

4th Balkan Conference
Conference Proceedings:
**Personal Name in Internal Law and
Private International Law**

14th April 2016
Faculty of Law, University of Niš

edited by
Mirko Živković

Niš, 2016

4th Balkan Conference
Conference Proceedings

Personal Name in Internal Law and Private International Law

Publisher

Faculty of Law, University of Niš

For the Publisher

Prof. dr Saša Knežević, Dean

Editor-in-Chief

Prof. dr Mirko Živković

Scientific Committee

Dr. Spyridon Vrellis, Professor Emeritus of Law at the University of Athens;
Dr.h.c. (ELTE University, Budapest); former Director of the Hellenic
Institute of International and Foreign Law, Athens, Greece

Dr. Walter Pintens, Professor Emeritus of Law at the University of
Leuven, Belgium; Honorary Professor at the European Institute
of Saarland University in Saarbrücken, Germany

Dr. Mirko Živković, Full Professor at the Faculty of Law University of Niš, Serbia

Dr. Toni Deskoski, Full Professor at the Faculty of Law "Iustinianus Primus",
University "Ss. Cyril and Methodius" in Skopje, Macedonia

Dr. Zeynep Derya Tarman, Associate Professor at the Faculty
of Law, Koç University in Istanbul, Turkey

Reviewers

Dr. Rajko Knez, Full Professor at the Faculty of Law, University of Maribor, Slovenia

Dr. Mirela Župan, Associate Professor at the Faculty of Law,
University Josip Juraj Strossmayer in Osijek, Croatia

Desktop publishing and Front Cover Design

Nenad Milošević

Print: Medivest, Niš

Circulation: 100

ISBN 978-86-7148-228-8

PUBLICATION CENTRE, Faculty of Law, University of Niš
Trg kralja Aleksandra 11, Niš 18000, Serbia
Telephone: +381 18 500 201,
Website: <http://www.prafak.ni.ac.rs>

4th Balkan Conference:

Personal Name in Internal Law and Private International Law

Introductory Note

I am pleased to welcome you to the 4th Balkan Conference on Family Law and Private International Law. Today, we have gathered at the Faculty of Law, University of Niš, to discuss issues related to “Personal Name in Internal Family Law and Private International Law”. In this regard, I take this opportunity to say a few words about the genesis of the Balkan Conference and the topic of the 4th Balkan Conference.

First of all, I would like to note that the idea for organizing the Balkan Conference on family law issues came from Professor Spyridon Vrellis, who certainly deserves our greatest appreciation. The first Balkan Conference was held in Athens in May 2010, the second one in Sofia in October 2010, and the third one in Istanbul in 2013. I personally participated in the second and third conference. The topic of the Sofia conference was Adoption in Family Law and Private International Law, and the topic of the Istanbul conference was Maintenance obligations in Family Law and Private International Law. On both occasions, I noticed the interesting concept of the conferences, based on comparative presentation of both substantive internal law and private international law within the same topic. In fact, the idea was that each country should provide a complete insight into the current situation, particularly in terms of matters with and without foreign elements. All the papers were later published in the *Revue Hellenique de droit international*, which provides a high quality comparative overview of the current state of affairs in the specific area of family law.

This 4th Balkan Conference follows the same concept, which will hopefully become a tradition. Thus, by accepting to organize this conference, we wanted to support two very good ideas: first, to ensure the continuity of the Balkan Conference and, second, to uphold its well-established concept.

In choosing the topic of this 4th Balkan Conference, we have been driven by belief that the issue of personal name is currently one of the hot topics of Private International Law. This is clearly substantiated by the efforts of the European Union to Draft Regulation on the Law Applicable to a Personal Name. We have

been greatly honoured to welcome Professor Walter Pintens, one of the authors of this Draft regulation, who has kindly accepted our invitation to participate in the 4th Balkan Conference at the Law Faculty in Niš. The conference dedicated to the Draft Regulation was held in Marburg (Germany) five months ago (on 27 November 2015). Moreover, this issue is of considerable importance for Serbia given that the current Serbian PIL Act (1982) does not include an explicit provision on personal name. For this reason, in the course of drafting the new 2014 Serbian PIL Act, we have exerted a lot of effort in an attempt to find modern solutions on this matter (Arts. 57-62), in cooperation with and valuable support of the Ministry of Labour, Employment, Veteran and Social Affairs.

Therefore, I am pleased that we now have the opportunity to discuss this very important topic which has been in the focus of Private International Law experts' attention in recent years. I am convinced that the results of our presentations and discussions would be highly useful, and that they will serve as an inspiration for amending the existing legislation and harmonizing Private International Law rules on this matter.

On this occasion, I wish to welcome all the participants of this 4th Balkan Conference, all colleagues from the Faculty of Law in Nis who have joined us, and our students who attend the course in Private International Law. In particular, I would like to thank the Management of the Faculty of Law, University of Niš as well as the Ministry of Education, Science and Technological Development for assistance and support in organizing this Conference.

Dr. Mirko Živković,

Professor of Private International Law,

Faculty of Law, University of Niš

TABLE OF CONTENTS

<i>Introductory Note</i>	3
Spyridon Vrellis <i>Garcia Avello: 13 years after Pretexts and Arbitrariness</i>	7
Walter Pintens, Anatol Dutta <i>Unification of the Law Applicable to Names, An academic proposal</i>	21
Toni Deskoski, Vangel Dokovski <i>Whose Family Name upon Birth and Marriage?</i> <i>Macedonian and European PIL Perspectives</i>	33
Zeynep Derya Tarman, Başak Başoğlu <i>Surname and the Law Applicable to Surname under Turkish Law</i>	47
Ines Medić <i>Right to Personal Name and Croatian legal framework -</i> <i>de lege lata and de lege ferenda</i>	71
Sanja Marjanović <i>Personal Name in Serbian Family Law and Private International Law</i> <i>de lege lata and de lege ferenda</i>	91
Aida Gugu, Eniana Qarri <i>Personal Name under Albanian Law</i>	113
Dragana Damjanović <i>Personal Name: the Gap in the PIL Acts of Republic of Srpska</i> <i>and Federation of Bosnia and Herzegovina</i>	129
Vassiliki Koumpli, Alexandra Douga <i>Personal Name and Greek Law</i>	145