CERTAIN ISSUES CONCERNING CONTRACTS ON SUPPORT FOR LIFE AND CONTRACTS ON SUPPORT UNTIL DEATH

Dubravka Klasiček, PhD, Assistant Professor

Josip Juraj Strossmayer University of Osijek, Faculty of Law Osijek
Stjepana Radića 13, Osijek, Croatia
dubravka.klasicek@pravos.hr

Sanja Šimleša Vučemilović, LLM, PhD Candidate

Josip Juraj Strossmayer University of Osijek, Faculty of Law Osijek
Stjepana Radića 13, Osijek, Croatia
simlesa.sanja@gmail.com

ABSTRACT

Contracts on support for life and contracts on support until death are two very similar contracts that are concluded between a provider of support and a recipient of support. Its purpose is to procure support to a person that needs it, until his/her death. The provider of support will, according to the contract that was concluded, receive his/her payment either right after the drafting of a contract or after the receiver of support dies. The payment will be comprised of a part or of whole of recipient's property. The first part of this paper will deal with these contracts in general.

Since contracts on support for life and support until death are somewhat controversial due to certain problems that are related to them, the second part of that paper will outline these issues. First, it will deal with the fact that the heirs of recipient of support will not inherit the property that will be received by the provider of support, since that property is not inheritable. Therefore, this contract is sometimes concluded with the sole purpose of bypassing forced heirs and transferring recipient's property to those he/she wants to inherit it. For that reason, forced heirs will often try to annul these contracts, even if contractual parties did not try to bypass them unlawfully. The second problem is connected to the fact that senior citizens, usually due to their lack of legal knowledge, are not aware of all of the rights they have according to these contracts. Because of that, they will sometimes end up without the support they expected but also without the property that was meant to be a remuneration for that support. Even if some of them had the right to seek legal help, due to their advancing age, they might not have enough time to wait for a court to reach its decision.

This paper will also explore whether these types of contracts exist in other countries in the EU and how are they different from contracts on support for life and support until death in Croatia.

Keywords: *contract on support for life, contract on support until death, provider of support, recipient of support, real estate, land registry*

1. INTRODUCTION

An obligation to support another person may arise from law, court decision, a will or a contract.[1] Contractual support in Croatia can arise from a contract on support for life and a contract on support until death. The main difference between these two contracts is that the contract on support for life is a *mortis causa* contract, because the transfer of the property, which is the remuneration for the provided support, comes after the death of the recipient of the support. On the other hand, contract on support until death is an *inter vivos* contract, since the transfer of the property happens while the recipient of support is still alive, usually shortly after the conclusion of the contract.[2]

These contracts have had an interesting history in Croatian legal system.[3] The contract on support for life was, until the entry into force of the Civil Obligations Act on January 1, 2006[4], regulated by the provisions of Inheritance Act[5], probably because it has certain things in common with inheritance law. However, this is a typical bilateral contract of the law of obligations.[6]

Contract on support until death was not even regulated by Croatian legislation before 2006; however, its conclusion was possible if it was in accordance with the general rules of the law of obligations concerning validity of contracts[7]. According to case law, all of the issues related to termination of this contract, the influence of changed circumstances and the possibility of continuation of this contract after the death of the provider of support, were dealt with analogously to the provisions regulating the contract on support for life.[8]

---

1 Gavella, N., *Nasljedno pravo*, Informator, Zagreb, 1990, p. 368

2 Crnić, J., *Ugovori o doživotnom i dosmrtnom uzdržavanju – de lege lata et de lege ferenda – O nekim (ne samo spornim) pitanjima*, Pravo u gospodarstvu, *Vol.* 6, 2005, p. 159-160

3 Three periods are significant for these contracts - the first one is a period of the old Inheritance Act, the second period of the Inheritance Act currently in force (see note 5) and the third period started when a contract on support for life and support until death became regulated by the Civil Obligations Act (see note 4). For a more extensive review of these periods, *cf. ibid*, p. 148-150

4 Civil Obligations Act (further: COA), National gazette, 35/05, 41/08, 125/11, 78/15

5 Inheritance Act, National gazette 48/03, 163/03, 35/05, 127/13, 33/15. Prior to the entry into force of this Act (in 2003), a contract on support for life was regulated by the provisions of the "old" Inheritance Act, National gazette 52/71, 48/78, 56/00

6 Even then, Gavella commented that provisions of the COA, which relate to other contracts of the law of obligations, should regulate this contract. For more see: Gavella, at 1, p. 369. Also: Belaj, V., *Ugovor o doživotnom uzdržavanju prema novom Zakonu o nasljeđivanju*, Pravni vjesnik, *Vol.* 1-2, 2003, p. 213, 217; Bevanda, M.; Čolaković, M., *Ugovor o doživotnom uzdržavanju i ugovor o dosmrtom uzdržavanju u sudskoj praksi*, Zbornik radova Aktualosti građanskog i trgovačkog zakonodavstva i pravne prakse, *Vol.* 10, 2012, p. 277

7 Belaj, *cf. ibid, p*. 213

8 Klarić, P., Vedriš, M., *Građansko pravo*, Narodne novine, Zagreb, 2014, p. 513

All of this changed on January 1, 2006, when the provisions of the Inheritance Law relating to contract on support for life ceased to be valid, since from that day this contract became regulated by the provisions of the Civil Obligations Act. From then, contract on support until death, for the first time, started to be regulated by Croatian legislation and now its conclusion is no longer permitted under general rules of law on obligations and case law, but on the basis of provisions of Art. 586-589 of the Civil Obligations Act.

Both of these contracts are somewhat controversial.[9] For example, parties that conclude these contracts could do so in order to manipulate inheritance and bypass forced heirs. This is possible because the property that represents remuneration for the support is excluded from inheritance and is transferred to the provider of support, either after the recipient's death or immediately after the conclusion of the contract. Therefore, contracting parties will sometimes conclude these contracts with the sole purpose of bypassing forced heirs.

Furthermore, recipients of support, but sometimes also the providers too, are often not familiar with all the rights and obligations that arise from these contracts. The reason usually being that the recipients of support are older people who are sick and depend on someone else's help, and often accept the conclusion of such contracts without having investigated all of their consequences. Some may conclude these contracts even when they are aware that all of the provisions are not in their best interest, because they think they have no choice and are desperate. An additional issue is that, if there are problems arising from these contracts which need to be resolved in court, the court proceedings will take too long, which often results in the death of a plaintiff, before a court decision in his/her favor could be reached.

Because of this, many individuals exploit recipients of support, in order to acquire their property without much effort.[10] Therefore, various associations of elderly persons (i.e. Pensioners' Association of Croatia) are extremely opposed to these types of contracts, especially to a contract on support until death. Pensioners' Association of Croatia strongly advocate the introduction of certain changes into legislation, aimed at protecting the recipient of support, and even the abolition of

---

9 As one commentator stated, a contract on support for life is one of the most complex contracts known to Serbian legal theory and practice. Although, this commentator is not from Croatia, this statement can also apply to contracts on support for life and contracts on support until death, concluded in Croatia. Krstić, N., *Kako ostavinski sud treba da postupi kada u toku postupka za raspravljanje zaostavštine učesnici ospore ugovor o doživotnom izdržavanju?*, Zbornik radova Pravnog fakulteta u Nišu, *Vol.* 72, 2016, p. 278

10 Bevanda; Čolaković, *op. cit.,* note 6, p. 276

contract on support until death.[11] For example they want the legislators to limit the number of contracts on support for life that one provider of support may conclude; they also want a register of these contracts to be established. They propose that court proceedings related to these contracts become urgent procedures. They also suggest that persons who provide social services (homes for elderly people, foster families, etc.), but also physicians, attorneys and public notaries, should be banned from the conclusion of these contract as providers of support.[12]

The first part of this paper will deal with basic characteristics and particularities of both of these contracts, while the second part will look into certain problems concerning these contracts. The problems that will be addressed in more detail in the second part of this paper have to do with:

1. Conclusions of simulated contract on support for life and support until death, with the purpose of disinheriting forced heirs,
2. Failure to create and register a real estate encumbrance and the failure to register the existence of contract on support for life in the land registry,
3. Lengthy court proceedings in connection with these contracts.

2. CONTRACTS ON SUPPORT FOR LIFE AND SUPPORT UNTILL DEATH

2.1. Contract on support for life

A contract on support for life is a contract whereby one party - the provider of support - undertakes to support the recipient of support (or a third party) until his/her death, and in turn, he/she receives a part or all of recipient's property, but only after he/she dies.[13] The recipient of support can only be a natural person, while the provider may be both a natural and a legal person. In the case of legal persons providing the support, support can consist of, for example, providing accommodation, food and care to the recipient.[14]

---

11 [http://www.narodni-list.hr/posts/209835001] Accessed 26.02.2019

12 For more see: [http://www.glas-slavonije.hr/259376/1/Starcima-obecaju-skrb-do-smrti-a-onda-im-sve-uzmu-i-izbace-ih-na-ulicu (February 13, 2019) and http://www.glas-slavonije.hr/322148/1/Umirovljenici-Ukinite-dosmrtno-uzdrzavanje-stalno-nas-varaju] Accessed 03.02.2019

13 Art. 579, COA
The recipient of support could conclude a contract on support for life or support until death even with the person who has the obligation to provide him/her with support according to provisions of the Family Act. Crnić, *op. cit.,* note 2, p. 153

14 Jelčić, O., *Treća životna dob – kako raspolagati imovinom,* Projekt: „Sigurnost u trećoj dobi: Kako izbjeći rizike pri raspolaganju imovinom", Republika Hrvatska, Ministarstvo socijalne politike i mladih, elektroničko izdanje, Izdavač: Hrvatski pravni centar, 2016, p. 18-20

2.1.1. *Why is this contract strictly formal?*

In order for a contract on support for life and all its subsequent amendments to be valid, Art. 580 of The Civil Obligations Act requires it to be written and certified by a judge or solemnized by a notary public or composed in the form of a notary public act.[15] A judge or notary public who participates in the drafting of

According to Social Welfare Act (SWA), National gazette 157/13, 152/14, 99/15, 52/16, 16/17, 130/17, there are certain limitations concerning the providers of support. Art. 192 stipulates that, in the event that one or more members of the household conclude more than three contracts on support for life and/or support until death, and provide recipients of support with housing, nutrition, care and health care, and help them satisfy other basic living needs, in their residential or business premises (regardless of whether they do it personally, through a third person or employees of a natural or a legal person owned by the provider of support and/or members of his/her household), such persons will be deemed to be unlawfully providing the accommodation services in the field of social welfare. The sanction for this misdemeanor is between 10.000,00 and 50.000,00 kn, according to Art. 260, Paragraph 1, SWA. This provision is in line with one of the requests that, for many years, have been set by the Pensioners' Association of Croatia, in connection with the limitation of the number of contracts on support for life and support until death, that one provider of support can conclude. In their media statements, Pensioners' Association of Croatia, advocates that one person should not conclude more than three of these contracts, justifying that request with the fact that some individuals "have concluded a lot of these contracts, turning it into a kind of a profession" (http://www.glas-slavonije.hr/322148/1/Umirovljenici-Ukinite-dosmrtno-uzdrzavanje-stalno-nas-varaju (February 13, 2019). It seems the number of contracts on support for life and support until death that one provider of support can conclude should certainly be limited, given that if one provider provides support to too many recipients, the question of the quality of the support that he/she can provide, arises.

Furthermore, SWA also stipulates that a person employed in the field of social welfare will severely violate obligations arising from his/her employment, if he/she (or his/her spouse or a descendant concludes a contract on support for life or support until death with the social welfare beneficiary, as long as he/she is employed in the field of social services (Art. 214, Paragraph 1, SWA)

[15] According to Art. 53 and 59, Notary Public Act, National gazette, 78/93, 29/94, 162/98, 16/07, 75/09, 120/16.

Often, in case of termination of contracts on support for life (also contracts on support until death), only the signature of the parties is verified. Since the termination of these contracts may have far-reaching consequences (as well as their conclusion and subsequent amendments), it would seem advisable for the termination to be required to be in the same form as is necessary for their conclusion. More in Butković, M.: Neke specifičnosti kod sklapanja ugovora o doživotnom i dosmrtnom uzdržavanju, Hrvatska pravna revija, 1/2013, p. 22

It has to be noted that the contract on support for life can never become valid under provisions of Art. 294 COA. According to this article, a contract can become valid if the written form was requested for its validity, but it was not concluded in a written form. Such a contract should otherwise be null and void, but if, in spite of this, the obligations arising from it were completed, Art. 294 allows it to become valid. More in Gavella, N., *Privatno pravo,* Zagreb, Narodne novine 2019, p. 322

This is also confirmed in case law:

"*…the contract for which the conclusion requires a written form is deemed to be valid even if it is not concluded in that form, if the contracting parties have concluded, in whole or in part, the obligations arising therefrom, unless from the objective for which the form is prescribed something else arises. A contract on support for life is, according to the provision of Art. 122. Inheritance Act (National gazette, No. 52/71, 47/78 - hereinafter referred to as "IA") a strictly formal contract that needs to be made in a written form and verified by the judge. The judge is, according to the provision of Paragraph 5 of aforementioned article, obliged*

this contract should read the contract to both parties and warn them of its consequences.[16] Both parties do not have to be present at the same time for certification of a contract by a judge or its creation before a notary public or its solemnization. If they are not present at the same time, the contract will be considered certified, created or solemnized only after it is certified, created or solemnized for the second contracting party.[17]

At this point, it is necessary to clarify what are such serious consequences of a contract on support for life (and contract on support until death), because of which contracting parties are not allowed to conclude it alone, without the participation of a judge or a notary public.

a) The first important consequence of this contract is that all or a part of the property that belongs to recipient of support becomes the remuneration for provided support. This means that the provider of support becomes a singular legal successor to the recipient of support, concerning that property.[18] Since the property constitutes a remuneration for provided support, it cannot become a part of the

---

to read the contract and warn the contracting parties about its consequences, so it is obvious that the purpose of the prescribed form is to prevent possible abuse, as well as the protection of the rights of third parties (for example, forced heirs who lose their forced share because of contract on support for life). Therefore, according to the position of this court, a contract on support for life that is not written and verified by the judge cannot become valid, even when it is fully executed."

„…ugovor za čije se sklapanje zahtijeva pismena forma smatra se pravovaljanim iako nije zaključen u toj formi, ako su ugovorne strane izvršile, u cijelosti ili u pretežnom dijelu, obveze koje iz njega nastaju, osim ako iz cilja zbog kojeg je forma propisana očito ne proizlazi što drugo. Ugovor o doživotnom uzdržavanju je prema odredbi čl. 122. Zakona o nasljeđivanju ("Narodne novine", br. 52/71, 47/78. - dalje ZN) strogo formalni ugovor za čiju pravovaljanost je propisana pored pismenog oblika i ovjera suca. Sudac je, prema odredbi st. 5. navedenog članka, dužan pročitati ugovor i upozoriti ugovornike na posljedice ugovora, pa je očito da je cilj propisane forme sprečavanje eventualne zloupotrebe, kao i zaštita prava trećih osoba (npr. nužnih nasljednika, koji otuđenjem imovine temeljem ugovora o doživotnom uzdržavanju gube pravo na nužni dio). Stoga prema stajalištu ovog suda ugovor o doživotnom uzdržavanju koji nije sastavljen u pismenom obliku i ovjeren od suca ne može konvalidirati ni kad je izvršen." (VSRH Rev 898/1994-2, 21.10.1998.)
All case law in this paper is downloaded from [http://www.iusinfo.hr/]

16 Art. 580, Paragraph 2, COA

17 Šeparović, V., *Ugovor o doživotnom uzdržavanju*, Aktualnosti hrvatskog zakonodavstva i pravne prakse, 1992, p. 183-184

18 Gavella, N.; Belaj, V., *Nasljedno pravo*, Narodne novine, Zagreb, 2008, p. 435, note. 43
Although, a judge is obliged to read the contract on support for life and warn the parties of its consequences, it should be noted that, according to court practice, this does not need to be specifically identified in the act in which the contract is certified. The lack of such information does not make this contract invalid (VSRH, Rev-2671/86, 31.1.1990, cited according to Crnić, J.; Končić, A.M.*, Zakon o nasljeđivanju s komentarom*, Organizator, Zagreb, 2003, p. 331
However, if the contract is drafted in front of a notary public or solemnized by a notary public, the lack of this note will result in such a contract not having the power of a public document**.** Art, 69., Paragraph 1/5 and Art. 70, Paragraph 1 of a Notary Public Act, National gazette 78/93, 29/94, 162/98, 16/07, 75/09, 120/16.)

estate, because it is not inheritable. At the moment of the death of the recipient of support, this property is passed on to the provider of support, instead of his successors.[19] Because of this, contract on support for life cannot be annulled for violation of forced share (more about this *infra*).[20]

b) Furthermore, this contract is different from most other contracts because it is aleatory. Most other contracts are not, so at the time of their conclusion, all of their elements, including their duration and parties' obligations are known. When it comes to contract on support for life (and contract on support until death) this is not the case. It is not known (nor should it be) how long the recipient of support will live and in what state he/she will be before he/she dies.[21] Consequently, only the obligation of the recipient of support can be defined, since the contractual

---

[19] Gavella, Belaj, *cf. ibid*, p. 57

[20] More in Klasiček, D., *Nužno nasljedno pravo kao ograničenje slobode oporučnog raspolaganja,* doctoral dissertation, Zagreb, 2011, p. 209-215; Klarić; Vedriš, *op. cit.,* note 8, p. 512
The question arose as to whether it is possible to know for certain whether a contract on support for life or a concealed donation contract was concluded, which is of great importance to forced heirs, because they can contest a donation contract due to a violation of forced share, but not the contract on support for life. The case law has taken the view that a part of the contract on support for life may be considered to be donation, in the event that there is an obvious disproportion between what the person giving the property (recipient of support) gave, and what the provider of support did in turn:
"*Contract on support for life shall be deemed partly to be a donation, if a value between parties' obligations was obviously disproportionate when it was concluded, and if the contracting parties were aware of that and agreed to it at the time of the conclusion of the contract*."
„*Ugovor o doživotnom uzdržavanju smatrat će se djelomično ugovorom o darovanju ako je pri njegovu zaključenju bila svjesna i nerazmjerna korist za davatelja uzdržavanja i ako su ugovorne strane u vrijeme sklapanja ugovora svjesne postojanja nerazmjera i na njega dobrovoljno pristaju*" (VSRH, Rev-2335/89, 27.12.1989.), cited according to Jelčić, *op. cit.,* note 14, p. 10
"*…in order to raise a claim for the return of donations, in this case, it is not necessary to presume that the contract on support for life should be annulled, even only in part, because the plaintiff acknowledges the validity of the concluded contract, and his claim is based on the assertion that it is a mixed contract, as previously pointed out*."
„*…a podizanje tužbe za vraćanje dara u konkretnom slučaju nije nužna pretpostavka da se traži poništenje ugovora o doživotnom uzdržavanju, makar i djelomično jer tužitelj priznaje valjanost zaključenog ugovora, a njegov zahtjev se temelji na tvrdnji da se radi o mješovitom ugovoru, kao što je već ranije istaknuto*." (VSRH, Rev-252/94, 29.5.1997.)
Also see Svorcan, S., *Raskid ugovora o doživotnom uzdržavanju,* doctoral dissertation, Beograd, 1987, p. 64-74

[21] The fact that this contract is aleatory is an extremely important characteristic. If the contract lacked this feature, and, for example, the provider of support was aware that the recipient will die very soon, it will not be considered a contract on support for life. It might be considered to be some other type of contract (e.g. service contract), to which the provisions relating to contract on support for life do not apply. More in Gavella, *op. cit.,* note 1, p. 369
Case law: „*According to this court, irrespective of the fact that it cannot be disputed that this contract on support for life is a "good luck contract", the very fact that the recipient of support died shortly after the conclusion of the contract is by itself no reason for its invalidity. But on the other hand, if it was certain that the death of the recipients of support would occur soon, and the contract was concluded for the purpose of*

parties must determine which property will be received by the provider of support as remuneration for provided support. The obligation of the provider of support is impossible to define precisely at the moment of concluding of the contract. Also, nobody can know, in advance, how long this agreement will last, and when will the remuneration occur. It is not even certain if the provider of support will receive it, because there is a possibility that he/she will die before the recipient of support. Of course, in that case there is a chance of his/her spouse and/or descendants continuing with the contract, but this might not happen (*infra*).[22]

Except that it is not known how long the contract will last, it is not known what exactly the provider will have to do in the name of support. This largely depends on the circumstances sorrounding the recipient of support, but the circumstances sourounding the provider of support might also be important. Considering the nature of this contract, the changed circumstances have, it seems, a much bigger role than in some other contracts (more *infra*). For example, at the time of signing the contract on support for life, the recipient of support may be relatively healthy, and the support may consist of only grocery shopping, driving to a doctor when necessary, occasional visits, etc. However, his/her condition might deteriorate, in which case the provider of support may even have to start living with the recipient; feeding, dressing, bathing him/her, etc. It is also possible that the provider

achieving an inadmissible objective, then it could be considered immoral and contrary to good faith, and therefore, void."

„*Prema ocjeni ovog suda bez obzira na što se ugovor o doživotnom uzdržavanju ne može oduzeti niti osporiti elementi „ugovora na sreću" sama činjenica da je primateljica uzdržavanja umrla uskoro nakon zaključenja ugovora, nije sam po sebi razlog ništavosti. No s druge strane ako je bilo izvjesno da predstoji smrt primaoca uzdržavanja pa je ugovor zaključen radi postizanja nedopuštenog cilja, onda bi se mogao smatrati nemoralnim i protivnom dobrim običajima, dakle ništavim.*" (VSRH Rev 2043/2012-2, 20.7.2016.)

However, the fact that the provider of support is aware that the recipient is severely ill, according to the position of case law, does not mean that the element of aleatoricism is lacking.

"*It is therefore a correct conclusion of the lower courts that the fact that the provider of support knew of the serious and incurable sickness of the recipient, in itself, cannot exclude the existence of the element of aleatoricism.*

Precisely from the fact that the defendant had previously solely taken care of her parents, prior to the conclusion of the contract on support for life, and after the mother's death, took care of her father, it is indisputably indicated that the provider of support did not conclude a contract in order to exploit another person for the sake of achieving disproportionate property benefits."

"*Stoga pravilan je zaključak nižestupanjskih sudova, da činjenica što je davateljica uzdržavanja znala za tešku i neizlječivu bolest primatelja uzdržavanja sama po sebi ne može isključiti postojanje elementa aleatornosti.*

Naime, upravo iz činjenice da je tuženica i ranije isključivo sama i prije sklapanja ugovora o doživotnom uzdržavanju brinula i skrbila o roditeljima, a nakon smrti majke, o ocu, nedvojbeno ukazuje da davateljica uzdržavanja nije sklopila ugovor u cilju iskorištavanja tuđe nevolje radi postizavanja nerazmjerne imovinske koristi." (VSRH Rev x 548/2009-2, 3.2.2010.)

[22] Art. 585 COA

of support falls seriously ill, or, for example, moves to another city or country.[23] Contracting parties will not be able to forsee or avoid all of these circumstances. Of course, because of those circumstances, the contract on support for life can be terminated or, in order to avoid that, the court can decide to modify it (for example, change the obligation of provider of support into annuity which he/she will have to pay regularly).[24]

c) It is possible that the obligation to support the recipient lasts relatively short and requires little engagement from the provider of support, but the value of the property which he/she receives as remuneration is extremely large (of course, the opposite is also possible). However, as this is an aleatory contract, it cannot be annulled because of disruption of equivalence of obligations' value, like most other contracts can, pursuant to Article 375, Paragraph 5, Civil Obligations Act.[25]

On the other hand, if the contracting parties are aware, at the time of drafting of the contract, that the property, which the provider of support will receive, is much more valuable than the support he/she will provide, and they agreed to enter into such a contract regardless of that, this contract will not be considered aleatory, in whole or in part. On the contrary, it will be considered to be a donation made by the recipient of support to the provider. This situation could be resolved through the rules regulating simulated conclusion of contract on support for life, in which case it would be null and void and donation contract would be valid (more *infra*).[26]

2.1.2. *Obligations of contracting parties*

Only the obligation of the recipient of support can and must be precisely defined by this contract. He/she may, as a remuneration, give the provider of support all or part of his/her property, of course, provided he/she has the right to dispose of such property. Future assets of the recipients of support could also be agreed upon as remuneration, which should be explicitly stated when concluding the contract: e.g. "all real estate owned by the recipient of support at the moment of death" or "all of the property recipient of support has at the moment of death".[27]

---

[23] Klasiček, D.; Ivatin, M., *Modification or dissolution of contracts due to changed circumstances (clausula rebus sic stantibus)*, Pravni vjesnik, *Vol.* 2, 2018, p. 46-47

[24] Klarić; Vedriš, *op. cit.,* note 8, p. 512

[25] Cf. *ibid*, p. 430

[26] Jelčić, *op. cit.,* note 14, p. 18

[27] "*As it is apparent from the contract on support for life concluded between the applicant and now deceased G.S., the object of that contract is be an entire property that the recipient of support will have in his possession at the time of his death, and it is undeniable that the recipient acquired a co-ownership of real estate regis-*

As far as the provider's obligation is concerned, as already stated, when concluding a contract, it cannot be precisely known what it will consist of. However, various commentators suggests the usual content of support: giving accommodation, food and/or clothing; health care; organizing the funeral; annuity that will be paid by the provider of support; community of life or community of property; obligation of the provider to take care of the recipient of support; cultivation of the land, etc.[28]

As a rule, the provider of support will not be responsible for the debts of the recipient, after his/her death, but it may also be otherwise agreed. For example, the contracting parties may agree that the provider of support will be liable for the debts existing at the time of conclusion of the contract or only the debts belonging to certain creditors.[29]

2.1.3. *Registration of contract of support for life in certain registries*

The problem that might occur on the side of the provider of support is the fact that the recipient of support might dispose of the property that the provider is to receive as remuneration for the provided support. He/she will become owner of the said property (usually real estate) only after the recipient of support dies. Therefore, he/she cannot register his/her ownership of real estate into land registry immediately after the signing of the contract. In view of this, it is entirely possible for the recipient of support to dispose of part or all of the property that is agreed upon as remuneration for provided support, thereby preventing the provider of support to become its owner, after his/her death. For this reason, the provider of support is authorized to request the registration of this contract into the land registry, provided that the property that represents remuneration is real estate.

---

tered in the land registry, c.p. 814 in cadastral municipality D. while he was still alive, in May of 2009, it was necessary to adopt the complainant's appeal, to amend the contested decision and to allow the proposed registration in favor of the applicant, and on the basis of the aforementioned contract concluded in front of the the notary public R.B. on July 9, 2007."

„*Kako je iz sklopljenog Ugovora o doživotnom uzdržavanju zaključenog između predlagateljice i sada pok. G. S. jasno vidljivo da je predmet tog ugovora cjelokupna imovina koju će primatelj uzdržavanja imati u svom vlasništvu u času svoje smrti, te kako je nesporno da je primatelj uzdržavanja suvlasništvo na nekretninama upisanim u zk. ul. 814 k.o. D. stekao za svog života u svibnju 2009. godine, to je valjalo usvojiti žalbu predlagateljice i preinačiti pobijano rješenje, te dozvoliti predloženi upis u korist predlagateljice, a na temelju predmetnog Ugovora o doživotnom uzdržavanju zaključenog kod javnog bilježnika R. B. 9. srpnja 2007. godine*." (Županijski sud Varaždin, Gž-1128/2009, 9.11.2009.)

Alo see Crnić, *op. cit.,* note 2, p. 154-156

[28] Klarić; Vedriš, *op. cit.,* note 8, p. 511; Tuhtan Grgić, I., *Specifičnosti ugovora o doživotnom uzdržavanju u korist trećega*, Hrvatska pravna revija, *Vol.* 4, 2015, p. 18

[29] Art. 582 COA

That way, he/she can protect real estate from being disposed of by the recipient of support.[30]

In the event that the property consists of movable assets, for which a public registry is kept (boats, motor vehicles, shares etc.), the provider of support is authorized to request a registration of the contract on support for life into that register.[31]The function of this registration is to publicize the existence of the contract on support for life, so all those interested can learn that the asset in question will be transferred to the provider of support after the death of its owner (the recipient of support).[32] Only after the recipient of support dies, the provider will be able to request the registration of his/her ownership, which will have to be accompanied by a copy of a contract on support for life and the evidence of the death of the recipient of support.[33]

It is possible that the real estate that represents the remuneration for provided support is in the co-ownership of spouses who are recipients of support – one of which has concluded the contract in favor of him/herself and his/her spouse.[34] However, it can be possible that only one of them is registered as the owner of real estate. If that spouse dies first, the provider of support could immediately register his/her ownership, and then the support to the remaining recipient (surviving spouse) would depend exclusively on his/her conscience. In order to protect the surviving spouse, two solutions are possible: 1) it is possible to include in the contract on support for life a provision according to which registration of the ownership of provider of support could only occur after the death of both recipients of support (both spouses). 2) the provider of support could register as the owner

---

30 According to Art. 70 of Land Registry Act**,**National gazette 91/96, 68/98, 137/99, 114/01, 100/04, 107/07, 152/08, 126/10, 55/13, 60/13
The rule pertaining to registration of this contract in the land registry cannot be applied analogously to the contract on support until death, as confirmed in the case law:
"…if the object of contract on support for life is real estate, the provider of support is authorized to request the recording of that contract in the land registry. On the contrary, this is not possible for a contract on support until death."
"*…ako je predmet ugovora o doživotnom uzdržavanju nekretnina, davatelj uzdržavanja ovlašten je zatražiti zabilježbu tog ugovora u zemljišnu knjigu. Naprotiv, mogućnost zabilježbe nije predviđena za ugovor o dosmrtnom uzdržavanju*." (Gž 3019/11-2, Varaždin, 25.5.2011.)

31 Klarić; Vedriš, *op. cit.,* note 8, p. 511

32 Gavella, N. *et al*, *Stvarno pravo*, Narodne novine, Zagreb, 2007, p. 320-322

33 Butković, *op. cit.,* note 15, p. 23

34 It should be noted that it is not clear at which moment the assets are transferred to the provider of support: at the time of death of the person who is a contracting party and also the recipient of support; at at the time of death of the third person who is a beneficiary of the contract and also the recipient of support or at the time of death of the last recipient of support, regardless of whether he/she was a contracting party. More in Tuhtan Grgić, *op. cit.,* note 28, p. 17

of real estate immediately after the death of the (first) recipient of support, but only with the simultaneous registration of the lifelong *usufructus* in favor of the surviving spouse, as a real estate encumbrance. This stipulation should be put into contract on support for life at the time of its conclusion.[35]

2.1.4. *Termination of contract on support for life*

The contract on support for life can be terminated in many different ways. Some of these are typical for this contract, while the others represent common reasons for termination of any other contract. Apart from the fact that this contract will regularly terminate after recipient of support dies, after which the transfer of the property to the provider of support will happen, the contract may be terminated by agreement of both parties at any time, even if they have already started fulfilling their obligations. One party can ask the court to terminate the contract in two cases: if one side fails to fulfill his/her obligations and if the contracting parties live together and their life together becomes unbearable.[36]

Termination due to changed circumstances (e.g. sudden impoverishment of the provider of support or his/her health deteriorating[37]) is also possible. Any contractual party may ask the court to modify or terminate the contract due to changed circumstances. However, instead of terminating the contract, the court can always modify the contract and replace the obligation to support the recipient of support into lifetime annuity, provided it is acceptable to both parties.[38]

Furthermore, it is possible for the provider of support to die before the recipient of support. Due to the nature of this contract, it cannot be treated as any other contract in which the rights and obligations of the deceased party automatically transfer to his/her successors – this contract is inheritable, but not unconditional-

---

35 Butković, M., *Neka pitanja vezana uz uknjižbu prava vlasništva na nekretnini koja je bračna stečevina, a predmet je ugovora o doživotnom uzdržavanju*,, [http://www.iusinfo.hr/Article/Content.aspx?SOPI=-CLN20V01D2014B656] Accessed 01.03.2019

36 Living together does not necessarily mean sharing a home or meals. It can also mean that contracting parties live in separate households, but in such close proximity, which requires everyday close contacts. Bevanda; Čolaković, *op. cit.,* note 6, p. 290

The right to ask for termination of the contract due to parties' life together becoming unbearable and/or failure of one side to fulfill his/her obligations, also belongs to a third party, if contract on support for life was concluded in favor of a third party. Tuhtan Grgić, *op. cit.,* note 28, p. 16

37 Belaj, V., *Raskid ili izmjena ugovora o doživotnom uzdržavanju zbog promijenjenih okolnosti*, Pravni vjesnik, *Vol.* 17, 2001, p. 15

38 Belaj, *op. cit.,* note 6, p. 219

ly.[39] Only the provider's spouse and descendants can continue fulfilling his/her obligations arising from this contract. However, this will happen only if they agree for this obligation to be transferred to them, either directly or indirectly. If they do not agree to this, an *ex lege* termination of the contract will occur (Article 585, Paragraph 1, Civil Obligations Act).[40] It should be borne in mind that if spouse and descendants refuse to continue the contract on support for life, they will lose the remuneration for the support provided by the deceased so far.[41] If they are willing to continue providing the support, but are, for some objective reasons unable to do so (for example, they themselves are old and ill or they are in a difficult financial situation), they are in a somewhat better position. Termination of contract will also happen, *ex lege*, but they will at least be able to claim remuneration for the support provided so far. The court will decide about the amount, taking into account the financial state of both, the recipient of support and the persons who were authorized to continue with this contract.[42]

2.2. The contract on support until death

This contract is very similar to the contract on support for life, and by 2006, it did not even have a special name, but was considered only one variation of contract on support for life.[43] However, this contract differs in one very important detail from the one explained earlier, and that detail entails some additional consequences. When concluding the contract on support until death, the provider of support undertakes to support the other contracting party or a third person - the recipient of support - until his/her death. Recipient of support undertakes to transfer all or part of his/her property, but according to this contract: while the recipient of support is still alive, usually immediately after the conclusion of the contract.[44] Considering the great similarity between these two contracts, it should be noted that the provisions of the Civil Obligations Act that regulate contract on support until death contain only the definition of this contract and two characteristics arising from above mentioned difference. These two characteristics have to do

---

39 Belaj, V., *Prestanak ugovora o doživotnom i ugovora o dosmrtnom uzdržavanju*, in: Liber amicorum Nikola Gavella, Građansko pravo u razvoju, Zagreb, 2007, p. 702

40 If there were no spouse and/or descendants left behind the provider of support, the contract terminates at the time of his/her death, and the other heirs of the provider of support are not entitled to claim the remuneration for the support that was provided so far. If any of these other heirs would be willing to continue with this contract, they would have to conclude a new contract on support for life with the recipient of support. Šeparović, *op. cit.,* note 17, p. 205

41 Art. 585, Paragraph 2, COA

42 At. 585, Paragraph 3 and 4, COA

43 Gavella, *op. cit.,* note 1, p. 368-369

44 Klarić; Vedriš, *op. cit.,* note 8, p. 512-513

with 1) the right of recipient of support to establish a real estate encumbrance on property that is transferred to provider of support as remuneration, and 2) with the situation when the provider of support dies before the recipient.[45] In the last article(Art. 589), which regulates the contract on support until death, it is stated that the provisions of the Civil Obligations Act, that regulate contract on support for life, apply to contract on support until death, accordingly.[46]

Like contract on support for life, this contract is a bilateral and strictly formal contract (the same form is required for its validity, as for the contract on support for life). The reasons for the termination are also the same as for the previously discussed contract. Therefore, this part of the paper will only deal with the aforementioned two specifics, one of which is of great importance for further parts of this paper.

2.2.1. *Real estate encumbrance of obligation to support the receipient of support*

If the object of this contract is real estate, the provider of support may, immediately after the conclusion of the contract, request registration of his/her ownership.[47]

And this is the first characteristic of this contract - the possibility of the recipient of support, who in this case is in a more unfavorable position, to burden the real estate with the obligation of support in his favor and to register this encumbrance in the land registry. This encumbrance is contracted in such a way that the provid-

---

45 Art. 586-588, COA

46 On account of the great resemblance between these two contracts, it is possible that because of the ignorance of the parties, they conclude the contract on support until death, but name it contract on support for life. The provisions that apply to contract on support until death will be applied to this contract, regardless of the name the parties gave it.

"*... it has been established that the parties concluded a contract on support until death. This contract was clearly concluded because the parties have agreed that the plaintiff, who is the recipient of support, will give the defendants, as providers of support, the ownership and the possession of an apartment immediately after the signing of that contract on May 10, 1999. The fact that the parties have called that contract a contract on support for life, which was wrong, does not cast any doubt on its legal essence, that it is, in fact, a contract on support until death*."

„*... utvrđeno je da su stranke sklopile ugovor o dosmrtnom uzdržavanju. Riječ je očito o takvom ugovoru jer su stranke ugovorile da tužiteljica kao primateljica uzdržavanja daje tuženicima kao davateljima uzdržavanja vlasništvo stana i posjed stana odmah nakon potpisa tog ugovora od 10. svibnja 1999. Činjenica da su stranke nazvale taj ugovor ugovorom o doživotnom uzdržavanju, zbog pogrešnog naziva ugovora, ne dovodi u sumnju njegovu pravnu bit, tj. da je riječ o ugovoru o dosmrtnom uzdržavanju*." (VSRH, Rev 865/2005, 6.4.2006.)

47 This contract has to meet all of the requirements that are necessary for contracts on transfer of ownership on real estate. Therefore, it has to contain *clausula intabulandi*, without which the registration of ownership would not be possible. For more on requirements these contracts have to meet, see: Gavella, *op. cit.,* note 32, p. 305-307

er of support commits to giving support to the recipient, until he/she dies, and in turn, he/she transmits ownership of real estate to the provider. At the same time, while transferring the ownership of real estate; it is burdened with obligation of support in the favor of the recipient of support. In this case, there are two registrations that are entered into the land registry–1. the ownership of real estate, which the provider of maintenance is entitled to, and 2. the real estate encumbrance, which the recipient of support is entitled to.

If the provider of support ceases to execute his/her obligation, the recipient of support could ask the court to settle his/her claim from the value of the real estate that was transferred to the provider of support as remuneration and was burdened with the above mentioned encumbrance.[48]

It has to be noted that, if the provider of support, once he/she becomes the owner of real estate, disposes of it and ceases to provide support to the recipient, or continues to provide him/her with it in an inadequate manner, the recipient could ask the court to terminate the contract (Art. 583. Paragraph 3 of Civil Obligations Act[49]). But in addition to the fact that the recipient of support, due to old age, will probably not live long enough for the termination to occur, there is another problem. The usual consequence of any termination of contract is, among other things, *restitutio in integrum*.[50] According to the Civil Obligations Act, if the return of received assets is not possible (because, for example, they were sold), the contracting party who has the obligation to return it to its previous owner, must pay its corresponding monetary value.[51] However, the provider of support may not have sufficient means to settle the recipient of support. Therefore, the only possibility to prevent this situation is for the recipient of support to burden the real estate with an abovementioned encumbrance and register it into land registry. That way, even if real estate is sold to a third party, the burden to provide support will encumber the new owner of real estate.[52]

2.2.2. *The death of the provider of support*

The following distinction from the contract on support for life arises when the provider of support dies before the recipient. It is not possible to apply the provi-

---

48 Jelčić, *op. cit.,* note 14, p. 46

49 Termination of a contract due to one party refusing to fulfill his/her obligations

50 For more on this and other consequences of termination of contracts, see Golub, A., *Pravne posljedice raskida ugovora*, Aktualnosti hrvatskog zakonodavstva i pravne prakse, Godišnjak 23, Zagreb, 2016, p. 557-559

51 Art. 323 and 332, COA

52 Klarić; Vedriš, *op. cit.,* note 8, p. 513

sion relating to the same situation in the contract on support for life because, according to this contract, the property is already owned by the provider of support, when the recipient dies. In that case, if a spouse and descendants of the provider of support refuse to continue to provide support, the contract is *ex lege* terminated and they are obliged to return all that the provider of support acquired in the name of that contract. If they are unable to do so, they are obliged to reimburse the value of the property. They also suffer another consequence: they are not entitled to keep a part of the property as remuneration for the support provided so far.[53] If the spouse and descendants are unable to continue providing the support for some objective reasons, they are obliged to return all that they have received from recipient of support, but in this case they have the right to demand that he/she pays for support provided so far.[54]

3. ISSUES CONCERNING FORCED HEIRS DISINHERITANCE DUE TO THE CONCLUSION OF A SIMULATED CONTRACT ON SUPPORT FOR LIFE AND SUPPORT UNTIL DEATH

Persons who conclude contracts on support for life and support until death affect the result of inheritance that is supposed to happen after the provider of support dies. It has already been mentioned that one of the significant effects of contracts on support for life and support until death is that the property which transfers to the provider of support represents the remuneration he/she receives for the support given to the recipient of support. That is why that property is never a part of the estate, even when forced share is violated. Because of this, forced heirs will not be able to demand the return of this property in order to supplement their forced share, since it is neither a donation nor a testamentary disposal. Just as forced heirs could not contest, for example, a sale contract due to the fact that his/her forced share has been violated, he/she will not be able to contest a contract on support for life or support until death.[55]

That is precisely why some individuals will conclude these contracts with those they really want to inherit them, with the purpose of bypassing those that cannot otherwise be bypassed - forced heirs.[56] The freedom of testation is one of the

---

53 Art. 588, Paragraph 2 and 3, COA

54 Art. 588, Paragraph 4, COA

55 Klasiček, *op. cit.,* note 20, p. 213

56 It is possible that one of these contracts is concluded for other reasons that are not in accordance with the law, for example, the transfer of a person's property, to another person, in order to damage his/her creditors. Thus, an example was found where the Križevci Municipal Court, on the basis of the Tax Administration's claim, annulled the contract on support for life concluded between a mother and a son. The mother had considerable debt towards the Tax Administration, and the court took the view

fundamental principles of Croatian inheritance law, but also of inheritance laws of other modern countries. However, like in most legal systems, this freedom is limited by the rights of forced heirs.[57] In the event that the decedent violated the right of a forced heir by dispensing with his/her entire estate, either testamentary or by donation agreement (concluded *inter vivos* or *mortis causa*), a forced heir will have the right to annul such dispositions, as much as it is necessary to settle his/her forced share.[58] Some commentators talk about two ways of violating forced share – complete violation (when the forced heir did not inherit anything) and partial violation (when the forced heir inherited less than what he should have obtained in the name of his/her forced share).[59] Regardless of the type of violation of a forced share, forced heirs will have the right to annul decedents' testamentary dispositions and/or donations, in order to obtain their forced share.[60]

As in other legal systems, according to Croatian inheritance law, it is possible to disinherit forced heirs only for reasons precisely stated in Inheritance Act.[61]The testator can disinherit forced heirs pursuant to Art. 85 of Inheritance Act or deprive them of their forced share, pursuant to Art. 88. If none of the reasons set out in Art. 85 and 88 exist, the testator will not be able to do anything to circumvent forced heirs. Because of that, he/she will not be able to leave all of the assets to those he/she wants to be his/her heirs.

It would be more correct to say that the testator will not be able to do anything according to Inheritance Act. However, it seems that according to provisions of Civil Obligations Act regarding contracts on support for life and support until death, this would be possible. By concluding a contract on support for life and support until death, the recipient of support will be able to bypass his/her forced heirs because the property transferred to the provider of support is not considered

---

that the parties did not want to achieve one of the basic effects of the contract on support for live – actual support and that they concluded the contract with the sole purpose of transferring the property to the son, as a "provider of support", so the mother would not have any property from which a Tax Administration would settle its claim. More athttps://podravski.hr/majka-sinu-prepisala-sve-nekretnine-kako-bi-izbjegla-placanje-poreznog-duga-no-morat-ce-ga-platiti/ (February 2,2019.)

57 For more see Internetional Encyclopaedia of Laws, Family and Succession Law, Vol. 1-4, general editor: Blaipain, editor: Pintens, W., Kluwer Law Internetional

58 Art. 69 and 70, Paragraph 2, IA

59 Antić, O.B., *Sloboda zaveštanja i nužni deo*, doctoral dissertation, Beograd, 1983, p. 329

60 Forced heirs decide for themselves whether they will use this right. It is also possible they will choose to respect the wishes of the testator, and do not ask for the reduction of testamentary dispositions and/or the return of donations. Gliha, I., *Family and Succession Law – Croatia,* Suppl. 28 (August, 2005) in International Encyclopaedia of Laws, Family and Succession Law, vol. 1, Kluwer Law International, 2005, p. 221

61 Art. 85-88 IA

as part of the estate or donation. Therefore, forced heirs will not be able to request their forced share from that property, after recipient of support dies.

This circumventing of forced heirs is actually due to the fact that a simulated contract on support for life or support until death is concluded in order to hide the donation contract, which the parties really wanted to conclude. By concluding a simulated contract on support for life or support until death, parties only wanted to achieve certain effects of these contracts, while their other effects they wanted to avoid.[62]The desired effect is the transfer of property, and as a result, the impossibility of that property being considered a part of the estate or a donation. An undesired effect is providing the actual support. Therefore, this effect does not actually occur, since contractual parties never wanted it.

Clearly, this way of circumventing of the forced heirs, although possible according to provisions of Civil Obligations Act regulating contracts on support for life or support until death, is not in accordance with other provisions of the Act itself. This contract is simulated and it conceals a donation contract (*donatio mortis causa*) of all or part of the property of recipient of support, with the effect of the contract being linked to a deadline –*dies certus an, incertus quando*–the death of the donor (the recipient of support).[63]

The Civil Obligations Act states that simulated contracts will have no effect between the contracting parties, while the dissimulated contract will be valid, if all of the prerequisites for its validity were met.[64] Thus, in the event that it is proven that a simulated contract on support for life or support until death has been concluded, the underlying contract will be a donation contract. Simulated contract will be null and void and donation contract is valid and will have its legal effects. Given that, the forced heirs may seek the return of the donated property, due to violation of their forced share.[65]

The problem of simulated contracts on support for life or support until death that are composed in order to hide donation contracts, which the parties really wanted to conclude, will be difficult to resolve with today›s provisions relating to forced heirs. As long as freedom of testation is limited by the rights of forced heirs, certain persons will seek ways to bypass them and leave their property to those they

---

62 Monić, M., *Pobijanje ugovora o doživotnom uzdržavanju zbog povrede nužnog dijela*, Pravni život, *Vol.* 1-2, 1958, p. 46-47

63 Klasiček, *op. cit.,* note 20, p. 213

64 Art. 285, COA; Perkušić, A.; Ivančić-Kačer, B., *(Ne)dopušteni nasljednopravni ugovor ili ugovori naslјednog prava ili paranasljedni ugovori u hrvatskom pozitivnom pravu*, Pravni vjesnik, *Vol.* 1-2, 2006, p. 926; Gavella, *op. cit.,* note 15, p. 311-312

65 Art. 77 and 81, IA

really want as their heirs. Given that forced heirs in Croatian inheritance law exist and can only be disinherited for legally prescribed reasons, persons who want to bypass them will look for solutions to do so. These solutions will obviously not bi in accordance with themorale and law. It is possible that narrowing the circle of forced heirs might help, but still, as long as there is one person who is a forced heir, and the decedent does not want him/her as an heir, these things will happen.

The awareness of forced heirs that there is a possibility of them being bypassed by the conclusion of contracts on support for life or support until death has had an expected repercussion: forced heirs often try to annul these contracts, even when it is obvious that their conclusion was not simulated and that the parties actually wanted all of their effects that arise from them.[66] A number of court decisions were found in which it was taken into account that contracts on support for life and support until death were not simulated, and that there were no other reasons for the annulment, which the disgruntled forced heirs claimed existed.[67] Often, even

---

[66] Forced heirs could certainly accept the wishes of the decedent (the recipient of support) and not try to dispute these contracts, but as a rule, their reactions will be completely the opposite - the first thing they will want to do is to seek to declare these contracts null and void. Krstić, *op. cit.,* note 9, p. 281

[67] I.e.: "*This court did not accept the allegations that the contract on support for life is simulated and that it actually conceals, at least in part, a donation contract (Article 66 COA), as this does not stem from the evidence presented. In this case, it was found that there was no significant disparity between the contributions of the maintenance provider (the plaintiff) and the value obtained on the basis of the aforementioned contract, because the plaintiff, with the help of his family, had taken care of his mother when necessary, not only during the term of this contract, but also prior to its conclusion, since they have lived for a long time in a common household*"

"*Ovaj sud nije prihvatio revizijske navode da se radi o prividnom ugovoru o doživotnom uzdržavanju koji ustvari prikriva, barem dijelom, darovni ugovor (čl. 66. ZOO), jer to ne proizlazi iz provedenih dokaza. U ovom predmetu je utvrđeno da ne postoji znatniji nesrazmjer između doprinosa davatelja uzdržavanja (tužitelja) i vrijednosti koju je dobio na temelju spomenutog ugovora, jer je tužitelj uz pomoć svoje obitelji skrbio o majci kada je to bilo potrebno, ne samo za vrijeme trajanja tog ugovora nego i prije njegovog sklapanja, budući da su dugi niz godina živjeli u zajedničkom domaćinstvu.*" (VSRH Rev 1516/2009-2, 28.2.2012.)

"*The plaintiff considers that this contract is a simulated legal affair and that it constitutes a donation contract,* according *to its legal nature, so in that regard has requested his forced share. The courts rejected such a request after having found, on the basis of the evidence provided, that a valid contract on support for life had been concluded because of which the defendants undertook to take care for and fully support, now deceased, M.K. and bury her after she dies, which they did for four years, while the recipient of support, lived.*"

"*Tužitelj smatra da je taj ugovor simulirani pravni posao i da predstavlja po svojoj pravnoj naravi ugovor o darovanju, pa je u tom smislu postavio zahtjev za utvrđenje tražeći pri tome nužni dio. Sudovi su odbili tako postavljeni zahtjev nakon što su temeljem provedenih dokaza utvrdili da se radilo o valjanom ugovoru o doživotnom uzdržavanju kojim su tuženice preuzele obvezu brinuti se i potpuno opskrbiti sada pok. M. K. do njezine smrti, te ju sahraniti, te da su one to kroz pune četiri godine, koliko je još živjela primateljica uzdržavanja, to činile.*" (VSRH, Rev 2419/1991-2, 13.7.1993.)

"*No circumstance has been established that would provide a basis for the conclusion that the provider of support did not intend to take care of the late T.M. and to assist him ... also no circumstances were established*

before the conclusion of these contracts, the provider of support actually assisted the recipient of support and enforced the content of his later obligations from the contract. Moreover, this was actually decisive for the courts to conclude that there was no simulation or any other reason for invalidity of these contracts. This all points to the conclusion that, although these contracts are sometimes concluded with the aim of bypassing forced heirs, this is obviously not as often as public, and especially forced heirs, think.

4. ISSUES CONCERNING FAILURE TO ESTABLISH AND REGISTER THE OBLIGATION TO SUPPORT AS A REAL ESTATE ENCUMBRANCE AND FAILURE TO REGISTER THE EXISTENCE OF CONTRACT ON SUPPORT FOR LIFE INTO LAND REGISTRY

As was stated in the introductory section, the contract on support until death was, before January 1, 2006, allowed only according to general principles and rules of the law of obligations, which sometimes resulted in situations in which the recipient of support was not sufficiently protected. He/she could have remained

---

under which it could be concluded that the only incentive to conclude a contract was to deprive a prosecutor of inheritance, nor would such a motivation improperly influence the decision of the recipient to conclude the contract...

Because of this, the Court finds that there is no basis for concluding that this contract on support for life is contrary to the legal order, law or morals, or that the incentive to conclude the contract has had an effect on the validity of the contract and its legal effects."

"*Nije utvrđena niti jedna okolnost, koja bi dala osnovu za zaključak da davateljica uzdržavanja nije imala namjeru voditi brigu o pokojnom T. M. i pomagati mu ... niti su utvrđene okolnosti na temelju kojih bi se moglo zaključiti je jedina pobuda kod sklapanja ugovora bila lišiti tužitelja nasljedstva, niti da bi takva pobuda bitno utjecala na odluku primatelja uzdržavanja da sklopi ugovor ...*

Na temelju iznijetog ovaj sud je uvjerenja da nema osnove za zaključak da je prijeporni ugovor o doživotnom uzdržavanju protivan pravnom poretku, prisilnim propisima ili moralu, odnosno da bi pobuda za sklapanje ugovora imala učinak na valjanost ugovora I njegovih pravnih učinaka." (VSRH Rev 564/2016-2, 1.3.2016.)

"*The first-instance court found that the will of the contracting parties during the conclusion of the disputed contract was for the conclusion of precisely such a contract, that the defendants had previously performed the content of their obligation under the contract, i.e. cultivated their mother's property, and generally cared about their mother, which they continued after the contract was concluded ...*

... For all those reasons, the prosecutors failed to prove that the disputed contract was a simulated legal affair and that in fact the contracting parties had intentions to conclude a donation contract, as previously stated."

"*Sud prvog stupnja je utvrdio da je volja ugovornih strana prilikom zaključenja spornoga ugovora bila za sklapanje upravo takvog ugovora, da su tuženici i prije toga izvršavali sadržaj svoje obveze iz ugovora, tj. obrađivali majčine nekretnine, te se općenito o majci brinuli, što da su nastavili i nakon što su ugovor zaključili…*

… Iz svih prije navedenih razloga naime proizlazi da tužiteljice nisu uspjele dokazati da je sporni ugovor simulirani pravni posao, a da su zapravo ugovorne strane imale namjeru i zaključile ugovor o darovanju, kao što je to ranije navedeno." (VSRH Rev 3805/1993-2, 8.2.1994.)

without property or part of it, with great uncertainty as to whether the provider of support would fulfill the commitments assumed under that contract and provide him/her with the support until death. It cannot be denied that the recipient of support is better protected today, since Civil Obligations Act precisely defines that public bodies now have to participate in the conclusion of this contract. It also allows for the possibility of burdening the real estate with the obligation to support and registering that encumbrance into the land registry.[68]

Nevertheless, it seems that even today, despite all this, the same problems that occurred before 2006, still occur, because contracting parties fail to take advantage of all the possibilities provided by law. All of these problems appear to arise from the fact that the abovementioned registrations depend solely on the will of the contracting parties. Because of their ignorance and inexperience, they either fail to register the existence of contract on support for life into land registry, or they neglect to burden the real estate with the obligation to support the recipient and register that encumbrance into land registry.

This problem could easily be resolved. As was explained earlier, both of these contracts must, in order to be valid, be made with the presence of public bodies – judges or notaries public.[69] In this regard, the authors suggest that whenever a contract on support for life or support until death is certified by a competent court or solemnized by a notary public or compiled in front of notary public, these public bodies *ex officio* demand 1) the registrations of the existence of contract on support for life in the land registry or 2) establishment of a burden of obligation to support the recipient of support on the real estate and demanding registration of that encumbrance into land registry.

If the contract is to be verified before a court, the judge could, upon its verification, issue a decision ordering the registration, which, together with a copy of the contract, would be submitted to the competent land registry office, in order for it to be registered. Given that the real estate, which is the object of contracts on support for life or support until death, is mainly within the jurisdiction of the court certifying the contract, those entries could be carried out in a very short time.

If the contract is solemnized by a notary public or made up in the form of notary public act, then a notary public could submit a contract to the land registry department of the competent court, with the proposal to execute the above mentioned registration.

---

68 Art. 587, 589 (580), COA

69 Art. 580, COA

At present, there is also the possibility of an electronic delivery, prescribed by Art. 97 of the Land Registry Act. It allows for a proposal for registration to be submitted by the party's attorney, notary public or advocate, with an advanced electronic signature.[70] Therefore, during the solemnization or drafting of the contract on support for life or support until death, the notary public could electronically submit a proposal for registration to the land registry department of the competent court.

Registration *ex officio* of certain rights concerning real estate is nothing unusual, because it already exist in certain cases, according to the Land Registry Act and the Enforcement Act.[71]For example, Art. 82 Paragraph2of the Land Registry Act stipulates that the recording of the dispute about a land registry entry can be ordered *ex officio* by the body in front of which the procedure is being conducted, and the same is deleted, *ex officio*, after the expiration of a period of 10 years from the time it was permitted (Art. 84). Furthermore, according to Art. 88 of the same Act, it is possible to record the refusal of enforcement, so when the court rejects the proposal to allow real estate enforcement with the purpose to fulfill a claim, for which no mortgage was registered, the court that rejected the proposal will *ex officio* declare registration of the rejected proposal into the land registry. The court will do this by requiring that the registration of the rejected proposal on real estate in question be recorded. Also, according to Art. 89 of Land Registry Act, the court, which makes a decision on who is the buyer of real estate at a public auction (in the enforcement process), will, *ex officio*, order for the sale of a real estate to be recorded into the land registry. In addition, Art. 84, Paragraph 1of Enforcement Act prescribes that, as soon as a decision about real estate enforcement is issued, the court will *ex officio* request that the enforcement be recorded in the land registry.

---

70 Art. 26 of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC:
„An advanced electronic signature shall meet the following requirements:
(a) it is uniquely linked to the signatory;
(b) it is capable of identifying the signatory;
(c) it is created using electronic signature creation data thet the signatory can, with a high level of confidence, use under his sole control; and
(d) it is linked to the date signed therewith in such a way that any subsequent change in the data is detactable"
[https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32014R0910&from=EN] Accessed 11.03.2019
For more on advanced electronic signature see Pichler, D.; Tomić, D., *Electronic signature in legal theory and practice - new regulation*, in: Drezgić, S.; Živković, S.; Tomljanović, M. (eds.), Economics of Digital Transformation, Research Monograph – First Edition, University of Rijeka, Faculty of Economics and Business, 2019, p. 59-65

71 Enforcement Act, National gazette 112/12, 25/13, 93/14, 55/16, 73/17

There is also something similar pursuant to Art. 18 of the *Real Estate* Transfer *Tax Law*.[72] A notary public, after solemnizing the signatures on the sales documents, or other means of disposition of the real estate (or by composing the notary public act), and at the latest within 30 days, is obliged to send electronically a copy of the document to the tax office of the area in which the property is located.

Contracts on support for life and support until death could be submitted to the land registry department of the competent court, in the same way. This does not require a lot of additional work or expenses, especially if these contracts would be delivered electronically.[73] If these contracts were registered *ex officio* in the land registry, there would no longer be any legal uncertainty about the real estate that is the subject of such contracts. It would be easy for all persons to find out whether a real estate they are interested in is the subject of a contract on support for life and the recipients of support in contracts on support until death would also be additionally protected this way.

This is obviously necessary because, for a certain number of people, the way this is done (or not done) today, does not work as it should, and it seems that such a category of persons – older, who are not acquaint with legal regulations and depend on someone else's help, should be additionally protected. Since today the creation and registration of real estate encumbrances is only possible if a contracting party proposes it, given that the recipient of support is often an older person with no legal knowledge, he/she may not understand the importance of that act, so he/she will fail to ask for it. The same can be said for some providers of support – they might not be old, but due to their ignorance and inexperience, they might not be aware of the importance of registering the existence of a contract on support for life into the land registry.

5. ISSUES CONCERNING LENGTHY COURT PROCEEDINGS REGARDING CONTRACTS ON SUPPORT FOR LIFE AND SUPPORT UNTIL DEATH

The next suggestion the authors of this paper have is to determine that the disputes arising out of contracts on support for life and support until death become urgent procedures. The reason is the specific position of the injured parties in these types of contracts. Generally, court proceedings, last for a very long time.

---

72 *Real Estate* Transfer *Tax Law*, National gazette 115/16, 106/18

73 Art. 7 of Court Fees Act, National gazette 118/18, stipulates that only half of the fees prescribed by the Tariff shall be paid for filing, entries and decisions in electronic form

The injured parties in these contracts are predominantly older, and they often die before the court decision is made.

Urgent resolution of such disputes would certainly be in line with the particularities of these two contracts, which do not generally exist in any other type of contract – i.e. common life or at least constant contacts between the parties; sensitivity of their relationships; uncertainty regarding the duration of these contracts and the content of the obligation of the provider of support; the need for the obligation of provider of support to be fulfilled on a regular basis. Precisely for these reasons, Civil Obligations Act permits contractual parties to ask the court to terminate these contracts in case they live together and their common life becomes unbearable.[74]

Furthermore, a special treatment of these types of contracts is also supported by the views of certain commentators who even consider that, although *clausula rebus sic stantibus*[75] is otherwise a natural component of other types of contracts[76], it should actually be an essential ingredient of contracts on support for life and support until death. According to these commentators, the parties should not be allowed to waive in advance the right to modify or terminate these contracts in case crucial circumstances change (as they are allowed with any other type of contract).[77]So, it can be said there is a consensus that these contracts and their parties should be given special treatment and protection. Therefore, it would be advisable to resolve the disputes arising out of the contracts on support for life and support until death, urgently.

The same can be said about, for example, labor disputes and procedures in case of possession of property interference. These are all urgent procedures because legislators realized that parties in these disputes need urgent protection for certain reason. Urgent procedures take precedence over other cases, they are taken into consideration immediately, the lawsuit is urgently sent to be responded to, and upon receipt of the reply, a hearing is scheduled.[78]

By the provisions of the Civil Procedure Act[79]stipulated in Art. 434, in case of labor disputes, especially while determining the deadlines and hearings, the court

---

74 Art. 583, Paragraph 2, COA

75 This clause allows for modification or dissolution of contracts due to changed circumstances, if certain prerequisites are fulfilled. Art. 369, COA. For detailed analyzis of this clause, see: Klasiček; Ivatin, *op. cit.,* note 23

76 Art. 372, COA

77 More in Crnić, I., *Zakon o obveznim odnosima, Napomene, komentari, sudska praksa i prilozi*, Organizator, Zagreb, 2006, p. 494

78 Triva, S.; Dika, M., *Građansko parnično procesno pravo,* Narodne novine, Zagreb, 2004, p. 761, 803-804, 808-809, 837-838

79 Civil Procedure Act, Official gazette of SFRJ 4/77, 36/77, 6/80, 36/80, 43/82, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90, 35/91, National gazette 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05,

will pay special attention to urgent resolution of these disputes. It was determined that in such proceedings, the deadline for responding to a lawsuit is 8 days.[80] Furthermore, a hearing must be held within 30 days from when the response to a lawsuit was received; the procedure before the first instance court must be completed within 6 months after the receipt of the lawsuit and the decision on the appeal must be made by the second instance court within 30 days after the receipt of the appeal. The deadline for appeal is 8 days.[81] In litigation for possession of property interference, the court is also required to take into account the urgent need to resolve such proceedings.[82]

Accordingly, with disputes arising from contracts on support for life and support until death, a certain time limit within which a first-instance decision must be made may be determined. The Pensioners' Association of Croatiaproposes a deadline of six months[83], which seems a sensible time for a hearing to be conducted; all necessary evidence carried out in order to correctly and fully establish the factual situation and a decision to be made. Furthermore, if it were to go in that direction, the time the decision of the second instance court must be made, in case of an appeal, should also be limited.[84]

In order to speed everything up, it could also be determined that only certain judges will be specialized in these types of proceedings, as they would be well aware of problems stemming from these contracts and case law concerning them, which would certainly contribute to faster and more correct resolution of these proceedings.

6. CONTRACT ON SUPPORT FOR LIFE AND SUPPORT UNTIL DEATH IN EU MEMBER STATES

While researching this topic, it was surprisingly difficult to find out whether these contracts exist in other EU member states. Slovenia, Bulgaria, Latvia and Por-

02/07, 84/08, 96/08, 123/08, 57/11, 148/11, 25/13, 89/14

80 In other types of procedures it is between 30 to 45 days. Art. 285, Civil Procedure Act

81 Art. 437, Civil Procedure Act

82 Art. 440 Civil Procedure Act; Gavella, *op. cit.,* note 32, p. 248-261

83 [http://www.glas-slavonije.hr/322148/1/Umirovljenici-Ukinite-dosmrtno-uzdrzavanje-stalno-nas-varaju] Accessed 11.03.2019

84 After a complaint is filled, files go to county courts throughout Croatia, whereby the e-filing system determines which county court will get the file by automatic assignment (the file goes to the one that is the least burdened by the number of cases), Art. 50 and 52 Rules on E-filing System, National gazette 35/15

tugal[85] are the only countries the authors found for certain to allow these types of contract. Like in Croatia, in Slovenia, contracts on support for life and support until death are regulated by Civil Obligations Act[86] and the provisions that regulate these types of contract are fairly identical to those of Croatian Civil Obligations Act. This is not surprising given that both Slovenia's and Croatia's legal systems come from the same source – they were both republics of Yugoslavia until not so long ago. It is to be expected that the same problems that exist in Croatia, concerning these contracts, also occur in Slovenia.

Concerning Bulgaria, it was found that only the contract on support until death can be concluded (or "transfer of the ownership right over a property in exchange for maintenance and care", as it is named on a webpage).[87] It is not specifically regulated by Bulgaria's Law of Obligations and Contracts[88], since only contracts on purchase, donation, lease, loan, manufacture and mandate are defined in this Act. However, when it comes to a contract on support until death, it can obviously be concluded if it is in accordance with general rules on validity of contracts. It is fairly similar to its Croatian counterpart and more or less the same problems that were dealt in this paper concerning contract on support until death, occur in Bulgaria, too.

When it comes to other EU member states, authors of this paper were not able to investigate in detail what the rules are concerning these types of contracts. However, if Croatian, Slovenian and Bulgarian provisions concerning this issue are

---

85 Latvia ([https://e-justice.europa.eu/content_maintenance_claims-47-lv-en.do?member=1] Accessed 27.03.2019) and Portugal ([https://e-justice.europa.eu/content_maintenance_claims-47-pt-en.do?member=1] Accessed 27.03.2019)) have explicitly stated in a survey about maintenance claims ([https://e-justice.europa.eu/content_maintenance_claims-47-en.do] Accessed 27.03.2019) that these claims can arise from certain family relations, but also from contracts where parties have agreed that one of them will give maintenance (support) to another. So it is obvious that these countries do allow these types of contracts. However, the fact that other countries have not mentioned anything about maintenance claims arising from contracts does not mean anything, since Croatia, Slovenia and Bulgaria, who allow these contracts, failed to mention them either

86 Art. 557-568 of Civil Obligations Act (Obligacijski zakonik, Uradni list RS, št. 97/07 – uradno prečiščeno besedilo, 64/16 – odl. US in 20/18 – OROZ631), full text: [http://pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1263#] Accessed 25.03.2019

87 [http://id-lawoffice.com/services/transfer-of-the-ownership-right-over-a-property-in-exchange-for-maintenance-and-care/[Accessed 26.03.2019

88 Law of Obligations and Contracts, Corr. SG. 2/3 Jan 1950, prom. SG. 275/22 Nov 1950, amend. SG. 69/28 Aug 1951, amend. SG. 92/7 Nov 1952, amend. SG. 85/1 Nov 1963, amend. SG. 27/3 Apr 1973, amend. SG. 16/25 Feb 1977, amend. SG. 28/9 Apr 1982, amend. SG. 30/13 Apr 1990, amend. SG. 12/12 Feb 1993, amend. SG. 56/29 Jun 1993, amend. SG. 83/1 Oct 1996, amend. SG. 104/6 Dec 1996, amend. SG. 83/21 Sep 1999, amend. SG. 103/30 Nov 1999, amend. SG. 34/25 Apr 2000, suppl. SG. 19/28 Feb 2003, amend. SG. 42/17 May 2005, amend. SG. 43/20 May 2005. Full text: [http://www.bulgaria-law-of-obligations.bg/law.html] Accessed 25.03.2019

to be any indicators, it is to be expected that these types of contracts are allowed throughout EU, whether they are specifically defined in their respective legislations that regulate obligations and contracts, or whether they are allowed to be concluded under general rules on contract validity, as is the case in Bulgaria and was, until 2006, in Croatia. What can also be expected is that the same issues that arise in Croatia concerning these contracts, also occur in other EU member states.

7. CONCLUSION

One of the basic legal principles is *ignorantia iuris nocet* - not knowing the law is harmful. Without this principle, functioning of a "legal state" or "a rule of law" would be difficult, if not impossible. One of the basic questions this work provokes, is: should the recipients of support be protected from not knowing the law, especially if they are old, infirm, uninformed people, who depend on the help of others, and thus can be subject to their influence and demands? Or should they be treated equally as other subjects of civil law, who are expected to take care of their own interests?

The articles from the media, mentioned in this paper, are only a part of what was found while researching this topic. These articles might not be of a scientific value, but they were an irreplaceable source of issues that arise from these contracts in real life. In many of those articles, people (particularly older persons), were urged to take extreme care while concluding these contracts, because they are connected with many complications and might cause them great problems. Also, these articles brought many advices on how to bypass these problems and what could be done to solve them once and for all. The demands of pensioners, who are most often recipients of support, are always the same: abolish the contract on support until death; limit the number of contracts on support for life that one person can conclude at once, as a provider of support; prohibit persons of certain professions from being providers of support; shorten the court proceedings concerning the violation or termination of these contracts, etc. Some of these requests have already been incorporated into certain legal acts: for example, in Social Welfare Act, Art. 192 and 214, there are certain restrictions imposed on providers of support. Other requirements have not (yet) fallen on fertile ground.

Elimination of the contract on support until death from the Civil Obligations Act will not have any effect, since one of the fundamental principles of Croatian law of obligations – a freedom to contract – gives contracting parties the possibility of concluding contracts, even if they are not explicitly mentioned in the Civil Obligations Act. These contracts only need to be in accordance with general principles and provisions relating to the validity of contracts. It should not be forgotten that,

until 2006, this contract was not even regulated by any legal act in the Republic of Croatia, but the contracting parties could have concluded it, nevertheless. Except explicitly forbidding this contract, which will probably never happen, this way of solving problems will not be successful.

If it stands to reason that the recipients of support should be additionally protected, as a particularly sensitive category of persons, this protection must obviously go in some other direction. It is therefore apparent that the recipients, and also the providers of support, could be protected if the registration of the obligation to support, stemming from contract on support until death, was *ex officio* established and registered into the land registry as a real estate encumbrance. The same goes for the registration of the existence of contract on support for life. The possibility of these registrations already exists, according to Civil Obligations Act, but now it depends exclusively on contracting parties, which, it seems, does not function as intended. It also makes sense that due to the particularities of these contracts - the age of the parties, the need to regularly fulfill the obligations under the contract, their close contacts; the court procedures concerning these contracts become urgent procedures, which should be settled within no more than six months. Such changes would certainly help those who will, in the future, conclude contracts on support for life and support until death.

REFERENCES

BOOKS AND ARTICLES

1. Antić, O.B., *Sloboda zaveštanja i nužni deo,* doctoral dissertation, Beograd, 1983
2. Belaj, V., *Prestanak ugovora o doživotnom i ugovora o dosmrtnom uzdržavanju*, Liber amiocorum Nikola Gavella, Građansko pravo u razvoju, Zagreb, 2007
3. Belaj, V., *Raskid ili izmjena ugovora o doživotnom uzdržavanju zbog promijenjenih okolnosti*, Pravni vjesnik, *Vol.* 17, 2001
4. Belaj, V., *Ugovor o doživotnom uzdržavanju prema novom Zakonu o nasljeđivanju*, Pravni vjesnik, *Vol.* 1-2, 2003
5. Bevanda, M.; Čolaković, M., *Ugovor o doživotnom uzdržavanju i ugovor o dosmrtom uzdržavanju u sudskoj praksi*, Zbornik radova Aktualosti građanskog i trgovačkog zakonodavstva i pravne prakse, *Vol.* 10, 2012
6. Butković, M., *Neke specifičnosti kod sklapanja ugovora o doživotnom i dosmrtnom uzržavanju*, Hrvatska pravna revija, *Vol.* 1, 2013
7. Crnić, I., *Zakon o obveznim odnosima, Napomene, komentari, sudska praksa i prilozi*, Organizator, Zagreb, 2006
8. Crnić, J., *Ugovori o doživotnom i dosmrtnom uzdržavanju – de lege lata et de lege ferenda – O nekim (ne samo spornim) pitanjima*, Pravo u gospodarstvu, *Vol.* 6, 2005
9. Crnić, J.; Končić, A.M., *Zakon o nasljeđivanju s komentarom*, Organizator, 2003

10. *Encyclopaedia of Laws, Family and Succession Law*, *Vol*. 1-4, general editor: Blaipain, editor: Pintens, W., Kluwer Law Internetional
11. Gavella, N., *Nasljedno pravo*, Informator, Zagreb, 1990
12. Gavella, N., *Privatno pravo*, Zagreb, Narodne novine 2019
13. Gavella, N., *Stvarno pravo,* Narodne novine, Zagreb, 2008
14. Gavella, N.; Belaj, V., *Nasljedno pravo*, Narodne novine, Zagreb, 2008
15. Gliha, I., *Family and Succession Law – Croatia, Suppl. 28 (August, 2005),* in: International Encyclopaedia of Laws, Family and Succession Law, vol. 1, Kluwer Law International, 2005
16. Golub, A., *Pravne posljedice raskida ugovora*, Aktualnosti hrvatskog zakonodavstva i pravne prakse, Godišnjak 23, Zagreb, 2016
17. Jelčić, O., *Treća životna dob – kako raspolagati imovinom, Projekt: „Sigurnost u trećoj dobi: Kako izbjeći rizike pri raspolaganju imovinom"*, Republika Hrvatska, Ministarstvo socijalne politike i mladih, elektroničko izdanje, Izdavač: Hrvatski pravni centar, 2016
18. Klarić, P.; Vedriš, M., *Građansko pravo*, Narodne novine, Zagreb, 2014
19. Klasiček, D., *Nužno nasljedno pravo kao ograničenje slobode oporučnog raspolaganja*, doctoral dissertation, Zagreb, 2011
20. Klasiček, D.; Ivatin, M., *Modification or dissolution of contracts due to changed circumstances (clausula rebus sic stantibus)*, Pravni vjesnik, *Vol.* 2, 2018
21. Krstić, N., *Kako ostavinski sud treba da postupi kada u toku postupka za raspravljanje zaostavštine učesnici ospore ugovor o doživotnom izdržavanju?*, Zbornik radova Pravnog fakulteta u Nišu, *Vol.* 72, 2016
22. Monić, M., *Pobijanje ugovora o doživotnom uzdržavanju zbog povrede nužnog dijela*, Pravni život, *Vol.* 1-2, 1958
23. Perkušić, A.; Ivančić-Kačer, B., *(Ne)dopušteni nasljednopravni ugovor ili ugovori nasljednog prava ili paranasljedni ugovori u hrvatskom pozitivnom pravu*, Pravni vjesnik, *Vol.* 1-2, 2006
24. Pichler, D.; Tomić, D., *Electronic signature in legal theory and practice - new regulation*, in: Drezgić, S.; Živković, S.; Tomljanović, M. (eds), Economics of Digital Transformation, Research Monograph – First Edition, University of Rijeka, Faculty of Economics and Business, 2019
25. Svorcan, S., *Raskid ugovora o doživotnom uzdržavanju*, doctoral dissertation, Beograd, 1987
26. Šeparović, V., *Ugovor o doživotnom uzdržavanju*, Aktualnosti hrvatskog zakonodavstva i pravne prakse, 1992
27. Triva, S.; Dika, M., *Građansko parnično procesno pravo*, Narodne novine, Zagreb, 2004
28. Tuhtan Grgić, I., *Specifičnosti ugovora o doživotnom uzdržavanju u korist trećega*, Hrvatska pravna revija, *Vol.* 4, 2015

EU LAW

1. Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC

LIST OF NATIONAL REGULATIONS, ACTS AND COURT DECISIONS

1. Civil Obligations Act (further: COA), National gazette, 35/05, 41/08, 125/11, 78/15
2. Civil Procedure Act, Official gazette of SFRJ 4/77, 36/77, 6/80, 36/80, 43/82, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90, 35/91. National gazette 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 96/08, 123/08, 57/11, 148/11, 25/13, 89/14
3. Court Fees Act, National gazette 118/18
4. Enforcement Act, National gazette 112/12, 25/13, 93/14, 55/16, 73/17
5. Inheritance Act, National gazette 48/03, 163/03, 35/05, 127/13, 33/15
6. Inheritance Act (repealed), National gazette 52/71, 48/78 i 56/00
7. Land Registry Act, National gazette 91/96, 68/98, 137/99, 114/01, 100/04, 107/07, 152/08, 126/10, 55/13, 60/13
8. Law of Obligations and Contracts, Corr. SG. 2/3 Jan 1950, prom. SG. 275/22 Nov 1950, amend. SG. 69/28 Aug 1951, amend. SG. 92/7 Nov 1952, amend. SG. 85/1 Nov 1963, amend. SG. 27/3 Apr 1973, amend. SG. 16/25 Feb 1977, amend. SG. 28/9 Apr 1982, amend. SG. 30/13 Apr 1990, amend. SG. 12/12 Feb 1993, amend. SG. 56/29 Jun 1993, amend. SG. 83/1 Oct 1996, amend. SG. 104/6 Dec 1996, amend. SG. 83/21 Sep 1999, amend. SG. 103/30 Nov 1999, amend. SG. 34/25 Apr 2000, suppl. SG. 19/28 Feb 2003, amend. SG. 42/17 May 2005, amend. SG. 43/20 May 2005
9. Notary Public Act, National gazette, 78/93, 29/94, 162/98, 16/07, 75/09, 120/16
10. Obligacijski zakonik, Uradni list RS, št. 97/07 – uradno prečiščeno besedilo, 64/16 – odl. US in 20/18 – OROZ631
11. *Real Estate Transfer Tax Law,* National gazette 115/16, 106/18
12. Rules on E-filing System, National gazette 35/15
13. Social Welfare Act (SWA), National gazette 157/13, 152/14, 99/15, 52/16, 16/17, 130/17
14. VSRH, Rev 2419/1991-2, 13.7.1993
15. VSRH Rev 3805/1993-2, 8.2.1994
16. VSRH, Rev-252/94, 29.5.1997
17. VSRH Rev 898/1994-2, 21.10.1998
18. VSRH, Rev-2335/89, 27.12.1989
19. VSRH, Rev 865/2005, 6.4.2006
20. VSRH Rev x 548/2009-2, 3.2.2010
21. VSRH Rev 1516/2009-2, 28.2.2012
22. VSRH Rev 564/2016-2, 1.3.2016
23. VSRH Rev 2043/2012-2, 20.7.2016
24. Županijski sud Varaždin, Gž-1128/2009, 9.11.2009
25. Županijski sud Varaždin, Gž 3019/11-2, 25.5.2011

WEBSITE REFERENCES

1. Butković, M.: "*Neka pitanja vezana uz uknjižbu prava vlasništva na nekretnini koja je bračna stečevina, a predmet je ugovora o doživotnom uzdržavanju*" [http://www.iusinfo.hr/Article/Content.aspx?SOPI=CLN20V01D2014B656] Accessed 25.03.2019
2. Europa EU, [https://e-justice.europa.eu/content_maintenance_claims-47-en.do] Accessed 25.03.2019
3. Europa EU, Latvia, [https://e-justice.europa.eu/content_maintenance_claims-47-lv-en.do?member=1] Accessed 25.03.2019
4. Europa EU, Portugal, [https://e-justice.europa.eu/content_maintenance_claims-47-lv-en.do?member=1] Accessed 25.03.2019
5. Glas Slavonije: "*Starcima obećaju skrb do smrti, a onda im sve uzmu i izbace ih na ulicu*" [http://www.glas-slavonije.hr/259376/1/Starcima-obecaju-skrb-do-smrti-a-onda-im-sve-uzmu-i-izbace-ih-na-ulicu] Accessed 25.03.2019
6. Glas Slavonije: "*Umirovljenici: Ukinite dosmrtno uzdržavanje, stalno nas varaju*" [http://www.glas-slavonije.hr/322148/1/Umirovljenici-Ukinite-dosmrtno-uzdrzavanje-stalno-nas-varaju] Accessed 25.03.2019
7. ID Law Office, [http://id-lawoffice.com/services/transfer-of-the-ownership-right-over-a-property-in-exchange-for-maintenance-and-care/] Accessed 25.03.2019
8. IUS-INFO, [http://www.iusinfo.hr/] Accessed 25.03.2019
9. Narodni list: „*Ugovor o dosmrtnom ili doživotnom uzdržavanju: razlika je velika*" [http://www.narodni-list.hr/posts/209835001] Accessed 25.03.2019
10. podravski.hr: "*Majka sinu prepisala sve nekretnine kako bi izbjegla plaćanje poreza. No, čini se da će ga morati platiti…*" [https://podravski.hr/majka-sinu-prepisala-sve-nekretnine-kako-bi-izbjegla-placanje-poreznog-duga-no-morat-ce-ga-platiti/] Accessed 25.03.2019