

# Conference: Private International Law in Family Matters

The international conference titled “Family Relations Having an International Element in the Case Law of the States Successors to the Former SFRY and in the European Union” (*Obiteljskopравни odnosi s međunarodnim obilježjem u sudskoj praksi država bivše SFRJ i Europskoj uniji*) was held on 26 and 27 October 2006 in Zagreb, Croatia. The conference was dedicated to various private international law issues in the field of family law, but had a particular purpose to enable comparison of the case law in this field which is generally subject to the same conflict rules in all the successor states of the former Yugoslavia, with some exceptions in Slovenian law as a result of the adoption of the new Private International Law Act in 1999, and of course membership in the EU. Therefore, the first part of the conference consisted of national reports:

- *Croatian National Report*: Prof. dr. sc. Hrvoje Sikirić (Faculty of Law, University of Zagreb)
- *Serbian National Report*: Prof. dr. sc. Bernadet Bordaš (Faculty of Law, University of Novi Sad)
- *Slovenian National Report*: Doc. dr. sc. Suzana Kraljić (Faculty of Law, University of Maribor)
- *Interlocal Family Conflict of Laws in Bosnia and Herzegovina*: Prof. dr. sc. Valerija Šaula (Faculty of Law, University Banja Luka)

The next part of the conference was dedicated to the Hague Conventions in the area of family law, in particular the following were discussed:

- *The 1993 Hague Convention on Adoption*: Doc. dr. sc. Vjekoslav Puljko (Faculty of Law, University of Osijek)
- *The Hague Conventions on Maintenance*: Prof. dr. sc. Vesna Tomljenović (Faculty of Law, University of Rijeka)
- *The Law Applicable to Maintenance of Children*: Mr. sc. Mirela Župan (Faculty of Law, University of Osijek)

The third set of presentations dealt with some property-related aspects of family relations:

- *Law Applicable to Property Relations in Marriage and Non-Marital Cohabitation*, Mr. sc. Ivana Kunda (Faculty of Law, University of Rijeka)
- *Law Applicable to Marital Agreement*: Mr. sc. Irena Majstorovi? (Faculty of Law, University of Zagreb)
- *Engagements in Private International Law*: Prof. dr. sc. Vilim Bou?ek (Faculty of Law, University of Zagreb)

Although former presentations often made references to Community legislation *de lege lata* and *de lege ferenda*, the last section was particularly devoted to two recent developments:

- *New Proposal on the Brussels II bis Regulation*: Prof. dr. sc. Vesna Lazi? (Faculty of Law, University of Utrecht)
- *Law Applicable to Divorce*: Iva Perin, dipl. iur. (Faculty of Law, University of Zagreb)

The conference discussion yielded some general conclusions, among which the non-application by the courts of conflict rules seemed to have caught the attention of most participants. National reporters as well as other speakers identified the problem in the lack of reasons concerning the court's jurisdiction and governing law in international cases. While the conference participants unanimously agreed that the non-application of conflict of law and conflict of jurisdiction rules is a chronic disease in the entire region, its cause was perceived differently. Prof. Gašo Kneževi? attributed this phenomenon to the complexity of the private international law, Prof. Željko Mati? believed that the reason laid in the lack of awareness and, as Prof. Batiffol noted long ago, was an instinctive rejection of the foreign law, Prof. Vesna Lazi? found further reason to exist in the lengthy and complex process of ascertaining the content of foreign law to what Prof. Vesna Tomljenovi? subscribed and added that the attorneys at law sometimes make the choice when commencing the proceedings not to raise the issues of international jurisdiction and applicable law in order to avoid over-complex proceedings. In the represented legal systems of the South-East European region the polarization is thus more than obvious: on the one hand, the scholarly interpretations ascribe to the conflict rules the strength of *ius cogens*, and on the other hand, the courts are practicing the facultative application of the conflict rules. The discussion recognised the need to resolve this situation. Proposed means to that effect might include intensified education for practitioners or, as Prof. Tibor Varady proposed, concentration of jurisdiction in

certain matters. One interesting observation was made by Assist. Prof. Davor Babi? who envisioned the emergence of *Matrimonium Europea* similarly to the creation of *Societas Europea*.

This was the fourth time in a row that private international law scholars gathered to talk about contemporary developments in the region and the EU, making this international conference almost a traditional one. The first one, held in 2003, was hosted by the University of Niš (Serbia), the second by the University of Maribor (Slovenia) and the third by the University of Belgrade (Serbia). It is noteworthy that the 2006 conference was organized by the Faculty of Law of the University of Zagreb in the year when this Faculty is celebrating its 230<sup>th</sup> anniversary.