

Pavčnik, Marijan

Marijan Pavčnik (Ljubljana, 8 December 1946), Doctor of Legal Sciences, Professor of Philosophy and Theory of Law and State (Introduction to Jurisprudence, Philosophy of Law with Methodology of Legal Argumentation, Theory of Law, Theory of State) at the Faculty of Law, University of Ljubljana.

He attended elementary and secondary school in Ljubljana. After graduating (June 1965), he enrolled at the Faculty of Law and graduated in December 1969. After graduation, he passed the bar exam (December 1971), and defended his Masters' Thesis in February 1978 at the Belgrade Faculty of Law. Prof. Pavčnik holds a PhD from the Ljubljana Faculty of Law since May 1982. His Master's and doctoral work are also published in book form [*Zloraba pravice (Abuse of Right, 1986)*, *Pravni viri v jugoslovanskem pravu (Legal Sources in the Yugoslav Law, 1983)*].

From 1970 to 1971, Pavčnik served as trainee judge with the Ljubljana District Court, and later as a judge at the Ljubljana Municipal Court I. He has worked at the Ljubljana Faculty of Law since May 1973. He started as Assistant, was promoted to Assistant Professor in December 1982, and Associate Professor in December 1987. Since January 1993, he has worked as Full Professor. He was Chair of Philosophy of Law for post graduate students until the academic year 2009/10. From 2009/10 onwards, he lectures on selected chapters in Legal Theory for doctoral students. In the academic years from 1993/94 to 1998/99, he worked as Visiting Professor at the Maribor Faculty of Law.

He has repeatedly served as Faculty Head of Theory and Sociology of Law, worked as Managing Editor of the *Zbornik znanstvenih razprav – Review of Scientific Monographs* (1995-2009). He is still Head of the Law Faculty Library. For six years (1997-2003), he acted as President of the Prešeren Awards at the

University of Ljubljana. He spent two terms of office as Member of Council for the Judiciary of the Republic of Slovenia (1990-1994, 1999-2004), two terms of office as National Coordinator for the field of Law, and worked from 2006 to 2010 as the President of the Scientific Council for the Social Sciences of Slovenian Research Agency. From 2008 till 2012 he was a member of the Zois Prize Commission.

On 12 June 2003, he was elected an Associate Member of the Slovenian Academy of Sciences and Arts, and Full Member on 21 May 2009. From 10 February 2005 until 31 May 2011, he has worked as the Head of the Department for Social Sciences of Section I of Historical and Social Sciences, and has served as Secretary of the Section I of Historical and Social Sciences from 1 June 2008 till 31 May 2011. He is also Chairman of the SASA Statutory Issues Commission.

His Bibliography includes over 680 primary and secondary units. These include 102 original scientific articles and 84 other scientific works and also more than 70 foreign language (especially German and English) publications.

Pavčnik wrote the *Teorija prava* [*Theory of Law* (first published in 1997, 4th extended revised and adapted edition in 2011)] in the Slovenian language. The work deals with fundamental issues of theory of law. Pavčnik's ambition is to contribute to the understanding of the law. Critics characterized the book as a "new synthesis of Slovenian legal theory" (V. Simič), and as, in many respects, an original contribution to the legal-philosophical debate, standing on equal footing with other foreign (e.g. German) systematic works (P. Holländer).

In his work, Pavčnik pays particular attention to the interpretation of the law and legal decision-making arguments. He examines law interpretation as a mental

activity with which "the interpreter (re)constructs and conceptually defines a general and abstract legal rule which the law communicates and linguistically frames." Legal decisions are, by nature, not pre-determined. The decision-making platforms are determined in advance, while their evaluation and connection are a matter of human choice.

Pavčnik addresses these questions in *Argumentacija v pravu* [*Argumentation in Law* (1. ed.: 1991, reprint: 1998; 3rd revised and updated edition: 2013)]. In critical opinion, this monograph represents "a new way of thinking and writing in Slovenian legal theory." (V. Simič). In a slightly modified form, the monograph was also published by Springer Publishing (*Juristisches Verstehen und Entscheiden*, 1993). His *Theory of Law and Argumentation in Law* are frequently cited in literature, and used as reference in (constitutional) jurisprudence.

Pavčnik is cited internationally as well. His works have encountered such a response in L. E. Wolcher [Pavčnik's *Theory of Legal Decisionmaking: An Introduction*, in: *Washington Law Review*, 42 (1997), No. 2, pp. 469-480, in A. Kaufmann (*Das Verfahren der Rechtsgewinnung*, 1999) and P. Holländer (*Ústavněprávní argumentace*, 2003)]. Pavčnik's view of the prohibition of abuse of rights is accepted in *the Encyclopaedia of the Philosophy of Law* (ed. C. B. Gray, 1999). His individual treatises also received international attention (in foreign languages, especially German and English), which were published in book form by Steiner Verlag (*Auf dem Weg zum Mass des Rechts*, 2011). This book consists of a selection of 14 scientific articles from the period 1997-2010.

As co-author, Prof. Pavčnik has conceptualised and (co-) edited several books that explore the important legal questions: *Temeljne pravice* (*Fundamental Rights*, 1997), *Ustavno sodstvo* (*Constitutional Judiciary*, 2000), *Pravna država*

(*Rule of Law*, 2009) and (*Ustavno*)*sodno odločanje* [*Adjudication (before Constitutional and Regular Courts)*], 2013). As co-author, he has compiled and edited a lexicon, entitled *Pravo* [*Law* (1. edition: 1987, 2nd revised and updated ed.: 2003)].

Pavčnik points out that law, like any science needs to be familiar with the findings of previous generations. He edited following Publications: *Država* (*State*) by Leonid Pitamic (with the accompanying study, 1996, 2009), selected treatises: *Problem realnosti prava* (*The Problem of Reality of Law*) by Boris Furlan (along with introductory discussion, 2002), fifteen selected treaties by deceased Slovenian scientists *Izročilo pravne znanosti* (*The tradition of legal science*, 2008 – with the introductory study) and bilingual selection of Leonid Pitamic treatises: *Na robovih čiste teorije prava / An den Grenzen der Reine Rechtslehre* (together with the introductory study, 2005, reprint: 2009).

Pavčnik often lectures at foreign and domestic conferences, and authored a number of papers and lectures at universities abroad. He regularly participates in conferences of the International Association for Legal and Social Philosophy. In Slovenia, Pavčnik heads working sections at legal meetings, and very often participates in various programmes for education of judges. His particular attention to legal practice is also exemplified in his comment to Article 7 of the Code of Obligations [Prohibition of abuse of rights (2003)]. Pavčnik's concept of prohibition of abuse of rights was adopted in the judicial and constitutional jurisprudence.

Pavčnik has worked as editor of the book series *Pravna obzorja* [*Legal Horizons* (from 1994)], a collection of *Scientia/ Iustitia* (since 2003) and editorial board member of several journals.

On several occasions, Pavčnik extended his expertise on foreign study visits. Among his short-term stays, Pavčnik visited law faculties and institutes for theory and philosophy of law in Vienna, Graz, Regensburg, Paris, Oxford, Edinburgh and Seattle. He was Fellow of the Alexander von Humboldt Foundation for twenty three months, five times at the Institute of Philosophy of Law and Legal Informatics at the University of Munich, four times at the Institute for Interdisciplinary Research at the University of Bielfeld, and once at Humboldt University in Berlin.

He is a member of the European Academy (Academia Europaea) since 2010 and international corresponding member of Hans Kelsen Institute in Vienna (since 2012).

As student, he received (together with Ada Polajnar) the Prešeren Award for work *Kratkotrajne prostostne kazni* (*Short-term Imprisonments*, 1968, p.108). He was also Fellow of the Boris Kidrič Fund. As co-author of *Politični delikti* (*Political offenses*) – with Prof. Dr. Ljubo Bavcon as project leader – Pavčnik was awarded the Boris Kidrič Fund Award in April 1988. In 2001, he received the Zois Award for outstanding achievements in legal sciences.