

Three Croatian Articles on Conflict of Laws: Contracts and Companies

The 2006 special edition of the Collected Papers of Zagreb Law Faculty, which is dedicated to the 70th birthday of professor at the University of Zagreb Faculty of Law and member of the Croatian Academy of Arts and Sciences Jakša Barbi?, captures also the attention of the conflict lawyers, particularly due to three articles appearing there.

An article by professor emeritus Krešimir Sajko deals with the issues of contract conflict of laws *de lege lata* and *de lege ferenda*. The author compares the rules of the Rome Convention on the law applicable to international contractual obligation to the rules contained in the Proposal on the Rome I Regulation. Further comparison is made to the present Croatian rules in the field and the ones put forward by the group of Zagreb scholars. Professor Sajko concludes its paper by saying that, although there is no Croatian obligation to harmonize its conflict of law with the European rules, these rules should be adopted before Croatia becomes a Member State.

Another paper, written by professor Hrvoje Sikiri?, also covers contract conflict of laws but focuses specifically to the questions arising out of e-commerce. The central part of the article is dedicated to comparative analysis of the European and Croatian rules determining the law applicable to contracts negotiated, concluded and/or performed by electronic means. The conclusion defended here is that technical aspects of electronic commerce do not have sufficient bearing on the conflict principles to trigger the change in the subsidiary connecting factor that is applicable also in the non-electronic environment. In other words, the law of the country where the service provider (the party performing the characteristic obligation) is located should regulate the electronic aspects of the contract.

The third article relevant for this report is concerned with the freedom of movement of companies under the *acquis* rules. The author, docent Davor Babi?, attempts to answer the question whether the mobility of the companies in the EU enables the regulatory competition among Member States. With that goal in mind, the author first examines the rules of the Community primary legal sources on the freedom of establishment. Further discussed is the ECJ practice in regard

to the freedom to choose the applicable company law when establishing a company and afterwards, when the company is already established, as well as its limitations in the national laws.