinacker, who heads the Western Balkans Course at the Diplomats Academy, the author’s lecture on this topic was supplemented by a report provided by former judge on the Macedonian Constitutional Court and former judge and President of the Section for Northern Macedonia at the European Court of Human Rights in Strasbourg, Dr. Mirjana Lazarova Trajkovska, on the status of judicial reform in her home country. The two presentations were followed by an intensive discussion which also addressed the topic of “competition between legal systems”. It was concluded that sustainable legal development would be nurtured and fostered by maintaining the current continental European orientation of law.

Dr. Stefan Pürner, Attorney at Law
IRZ, Head of the Project Area “Southeast Europe I”
(Bosnia and Herzegovina, Montenegro,
Northern Macedonia and Serbia)

UPUTSTVO ZA AUTORE

Časopis *HARMONIUS – Journal for Legal and Social Studies in South East Europe* je međunarodni časopis u kojem se objavljuju radovi koje odobri Uređivački odbor, a na osnovu dve pozitivne recenzije anonimiziranog teksta rada.

Tekstovi se predaju u elektronskom obliku uredniku (*mirjanam@ius.bg.ac.rs*).

Uredništvo će, po pravilu, obavestiti autore o odluci Uređivačkog odbora u roku od dva meseca po prijemu teksta rada. Rad će biti prihvaćen za objavljivanje pod uslovom da nije istovremeno predat drugom časopisu na objavljivanje, odnosno da nije reč o već objavljenom delu.

Tekstovi po pravilu ne treba da budu duži od jednog tabaka, kucani latinicom. Izuzetno, maksimalni obim tekstova je 1,5 tabak. Jedan tabak iznosi 16 strana od 28 redova sa 66 znakova u redu, odnosno 28.800 znakova.

U gornjem levom uglu navodi se akademska titula, ime i prezime autora, a u fusnoti ustanova u kojoj je autor zaposlen ili druga afilijacija, zvanje i elektronska adresa.

Tekst namenjen za rubriku „Članci“ mora da na početku sadrži rezime s osnovnim nalazima rada, obima do 150 reči (apstrakt) i do pet ključnih reči, a na kraju rezime (*summary*) istog obima i isti broj ključnih reči na engleskom jeziku. Ceo rad, uključujući i rezime na stranom jeziku, podležu stručnoj lekturi.

Naslov rada se piše na sredini, velikim slovima – verzalom (font 14). Podnaslovi se pišu na sredini, velikim slovima (font 12) i numerišu se arapskim brojevima. Ukoliko podnaslov sadrži više celina, one sa takođe označavaju arapskim brojevima, i to: 1.1. – kurzivom, malim slovima (font 12), 1.1.1. – običnim malim slovima (font 12), itd. sa manjim fontom.

Radovi se predaju u elektronskom obliku. Redakcija zadržava pravo da prilagođava rad opštim pravilima uređivanja časopisa i standardu HBS jezika.

Članovi Uređivačkog odbora nisu odgovorni za stavove autora iznete u radovima objavljenim u ovom časopisu.

PRAVILA CITIRANJA

1. **Knjige** se navode na sledeći način: prvo slovo imena (posle čega sledi tačka) i prezime autora, naziv kurzivom, mesto izdanja kurentom – obično, godina izdanja. Samo prilikom prvog citiranja navodi se puno ime autora. Ako se navodi i broj strane, on se piše bez ikakvih dodataka (poput str., p., pp., ff., dd. i slično). Posle mesta izdanja ne stavlja se zarez. Ukoliko se navodi i izdavač, piše se kurentom – obično, pre mesta izdanja. Navođenje naziva izdavača nije obavezno, ali je poželjno.

Primer: T. Josipović, *Zemljišnoknjižno pravo*, Zagreb 2001.

1.1. Ukoliko knjiga ima više izdanja, može se navesti broj izdanja u superskriptu (npr. 2012⁵).

1.2. Ukoliko se upućuje na fusnotu, posle broja strane piše se skraćunica „fn.“.

Primer: T. Josipović, *Zemljišnoknjižno pravo*, Zagreb 2001, 1 fn. 1.

2. **Članci** se navode na sledeći način: prvo slovo imena (sa tačkom) i prezime autora, naziv članka kurentom – obično pod navodnicama, naziv časopisa (novina ili druge periodike) kurzivom, broj i godište, broj strane bez ikakvih dodataka (kao i kod citiranja knjiga). Samo prilikom prvog citiranja navodi se puno ime autora.

Ukoliko je naziv časopisa dug, prilikom prvog citiranja u zagradi se navodi skraćunica pod kojom će se periodika nadalje pojavljivati.

Primer: M. Povelakić, „Fiducijarno vlasništvo u usporednom pravu i sudskoj praksi“, *Zbornik Pravnog fakulteta Sveučilišta u Rijeci (ZPF SR)*, 1/2003, 196.

3. Ukoliko postoji **više autora knjige ili članka** (do tri), razdvajaju se zarezom.

Primer: M. Petrović, M. Popović, V. Ilić.

Ukoliko se citira knjiga ili članak sa više od tri autora, navodi se prvo slovo imena i prezime samo prvog od njih, uz dodavanje skraćen-