

IDEAL LAWS AND UNSCRUPULOUS LAWYERS

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Summary: The life of one law depends not only on what is prescribed, but how it is respected. In that sense, the authority of the law is the authority of those who are applying the law. So, the independence, knowledge and the culture of lawyers are sometimes more important than words of the law. Professor Ljubiša Lazarević used to say that there are no ideal laws that cannot be misused by unscrupulous lawyers. In this article the author tried to explain this thought of professor Lazarević. There are many legal solutions in the Western liberal, democratic countries that can be very doubtful if we look only at what is written on the paper, but the most important thing is how those regulations are implemented in practice, in real life. For example, the elections and appointments of judges in England could be very problematic if we have in mind only what it is said in some legal norms. The situation is similar in the USA. The other example could be the elections commissions. In some countries those commissions are governmental agencies with different consequences that could be very problematic in every, but first of all democratic sense. However, generally speaking, political elections in those countries are free and democratic. So, for the implementation of the law, the culture, especially legal culture is very important. It includes permanent education of lawyers, but also changing of their minds. The author of this text also speaks about security measures in Criminal Law, first of all “compulsory psychiatric treatment“. Psychiatry could be abused in political sense and some experts thought that the practice of political misusing of the psychiatry was very spread in the former Soviet Union. Verbal offences, so-called hate speech, also are good examples how important it is to implement what is said in the law. All of these examples show us that Professor Lazarević really had a right when he said that everything could be abused by unscrupulous lawyers. The author thinks that it is important to have that in mind when we write a new law. A legislator has to know and has to take in consideration the way of thinking and the mentality of lawyers and ordinary people if he wants to make good legal system. All in all, the law is not only what is written on the paper, but also what is implemented in practice.

Keywords: legal texts; implementation of the law; unscrupulous lawyers; judicial independence; authority of the law, legislator.