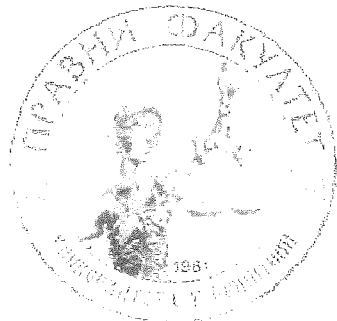


УНИВЕРЗИТЕТ У ПРИШТИНИ
СА ПРИВРЕМЕНИМ СЕДИШТЕМ У КОСОВСКОЈ МИТРОВИЦИ
ПРАВНИ ФАКУЛТЕТ



ЗБОРНИК РАДОВА
„НАЦИОНАЛНО И МЕЂУНАРОДНО ПРАВО –
АКТУЕЛНА ПИТАЊА И ТЕМЕ“

COLLECTION OF PAPERS
„NATIONAL AND INTERNATIONAL LAW –
CURRENT ISSUES AND TOPICS“

Научни скуп са међународним учешћем одржан је 26. маја 2017. године на Правном факултету Универзитета у Приштини са привременим седиштем у Косовској Митровици

Том I

Косовска Митровица
2017.

САДРЖАЈ

ПРЕДГОВОР	V
-----------------	---

ГРАЂАНСКОПРАВНА И ПРИВРЕДНОПРАВНА ОБЛАСТ

Др Марија КРВАВАЦ, Др Јелена БЕЛОВИЋ Посебна материјална правила која непосредно уређују ситуацију са страним елементом	1
Др Наташа СТОЈАНОВИЋ Општи међународноправни оквир заштите и очувања биолошке разноликости	15
Др Хајрија МУЈОВИЋ - ЗОРНИЋ Пратеће штете и споредна дејства у медицини – питања одговорности .	37
Др Дејан МИЏКОВИЋ Регулисање сурогат материнства у савременим законодавствима	57
Др Олга ЈОВИЋ-ПРЛАИНОВИЋ Пословна способност инвалидних особа као људско право	79
Др Маша КУЛАУЗОВ Извршење судских одлука по одредбама парничног законодавства из 1865. године	101
Др Новак КРСТИЋ Завештајни сведоци код јавних облика завештања у праву Србије	117
Др Ангел РИСТОВ Macedonian Civil Code and the reforms in the marital property regime of the spouses	137
Др Татјана ЗОРСКА-КАМИЛОВСКА, Мр Татјана ШТЕРЈОВА Приступ права Европске уније у регулисању поступака за колективну заштиту права	159
Др Душко ЧЕЛИЋ Конвалидација уговора о промету непокретности у пракси специјализованих квазисудских тела које је основала мисија Уједињених нација на Косову и Метохији	179

Др Срђан РАДУЛОВИЋ Аутентична српска борбљачка вештина пред захтевима одштетног права	207
Гордана ДАМЈАНОВИЋ Појам и врсте матичних ћелија у светлу патентног права	223
Милица СОВРЛИЋ Одговорност за високо постављене ствари	239
Др Јелена ЂЕРАНИЋ Патентна заштита проналазака у међународном, европском и националном праву	255
Др Љубиша ДАВИЋ Врсте стечајних поступака	273
Марко РАДОВИЋ Заштита права на суђење у разумном року у стечајном поступку	301
Урош ЗДРАВКОВИЋ Систем решавања спорова у оквиру Светске трговинске организације ...	323

КРИВИЧНОПРАВНА ОБЛАСТ

Др Јован ЂИРИЋ <i>Dura lex sed lex</i>	343
Др Владимир В. ВЕКОВИЋ Нови систем кривичних санкција према малолетницима у Републици Србији	361
Др Драган ЈОВАШЕВИЋ Међународно кривично право – појам, извори и принципи	379
Др Бранислав РИСТИВОЛЕВИЋ Новине у криминалнополитичком приступу сузбијању насиља у породици у Србији: на слепом колосеку	401

Др Сретен М. ЈУГОВИЋ Поглед на „нове“ законске надлежности полиције у спречавању насиља у породици у Републици Србији	417
Др Саша КНЕЖЕВИЋ, Мирјана ЂУКИЋ Споразум о сведочењу окривљеног у кривичнопроцесном законодавству Републике Србије	429
Др Зоран ЂИРИЋ, Милена ЂИРИЋ Прилог бољем квалитету и контроли судско-психијатријских вештачења	447
Др Ванда БОЖИЋ, Др Жељко НИКАЧ, Бранко ЛЕШТАНИН Кривичноправни оквир за поступање и примену овлашћењаполиције	467
УПУТСТВО АУТОРИМА	483

Angel RISTOV, PhD*

MACEDONIAN CIVIL CODE AND THE REFORMS IN THE MARITAL PROPERTY REGIME OF THE SPOUSES

Summary: Macedonian Family Law hasn't suffered significant changes for decades. This especially concerns the issue on the marital property regime of the spouses. Given the fact that in Republic of Macedonia is ongoing the process of codification of the civil law, introduction of the marital agreement and its thorough regulation will be one of the crucial reforms. Besides the fact that marital agreement is one of the most controversial agreements in moral, ethical, legal and religious sense, it is predicted in great number of legislations. It enables the spouses to arrange their marital property relations upon their will, wishes and conditions. In the Macedonian Family Law marital agreement is still not regulated, but in the practice it is concluded upon the principle of autonomy of the will in the contractual relations. This is the reason why are posed, very often, questions and dilemmas about its allowance, parties, form, content and etc. To overcome these dilemmas and to solve the problems in the future it is necessary through regulation of the marital agreement in the civil code. In the family law reform it is also necessary to be regulated the present legal gaps concerning separate and joint property of the spouses that create problems and inevitable lawsuits in the practice.

Keywords: *Macedonian Civil Law Codification, Marital property regime of the spouses, Statutory property regime, Agreement property regime, Marital agreement, Separate property, Common property.*

1. INTRODUCTION

In Republic of Macedonia from the beginning of 2011 is ongoing the process of Civil Law Codification.¹ This will be one of the biggest reforms in the Civil Law, as well as, in the Macedonian legal system from its independence in

* Assistant Professor, Faculty of Law "Justinianus Primus", University "Saints Cyril and Methodius" Republic of Macedonia, angelristov@yahoo.com

¹ Decision of the Government of Republic of Macedonia, „Official gazette of Republic of Macedonia“, No. 4/2011.

1991.² Traditionally, family law is consisted part of the civil codes in Europe.³ In the Macedonian civil code, family law will be regulated in the Book 5 – Family Relations.⁴ Till now, the Commission for the Civil code (further: Commission) finished the Draft versions of the Book 4 – Obligations and Book 4 – Succession.⁵ Draft version of Book 5 – Family Relations is still in preparation.

From all the parts of the Civil code, Commission expects that the part dedicated to the family law will have to be reformed the most.⁶ Main reason for this is that Macedonian Family Law hasn't suffered significant changes for decades,⁷ although the marital and family relations in past decades are dramatically changed.⁸ One of these changes is the improvement of the women's

² Commission for the preparation of the Civil code from its adoption expects to achieve two main goals: to improve the quality in the regulation of the civil law relations in the Republic of Macedonia and to overcome the existing legal gaps, problems and contradictions in the current law. The author is one of the members in the Commission for Family Law and Inheritance Law.

³ See more on this issue: Dejan Mickovik, Angel Ristov, "The place of the Family Law in the Civil code" *Lawyer*, Society of lawyers in Republic of Macedonia, 2015; Dejan Mickovik, Angel Ristov, "Family Law in The New Civil Code of The Republic of Macedonia: Key Issues and Necessary Reforms" *International Survey of Family Law*, Jordan publishing, Bristol, 2014.

⁴ Dejan Micković, Angel Ristov, "Codification of the Family Law in the Republic of Macedonia", *Proceedings of the Pale Law Faculty*, Republic of Srpska, 2014.

⁵ The Commission for the civil code finished the third version of the Draft Book 3 – Obligations and Draft Book 4 – Inheritance in September 2016. In the meanwhile they were put on a public debate. First version of theoretical frame of the Draft Book 5 – Family relations was prepared in the end of 2015. The Commission still hasn't prepared the first version of Draft Book 1 – General part and Draft Book 2 – Real property relations.

⁶ See more Dejan Mickovik, Angel Ristov, *Family Law*, Stobi Trejd, Skopje, 2016. For the changes in modern family see more: Martine Segalen, *Sociologie de la famille*, Armand Colin, Paris, 2004; Mary Daly, Changing family life in Europe: significance for state and society, *European Societies*, Vol 7, Issue 3, September 2005; Graham Allan, Sheila Hawker, Graham Crow, Family Diversity and Change in Britain and Europe, *Journal of Family Issues*, Vol. 22, No. 7, October 2001.

⁷ See more: Angel Ristov, "Non Marital Union in the Macedonian Family Law" Ohrid School of Law, *Iuridica Prima*, Vol. 1, May 2015; Dejan Mickovik, Angel Ristov, "Family Law in The New Civil Code of The Republic of Macedonia: Key Issues and Necessary Reforms" *International Survey of Family Law*, Jordan publishing, Bristol, 2014; D. Mickovik, A. Ristov, "Les changements dans les rapports conjugaux et familiaux dans les pays européens et dans la République de la Macédoine", *Facta Universitatis*, Pravni fakultet Nis, 2014; A. Ristov, "The New Challenges in the Regulation of Marriage and Non Marital Union," *Harmonius*, Belgrade, 2014; Dejan Micković, Angel Ristov, "Harmonisation of the Family Law and Inheritance Law in European countries", *Harmonius*, Belgrade, 2013.

⁸ More about the changes in the family and their reflections on the inheritance law see: M. A. Glendon, *The Transformation of Family Law: State, Law and Family in the United States and Western Europe*, The University of Chicago Press, Chicago and London, 1989; L.

position in the society, marriage and the family relations, upon which she became equal partner with the man.⁹ Another reason is the establishment of the new political, economic and legal system in Republic of Macedonia that influenced on the social and legal relations in the family.¹⁰ Many restrictions of the property from the socialist era were abolished in the new Constitution in 1991 and private property became dominant type.¹¹ Despite these changes, in the Family Law Act¹² (FLA) from 1992 the legislator in great part accepted the old solutions from the previous socialist system.¹³ This especially concerns the issue of the marital property regime of the spouses in which the statutory regime was dominant.¹⁴

Prediction of the marital agreement and its thorough regulation will be one of the crucial reforms in the family law.¹⁵ With this reform marital partners will have choice and greater freedom in regulating their marital property relations upon their wishes, capabilities and conditions. In this sense Glendon points that "marital property regime is not always appropriate and adequate for each couple. Different

Gokalp-Villeneuve, I. Thery, *Couple, filiation et parenté aujourd'hui, Le droit face aux mutations de la famille et de la vie privée*, Editions Odile Jacob, Paris, 1998.

⁹ See more on this issue: Dejan Micković, Angel Ristov, *The Position of the Spouse in the Macedonian and Comparative Inheritance Law*, *Proceedings of the Faculty of Law "Iustinianus Primus" - Skopje in honor of prof. Todor Pelivanov*, Faculty of Law "Iustinianus Primus" Skopje, 2012; Liljana. Spirovik Trpenovska, Dejan Micković, Angel Ristov, *Inheritance in Europe*, Shine, Skopje, 2011; Jelena Vidić, "Naslednopravne posledice odnosa srodstva, braka i vanbračne zajednice" *Pravni život*, Udruženje pravnika Srbije, Beograd, br. 11/2009.

¹⁰ See Svetomir Shkarik, *Constitutional Law*, 8 edition, Prosvetno delo, Skopje, 2007.

¹¹ More on the issue of restrictions of the property see Asen Grupche, *Estate Law, Property Law*, Kultura, 1976, 132-149. About the main forms of the property in present legislation see more: Rodna Zhivkovska, *Property Law, Book I*, Europe 92, Skopje, 108-114.

¹² „Official gazette of Republic of Macedonia“, No. 80/92, 9/96, 38/04, 33/06, 84/08, 67.10, 156/10, 39/12, 44/12, 38/14, 115/14, 153/14.

¹³ More on this issue see: Bozhidar Kocov, "Property relations of the spouse" *Family legislation of Republic of Macedonia*, Supreme court of Republic of Macedonia, 1994, 197-214.

¹⁴ See: Mile Hadzivasilev, *Family law*, Studentski zbor, Skopje, 1990.

¹⁵ See more on this issue: Dejan Micković, Angel Ristov, "Marital Agreement in Macedonia and Croatia" Zagreb-Skopje Colloquium, University of Zagreb, Zagreb, 2016; Dejan Micković, Angel Ristov, "For permissibility of the Marital Agreement: Marriage based on love or interest, *Lawyer*, No. 284, Association of Lawyers of the Republic of Macedonia, Skopje, December 2015; Angel Ristov, "Is the Marriage Agreement Necessary in the Macedonian Legislation" *Notarius*, no. 23, Notary Chamber of Republic of Macedonia, Skopje, July 2013; Angel Ristov "Marital Agreement - Unknown, Reality or Necessity in the Modern Macedonian Family Law" *Proceedings of the Law Faculty "Iustinianus Primus" in Skopje in honor of prof. Ljiljana Spirović Trpenovska*, Law Faculty "Iustinianus Primus", Skopje, 2012; Dejan Micković, Angel Ristov, *Marital Agreement in the Macedonian and Comparative Law, Legal life*, Association of the Lawyers - Republic of Serbia, Belgrade, 2012.

couples have different needs and desires, but also their requirements in terms of economic and property relations may change during the marriage. It is therefore very important when the spouses may agree beyond the basic legal property regime and to regulate themselves their own property relations.”¹⁶

Except for the spouses, prediction of the marital agreement will be in the interest of the creditors, bailiffs, and the principle of legal certainty¹⁷ in the estate relations, as well.¹⁸ Promoting the possibility for contractual arrangement of the marital property relations, our Family Law will be harmonized with the principles of European Family Law regarding property relations between spouses.¹⁹ Crucial reforms will be also proposed in the regulation of the separate and joint property of the spouses, given the fact that there are too many legal gaps in the present legislation creating problems in the practice.²⁰

With aim to present the main reforms in the Book 5 of the Civil code related to the marital property regime first we will analyze the arguments for regulation of the marital agreement, parties, its form and content in the comparative law as well as the problems in the existing marital property regime. In the end we will elaborate the proposals for regulation of the marital agreement and statutory changes de lege ferenda.

2. MARITAL AGREEMENT

The marital agreement²¹ is one of the most controversial agreements in the family law and the law generally, that raises many questions from ethical, moral, legal and religious aspects.²² Can material interests and money be more important

¹⁶ Mary Ann Glendon, *The Transformation of Family Law*, The University of Chicago Press, Chicago and London, 1999, 135-136.

¹⁷ Angel Ristov, *Legal un/certainty in Macedonian Family an Inheritance Law*, *Ohrid School of Law*, Iuridica Prima, Stobi Trejd, Skopje, 2016, 15-39.

¹⁸ Angel Ristov, “Actual questions and dilemmas connected with the realization of the claims in the civil law relations in the Macedonian law”, *International Seminar of Bailiffs*, May 7 - 10, 2015, Sandanski Republic of Bulgaria; Angel Ristov, “Current Problems in the Enforcement of Creditors' Claims in The Macedonian Family and Inheritance Law,” *Seminar on Bailiffs*, 30 May-2 June 2013 Durres Albania, Bailiffs Chamber of the Republic of Macedonia, 2013.

¹⁹ Available on <http://ceflonline.net/wp-content/uploads/Principles-PRS-English1.pdf>

²⁰ Thorough on the proposed reforms see: D. Mickovik, A. Ristov, *Family Law Act*, Stobitrejd, Skopje, 2015, 74-80.

²¹ More about the notion marital agreement see Marcel Planiol, *Traité Élémentaire de DROIT CIVIL*, Tome troisième, Paris, 1910, 8; Jean Carbonier, *Droit civil, Introduction, Les personnes, La famille, l'enfant, le couple*, Quadriage/Puf, Paris, 2004, 1262.

²² See more: Nenad Teshic, “Love on first Sigh” About morality of the marital agreements, *Annals of Faculty of Law in Belgrade*, LVII, 22/2009; Zoran Ponjavic, “Marital

than love,²³ compassion and self-sacrifice? Is the marital agreement moral? Is there love when concluding marital agreement? As a result of these questions, marital agreement has many opponents, but also there are proponents who point the bright side of this agreement.

Hence, marital agreement is agreement upon which future or present spouses regulates their property relations during the marriage and its end. It is predicted in many European countries, such as France, Germany, Austria, Switzerland, Sweden, Greece and others.²⁴ In the past decades prediction of the marital agreement is one of the main reforms in the family laws of the former socialist countries: Russia,²⁵ Bulgaria,²⁶ Croatia,²⁷ Serbia,²⁸ Montenegro, Republic of Srpska, Bosnia and Herzegovina and others.

2.1. Arguments against marital agreement

In the theory marital agreement has a large number of opponents who consider that it puts the main focus on the material interest than love.²⁹ In this

agreement” *Annals of Faculty of Law in Belgrade*, 5/2009; Marija Ignjatović, *Imovinski ugovor bračnih drugova u pravu Republike Srbije*, *Nesklad teorije i prakse*, *Pravni život*, 10/2008.

²³ Can love be imported? Apparently - at least that is what one discovers from perusing the vast number of websites that promise success in finding a foreign bride or groom. One such website profiles 6,500 women from 49 countries. Americans are roaming the world looking for love via the Internet. At least some of them are likely to marry a foreigner. Those prospective brides or grooms would be wise to enter into an American-style premarital agreement to ensure enforcement in American courts. For those who elect a foreign marital regime, there is no guarantee that it will be enforced in the United States. Peter M. Waltzer, “A World of Agreements” *Family Advocate*, Winter 2011, Vol. 33, Issue 3, 1.

²⁴ See more the reports from the European countries on the web site of the European Commission for Family Law.

²⁵ See more Александра Матвеевна Нечаева, *Семейное право*, Юрайт, Москва, 2011, 77-78.

²⁶ See more: Екатерина Матеева, *Семейно право на Република България*, ВСУ „Черноризец Храбър“, София, 2010, 164; Цанка Цанкова, Методи Марков, Анна Станева, Велина Тодорова, *Коментар на новия Семейен Кодекс*, ИК „Труд и право“, София, 2009, 105-133; Методи Марков, *Семейно и наследствено право*, Сиби, София, 2009, 58-63.

²⁷ See more Mira Alinčić, Dubravka Hrabar, Dijana Jakovac-Lozić, Aleksandra Korać-Graovac, *Obiteljsko pravo*, *Narodne Novine*, Zagreb, 2007, 514-518.

²⁸ See more: Гордана Ковачек Станић, *Породично право: партнерско, децје и старатељско право*, Правни факултет у Новом Саду, Нови Сад, 2007, 125-129; Marija Draškić, *Porodično pravo i prava deteta*, JP Službeni glasnik, Beograd, 2009, 408-412; Milan Počuča, *Porodično pravo*, Univerzitet Privredna Akademija, Novi Sad, 2010, 324-326;

²⁹ See more Slobodan Panov, *Family Law*, Faculty of Law in Belgrade, 2010, 357-358.

sense, marital agreement does not correspond to the modern character of marriage that is concluded by love and is based upon solidarity, support and respect. Opponents also stress that property calculations connected with the marital property regime may lead to misunderstanding and conflict between the future spouses. Inclusion of the economic concepts - interest and profit, influence on the "coloring" of the marital relations with the characteristics of commercial relations. According to Zivojin Peric "marriage is not only economic, but also moral community. If there isn't love between spouses, then marriage would become only property and accountancy community; marriage would have no moral base nor would fit with the concept and essence of the marriage."³⁰

Marital agreement also disrupts gender equality because it protects the wealthiest spouse, as party that poses the conditions in the agreement.³¹ In most of the cases mightier party is men.³² Women have lower income because of the activities in the family and motherhood. That is why marital agreement is often used to abuse social norms of equality of gender. In this sense marital agreement strengthens the existing uneven distribution of power in society, where men still have considerably more power than women. In case of divorce, marital agreement can be detrimental to one side, which had less power in negotiating. Very often marital agreement is used as blackmail by one spouse, who insists for its conclusion to accept to get married.

When marriage is concluded with account, it is an indicator that spouses don't believe them selves enough and they can not consider on their help and self sacrifice when is needed.³³ In this sense, certain authors believe that marital agreement is preparation for divorce, instead thinking of love and prosperity of the marriage till the end of the life.³⁴ The spouses from the beginning of the marriage try to protect their assets and financial interests.³⁵

Acceptance of the marital agreement in the legal system means that much more attention is paid to the interests and welfare of the individual, rather than the welfare of the couple. This negatively affects for the stability and the success of marriage and often leads to divorce. According to Servidea concluding the marital agreement is a strong indicator that the spouses are preparing for divorce since the

³⁰ Zivojin Peric, *Personal Marital Law, according to Serbian Civil Code*, Belgrade, 1934, 52.

³¹ J. F. Brod, „Premarital Agreements and Gender Justice“ *Yale Journal of Law & Feminism*, 6/1994, 279.

³² *Ibidem*.

³³ See: Bračni ugovor – kamen temeljac ili kamen spoticanja http://vencanjeizsnova.com/index.php/bračni_ugovor.html

³⁴ K. Servidea, „Reviewing Premarital Agreements to Protect the State's Interest in Marriage“ *Virginia Law Review*, 91/2005, 537.

³⁵ *Ibidem*.

moment of its conclusion.³⁶ In the end, the main sensitive note upon Panov is that marital agreements destroy the romance in the marriage and emotional community.³⁷ To take account of property, material goods and money before marriage, when one considers that there should be love, absolute trust and harmony between partners are opposite to the modern conception of marriage.³⁸

Except certain number of academics, the Church is also a great opponent of the marital agreement.³⁹ According to their officials, when there is love and marriage the spouses shouldn't think about marital agreement.⁴⁰ Marital agreement is preparation for divorce and it spoils the trust between spouses and their plans in the future.

2.2. Arguments pro marital agreement

Despite critics of the marital agreement, there are many arguments according to which it has positive effects for the spouses.⁴¹ In the first place, it allows the spouses⁴² to arrange their property relations by free will, changing the rigid statutory provisions.⁴³ According to Reiss, marital agreement enables the partners to get married without fear that if one day love ends they will spend their time at front of the courts and be exposed on a public humiliation.⁴⁴ That is the reason why with concluding a marital agreement spouses will not have to lead

³⁶*Ibidem.*

³⁷Slobodan I. Panov, *op. cit.*, 358. See more on this M. Ryznar, A. Stepien-Sporek, "To Have and to Hold, for Richer or Richer: Premarital Agreements in the Comparative Context", *Chapman Law Review*, Vol. 13/27, 2/2/2010, 27.

³⁸About the financial challenges in the marriage and the romance see more Mary Rowland Linking Love and money, *New York Times*, Feb. 25, 1990.

³⁹Slobodan I. Panov, *op. cit.*, 358.

⁴⁰See more: The speech of Archbishop Vicentie. "Marital agreement preparation of the family for divorce" <http://radiosvetigora.wordpress.com>

⁴¹See more Irena Majstorovic, *op. cit.*, 169.

⁴²Jerome H. Poliacoff considers that "psychologically healthy people should be willing to discuss personal and financial matters, such as family ties and inheritance, the financial well-being of children from a previous marriage, the disposition and use of personal and business assets accumulated before the marriage, and other emotionally important expectations. Prenuptial agreements force an engaged couple to discuss thoroughly and honestly issues such as money and property, topics that some couples might avoid. These discussions can help build a better understanding of their assets and financial intentions, which can increase the chances of a peaceful and successful marriage." What does Love Have to do with it? *Family advocate*, Winter 2011, Vol. 33, Issue 3, 7.

⁴³See more M. A. Glendon, *op. cit.*, 135-136.

⁴⁴A.L. Reiss, „The 20 Million Question" *The New York Times (NYT)*, February 3, 2006, 235.

long, difficult and uncertain "war" on the division of the property in case of divorce.⁴⁵ Upon Fred Silberberg there are ten main reasons why marital agreement ought to be concluded: 1) The signing of the marital agreement helps spouses each other to become better acquainted; 2) The outstanding financial and property issues can disrupt the relationship between partners; 3) The separate property should remain unchanged; 4) Marriage commitments often can not be divided; 5) The divorce is expensive; 6) The marital agreement preserves peace in the family; 7) Financial independence affect the relations more fortunate; 8) The marital agreement provides freedom over other debts; 9) The law is not always fair and just regarding the division of property and 10) The expectations of the partners are predicted and secured in advance.⁴⁶

Ability of the spouses to conclude a marital agreement upon their free will allows them to regulate their property relations in a different way than the statutory provisions.⁴⁷ Prenuptial agreements allow couples to write a "road map," that structures their finances according to a mutually predetermined plan.⁴⁸ In addition, prenuptial agreements enable an individual to protect a family business or specific piece of property from possible claims by a former spouse.⁴⁹

In each country the legislator predicts statutory provisions for marital property regime, which can not meet the needs of all couples. There are many differences that exist between them, in terms of assets, their intellectual and emotional characteristics, desires, needs and interests. Contrary to those who think that marital agreement is detrimental to the stability of marriage it allows the couple to reach an agreement on property relations and finance, which is often a source of major conflict during the marriage. Moreover, the conclusion of a marital agreement can affect preventative for the occurrence of unsuccessful marriage.

⁴⁵Children are the greatest victims from the divorce of their parents. Long lawsuits connected with the issue of division of the joint property negatively effects on their proper development. According to Paul R. Amato many studies show that the parents's divorce has negative consequences for the children when they grow up, including lower socioeconomic status, marital problems and greater likelihood of divorce. See more in:Paul R. Amato, The Consequences of Divorce for Adults and Children, *Journal of Marriage and Family*, Vol. 62, No.4, 2000, 1279.

⁴⁶Fred Silberberg, *Prenuptial agreements 10 reasons to have one*.<http://www1.divorcenet.com/bbs/ubbthreads.php>

⁴⁷See more Gordana Kovachek Stanic, *Comparative Family Law*, University in Novi Sad, Faculty of Law, 2002, 43-72.

⁴⁸See Karen S. Peterson, Money Sense From Start Is Important in Marriage, *Chi. Sun-Times*, Feb. 23, 1995, 2.9

⁴⁹Albert B. Crenshaw, To Love, Honor and Protect Your Assets: Older Couples Embrace Prenuptial Agreements, *Wash. Post*, Apr. 27, 1993, (Health),12-13.

Supporters of the marital agreement consider it not as an expression of distrust between spouses, but as expression of true honesty and confidence that is necessary for a successful marriage.⁵⁰ It is also a confirmation that the spouses have not hidden intentions in marriage.⁵¹ In this sense the fact that spouses discuss about concluding marital agreement is a reflection of the stability of the relationship and the maturity of the spouses.

Marital agreement provides better protection of the business, predicting that incomes are separate property of one of the spouses. Marital agreement is particularly useful for the partners who had been previously divorced and who want to protect the property interests of their children. In the US,⁵² where over 50% of marriages end in divorce, similar as in Europe, couples often conclude a marital agreement to avoid traumas from the conflicts regarding the division of the property in divorce.⁵³ According to judicial practice in USA, marital agreement encourages concluding of marriage, because the divorced persons are not getting in to a new marriage if they do not conclude before a marital agreement with aim not to repeat the negative experiences from a previous marriage.

Divorce often rises an issue of maintenance of the children⁵⁴ and the ex spouse. These questions also lead to lengthy litigation, which adversely affects on the relations between the former spouses and exercising of the parental responsibilities after divorce.⁵⁵ This has an extremely negative impact on the children, who are the biggest victims of the conflicts between their parents who often finished with divorce. All these problems can be avoided if spouses conclude marital agreement in which, among others, they regulated the alimony issues.

Greater acceptance of the marital agreement in the contemporary societies

⁵⁰Irena Majstorović, *op. cit.*, 225.

⁵¹*Ibidem*.

⁵²According to Jerome H. Poliacoff in the USA. "until the 1960s, American courts refused, on public policy grounds, to enforce prenuptial agreements designed to apportion property in the event of divorce as the enforcement of such contracts was viewed as being deleterious to the constancy of marriage. That changed in 1968, when a Florida appellate decision followed precedent in invalidating a prenuptial agreement, but a dissenting judge indicated that the contract should have been upheld as "not in contemplation of divorce, but in contemplation of marriage." *Posner v. Posner*, 206 So. 2d 416, 420 (Fla. Dist. Ct. App. 1968) (Swann, J. dissenting), rev'd, 233 So. 2d 381 (Fla. 1970). On appeal, the Florida Supreme Court agreed with the lower court dissent and held that prenuptial agreements settling alimony and property rights upon divorce are not void as contrary to public policy. Thus, the era of prenuptial agreements began." *Op. cit.*, 1.

⁵³Allison A. Marston, "Planning for Love: The Politics of Prenuptial Agreements", *Stanford Law Review*, Vol. 49:887, 1997, 895.

⁵⁴More about the necessity for changes in the present concept of maintenance of the children see Dejan Mickovik, Angel Ristov, *Family Law Act.*, (2015b), 107-109.

⁵⁵Lawsuits connected with non payment of the alimony are very often at front of the Macedonian courts.

is a result of the fact that in recent decades the essence, nature and meaning of marriage have been changed. It is more than evident that now days, despite the past, individual interests and needs of the spouses became more important, than the common interest, children and stability of marriage. In many countries dramatically is increasing the number of divorced marriages,⁵⁶ non marital unions and the number of the children born out of wedlock.⁵⁷ As a result of these, there is no more one and uniform model of family, like that was in the past with the nuclear family. New models of families occur, such as mono parental families, recomposed families etc.⁵⁸ In this sense, in the contemporary societies marriage doesn't have monopoly any more. These changes in the marital and family relations influence on the attitude of the judicial practice in the area of family law. According to Singer, it comes to the evolution of the Supreme Court of the United States toward marriage. Earlier the court treated marriage as an important public institution, unlike today, when "marriage is seen as a private connection in which the main goal is to promote individual happiness and personal fulfillment." In this context, it is quite logical to allow conclusion of a marital agreement in which will be evident the individual will and needs of the spouses.⁵⁹

⁵⁶ According to Eurostat in the EU – 28 in 2012, there were around 2 million marriages concluded, while there were about 1 million divorces recorded. Marriages in the EU – 28 became less stable, as reflected by the increase in the crude divorce rate, which doubled from 1.0 divorce per year per 1000 inhabitants in 1970 to 2.0 divorces by 2010. Among the EU Member States, the highest crude divorce rates in 2012 were recorded in 2012 Latvia (3.6 divorces per 1000 inhabitants) and Lithuania (3.5), ahead of Denmark (2.8). The lowest crude divorce rate in 2012 was recorded in Ireland (0.6 divorces per 1000 inhabitants), Italy (0.9), Malta (1.1), Greece (1.2), Slovenia (1.2) and Croatia (1.3), Serbia (1.0), Montenegro (0.8) and Macedonia (0.9).

Available on <http://epp.eurostat.ec.europa.eu/statistics>

⁵⁷ In the recent decades the number of the non marital unions and the live births outside marriage across the EU – 28 is increased. Usually the number of the children born out of wedlock is a indicator of the number of extra marital comunions. In 2011 in the EU -28 as a whole 39.3% of children were born outside marriage, while in 2000 the nthe rate was 27.3%. In 2012 extra-marital births accounted for the majority of births in Island (66.9%), Estonia (58.4%), Slovenia (57.6%), Bulgaria (57.6%), Sweden (57.4%), Belgium (52.3%), Denmark (50.6%), France (55.8%). The number of births are lowest in Greece (7.6%), Cyprus (18.6%) and Turkey (2.6%). In ex -Yu countries the number of extra marital births is highest in Slovenia (57.6%), while in other it is lower: Serbia (24.7%), Croatia (15.4%) and Macedonia (11.6%).

⁵⁸ See more Dejan Mickovik, Angel Ristov, *Family Law.*, (2016a), 88-91.

⁵⁹ Certain research in the past century shows that marital agreements are becoming very popular. In the United States, from 1978 to 1988 the number of marital agreement is tripled. It is estimated that 5% of all couples sign prenuptial agreement, and this percentage is 20% for partners who enter into a new marriage after divorce of the previous marriage. In France about 10% of couples enter into a marriage contract, usually in the case of particularly valuable assets. Marital agreements in Europe are especially popular in the Netherlands, where

3. PARTIES

In the comparative law there are not uniform solutions in the regulation of the marital agreement, as well as, other family law institutes.⁶⁰ That is why there are different solutions on the issue when can be marital agreement concluded. In some jurisdictions marriage contract can be concluded before the marriage, but also during the marriage.⁶¹ In others it can be concluded only before the marriage. When marital agreement is concluded before the marriage it is called prenuptial agreement. As parties to this agreement are future spouses – fiancé and fiancée. Its validity is conditional depending on the conclusion of the marriage. In case they don't get married the marital agreement will not produce legal effect. Such provision is predicted in the French Civil Code (Art. 1395 Code civil). Same provision consists and Austrian civil code (Art. 1217 ABGB).⁶² Similar provisions are predicted in the new family legislation of Russia, Bulgaria, Croatia, Serbia and Monte Negro. In other countries, such as in Germany, marriage contract can be signed only by current spouses, but not intending spouses.⁶³ A similar solution as Germany is envisaged in Italian law, under which prenuptial agreements are not permitted because they are considered to be contrary to the public interest. The main argument is that they could "affect on the spouses personal decisions such as divorce."⁶⁴

4. FORM AND CONTENT

Marital agreement is a strictly formal agreement. Its form in almost all legislations is regulated by statutory provisions. In this sense, marital agreement

25% of couples enter into a marriage contract, and 40% of non marital partners older than 50 years conclude such an agreement for regulation of mutual property relations.

⁶⁰See more Gordana Kovachek Stanik, *op. cit.*, 62-74.

⁶¹Besides these marital agreements, in the theory and practice are also known postnuptial agreements. They are relatively new phenomenon. But because of their practical advantages, there is reason to believe that they will become the dominant form of marital contract. See more Sean Hannon Williams, Postnuptial agreement, *Visconsin Law Review*, 2007, 829.

⁶²See more Werner Ogris, Paul Oberhammer, *Législation Comparée: Autriche*, No. 8, Éditions du Juris'Classeur, 1997, 6.

⁶³See more Peter Gotwald, Dieter Schwab, Eva Büttner, *Family and Succession Law*, Wolter Kluwer International, 2001, 107-116.

⁶⁴Gordana Kovaček Stanić, *op. cit.*, 67. See also: Léonardo Lenti, *Législation compare: Italie*, Éditions du Juris-Classeur, No. 2, 1997; Dejan Micković, Angel Ristov, "Harmonisation of the Family Law and Inheritance Law in European countries", *Harmonius*, Belgrade, 2013.

must be concluded in written form and its content and the signatures must be certified by a competent authority such as public notary, judge or public servant. In German law marital agreement should be signed in the presence of both parties and verified by a notary (§1410 BGB). French law also predicts that marital agreement must be in writing and be verified by notary. The notary is obliged to warn the parties about the consequences of the agreement. Despite other legislations, French law is specific because the agreement must be approved by the competent national authority –the court (*tribunal de grande instance*). Similar solutions are predicted in Croatia, Bulgaria, Russia, Monte Negro etc.

In the comparative law there is also diversity of solutions that regulates the content of the marital agreement.⁶⁵ According to Kovachek Stanik “limitation of the freedom of contracting is consequence of the fact that contractual parties are the spouses and attention for protection of the weaker spouse.”⁶⁶ In some countries the content is not thoroughly regulated and it is limited by the general legal rules and principles. Often there is a provision that in the content of the marital agreement can't be predicted issues that are contrary to the public order. In this sense, the freedom of contract of the spouses in German law is limited in terms of public order and morals. In Italian law, despite restrictions by the public order, freedom of contracting is limited by statutory rights and obligations arising from the marriage. This means that they can't change the rules on equality of the share in the common property and the rules for the division of property. But also, they can't change the mandatory rules related with the maintenance of the children and spouse. In other legislations the limitations of the content of the marital agreement are thoroughly regulated. In the Russian law, it is strictly précised that spouses in the marital agreement can't limit their legal and contractual capacity and the right to sue. They can't also prescribe in the marital agreement: personal relations between them, rights and responsibilities upon the children, as well as, other provisions that create disadvantage for one of the spouses. In the end it is predicted that all the provisions in the marital agreement that are contrary to the legal provisions of the family law can't produce legal effects. Despite the legislations that partially or fully regulate the content of marital agreement, in the comparative law there are legislations that do not have statutory provisions that regulates this issue, such is the example of the Serbian and Croatian law.

⁶⁵See more Gordana Kovaček Stanić, *op. cit.*, 62.

⁶⁶*Ibidem.*

5. PROBLEMS IN THE STATUTORY REGIME OF THE SPOUSES

One of the current problems with whom the spouses are faced in case of divorce is the status of their joint and separate property. The main dilemma is related to the question of what comes in the separate and what enters in the joint property of spouses.⁶⁷ In practice, very often, when separate property of a spouse is not enough to fulfill the claims of the creditors, they claim fulfillment from his part of the joint property. In this situation, with aim to abuse the right of the creditor's spouses' starts a lawsuit to prove greater contribution than ½ in the acquisition of joint property. These procedures, in most cases, aim to impede the execution of a portion in the joint property of the spouse who appears as a debtor. Until the end of the dispute bailiffs and creditors are obliged to wait to complete the litigation that can last for years. This creates legal uncertainty and the occurrence of abuses that are carried out by starting fictitious processes for determining the larger share of the joint property, which "tie the hands" of the creditors. In addition, creditors are often faced with the dilemma which property of the spouses is joint and which is separate that also hinders the realization of their claims. This problem is especially apparent in case of divorce when the spouse didn't regulate their property relations during the marriage. Such problems arise in practice primarily as a result of the old legal provisions that haven't been changed for decades, although they have many legal gaps and inconsistencies.

According to our family law separate property will be considered the property possessed by the spouse before entering in to the marriage, but also and the property that will be acquired during the duration of the marriage upon inheritance, gift or legacy.⁶⁸ The separate property of the spouses includes personal things unless their value is disproportionately large compared to the value of joint property. Legislators still failed to settle certain issues pointed for years by the judicial practice and theory. It is about the revenue from intellectual property rights acquired by one of the spouses. Issue is whether they are separate property, or they enter into joint property of the spouses. In this regard there are two standpoints. According to the first opinion, the acquired property is a joint property because, although the copyright work is the result of intellectual abilities of one spouse, it is considered that the other spouse indirectly contributed to the creation of the copyright. Upon second standpoint, intellectual work is result of creative intellectual work of one spouse – the author and that is why it should be a separate property. In addition, it is arguable question of the income from intellectual property that was created before marriage and realized during the duration of marriage. Controversial is also the status of the property acquired with

⁶⁷Dejan Mickovik, Angel Ristov, *Family Law*, (2016a), 321-329.

⁶⁸*Ibid*, 325-326.

the income from the separate property of the spouses during the duration of the marriage, as the basis for its occurrence is not the joint work of the spouses. Our present legislation has not provision regulating property acquired upon games of chance. In this regard it is necessary to be predicted that property acquired upon games of chance is considered joint property, unless one of the spouses in the games of chance proved that he/she invested funds from the separate property. In the upcoming reform of the family law legislator should thoroughly regulate these issues that create problems in the practice.

The property that the spouses acquire during the marriage on the basis of their work is considered joint property. Work is the most important basis for the creation of joint property. According to the judicial practice, as work and contribution to the joint property is considered to be also indirect work – homestead, such as rising of the children, cleaning, cooking etc. Besides working as one of the essential foundations, the joint property of the spouses may occur with gifts made in favor of spouses, by will, as well as all other freight and gifts legal acts that occur and both spouses. According to the case law of the Supreme Court of Macedonia, the joint property of the spouses may be acquired on the basis of loan and life time maintenance contract.⁶⁹ In case of division of the joint property according to the law it is considered that it belongs to the partners equally if it is not proved opposite.

6. MARITAL PROPERTY REGIME DE LEGE FERENDA

Our legislation is usually late for decades from the contemporary tendencies in the marital and family relations. That is why introducing a marital agreement in the new civil code will be one of the most important reforms in the Macedonian family law. In present legislation still dominates the statutory marital property regime which doesn't leave plenty of "room" for the free will of spouses. Analysis of the comparative law, as well as, the arguments in favor of marital agreement allows us to support the proposal of the Commission for its regulation in the civil code. Despite the countries (Serbia,⁷⁰ Monte Negro and Croatia) that regulate marital agreement with few provisions, we consider that our legislator should follow the example of Germany, France and other countries where this agreement is thoroughly regulated.

⁶⁹*Ibid*, 323-324.

⁷⁰Despite present solutions predicted in the several provisions in the Family Law Act, Draft Book 3 of the Civil code of Republic of Serbia – Family Relations, predicts thorough regulation of the marital agreement. This example should follow the Macedonian legislator. See more Draft Book of the Civil code of Republic of Serbia, Third Book Family Relations, Government of Republic of Serbia, Belgrade, 2011, 86-90.

With aim to harmonize our family law in the regulation of the marital agreement, legislator must consider and incorporate the Principles of European Family Law regarding property relations between spouses. In this sense, marital agreements should be allowed to be concluded before marriage as well as during the marriage. Except for the future or present spouses' marital agreement should be allowed and for the non marital partners. Upon the marital agreement spouses will arrange their property relations freely by consent.

Considering the solutions in comparative law as well as the position and role of the notary in our legal system, we think it is a most comprehensive manner for the notaries to be responsible for verification of marriage contracts. They also could conclude marital arrangements in the form of a notary's deed. This would practically mean legalization of what was already happening in practice. Notary should give impartial advice to each spouse separately and ensure that each spouse understands the legal consequences of marital property agreement. In this sense, legislator should prescribe that marital agreement should be drawn up by a notary public, dated and signed by both spouses.

We also consider that it will be very useful predicting a provision regulating the content of the marital agreement. Given the fact that Macedonian family law doesn't have marital property models (as Germany, France and Switzerland) with the marital agreement spouses will be able to amend legal regime of marital joint property. Spouses in the contract would be able to specify separate property, predicting the percent of condominium in case of division, the rights and obligations in mutual support, using the income of one spouse by the other, the expenses for family life, as well as determining the property that will belong to each of the spouses in case of divorce. In the civil code will be predicted that with marital agreement partners could not amend the mandatory legal norms relating to the right of alimony, the obligation to cover the expenses of family life and responsibilities of parents towards the children. The legislator should also predict norms regulating the effects against third parties and the marital agreements register, as well as possibility for changes in the marital agreement in cases of exceptional hardship.

Besides introduction of the marital agreement changes are necessary in the regulation of the statutory regime, particularly in the terms of separate and joint property. To overcome present legal gaps we consider that legislator should accept certain solutions from the matrimonial property regimes predicted in the Principles of European Family Law regarding property relations between spouses. This concerns especially the solutions that precisely define community property and personal property.

In the end, crucial reform will be predicting a special status of the family home that will be the best interest of the child.⁷¹ In this sense legislator should prescribe provisions for protection of the family home and household goods, as well as protection of the leased family home.

⁷¹ Angel Ristov, "The Legal Status of the Marital Home in the Macedonian and Comparative Law", *Iustinianus Primus Law Review*, No. 5, Skopje, 2012.

Др Ангел РИСТОВ

Доцент, Правни факултет „Јустинијан Први“, Универзитет „Св. Кирил и Методије“ Скопје

МАКЕДОНСКИ ГРАЂАНСКИ ЗАКОНИК И РЕФОРМА БРАЧНОГ ИМОВИНСКОГ РЕЖИМА СУПРУЖНИКА

Апстракт: Македонско породично законодавство није претрпело значајне промене деценијама. Ово се посебно односи на питање брачног имовинског режима супружника. С обзиром да је у Републици Македонији у току процес кодификације грађанског права, увођење брачног уговора и његово темељно регулисање биће једна од кључних реформи. Упркос чињеници да је брачни уговор један од најконтроверзнијих уговора у моралном, етичком, правном и религијском смислу, предвиђен је у великом броју законодавастава. Брачни уговор омогућава супружницима да уреде своје имовинске односе према њиховој вољи, жељама и условима. У македонском праву брачни уговор није регулисан, међутим у пракси се закључује на основу принципа слободе уговарања. То је разлог због чега се врло често постављају питања и дилеме у вези његове дозвољености, уговорних страна, форме, садржине и др. Како би се превазишле дилеме и проблеми у будућности, неопходно је темељно регулисање брачног уговора у Грађанском законнику. У реформи породичног права неопходно је да се регулишу и садашње правне празнине у вези посебне и заједничке имовине супружника, који стварају проблеме у пракси.

Кључне речи: *Македонски грађански законик, брачни имовински режим, законски имовински режим, уговорни режим, брачни уговор, посебна имовина, заједничка имовина.*

BIBLIOGRAPHY:

- Allan Graham, Hawker Sheila, Crow Graham, Family Diversity and Change in Britain and Europe, *Journal of Family Issues*, Vol.22 No.7, October 2001
- Alinčić M., Hrabar D., Jakovac-Lozić D., Korać-Graovac A., *Obiteljsko pravo*, Narodne Novine, Zagreb, 2007;
- Amato P.R., The Consequences of Divorce for Adults and Children, *Journal of Marriage and Family*, Vol. 62, No.4, 2000;
- Brod J.F., „Premarital Agreements and Gender Justice“ *Yale Journal of Law & Feminism*, 6/1994;
- Цанкова Цанка, Марков Методи, Станева Анна, Тодорова Велина, *Коментар на новия Семейен Кодекс*, ИК „Труд и право“, София, 2009;
- Crenshaw A.B., To Love, Honor and Protect Your Assets: Older Couples Embrace Prenuptial Agreements, *Wash. Post*, Apr. 27, 1993, (Health);
- Daly Mary, Changing family life in Europe: significance for state and society, *European Societies*, Vol 7, Issue 3, September 2005;
- Draškić M., *Porodično pravo i prava deteta*, JP Službeni glasnik, Beograd, 2009;
- Glendon Marry Anne, *The Transformation of Family Law: State, Law and Family in the United States and Western Europe*, The University of Chicago Press, Chicago and London, 1989;
- Gokalp-Villeneuve L., Thery I., *Couple, fillation et parenté aujourd'hui, Le droit face aux mutations de la famille et de la vie privée*, Editions Odile Jacob, Paris, 1998;
- Gotwald P., Schwab D., Büttner E., *Family and Succession Law*, Wolter Kluwer International, 2001;
- Grupche Asen, *Estate Law, Property Law*, Kultura, 1976;
- Hadzivasilev Mile, *Family law*, Studentski zbor, Skopje, 1990;
- Ignjatović Marija, Imovinski ugovor bračnih drugova u pravu Republike Srbije, Nesklad teorije i prakse, *Pravni život*, 10/2008;
- Kocov Bozhidar, “Property relations of the spouse” *Family legislation of Republic of Macedonia*, Supreme court od Republic of Macedonia, 1994;
- Kovachek Stanic G., *Comparative Family Law*, University in Novi Sad, Faculty of Law, 2002;
- Ковачек Станић Г., *Породично право: партнерско, децје и старатељско право*, Правни факултет у Новом Саду, Нови Сад, 2007;
- Lenti L., *Législation compare: Italie*, Éditions du Juris-Classeur, No. 2, 1997;
- Марков Методи, *Семейно и наследствено право*, Сиби, София, 2009;
- Marston A.A., “Planning for Love: The Politics of Prenuptial Agreements”, *Stanford Law Review*, Vol. 49:887, 1997;

- Матеева Екатерина, *Семейно право на Република България*, ВСУ „Черноризец Храбър“, София, 2010;
- Матвеевна Печеева-Александра, *Семейное право*, Юрайт, Москва, 2011;
- Mickovik Dejan, Ristov Angel, "Codification of the Family Law in the Republic of Macedonia", *Proceedings of the Pale Law Faculty*, Republic of Srpska, 2014;
- Mickovik Dejan, Ristov Angel, *Family Law*, Stobi Trejd, Skopje, 2016;
- Mickovik Dejan, Ristov Angel, *Family Law Act*, Stobi Trejd, Skopje, 2015;
- Mickovik Dejan, Ristov Angel, "Family Law in The New Civil Code of The Republic of Macedonia: Key Issues and Necessary Reforms" *International Survey of Family Law*, Jordan publishing, Bristol, 2014.
- Mickovik Dejan, Ristov Angel, "Family Law in The New Civil Code of The Republic of Macedonia: Key Issues and Necessary Reforms" *International Survey of Family Law*, Jordan publishing, Bristol, 2014;
- Mickovik Dejan, Ristov Angel, "For permissibility of the Marital Agreement: Marriage based on love or interest", *Lawyer*, No. 284, Association of Lawyers of the Republic of Macedonia, Skopje, December 2015;
- Mickovik Dejan, Ristov Angel, "Harmonisation of the Family Law and Inheritance Law in European countries", *Harmonius*, Belgrade, 2013;
- Mickovik Dejan, Ristov Angel, "Les changements dans les rapports conjugaux et familiaux dans les pays européens et dans la République de la Macédoine", *Facta Universitatis*, Pravni fakultet Nis, 2014;
- Mickovik Dejan, Ristov Angel, "Marital Agreement in Macedonia and Croatia" Zagreb-Skopje Colloquium, University of Zagreb, Zagreb, 2016;
- Micković Dejan, Ristov Angel, Marital Agreement in the Macedonian and Comparative Law, *Legal life*, Assosiation of the Lawyers - Republic of Serbia, Belgrade, 2012;
- Mickovik Dejan, Ristov Angel, "The place of the Family Law in the Civil code" *Lawyer*, Society of lawyers in Republic of Macedonia, 2015;
- Mickovik Dejan, Ristov Angel, The Position of the Spouse in the Macedonian and Comparative Inheritance Law, *Proceedings of the Faculty of Law "Iustinianus Primus" - Skopje in honor of prof. Todor Pelivanov*, Faculty of Law "Iustinianus Primus" Skopje, 2012;
- Ogris W., Oberhammer P., *Législation Comparée: Autriche*, No. 8, Éditions du Juris'Classeur, 1997;
- Peterson K.S., Money Sense From Start Is Important in Marriage, *Chi. Sun-Times*, Feb. 23, 1995;
- Planiol Marcel, *Traité Élémentaire de DROIT CIVIL*, Tome troisième, Paris, 1910;
- Poliacoff J.H., What does Love Have to do with it? *Family advocate*, Winter 2011, Vol. 33, Issue 3;

Ponjavic Zoran, "Marital agreement" *Annals of Faculty of Law in Belgrade*, 5/2009;

Reiss A.L., „The 20 Milion Question" *The New York Times (NYT)*, February 3, 2006;

Ristov Angel, "Actual questions and dilemmas connected with the realization of the claims in the civil law relations in the Macedonian law", *International Seminar of Bailiffs*, May 7 - 10, 2015, Sandanski Republic of Bulgaria;

Ristov Angel, "Current Problems in the Enforcement of Creditors' Claims in The Macedonian Family and Inheritance Law," *Seminar on Bailiffs*, 30 May-2 June 2013 Durres Albania, Bailiffs Chamber of the Republic of Macedonia, 2013;

Ristov Angel, Legal un/certainty in Macedonian Family an Inheritance Law, *Ohrid School of Law, Iuridica Prima*, Stobi Trejd, Skopje, 2016;

Ristov Angel, "Non Marital Union in the Macedonian Family Law" *Ohrid School of Law, Iuridica Prima*, Vol. 1, May 2015;

Ristov Angel, "The New Challenges in the Regulation of Marriage and Non Marital Union," *Harmonius*, Belgrade, 2014;

Ristov Angel, "Is the Marriage Agreement Necessary in the Macedonian Legislation" *Notarius*, no. 23, Notary Chamber of Republic of Macedonia, Skopje, July 2013;

Ristov Angel "Marital Agreement - Unknown, Reality or Necessity in the Modern Macedonian Family Law" *Proceedings of the Law Faculty "Iustinianus Primus" in Skopje in honor of prof. Ljiljana Spirović Trpenovska*, Law Faculty "Iustinianus Primus", Skopje, 2012;

Ristov A., "The Legal Status of the Marital Hoe in the Macedonian and Comparative Law", *Iustinianus Primus Law Review*, No. 5, Skopje, 2012;

Rowland M., Linking Love and money, *New York Times*, Feb. 25, 1990;

Ryznar M., Stepien-Sporek A., "To Have and to Hold, for Richer or Richer: Premarital Agreements in the Comparative Context", *Chapman Law Review*, Vol. 13/27, 2/2/2010;

Servidea K., „Reviewing Premarital Agreements to Protect the State's Interest in Marriage" *Virginia Law Review*, 91/2005;

Shkarik Svetomir, *Constitutional Law*, 8 edition, Prosvetno delo, Skopje, 2007;

Spirovik Trpenovska Ljiljana, Mickovik Dejan, Ristov Angel, *Inheritance in Europe*, Shine, Skopje, 2011;

Teshic Nenad, "Love on first Sigh" About morality of the marital agreements, *Annals of Faculty of Law in Belgrade*, LVII, 22/2009;

Vidić Jelena, "Naslednopravne posledice odnosa srodstva, braka i vanbračne zajednice" *Pravni život*, Udruženje pravnika Srbije, Beograd, br. 11/2009.

Waltzer Peter M., "A World of Agreements" Family Advocate, Winter 2011, Vol. 33, Issue 3, 1.

Williams S.H., Postnuptial agreement, *Wisconsin Law Review*, 2007;

Zhivkovska Rodna, *Property Law, Book I*, Europe 92, Skopje, 2006;

