

Silvestre
NEWSLETTER NO 40
Of the Association of Corporate Lawyers



We wish you all a great success in the New Year 2013

WHAT WAS HAPPENING DURING NOVEMBER AND DECEMBER?

- 1. A visit to the Ministry of Justice** **IMPORTANT!!!**
- 2. Practical student work of the Law Faculty students**
- 3. The theoretical part of the expert education preparing lawyers for sitting for the Bar Exam**
- 4. 2012 Autumnal ECLA Presidency Session in Berlin**
- 5. Participation of the Association at the 3rd International Conference “Alternative solving of disputes – possibilities of cooperation between the judicial system and economy”**
- 6. The second International AmCham Conference on market competition**
- Market competition in Croatia – European perspectives

1. A visit to the Ministry of Justice **IMPORTANT!!!**

- 1) Representatives of the Association of Corporate Lawyers visited the Ministry of Justice of the Republic of Croatia on 5th December, 2012. They talked to Mr Crnčec, the Deputy Minister in the Administration of Justice Authority. The main theme was participation of the Association in the project of the unique information system for administration of court cases (“e-SPIS”). One of the basic aims of the system was to provide correct real time data not only to judges and court personnel, but also to parties, clients and other individuals and organisations to enable them to fulfil their obligations towards courts regarding court cases.

We were informed that attorneys-at-law had a possibility to inform themselves on the status of their acts at the Municipal Labour Court on-line. Nevertheless, pursuant the Court Rule Book any participant in the court case who had a legal interest could be a user of the “e-spis” (“electronic-act”) system in addition to attorneys-at-law in the manner defined and published by the Ministry of Justice.

The Deputy Minister supported us and promised that we would be taken into consideration during further development of IT systems. He suggested us to contact directly municipal and other courts having on-line information possibilities with the aim to standardize and improve efficiency of court processes, better, more efficient and equal protection of rights of all the parties in the procedure (regardless the fact whether they were represented by attorneys-at-law or corporate lawyers).

We are preparing letters to competent courts.

- 2) We have also received the information that the **Civil Procedure Act Amendment Draft** of 29th November, 2012 has been sent to the Parliamentary Procedure. Pursuant the above stated Draft, new Articles **492.a to 492.d** referring to ***applications submitted in electronic form and electronic submission of documents*** would be added to the existing Act.

These Articles introduce new provisions arranging the obligation of electronic submission of documents regarding court proceedings lead at commercial courts. It is clarified in explanations of those provisions that generally speaking legal persons that are almost always represented by attorneys-at-law in the function of their proxies are present in legal proceedings at commercial courts, implying that they already have electronic addresses.

We consider that such a statement from the clarification of the Draft is not completely correct and consequently neither well founded since members of our Association have passed the Bar Exam and from the educational point of view they are equal to attorneys-at-law. A majority of members of the Association of Corporate Lawyers have submitted their general proxies to courts proving their authorities to represent legal person employing them.

The drafted amendments leave the possibility to judicial bodies and other court proceeding participants, to other persons who can be expected to have a higher level of reliability due to the nature of their profession (for obligatory participants of electronic legal communication), to submit documents in the electronic way. On the basis of our permanent employment in corporations and on the basis of authorities expressed in our general proxies, we fulfil the stated conditions not only regarding the nature of the profession, but also regarding the level of reliability.

We have expressed our readiness to undertake all preparatory activities necessary to be put on the list of persons and bodies (**a list of obligatory participants of electronic legal communication**) defined and published by the Ministry of Justice at its web site. You can find the integrated wordings of the Letter to the Ministry at the Association web site.

Dear colleagues, it is high time to save whatever we can through a common action. Unless we have the opportunity to be participants in electronic legal communication, our employment is jeopardized. It can be expected that courts and the Ministry of Justice would not like to communicate with an immense number of legal subjects individually, and therefore we have to initial the action over the Association of Corporate Lawyers. We have made the conclusion on the basis of the fact that when attorney-at-law services are in question, the Bar is the partner, and not individual attorneys-at-law.

We are waiting for your suggestions!



2. Study practical work performed by Law Faculty Students

Two students from the Faculty of Law of Zagreb performed their student practical work in the Company KONČAR – ELECTRICAL INDUSTRY Inc. within the frames of cooperation between the Faculty of Law and the

Association of Corporate Lawyers during the time period from 19th November to 14th December, 2012. Students Dina Baranović and Sara Pavičić, both from Zagreb, are the students of the fifth academic year at the moment and each of them has only one exam to pass. During their student practical work, they were introduced to those law branches for which they showed the biggest personal interest such as the law of trading companies, commercial, civil, real, labour law as well as court proceedings, out-of court proceedings and solving of disputes through arbitration and mediation. They had the opportunity to solve real tasks from the above stated branches and to face practical activities of the Legal Department operating within the Office of the Managing Board Member in charge of legal, personnel and general affairs. At the end of their student practical work, they answered the following questions:

1. *Which choice of student practical works is available to a law student in Zagreb and what has motivated you to select a trading company to perform your student practical work?*

DINA: Each student of the fifth academic year of the Faculty of Law is obliged to perform a three-week-long student practical work. The student can elect to perform its practical work in an attorney-at-law office, a public notary office or in a trading company. On the basis of the experience of students who performed their student practical work in attorney-at-law offices, I have got the impression that they were not satisfied with the manner of organisation and performance of student practical work. The experience of students who performed their practical work in a trading company was different. That was one reason for such a selection, and the other was my wish to have an insight into real and actual cases and to have an opportunity to link the obtained theoretical knowledge with practical tasks. Those were reasons why I applied to perform my student practical work in a trading company. Now when my practical work is completed, I am more than satisfied with what I have seen, performed and learnt during the last three weeks. I would recommend to every student who intends to have a new experience and not only to get a certificate to perform his/her student practical work in a trading company.

SARA: As any other student of the fifth year coming to the end of his/her studies and who has to perform his/her student practical work, I also had a “trilemma”: public notary services, an attorney-at-law office or a trading company!? I believe that a large majority of not only actual students, but also already graduated lawyers enrolled to the Faculty of Law seeing themselves as future judges or attorneys-at-law. If you had asked me so at the beginning of my study, I would have probably said the same. But when you see diversity, applicability and complexity of law at higher study years, at least theoretically, and the omnipresent need of the law, your decision is not so simple any more. My basic motif for performance of my student practical work in a trading company was my wish to obtain as overwhelming practical knowledge as possible since we miss it at the end of our study at the Faculty. Since attorneys-at-law usually specialise themselves for individual legal branches, and public notaries deal with a narrow and specific part of the law, my decision was a trading company.

2. *What was your idea about activities of in-house lawyers before you performed your student practical works and after your performed your student practical work? What you would like to supplement or to change in your practical work?*

DINA: Before I came to perform my student practical work in the trading company I had not have any idea about activities of in-house lawyers. I thought that activities of a lawyer working in a trading company were not as exciting and heterogeneous as of lawyers working in attorney-at-law offices. Performing my practical work I witnessed just the opposite. Activities of a lawyer here comprise a wide area of legal branches, lawyers are in

a constant move, you are learning all the time, working all the time, consulting, all lawyers work in teams, help each other, counsel each other, face very interesting cases.

I am very satisfied with the manner of organisation of student practical work here, as well as with its performance and the approach of lawyers employed here to us, law students. I believe that I have obtained new experiences extremely important for my future.

SARA: Before I started to perform my student practical work I had a little wrong perception regarding activities of lawyers in trading companies. Although I had a rough vision of their activities, I thought it was a monotonous job performed routinely pursuant a predefined foreseeable schedule. Now I think that an in-house layer's job is very challenging since you need a huge knowledge of all legal branches to perform it (in the first line the knowledge of the civil law, commercial, labour and social law, the law of trading companies). You also have to be creative, inventive, you have to renew and supplement not only your knowledge constantly, but also your experience. It is really a skill to cope with and to solve successfully all the tasks for and in favour of a trading company. If there is a division of tasks, in-house lawyers counsel each other all the time and they work as a team supporting a good working atmosphere. I am really and pleasantly surprised with the revelation of all the tasks and jobs of in-house lawyers. Referring to my student practical work, I am really satisfied with all I have seen, learnt and performed. I am also satisfied with the engagement of other lawyers who have made it possible for us to obtain as wide knowledge and self-reliance as possible for all the challenges waiting for us upon completion of our studies in such a short period of time.

3. Where do you see yourself after graduation?

DINA: If you had asked me that before my student practical work, I would have certainly said that if I would be able to choose I would prefer an attorney-at-law office or a position at a court. But this practical work has changed my opinion, and now, when I have just completed my student practical work, I hope that I am going to find a position in a trading company when my diploma is in my hands.

SARA: I wished to work in a trading company even before I performed my student practical work. Now, after my student practical work performed in the trading company and positive experience brought to me, I can only confirm my selection.

3. The theoretical part of the expert education preparing lawyers for sitting for the Bar Exam

The theoretical part of the expert education preparing lawyers for sitting for the Bar Exam lasting at least 150 classes is obligatory for in-house lawyers as well, as you already know. Since 2011, we have been organising trainings in cooperation with the Croatian Public Notary Bar (Hrvatska javnobilježnička komora - HJK).

Preparatory training was held this autumn since September to November. 16 corporate lawyers attended the training.

A register of applications is open at the Croatian Public Notary Bar to enable all the applicants to attend the training. Applicants have to send an e-mail to the address hjk@hjk.hr expressing their personal data and stating that the Association of Corporate Lawyers gave them a recommendation for the training. A new time schedule for the training planned for the spring will be published at our web site.

4. 2012 Autumnal ECLA Presidency Session in Berlin

The ECLA Presidency Session was held in Berlin on 16th November. The host of that session was the German ECLA Member "Arbeitsgemeinschaft der Syndikusan-waelte im Deutschen Anwaltverein", the association that had its annual conference at the same time. It was an ordinary autumnal session. Marina Kralj Miliša, an executive board member and Martina Pejić, the Association's representative, participated in the session as Croatian representatives.

The biggest novelty passed by this year session is the election of the new president for the next two-year-term of office. Philippe Coen from France, the deputy of the main legal counsellor of a large American multinational company placed in Paris replaced the actual president, Dr Peter Kriependorf. He titled the winning programme he proposed as a candidate "Time for Change". After election of the president, the session continued discussing permanent session themes: financial issues (issues with non-payment of membership fee by individual members) and a review of the position of in-house lawyers in individual European countries. ECLA would celebrate its thirtieth anniversary next year and the session discussed that manner of celebration. The need to intensify cooperation among ECLA Members were emphasised again. The host of the next Presidency Session would be Lisbon in April of the next year.

5. Participation of the Association at the 3rd International Conference "Alternative solving of disputes – possibilities of cooperation between the judicial system and economy"

On 7th November, 2012 the President of the Association of Corporate Lawyers, Josipa Jurinić, MSc, was a lecturer at the 3rd International Conference "Alternative solving of disputes – possibilities of cooperation between judicial system and economy" with the topic: "**Corporate lawyers – impetus of amicable resolving of disputes**".

In her lecture, the president of the Association of Corporate Lawyers emphasised the POSSIBLE COOPERATION BETWEEN THE JUDICIAL SYSTEM AND THE ECONOMY through incorporation of in-house lawyers into: creation of normative solutions, educational programmes / projects including exchange of experience within the Republic of Croatia and with foreign countries, mediation procedures including in-house lawyers in the function of mediators, mediator and mediator trainer training programmes in the function of lecturers / trainers.

Proving the positive attitude of corporate lawyers, Ms Jurinić emphasised the following provision from the Code of Ethics of the Association of Corporate Lawyers:

" 8) Under any doubtful circumstances, the corporate lawyer will try to stop emerging of disputes, misunderstandings or conflicts. With his/her behaviour, the corporate lawyer will not worsen the position of individual participants in legal relationships, he/she will try to decrease contradictions between rivals and try to settle differences between them and decrease harmful consequences for all the participants".

Among other issues, she presented the reasons why the ECONOMY RECOGNISED AMICABLE RESOLVING OF DISPUTES, such as: decreasing of costs, shortening of proceeding time, confidentiality (settlements are private), frequent satisfaction of both parties, left possibility of continuance of business relationships, informality of proceedings (parties define rules), control over proceedings, creative solutions (parties find solutions together), policy of resolving disputes through mediation and conciliation has a positive influence to relationships with business partners, employees and to the public perception of the company.

Speaking about the qualities that are indispensable for in-house lawyers nowadays, she specially pointed out:

Life time education as a motivating spirit, learning of new and refreshment of already learnt, application of obtained knowledge, know-how and skills to various areas transforming the corporate lawyer into a knowledge centre, recorder, careful thinker, independent counsellor, risk thinker.

In the conclusion to her lecture, Ms Jurinić expressed her attitude that corporate lawyers could be a strong impetus and advocates of resolving of disputes through mediation giving their contribution through their own positive attitude towards mediation, spreading of such an attitude in their business environments, cooperating with company managements, pointing out the decreased time of resolving of disputes (long term cases are unforeseeable, risky and in some cases they can represent a danger for the liquidity) as well as keeping of good business relationships between the parties.

Corporate lawyers, as active participants, are able and are willing to contribute to the cooperation between the judiciary system and the economy.

3. The second International AmCham Conference on market competition - Market competition in Croatia – European perspectives

The second International Conference on Market Competition was held in Westin Hotel in Zagreb on 7th November, 2012. The Conference was organised by the American Chamber of Commerce in Croatia - AmCham.

The Conference comprised two panels and an expert lecture. Representatives from Hungarian, Croatian, Check and Rumanian Agency for Market Competition Protection Agency participated in the first panel with the title Protection of Market Competition in the Central and Eastern Europe. They discussed actual topics such as an increase of the number of cartels, agreements among bidders in public procurement procedures with the aim to suspend market competition and similar as well as the influence of the economic crises to the market competition in the countries of participants. Nevertheless, participants pointed out loudly that the main task of all the parties was application of laws even during economic crises.

In the following lines we are presenting you an article from ECLA December Newsletter about a visit of the Association of Corporate Lawyers to the Belgium Association of Lawyers.

In Zagreb, December, 2012

Association of Corporate Lawyers

www.udruga-korporativnih-pravnika.hr

A visit of the Croatian colleagues to the Belgian Institute of In-house Lawyers

Responding to an invitation made by the Belgian Institut des Juristes d'Entreprise, member of ECLA, the members of the Croatian ECLA member (Udruga Korporativnih Pravnika) visited Brussels on 11th to 13th October, 2012. Belgian colleagues had presented an invitation for a visit and a proposal for cooperation between the two Associations at the ECLA's general meeting held in London in Spring 2012.

The Belgian colleagues were invited by visiting members of Udruga Korporativnih Pravnika to make a return visit to Croatia in September 2013.



Read more here: http://www.udruga-korporativnih-pravnika.hr/dld/NEWSLETTER%20NO%2038_eng.pdf

