Mt. KOPAONIK SCHOOL OF NATURAL LAW

TWENTY SIXTH ANNUAL CONFERENCE

FINAL DOCUMENT

GENERAL STATEMENTS • INTRODUCTORY ADDRESS • MESSAGES

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GENERAL STATEMENTS

The Twenty Sixth Conference of jurists of the Kopaonik School of Natural Law was held on the Mount Kopaonik on December 13th through 17th, 2013 under the permanent theme *Justice and Law* and with the annual theme *LAW AND DIGNITY*.

Several days of Conference activity have followedthe traditionally accepted Hexagon of the Kopaonik School of Natural Law through the following six chairs:

I Right to Life

II Right to Freedom

III Right to Property

IV Right to Intellectual Creation

V Right to Justice

VI Right to a State Ruled by Law

The following sections have worked within the framework of the above chairs:

Life; Health; Ecology; Sports (First Chair).

Criminal law and procedural protection of personality; Freedom of personality – general freedom and family-law freedom of personality; Administrative-law protection of freedom (Second Chair).

Codification, property and other property rights, property and inheritance, restitution and privatization; Taxes and taxation policy; Contract and

tort liability; Commercial companies; International commercial contracts, arbitration; Banks and banking transactions; Insurance; Labor relations (Third Chair).

Industrial property, Copyright (Fourth Chair).

Court in connection with justice – court practice, procedure, enforcement; International relations and justice – international law – foreign elements; European Union law (Fifth Chair).

State ruled by law – theoretical and practical experiences (Sixth Chair).

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For the 26th Conference of the Kopaonik School of Natural law held under the heading *Law and Dignity* 309 reports have been written out of which 206 reports of domestic and foreign autors were published. All reports were distributed according to the Hexagon of Kopaonik School of Natural Law into six chairs and 23 sections. The published reports were presented in four volumes amounting to 3,100 pages.

The 26th Conference was attended, as in previous years, by around 2,000 participants – jurists from various universities, academies of scences, research institutions, members of the Bar, courts and other organizations of administration of justice, administrative agencies and public services, non-governmental organizations and associations of citizens, commercial enterprises and commercial associations, banking and insurance organizations, as well as from other social institutions.

In addition to domestic participants, taking part in the work of the School were some 90 eminent jurists, both theoreticians and practitioners from abroad – as report authors and as direct participants in the activities of individual sections. Foreign participants have come from the following countries: Austria, Belorusia, Belgium, Germany, France, Poland, United States of America, Brazil, Greece, Italy, China, Israel, United Kingdom, Russia, Turkey, Croatia, Slovenia, Macedonia, the Republic of Srpska, Bosnia and Herzegovina, and Montenegro.

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This year as well, all participants to the Conference were presented with the Bibliography containing all published reports submitted at

the School's annual conferences from 1987 to 2013, with the indication of names of the authors and the report titles.

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The Kopaonik School Administration this year too, has received a considerable number of letters with greetings from numerous European and overseas countries addressed by important research and governmental institutions, including those from eminent scholars and professionals of various areas of law. A number of these communications were announced at the plenary sessions of the 26th Conference. The media have covered the activities of the School this year as well.

The work was conducted at the plenary sessions as well as at the specialized working sessions within the framework of the chairs, and according to the Schedule prepared in terms of the Hexagon of the Kopaonik School of Natural Law.

A highly academic and friendly atmosphere was characteristic of the entire work of the Conference. In the evening hours there were programs and shows of artistic content.

Editors, authors and other participants, and particularly those from abroad, have expressed their general impression that the 26th Session of the School has traditionally and completely lived up to the expectation.

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The Kopaonik School has continued this year as well to affirm in its work the ideas of Natural Law; in other words, showing respect in this way for the universal human rights based on centuries old philosophy of law and justice, and expressed at present in the codification of these rights by means of documents of the United Nations and other peace-loving international organizations.

The School, this year as well, has reiterated the fact that a considerable gap did still exist between the proclaimed human rights and their realization in practice. This gap may be surpassed or reduced to quite a degree only by way of applying the attributes of the rule of law, the democratic culture and the tolerance conceived as expressions of spiritual freedom and culture of reason. There still exist in this respect considerable differences in various fields of life caused by the level of development of general culture of given communities.

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At the opening and the concluding plenary sessions of the Kopaonik School of Natural Law the words of academic honor, recognition and confidence in the totality of its mission in the world of law were addressed by numerous eminent foreign and domestic scholars who have taken part in School's activity.

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At the opening plenary session of the Kopaonik School, after the words of greetings by domestic and foreign participants, the founder of the Kopaonik School of Natural Law Professor Dr. Slobodan Perović, member of the academy, has presented his introductory address treating the matter of *Natural Law and Dignity.* At the concluding plenary session, held on 16th December 2013, a decision has been taken that this introductory address bemade the part of the present Final Document of the 26th Session of the Kopaonik School of Natural Law and be printed as such.

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While continuing the tradition of the Kopaonik School of Natural Law to present in a summary way to the general public the results achieved at the respective chairs and sections of the School, all section editors have presented at the concluding plenary session the results achieved in course of the work. The presentation included basic statements, proposals and suggestions in form of messages which were adopted and the plenary session and which now make, in their entirety, a component part of the present Final Document of the Kopaonik School of Natural Law.

These messages, however, may not be apt to present the whole abundance of ideas, proposals and opinions stated in the reports and in course of the discussions. This is why, in order to at least partially presenting the topics treated, enclosed to the present Final Document is also a List of Titles of all reports, i.e. subject-matters elaborated in these reports. The texts *in extenso* shall be published in the review *Juridical Life* (in Serbian language), in four volumes, in umbers 9 through 12 for 2013 numbering a total of 3,100 pages. Id addition, the same texts shall be published in electronic version.

The entire work of the Kopaonik School has been recorded by means of audio-technique, so that in addition to reports published in the above

mentioned review, complete discussions at plenary sessions and at the chairs and sections will be equally available in electronic form. This audio-visual material will be stored in the Kopaonik School Library in Belgrade and in this way be open to general public as well.

GREETING ADDRESSES

Dr. VLADO KAMBOVSKI
President of the Academy of Sciencesand Arts of Macedonia

Honorable Presidency,
Respected Academician Perović,
Ladies and gentlemen, dear colleagues,

Permit me to express my very great pleasure for putting such a significant theme on the agenda of this School – which has become a lighthouse in the Balkans and in the wide areas of natural law andhuman dignity.

We all know that the new ideology of law and new, in fact civilizational step in the development of contemporary society, has been undertaken by adopting the 1948 Universal Declaration of Human Rights which includes the well-known formulation that all human beings are born free and equal in dignity and rights. It distinguishes dignity and rights allowing interpretation and difference between these terms based on the following thesis: dignity is an inborn value of man, while legal status emanates out of that quality. The classical conception of *ius naturalism* too, relating tohuman dignity asthe source of human rights, begins with the absolute ideas of human freedom and reason and moral autonomy.

Man is the only living creature that is endowed with these capacities put under the control of human reason. Such anthropological characteristic of human personality expresses the natural equaliy of people that is acquired by the very fact of birth. This conception of man is confirmed today in all international documents onhuman rights and, naturally, in the constititons of all modern states.

However, there is at that point a certain important difference. If we take German constitution, we will see that it has directly applied that formulation while saying: human dignity is unalienable; all institutions of State power are obliged to respect and protect it. By these terms German people recognizes to the human being the inviolable and inalienable rights conceived as the basis of every human community of peace and justice in the world.

In our conditions we have a rare exception found in the Constitution of Serbia which particularly emphasizes unalienable nature of human dignity, but does not provide either for special duty of State power institutions to respect and protect it or for human rights to emanate out of human dignity. Other constitutions such as the ones ofMontenegro ad Macedonia guarantee the dignity and the safety of man although this refers not to the dimension of dignity and human rights but to the respect of dignity in the sense of inviolability of physical integrity of man, of privacy of his/her person as well as of individual rights.

If we leave aside the normative area, for the time being qualified as illusionism, and take in consideration the real state of affairs in our societies while attempting to find the reflection of that idealized picture of man and his dignity, we, as jurists, have to biterly recognize that it is almost invisible.

In other words, the reality is far from the request and need for buildingthe society on the foundations of human freedom and dignity. Where we are able to see genuine legal institutions, relations, people who live in dignity conceived as highest value of society? There is none of these. We have thousends of unemployed thrown out to the street due to unlawful privatization procedure. We see thousands of workers in private companies who work in the conditions of disrespect of their basic labor rights.

The young ones who graduate at highest schools and acquire highest knowledge have no hope for future, so that they are forced to look for any other kind of job. What is then the content of their freedom and what is the scope of their rational choice and self-determination; what is in these conditions the level of their autonomy? In all that vicious circle the address is lost for an individual to come to in order to claim his/her legitimate right to get back the lost dignity. We looked for a society based on the truth and human dignity, but we have received only a state ruled by law.

Awareness about the negative consequences of overcoming the utilitarian and pragmatic conception of law which neglects the absolute ideas and values of law and its goals, is often dusguised by great formulations, including even the interests of democratic society, etc. and this leads us today

to a new search for lost dignity. This is realized, first of all, in the shade ofdiscussion about the possibility of building up a just society,undertaken in the conditions of constantly growing social differences, and by putting the request to realize a life of all worth of living, a life which has to be based on the minimum level of respect of dignity.

Along these lines the discussion about legal tenets of respecting human dignity is directed toward the request for finding an answer to the following questions: is human dignity a genuine and independt element oflegal protection? Should that protection include also the procedure to be applied to every concrete individual? What are the legal remedies to be used by individual in his attempt to protect his/her dignity as the condition and source of freedom and rights that otherwise are not proclaimed and protected by law in general, such as, for instance, the request for having a high quality life?

The discussion about these issues still fails to bring some results in the form of clear legal and philosophical change of the term of human dignity, but still, it is rather important that it exerts considerable pressure for making the revision of extremely positivistic and utilitarian orientation of law. In this way it tends to become an ever more loud oppositionagainst solutions that are in discord with requests for respecting the unique nature of of man and his/her personality.

This is the summary of my point this Conference, while supporting the idea to hold it this year which includes all conclusions andespecially as far as it is the way of expressing the opposition to utilitarian conceptions prevailing today in our legal systems. Thank you.

Dr. THOMAS MEYER
Director, Sector of the Open Regional Fund of the German GIZ Endowment, Southeast Europe Legal Reform Office

In the capacity of representative of the German GIZ Organization, the Southeast Europe Legal Reform Office I am transmitting to you warm greetings.

It is not by chance that the first sentence of German Constitution specifies that dignity of human being is inviolable. Such constitutional provision is understandable in the conditions prevailing in Europe because we

have values which we all share. We can even say that human dignity is one of the essential elements that is accepted all over the world.

Consequently, the Kopaonik School of Natural Law is again touching a theme that is not only essential for the development of Southeast Europe, but also for the entire world. I have the pleasure to be here for the twelfth time and I promise to continue this practice in the years to come as far as I will be able to walk.

So, in addition to my own, I am transmitting to you the warmest thanks on behalf of the German Government.

Dr. RODOLFO SACCO
Professor Emeritus, the Torino School of Law,
Member of the Academy of Sciences of Italy

Honorable professor Perović,
Respected colleagues,

I am very happy to be here again. I have the pleasure to express best regards of the following Italian institutions: the Torino University which authorised me to represent it at the Kopaonik School of Natural Law; my Academy that sends warm greetings to you and, more particularly, the Italian Association for Comparative Law Research.

Many thanks!

Dr. XAVIER BLANC-JOUVAN
Professor Emeritus, Paris I University, Pantehon, Sorbonne

Respect Mr. Perović,
Dear colleagues and friends,

It is once again my great pleasure to take part in the 26th Conference of the Kopaonik School. The reason is quite simple – I do not know another place in the world where Ihave so many friends as I have here because this is the tenth year I am comingtothese conferences.

There is no other place in the world where I can see so many jurists of different origin and profiles working together and interested in functions and future of law because they are deeply concerned with moral val-

ues standing behind the statutes and regulations. These values come from the area we call natural law and they exist in the very essence of our civilization. We know that they are at present in danger so that wemust struggle for their existence in order to transmit them to our childrens' children.

We know that the world is today in crisis not only in the economy but also in the sphere of morality, and you have an important place in that struggle. I think that we are not alone in it in our family who shares these values, and that we give a valuable example in this respect. Allof you here can be proud of this attempt to build a new world, a peaceful, more democratic and civilized world that has been known to me in course of my life. And that is while I am glad to be here again taking part in this struggle; I will be also glad tomorrow since I could say that I have been in Kopaonik.

Once again my warmest thanks to all of you, and to those who made possible our presence here – the organisers of the Conference: professor Perovic and professor Orlic, but I am sure that they have many assistants in this noble endeavor. Thank you!

IRENA MOJOVIĆ
Vice-chairman of the Association of Jurists of the Republic of Srpska

Respected professor Perović,
Respected professor Orlić,
Distinguished Presidency
Dear colleagues,

I have the duty to send you the greetings on behalf of Rajko Kuzmanovic, member of the Academy of Sciences and Arts, the president of the Association of Jurists, and the president of the Academy of the Republic of Srpska, and on behalf of the Association of Jurists of the Republic of Srpska as well as of the Notary Public Chamber I am presiding over, and to wish you all the best for this 26th Conference of jurists in the Kopaonik mountain.

We meet again in order to keep the fire of juridical spirit on that high point of nature, on that microcosm, aware that we rarely can find such beautiful places today. After coming to Kopaonik and after returning from it we also become aware that we did something well for our juridical conscience and juridical dignity. For years in this temple we are renewing the old faith in truth and justice. We can not accept the faith in the prodigy of

bombardment and the magic of market. The Kopaonik School is endeavoring for years to keep up the idea of justice even in that kind of reality.

This School harmonises our activity as its participantsregardless of distance of the places we are living in since through our talks, discussions and articles we have created the fire which we then carry over to our home towns.

We know that these conferences of ours are not sufficiently reported in the media and this is the way we become aware that the degree of social neglect of this activity is higher than one could guess by consulting the media.

This School encourages us also while being exposed to the flood of media nonsenses that disregard the history of State, of law and of peoples with their cultures, fine arts and science. The force of Kopaonik gives us strength and this is the way that we feel less helpless in relation to the might of newly created small or large wealth that becomes self-maintaining and ignorant of economic principles and systems of law.

We know that our basic laws creating a system have been the monument that we now have to build up again using various materials. New legal solutions in new norms should provide security and positive development in legal, economic and social areas. Greek philosophers have written that it was proper to submit to the laws of one's own country. We all already know the answers to that question – are these laws always the laws of our country or are they the ones serving as instruments to rule the world.

One participant of international forces in Banjaluka has declared: by now you should become aware that for a long time the laws have replaced the arms in ruling the world. Now we laugh at an old Greek law-maker who ordered that everyone intending to abolish an old law or introduce a new one, has to stand up before people with a noose around his neck so that everyone present, if not satisfied with the initiative, could immediately strangle him.

State structure, just as a building, is composed of different parts that are brought together, so that taking out just one part would disturb the whole thing. The rusted sword of justice in Roman Marseille has been kept until today as a sign indicating the belief in the permanency of laws.

Jurists are the participants in creating the life of the community they live in. Monteigne, already in 1580, has written that excessive egotism and conceitedness in valuing one's own opinion in order to their being admitted by others will disturb the peace of one's own people; this also applies to introducing into such serious matter the changes just for their own sake.

Permit me to quote Howard Zinn, professor of the University of Boston, who wrote in his article the following words: "The word 'optimism' gives me a kind of uneasiness because it carries in its meaning a joyful and almost pleasant nuance into the greyness of our times; still I am using it not because I believe that the world is going to be better, but because I am sure that only such kind of feeling may prevent peole to surrender the play before trying out all possible combinations."

If we were optimists, we would support the reality of Plato's words: should all people compete in noble matters and should every individual invest all his efforts in carrying out that what is the best, the community would have all it needs, while every individual would have the highest Goodbecause the virtue is the highest Good.

That is why we jurists in these troubled times do have a way out – to be honest in one's own job regardless of immediate success. This would at least save our souls and keep up the dignity of profession and of personality.

I sincerely wish that this year again we all, through our participation, our reports, and friendly conversation and socialising, may contribute to the permanency of the high purposes of the Kopaonik School of Natural Law.

Dr. VITOMIR POPOVIĆ, Academy Member
Dean of the University in Banjaluka Faculty of Law

Respected President and the Academy Member, Professor Perović,
Respected Chairman professor Orlić,
Distinguished Presidency,
Dear colleagues and friends,

Permit me that on behalf of the University in Banjaluka School of Law and on behalf all of its professors, associates, students and all other employees, as well as in my own behalf, to express my best regards and whish to this 26thmeeting of the Kopaonik School of Natural Law all the best and every success.

At the same time I am using this opportunity to wish to all of you that we meet again in 2014, in this and may be greater number for the 27th time as well asto wish you many happy returns for the oncoming New Year and Christmas days.

Dr. ZORAN RASOVIĆ
Professor, Podgorica Faculty of Law,
Member of the Montenegrin Academy of Sciences and Arts

Respected Professor Perović,
Respected Professor Orlić,
Respected Presidency,
Dear colleagues and friends

In course of 26 years the Kopaonik School has been undertaking considerable measures to multiply its tasks in all the principal sources of its life, reaching the full circle of property transactions and relations. The 26 years of our School coincide with the great anniversary – 200 years since Njegosh was born and 125 years since the enactment of the General Property Code for the Princedom of Montenegro. In the endeavours of Njegosh and Bogishic we feel all the greatness of poetic and juridical enthusiasm and depth of their thinking. The opus of these two great men permanently attracts people as a dream of misty horizon toward the unknown spaces. These achievements do remain for ever in the divine chronicle and endless eternity.

Throughout all these years our School, in addition to every regard for science, practice and legislative activity of developed states, has concentrated much of its attention to the phenomena of justice and equity, to customs and to living needs of people that concern the most delicate ways of life. Along these lines we have for a long time brought to the focus the matter of administration of justice. By fundamental theoretical and practical considerations expressed by domestic and foreign experts in this field, this School has remained true to the sources, principles and essential characteristics that were the foundation and reason for its establishing.

This year is a particular challenge for our School. The argument relating to law and dignity is quite a persuasive one. Natural rights decisively have an impact on contemporary work of the Kopaonik School. The relationship between law and dignity makes an issue that should be considered from all points of view. To be true, these questions are not easy to analyse and one may compare them with an ajar window. The struggle for dignity is the life itself, a long series of attempts and failures, of successes and turns, of evils and victims, but also of useless comprimises. That struggle seems to us as an insurmountable mountain that however has to be overcome in order to make life purer. This may be termed as a particular opus of

the Kopaonik School and its efforts become thus the acts of hope. This is the struggle for dignity of men, dignity of every individual regardless of his/her power and position, and especially regardless of religion since it must not bring about any kind of different treatment. This includes all possible physical and spiritual differences between people. The statute should be a statute for everyone and it should bring up justice while providing all necessary protection of dignity of man which, unfortunately, remains constantly jeopardised. Therefore the application of statutory provisions should be realised without any discrimination against anyone regardless of his/her origin and ethnicity. Respecting the dignity of child – with all its greatness we cherish, as well as of mothers, parents, family should be a permanent goal. This includes the respect both for living and for the past generations; the respect for presumption of innocence since only a final judgment may constitute the guilt for committing a specific criminal offence; respect for the debtor, especially in course of execution over property (distraint) contrary to compulsory regulations and public moral rules and honesty; respectfor dignity of employees, of lines of professional activity since such approach would enhance their responsibility and way of working.

Respected friends, the dignity gives to life sufficient air to breath. The struggle for dignity of men is the struggle against impurity, both physical and moral that may be present in one's ownpersonality as well as in others. This is the struggle against impure thinking coming out of stirred wells and against poisoned tempers and snake sheltered in one'sbreasts – as the expression goes of Montenegrin bishop and ruler who said that a glass of bile requires a glass of honey – conceived as the most sacred duty of man.

I do believe that the Kopaonik School will,this year again, peer into many unknown spaces of legal life and of greatest human values such as dignity. I also have no doubt that this year again this School would speak rightly about these matters. Thank you.

Dr. GIAN ANTONIO BENACCHIO
Professor of the Trento School of Law, Italy

Respected friends,

First of all I want to express my gratitude to professor Perovic and professor Orlic for kindly inviting me to again take part in this important meeting. I have been coming to Kopaonik for some ten years already and

each time I am sincerely honored. I wish to transmit to you the greetings of the Trento School of Law where I am a member of the faculty. There are many reasons for me to be glad to be here.

First of all, I have to emphasise that in my work I had much interest for your history, and especially for the history of law as well as that I am teaching this subject whose developmentwas stillone of my priorities. I am also taking part in the work of International Commission in charge of giving opinion on drafting the new Civil Code of Serbia which is now in its final stage. That is why I could by no means miss the opportunity to come to Kopaonik.

Finally, I am here because of my particular interest for the topic you have chosen this year – dignity, which otherwise tends to be neglected. Namely, we are all interested more in considering other themes such as economics,freedom, rights of man, etc., but I am not aware of discussion regarding the subject of dignity. This subject should be in the center of attention of every jurist, every practicing lawyer. People quite often tend to forget how important is to respect the dignity of man, his feelings, his social needs, social relations, family relations, etc.

The previous year the theme was *law and morality.* I believe that the present theme is a quite appropriate one to be a continuation along the same road since morality is a rather wide phenomenon encompassing a whole series of specific and essential issues, including dignity which by all means deserves a greater attention of jurisprudence.

Once again I thank you, and wish you every success in our work.

NIKOLA AVRAM
Director General, MK Group,
Mountain Resort, Kopaonik

Distinguished ladies and gentlemen,

I am grateful to you for coming again in such number to us and I want to particularly express my thanks to the Kopaonik School of Natural Law which for already 26 years has been one of the principal factors of tourist trade in Kopaonik. I do wish to you successful work and a good entertainment.

INTRODUCTORY ADDRESS

Prof. Dr. SLOBODAN PEROVIĆ
President of the Kopaonik School of Natural Law

NATURAL LAW AND DIGNITY

Respected dignitaries of the School Universitas iuris naturalis Copaonici,

You who inscribe on this dignified peak of nature the 26th year of statutory and supra-statutory law,

That kind of law which as a model for positive law has survived all the centuries remaining thus today with us and within us,

Within that long period of time our Kopaonik family is but a single "straw within whirlwinds", but a straw which thinks and develops its identity,

Respected friends who come from various parts of this world, be assured that you will be greeted as brothers with all due respect,

Ladies and gentlemen,

The University of Justice

Permit me first of all to addressyou with words of faith in democratic equality, in freedom and in dignity as a set of human virtues, and with words of joy because we are here again for the 26th time, brought together in this home of knowledge and conscience, in this University of Justice.

The introductory address of professor dr. Slobodan Perovic, the founder of the Kopaonik School of Natural Law, at the opening of the 26th Conference of the Kopaonik School held on 13th December 2013, with the general theme *Law and Dignity.* The text of this oral address is recorded both by shorthand and audio-technique, so that it is here published in the way it was actually pronounced.

The Editorial Board jas asked the author to indicate subtitles in the text for the purpose of better reference, hoping that this would not undermine the continuity of the matter exposed. The Board is grateful to the author for determining the principal heading of the text as well.

Dimension of Humaneness

The results of the School untilnow in terms of scientific contribution and intensive publishing activity stand as a guarantee that this year as well is going to bring about to us still another dimension of humaneness, enriching in such a way our Hexagon of natural rights that includes the right to life, the right to freedom, the right to property, the right to intellectual creation, the right to justice, and the right to a state ruled by law. That dimension is expressed by a single word: *dignity.*

Inthis way we are completing a circle of the duality of natural and positive laws in relation to general themes that have been presiding in course of these last years at our December days. Let me remind you that these were: law and freedom, law and time, law and space, law and responsibility, law and morality, and here we are this year with the dignity which in a sense is binding the principal idea of all our general themes.

Three Words

Consequently, after these introductory remarks, let us begin with this year presiding words:

The first word: all human beings are born free and equal in dignity and rights (we immediately recognise the first provision of the 1948 Universal Declaration of Human Rights).

The second, which also may be the first word: man is born free, but he is everywhere in chains (you recognise Jean-Jacque Roussau).

The third, which also may be the first word: man is a measure of all things (you recognise Protagora).

We are adding: natural law is a measure for all laws.

Order of Exposition

In order to present at the beginning the lines we are going to follow, here is a summary order of exposition that would include three sets of subjects: at first, these are general issues relating to dignity, its application and problems in this respect; determinantsof the destiny of dignity in specific social systems; historical development of philosophical and legal-normative aspects. The second part is dedicated to international conventions, while

the third one to defining the institute of dignity and factors determining its proclamation, protection and realization.

The Set of Human Virtues

Dignity as an absolute purpose of humaneness is a prerequisite of every rational freedom and equality of men, regardless of differences between them in terms of birth or any other legitimate belief.

Dignity implies a general tolerance as the expression of highest degree of individual and general reason built in the moral, legal, economic, social and any other constitution of organised sociability.

Above all, dignity brings about the culture of peace as the basic value of existence of every social community which at the same time forms the picture of its entire identity and integrity. In this way dignity is an all-encompassing institute of human virtues.

Annunciation and Blessing

Freedom and dignity make a unique entity of humaneness and there is no dignity without freedom, just asthere is no freedom without dignity. A man in chains of violence of any kind, by that very fact looses his freedom and dignity.

Every dictatorship is a suspension of dignity and freedom. If they are enslaved or humiliated, they find their asylum in the genuine and rational natural law because only that kind of law is apt to ordain to us not only the annunciation but also the blessing of democratic culture where dignity has its homeland.

Ascents and Falls

Freedom and dignity experiences ascents and falls depending on the kind and character of concrete social order. Freedom is a permanent word; it is creative and inspiring, but also the word of hope and disappointment. The one not able to hear the song of freedom and dignity will hear the tempest of injustice and see the desert of non-law, and the crime of the stronger one.

And therefore it is appropriate to quote Branko Miljkovic (a well-known poet) who asked whether freedom would be able to sing the way

those in prison did; it is also appropriate to put dignity instead of freedomand dignitaries instead of prisoners.

Incomparable Value that Can not Be Traded

Dignity must never be the subject of trade or any other exchange. Should this however take place, it will lose its attributes and their holder becomes an unworthy of his status of being of Nature. In other words, the man loses his dignity after selling it or after failing to respect the dignity of others.

Consequently, dignity has no price at all, including the political one. For Kant, everything in the wide area of purposes has some kind of price, but dignity, that is the highest phenomenon does not allow for any equivalent.

The conclusion that dignity has no attributes of trade is found in all kinds of scientific literature as an axiom. Characteristic in this respect is the dialogue between Ikeda, who looked at dignity from the point of view of Budism, and Toynbee who did it along the lines of Christian philosophy – and it turns out that they both entirely agree. All these standpoints lead to the conclusion that dignity remains free of every kind of trading, material or political or every other kind of exchange – *dignitas extra commercium humani iuris.*

Dignity in Danger

Before treating the institute of dignity as well as all its dimensions, it is necessary at the very beginning to conclude that contemporary world, at the one hand, proclaims this institute in the form of internal and international norms; on the other hand, the part of that very world violates these norms to a degree that endangers the dignity of life and of nature – more precisely, puts in danger the entire existence of mankind.

We are witnessing the following phenomena: the use of various instruments of accumulated energy, and particularly the nuclear one, with the purpose of mass annihilation of people and nature; constant application of violence in every part of the world; wars, genocide, murders seem to become an unavoidable practice even of those state or other associations which otherwise are proud of their facades ofdemocratic culture and freedom;injustices in the sphere of property reaching the point that makes

an enormous number of people to permanently starve; organised and ordinary terrorism endangering the general and individual security; various kinds of discrimination of people – on the basis of birth or belief that cause one to feel as a second-rate citizen or a "modern slave"; general legal order in many a case fails to provide even the *minimum of morality*; putting in danger of human environment which may cause ecological catastrophe. We are not going to list other similar examples since here there is no *numerus clausus* so that the list remains open.

Such phenomena bring about the cataclysm of life transforming natural human virtues into unnatural non-reason that annihilates the life as the part of general Nature. The world is experiencing great *disturbance* whose cloud brings darkness on our lives menacing to annihilate all attributes of our subjectivity and by that very fact of negating human dignity. Due to the above, our world is now more and more exposed to doubts and fears that the armed injustice, brutal force and blackmail could do everything, while dignity as the highest human value could do nothing.

Organised Wisdom of Mankind

Naturally, after exposing these unfortunate facts we may ask: how one can find a healthy cell in the deranged organism of global sociability; or, where are the roads of renaissance of all those virtues making the dignity of man and his habitus in the natural environment; or, which social forces may restore the proclaimed but degraded dignity and put it into the central position of culture of reason it deserves.

These questions wait for an answer: in front of the crossroad between the Good and the Evil, between the culture of peace and tne lack of culture characteristic of war and violence; in front of the choice between dignity or lack of humaneness – so that only the organised wisdom of contemporary world may have the natural authority to take us to the stage of general peace as a prerequisite of preserving the monuments of past and to develop humane and dignified future.

When the reasonable part of mankind overcomes the hell of disruption and discord, and when it liberate us from the aggression against our natural right to life, to freedom and to all other virtues that make the institute of dignity – the morning of a new day will bring to us a just universe of natural and social justice crowned by dignity as the indispensable purpose of our existence. And waiting tosuch morning and such cultural reviv-

al, let all peaceful integrations and associations develop, including our conscience, culture of reason and virtue of justice – our own and international ones.

That social force I speak about here may be called *organised wisdom of mankind* that was present in the past in form of organised sociability. It has quite frequently liberated the world from the chains of impudence which reduced the natural freedom and equality of all people into its opposite, differing of course due to various conditions of time and space.

Such wisdom – always as an expression of specific social determinants, has liberated the mankind from various forces of tyranny, injustice, mass crimes and all other anti-human behavior. Let us mention only some of them: slavery, Middle Age inquisition, inhuman personal executions, stakes, guillotines, concentration death camps and the like, all the way until Hiroshima.

When the organised wisdom of mankind succeeded to free us of all mentioned evils of the past, one is right in concluding: it is the only force that can and must bring back the deranged world to the flows of its cultural identity and integrity. This very fact opens the door for applying the axiom in terms of which all human beings are born free and equal in dignity and rights. They are endowed with reason and consiousness and should communicate between themselves in the spirit of brotherhood.

Social Determinants

The nature of dignity, its place in the mosaics of social activities aswell as the realised degree of protection within numerous legal and moral imperatives are found in the hands of those factors that create the historical picture of the corresponding social order.

Following are these factors: the condition of consciousness and equity as a concretised justice; tolerance as the capacity and the sign of spiritual lawful age and high-level reason as the institute of democratic culture based on generalharmony of differences relating to birth or any other belief (intercultural tolerance, political, class, racial and religious tolerance, national, linguistic, material, property-wise and contractual – tolerance in all forms of respect of dignity of man and his inviolable rights); general condition of development of science as the perceptive and the experience-based discipline, religion as the supra-experience teaching about the highest being, and philosophy as the rational system of wisdom in looking at the world,

including the issues of relations between the thinking and the being, between the spirit and the matter; the condition of moral basis, the ethics of culture, tradition and traditional rules of conduct; economic constitution in terms of choosing the model of the market with all its related phenomena, and particularly the property as the central institute of social and legal order; the condition of political maturity and dedication expressed in the respect and development of democratic institutions in the system of law and the rule of law, as well as, especially, the principle of separation of powers and independence of judiciary and judicial function; legal, economic and social security on the basis to be formed as legal and moral consciousness, and relying on the common rules of conduct; the condition of general education level, and particularly in terms of creation in the spheres of intellectual creativity and copyright; social cohesion in terms of a system and a social integration; protection of environment and the requirement for ecology ethics and, more particularly, ecological philosophy; health protection as a prerequisite of life and a natural right of every man to adequate medical treatment; labor habits and labor ethics in terms of respecting the rights of workers and social justice; the condition of the family as a basic cell of society and of the family structure; the culture of peace as the basic determinant of every community opposing every kind of aggression that endangers the life on our Planet, such as the menacing danger of nuclear and every other mass annihilation; genocide, including the organised terrorism; the condition of free public opinion especially in the area of media, and scientific and professional observation; the degree of technical and technological education; the condition of realization of natural rights and of the principle of equal treatment of equal matters.

Consequently, ifthis set of determinants makes the cultural identity of a given community important for the realization or supportable lack of realization, or – as the case may be – of failing in the realization of proclaimed human rights – then one is right in concluding that this vitally important issue for international community can not be solved in the near future, and that this process would take an indefinite time to be solved.

Along that road the only thing that can open the door to a more humane future is the organised wisdom of mankind, meaning the complete realization of human rights as proclaimed and codifies in the wide mosaics of international conventions, charters, declarations and other documents as the expression of common consciousness and justice as the highest and central virtue.

Periods of Rule

While beginning with the complete effect of mentioned factors in a given order, one is able to clearly observe the periods of rule, such as: slavery, feudalism, various kinds of dictatorship, democracy (genuine and formal), autocracy, various forms of State power (unity of power and separation of power), centralization and decentralization, various forms of political regime, forms of State order (monarchy, republic), and many other metamorphoses of these orders.All these, in some way or another, have an impact on the institute of dignity, its scope and protection which may be real but also false.

However,the institute of dignity is not only the subject of legal and normative order; it is at the same time the topic of philosophical and, later on,scientific interest. These two approaches are sometimes parallel but also, as the case may be divergent depending on the character and effect of the above mentioned determinants of the character of social order. The example in this respect is the ancient slavery system, and first of all the Roman law in terms of norms as well as the Greek ancient thinking particularly exposed sophists and Stoic school that stressed the spirituality, the wisdom and the morality of order.

Historical Development

Slave holding order, due to its very source and way of existence, was not able to accept the general equality of people, their freedom and dignity as a characteristic feature of humaneness. Thus, if we view that type of order through the reality of Roman law we may conclude that one of the most important feature of that order is the separation of people into free men and slaves. With some modifications that was characteristic for the entire history of Roman law, beginning with its primary sources (the ancient *ius civile*, the Twelve Tables law), through the period of the republic and principality and up to the domination and the end of the slave holding State. In addition to gradual amelioration of position of slaves during the long history of Roman law, the fact remains that slave-holding was the key feature of that civilization.

That drastic separation was particularly expressed in the matter of subjectivity, i.e. legal and business capacities, where as a rule only those who possessed cummulatively three statuses: *libertatis, civitatis* and *familiae;* in other words, the holder of rights and duties could be only a person in the

position of a free man (*libertatis*), meaning that he was nota slave (*res,* i.e. thing), then that he had to be a Roman citizen (*cives romani*) and, finally, he had to have specific *sui generis* position in his family, i.e. *pater familias*), i.e. he had to be the head above all other family members (*alieni iuris*). The change of mentioned statuses was called *capitis deminutio* that may be either *maxima* (loss of freedom), *media* (the loss of the capacity of Roman citizen, as well as *minima* (i.e. change in the position within the family.

Bifurcation

However, what we have here is the duality in treating the dignity caused by improper distinguishing of people into free men and slaves which is visible in formal legal regulation and in philosophical literature. Along these lines it suffices to mention the cases of antique and Roman philosophy , i.e. the well-known writers such asSeneca Lucius Aney and Marcus Julius Cicero. In his treaties expressed in the form of letters Seneca emphasises that we are all created by Nature, that we are of the same blood, so that we make the entirety of a single great body. Starting with that Stoic thesis, Seneca opposes slavery on the basis of highest moral belief. Such an attitude undoubtedly is a decisive step toward instituting general dignity of men regardless of their status in the existing injust systemof slaveholding. Cicero continues with the Stoic theses in his works as well according to which moral virtue is a prerequisite of bliss able to provoke in us a "magic love for wisdom".

Hellenic Philosophical Idea

Hellenic philosophical idea is primarily expressed in the Stoic teaching of sophists and Stoical School which considered ethics as the central phenomenon in the sphere of virtues. Its protagonists so many centuries ago included such cosmpolitan philosophers as Hipius from Elida, Antifont and Alkidamant. Thus, Hipius established criteria for distinction between positive and natural laws, while emphasisingthe universal character of natural law." I consider all of us to be relatives and fellow-townsmen by the very nature of things, but not by human laws, because the equal is in relation to equalby nature. The law, however, is the tyrant of men that often acts violently contrary to nature." Due to such attitude this philosopher has been much later called – antique Hugo Grotius.

Plato and Aristotle, although in accordance with the existing state of affairs, have leftto us – especially the former one – the basic features of commutative and distributive justice, meaning that equal things have to be treated equally and that one has to consider merits by applying the distributive justice.

Philosophy of Dignity in the New Era

The idea of New Era dignity was formulated by the Renaissance philosopher and poet Pico dela Mirandola (1463-1494) in his *Discourse about the Dignity of Man* published only much later in several languages, including our own.

His work has religious connotation but includes some kind of border in treating the slaveholding conception of distinguishing people as free men and slaves: when God created Adam, He endowed him with reason and capacity to observe the world and to make his choice.

Development of New Age philosophy of dignity is closely related to Kant as well, according to whom the *reason* is the only source of knowledge and truth; this reflects alsoon the notion of dignity which is explained as rational instrument of human personality.

In addition, according to another conception, the basis of dignity is to be found in human *thought* because Nature has given him the capacity to think andto determine that notion autonomously (Blaise Pascal). Dignity is something to be proud of and not the spaceor a situation we are not able to realise in a genuine way. It is therefore necessary to think properly and to know that such attitude is the source of morality. We will have no advantage by possessing land: through its enormity the universe includes us all as tiny cells; it is by our reason and thinking that we encompass it.

International Conventions

The institute of dignity, in addition to its historical dimension and development in theory, especially after the Second World War,has been widely regulated by law within the context of codification of human rights creating a whole mosaics ofinternational sources in the form of declarations, conventions, resolutions, charters, final documents and other similar general international law rules. This is today a wide process and some kind of uni-

versal faith in the proclaimed human rights. However, it is here that we have considerable disproportions regarding the proclaimed and the realised.

Most Important Documents

First of all, in addition to the United Nations Charter, there is the 1948 Universal Declaration on the Rights of Man which proclaimed not only the civil and political rights but also those of economic, social and cultural character. This has given rise to numerous international documents such as: the 1966 International Pact on Civil and Political Rights with optional protocolsof 1966 and 1989; the 1950 European Convention on Protection of Human Rights and Basic Freedoms with protocols added subsequently; the 1987 Convention against Torture and other Cruel, Inhuman or Humiliating Penalties or Procedures *the slavery conventions:* the 1926 Slavery Convention, the 1953 Amendments to that Convention; the 1956 Convention of Abolishment of Slavery, Slave Trade and Similar Institutes, the 1904 International Agreement on of Protection against *White Slave Trade* and the 1910 Convention on the same matter; the 1921 Convention on Supressing the Trade in Women and Children; the 1950 Convention on Supression and Abolishment of Trade in Persons and Exploitation ofProstitution of Others.

Particularly important for Europe is the European Union Charter, adopted in 2000 by the European Parliament, the Council and the Commission, which consolidates human rights in six sections: dignity, freedom, equality, solidarity, citizenship rights, and justice. Dignity, as inviolable, is the first on the list and it has to be protected and defended. Connected with it are the right to life, integrity of the individual, bar on cloning and a series of other rights.

Relevant Areas

Quite a number of international sources relating to human rights and dignity includes various areas oforganised social life such as: prohibition of slavery, forced labor, white slave trade; prohibition of all kinds of discrimination and inhuman and humiliating penalties and procedures, especially in case of arrest; protection of dignity in the sphere of biology and medicine; health protection; environmental protection and protection ofworld cultural heritage; protection of children and maternity;protection of na-

tional or ethnical and linguistic minorities; right to education; protection of economic, social and cultural rights, and especially of labor rights; the area of sports including violence at sports events; industrial property and copyright protection; protection of dignity in international conflicts including the treatment of prisoners of war; nuclear activity and nuclear armaments; supression of terrorism.

Constitution of Serbia

Provisions on dignity in the 2006 Constitution of Serbia are among the most important basic principles, which is true also for the part dedicated to human rights and freedoms. The principle of purpose of constitutional guarantees is, for instance, important for protecting the dignity and inviolability of human and minorityrights, including the realizationof full freedom and equality of all in the just, open and democratic society based on the principle of rule of law (art. 19).

So, dignityis provided for as the central institute to be found in all provisions relating to the above mentioned areas for the purpose of their full guaranteeing. It serves also to ban every kind of discrimination, whatever its basis might be – including birth, race, nationality, and up to old age, psychical or physical condition, etc. (art. 21).

On the other hand, human dignity is here connected to the realization of full freedom and equality of all; it is also provided as the attribute of social factors decisive in creating the democratic culture order which in the conditions of the just law is genuine and not false.

Particularly important are also those constitutional provisions that regulate in detail the matters of human rights and freedoms. These relate primarily to the section under the heading *Dignity and Free Development of Personality* which proclaim dignity by the following characteristic words: "Human dignity shall be inviolable and everybody is under the duty to respect and protect it. Everyone shall be entitled to free development of personality if by doing so he does not infringe other rights guaranteed by the Constitution (art. 23).

Insuch a way dignity is at first proclaimed as an inalienable right and then ordered to be protected and respected by all. The same treatment is applied to the right to personal development which must be free from any discrimination.

Human rights provisions do extend the above treatment to the necessary details. Weare now quoting relevant constitutional provisions regulating the above mentioned rights. First of all, these rights covered directly the protection of life and its value: right to life, inviolability of psychic and physical integrity; prohibition of slavery and positions similar to it as well as forced labor; right to freedom and security; unlawful treatment of suspects; right to fair trial; right of the accused and his safety in the area of penal law; right to rehabilitation and compensation of damage. Other provisions relate to protection of personality and privacy: right to be a legal person; right to citizenship; freedom of movement; inviolability of apartment; secrecy of letters etc.; personal data protection; freedom of thought, conscience and religion. Following are the provisions dedicated to various forms of freedom of thought, religion etc.; right to be a conscientious objector; prohibition of instigating racial, national or religious hatred; freedom of finding put one's national origin; media freedom; right to be informed; freedom of assembly and association. Other provisions relate to propertyand the right to work; right to strike; right to family relations, health and social protection: freedom of family planning; right of child and parental rights; protection of family, mothers and single mothers and children; right to legal aid; right to retirement benefits. Finally, there are provisions on the right to education and university autonomy; freedom of scientific and artistic creation; right to environmental protection.

It is obvious that the mentioned constitutional provisions are mostly modelled after numerous human rights existing in international sources so that national legislation has become anintegral part of the general integrity of human rights and dignity of person.

Consequently, these two phenomena are paralelly regulated in both those spheres.

Definition of Dignity

It is now time to try to define more precisely the institute of dignity, its substance and its protection by means of legal and moral imperatives. Faced with the difficulty of finding a more general and more complete deinition, we are going to present just one solution in form of the synthesis of the notion of dignity:

Dignity is an untouchable and inalienable all-encompassing institute of human virtues that are constantly kept in practice in an organised sociability.

Following features come out from the above definition: 1) dignity has a universal value; 2) it is an untouchable and inalienable institute; 3) it is also all-encompassing feature, 4) it is protected by legal and moral imperatives; 5) it is at the same time an institute of positive and natural laws.

In order for dignity, as defined above, to be apt to bring into life all these properties, it is necessary to meet the following prerequisites: the rule of freedom, justice and morals, of tolerance and legal certainty as well as the culture of peace as the basic condition of social structure.

Universal Value

Since dignity is that important for human rights, which otherwise are universal – it goes without saying that it should represent a universal value as well. We refer again to the 1948 Universal Declaration of the Rights of Man where the universality of dignity is particularly emphasised. Namelly, all men are equal under the very nature of things regardless of differences in terms of birth, ethnic origin, property status, etc. It should not be either national nor class-dependent; it is rather supra-positive, primary and original.

Untouchable and Inalienable Institute

As already said, dignity in no way may be the subject of trade. Should one "sell" it or sacrifice it in order to obtain some advantage, its holder would automatically lose it.

Set of Human Virtues

The essence and substance of dignity, as already mentioned, are made out of human virtues andeach of them is specific but, taken together, they make the integrity of the institute of dignity. It is the question of philosophy – what virtues make that notion. Conceptions are multiple while an additional difficulty is that the answer depends on different systems dictated by various spaces, time dimensions producing different conseptions about the Good (virtue) or evil (scorn), and by acts and facts, bydoing or failing to do. There is also a question of degree of virtues to be included in the notion of dignity since this is important for its protection and the duty of respect.

In any case, these conception have always be diverse; for Socrates, for instance, these virtues first of all included knowledge, equity, courage and

piousness, while for Plato, who connected them with the "parts of soul", they were reasonableness, courage, moderation and equity. In every society, however, they emanate out of the structure of a given social order. Aristotle mentions evn 14 virtues: courage, moderation, generousness, nobleness, pride, honor, mildness, open-mindedness, equity, readiness for socialysing, shyness, readiness to protest, feeling for justice, friendship.

However, Aristotle's contribution to the theory of virtues is wider since he made their classification, while distinguishing between *dianoethical* and*ethical* virtues. The first group may be acquired by studying and obesrvation and by an intensive practice, while the second ones – through usual habits and application of corresponding social standards.

In addition, Aristotle has applied in his definition the *principle of the medium* (the average); moderation, for instance is the virtue between insensitivity and unbridledness, while courage is in between fearfulness and fearlesness, and pride –between humility and haughtiness.

This principle of the medium that includes the equal distance between two extremes is determined by Aristotle in the following way: virtue is a *selective capacity* and the matter of one's choice of the medium according to one's own adequacy to be determined by *thinking* about such matter which is otherwise characteristic for a reasonable man. In other words, virtue is the medium between two opposing individual orientationseatures, out of which the one surpasses the medium and the genuine measure, while the other one fails to reach it.

Consequently, one may conclude that it is composed by human virtues that meet the prerequisite of the medium between two extremes according to the *neither too much nor too little* formula. Finding that medium point is left over to the choice of autonomous intention which is governed by the standard of attention of a reasonable and careful man and by considering the adequate determinants of concrete social order.

Legal and Moral Sanction

Since dignity as an instiute is composed of numerous virtues, the legal and moral orders often indpendently protect only some virtues, while the entire complex of protectedvirtues in the form of dignity is protected both by constitution and specific legal regulations.

Thus, numerous individual rights such as the ones of life, honor, reputation, personal identity and privacy enjoy specific protection in many

branches of law, depending on the nature of the violated right. Consequently, all these rights are protected both internally and internationally as a general notion of dignity.

Dignity is also protected by moral sanction which consist of remorse and/or public opinion scorn in case of violation of some part of dignity or dignity taken as a whole.

In such a case these sanctions "adjudicate" and stand as a barrier between morally good and morally evil deeds. This is also called moral splendidnes and moral misery, or moral enchantment and moral bitterness.

Joint Institute of Natural and Positive Laws

Natural law is a part of general culture – intellectual,spiritual, material, supra-national and supra-class – i.e. the culture of every man and all men taken together regardless of all possible differences we have spoken about at the beginning of this report. The law establishd in various ways – legally or arbitrarily and limited by space and lack of precision in its origins and capacity to be carried out – which we call positive law – possesses that kind of degree of legal culture which is determined in practice of life by the cultural identity of natural law.

It is that duality which encompasses dignity as an expression of totality of human virtues where the nature of law serves as a model to positive law. In fact, this duality includes also a vault, moving through space and time,under which one finds the legal and moral civilization. In other words, dignity is a joint institute of natural and positive laws to the degree the latter law approaches the former one as a more perfect and more just in its very essence.

Prerequisites

As already stressed, in addition to crucial subjective elementsof specific virtues, the dignity may also be proclaimed and adequately realised only after necessary prerequisites were met in the given social order. These matters relate to certaing objective elements such as freedom, justice, morality, tolerance, democratic culture, rule of law and legal certainty, the culture of peace as a genefal prerequisite for the realization of all elements of dignity.

Freedom

Speaking of freedom in this context, one must also explain its role as the condition for the realization of dignity. Just as freedom is inseparable from life, the dignity is inseparable from freedom. Just as there is no freedom under violence, there is no freedom without responsibility. These are two key points determining the field of freedom in its rational meaning.

In order to determine the place of dignity in the context of general freedom, one must define the notion of freedom in order to explain their mutual connection.

It seems to us therefore that freedom may be defined in the following way:

Freedom is a natural right of man to make choice autonomously between the content and the ways of his activity in various areas of individual and public life, but in the way in which, while adhering to just law and tolerance as expressions of the culture of reason, he will not infringe upon the same and equal freedom of others.

The following attributes emanate out of this definition:1) freedom is a natural right of man; 2) freedom is the expression of man's dignity; 3) it is self-consciously limited by just laws and all-encompassing tolerance; 4) it is a general notion that includes specific kinds of freedom; 5) freedom is an element of democratic culture and rule of law; 6) freedom is constantly moving along the road of its realization and lack of realization.

Dignity of Justice and
Mission of Judge

Parallel with freedom, the degree of established justice in a given social order is symetrically expressed also in the realization of human dignity. Commutative and distributive justice is an already studied page of our School. However, due to the importance of the issue we will summarily touch upon the matter of dignity of justice and of judicial independence.

The vital issue of judicial independence has been thoroughly elaborated at all levels and has entered in national legislations and international conventions. It was expressed also in the 2002 Kopaonik School Declaration (translated into six world languages), although the reaction to it was probably greater in foreign countries than in our own country. The competent factors failed to read it or put it into practice, so that we experienced

that blind street taken by judicial indepedence –again faced with the need to pass another exam.

Dignity of justice is inseparable from judicial mission wich is the highest duty of all. The antiquewords – *going to judge means going to justice* stand as a monument to this great truth.

After these words it is hard to mention another truth: judicial independence and impartiality are notorious prerequisites for administration of justice. In fact, this is a matter of general culture of every community. The principle of judicial independence, at any level of space and time conditions, is but a demarcation line separating the field of law from the desert ofnon-law.

The conditions of lack of rule of law, where legitimity and legality are on the permitted degree of social tolerance and where the rule of law is replaced by arbitrary rule and the interest of groups in power, as well as where the principle of separation of powers is disregarded – means that judicial independence transforms the judge into a derivative ofone-way order (by political, national or class-dependent factors) so that the judge becomes unable to impartially apply the principles of just law. The law then experiences shipwreck engulfing the principle of independence of judge. Going to such "law" and to such a judge means going to the anti-law.

The entire history of law and comparative reality confirms this conclusion. On the contrary, where democratic principle is organised according to constitutionality and legality, the independence of judiciary ensures the rule of law, meaning that the independence of judge, as an indispensable attribute of his function, represents an integral part of the state ruled by law.

Legitimity of Legal Order

Consequently, one may conclude that independence of judge may be achieved only in conditions of the rule of law. Understandably, such prerequisites, in addition to be declared or mentioned in some law or in the constitution have to be supported by laws that are legitimate in their origin and legal in their application.

Wider Spaces

A higher level of culture of legality as expressed by the conception of natural law, as well as the entire civilization of law and judiciary warn us

and teach us that it is necessary in this case to open up wider spaces to judicialindependence because law is a phenomenon of the Good and the Equitable and is not – and can not be – an usurping fact of arbitrary attitude.

Taking in consideration the nature of judicial mission it seems possible to make a "Twelve Tables" ofindependence of judge. I have proposed them ten years ago at this very place and under that title. They were adopted at the concluding session of our School.

I am mentioning now only some of these 12 points:

– inpronouncing justice the judge is independent from any kind of power, except the power of the actual law;

– judge is a personality enjoying the confidence of general public;

– judge, as any other citizen, enjoys the right of general freedom of thinking , speech, expression of his views, professional association, assembly and movement – but always under a duty to preserve the dignity of his profession and impartiality and independence of administration of justice;

– performing the judicial duty must not be exposed to undignified influences, and any kind of pressure, menace or direct and indirect intervention;

– everyone is obliged, in the frames of existing legislation, public policy and morality, to respect the independence of judge and refrain fromany act of undignified suggestions. Perpetrators shall be punished;

Added to the above provisions are the ones relating to guarantees of judicial independence: the way of electing judges, adequate material position, immunity, the ways of promotion, work conditions, distribution of cases, prevention of undue powers of the executive authorities.

Moral Order

It is also important in this respect to define the notion of morality. Such definition should bring us closer to the term of dignity which, as we have seen, is but another name for moral virtues. Consequently, a higher level of morality means also a better institute of human dignity.

Is seems that a following definition could probably satisfy the necessary requirements:

Moral is the normative measure of social rules of conduct determining or realising certain moral Good that is protected by the sanction of individual feeling of remorse and/or scorn of public opinion of a given surrounding.

Following attributes of morality may be cited on the basis of this definition: 1) morality is a verbal or written normative measure of social rules of conduct; it determines or realises the Good as the highest moral value; 3) morality is protected by the sanction of feeling remorse and/or scorn by public opinion; 4) a prerequisite for the moral is the moral capacity of a conscious and reasonable man, 5) characteristic for the morality is an adequate degree of freedom of the moral man in his undertaking and carrying out the moral prestation; 6) morality is a word that may have different meaning depending on the given space and time.

Starting with this definition, the institute of dignity may obtain wider space for its existence since its very essence and substance enrich by its virtue the moral Good.

Tolerance

Tolerance too has its importnt place together with the above mentioned elements of dignity.

The principle of tolerance means that no one is entitled to take improper advantage at the expense of another, transforming thus by force the pluralism of life into monism of his own power. Tolerance is the capacity and a sign of spiritual ripeness to recognise the equality of another regardless of any difference that might exist between people. Consequently, it includes the following characteristics: peace-loving attitude, tolerance, yielding, non-aggresive conduct, truth-loving orientation and being a considerate person. A tolerant man understands by using his reason as the basis of culture that his own life and his status on this Planet are equal with those everybody else is in possession of. Spiritual tolerance presupposes all other tolerances, i.e.: material tolerance, political, class-related, linguistic, national, property related and contractual and the one related to birth or any kind of belief. It must become a permanent identity and intgrity of our life, that life which makes us different from every degree of barbarity and savagery;it must be the tolerance not only regarding retaliation and blackmail which today, unfortunately, have become the first letter in international and social behavior, but also regarding every degree of the lower culture. In other words, tolerance is based on the axiom of sociability and high degree of reason and as such is the binding texture of the culture of peace – the antipode oflack of culture ofsenseless conflict. In short, tolerance is the harmony in differences.

The issue of tolerance is an issue of general culture that may be reached only through a high degree of reason. If the degree of individual and social development is blocked by dogma of any kind (race, skin color, gender, religion, political or any other opinion, national or social origin, property status and other similar circumstances), then we will have something quite different from tolerance and general culture, and *vice versa*. But both tolerance and lack of it are co-travellers of man's life. Man thus have to make his choice relying on all positive elements mentioned above.

Right to tolerance should be constituted as a separate individual right of the natural and legal person depending on the kind of right – *erga omnes* or*inter partes.* In fact, the Constitution of Serbia (art.81) provides for the development of tolerance in the sphere of education, culture and communications, and this is a specific step leading to such individual right.

Democratic Equality

Necessary for wider realization of dignity, in addition to the above conditions, is the existence of democratic equality as the expression of democratic culture which by all means belongs to universal values. However, one should not conceive democracy as a simple "majority rule" which may endanger minority or even being transformed into its opposite, i.e. dictatorship of the majority over the minority.

When democracy has come before having a developed civilization – the civilization would be lost.

Viewed through the optics of natural law, such democracy is not apt to provide respect for human rights for everybody with all qualifications mentioned above. Such (vulgar) democracy is not much different from that other one (simulated) where democratic proclamations are only on the paper, while in fact we have the rule of violence either byminority (various forms of autocratic dictatorship) or by the majority (forms of "democratic" rule).

Consequently, the rule of rational conception of natural law presupposes such degree of democratic culture which, in addition to notorious attributes of democracy, tolerance is its first and last instance.

Obviously, such kind of democracy, i.e. democracy of culture,includes at least three attributes: 1) political maturity of a given community resulting from a whole series of meta-legal determinants (philosophical enlightenment, moral institutions, economic structure, political emancipation, tra-

dition of customary rules of conduct) which is the expression of appropriate social order; 2) sense of responsibility since self-conscious democratic freedom is closely related to responsibility, i.e. the field of freedom of one is the border of general freedom of another (including the freedom in the sphere of property); 3) tolerance as the expression of a highly developed sense, both individual and common.

State Ruled by Law

Dignity as a legal and moral institute are enhanced and have wider application in the conditions prevailing in states ruled by law. This is the kind of state that has ensured the high degree of rule of legitimacy and legality where these two elements are realised within the frame of social tolerance. Such state introduces into its legal order a higher dose of internal morality of law and thus the greater possibilities for a wider and more solid institute of dignity. Connected with this is the fact that legal certainty too is an essential element of the rule of law. As the part of justice it may reach the qualification of universal value. It goes without saying that this fact has an impact on human dignity as well.

Culture of Peace

Dignity of man, in addition to mentioned set of human values, includes also – and primarily – the right to life as the source of all other human rights and consequently the right to dignity which may be put in effect only in times of peace and not in the time of war as the opposite to wisdom. Peace is therefor one of the basic universal values important, among other things, for survival of the world as an entirety. Every aggression, and especially the nuclear menace, may be surpassed only by establishing regional and international peace and security supported by factors of inter-cultural tolerance.

In other words, the culture of peace, enriched by harmonised universal values through inter-cultural cooperation of all kinds that binds all the differences between men, isthe only way to realization of the proclaimed natural rights of man and universal values of his sociability.

The opposite to the above are the lack of culture characteristic of war, the force and the violence that for centuries have caused millions of victims,

while contemporary discords and dogmatic intolerance, on their part, lead us to the conflict of civilizations and principal cultural groups in the world.

The way out may be seen only in establishing the general culture of peace that may be realised through thorough application of natural rights of man first of all in the normative opus of the proclaimed and codified international document of the United Nations and other peaceful international associations and integrations.

Word of Conclusion

Dignity as an institute of universal value has been in past centuries the subject of philosophical interest, although not the subject of legislative approach. At present, these two roads meet together at the crossroad toward their common future.

Modern philosophy of human dignity finds its important expression in the actual international and national legislation. Quite a number of international declarations and conventions were adopted in the second half of 20th century; they include the wide field of natural rights of man (today called human rights) among which is the prominent right to dignity.

We refer again to the relevant words of the 1948 Universal Declaration on the Rights of Man mentioned at the beginning of this introductory address.

This Declaration has thus become a real source of numerous regional and international conventions in this matter, representing thus an important treasury of general conscience,culture of reason, and virtue of justice.

The authority of natural law has been enriched in its legitimacy and scope, so that it is now possible to speak even of the first stage of creating a universal or world law inspired by the hope that our civilization may become able to realise the so-called *golden age* when natural rights would finally be realised and not only declared. However, that universe of natural law until now did not meet our expectations and (by using the words of court procedure) it was postponed for an indefinite time.

Actual situation, unfortunately, is quite opposite and full of discord, opposition to reason and lack of realization of human rights raising thus the crucial question of destiny of legal and moral civilization.

The antinomy is quite clear: the codification of natural rights is a magnificent endeavour of modern man, but at the same time we are faced with careless approach to maintaining that magnificent building. In other words,

here is the great challenge expresed in the high degree of culture of natural rights parallel with the lack of realization of these rights. Instead of equal treatment of equal matters, we have the unequal treatment of equal matters which is a real negation of the virtue of justice as the foundation of rational conception of natural law.

One could say that the world is today *troubled* in some of its vital points of the culture of peace and survival. We have already spoken about this phenomenon in this report. We have also raised the questions of how to find a healthy cell in the disturbed global body and of theways out of the existing condition.

In this general conclusion we repeat: only an oranised *wisdom of contemporary world,* a wisdom which is the only one having the natural mandate, can bring us to the general peace as a prerequisite of preserving the monument of the past and of the development of humane and dignified future.

To the question of how and by what way the organised wisdom of mankind can take us into the general culture of peace, we answer with a *categorical imprative*:by realising all these rights and freedoms which are proclaimed and codified in the entire legislative field of the UN Organization and all other peace-loving associations and integrations of universal, regional and national character.

When in the past the intellectual force of mankind, without the support of codified human rights, was successful to liberate the world from so many chains of dictatorship and all other evils we already spoke about, then today, with much greater intellectual and technological capacities, it *may* and*must* realise the all-encompassing application of the proclaimed rights og humaneness. And this means that the organised wisdom of contemporary world is vested with a *sacred duty* to bring us to the culture of peace as a prerequisite for the realization of the right to life and freedom and of all other rights emanating out of these universal values among which the institute of dignity has its prominent place in the constelation of all human virtues.

And with this great hope in mind, dignity remains with us and within us, while the Kopaonik School of Natural Law stands in the midst of the words – *and yes and it will be.*

MESSAGES

At the Concluding Plenary Session held on 17th December of 2013, and after several days of intensive engagement of all participants, the editors of particular chairs have announced the following messages that received a general support:

I – RIGHT TO LIFE

1. Life

Prof. Dr. MIROSLAV DJORDJEVIĆ, Belgrade
Prof. Dr. DJORDJE DJORDJEVIĆ,
Criminalistic and Police Academy, Belgrade

1. For the purpose of protection of the right to life as a basic human-right, our criminal legislation provides for several criminal offences against the life of man. These include not only the ones against the individual and the definite groups of persons, but also offences endangering men's lives by causing concrete and even abstract danger. However, due to the importance of the right to life, its criminal law protection surpasses these frames by endeavouring to determine the duty of extending assistance for eliminating possible danger for the lives of people.

2. Terrorism is undoubtedly one of the most conspicuous forms of putting in danger and violating the right to life. The struggle against that evil that is becoming global requires the study of the problem in two basic ways: studying its origins in modern society, and developing the system of measures to be applied against all forms of terrorism. The Law on amending the 2012 Criminal Code introduced a series of new solutions, one of

them being the changed definition of the offence of terrorism, i.e. the offence of international terrorism was integrated in the existing formulation, while some new offences were introduced, together with several new criminal offences and amendments to the already existing ones which are closely related to terrorism. In spite of some doubts about the limits of some of these offences, the new solutions, viewed generally, should contribute to more successful struggle against terrorism.

3. Murder is a most serious form of negation of the right to life. Our criminal legislation provides for various forms of that criminal offence. Especially significant from the aspect of their consequences are the offences of multiple murders which always cause great attention of the general public. However, this should not be the pretext for the law-maker and the politicians to submit to the pressure to suppress such mass crimes by introducing undemocratic measures.

4. Speaking of murders, particular attention is also paid to the offence in which the victim is a child. This circumstance is a qualifying one in the law if this fact may be assessed as the form of particularly serious murder, or if the offence may be qualified as serious murder of a family member; it can also be treated as a privilegedmurder in case of murdering a child at the moment of birth.

5. Motives for murder may be rather different but they are often connected with expressing pathological sexual deviations. Since this issue is quite complex, it is necessary to make deeper theoretical and practical studies in the fields of criminal pshychology and psyhiatry.

6. The role of police in protecting the right to life is obvious especially in terms of its activity in emergency situations. However, sometimes this kind of activity involves cases of undermining the right to life. In order to reduce such cases it is necessary to make more precise the police duties and tasks in applying the compulsory measures, but without impairing the functions of this service

2. Health

Prof. Dr. JAKOV RADIŠIĆ, Belgrade
Dr. HAJRIJA MUJOVIĆ-ZORNIĆ,
Senior Fellow Institute of Social Sciences Belgrade

1. The central part of patients' rights is moved from the field of judicial practice to the field of legislation which has become closer not only to the patient but also to the legal experts because numerous rights of this

sortbecame differentiated, structured and better explained. New provisions of the 2013 German Civil Code are good examples of regulation of contractual relationship and of summing up details of the liability issue, numerous comments and practice bulletins, while reducing them to a precise series of rules. This at the same time clarifies the relation between doctor and patient, and reduces misunderstanding while establishing the confidence on a new basis. Normative regulation also brings about the new quality of liability since protective and preventive functions are not questioned any more. This Chair considers that the German Law in this field is a good model for Serbia. The Serbian Law on Patients' Rights was positively commented although there was some criticism aimed at the insufficient depth of regulationas compared to the German Law and to some unclear notions that could provoke problems in application.

2. Biomedical research and reporting unwanted consequences should be carried out through more detailed clinical experiments and for a prolonged periods of time, so that unwanted characteristics of medicaments could be better defined. More attention should be extended also to the choice of participants bearing in mind possible users of medical means. The field of pharmagenomics is a chance for individualised approach to future patient groups.

3. New harmonised laws and practice of transplantation in Croatia are rather good examples for the countries of the region, including Serbia, where too the revision is now in progress relating to relevant regulations with the purpose of enhancing the work of transplantation medicine. It is also necessary to establish a fund in the Health Protection Republic Institution for raising the money for transplantation in foreign clinics. The presumption of patient's concord shoul also be provided for in the relevant law.

4. Vulnerable individuals in clinical examination require special, i.e. additional protection. Using such individuals as means for advancing the science and society shall not be permitted because of the risk they are exposed to. In fact, this may be called their misuse. The only way to stop their participation in non-therapy research is to prohibit such practice (that can be either absolute or relative, depending on the kind of vulnerability).

5. Protection of health of children before their going to school and the youth in general (including pupils, students and young workers) should be integrated through prevention and medical treatment. Great role in promotimg of public health should also be characteristicnot only of medical workers but also of institutions and the environments such as nursery schools, regular schools and local communities. Their duty should be to ex-

plain the ways and means of health protection and to stimulate the children and the youth to actively care for their own health.

6. Republic of Serbia has advanced its normative framework of compulsory hospitalization of persons with mental disturbances. However, concern is expressed as to inadequacy of process which does not provide genuine contradictory procedure to the interested person. One of the reasons contributing to this inadequacy is the lack of rules covering the matter of the representative of such persons. It may also be concluded that the compulsory hospitalization procedure does not sufficiently meet the standards of fair trial.

7. It is necessary to take care that extra work in the health protection service be carried out in accordance with law, but also with the principles of fair dealing, public interest and purpose indicating the need for establishing such kind of work. Namely, the *ratio* of introducing it has to be the interest of patiente to obain services that are not on the list of compulsory health insurance compensation and which can not be obtained in any other way, including the problem of those who have not the status of insured persons.

8. Defining the subject of clinical examination is quite important as well. There is a distinction between notions and legal regimes of a finished medicament, at the one hand, and the medicament still in the process of examination. This is not only a theoretical question but also the practical one because the regulations are not the same for these two categories of medicaments which applies also to the liability issue. It is also indispensable to define more precisely the notion of medical means and eliminate in this way the legal voidmaking problems in delimitation of the notion of medicament.

9. Cases of bribery and corruption in medical institutions that should not exist seriously undermine the dignity and reputation of medical workers, so that this should not be only the isue of judicial instances but also that of the entire medical system. Especially important is the role of medical workers' associations in suppressing the bribery and the corruption and in this way to establish the confidence of citizens in the healt service institutions.

10. The subject less discussed in the sphere of health protection relates to mutual relations between medical doctors themselves. These relations are regulated in the areas of labor and health service laws as well as by rules of profession and ethicalnorms. The part of these relations concerns the cases of non-professional and erroneous work. A doctor who noted in the process of extending medical services a professional error of his colleague is bound

to behave in accordance with ethical norms of profession. If such errors remain undiscovered or are disregarded, there is a latent possibility of their repetition which in no way is the interest of patients, of health-care institutions and doctors.

11. These messagesjoin the previous ones relating to the introduction and carrying out of medical law courses; this is a useful way of establishing better cooperation between legal disciplines, various high school and research institutions as well as between doctors and associations of patients. This is also the way of raising the level of transparency of corresponding rights and duties as well as of reducing the actgual number of conflicts.

12. It is necessary to more precisely define, in course of the ongoing amending the Criminal Code, the substance of the security measures aimed at prohibition of attending sports events. It is also necessary to include in the Law on Executing Criminal Sanctionsmore details regardingthe procedure as well as enact necessary by-laws covering specific matters. Such provisions have to be strictly and consistently applied in practice so that perpetrators should be properly punished.

3. Ecology

Mr. GORDANA PETKOVIĆ, Senior Counsellor, Ministry for Energetics and Environmental Development and Protection of Serbia, Belgrade

1. In the time of global challenges and crisis of basic virtues of mankind we are faced with general undermining of dignity of life as a natural and inalienable right of all living beings. The survival of life on our Planet is closely related to the respect of human dignity which should be realised in the harmony with Nature, to mutual dependence of environmental elements, to the limits ofnatural resources as well as to negative environmenal consequences of human activities. Because of that the conception of ecologic balance together with the sustained development should become the principal decision-making criterion in the area of environmental protection.

2. The way out of global economic and ecological crises requires a "green economy" approach in order to enhance: the more intensive economic growth through new forms of both production and consumption;

the decrease of poverty through developing "green transactions"; protection of environment by reducing the level of carbon dioxide, the needed quantities of energy and raw materials and the rational treatment of waste material; the efficient use of resources, the proactive approach to resolving ecological poblems as well as the increased participation of society in all these activities. These efforts should be coupled with the development of strategic and social engagement and improvement of legislative framework in the Republic of Serbia which should be aimed at adopting the green approach to economy and a more efficient implementation of appropiate measures in-key sectors (recycling, energy efficiency, restorable sources of energy, use of biological and genetic resources, organic production, public tenders etc.).

3. International community is faced with new global challenges that include changes of climate and their impact on ecology systems and dispersion of people, poverty and the like. These changes and their impacts in the sphere of ecology have only recently caused the general attention as a great menace the peace and security. We are also faced with the issue of human dignity connected with disastrous consequences of climate changes. We therefor plead for establishing new international frameworks for keeping these changes under control after the Kyoto Protocol ceases to be in force.

4. Reliability of marking ecological products, familiarity with the ecology sign and reliability of information about ecological products are very important matters in making decisions for selecting such products. In Serbia it is necessary to enact regulations on products to be supplied with indications of their energy efficiency but also on consistent application of relevant rules. Consumers in Serbia must have reliable information about products, i.e. food put in the market, especially where they contain the GMO. Numerous are the reasons for saying "no" to genetically modified food in many countries and they include detrimental impact on the health of people and animals as well as on environment in general. Significant in this respect are also moral, ethical and socio-economic arguments, as well as the GMO labels. Lack of harmonization of Serbian legislation relating to GMO organisms, safety of food, admitting the sorts of agricultural vegetation, of reproductive forest materials, seed and of planting materials. This whole matter requires the revision of corresponding legislative framework. Also indispensable in environmental protection is the prohibition of growing, producing and trading of GMO or products containing it, those including it or stemming from it, especally as far as their trading is concerned. The technology of GMO by now has not been sufficiently studied regarding its

possible consequences for biological varieties, for environment, and for human health.

5. We support the consensus of all countries of the region concerning the issue of moratorium of constructing nuclear power stations in the region.

6. We also support the idea of regional cooperation which requires entering into bilateral agreements covering the assessment of environmental transborder impact of protection of transborder water currents.

7. It is indispensable to monitor and apply regulations relating to preservation and protection of land and water and, ifthe need be, to amend them. Regulations of projects of environmental recultivation and reclamation, and particularly of iregular waste disposal areas, should be revised. Promoting the organic production and application of organic means for better growing of plants is also one of the priorities.

8. Aarhus Convention has to beconsistently implemented which also goes for a more efficient availability of information relating to environment as well as to greater participation of general public in the decision-making process significant for the environment. To this end it is necessary to harmonise our laws on free accessibilty of infrmation and on environmental protection with the Aarhus Convention.

4. Sports

Prof. Dr. EDITA KASTRATOVIĆ,
Faculty of Business Economy and
Entrepreneurship, Belgrade

1. One of the key prerequisites of future development of Serbian sports is the precising of status of sport organizations, including the property they possess. This should be done by amending the Sports Law of the Republic of Serbia in order to achieve a proper model of privatization, i.e. property transformation of sport organizations. Privatization in this sphere is indispensable, which goes also for every other endeavour. Privatization in the area of sports means development and advancement ofbusiness in this sphere and not just an assistance to sports.

2. Several important prerequisites are necessary for such privatization to be a success, i.e.: selecting a proper strategy and model for privatization; efficient organization of its implementation; stable macro-economic

environment; corresponding economic policy, transparent sysrem of regulations and measures poviding the rules of the game in the society. The goal of privatization should be a modern sport organization with first-class management and other personnel who need to possess the knowledge and expertise in economy, finances, law and marketing. This would make an economically powerful and lasting stability of sports and a readiness to achieve success in competition in the field and in gaining the support of the public.

3. Contemporary sport is not possible without adequate high-quality sports experts. Their legal status and contracts they enter into with sport organizations and federations was not properly regulated in the legal system of the Republic of Serbia by the amendments to the Law on Sports. It is therefore necessary to recognise the specific nature of contracts concluded by sports coaches, agents and other sport experts.

4. Carrying out of scientific research and their impact on preventive sports and recreation programs for breaking the delinquency habit of children and teenagers is a positive development. This is also true for creating the legal environment for development and advancing school and university sports.

5. With the aim of overall advancement in the area of sports and sports federations and clubs it is necessary to prevent negative political influences and prohibit the advertising of politicalslogans and delivering pamphlets of the sort as well as announcing political messages at sports events.

II – RIGHT TO FREEDOM

1. Criminal Law and Procedural Protection of Personality

Prof. Dr. MILAN ŠKULIĆ,
University of Belgrade Faculty of Law

1. The Chair consider that it is necessary to amend the Criminal Procedure Code in order to replace a considerable number of temporary detention grounds by the ground known as warranty. The detention ground introduced by the new 2011 CP Code which is reduced to the combination between the seriousness of offence and the disturbing the citizens is exceptionally controversial, especially if viewed as an "achievement" of the for-

mer SFRY, so that it is now exposed to strong criticism as a too wide ground for detention.

2. Special attention was dedicated to the reform of criminal legislation of Serbia because great and continuous changes in that important branch of legislation create a serious problem. At one hand, new solutions are frequent and unnecessary since they lower down the already achieved standards, while on the other hand – which is characteristic of amendments of thecriminal procedure – this seriously undermines the significance of human rights and freedoms.

3. The Chairconcludes that the new CPC of Serbia is a poor text which especially is truefor norms in that Code that are unconstitutional. According to art. 32, para. 1 of the Constitution (right to fair trial), *everyone shall have the right in terms of which an independent and impartail and legally established court shall, equitably and in a reasonable time limit, deliberate his case in an open trial while deciding on his rights and duties, the justifiability of the doubt applied as the ground for instituting the proceedings, as well as for accusation raised against him.*

4. It is aconstitutional right of the citizen, i.e. the accused one being criminally prosecutedto have the court deliberate the justifiability of the doubt, i.e. accusations against him, and *not, instead of that, to debate before the court about that matter* – as in fact is the solution applied in the CPC. This is why all key provisions of that Code which introducea strictly adversarial criminal proceedings, i.e. proof submission as a primary responsibility of the parties, are potentially unconstitutional, while the court is completely excluded from that part of proceedings. Since the constitutional right of the citizen is that *the court has to decide on justifiability of the doubt that was the ground for instituting the proceedings,* also unconstitutional is the provision of the new Code by which the investigation is undertaken by an order whenever there exists a doubt that a person has committed a criminal offence; also unconstitutional is the solution that there is no appeal against such order.

5. Criminal procedure law is extremely important for the protection of human rights and freedoms. The CPL as the basic source of this branch of law and of the positive law legislation, is by that very fact one of the crucial points of that protection, i.e. the protection of the accused being prosecuted; this is also true for other persons involved on any ground in the proceedings.

6. In recent years Serbia may be called, as far as criminal procedure is concerned – as "one country with two systems" becase two considerably different codes have been valid at the same time. This undermines the coherence of legal system and legal certainty and equality of citizens before the law. Even this point is sufficient to pay much attention in assessing the present condition of our criminal procedure legislation, both in terms of its harmony within that branch of law and in terms of its concordance with the "European standards". The new CPC of Serbia has quite a different conception compared to the first 2001 Code and to codes in the past decades as well as to the centuries old tradition of continental European countries, including the European Union countries. This is quite unusual in the light of Serbia's aspirations to become its member and while considering the fact that such solutions were not present in traditional basic sources of criminal procedure and other branches of law of Serbia modelled after French, Austrian and German laws.

7. In addition to excessive use of "models" from the countries unlike ours and unusual comparative law solutions which amounts to an "attack" against legal certainty and to a kind of "disorder" in our criminal procedure law, it seems that a whole series of norms in the 2011 Code departs to quite a degree from certain "European standards" especially as far as unnecessary limitations of the rights and freedoms in the criminal procedure are concerned.

8. Investigation by public prosecutor introduced in the 2011 Code, if intended to be just and fair, must be completed by providing the following conditions: 1) Bringing closer the position of public prosecutor, at least actually if not formally, to the position of judge who is *independent;* namely, the prosecutor is "only" autonomous, although one may say that these terms are in fact not so different so that in prosecutor's case this could be assessed as his functional independence. 2) Significant change of organization of the public prosecutor's office which now is organised as an "army unit" characterised by excessive and strict hierarchy.

9. It is also necessary to be much more careful in dealing with such wide-range reforms of the criminal procedure legislation. In other words, one should pay attention in reforming systematic acts such as the Criminal Code and the Code of Criminal Procedure which should not be changed radically or in short periods of time.

2. Freedom of Personality

Prof. Dr. OLGA CVEJIĆ-JANČIĆ,
University of Singidunum School for European
Legal and Political Studies, Belgrade

1. Prohibition of physical punishment of children by their parents, as a measure of imposing discipline, is rather significant and should be adopted in the future Civil Code whose drafting is in the final stage. There is a whole inventory of other means to be applied by parents, and supporting the idea of prohibition does not mean that one is against everykind of punishment and imposing discipline – as is frequently erroneously interpreted, sometimes with malice. On the contrary, the child should be instructed from the earliest stage of its development about what is permited and what is not allowed. The ways and means of such instruction should not include spanking or other "punishments". If we want to eliminate violence in the society, we should start with the basic cell – the family which has to be a model of proper conduct and tolerance of its members.

2. Legal protection ofpre-natal life can not be absolute since abortion is the right of a gravid woman limited only by indiciations provided for by the law. Not relevant in this context is art. 2 of the Convention on Protection of Human Rights and Basic Freedoms which guarantees the right to life and also art. 3 of the UN Convention on the Right of Child relating to protection of child's best interests as well as to protection of its welfare, because these provisions do not cover the pre-natal life. Until the child is born we may not speak of it as a holder of rights since foetus and the embrio are only a life in he pocess of origination; they may be protected only against unlawful abortion.

3. Since the Law on Medical Treatment of Lack of Fertility by Biomedically Assisted Fertilization is inconsistent, imprecise and with provisions that are unconstitutional, the Chair proposes its amanding. It is particularly important to make a precise biomedically assisted post-mortem conception which is now defined quite controversialy. It is not clear who the donor is, meaning which person has to agree that his reproductive cells can be used after his death. The question is whether such individual is a third person only, or a donor may also be the husband of the mother or her out-of-wedlock partner.

4. Defining of out-of-wedlock community in terms of criminal law as formed in criminal courts practice is quite different from the practice of

the civil courts. According to former definition, probably due to the need of protecting underage children, the character of such commnunity is given also when one partner is a minor between the age of 14 and 18 even if the community existed just a couple of days. However, it is not necessary to make such difference since it may provoke inconsistency in the legal system because the durability of wedlock is an essential feature of out-of-wedlock community which distinguishes it from temporary or ocassional *ad hoc* partnership. The problem could be surpassed through amending the CriminalCode by introducing a new criminal offence not only in the case of establishing an out-of-wedlock community with an underage person; namely, such offence should exist even if there is no element of permanency. The suggested change of art. 190 would also include situations now wrongly classified as "out-of-wedlock community".

2. Administrative Law Protection of Freedom

Prof. Dr. DRAGOLJUB KAVRAN, Belgrade
Prof. Dr. DOBROSAV MILOVANOVIĆ,
University of Belgrade Faculty of Law

1. The solutions in the Law on Administrative Procedure should be in accordance with the verified solutions confirmed in practice and wihth highest European standards. It is indispensable to introduce new procedural institutes to be applied by public administration organs when deciding on rights and duties of citizens and performing other acts in their jurisdiction as well as when concluding administrative contracts or extending public services. Complete protection should also be provided in electronic communication rules in particular administrative proceedings as well as the harmony of these with the general proceedings rules. The system of legal protection of parties in administrative proceedings should be revised and harmonised. The drafting of a new Law of Administrative Procedure should involve coordination with the remaining relevant substantive and procedural regulations.

2. The solutions in the Law of Administrative Litigation should be based on the principle of *double instance* administrative judiciary that could be provided for bythe new Law on Regulation of Courts. Also revised should be the model of request for reviewing judicial decisions. There is as well a need for providing the appeal in administrative disputes.

3. The following should be done in order for the administrative judiciary to respond to the extension of subjects of administrative litigation and to its varieties: ensuring the application of rules of compulsory oral hearing; making possible a more frequent application of full jurisdiction; in the decison-making in the sphere of executing administrative acts it is indispensable to ensure, in accordance with European standards and the principle of adjudicating within a reasonable time, the adequate number of judges. It is also necessary to introduce specialization within administrative judiciary and ensure adequate material position of judges as well as the necessary working conditions and space.

4. There is a need for poviding identical names of organs and organizations of the same legal status, as well asthe criteria for their establishment.

5. It is indispensable to have a continuous professional education through unified programs for personnel working in public administration based on their thorough analysis; also needed is the system of evaluation of the quality of programs, of lecturers and of the results. These education programs should be carried out for the purpose of raising the level of expertise in course of preparing the adequate human resources for administrative judiciary; these programs would also permanently serve as an instrument in advancing through the hierarchy of the entire system.

III – RIGHT TO PROPERTY

1. A. Codifications

Prof. Dr. SLOBODAN PEROVIĆ,
President of Association of the Kopaonik School of Natural Law, Belgrade
Prof. Dr. MIODRAG ORLIĆ, Honorary President of Association of Jurists of Serbia, Belgrade
Prof. Dr. OLIVER ANTIĆ,
University of Belgrade Faculty of Law

1. The results of work of the Commission for drafting the Civil Code was assessed positively after reviewing five volumes pulished until now exposing the basic segments of future codification of this part of law in the form of an advanced Draft, i.e.: 1) Commission's report on matters debated; 2) obligation relations; 3) family relations; 4) inheritance; 5) general part.

The idea was supported for publishing the 6th volume by the end of 2014 dealing with the property law relations which, although rather important, has not until now been codified as a legislative and functional entirety. The entire effort will be thus crowned by a consistent codification act of various civil law matters in the legal system of Serbia.

2. Also supported was the intention of the Commission to formulate adequately and to complete the legislative solutions in order to bring them into accord with existing knowledge and needs of business and judicial practices in the sphere of realization and protection of civil law rights. These matters should be publicly debated in course of 2014 and later on published after being reviewed by experts for individual segments of the advanced Draft.

3. Particular support was extended to the conception of the Commission in terms of which the future Civil Code of Serbia, while using the comparative methodological analysis, should harmonise the most important solutions with the modern European legislation and contemporary trends in the EU law.

4. Positive attitude was expressed regarding the basic principles of the General Part which are quite important not only for materialising the civil law rights but also for the decision-making process in litigation procedure, including the correct interpretation oflegislative solutions and realization of individual rights in this sphere which are vitally significant for the quality of life and work.

5. Particular recognitionwas expressed for the new provisions relating to individual civil law rights which emanate out of the fundamental right to dignity as an inalienable right of their holders.

6. It is necessary that the Commission remains consistent in its approach to the main aims ofcodification as expressed in the Preamble of the advanced Draft, where, in addition to affirming the continued development of legal culture and legislation of the Republic of Serbia, the following was stated:

– raising the level of legal certainty;

– protecting the rights of personality and property rights in accordance with achievements of European legal civilization as well as recognising the traditional national values.

7. Quite a number of published reports and in the discussions in various sections included analyses of proposed basic alternative solutions. Par-

ticular support was given also to the proposal for extending the application of the institute of groundless enrichment as the source of obligation.

B. Property

1. Positive attitude was expressed regarding the purpose of legislative solutions relating to the restitution of endowment property which now may be filed in the registry and be ready to start work after submitting the proof about continuation of original purposes and aims.

2. It wuld be proper to review the positive and negative effects of introduction of non-accessory rights of real sureties such as Euro-mortgage initiated in the EU in order to facilitate the unique technique of refinincing, bonds issuance and their sale on the EU market. An analysis of application of relevant legislative solutions relating to out-of-court settlement of mortgage would surely prove some negative sides of the actual Law on Mortage and the need for revision of the mortgage law by emphasising the role of equality of rights, of legal certainty and of more equitable protection of justified interests of mortgage creditors and debtors.

3. In addition to general conception that foreign natural and juridical persons, on the condition of reciprocity, may acquire immovable property, one may not exclude certain limits regarding the specific immovables as specified by particular law which may not be owned by foreign nationals.

4. The analysis of statutory regulation of unified cadastre registry of immovables, and especially of the realization of principle of transparency in keeping it, indicates the need for revising the former effects of such "unified registry" in order to reafirm the advantages of returning to land registries as the perfect system of public files of immovables and of property rights in this sphere.

5. There is a need to reassess, in the process of drafting the Civil Code, the actual Law on Inheritance that provides the age of 15 as the lowest limit for bequathing capacity, meaning that property autonomy of such persons was thus extended. However, the important question of necessary realization of the protective function of minors, due to different levels of their maturity and experience, still remains open.

6. While recognising the needs of practice, the initiatives and arguments were supported for introducing into the future Civil Code the rules covering specificities of the so-called non-genuine contract of life main-

tenance by means of which property may be transfered to the grantor of maintenance at the moment of conclusion of contract and not after the death of the beneficiary (i.e. classical way of regulation of that kind of contract).

C. Contracts and Liability for Damage

1. Support was expressed to the poposal of Civil Code drafting Commissionto introduce in the text of the Code the notion of professional fault which for quite a time was applied in court practice. Fault is, namely, a social and not a psychical fact while professional fault is an erroneous acting which is not to be assessed by the conduct of a reasonable and careful man, but by conduct of reasonable and careful expert of a given line of profession. Specifying the notion of professional fault in the Law on Health Protection becomes superfluous because it is restrictive in applying the corresponding civil or criminal law professional liability, so that introducing it in the future Code would encourage civil law courts when settling the requests of patients for compensation of damage not to refer to professional error but to professional fault.

2. In order to better protect the buyers in the sphere of warranty for correct functioning of the item sold, it is necessary to reassess the actual solution existing in the Obligation Law and introduce the right of rescinding the contract of sale or of returning the money, in addition to indisputable right to compensation of damage, provided the manufacturer failed to repair the itembought within a reasonable time limit.

3. In cases of consequences of rescission of long-term bilateral contracts, the practical and theoretical dilemmas should be solved by means of partial restitution where both parties interrupted their prestations, and where only one of the parties performed his duties.

4. Although actual legislative solutions relating to protection of the principle of equality of prestations in case of bilateral contract, and particularly the provisions on excessive damage and usury contracts specified in the Law of Obligations, have been successfully applied by courts and business, it would be appropriate to improve them in the future CC since this would mean more consistentregulation of consequences of null and void contracts and those apt to be annuled.

5. In future regulation of compensation of spiritual damage in cases of violation of individual rights, it would be appropriate to extend the re-

quests by applying various kinds of satisfaction even wthout intervention of the court.

2. Taxes

Prof. Dr. ZORAN ISAILOVIĆ,
University of Priština Faculty of Law, Kosovska Mitrovica

1. Just as in all modern states, Serbia too has to have tax laws which would be consistently respected in practice. One of the ways to obtain such laws is a thorough analysis before the enactment of all their future effects. The other way is a rather wide public debate in course of drafting which should have real impact on final solutions.

2. The process of reducing tax incentives in taxing the profit of juridical persons should be supported in order to limit the introduction of new forms of them. This would stimulate regular payment of taxes and efficient-prevention of tax evasion. Attracting investors through selective taxes is a rather wrong form of arbitrary meddling of State into market processes – even worse than subsidies. International experiences in this field show that tax benefits are not an efficient instrument for attracting foreign investors in the conditions of low nominal tax rate regarding the profit of juridical persons.

3.The legal system of Serbia needs numerous measures of a more efficient suppression of grey economy. Most important of them are the following: reducing the contributions to be paid by labor; clear and simple tax regulations and their consistent, stable and non-selective implementation; reorganization and coordination of work of Tax Administration and other State organs; termination of practice of writing off the claims on the ground of interest on unpaid public revenues.

4. Regulation of taxing the income of independent business activity in Serbia is one of the weak points of the taxation system. The latest amandments to the Law on Citizens' Income Tax were a good opportunity to ratonalise the conception of lump taxation. However, that chance has not be used. Instead, the amendmenst encouraged this institute which in practice wouldbecome more a rule than an exception.

5. The duty of paying taxes may be performed by citizens only if they are economically able to do that. That is why we support the idea of exclusion from taxing the existential minimum. This should not be an arbitrary

decision by tax authorities but a measure of taxation policy based on law that does not undermine the principle of generality of taxation. It would mean that by performing their tax duty, the natural persons – the tax payers, will not have their human dignity endangered.

6. The implementation of the new Law on Reducing the Net Income of Persons in Public Sector will entail considerable reduction of "high" salaries; the intention was to reduce the budgetary deficit and facilitate the functioning of the Republic of Srbia in the following period. The analysis of that Law warns us on possible numerous negative effects that may take place in practce. The worst one is a real danger that best experts will leave the public sector after finding their perspective in the private business in the country or abroad.

7. There is also a disharmony in regulating tax violations in some tax laws in terms of seriousness of consequences offailing to meet one's tax duties and having different amounts of finest. This shortcoming should be eliminated by harmonising the amouns of fines.

3. Commercial Companies

Prof. Dr. MIRKO VASILJEVIC,
University of Belgrade Faculty of Law
Dr. DRAGIŠA SLIJEPČEVIĆ, Judge,
Constitutional Court of Serbia
MIROSLAV NIKOLIĆ, President of the
Commercial Appelate Court in Belgrade

1. Amendments to the Law on Bankruptcy are a significant amelioration especially regarding the status of receiver, his property and disciplinary liability and the new institute in the bankruptcy law – the receivership chamber as well as the better definitions of certain matters connected with the action of refuting, etc.

2. In the oncoming innovation of the above mentioned Law it is indispensable to eliminate numerous shortcomings in the proposed solutions and especially the unnecessary distinction in the regime of mortgage and privileged creditors as well as establishment of a sort oflegally groundless "collective bankruptcy" institute of related persons.

3. In oncoming innovation of the Law on Private International Law it would be rational that the "establishment theory" in the matter of conflict of

laws in Company Law be given the same meaning, while omitting the possibility of applying the seat theory whose implementation after entering into the Agreement on Accession and Stabilization would practically be reduced to the minimum.

4. It is necessary that the future Civil Code – its obligation relations part – be completed with a precise definition of liability of the middleman in the contract of travel who should be liable as organiser whose duties have to be listed in order to be applied to the middleman too whilehaving in mind the solutions existing in the Proposal for New Directives on Package Arrangements.

5. Support is given to the extension ofpublic law partnership whose further development, owing to legislative harmonization whose innovaton should be intensified; such extension may significantly enhance the realization of numerous investment projects, includingconcessions for large infrastructural facilities of national importance.

6. It is also necessary, in the future civil law codification, that its segment covering business contract be completed with precise definition of the notion of businessman (tradesman) since in such a way one could ensure the adequate application of stricter commercial law regulations to such category of commercial actors.

4. International Commercial Contracts. Arbitration

Prof. Dr. JELENA PEROVIĆ,
University of Belgrade Faculty of Economics
Dr. THOMAS MEYER, Director, Open Regional
Sector of the Fund of German Endowment GIZ,
South-East Europe Legal Reform Office

1. There exist considerable differences in comparative law in legal organization of negotiation about contract conclusion, liability for breaking the negotiations, and legal nature of the agreement to be entered into in the framework of negotiations. They are expressed both in legislative regulation and in court practice and comparative law doctrine. In addition, the agreements about negotiations that are concluded in international business transactions are rather numerous and different in terms of substance, form and circumstances of their taking place. The solution for a concrete legal issue in these agreements depends primarily on the applicable law and its at-

titude toward the scope of the fair dealing principle. Disputes in such agreements have to be settled in the light of given circumstances and taking in consideration of every detail of the agreement so that one may find out that which has a binding character. In order to avoid uncertainty and controversial situations, the intentions of the parties should be precisely formulated in every clause. It is appropriate to indicate the clauses that are *binding*, the legal consequences for their violation as well as the criteria for assessing the kind and scope of compensation, including the law to be applied in case of dispute and all other relevant issues.

2. The clauses of excluding or limiting of liability cause significant doubts and restraintS in comparative law since they represent departures from the general rules of liability for damage which find their origin in moral values and categories. This is why national legal systems and uniform law of contract dedicate much attention to specifying the criteria for their annulment. Some systems, for instance, start from the principle of fair dealing, the other ones from the annulment of such clauses if they are found "unreasonable", while some consider that they may not be excluded in the case of wishful misconduct. There are also the ones which extend this limitation to gross negligence. All these must be taken care of by the negotiating parties at the time of deciding whether they will provide the clause of exclusion or limitation of liability or opt for anoher solution.

3. When contracting parties apply transnational rules it is neccessary for them to avoid general and abstract formulations in the clause on applicable law which may be a risk in the future. On the other hand, clauses providing the application of principles valid in several legal systems may cause considerable problems for arbitrators who in this case are obliged to make deep analyses of such system in order to find out possible common principles. Such task is rater delicate and may lead to inadequate solutions. This is why the parties should opt for the *lex mercatoria*, explicit determination of a book of rules such as the UNIDROIT Principles of international contracts of sale which includes the most certain solutions for the parties.

4. In providing for the jurisdiction of an institutional arbitration it is, in principle, sufficient to opt for the applicability of its rules. Such arbitration has its permanent rules covering the organization and competence of arbitration, the establishment of the abitration tribunal, the procedure, the arbitration decision, expenses, etc. Accepting in their agreement such arbitration, the parties have also accepted its rules of procedure. In contrast to institutional arbitrations, the *ad hoc* ones have no rules of procedure of their own or any other element of institutional arbitration (organizational

structure, premises, list of arbitrators and the like), so that the parties have to provide for all details important for constituting the jurisdiction as well as other matters important for settling their dispute by an *ad hoc* arbitration, including the rules of procedure (most often these are UNCITRAL Arbitration Rules), the number of arbitrators, the applicable language as well as the authority for nomination. For constituting the jurisdiction of an *ad hoc* arbitration there is no need for a clause to include all mentioned elements, but only those which clearly indicate the intention of the parties to have their dispute settled in this way.

5. Insurance

Prof. Dr. PREDRAG ŠULEJIĆ,
Member of the Presidency of Association
of Jurists of Serbia, Belgrade

1. A new approach is necessary in the matters of contractual and out-of-contract liability. Differences of insurance nature may be eliminated by changing the very institute of liability since the rules are changing in the direction of making stricter the liability of damage-feasor in both of its kinds. The same is true for criteria of the burden of proof. The damage-feasor's possibilities to avoid liability are becoming more and more narrow. Dignity of man should become a much more important feature of the life insurance. In that respect the general insurance conditions should provide also for covering the "risk of dignity".

2. Following are the issues deserving consideration relating to stipulation of norms on representatives and insurance brokers in our future Civil Code: distinguishing between the affairs of representing and mediation; limiting the powers of the representative; liability of insurer for the conduct of the representative (vicarious liability; duty to inform the insured party; transgressing of power and departing from the general conditions and premium tariffs. It is also possible to provide, as is the case in comparative law, the authority of representative to make statements on the notice and the rescission of contract since this is logical and acceptable; in this respect art. 1181, para. 1 of the Draft CC should be completed by the words: " *may declare the notice and therescission of contract*".

3. It is also necessary to provide for in the CC the broker's duty to give information regardless of who the orderingparty is –the issurer or the in-

sured party. The substance of such information may be formulated according to the model found in domestic and comparative law while considering also the criticism of the EU Directive on mediation and insurance representatives. Still, the opinion remains that this matter should be regulated by a special law that would be a *lex specialis* in relation to the Civil Code, if not included in it. Until then the provisions on mediation contracts of the Obligation Law should apply.

4. It is also necessary to reconsider the conditions of introducing the insurance expenses and those of legal protection, including the protection of patients, into the business activity of domestic insurers. There is also a need to ensure sustainable development of market for these kinds of insurance.

5. The Law on Compulsory Traffic Insurance contains a clear provision relating to its entering into force. However, 30 to 40% of its provisions are going to be applied only in some future moment – a year or two from the day of entering into force of that Law; alsoquite a number of provisions would be applicable only after Serbia has joined the EU. This is not in accordance with the Constitution, so hat the Constitutional Court is competent to resolve in line of duty this question.

6. Labor Relations

Prof. Dr. BRANKO LUBARDA,
University of Belgrade Faculty of Law
PREDRAG TRIFUNOVIĆ, Judge,
Supreme Court of Cassation, Belgrade

1. The right to dignity in the sphere of labor as one of the basic constitutional rights of the employees is harmonised in our legislation with the European standards (specified in international conventions and recommendations) in the Labor Law (through the definition of discrimination, mobbing and sexual harassing) as well as by enacting special laws (the Law on Prohibiting Discrimination and the Law on Prohibiting Mobbing).

2. Thequoted laws should be revised and improved in accordance with positive comparative law practice, eliminating thus the problems in their implementation. It is quite important therefor to define the notion of mobbing as a form of discrimination not only because ofthe nature of this re-

lationshipbut also because The LPD provides to all those damaged a more complete legal protection (right to review), while with mobbing this is not the case. Having in mind the clearness of this Law, the considerable burden of cases of the Court of Cassation, and the fact that these disputes do not involve legal issues, it is necessary to reconsider the solution permitting in all cases this review and to allow it in serious forms of discrimination only.

3. The existing uneven practice in the sphere of so-called mass litigation cases of appelate courts points at the need to make every effort in order to harmonise it and to treat equal factual and legal situations in an equal way.

4. In establishing individual rights it is necessary, when entering into collective agreements and when amending them, to pay attention on material basis since economic rights depend on economic situation in the State.

5. The social security system has to be ensured for all flexible forms of labor as well.

6. In carrying out and applying of laws efforts have to be made to avoid the misuse of labor law institutes (employment for a definite period of time, trial labor, overtime work, black economy work, double employment).

7. Having in mind the constitutional position and character of provinces and local sel-government units, it is indispensable to regulate by a special law the rights and duties of employees in these territorial organizations.

7. Banks and Banking Transactions

Prof. Dr. STOJAN DABIĆ,
International Center for Financial
Market Development, Belgrade

1. Legislation in the sphere of functionning of the banking system in Serbia has been, with minor exceptions, completely harmonised with the EU regulations. However, the Law on Capital Market is a mixture of solutions taken over from the Anglo-Saxon and continental laws.

2. Keeping a high referential interest rate (comparing to the policy of other central banks), the National Bank of Serbia – in order to keep control of the inflation rate – has in fact reduced economic activity as a result of the decrease of money in circulation and lesser competition in an ever more open market caused by the rise in production costs due to high interest rates. Serbian banking sector is also known for its high eurization of

placements and deposits. Since 75 to 80 percent of credits are expressed in Euros, including 98% of deposits of citizens, there is no economic or legal reasons for domestic companies to pay interest with excessively higher rate than do their competitors who use credits from domiciled banks in Serbia. The National Bank should make banks, by applying direct and selective crediting of transactions, to grant such credits with European interest rate and start the system of their connecting to the monetary flow of each particular commercial transaction instead of staying with the system of ensuring their credits through mortgage.

3. Granting credits on the ground of mortgage and with high interest rates most often brings domestic companies into the phase of interrupting their business since they become unable to compete with their privileged foreign counterparts in domestic market. Decreased production means less revenue to cover the interest due, so that business banks, in order to avoid-National Bank's measures, grant new credits to be used for payments of interest. Such banking practice has caused bankruptcy of quite a number of credit users. The increase of production and exports may in a relatively short time make possible selective crediting of concrete transactions under the conditions that are applied to foreign companies. Consequently, it seems that the National Bank of Serbia and business banks should complete their crediting and monetary policies with conditions for granting purpose-oriented re-escont credits. In order to strengthen the connection between trading, manufacturing and banks it is necessary to introduce the system of binding of imports to the exports.

4. As a creator of national monetary policy, National Bank of Serbia should without delay reassessits credit and monetary policy because until now, in spite of the results achieved in controlling the inflation, such policy turned out to be frustrating for the revival of prouction and rehabilitation of overall economic activity.

2. In addition to banking mechanism, the securities market is another basic instrument for providing additional resources for regular business operations as well as for development. Although laws regulating this matter are almost identical to those of the EU, our market is still seriously disturbed. One of the reasons is also the work of the Securities Commission relating to implementation of certain provisions of the Law on Capital Market (art. 85). Provisions of that Law are taken over from laws otherwise applied by high capital market experts; consequently, they are rather hard to be applied by our insufficiently educated personnel working in that Commission, and in prosecutor's offices and courts. In all world markets the technique of

offer and demand is a normal way of conduct which determines the value of individual securities, especially in the case of shallow market and such orientation of the regulatory body which unjustifiedly treats these oscilations as manipulations in the financial market and applies punitive measures against the participants in trading and instituting criminal proceedings. When an insufficiently professional prosecutor's office receives such unprofessional indictment, believing that it was prepared by a highly professional institution, the prosecutor proceeds it to the court without any reservation. The judge, who is also not an expert in such complex matters, and believing that the indictment is verified by two highly qualifiedinstitutions, enters a judgment against the participants in securities market which would never be entered in any other European country.

3. Having in mind that the Law on Capital Market provides for strict penalties for such qualification of the above acts, foreign investors refuse to participate in purchasing a considerable number of securities at the Belgrade Securities Market. Domestic brokers too, out of the same reasons, refuse to receive orders of that sort, so that all this leads to disruption of Serbian securities market. In order to interrupt such trend it is suggested that the Commercial Appelate Court organise the professional education for all participants in this market (Commission members, public prosecutors, judges and other experts in the field).

4. The securities market should be more transparent and needs to establish a more favourable institutional and legislative environment since this would guarantee to investors an adequate information, including achievement of an efficient protection of their legally guaranteed rights.

5. There is also a need for developing the financial market with the assistance of the State which, through various mechanisms can build the financial infrastructure. This should be coupled with monitoring and analysing market impulses, timely reaction in the context of reducing system risks, simple procedure and elimination or, at least, attenuating the negative consequences of administrative barriers.

6. Also necessary is to initiate the amending of the Law on Execution and Security in order to more precisely regulate the procedure of banks in cases of carrying out the execution from the bank accounts of natural persons.

7. Preserving reputation and business success of banks depends to quite a degree on the way of settling the conflicts between banks and their clients. Useful in this matter is a more intensive use of mediation mecha-

nisms that should ensure peaceful, rational and equitable way of resolving the differences.

8. It is necessary to consider the initiative – in course of civil law codification – that monetary means deposited on the current accounts be separated from the property of banks since this would increase the financial security of banks' clients and bring a positive effect on the entire financial system.

IV – RIGHT TO INTELLECTUAL CREATION

DIMITRIJE MILIĆ, Practicing Lawyer, Belgrade

1. Kopaonik School proposed the concentration of territorial jurisdiction of courts and court chambers, as well as court assistants, for disputes relating to intellectual property rights. The proposal was accepted in enactig the Law on Seats and Areas of Courts and Public Prosecutor's Offices, and the Law on Court Organization ("Official Herald" of the RS, No. 101/13). In terms of statutory solutions since January 1, 2014 the High Court in Belgrade became competent for all intellectual property disputes in the entire territory of Serbia, instead of 26 high courts in the past. The Commercial Court in Belgrade became competent for all disputes between commercial and other entities for the entire territory of Serbia instead of 16 such courts. The Appelate Court in Belgradedecides on appeals against decisions ofthe High Court in Belgrade instead of 4 appelate courts in the past. The Commercial Appelate Court in Belgrade has jurisdiction in deciding appeals against decisions of the Commercial Court in Belgrade.

2. Specialization of judges, court chambers and court assistants must be a continuous job since this is a condition for achieving the aims of territorial concentration of courts. This concerns also other participants in judicial proceedings, and particularly court experts.

3. It is suggested that review be introduced against all decisions as was the solution in former laws. Introduction ofreview and of specialization would raise the quality of work, shorten the time for the court proceedings and harmonise the court practice through decisions of the Supreme Court of Cassation as well as improve legal certainty of intellectual property rights.

4. It is indispensable that these proposals be communicated to all presidents of the High Court in Belgrade, Appelate Court in Belgrade, Commercial Court in Belgrade, Commercial Appelate Court and Supreme Court of Cassation, so that they could plan the annual schedule of work and the way of specialization in deciding on disputes over the protection of intellectual creations.

V - RIGHT TO JUSTICE

1. Court in Connexity with Justice

Prof. Dr. GORDANA STANKOVIC,
University of Niš Faculty of Law

1. Recent enactment of the Law on Seats and Areas of Courts and Public Prosecutor's Offices established a new net of courts which should in some way facilitate the approach to courts, the partial abolishment of "travelling judges" and reduction of financial burden both of courts and the citizens. Also expected is some acceleration of decision-making procedure and reducing the number of pending cases. One should expect as well that the complex situation ofrestituting to office some 800 judges not re-elected in 2009 be definitely cleared after the 2012 decision of the Constitutional Court to that respect, and that this would happen at the time the new judicial net begins to function.

2. New legislative solutions in the area of harmonising the court practice and realising the rule of law principle, legal certainty, equality before the law and equity are provided for by the above mentioned laws. By eliminating the power of the Supreme Court of Cassation to enter decisions of principle, the violation was avoided of the principle of separation of powers, while the regulation of joint session of appelate courts partially prevented the so-called feudalization of numerous court matters within the system of courts.

3. In spite of introducing a new legal remedy relating to violation of right to adjudication within a reasonable time limit, modelled after certain European legal systems and those of the countries of the region, the normative conditions to make this possible that would be in harmony with findings of the European Court of Human Rights, will not entirely reduce the

pressure on the Constitutional Court due to violations of that functional human right.

4. Laws of procedure, which are only partially reformed, include certain solutions that are not in harmony with European standards. Law-maker's insisting on an accelerated procedure at any price caused that proceedings in the area of civil right relations have not always been in the function of realization of legality, equal and just protection of parties' rights as well as of the principle of trial in a reasonable time limit.

5. Introducing private (professional) administrators means the privatization of judicial function. They now, as entrepreuners or partnerships, exercise judicial power in the proceedings of execution on the ground of verified documents relating to unpaid public service expenses. At the same time such administrator actually decides on objections against his own decisions in the proceedings. This kind of execution involves higher expenses. Fees and costs depend on the amount of debt and in some cases they surpass the value of the basic claim. Citizens may suffer damage due to such disproportion, while there are also cases where compensation is slow and tiresome.

6. In addition to technical improvement in enacting of legislative acts, they are not always professionally well drafted. This requires the improvement of the procedure as well as a thorough implementation of statutory solutions.

2. International Relations and Justice

a) International Law - Foreign Elements

Prof. Dr. RODOLJUB ETINSKI,
University of Novi Sad Faculty of Law

1. After the Second World War the international community has reached a universal consent that the respect for human dignity makes the foundamental condition of preserving the freedom, justice and peace in the world. However, considerable differences did remain between countries regarding the legal substance of respecting the dignity and the means the states have to apply in order to ensure that respect. An especially important difference refers to the nature and possibility of judicial protection of economic, social and cultural rights.

2. By adopting the 2008 Optional Protocol to the International Pact on Economic, Social and Cultural Rights, which entered in force this year, these differences were reduced. In terms of this Protocol the states now may divide their responsibility for ensuring the above rights withthe international community which is a rather important fact in the world of global economy and great mutual dependence of states. We therefor suggest to the Government of Serbia and to those of all other states to accept the Protocol in order to enhance their capacity for respecting the above mentioned rights.

3. We also appeal that the struggle against terrorism be not misused by suppressing the human rights as well as that implementation of international humanitarian law in international armed forces be not instrumentalised in order to reach political aims.

4. Another appeal is to pay more attention to human rights in the area of education; it is therefor necessary that all law schools in Serbia and other countries introduce for all students a regular course of human rights.

5. We propose that all courts in Serbia, and particularly the Constitutional Court and the Supreme Court of Cassation, appoint an adequate number of counsellors specialised in the area of human rights; their duties should include the monitoring of relevant international practice of protection of these rights, as well as reviewing the comprative solutions in this important field.

b) European Union Law

Prof. Dr. RADOVAN VUKADINOVIĆ,
University of Kragujevac Faculty of Law

1. Although dignity as a set of virtues primarily concerns the individual as a reasonable being, it is as well necessary to speak about dignity of political and social community of individuals. However, dignity of a State is not a simple addition of dignities of individual citizens. The State creates its dignity in intenational relations. Without entering into value qualification of that significant notion, one may conclude that a State in its relations with other states keeps its dignity through consistent and continuous defense of own national interests and morally just and acceptable values such as its survival, territorial integrity and independence.

2. In present-day international relations the dignity of states depends on the overall economic situation as well as on wisdom in setting realistic and achievable goals. Practice, however, shows that the existing international financial organizations, and particularly the MMF, restrict State's dignity; the same is done also by certain states, i.e. international community, including the EU.

3. As a set and an expression of permanent values, the dignity of states is also undermined through failing to respect their own cultural and historical heritage as well as through taking over the values of others without previously studying them. To justify such an attitude by applying as the pretext the idea of European perspective – which is the case of Serbia – is also an inappropriate practice. Disrespect for historical heritage through abandoning state' s sovereignty over a part of national territory will not only fail to preserve state's dignity butinstead jeopardises the national identity as well.

4. The Lisbon Agreement on European Union proclaims the preservation and respecting of national identity of member-states as a value or the principle of EU. Consequently, Serbia, even in the stage of associating with the Union,mustpreserve its dignity in order to obtain respect for its national identity.

VI - RIGHT TO A STATE RULED BY LAW

Prof. Dr. GORDANA VUKADINOVIĆ,
University of Novi Sad Faculty of Law
Prof. Dr. MILOŠ MARJANOVIĆ,
University of Novi Sad Faculty of Law
Dr. DJURICA KRSTIĆ, UN Legal Expert, Belgrade

1. By opening the field of bioethics, anew wave has taken place of intensive discussions about theological, philosophical and legal significance of the notion of human dignity. As a universal and general term, human dignity is void ofprimary, narrow or precise meanings. It is more a horyzon of evaluation, a directing principle and a regulatory idea that has to be constantly concretised and codified in the form of many guaranteed human rights and basic freedoms. As a gender notion of every intellectually based right, it amounts to their foundation and common denominator, supported by natural but also by positive law. As an instrinsic and static value, it means

humannenes which is absolute, inalienable and characteristic of every human being regardless of all differences and conditions. Human dignity was after the Second World War included in all international documents relating to human rights.

2. In the area of philosophy and theory of legal positivism a tendency has been noted of disappearance of legal subjectivity based on the autonomy and self-determination and, consequently, of an ever more intensive devaluation of the holder of rights) as a legal category. Although, as a rule, in the constitutional documents of allmost all countries with developed legal order the body of inalienable human rights solemnly guaranteed for the purpose of preserving human dignity and realization of freedom and equality of all individuals, has taken a prominent place, such declarations and guarantees most often have minor practical significance due to general economic crisis, but also due the fact that profit as an item on the value scale, has become more important than people. Lack of dignity, however, may not be justified by social and economic crises only. We are therefor supporting the idea of unhindered and successful functioning of social market economy apt to ensure adequate means for general development of all citizens, but also the efforts aimed at the realization of the basic right of citizens to be reliably, completely and within an appropriate time limit informed on issues of public significance. Developing a most precise legal language will enhance the settlement of legal subjectivity and human dignity, and particularly the constituting of legal pragmatics tha will complete the law with necessary clearness becoming thus a genuine guarantor of that dignity as the supreme value of legal order. Characteristic of legal pragmatics, whose aim is creation and realization of conditions for efficient legal communication, should be the constant insistence on affirming a wide-range dialogue between the legislator and the adresses, tohgether with efforts aimed at introducing the institute of public debate in the process of drafting laws and other regulations.

3. Full support is also extended to the conception of the general part of the advanced Draft Civil Code of the Republic of Serbia relating to dignity as a fundamental, widest and inalienable individual right of citizens which serves as the source of all other rights of personality. Along these lines it is desirable and useful to consider whether, and in what scope, the proposed solutions contribute to more complete realization and protection of the right to dignity of person.

4. One of the topics for future sessions of our School could include the problems of interpretation of law. Such topic is certainly on the line of

supporting and affirming the basic idea and orientation of the Kopaonik School of Naural Law in terms of which the interpretation too may shed the light on the attributes of just law.

Constitutional Law Questions

Prof. Dr. VLADAN PETROV,
University of Belgrade Faculty of Law
Prof. Dr. MILE DMIČIĆ,
University of Banjaluka Faculty of Law

1. Most significant international documents covering human rights and freedoms emphasise the importance of dignity, basing exactly on that notion the impressive palace of legal literature. The multiple source of dignity has been determined in various ways, but one of the most applied ones was related to man's rational nature and the possibility for his self-determination. All constitutional acts and other instruments of collective human rights provide for coordination with the guarantees of individual rights and human dignity, so that individuals be no deprived of fundamental freedoms and dignity to the advantage of a group.

2. In the sphere of comparative law there is a strong tendency of State authorities and their institutions to come closer to the citizens as a way of more efficient and prompter meeting of their interests and needs. As a complex society with a variety of historical, geographic, cultural, technical, linguistic and religious features, Serbia especially needs to develop more and more this model of approaching the citizen. On the other hand, an opinion was also expressed that regionalization of Serbia would lead to its continued weakening. Consequently, further decentralization of State authorities could be carried out through establishing a regional autonomy conceived as the second-level local self-govrenment .

3. The Constiutional Court is not only "a guardian of Constitution"; it is also the guardian of Constitution and of all those who are under its provisions. Juridical population has to be ready to bear the burden of dignity of legal theory and professional practice and by that very fact the burden of the Constitution. There is no sense of speaking about dignity of Constitution where the Constitutional Court submits that dignity, expressly or tacitly, to the expressed intentions of protagonists of political power. In such circumstances both the Constitution and the Constitutional Court become the

instruments of actual ruling political will – internalor any oher – instead of being the highest-value and independent institutions whose duty is to protect the dignity.

4. In spite of introducing the party pluralism and extending the corpus of human rights and freedoms, not all barriers for their putting into effect have been eliminated. First of all, efficient protection of these rights and freedoms is still not a reality although this requirement should be one of the permanent priorities of State in the period to come.

5. Local self-government is one of the basic pillars of the rule of law and realization of the political right of citizens to decide, as the only ones, on matters of local importance. Although the structure and the territorial basis of local self-government in the Republic ofSerbia may be considered as quite satisfactory, there is still room for their improvement through raising the level of their efficiency and rationality. The problem of uneven size of municipalities and the distance separating their seats from the rest of the territory may be solved in the framewok of the existing system by applying the combination of several instruments, i.e.: introduction of electronic administration, simplification of administrative procedures, establishing town municipalities and local communities.

6. Control of constitutionality of acts of law-maker's inactivity is a sign of supremacy of constitution and intention to encompass an ever more larger number of acts and deeds. The efficient protection of constitution requires that its control includes also omissions of the law-maker and such duty implies a dynamic and active constitutional judiciary. In the situation of insufficiently developed politcial culture in our policial scene, the approach taken were strict measures in regulating the matter of responsibility in performing public functions; the form applied in this respect have been particular laws that provided clear legal sanctions. However, this is not a barrier to undertaking the enactment of a wide document which would represent a sort of directive, a code of conduct of members of parliament especially since this would have a positive unfluence on raising the elementary level of responsibility in performing their function.

7. In Bosnia and Herzegovina the Constitutional Court rather frequently and unjustifiedly, and outside of normative framework, extends the borders of its abstract normative control by deciding on cases relating to acts not specified in the Constitution. Applying such wide interpretation of constitutional provisions, this Court has excessively used the principle of positive judicial activism at the detriment of the opposite judicial tendency

– the principle of self-restraint. In such a way the Court in fact has changed the borders of its legitimity.

8. Constitutionalization as a tendency in the field of protection of human rights through highest national and international guarantees is not a goal in itself; rather, it should be the instrument of realization of the desirable degree of humanization characteristic of developed civilization. It may be espressed in material, i.e. normative, or procedural – judicial forms. The Constitutional Court of Serbia has conditionally constitutionalised the rights of those suffering damage as far as criminal proceedings are concerned. Quite exceptionally this was also done without conditions through indirect protection of basic substantive rights that inherently encompass also the right to obtain judicial protection within a reasonable time limit.

9. The balance between three branches of State power depends on the quality of constitutional provisions which are known by their simplicity, conciseness and advantage in terms of the long-term application; it also depends on the respect the holders of constitutional powers through their activity express for the constitution-maker. In a contrary case, the importance of the constitutional document could hardly overcome the modest influence usually connected to ordinary written word, even where it finds its place in an act possessing the highest normative value.

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GENERAL REPORT

Natural Law and Dignity

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President of the Association of the Mt. Kopaonik School
of Natural Law – *Universitas iuris naturalis Copaonici*

First Department

RIGHT TO LIFE

1. Life

1. **Right to life and the obligation to eliminate danger** – Đorđe Đorđević, LL.D., professor, Criminalistic and Police Academy, Belgrade.
2. **Mass crimes – multiple murders** – Jovan Ćirić, LL.D., Institute of Comparative Law, Belgrade.
3. Murder child in criminal law of the Republic of Serbia – Dragan Jovašević, LL.D., Professor, Faculty of Law University of Niš
4. Acts of terrorism in the current criminal legislation – Milan Milošević, LL.D., Professor, Faculty for Education of Executives, Novi Sad

5. Protection of the living in emergency and the role of the MOI of the RS – Željko Nikač, LL.D., Professor, Academy of Criminalistic and Police Studies, Belgrade
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7. Consideration police homicide ba guilt form – Zoran Kesić, LL.M., Academy of Criminalistic and Police Studies, Belgrade

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2. Health

1. Patient's rights and legal reforms – Hajrija Mujović-Zornić, LL.D., Senior Fellow Institute of Social Sciences Belgrade and Marko Milenković, LL.M., Research Assistant Institute of Social Sciences Belgrade
2. Adverse events and unwanted reactions during randomized controlled clinical trials on humans – Vesna Klajn-Tatić, LL.D., Senior Research Associate Institute of Social Sciences in Belgrade and Milan Marković, Junior Research Fellow Institute of Social Sciences in Belgrade, Doctoral candidate, University of Graz
3. New legal regulation of organ transplants in Republic of Croatia – Blanka Ivančić-Kačer., Assistant Professor, Maritime University of Split
4. Protection of vulnerable persons in international ethical guidelines for biomedical research invoving human subjects – Dragica Živojinović, LL.D., Professor, Faculty of Law, Kragujevac
5. The right to primary health care of children and youth in Slovenia – Tatjana Devjak, LL.D., Assoc. Prof. in the field of preschool pedagogy and Assist. Prof. in the field of theory of education, Faculty of Education of the University of Ljubljana and Srečko Devjak, LL.D., Full Prof. in the field of quantitative analyses in administration, Faculty of Administration of the University of Ljubljana
6. Recent developments in the proceedings for the involuntary hospitalizacion of persons with mental disorder– Nevena Petrušić, LL.D., Professor, Faculty of Law, University of Niš
7. Court ordered hospitalization – Dušica Palačković, LL.D., Professor, Faculty of Law, Kragujevac
8. Additional work of the health professionals – Marta Sjeničić, LL.D., Science Associate, Institute of Social Sciences, Belgrade and Sanja Zlatanović, Research Associate, Institute of Social Sciences, Belgrade
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10. Relationships between physicians – Ivana Stojanović, LL.D., Specialist Pathologist – citopathologist The Clinic of Pathology of the Clinical Center Niš

11. **Right - human dignity - health - law (Croatia) –** Mirko Bartulović, LL.D. Member of Jurists' Association of Serbia, Belgrade
12. **Some aspects of strategic management in public services in health care –** Mihajlo Rabrenović, LL.D., Assistant Professor, School of Business Studies, Megatrend University in Belgrade; a World Bank consultant in the field of health care management; Chairman of the Managing Board of Institute "Torlak" and Darko Bjelić, Head of Legal Affairs and Senior Advisor to the Minister of Health of the Republic of Serbia, Chairman of the Supervisory Board of Institute "Torlak"

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3. Ecology

1. Environment and green economy – Gordana Petković, LL.M., Senior Legal Adviser, Ministry of Energy, Development and Environmental Protection Republic of Serbia
2. Climate change and the concept of environmental threat – Slobodan Prošić, LL.M., Minister-Counsellor, Department for EU, Ministry of Foreign Affairs of Serbia
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4. Environmental quality labels under international European and law of the Republic of Serbia – Mirjana Drenovak-Ivanović, LL.D., Assistant Professor, Faculty of Law University of Belgrade
5. Law, environment and dignity – Vladan Joldžić, LL.M., Professor, Senior Research Associate, Institute for Criminological and Sociological Studies, Belgrade
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4. Sport

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3. Conclusion of employment contract between sports coaches and sports organisations – Nenad Đurđević, LL.D., Professor, Faculty of Law, Kragujevac
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6. Deficiencies in Serbian law as a reason for inefective implementation of ban on attending sporting events – Nataša Mrvić-Petrović, LL.D., Institute of Comparative Law, Belgrade
7. Persons with disabilities and their rights in sport – Jadranka Otašević, LL.M., University of Belgrade, Faculty of special education and rehabilitation and Dragana Kljajić, LL.M., High Medical school of professional studies
8. Role of sports and recreational activities in preventing criminal behavior – Slaviša Vuković, LL.D., Professor, Academy of Criminalistic and Police Studies, Belgrade, Zoran Đurđević, LL.D., Professor, Academy of Criminalistic and Police Studies, Belgrade and Nenad Radović, LL.D., Professor, Academy of Criminalistic and Police Studies, Belgrade
9. Implementation of international regulations on anti-doping in legislation of the Republic of Serbia – Dane Subošić, LL.D., Professor, Academy of Crminalistic and Police Studies and Dalibor Kekić, LL.D., Professor, Academy of Crminalistic and Police Studies
10. Legal nature of contract concluded between sports agents and athletes and sports clubs – Zoran Vuković, LL.M., Assistant, Faculty of Law, University of Kragujevac and Milan Ječmenić, student of Ph.D. studies, Faculty of Law, University of Kragujevac

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Second Department

RIGHT TO FREEDOM

1. Criminal-law and procedural protection of personality

1. Basic forms of violations of the right to a fair trial in the new Code of Criminal procedure of Serbia – Milan Škulić, LL.D., Professor, Faculty of Law, Belgrade
2. Normative presuppositions of a right to a fair trial in criminal matters – Vojislav Đurđić, LL.D., Professor, Faculty of Law, Niš

3. National strategy for the fight against corruption and novelties of the Criminal Code – de lege ferenca – Dragana Kolarić, LL.D., Professor, Academy of Criminalistic and Police Studies, Belgrade
4. Exclusionary rule and the fruit of the poisoned tree doctrine – Vanja Bajović, LL.M. Assistant, Faculty of Law, University of Belgrade
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9. Penological pragmatism in criminal law framework – Snežana Soković, LL.D., Professor, Faculty of Law University of Kragujevac
10. Engagement of hidden auditor and co-author and right respect for private life – Velimir Rakočević, LL.D., Professor, Faculty of Law, University of Montenegro, Podgorica

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2. Freedom of personality

1. Polish family life and family law cases before the European Court of Human Right – Piotr Fiedorczyk, LL.D., Faculty of Law, University of Białystok, Poland.
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4. Child's consent to medical treatment – Zoran Ponjavić, LL.D., Professor, Faculty of Law, Kragujevac
5. Criminal protection of non-majorita (underage) peope – Nataša Delić, LL.D., Professor, Faculty of Law, Belgrade
6. Perspective of protection of prenatal life on the european continet – Milan Palević, LL.D., Professor, Faculty of Law, Kragujevac and Dragan Dakić, Ph.D. Candidate, Faculty of Law, Kragujevac
7. Powers of the center for social work in the family legal matters – Nebojša Šarkić, LL.D., Professor, Faculty of Law, University Union, Belgrade and Milan Počuča, LL.D., Professor, Faculty of Law, University Business Academy, Novi Sad
8. The role of the guardian when deciding on medical treatment of the child – Olga Jović, LL.D., Professor, Faculty of Law University of Priština, Kosovska Mitrovica

9. Extent of contact between chidl and parent who do not exercise parental responsibility after parental separation – Uroš Novaković, Assistant, Faculty of Law, University of Belgrade
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Editor: Olga Cvejić-Jančić, LL.D., professor Faculty of European Legal and Political Studies, Novi Sad.

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3. Administrative-law protection of freedom

1. Improving the legislative process – Dobrosav Milovanović, LL.D., Professor, Faculty of Law University of Belgrade and Dragan Vasiljević, LL.D., Professor, Academy of Criminalistic and Police Studies, Belgrade
2. Right to reject benefit from amnesty as a mechanism to prevent perosnal discreditation caused by amnesty – Zehra Odyakmaz, LL.D., Dean of Faculty of Law, Lecturer of Administrative Law, Mevlâna (Rumî) University and Oğuzhan Güzel, Research Assistant of Administrative Law, Mevlâna (Rumî) University Faculty of Law
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Third Department

RIGHT TO PROPERTY

A. General questions – codification

1. Protection of human dignity in contractual law – Branko Morait, LL.D., Professor, Faculty of Law at the University of Banjaluka
2. Comparation of the didactic regulations system Medžela and Montenegrin General Property Code – Radomir Prelević, LL.D., Lawyer, Podgorica
3. What is uprighty at inception is also verified through time: 125 years of Bogisic's in the light of the contribution of Roman law – Vladimir Vuletić, LL.D., Assistant Professor, Faculty of Law, University of Belgrade
4. General enrichment action – Valentina Cvetković-Đorđević, LL.M:, Assistant, Faculty of Law, University of Belgrade
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6. **Codification of the inheritance law of the Republic of Macedonia** – Dejan Micković, LL.D., Professor and Angel Ristov, LL.D., Assistant Professor, Faculty of Law, Iustinianus Primus, Skopje

B. Ownership

1.a. Ownership and other property rights

1. Restitution of property to foundations – Vladimir Todorović, Agency for Restitution of the Republic of Serbia
2. Eurohypothec – Miroslav Lazić, LL.D., Professor and dean, Faculty of Law, University f Niš and Dragan Vujović, Secretary General, University of Novi Sad
3. Out of court enforcement hypothec – Srđan Stojilković, LL.M., Assistant Judge, Commercial Court, Požarevac
4. Die voraussetzungen fur die wirksame entstehung des besitzlosen registerpfandrechts im Serbischen recht – Aleksandra Vučić-Milovanović, LL.D., Ass. Professorin, Universität Wien, Rechtswissenschaftliche Fakultät, Institut für Europarecht, Internationales Recht und Rechtsvergleichung Abteilung Rechtsvergleichung, Wien
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7. The cadastre principle of public – Mirjana Vulić, Assistant Director, Public Corporation "Construction Corporation of The City of Kragujevac", Kragujevac

1.b. Ownership and inheritance

1. Some aspects of testamentary capacity – Tamara Đurđić, Assistant, Faculty of Law, University of Kragujevac
2. Construction of will – Aleksandra Pavićević, Teaching Assistant, Faculty of Law University of Kragujevac
3. Is there a place for so-called improper lifetime maintenance agreement in the future civil law codification – Novak Krstić, Assistant, Faculty of Law, University of Niš
4. Institution of succession in Dušan's legislation – Nataša Stojanović, LL.D., Professor, Faculty of Law, University of Niš

C. Contract and Liability for Damage

1. Fault as basis of torg liability for medical malpractice – Marija Karaninikić-Mirić, LL.D., Assistant Professor, Faculty of Law University of Belgrade
2. The concept of medical error and criminal responsibility – Igor Vuković, LL.D., Assistant Professor, Faculty of Law University of Belgrade
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5. On the effect of contract (unilateral) termination – Katarina Dolović, Assistant, Faculty of Law, University of Belgrade
6. The notion of parents in the domain of civil responsability – Snežana Dabić, Assistant, Faculty of Law, University of Belgrade
7. Legal consequences of usurious contract – Marko Perović, Assistant, Faculty of Law, University of Belgrade
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1. The gray economy and tax system – Zoran Isailović, LL.D., Professor, Faculty of Law University of Priština, Kosovska Mitrovica

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3. Commercial Companies

1. Multi-professionalism - a concept that has a future – Dragana Knežić-Popović, LL.D., Professor, Faculty of Law, University Union, Belgrade
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5. Long-term incentives as the part of senior executives compensation packages – Nada Todorović, LL.D., Professor, Faculty of Law, University of Kragujevac and Jasmina Labudović-Stanković, LL.D., Assistant Professor, Faculty of Law University of Kragujevac
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5. Insurance

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2. Insurance of patients legal protection expenses – Jovan Slavnić, LL.D., Professor, University in Novi Sad
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Editors: Predrag Šulejić, LL.D., member of the Association of Lawyers of Serbia; Jovan Slavnić, LL.D., president of the Association for Insurance Law of Serbia.

6. Labor Relations

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2. Mobing at work and in labor relations – Osman Kadriu, LL.D., Professor, Faculty of Organizational Sciences, Skopje
3. Freedom of movement of workers in European Union – Biljana Chavkoska, Assistant Professor, FON University, Skopje.
4. Right to earnings and human dignity – Slobodanka Kovačević-Perić, LL.D., Assistant Professor, Faculty of Law, University of Priština, Kosovska Mitrovica
5. Non-discrimination of persons with disabilitiea – Lazar Jovevski, LL.D., Assistant Professor, Faculty of Law "Iustinianus Primus", Skopje, R. Macedonia
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Editor: Branko Lubarda, LL.D., professor at the Faculty of Law, Belgrade.

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7. Banks and banking affairs

1. The role of bank credit policy in terms of overcoming economic and debt crisis – Stojan Dabić, LL.D., Professor, International center for financial market development
2. Legal status of the European central bank – Srđan Golubović, LL.D., Professor, Faculty of law, University of Niš and Nataša Golubović, LL.D., Professor, Faculty of economics, University of Niš
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4. Coincidence of regulatory and macroeconomic causes of the crisis in the mortgage market and experience acquired to overcome the crisis – Gordana Juhas, LL.D., Secretary to the Privredna banka Beograd, a.d.
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Editor: Prof. Radovan Vukadinović, LL.D., director of the Center for EU law, Kargujevac.

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Mt. KOPAONIK SCHOOL OF NATURAL LAW

27th Session

Hereby announces to legal and other scholars and professionals the

OPEN COMPETITION

For sending and publishing of written reports for the 26th annual Conference of participants to the Kopaonik School to be held from December 13th through 17th, 2014 under the permanent theme *Justice and Law*. The general theme for this Conference is

LAW AND GOOD FAITH PRINCIPLE

Within the frame of the general theme, in conformity with the Hexagon of the Kopaonik School of Natural Law the candidates may choose among the areas in the indicated in this call they want to compete in, while specifying their specific topic. The topic chosen in this way may be elaborated from the standpoint of one or several disciplines.

Priority in accepting the reports for publication will be given to authors who have directly exposed their papers at the previous Kopaonik School sessions. A number of reports shall be published after the call by the Organizer. The Decision on accepting and publishing the reports shall be passed b the Editorial Board. The number of reports to be published shall be determined depending on financial possibilities.

On the occasion of the 27th Session a number of authors will be granted special acknowledgment in the form of charter or certificate.

Requirements necessary for accepting the papers for consideration by the Editorial Board:

Size of report: up to 16 pages;

Font: Times new Roman, size 12, 1.5 line spacing;

Summary: in English or other world language at the and of the paper, on half a page, i.e. 14 lines spaced as indicated above;

Footnotes: at the bottom of page, font as above, size 10, without space;

The reports must include he name and surname of the author, the profession and function, full home address, and contact phone, fax and/or e-mail;

The deadline for submitting the report: August 25, 2014, while for foreign authors – 25 September 2014. Sending the reports before the indicated deadline shall be particularly appreciated.

The way of submitting: reports shall be forwarded both in printed form and by electronic communication, CD. Mailing address: Association of Jurists of Serbia, 74, Krunska Street, 11000 Belgrade, where repors may be delivered directly also, phones: 00 381 11 244–3024, e-mail: upj@Eunet.rs

A paper failing to meet any of the above requirement shall not be considered for admittance.

Areas available for competition are indicated in the traditional Hexagon of the Kopaonik School of Natural Law, i.e.:

I *Right to Life* (life, health, ecology, sport);

II *Right to Freedom* (freedom of thought and expression of opinion, freedom of personality, freedom of movement, freedom of religion, criminal-law and procedural protection of personality);

III *Right to Property* (property, codification, ownership and other property rights, property and inheritance, denationalization, privatization, taxes and taxation policy, immovable property, contract and tort liability, commercial companies, international commercial contracts, arbitration, banks and banking transactions, insurance, labor relations);

IV *Right to Intellectual Creation* (copyright, industrial property right, right to participate in cultural life);

V *Right to Justice* (general notions, court in connection with justice, independence of judiciary, constitutional judiciary, court practice and the role of courts, international and domestic arbitration, international relations and justice, European Union law, legal protection of refugees and displaced persons);

VI *Right to a State Ruled by Law* (rule of law theory, rule of law and the lack of the rule of law in practice).

Participants to the Competition may obtain information about the results around 20th October 2014.