

CASE MANAGEMENT IN CIVIL LITIGATION

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CASE MANAGEMENT IN CROATIA

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1. Origins and history of civil procedure in Croatia¹

In the second half of the nineteenth century Croatia developed as an autonomous constituent part of the Habsburg Monarchy (later: Austria-Hungary). This led to a large extent to the reception of legislative models from other areas of the then complex community of states, e.g., of laws enacted in Vienna. But that process did not develop harmoniously, in full, or without delays.² Some of the key pieces of procedural legislation (or the commentaries on them) were adopted in Croatia after they had already been superseded in Austria.³

For example, the Temporary Rules of Civil Procedure for Hungary, Croatia, Slavonia, Serbian Vojvodina and Tamiški Banat were adopted in Croatia in 1852, almost seventy years after the enactment of their Austrian model and principal source of inspiration, the General Rules of Court Procedure (*Allgemeine Gerichtsordnung*) of 1781. The major commentary on the Temporary Rules of Civil Procedure for Hungary etc. was published in Croatia in 1892,⁴ only a few years before a completely different procedural model – the *Zivilprozessordnung* of Franz Klein – was adopted in Austria.

The same Austrian *Zivilprozessordnung* of 1895 was accepted in Croatia thirty years later, during the process of unification of procedural law that took place in Yugoslavia in 1929. The standard commentary on the Yugoslav Code of Civil Procedure (which was practically a literal translation of the Austrian *Zivilprozessordnung*) was a translated Austrian commentary.⁵ It was published in the Kingdom of Yugoslavia in 1935, almost forty years after the first publication of this commentary in Austria. Ominously, it was also the year in which Georg Neumann, its author, died.

As a consequence, the model of civil proceedings conceived by its creator, Franz Klein, in Austria – a model of quick, efficient, simple and concentrated proceedings, in which an activist judge holds a public hearing and then pronounces his judgment

¹ The historic part of this text relies on Uzelac 2004.

² For the delayed reception of foreign models in the 'periphery', see Čepulo 2000, 889-920.

³ Some useful, although very short and overly simplified, remarks on the reception of Austrian law in Croatia can be found in Jelinek 1991, 72-74, 85-86. See also Uzelac 2002b, 77-79.

⁴ See Rušnov-Šilović 1892.

⁵ Najman 1935. This commentary was largely a translation of G. Neumanns' *Komentar zum österreichischen Zivilprozessordnung*.

immediately⁶ – never became a complete reality in the territory of Croatia (and the wider region).

Delays in the reception of the original Austrian model and the prevailing practice of earlier written, formal and secret proceedings seemingly led to a specific mixture of forms that were not fully in keeping with the original Austrian models. This development was intensified by certain political facts – first, the fact that the Austrian *Zivilprozessordnung* and its *Jurisdiktionsnorm* were accepted only ten years after Croatia had broken free from all governmental and legal ties to Austria and, second, the fact that the unification of civil procedural law in the Kingdom of Yugoslavia took place during the dictatorship of King Alexander of the Serbian royal house of Karadorđević. So, although legal doctrine was changed and legal teaching adjusted to the new procedural principles, the law in action continued its own autonomous way, developing a *stylus curiae* that still contained a great degree of the use of writing, seclusion and indirectness.

Other circumstances also contributed to these developments: The law on civil proceedings of 1929 was introduced barely eleven years before World War II. In addition, the revolution left its mark on the courts and their procedures. Although procedural legislation in the Socialist Federal Republic of Yugoslavia continued to follow earlier models, it was adjusted in some respects. The inquisitorial elements and judicial activism of the Austrian procedural legislation were not any more only a warrant for concentration, publicity, directness and efficiency but also became an instrument of paternalistic control with the primary purpose of protecting the state from party autonomy and the uncontrolled actions of civil society. However, it was impossible to remove the party's initiative in civil proceedings completely, so civil procedural law continued to develop partly on the foundations of classical procedural patterns.⁷ However, a consequence of the suspect 'civil' and 'private' nature of proceedings was the marginalization of court proceedings. They were reduced to the level of a second rate mechanism of social regulation, aimed at resolving 'secondary' problems only, disputes related to the relics of private property in a society in which a collectivist doctrine otherwise dominated.

As a consequence, the speed and efficiency of judicial proceedings were not high political priorities until the changes in the 1990s. Quite the opposite, the relative length of proceedings and the high level of formalism were used in some cases as a tool to protect judges (who did not enjoy full guarantees of independence and who were subject to re-election by political bodies) from political persecution and the rage of the ruling elites.

On the other hand, the previous, already generous system of pleading that enabled the

⁶ For Klein's reforms and their meaning today, see Sprung 2002.

⁷ For the development of civil procedural law in Croatia, see e.g. Triva/Belajec/Dika 1986, § 1-5.

change of claims and issues in the course of the proceedings and the reconsideration of first-instance court rulings, was further loosened. The party dissatisfied by the outcome of the proceedings had many opportunities to bring about a retrial through appeal and other legal remedies. On the basis of the Socialist understanding of the 'principle of material truth', virtually unlimited possibilities of introducing new facts and evidence were established at first instance and appellate proceedings. In addition, there was an established practice of the appellate courts limiting themselves to revoking a decision and sending the case back for retrial. Theoretical justification was found in the principle of immediacy (direct, personal evaluation of evidence) although very little of this principle remained in practice. Possibilities of state intervention through so-called 'requests for protection of legality' (*zahtjev za zaštitu zakonitosti*) by the State Attorney were introduced into civil proceedings. All this, taken together, served as a specific shock absorber for political blows against justice. But, on the other hand it surely did not contribute to the authority of judicial decisions and the firmness of court decisions, even with respect to those that were formally considered to be *res iudicata*.

Such a state of affairs certainly did not raise the awareness of judges of the need for the efficient management of proceedings and to ensure a reasonable duration for pre-trial, trial and post-trial routines. This was reflected in the expectations of candidates for judicial service, the recruitment and the selection of judges. Through several decades of Socialist rule, the judicial profession was considered by graduate lawyers as a relatively poorly paid and bureaucratic branch of the civil service. Its advantages were seen in providing a relatively non-demanding job, with no pressure to do the work urgently and a lot of free time.

Thus, the typical distribution of jobs in families of lawyers was the following: the spouse who took care of the children went into judicial employment, while the other, bread-winning spouse supported the family by practising law as a private attorney. Even if this typical perception has an anecdotal character, the numbers are incontestable: in the ranks of judges of the courts of first instance at the beginning of the 1990s in Croatia, women were significantly more numerous than men.⁸

When Croatia left the Yugoslav Federation in 1991, through a painful process marked by war and instability, there was a radical turn away from the collectivist doctrines. The doctrines of Marxism, of 'social property' and self-management were abandoned, and the prevalence of private ownership was re-established. That was a completely new situation for the national judiciary. In the first place, there were much greater expectations, judges had much greater responsibility and much more important tasks. Yet, some things did not change. For example, the attitude of politicians towards the

⁸ According to statistical data for 1998, about 65 per cent of first instance judges were women. However, at the same time, they constituted only about 40 per cent of the judges of the Supreme Court. These ratios remained the same until today: at the end of 2009, out of 1886 judges, 1,251 were women, which makes exactly two thirds (66 per cent).

judiciary remained unchanged and – especially under war conditions – it was expected that judges would serve the interests of the political regime. For a period of six to seven years, the newly introduced constitutional principles of the independence of justice, tenured appointments and the separation of powers were not applied in practice.

Many judges were appointed and dismissed in that period, again not according to objective and well-defined criteria of competence and responsibility, but according to their closeness to the centres of power, and political and ethnic affiliation. A prolonged period of uncertainty and political purges led to the departure of the better and more proficient judges to other private legal work where they expected to find more peace, higher incomes and a greater level of personal and professional freedom.

On the other hand, those judges who did not have a choice, or were ready to live under conditions that were considered by others to be unbearable, remained in the system. Newly appointed judges – there were many of them, in some courts over two thirds – were mostly young and without experience. Not infrequently they were appointed according to criteria of political and ethnic ‘appropriateness’, or under the influence of an unavoidable dose of nepotism, a common characteristic of southern European countries.⁹

The efficiency of the justice system (which has in any case never really embraced the rule ‘justice delayed is justice denied’) as a consequence radically changed for the worse in the 1990s and later. General indicators of the backlog in courts demonstrate that the number of unresolved cases almost tripled between 1990 and 2000.¹⁰

2. Current procedural structures: distribution of powers between judge and the parties

The judicial branch of government in Croatia consists of various courts. Civil litigation is being handled by the courts of general jurisdiction, but for commercial cases the commercial courts, as specialized courts, have *in rem* jurisdiction. There are also the newly established administrative courts that decide on administrative suits, and misdemeanor courts (competent for petty crimes cases).

The courts of general jurisdiction in civil matters are the municipal courts (as courts of first instance) and the county courts (operating mainly as appellate courts, with a very few types of cases which they decide in the first instance). The commercial courts also have two layers – commercial courts as the courts of first instance and the High Commercial Court as the appeals court in commercial matters. There are currently about 67 municipal courts, 21 county courts and 13 commercial courts. At the top of judicial hierarchy, there is the Supreme Court. The Supreme Court is in civil

⁹ For this development, see Uzelac 2000; see also Uzelac 1995. 413-434.

¹⁰ See *supra*.

cases competent to decide in the third and last instance, upon the remedy called *revizija* (recourse).

The total number of judges in Croatia is 1924 (situation per 31 December 2011). Except in the misdemeanor courts, there are also 518 judicial counsels, who generally work in the same manner as judges in smaller cases.¹¹ Previously, most of the new judges were recruited among the judicial counsels, but since the establishment of the new School for Magistrates, the system is changing (after 2013, the judicial appointments will be done exclusively through the School for Magistrates).

In procedural theory,¹² the relationship between the powers of the judge and the powers of the parties is often discussed. The relevant procedural principles in this discussion can be grouped in two pairs: first, the principle of party disposition and the 'official' principle; and second, the adversarial and the inquisitorial principles. The first pair of principles concerns the initiative for the commencement and further development of the proceedings as well as their completion, while the second pair concerns the initiative for the collection of material relevant for decision making such as facts and evidence (see *infra*).

As to the principle of party disposition, it denotes that the parties are principally responsible for commencement of the proceedings, as well as for the determination of the subject-matter of the proceedings. Civil litigation is commenced by the submission of a statement of claim to the competent court. Another important moment is the communication of the statement of claim to the respondent – it is the moment from which the civil suit is pending (*lis pendens* or litispence). The service of the statement of claim is effected under the supervision of the court, mainly by means of postal delivery. The statement of claim should also indicate the facts upon which the claims are grounded, and specify the relief sought. The court is bound by the claims raised in the proceedings, and the judge may not award a relief that was not sought, or adjudicate more than what has been requested by the claimant (*nemo iudex ultra et extra petita partium*).

On the other hand, the development of a civil suit, the setting up of the procedural calendar, the terms for hearings and the ordering of procedural steps should all be fixed by the court, at least in theory. However, control of judicial decisions will not take place *ex officio*, and appeals and other remedies may only be raised by the dissatisfied party. The court is also responsible for finalization of the proceedings, and is bound to decide on the merits when the case has been sufficiently discussed among the parties. The parties are, however, free to settle the case, or end it by waiver or admittance of the claim (in the latter cases, the court will issue a 'dispositive

¹¹ Statistical information (*Statistički pregled*) of the Ministry of Justice for 2011, see <http://www.mprh.hr> (last consulted June 2012). See also the web pages of the Supreme Court, <http://www.vsrh.hr> (last consulted March 2012).

¹² All the following explanations of the Croatian civil procedure are derived from the current edition of the standard textbook of civil procedure, Triva/Dika 2006.

judgment' – a judgment based on party dispositions).

In standard doctrine of civil procedure, it is often argued that the powers to collect substantive material needed for decision-making are evenly distributed between the judge and the parties. It is also argued that the civil procedure is more founded on the adversarial principle, which is in regard to various matters modified by judicial inquisitorial powers and duties.

The scholarly definitions of the inquisitorial and adversarial principles in civil procedure relate to the level of powers regarding the collection of procedural material (Germ. *Prozeßstoff*). The procedural material consists of everything needed to make a decision on the merits. The procedural material is composed of (1) facts (factual allegations), (2) evidence, (3) legal rules and (4) non-normative rules (rules of experience, empirical knowledge).

(1) *Facts*: As the general rule, introduction of facts is governed by the adversarial principle. The judge should limit examination to the facts that are alleged by the parties. Furthermore, the judge should not take any evidence relating to facts that are not in controversy (i.e. facts admitted by the other party). However, there are two types of exceptions:

(a) Particular types of cases (e.g. family law cases) are expressly defined as cases in which party dispositions do not have binding effect on the judges, including factual allegations, which should in principle be supported by the taking of evidence. In these types of cases, the inquisitorial powers of judges are dominant.

(b) Even in the regular civil (and commercial) cases, the judges are authorized to find facts not alleged by the parties (as well as facts admitted in the procedure) if they suspect that parties attempt to reach effects that are contrary to mandatory rules of law (e.g. tax fraud, violation of third parties' rights) or to public morality.

(2) *Evidence*: The introduction of evidence is also governed by the adversarial principle, in the same way as the definition of the facts that are to be found in the procedure. The judge may, in principle, only order the taking of evidence requested by the parties. However, in cases where the judge may establish the facts *ex officio* (see above), he/she may also order the taking of evidence *ex officio*, in particular if such evidence is needed for facts that are investigated due to a decision of the court.

(3) *Law*: The legal pleadings of the parties are not binding for the court. The judge has the duty to apply the relevant legal provisions, irrespective whether they were invoked by any of the parties. The rule *iura novit curia* applies to all domestic legal sources, and even to foreign law. However, the parties may help the judge by submitting duly authenticated foreign documents which prove foreign law. This is, however, not regarded as the taking of evidence, as foreign law is treated as law, not as fact. Insofar, legal matters are entirely under the inquisitorial powers of the judge.

(4) *Rules of experience*: Mutatis mutandis, the same rules applicable to legal rules are also applied to rules of experience. The judge has to establish them *ex officio*, assisted – if needed – by experts appointed by the court. The parties may propose the experts to be appointed, but the appointment itself is always done by the court. Experts act as neutrals (there are no party appointed experts). In this respect, again, the inquisitorial principle is dominant.

The actual practice in civil procedure is somewhat different from the theoretical scheme outlined above. Especially, the self-understanding of the judiciary and legal scholars regarding the adversarial nature of civil proceedings may be questioned in light of the considerable powers exercised by the judges in the course of the proceedings (or, better, in the light of the considerable passivity of the parties and their lawyers). It is true that the court is in principle limited to the facts and evidence alleged by the parties (*iudex iudicare debet secundum allegata et probata partium*). Yet, the active way of handling the procedure (in which judges should not only assist the legally illiterate unrepresented parties, but also explain their initial ideas and perceptions in regard to the substance of the dispute – *richterliche Aufklärungspflicht*) enables judges to suggest which supplementary allegations parties should make. In case law, there are reported cases which even suggest that higher courts regarded the absence of such suggestions as procedural errors which led to the annulment of the decisions.

The extra-inquisitorial powers of the judge are in practice particularly visible in the process of the taking of evidence. Formally, the judge should be limited to the evidentiary proposals of the parties. In practice, however, this is more or less the case, but the active role of the parties is often limited to a mere proposal of the document that has to be procured, or the witness or expert that has to be heard. The search for the individual items of evidence is often left to the court. As the judges are often reluctant to apply the burden of proof rules and continue to wait for evidence to be supplied (or the witnesses to appear), the search for evidence is prolonging the procedure and contributing to the length of the proceedings.

Another inquisitorial aspect is in the style of conducting oral hearings. The judges definitely dominate the courtroom, dictating the protocol, questioning all participants in the process, conducting the hearing of the witnesses and experts etc. In many oral hearings the parties and their lawyers act in a rather passive way, sometimes limiting their interventions to a pure assertion of their presence in the courtroom. The burdens of going forward and the burden of proof are thus, even in pure civil cases, in practice to a great extent transferred to the judge. However, the passivity of the parties is often triggering a less-than-active behavior of the judges, in particular in respect to case management. The tolerance for late evidentiary proposals is considerable, as well as the tolerance for the non-appearance of witnesses, and even the parties themselves. Altogether, this leads to many adjournments and postponements, so that the theoretical ideals of a concentrated trial and the principle of immediacy is very rarely

realized in practice.

3. Recent reforms in Croatian civil procedure

3.1 Reforms of the Code of Civil Procedure

The awareness about the serious systemic deficiencies of the civil procedure (delays, backlogs, inefficiencies), as well as the emerging interest of the public media in the problems of justice, and a series of judicial scandals, stimulated the reform of procedural legislation. Reform of the judicial system was among the pre-election promises of the coalition of parties which won the elections at the beginning of 2000. There were indeed many legislative and other projects from 2000 onwards concerned with reform of the judicial system. However, assessments of what was achieved were rather different. Many critics reproached the government for the lack of concrete effects derived from the changes, and pointed to the further accumulation of cases and the lack of clear concepts and strategies for the judicial sector. Others objected to every governmental action in this area as a violation of the constitutional principle of the independence of the judiciary. The debates about what needs to be changed and what should be the fundamental features of judicial reform are not even close to an end at the time of writing of this paper.¹³

Some changes and trends can, however, be distinguished. The Croatian Code of Civil Procedure, although still only an amended version of the Yugoslav Code of Civil Procedure of 1976,¹⁴ has been subject to more or less significant changes in the 2000s.¹⁵ The most significant reforms were introduced in the amendments to the Code of Civil Procedure in 2003. These amendments were trying to introduce a more adversarial style of litigation by diminishing the rights and duties of the judges to introduce evidence *ex officio*, and by strengthening procedural discipline by higher sanctions for the parties that aim to delay the proceedings by the use of various vexatious tactics. These amendments, together with those enacted in 2008 and 2011, also changed the structure of legal remedies, excluding the possibility of secondary appeal (*zahjev za zaštitu zakonitosti*) by the public prosecutor (state attorney), and by changing the role of recourse to the highest court (*revizija*). Yet, in practice, the changes did not cause significant changes in the style and speed of civil litigation. The procedural changes were more incremental than substantial. This can partly be brought into connection with the fact that many intended reforms were met by resistance of legal elites. After more ambitious legislative plans, the adopted changes to procedural legislation were often going only half-way. These changes were further dissolved by their slow and incomplete adoption among judges and legal practitioners, which further obstructed the realization of the desired goals and resulted in only

¹³ For some of the critical elements of the attempted reforms, see Uzelac 2002b.

¹⁴ Yugoslav Code of Civil Procedure - *Zakon o parničnom postupku* was originally published in the Official Gazette (Službeni list SFRJ) no. 4/77. It was amended by changes published in Official Gazette 36/77, 36/80, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90 and 35/91.

¹⁵ For reception of the Yugoslav Code of Civil Procedure and the further amendments, see Croatian Official Gazette (*Narodne novine*), no. 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 123/08 and 57/11.

cosmetic changes, often limited to special courts or types of proceedings.

A good example may be the way how the intentions to reduce passive behavior of the parties by relieving the judges from the right to take evidence on their own motion were circumvented through the obligation of judges to warn the parties about their duty to introduce evidence. In case-law, there are reported cases in which the higher courts considered the failure of the lower court judges to warn the (lawyer-represented!) parties of their right and duty to propose additional evidence as a reason for quashing the first instance judgment.¹⁶

Another example is the failure of the plans to concentrate the proceedings by reducing the number of hearings and introducing a ban on new facts and evidence after the preliminary hearing. These reforms, although planned as a general regime for all civil suits, were finally introduced only as special rules for small claims proceedings. Thereby, once again, the reforms, which were perhaps suitable as a basis for the overall reform of procedure before ordinary courts, were 'tested' only in the confined area of small claims. The fact that the same courts have to apply both sets of rules also contributed to the fact that in many courts the special rules on the preclusion of new evidence after the preliminary stage of the proceedings are still ignored. An interesting point is also the apparent contradiction between the new rules on small claims (which, due to the fact that they lead to preclusion only after a preliminary hearing, in fact require *two* oral hearings), and the EU small claims procedure introduced by Regulation No 861/2007 in cross-border cases, which basically foresees a written procedure.¹⁷

A similar marginalization of the reformist ambitions happened as regards plans to eliminate successive remittals upon appeals. The practice of successive remittals was proclaimed to be one of the systemic deficiencies of Croatian civil procedure in several cases of the European Court of Human Rights.¹⁸ Successive remittals frequently occur in practice.¹⁹ Therefore, the reforms (also those stimulated by the EU in the context of the accession negotiations between Croatia and the European Commission) originally aimed at ordering the higher courts to decide on the merits in all cases that were previously remitted to the first instance. Again, after initial ideas to introduce a universal rule that would prohibit more than one remittal, such a provision

¹⁶ This was, *inter alia*, confirmed in discussions that the author of this text held with the judges of the Zagreb Commercial Court during his lectures in July 2011.

¹⁷ The changes of the procedural rules in small claims happened by Code of Civil Procedure Amendments of 2008 (*Narodne novine* 84/2008).

¹⁸ See *Vajagić v. Croatia* (ECtHR case 30431/03, judgment of 20 July 2006, at 44): 'The Court observes that the delays in the proceedings were caused mainly by the successive remittals. Given that a remittal of a case for re-examination is usually ordered as a result of errors committed by lower instances, the Court considers that the repetition of such orders within one set of proceedings discloses a deficiency in the procedural system as applied in the present case (see, *mutatis mutandis*, *Wierciszewska v. Poland*, no. 41431/98, § 46, 25 November 2003).' See also *Zagorec v. Croatia*, 10370/03, judgment of 6 October 2005; *Čiklič v. Croatia*, judgment of 22 April 2010, 40033/07. On this issue, see also Grgić 2007, 159.

¹⁹ According to the statistics of the Ministry of Justice, it can be estimated that about 20 per cent of all appealed judgments in civil cases get remitted (see Statistical Survey of the Ministry of Justice 2010, 31), and it is likely that this percentage is at least equal upon second appeal.

was in 2011 only adopted in commercial cases, family law cases and employment/work dismissal cases.²⁰ It is too soon to estimate what effect (if any) this change will have in practice, but the half-hearted, unwilling approach to reform is visible again. It can be underlined by the fact that the ban of successive remittals was already a semi-reform, as a more determined and far-reaching step would address the very frequency of the quashing of judgments upon appeal (as this is something that happens all too often).²¹

3.2 Attempts to stimulate mediation and other methods of alternative dispute resolution

One of the directions of the procedural reforms in the 2000s was also directed towards stimulation of mediation and other alternative methods of dispute resolution. This trend corresponds to general growth of popularity of mediation in European countries. Of course, conciliation and mediation were not entirely new discoveries. Throughout the history of civil procedural legislation – starting in 1930s onwards – attempts to reach settlement between the parties were recognized as a desirable outcome of civil procedure. The 1977 Code of Civil Procedure contained a specific provision on court settlement²² which not only allowed the parties to conclude a binding and enforceable settlement during civil proceedings at first instance, but also encouraged the judges to inform the parties about this option, and assist them in the concluding such a settlement. The only limit was in the nature of disputes, as court settlements were not permitted in the disputes regarding rights that the parties could not freely dispose of. However, this option was in practice not widely used. According to statistical surveys of the Ministry of Justice, in the total number of cases before the courts of general jurisdiction, only about 2 to 3 per cent were terminated by court settlements (3 to 4 per cent in cases before the commercial courts).²³ Some out-of-court settlements may have been reached in about 30-40 per cent of cases which did not end by a final judgment but ‘otherwise’ (procedural decisions, withdrawal of the claim); this can, however, not be confirmed. In cases that ended with a final judgment, about 10 per cent were cases in which the respondents admitted the claim.²⁴ Even if all of these cases would be considered as a form of consensual conclusion of litigation, most cases still end with judgments issued after a full-fledged trial.

In the light of such statistics, it seemed that there was ample room for improvement. Indeed, in 2003 Croatia was among the first countries in the South-Eastern and Central Europe that adopted a Law on Mediation.²⁵ According to the concept of this law, mediation is conceived as a process in which a third person, a neutral, assists the

²⁰ See Amendments to the Code of Civil Procedure of 2011 (*Narodne novine*, 57/2011, Arts. 437a, 497b Code of Civil Procedure and Art. 52 of the Amendments, introducing a new Art. 266a of the Family Law).

²¹ If an appeal in civil proceedings is successful, the ratio of cases remitted and cases decided on the merits by the appeals court is at least 2:1. See data for 2008-2010 for county courts decisions upon appeal in civil procedure, Statistical Survey of the Ministry of Justice for 2010, 31, table 4/7. Some improvement are visible as the ratio of remitted cases is decreasing while the ratio of readjudicated cases grows.

²² See Art. 321 of the Code of Civil Procedure.

²³ Statistical surveys of the Ministry of Justice for 2001 to 2007. In 2001, there were 2.8 per cent of settlements, and in 2007 2.1 per cent. In later surveys, the necessary information is not included.

²⁴ *Ibidem*.

²⁵ See Official Gazette (*Narodne novine*) 163/2003.

parties in a dispute to reach a settlement. The mediator should not be the acting judge or other person entrusted directly with decision-making in the same case.

With the assistance of some foreign organizations, mainly from the U.S.A., an initial group of about 20 people was sent to mediation trainings. They were among the core who founded the national mediators' association, the HUM. As in Slovenia, a significant part of those who took mediation training were judges, although some others – attorneys, corporate lawyers, academics and even some non-lawyers were trained as well. Several organizations established their mediation centers.²⁶ Such mediation centers are generally meant to provide out-of-court, independent mediation services on a commercial basis.

The practice of mediation, however, has not developed according to expectations, in spite of the political support and continuing efforts to improve its legislative framework.²⁷ Most successful was the program of court-annexed mediation, in which the judges-mediators at the courts offered their services free of charge, based on the recommendations given to the parties by the judges who considered particular cases as fit for mediation. If we exclude family mediation in divorce cases (which is mandatory, and which has a long tradition), mediation attempts started to take place in proceedings in several larger commercial courts and the courts of general jurisdiction, as well as in some appellate courts, such as the High Commercial Court. According to official statistics, in 2009 there were 156, and in 2010 125 cases terminated by way of a mediated settlement, which was about 0.1 per cent of the total number of disposed litigious cases (about 66 thousand).²⁸ In the total number of attempted mediations, about 30 per cent were successful.²⁹ These figures, although not impressive, are still far better than the (publicly rarely available) figures from private mediation centers, which, although occasionally also offering free services and *pro bono* mediation, generally do not have more than 10 cases on an annual level.³⁰ Some specialized projects, such as the project on conciliation in individual labour disputes (conducted in association with Dutch experts) did not have a major impact either.³¹

4. The transfer of case management powers from the parties to the judge

In the previous text, I have already made clear that the course of procedural reforms in Croatia was by no means a simple and straightforward one. This process was in

²⁶ Eg. mediation centers at the Croatian Chamber of Commerce (*Hrvatska gospodarska komora*); Croatian Association of Employers (*Hrvatska udruga poslodavaca*); Croatian Insurance Office (*Hrvatski ured za osiguranje*); Croatian Chamber of Small Business (*Hrvatska obrtnička komora*); Croatian Bar Association (*Hrvatska odvjetnička komora*).

²⁷ The Ministry of Justice expressed strong political support for ADR in a 2004 document 'The development of alternative ways of resolving disputes - The strategy of the Ministry of Justice'. The Law on Mediation was amended in 2009 (Official Gazette 79/09), and in January 2011 a wholly new Law on Mediation was passed (Official Gazette 18/2011). Several pilot projects were initiated, funded mainly by foreign donors – e.g. by the British Foreign & Commonwealth Office. In 2006, a pilot project at the Zagreb Commercial Court and 8 municipal courts was initiated.

²⁸ See Statistical survey of the Ministry of Justice for 2010, 21. It seems that this figure was so low, that it was not even further reported in the statistics for 2011.

²⁹ *Ibidem*.

³⁰ See in more detail Bilić 2008; Uzelac *et al.* 2010; Vukelić 2007.

³¹ On this project, see Jagtenberg and de Roo 2006.

particular ambiguous when it comes to the transfer of case management powers. Some of the reforms were precisely trying to take away some case management powers (and duties) from the judges, and transfer them to the parties. If the authority to take evidence *ex officio* is to be understood as a case management power, than these powers were, starting from the Code of Civil Procedure amendments of 2003, transferred from the judges to the parties. Until the reforms of 2003, the court was empowered to order the taking of any evidence that it deemed relevant for the establishment of the facts that had to be proven. After 2003, the power to order taking of evidence *ex officio* was reduced to evidence needed to establish facts indicated by the court on its own motion. In the same line, in 2007 family law procedure was amended, introducing more dispositive powers on the side of the parties (e.g. by introducing limited options for binding admissions and settlements in alimony cases).

On the other hand, some case management powers of the judges were reinforced. As noted above, among the principal goals (and slogans) of the procedural reforms in the 2000s were 'strengthening party discipline' and 'prevention of procedural abuses'.³² Various instruments were inserted into the Code of Civil Procedure, with the purpose of giving the judge tools to sanction and punish attempts to prolong the proceedings. Such tools included general bans of certain procedural actions (e.g. general challenges of judges), limitation of actions that were often used to prolong the proceedings (e.g. requests for delegation of jurisdiction), discretionary powers of judges to refuse certain procedural motions if they are regarded to be vexatious, and a broader ability of imposing fines for the contempt of court (accompanied by a substantial increase of the amount of fines).

Both trends of reshuffling the powers between the players in the process were motivated by the political wish to reduce the length of proceedings, and to enable cutting of the considerable backlog of cases (in particular the backlog of so-called 'old cases', i.e. those lasting for over three years).

In the domain of formal case management, there were no significant changes, as – in theory – the powers to conduct the proceedings, adjourn the hearings, order the schedule of issues to be decided, set deadlines etc. (*formelle/materielle Prozessleitung*) was in the hands of the judges. Yet, in practice, these powers faced considerable obstacles, also in the still present ideology that the purpose of civil litigation is to find the 'material truth' (*materielle Wahrheit*). Therefore, indirectly, other reforms in specific areas helped to reinforce the legal role and active position of the judge – e.g. rules on service of documents (amended extensively, most recently in 2008), rules on deadlines for the submission of the new facts and evidence (amended in 2003, with new rules for small claims in 2010).

5. Effects of the reforms: efficiency, quality and costs

³² See further in Uzelac 2004.

The empirical data regarding the effects of the shifts in case management powers are insufficient to give conclusive answers. In particular, there were never systematic measurements regarding the length of civil procedure in general and in specific types of cases and courts in particular.³³ Since 2005, there was a special target project for reduction of the number of so-called 'old cases' (defined as cases pending for over 3 years). It has reached certain results,³⁴ yet there were also signs of reverse trends (growth of the number of old cases). Another project – unsupported by publicly available exact figures – related to the cases that had lasted over 15 years, which should have absolute priority in case-processing. It seems that the number of such cases is still significant, particularly in larger courts.

More extensive data exist only on court backlogs. In this respect, after a period of continuing growth of court backlogs (1990-2005), in the years after 2005 the government reported significant cuts in backlogs. It is, however, very difficult to attribute these cuts to successful reforms in the area of case management powers. It is likely that the thrust of the cuts has been obtained through outsourcing of certain activities that were previously within the jurisdiction of the court (inheritance cases, collection of uncontested debts, enforcement).

The general impression, which still has to be backed by concrete figures, is that – in practice – the changes are insufficient, so that the procedural style and practices have remained to a large extent the same. Some improvements may be due to certain technical procedural changes which now require more active efforts of the parties (obligation to submit written answer to the statement of claim, re-introduction of default judgments, abolishing new evidence upon appeal, targeting particular vexatious strategies, etc.) but they still have to be demonstrated by research and tangible evidence.

When we discuss which measures have not had the expected results, it seems that one of the apparently major changes (highly commented in literature and the media) – abolishing the right to take evidence *ex officio* – has had the least results in the practice. The principal reason for this may be that it was silently by-passed in the day-to-day work of the courts. In particular, the higher courts required that the first instance courts give instructions to the parties to pay attention to their duty to submit factual allegations and present evidence, so that little has changed. Also, the obligation of the parties to propose evidence is still discharged by the mere allegation of the existence of particular sources of information. The courts are reluctant to use burden of proof rules, and therefore they wait for a long time for the appearance of witnesses or the official procurement of documents, which contributes to the loose style of the proceedings. As noted above, the reforms aimed at more stringent case

³³ The only available indicators demonstrate that the average length of civil cases is at least about 2.5 years. These data relate to some measurement of the length of litigation from the beginning of 2000, made by foreign experts that were involved in Croatian judicial reforms. No later information on average length of litigation is available from any reliable sources, but it seems that this average has not been significantly decreased.

³⁴ The Ministry of Justice emphasized that in a period of two years (in 2008-2009) the number of 'old' cases (those pending before the courts for more than 3 years) dropped from 149,250 to 84,251 (a decrease of 43 per cent). See Strategic Plan of the Ministry of Justice for 2011-2013, July 2010, <http://www.mprh.hr>, 6 (last consulted in June 2012). This number is, however, still high (compare it to the annual influx of civil cases of about 140,000 – about 120 to 130 thousand civil and 15 to 20 thousand commercial cases).

management by introduction of a preparatory phase after which new evidence is precluded, were largely marginalized due to the opposition of judicial elites, and limited to small claims, and therefore their impact was also largely insignificant.

As to the impact that the above described reforms related to case management had on the impartiality of the judges, it seems that the increased pressure on efficiency led to a more active involvement of presidents of courts in ensuring that no undue delays and backlogs occur. In some cases this involvement caused these presidents being challenged, which resulted in some interesting cases before the Strasbourg Court of Human Rights.³⁵ Although the Strasbourg court by narrow margin found that court presidents do not discharge functions that can affect adjudication, this has not put an end to this issue. It is also a relevant issue in the light of the leading role of the President of the Supreme Court in the fight against delays, *inter alia* by using his right to transfer and delegate jurisdiction in concrete cases from overburdened courts to less burdened ones.

All the reforms have, however, not changed the public picture of the judiciary very much. Businesses and the public at large still regard the present situation as negative. In public, the judiciary is perceived as slow and ineffective. The reforms are being greeted, but there are still no definite signs of significant improvement of the public rating of the judiciary.

6. Relevance of the Croatian reforms for other jurisdictions

The developments of reforms in Croatia show that an effective reform of the judiciary may be very difficult, if not impossible, without strong instruments and political resolve to change the course of affairs. Even in the situation when reform is of the utmost political interest for the nation, the changes may lead to poor or even counter-productive results. In the context of the EU accession process, reforming slow and inefficient courts indeed had the highest level of political priority. Many laws were changed, all with the view to prove that the criteria and benchmarks set by the European Union are being met. Still, the negotiation chapter on the judiciary (Chapter 23) was the hardest nut in the whole negotiation process. Was the closure of that chapter, which took place after seven years of negotiations, on 30 June 2011, and the signing of the accession treaty on 9 December 2011, proof that the judicial reforms (including those pertaining to civil procedure) were successful? Neither European negotiators, nor the Croatian public, seriously think that great steps forward were made; if anything, it is only proof that some (though often hesitant and half-hearted) attempts were made. It may also be a sign that the lack of clear standards and tangible indicators of the reforms prevent the harmonization of approaches and a rational assessment of achievements. This should motivate scholars of comparative civil procedure for further research and debates regarding the methodology of comparative assessment of national civil justice systems.

³⁵ See *Parlov-Tkalčić v. Croatia*, 24810/06, judgment of 22 December 2009.

In particular, the history of developments in the field of civil procedure in Croatia sends a clear message that legislative changes are not sufficient (and sometimes even not appropriate) to change court processes. Legislative transplants from other countries (e.g. the reception of the Austrian ZPO) may in practice function very differently than in their original environment. The relationship between the powers of the judge and the powers of the parties provides a good example. The judge who is 'omnipotent' (at least on paper) may be the cause of procedural inefficiency and impotence. The lack of powers on the side of the parties may lead to a lack of responsibility, and trigger abundant options for delaying the proceedings. In such a setting, unlike in Western European countries, less can be more, and more can be less: less powers for the judge may give the judge more tools for effective case-management; and, more powers for the parties may motivate them to act responsibly and co-operate with the court in the fulfilment of a joint mission: the fair and timely resolution of the dispute. For Croatia, striking an appropriate balance between the powers of the court and the powers of the parties may still be a task for the future, but the country's quest for this balance (shared with a number of other Southern European jurisdictions) may be observed by spectators from other jurisdictions as a laboratory that provides important examples of a few successful, and a large number of unsuccessful experiments.

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CASE MANAGEMENT IN CIVIL LITIGATION

Conference Materials

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Beijing, 1-2 September 2012

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TABLE OF CONTENTS

Conference Arrangements

Conference Agenda	1
Conference Attendees	3
Participants Biography	4

Conference Reports

C.H. van Rhee & R.R. Verkerk: Case Management in the Netherlands	12
Robert Jagtenberg: Mediation: A Desirable Case Management Tool for the Courts?	37
Alan Uzelac: Case Management in Croatia	42
Mario Vukelić: Commercial Courts in Croatia	60
Serban S. Vacarelu & Adela O. Ognean: Case Management in Romania	75
Andrea Wall: Case Management in Austria and Germany	98
Irmgard Griss: The Austria Model of Cooperation between Judge and Parties	129
Neil Andrews: Case Management and Procedural Discipline	130
Elisabetta Silvestri: The Never-ending Reforms of Italian Civil Justice	142
Elisabetta Silvestri: Case Management in Italy	148
Wang Yaxin, Fu Yulin: Case Management in People's Republic of China	169
Wang Fuhua: From Trial Management to Case Management	200
Cai Yanmin: Studies on the Case Management Mechanism in China's Civil Justice	220
Lei Chen, David Chan & Peter C.H. Chan: Case Management in Hong Kong	241
<i>Burkhard Hess: Mediation Judges in Germany: Mutual Interference of EU-standards and national development ...</i>	<i>274</i>

Conference on Case Management in Civil Litigation

AGENDA

Beijing, 1-2 September 2012

1 September 2012

Morning venue: Moot Court Room, Kai Yuan Building of Peking University Law School

Afternoon venue: Room 303, Kai Yuan Building of Peking University Law School

Opening Session	
9:00-10:00	Chairperson: Prof. Fu Yulin (Peking University Law School) Speakers: Prof. Remco van Rhee (Maastricht University Law School) Prof. Zhang Weiping (Tsinghua University Law School) Prof. Wang Jiancheng (Peking University Law School)
Session One	
Moderator: Prof. Remco van Rhee (Maastricht University)	
10:00-10:30	China Speaker: Prof. Wang Yaxin (Tsinghua University Law School)
10:30-11:00	Europe (Croatia) Speaker: Prof. Alan Uzelac (University of Zagreb)
11:00-12:00	Discussion
12:00-13:30	Lunch
Session Two	
Moderator: Prof. Cai Yanmin (Zhongshan University Law School)	
13:30-14:00	Europe (Germany) Speaker: Prof. Burkhard Hess (University of Heidelberg)
14:00-14:30	China Speaker: Prof. Wang Fuhua (Shanghai Jiao Tong University)
14:30-15:00	Discussion
15:00-15:15	Tea Break
15:15-15:45	Europe (England) Speaker: Prof. Neil Andrews (Cambridge University Law School)
15:45-16:30	China Speakers: Mr. Peter CH Chan and Mr. David Chan (City University of Hong Kong)
16:30-17:00	Discussion
17:00-18:00	Tour of Peking University
18:00	Dinner

2 September 2012

Venue: Room 303, Kai Yuan Building of Peking University Law School

Session Three	
Moderator: Prof. Van Uzelle (Cambridge University)	
9:00-9:30	Europe (Netherlands) Speaker: Prof. Remco van Rhee (Maastricht University)
9:30-10:00	China Speaker: Prof. Cai Yanmin (Zhongshan University Law School)
10:00-10:30	Discussion
10:30-10:45	Tea Break
10:45-11:15	Europe (France) Speaker: Prof. Emmanuel Jeuland (Université Paris 1 Panthéon Sorbonne)
11:15-11:45	China – Hong Kong Speaker: Prof. Christopher To (Executive Director of the Hong Kong Construction Industry Council; former Secretary-General of the Hong Kong International Arbitration Centre)
11:45-12:15	Discussion
12:15-13:30	Lunch
Session Four	
Moderator: Prof. Alan Uzelle (University of Zagreb)	
13:30-14:00	Europe (Austria) Speaker: Prof. Irmgard Griss (former President of the Supreme Court of Austria)
14:00-14:30	Europe (Croatia) Speaker: Judge Mario Vukelic (president of the High Commercial Court of Croatia)
14:30-15:00	China Speakers: Mr. He Fan (judge of the Supreme People's Court of the PRC) Mr. Qi Peibing (judge of Beijing High People's Court) Mr. Zhou Xiaobing (judge of Beijing Second Intermediate People's Court)
15:00-15:30	Discussion
15:30-15:45	Tea Break
15:45-16:15	Europe (Netherlands) Speaker: Prof. Robert Jagtenberg (Erasmus University Rotterdam)
16:15-16:45	Europe (Netherlands) Speaker: Ms. Adela Ognean (Maastricht University)
16:45-17:15	China Speaker: Prof. Fu Yulin (Peking University Law School)
17:15-17:45	Discussion
17:45-18:00	Concluding remarks Speaker: Prof. Remco van Rhee (Maastricht University)
18:00	Dinner

CONFERENCE ATTENDEES

Europe

Prof. Remco van Rhee, Maastricht, Netherlands

Prof. Alan Uzelac, Zagreb, Croatia

Prof. Neil Andrews, Cambridge, UK

Prof. Burkhard Hess, Heidelberg, Germany

Prof. Robert Jagtenberg, Rotterdam, Netherlands

Ms. Adela Ognean, Maastricht, Netherlands

Prof. Emmanuel Jeuland, Paris, France

Ms. Hon.-Prof. Dr. Irmgard Griss, Former President of the Austrian Supreme Court

Judge Mario Vukelic, President of the High Commercial Court, Zagreb, Croatia

Mainland China

Prof. Fang Liufang, China University of Political Science and Law, Dean of China-EU School of Law

Prof. Zhang Weiping, Tsinghua University Law School, Head of the Civil Procedure Association of China

Prof. Wang Jiancheng, Vice-Dean of Peking University Law School

Prof. Wang Yaxin, Tsinghua University Law School

Prof. Fu Yulin, Peking University Law School

Prof. Cai Yanmin, Zhongshan University, Guangzhou

Prof. Wang Fuhua, Shanghai Jiao Tong University

Mr. Liu Zhewei, Peking University Law School

Ms. Jiang Lili, China University of Political Science and Law

Judge Jiang Huiling, Justice Reform Office of the Supreme Court of the PRC

Judge He Fan, Justice Reform Office of the Supreme Court of the PRC

Judge Qi Peibing, Judicature Management Office of Beijing High Court

Judge Zhou Xiaobing, Judicature Management Office of 2nd Intermediate Court of Beijing

Hong Kong

Prof. Christopher To, Executive Director of the Construction Industry Council of Hong Kong; Former Secretary of the Hong Kong International Arbitration Centre

Prof. Chen Lei, City University

Mr. Peter C.H. Chan, City University

Mr. David Chan, Barrister-at-law

Mr. Terence Lai, City University

PARTICIPANTS BIOGRAPHY

Europe

Prof. Dr. C.H. (Remco) van Rhee, Maastricht, Netherlands

Prof. dr. C.H. (Remco) van Rhee was appointed to the Chair of European Legal History and Comparative Civil Procedure in 1998. He served for several years as the head of the Metajuridica Department of the Maastricht University Law School and as Academic Director of the Maastricht University European Law School. Van Rhee studied Law at the universities of Leiden and Edinburgh, Psychology at the university of Leiden, and History at the university of Louvain. In 1997 he was awarded his with the highest distinction at Leiden University.

Prof. dr. C.H. (Remco) van Rhee was a visiting professor at various universities in Belgium, the USA, South Africa, the Ukraine, Romania, Hungary, Hong Kong, China, Chile and Moldova. He is a member of the board of the International Association of Procedural Law and has served as expert in various international projects of the Council of Europe and the European Union. His research focuses, amongst other things, on comparative civil procedure and its history in Europe and the United States, the history of courts and adjudication.

Prof. Dr. Alan Uzelac, Zagreb, Croatia

Alan Uzelac is currently employed as Professor of Procedural Law at the Zagreb University, Faculty of Law, where he teaches Civil Procedure, Arbitration, ADR, Evidence and Protection of Human Rights in Europe. He is an active member of the International Association of Procedural Law, where he was elected to the Council of the Association.

Author and editor of several books and a number of papers, on the topics of organization of the justice system; efficiency and fairness of justice, arbitration and alternative dispute resolution; legal professions; enforcement; law of evidence and comparative law.

Prof. Neil Andrews, Cambridge, UK

Professor of Civil Justice and Private Law, University of Cambridge. Prof. Andrews is member of the American Law Institute and Praesidium Member of the International Association of Procedural Law. He has acted as expert on aspects of procedure and contract law in transnational disputes centered in New York and Europe.

His main teaching interests including civil justice and procedure (including court litigation, mediation, and arbitration); and contract law (English and transnational).

Prof. Dr. Burkhard Hess, Heidelberg, Germany

Professor ordinarius of the Faculty of Law, University of Heidelberg, Germany, and Director of the Institute for Private International and Economic Law since 2003; Dean of the Faculty of Law, University of Heidelberg, from 2006 - 2008. Guest professor at the University of Paris I (Sorbonne) – since 2006. Professor ordinarius of the Faculty of Law, University of Tuebingen, Germany, from 1996 – 2003. Guest professor (Comparative Procedural Law) of the Faculty of Law, Renmin University of Beijing, China, in August 2002.

Prof. Hess wrote many books and articles on private international and comparative law, civil procedure and European law. His main activities relate to the harmonisation of European procedural law, transnational (collective) litigation, mediation and the enforcement of judgments. Prof. Hess regularly serves as a legal adviser and as court expert for foreign law, private and public international law and transnational litigation.

He is member of the board of the German Association of International Procedural Law; member of the International Association of Procedural Law, the International Law Association (German branch) and member of the German Associations of Procedural Law, Civil Law and of International Law; member of the Advisory Board on Private International Law at the German Federal Ministry of Justice

Prof. Robert Jagtenberg, Rotterdam, Netherlands

Robert Jagtenberg currently is a key expert to the European Commission for out-of-court settlement (“ADR”) of transnational labour disputes, and part-time law professor at Erasmus University, Rotterdam. He has also been involved in projects of the World Bank and the Asian Development Bank on the role of law in economic development.

In all, he has (co-)authored around 100 publications internationally, and several university courses he (co-)designed have been awarded prizes or distinctions for their innovative character. His broad, current interests extend from ‘professionals and the law’ to the ‘socio-economic impact of globalization’.

Prof. Dr. Emmanuel Jeuland, Paris, France

Professor at the University Paris I Panthéon-Sorbonne, in civil procedural law, European procedural law, international litigation, procedural human rights and legal theory. Director of the master of Business litigation. Dean of the undergraduate department. Private Consultant in procedural law.

Judge Mario Vukelic, President of the High Commercial Court, Zagreb, Croatia

Mr. Mario Vukelic is President of the High Commercial court of the Republic of Croatia and senior lecturer of Commercial law. He also acts as mediator, arbitrator. Mr. Mario Vukelic has published several books and a number of papers on the topics of bankruptcy, company law, mediation and alternative dispute resolution, and integrated case management system. He is also the author and editor of “Web Bankruptcy”.

Hon.-Prof. Dr. Irmgard Griss, Vienna, Austria

2007 – 2011 President of the Supreme Court of Austria. Honorary professor for civil and commercial law at the University of Graz. Speaker of the Senate of the European Law Institute.

Ms. Adela Ognean, Maastricht, Netherlands

Adela Ognean is a Ph.D. candidate at the Maastricht University Law School, where she writes a comparative Ph.D. thesis on aspects of case management in the evidentiary stage of a civil action in various European countries. Supervisors: Prof. C.H. van Rhee and Dr F. Fernhout.

Mainland China

Prof. Fang Liufang

Professor Fang is co-dean of the China-EU School of Law. He acquired his doctoral degree at Renmin University. He has served as guest professor and visiting scholar at Harvard University, where he taught Chinese law.

Research Interests: Company Law; Contract Law; Tort Law; Legal Profession and Ethics; Contemporary Legal System of China.

Prof. Fang has published a number of articles and books. He is also the chairman of the Academic Committee of China University of Political Science and Law.

Prof. Zhang Weiping

Head of the Civil Procedure Association of China, Professor of Tsinghua University Law School, Adviser of the Supreme Procuratorate of the PRC, guest professor of the Supreme Court of the PRC Judges College and guest professor of Chongqing University Law School.

Prof. Zhang's main research interest is civil procedure. He has authored many publications and published more than 100 academic articles.

Prof. Wang Jiancheng

Prof. Wang is the Vice-dean of PKU Law School, Vice-chairman of the Criminal Procedure Association of China, member of the Experts Consultative Committee of the Supreme Procuratorate of PRC. He also serves as guest professor of the

China Research Center for Procedure Law and Criminal Law Center of China University of Political Science and Law.

Prof. Wang has acted as visiting scholar at Catholic University of Leuven and Yale University. He has also been honored as National Excellent Teacher, and won academic awards for several times. His main research interests include criminal procedure and criminal evidence law. He has also published a large number of academic articles as well as some books.

Prof. Wang Yaxin

Professor Wang Yaxin teaches Comparative civil procedure, Japanese civil procedure, Chinese civil procedure and Theory and Practice of Dispute Resolution at Tsinghua Law School since 1998. He currently serves as the Standing Committee Member of the Chinese civil procedure committee. Prior to his appointment at Tsinghua, he served as Associate professor at Kyushu university (1993 to 1998), and Assistant professor at the Law School of Kagawa University (1991 to 1993) in Japan.

Academic interests: interaction of law and society from a micro-perspective on the basis of field work and empirical investigation. He specializes in legal-sociological analysis of the practical operation of the Chinese judicial system. He is also interested in the legal-dogmatical analysis of the norms of Chinese civil procedure law. Moreover he translated many works of Japanese academics.

Prof. Fu Yulin

Professor at PKU Law School, member of International Association of Procedural Law (IAPL). Prof. Fu has acted as visiting scholar at the University of Montreal, Vienna University, Northeastern University, Yale University and Tübingen University. Besides, she was invited to teach short-time classes and attend international conferences, amongst others at Harvard University and Cambridge University. Prof. Fu has done comparative research at a large number of courts in Germany and the US.

Prof. Fu's main research interests include civil procedure, comparative civil procedure, arbitration law and judicial system. She has published a number of

books and articles, and hosted and was involved in many research projects.

Prof. Wang Fuhua, Shanghai

Professor of KoGuan Law School, Shanghai Jiao Tong University; Executive Director of the Chinese Civil Procedure Law Association.

Main research fields: Comparative Civil Procedure, collective litigation, mediation systems and judicial management.

Prof. Cai Yanmin, Guangzhou

Professor of Zhongshan University, vice-chairman of the Civil Procedure Association of China. She has lectured at Yale University.

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