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CONFERENCE REVIEW

## **24<sup>th</sup> INTERNATIONAL SCIENTIFIC CONFERENCE ON CAUSING DAMAGES, DAMAGE COMPENSATION AND INSURANCE**

In the situation of the pandemics COVID-19 and comprehensive protection and caution measures it is difficult to organise a conference, but due to enthusiasm of the members of the Conference Organizing Committee and numerous eminent authors of scientific papers the 24<sup>th</sup> International Scientific Conference on Causing Damages, Damage Compensation and Insurance was held from the 16<sup>th</sup> to 18<sup>th</sup> September in Banja Vrujci. Organizers of the scientific conference were the Association for Damage Compensation Law, the Institute for Comparative Law and the Judicial Academy, with support of the municipality of Mionica, which once again proved to be a good host to the participants of the conference.

President of the Scientific Committee professor Wolfgang Rohrbach, PhD, pointed out the fact that the Collection of Papers from this conference contained 34 papers. Authors of these papers are colleagues from Hungary, Austria, Italy, Poland, Croatia, Bosnia and Herzegovina, Montenegro and Serbia. This year the scientific conference fulfilled conditions to be the international conference. In addition, participation of authors from abroad proves that the conference is recognised by experts from other countries, but also that the circle of authors from Serbia and abroad is increasing every year, so this year three new authors appeared for the first time (as authors or co-authors) from Hungary and Montenegro. The said papers included a number of interesting topics in addition to the basic topic of the scientific conference. Diversity of topics shows that there is always a big need to analyse various issues within the always current areas related to claims, liability for damages, damage compensation and insurance.

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As previous years, a significant contribution was made by numerous proven and scientifically recognized experts in the field of legal science, case law and insurance, who showed that theory and practice must go hand in hand when creating new legal solutions, harmonization and implementation in practice. Authors of scientific papers indicated possible solutions and methods of harmonizing provisions of legislation and practice through examples and experiences of their countries in the areas of damage compensation and insurance, as well as the European Union legislation.

The right to a fair trial is one of the basic values of an open and democratic society based on the rule of law, where the human dignity of the individual is inviolable, which is why everyone is obliged to respect it, especially state bodies, i.e. state authorities. Standards of the right to a fair trial are one of the basic criteria for assessing whether and to what extent the ideals of the rule of law in a particular state have been achieved. Exercise of rights is also important, because for legal transactions what has been done is usually much more important than what should have been done. In addition, exercise of rights is an indicator of the state of a given right, which is why it can serve as a reliable basis for its reasoned scientific critique.<sup>2</sup>

This is exactly the issue that **professor Vladislav Marković, PhD**, is addressing in his paper *Unequal Practice of the European Court of Human Rights in Strasbourg in Determining the Amount of Compensation for Violation of Rights to a Trial within a Reasonable Time*. The fact is that in administrative case law in Serbia there are a large number of cases where the Administrative Court violated rights to a trial within a reasonable time, and the role of the court is to protect human rights from violations committed by illegal actions of the state administration. Based on the case studies of *Sindelić and others v. Serbia* before the European Court of Human Rights in Strasbourg, the author pointed out different views regarding norms and criteria for determining the amount of non-material damage due to violation of the right to a trial within a reasonable time. Comparing with the judgment of the European Court of Human Rights in case *Scordino v. Italy* of 29 March 2006, he pointed out the inadmissibility of the decisions and positions set out in the case of *Sindelić and others v. Serbia* by the European Court of Human Rights.

**Professor Dragan Bataveljić, PhD**, and **professor Anka Vojvodić, PhD**, dealt with specific and current issues in their paper *Responsibility for Current Pandemic and Future Scenarios for Protection of the Population*. Authors stated the indisputable fact that the whole world was unprepared for the pandemic Covid-19. As a consequence of unpreparedness, in order to curb the pandemic around the world and in the Republic of Serbia, numerous contradictory and vague measures were taken, contrary to the views of the medical staff of the crisis team and indicated human rights' violations. It is indisputable that the states prescribed and adopted

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<sup>2</sup> S. Blagojević, *Pravo i stvarnost*, Službeni list SRJ, Beograd, 1995.

such measures in order to protect life, health and other rights of their citizens, but many of them did not prove to be useful. They include the so-called lockdown and numerous measures to restrict the movement of citizens that did not give the expected results. On the contrary, collateral damage was done both in social and economic, educational, healthcare and other systems in each state. The issue of human rights in extraordinary circumstances is given in detail through the analysis of the international act - the European Convention for the Protection of Human Rights and Fundamental Freedoms. Authors also referred to the discrimination of Russian and Chinese vaccines by Western countries and an incomprehensible division in that regard in such difficult situation for the whole world. In this regard, authors conclude that it is important for states to join forces in order to find a response to the pandemic and thus protect the health of the population while taking care not to jeopardize their basic human rights.

“Compensation for damage from traffic accidents - practice of Commercial Court in Valjevo” is the topic of authors **Dragan Obradović, PhD** and **Stevan Karać**. A five-year statistical analysis of compensation for damages from traffic accidents in the proceedings before the Commercial Court in Valjevo, pointed out specific features in determining the amount of material and non-material damage, especially in determining the amount of lost earnings when it comes to business entities (legal entities and entrepreneurs). In addition, the analysis of court judgments came to the conclusion that there are different actions of the court in deciding on the costs of proceedings in cases of partial success of the plaintiff in a litigation. Accordingly, authors point out that there is a need to harmonize legal practice, where the role of the second instance court would be decisive. Having in mind the fact that, acting on appeals, the second instance court in only one case completely revoked the judgement and returned the case for retrial, the authors conclude that this confirms an efficient and fair conduct of the Commercial Court in Valjevo.

Historical overview of the development of liability insurance in Serbia, problems that occur today in compulsory liability insurance such as unequal legal insurance conditions, mismatch of minimum sums insured and risk level, as well as unjustifiably high price of insurance premiums, are the subject of a detailed and comprehensive analysis given in the paper *Harmonization of the Risk Level and Sum Insured in Compulsory Liability Insurance in Serbia*, whose authors are **professor Zdravko Petrović, PhD**, and **Ilija Smiljanić, PhD**. These problems were analysed individually on the basis of official statutory regulations by using data from the competent regulatory body, i.e. the National Bank of Serbia. The paper draws attention to the inconsistency of criteria, which leads to unjustifiably unequal position of business entities and natural persons in concluding contracts on compulsory liability insurance, both in Serbia and in other countries. Accordingly, the authors in the conclusion suggest measures that need to be taken in order to eliminate legal

anomalies so that all insured persons have uniform conditions of compulsory liability insurance in accordance with their economic activity.

**Magdalena Makiela, PhD**, and **professor Vladimir Čolović, PhD**, dealt with the issues in insurance-based investment products and their distribution through intermediaries in the paper *Distribution of Insurance-Based Investment Products and Obligations of Intermediaries (with a special reference to provisions of the Directive 2016/97 on insurance distribution)*. The authors point out the following: "Insurance-based investment products are present, above all, within life insurance. The reason for this are characteristics of life insurance, which relate to the insurance period, as well as the method of payment of the sum insured indicated in the policy. Insured persons (consumers) must get acquainted with characteristics of these insurance lines by insurance intermediaries, who must also know which insurance line would be most suitable for the insured." The paper pays special attention to the role and powers of insurance intermediaries in relation to brokers and agents defined by provisions of the EU Directive no. 2016/97, with a brief overview of the provisions in force in Poland and Germany. Authors point out that the role of intermediaries in concluding insurance contracts inevitably extends not only to information on the insurance service itself but also to information on expected income based on investments of insurance companies, in cases of insurance-based investment products.

**Professor Wolfgang Rohrbach**, in his paper *Real Estate in the Insurance Industry* explains why investing in real estate is the most stable long-term investment of insurance companies. Going back to the times of wars, inflation, financial crises and losses in securities' prices, shows that only insurance companies that had real estate in their investment portfolio survived bankruptcy. According to the author, the establishment of long-term reserves for future claim payments only on the basis of cash or savings and securities did not prove to be useful. This claim is supported by the fact that today we are witnesses of low interest rates that have been going on for years, and that investing in real estate offers not only greater security but also higher returns.

The issue of covering technical reserves and analysis of investment policy of insurance companies in the Republic of Serbia in period from 2013 to 2018 was discussed in detail in the paper *Investment Policy of Insurance Companies with Special Reference to the Republic of Serbia* written by **Jelena Kostić, PhD**, and **Valentina Ranaldi, PhD**. The paper aims to provide recommendations for improving the investment policy of an insurance company as much as possible, bearing in mind that the economic consequences caused by the Covid-19 pandemic could only be realised in the coming period.

The paper presented at this scientific conference *Public Libraries and Insurance of the Book Fund*, whose author is **Violeta Milošević**, deals with the issue that was for the first time so authentically and professionally discussed in this region.

The significance of library materials (funds of old and rare manuscripts, funds of native materials as unique collections, basic book funds, archives and documentary materials, etc.), for the general social interest and cultural heritage are priceless. The author points out the importance of insuring the book fund in order to protect the cultural heritage through the analysis of risks in emergency situations and its reduction (prevention measures) and the determination of adequate sums insured. In order to achieve the highest level of protection and adequately manage risks, it is necessary that the insurance of the book fund is harmonized with strategic acts, catastrophe risk assessment and protection and salvage plan. The author draws attention to previous insurance contracts with minimal sums insured, which actually represent a real risk because they provide the illusion of security and the achieved level of protection of cultural heritage.

The paper *Unmanned Aerial Vehicles (Drones), Legislation and Insurance*, whose authors are **Daliborka Jovičić, PhD, Zorica Šipovac** and **Dragomir Jovičić**, deals with the development of a new branch of civil aviation and its placement in the legal framework. The paper presents a comprehensive analysis of the existing statutory acts in Serbia and prescribed guidelines and regulations of the European Commission, their harmonization and the necessary improvements in the adoption of new acts. The existing problems in the procedure of registration of drones and their use, the need to expand the range of risk coverage and to improve the technology of issuing the policy were pointed out. The paper emphasizes that the formation of a single damage database for this insurance line is a priority and a prerequisite for its further growth and development.

This year's conference in Banja Vrujci continued the tradition of bringing together domestic and foreign scientific experts engaged in the highest legal institutions, experts in insurance companies, as well as professors, scientists at institutes and faculties. Since it addresses specific and little-known but very important topics in the field of law and insurance, this conference represents a unique synergy of theory and practice. As a result of scientific analyses of the various applicable legal rules in Serbia and of the European legislation, as well as of recommended guidelines, the best possible solutions were proposed for introducing novelties to the existing laws and using such novelties in the course of creating new ones.

The crown of this conference are the Proceedings, which can be downloaded from the website of the Institute for Comparative Law, where only a small part is laid out in this review, which in no way diminishes the importance and significance of other authors and their papers. On the contrary, we owe a great deal of gratitude to all participants for their scientific contribution and advancement of the field of law and insurance.

*Translated by: Jelena Rajković*