

naziv za rješavanje imovinskih odnosa, kao jednom od uvjeta za dobivanje odobrenja za građenje). Takođe ugovor kao dokaz o pravu građenja prepoznaju samo ako se radi o ugovoru o partnerskom građenju. Stoga bi bile nužna je izmjena propisa o građenju i njihovo usklađivanje sa novim stvarnim pravom u BiH. U nekim kantonima je za izgradnju odnosno polaganje vodova različitih vrsta dovoljna saglasnost vlasnika nekretnine, pa se predlaže da se ovaj „dokaz o pravu građenja“ proširi i na solarne panele i vjetroturbine.

Meliha POVLAKIĆ, Ph.D , full professor  
University in Sarajevo, Faculty of Law  
[m.povlagic@pfsa.unsa.ba](mailto:m.povlagic@pfsa.unsa.ba)

Nasir MUFTIĆ, Ph.D, senior assistant  
University in Sarajevo, Faculty of Law  
[n.muftic@pfsa.unsa.ba](mailto:n.muftic@pfsa.unsa.ba)

## CERTAIN PRIVATE LAW ASPECTS OF THE CONSTRUCTION AND FINANCING OF RENEWABLE ENERGY WITH A FOCUS ON THE USE OF SOLAR AND WIND ENERGY

**Abstract:** *The central global problem of today is climate change. Energy transition and increasing the share of energy from renewable energy sources (RES) is one of the measures against these changes. The authors of this paper believe that the regulations of private law can play a significant role in this context, that is, that the implementation of strategic decisions to carry out the energy transaction requires the harmonization of both public legal regulations and private legal ones. The authors focused on solar and wind energy, due to their comparative advantages over other RES, but also because of the geographical features of B&H.*

*In the first part of the paper, the complex public-legal framework, which should enable the production of electricity from the RES in B&H is briefly presented. Even a short section, it has shown that the fragmented legal framework in B&H is an obstacle to investment, but also a circumstance that makes it difficult to fulfill the obligations assumed by the state of B&H by signing a series of international instruments.*

*In the second part of the paper, they concentrated on certain proprietary issues. Given that the principle of superficies solo cedit is one of the fundamental principles of property law, the authors investigated how to separate equipments and devices for the production of electricity using solar and wind energy from the land, taking into account that the most optimal business model does not have to be the purchase of the land on which it will be set up appropriate facilities. The institutes the right to build and servitudes were discussed as models that are most often used in comparative law, but also new solutions of property law in BiH that enable non-essential/independent parts of things (immovable property) to be special objects of rights in rem. The focus was on the question of how these non-essential parts can be the basis of security rights (retention of ownership, leasing, lien rights).*

*The paper outlines some of the major legal problems in the field of regulation of renewable energy sources trying to highlight the pending legal issues in B&H.*

**Keywords:** *renewable energy sources, energy transition, private law aspects of energy transition, hereditary building right, concessions*