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Traditie şi reformă în societatea românească: Repere Europene: Conferinţa Ştiinţifică Internaţională: Iaşi, 25 martie 2012: book of abstract

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Plenary

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REGARDING THE IMPORTANCE OF INTERNAL REGULATIONS AS SPECIFIC SOURCE OF THE LABOR LAW

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Abstract

The employer has the prerogative to establish the rules of operation of the unit through its internal regulations, but its drawing is also an obligation, its non-fulfillment is subject to indirect sanctions.

The internal regulations may be subject to collective bargaining only if the employer wishes to derogate in favor of the employees.

Through its regulations, mainly, problems of disciplinary order are correctly set, according to the labor legislation, but it has a much wider area.

Regarding "the specific rules of the labor discipline in the unit, to the different legal solutions in the literature, we rally to the rigors of the legislative technique concerning "the area of the proposed solutions" in any law and provision. The drawing up the internal document of the employer – the internal regulations- should have such rules as a model.

Keywords: *internal regulations, labor discipline, sanction, disciplinary offense, legislative technique.*

THE IRREVERSIBILITY OF DONATIONS ACCORDING TO THE NEW CIVIL CODE

Livia MOCANU
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Abstract

The donation, inter vivos liberality, is by its essence irreversible. The principle of the donation irreversibility is expressly mentioned in art. 1015 of the new Civil Cod.

Though the dispositions of the Civil Code in 1865 are mainly kept in this matter, the new Civil Code reconfigures the institution of the donation irreversibility, both by reformulating the old texts and by establishing new solutions. All these define a modern regulation of this important feature for the donation – irreversibility.

In this context, our research analyses the principle of the donation irreversibility, as well as the exceptions to this principle.

Keywords: *liberality, irreversibility, revocation, revocation for ingratitude, revocation for non-performance of the duty, revocation of the donation between spouses.*

REPORT OF DEBTS ACCORDING TO LAW NO. 287/2009 ON THE CIVIL CODE[1]

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Abstract

Law No. 287/2009 on the Civil Code[2] confers a new configuration to the field of successions in general. In the short time which elapsed from the moment the normative act in question entered in force, only 4 specialized works[3] were written in the field. Consequently, the analysis of hereditary law institutions is both useful and actual.

Under these circumstances, the present work aims to analyze all the aspects involved by the report of debts in the light of the new Civil Code. Thus, there will be analyzed the following aspects: definition, legal regulation, conditions, legal effects and legal nature of the report of debts. All these issues shall be approached in a comparative manner, by taking into account the 1864 Civil Code and the new Civil Code. Thus, we will be able to point out in a clear manner the novelties brought in the field subject to our analysis by Law No. 287/2009 and to assess their just and appropriate character.

Keywords: *debt, liquidation of debts, debt title, hereditary succession.*

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[1] This work was supported by CNCSIS-UEFISCSU, project number PN II-RU, code PD_139/2010, contract number 62/2010.

[2] Republished in the Official Gazette number 505 from 15th of July 2011.

[3] Following the order of their apparition, these works are the following: D.C. Florescu, *Dreptul succesoral,* Universul Juridic Publ. House, Bucharest, 2011, I. Genoiu, *Dreptul la mostenire in Noul Cod civil,* C.H. Beck Publ. House, Bucharest, 2012; L. Stanciulescu, *Curs de drept civil. Succesiuni. Conform Noului Cod civil,* Hamangiu Publ. House, Bucharest, 2012; V. Stoica, L. Dragu, *Mostenirea legala,* Universul Juridic Publ. House, Bucharest, 2012.

THE PRECIPUT CLAUSE IN THE MATRIMONIAL AGREEMENT

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Abstract

By provisions of art. 333 the preciput clause was introduced in the new civil Code.

In the Romanian law, the preciput operates in favor of the surviving spouse, whether of the husband or of the wife, all the more so as the spouses cannot have any certainty in this regard at the time of marriage.

As a clause of the matrimonial agreement, the preciput can only exist as far as the future spouses conclude such an agreement, the preciput clause being an accessory to the matrimonial agreement. On the other hand, the existence of a matrimonial agreement does not necessarily imply such a clause, however, once they have opted for it, the legal rules on the preciput will be fully applicable, having a binding character.

In this context, the article aims to study: a historical journey on the preciput clause; the preciput clause: concept, parts, object, legal and judicial character; compatibility of the preciput clause with the separation of property matrimonial regime and with the legal community matrimonial regime; the enforcement of the preciput clause; consequences of the special nature of conventional freedom of the preciput clause and the impact of the preciput clause on the division of inheritance.

Keywords: *the preciput clause; marriage; matrimonial agreement; devolution; testamentary devolution.*

THEORY AND LEGAL PRACTICE CONCERNING THE EXECUTING OF A EUROPEAN ARREST WARRANT IN ROMANIA

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Abstract

The aim of this paper is to highlight the procedure regulated for the execution of a European arrest warrant in Romania and the way of applying this procedure in the legal practice.

The European arrest warrant is designed to replace the current extradition system by requiring each national judicial authority (the executing judicial authority) to recognise, ipso facto, and with a minimum of formalities, requests for the surrender of a person made by the judicial authority of another Member State (the issuing judicial authority). The European arrest warrant is a judicial decision issued by a Member State with a view to the arrest or surrender by another Member State of a requested person, for the purposes of conducting a criminal prosecution, executing a custodial sentence or executing a detention order.

In Romania, the European arrest warrant was regulated for the first time in 2004 by 302nd Law. Two years later, the law was modified by 244th Law in order to transpose the disposals of Decision 2002/584/JHA. The latest legislative changes concerning the judicial cooperation and the European arrest warrant occurred in May 2011.

Keywords: *European arrest warrant, judicial cooperation, executing judicial authority*

OFFENSES OF CORRUPTION IN THE NEW CRIMINAL CODE

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Abstract

The new Criminal Code make significant changes in relation to criminal offenses of corruption. First, the term public officer has acquired a new sense, the legislature wanted to give a broad interpretation of the term. Witness, also a fusion of bribery offenses and receiving undue benefits that the new legislation, is not criminalized. There is additional punishment and express provision prohibiting the exercise of the right to hold public office or to the profession or activity enforcement officer committed the offense. The offense of buying influence is now regulated by the Code, however, was taken from the Law. 78/2000, amended by Law no. 161/2003, which has provided additional punishment of compulsory application of the prohibition of exercising certain rights.

Keywords: *corruption, crime, civil servant*

REFLECTIONS ON A PARTICULAR TYPE OF OFFENCE

Ion IFRIM
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Abstract

In the special part of the criminal code in force for crimes against the person, there is a separate category of offences (chapter III) "Crime relating to sex life." All in the new criminal code for crimes against the person listed as a separate category crimes against sexual freedom and integrity (the head. III). We do not intend to adâncim now these research highlighting the objective need of social protection that your sex life is to point out the ways in which our criminal law and other legislation like this health care. What concerns us is the basic terminology used in the context of this process of social value to which we refer.

Keywords: *sexual relations, intercourse and intercourse acts of sexual perversion.*

CROSS BORDER COOPERATION, FORMS OF PARTNERSHIP TO ATTRACT FINANCIAL RESOURCES IN EUROREGION "SIRET-PRUT-NISTRU"

Florin TUDOR
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Abstract

EU enlargement has required as main foreign priority relations of good neighborliness. Developing the three regions at the border is an imperative, given that Euroregion "Siret-Prut-Dniester" is one of the largest in Europe.

Euroregional development is an important step towards European integration. Since Euroregion covers the border, the most homogeneous area when talking about tradition, as old relations of friendship and cooperation, as a model of cultural and lifestyle border cooperation, as a form of partnership, may attract major european financial resources to reduce economic disparities currently existing between Member States and the Republic of Moldovia who wants to join to the European structures.

Keywords: *Euroregional development, European integration, financial resources, cross-border cooperation*

JEL Classification: P48, R58

THE ADMINISTRATIVE AND ECONOMICAL ROLE OF THE ROMANIAN STATE FROM THE PERSPECTIVE OF THE INTEGRATION IN THE EUROPEAN UNION. THE ECONOMIC CONVERGENCE AND THE INTRODUCTION OF EURO CURRENCY

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Abstract

The state is a unique institution, placed above all others organizational forms of the society. In order to exist, the state must meet three indispensable elements: territory, population and Government, which means that the state is defined as a human collectivity, permanently set on a certain territory and having a structure of sovereign institutions.

The role of the state as the main institution which provides the organizational and political steer of the society is ensured by certain functions, such as: legislative, juridical, organizational, economical, social, educational-cultural, ecological, country defensive, or of organizing the collaboration with other states, and last, but not the least, the states has an administrative function, by which it provides services to the population in order to ensure the normal flow for activities such as: energy, transport and salubrity.

Romania entered the European Union on the 1st of January 2007, having replaced the centrally planned economy with the market economy with convergence to the EU practices and standards. The Romanian public administration has been radically transformed during the last 20 years, from public administration specific to the totalitarian regime to one suitable for a democratic regime.

Keywords: *integration process, European Union, constitutional regime, the role of the state.*

THE LEGAL TECHNIQUE CONCEPT

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Abstract

The present study makes an analysis of the legal technique concept, a complex concept that involves the moment of reception by the legislator of the social commandment, his selective opinion and making law (the drafting of legal rules or the normative technique), but also consists in the realization moment (implementing in life) of the law made by the legislator (technical realization and interpretation of law). Our scientific work studies the correlation or difference between the legal technique concept and legal science, making an inventory of the doctrinaire efforts, with more or less results, in determining the legal technique concept.

Keywords: *legal technique, legislative technique, normative technique, normative act.*

HUMAN TRAFFICKING IN INTERNATIONAL REGULATIONS

TRAFICUL DE PERSOANE ÎN REGLEMENTĂRILE INTERNAȚIONALE

Gabriel Liviu ISPAS
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University Bucuresti

Abstract

Human trafficking is a problem facing contemporary international society frequently. On the sale of slaves primary sense, the notion of human trafficking has expanded, with particular attention paid to trafficking in children for work, trafficking in women, especially as a form of sexual slavery, and trafficking in organs . Communication we present the conference aims to comparative and analytical presentation of the field, in law, considered in its evolution, constantly under the rules of public international law, but also in European law.

Keywords*: human trafficking, sexual slavery, organ trafficking, international standards, traffic control.*

A CONSTRUCTIONIST UNDERSTANDING OF SOCIAL CONTRACT THEORY

Lect. Univ. Dr. Antonio SANDU[4]
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Abstract

The social contract is an act of establishing meaning. Power relations can be understood as semiotic relations of establishing an interpretative will. Natural state, original state in most theories of social contract, is not only a pre-politic one, but also pre-semiotic. Contractualist theories propose a model of social reality resulting from voluntary waiver of their liberty to obtain sociability. This article takes into consideration the understanding of the social contract as interpretative practice, in a constructionist manner. We understand the social contract as an interpretative pact resulting from a process generating meanings. Social constructs arising from the interpretative process are: social order, law, or, in general, normativity and power status. The article will favor analytical and historical approach, applying social constructionism as semiotic grid to recover various contractualist theories.

Keywords*: social contract, social constructionism, interpretative proces, social order, law, normativity, power status*

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[4] Bursier postdoctoral finanţat de Autoritatea de Management pentru Programul Operaţional Sectorial "Dezvoltarea Resurselor Umane" în baza proiectului "Studii postdoctorale în domeniul eticii politicilor de sănătate" Universitatea de Medicină şi Farmacie "Gr. T. Popa" Iaşi. Proiect cofinanţat din Fondul Social European prin Programul Operational Sectorial pentru Dezvoltarea Resurselor Umane 2007-2013. Axa prioritara 1: "Educaţia şi formarea profesională în sprijinul creşterii economice şi dezvoltării societatii bazate pe cunoaştere". Domeniul major de intervenţie: 1.5 „Programe doctorale şi post-doctorale în sprijinul cercetării". Titlul proiectului: „Studii postdoctorale în domeniul eticii politicilor de sănătate". Cod Contract: POSDRU/89/1. Lect. Univ. Dr. Universitatea Mihail Kogălniceanu, Iaşi, Cercetator III Centrul de Cercetări Socio-Umane Lumen, Iaşi. E-mail: antonio1907@yahoo.com, Adresa: OP Iasi 3, CP 780

THE INSTITUTION OF REVISION AS A METHODOLOGY OF LAW: AN ANALYTICAL AND INTERDISCIPLINARY APPROACH

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Abstract:
The institution of revision in law was one of great importance in norms evolution and also in the general achievement of law. Generated by plurality of reasons, either from court's opinion conflicting judgements or from society new assessments, the institution of revision acts not only as an outcome for a judicial review, but also as a tool for research in the science of law. The paper's objective is to try an application of the institution of revision as a methodology of law in some area of interest of the posive law, and also in interdisciplinary related fields of law, such as political sciences or philosophy of law, where the institution of revision deals with some theories of justice. Thereby, possible findings could consolidate the instrument of revision as a methodology of research in the science of law, raising the level of theoretical application to a higher degree than the mere objection opposited to res judicata.

Keywords: *Law revision; norms control; methodology of Law; comparative and historical approach; reflective equilibrium*

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I. Comunity Law. Comparative Law. European Law

Panel 1

Moderators:
Conf. univ. dr. Nadia - Cerasela ANIȚEI
Lect. univ. dr. Cristian DUMITRESCU

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THE REFORM OF LOCAL DEMOCRACY IN FRANCE BETWEEN 2008-2014[5]

Claudia GILIA
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Abstract

The reform of the French territorial collectivities, which will take place between 2008-2014, is a structural reform, concerning the administrative organization of France, initiated by the President Nicolas Sarkozy, including a cluster of rules that will regulate the whole French administrative structure. Within a state grounded on centralism as far as the administrative organisation is concerned, the reform that started in 2008 brings in major changes in terms of administrative-territorial organisation in metropolitan France and overseas territories as well.

The first part of our study aims to analyse the legislative changes regarding the reorganisation of territorial collectivities. The second part aims to identify and describe how the French legislator brought under regulation the participation instruments which allow the French citizens to actively get involved in the life of their society, except the periodic elections. Besides the national referendum, the legislator thus established the local referendum, the petitionary matters, the local council, the consultative committees etc.

Keywords: *reorganisation, French territorial collectivities, local democracy, participatory democracy, citizen.*

[5] This work was supported by CNCSIS-UEFISCSU, project number PN II-RU, Code 129/2010, Contract 28/11.08.2010.

THE CONVENTION CONTAINING CERTAIN PROVISIONS OF PRIVATE INTERNATIONAL LAW ON MARRIAGE, ADOPTION AND GUARDIANSHIP CONCLUDED BY THE SCANDINAVIAN COUNTRIES IN STOCKHOLM ON FEBRUARY 6, 1931

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Abstract

The Swedish private international law doctrine, stresses that the Scandinavian countries operate with two sets of conflicts of laws: a set of rules apply only to inter-Scandinavian relations, while the other set applies to relations with the world. The conflict of laws reserved only for the "Scandinavian household" have their source material in the close legal cooperation between Denmark, Iceland, Sweden, Norway and Finland, started in the late 1920s and supported by very strong cultural ties between these states. The formal source of these rules is represented by the Convention between Denmark, Finland, Iceland, Norway and Sweden comprising international private law provisions on marriage, adoption and guardianship (Stockholm, February 6, 1931).

The matrimonial regime is set to rights in detail, having two uniform conflicts of laws, contained in Articles 3 and 4 of the Convention.

Keywords: *conflicts of laws; The Swedish private international law; the matrimonial regime; the matrimonial agreement.*

LIABILITY FOR PRECONTRACTUAL NEGOTIATIONS. TRADITION AND ACTUALITY IN ROMANIAN LAW. EUROPEAN HIGHLIGHTS

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Abstract

This paper aims to analyse the current state of legislation, doctrinal opinions and relevant case law on liability for precontractual negotiations in base of the New Civil Code, the Former Civil Code, observing the concordance of the actual national legislation with the European Contract Code and to contribute to the current stage of knowledge in this matter.

The objectives pursued by authors are:

- *Identification of the peculiarities of the legal regulation of the liability for precontractual negotiations in New Civil Code;*
- *Identification of problems that could arise from law's interpretation and application.*

According to Romanian Law, a party has not a duty to negotiate and, as a rule, no pre-contractual liability exists when no contract results. As per exception, the party could be found liable if he did not negatiate in good faith.

According to Romanian Law, a party has the legal duty of confidentiality in the course of precontractual negotiations.

Keywords: *precontractual negotiations, civil liability, good faith, confidentiality obligation, contract*

THE INCIDENCE OF ARTICLE 8 OF EUROPEAN CONVENTION ON HUMAN RIGHTS CONCERNING THE PROTECTION OF THE RIGHT TO PRIVATE AND FAMILY LIFE

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Abstract

The right to private and family life is one of the fundamental human rights enshrined in Article 8 of European Convention on Human Rights, generically called „right to respect privacy and family life", protecting a wide range of interests of personal nature. The essential foundation of these rights is the human dignity, regarded as being the base of fundamental human rights.

Considering the whole sphere of human rights and fundamental freedoms, the right enshrined in Article 8 of European Convention on Human Rights comes to complete the wide range of personality rights, rights acquired by any human being by the mere fact of birth. This is the reason for this right has a very broad scope.

Regarding article 8 of the Convention, the first paragraph comes to proclaim absolute rights related to social respect due to individuals, while the second paragraph sets up certain conditions for restricting the exercising of the guaranteed rights and freedoms.

Therefore, the European Court of Human Rights is responsible for determining the scope of the rights and freedoms guaranteed by these provisions, by a dynamic interpretation and a continuously adjusting to the rapidly pace of society.

Keywords: *European Convention on Human Rights, right to privacy and family life, responsibility, human rights, European Court of Human Rights*

THE ROLE OF THE COUNCIL OF EUROPE IN COMBATTING VIOLENCE AGAINST CHILDREN. ENSURING AN EFECTIVE LEGAL FRAMEWORK ON EUROPEAN LEVEL

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Abstract

The Council of Europe, as an international organization which includes the european parliamentary democracies, strives to closely monitor the developments from the member states, in order to detect, as soon as possible, new needs and suitable topics for cooperation at european level. Of these subjects, the judicial cooperation in the area of family law and also in criminal law, plays an important role, taking into consideration that deals with issues related to private life of all individuals. The Council of Europe has focused on children rights and their protection againts various forms of violence. As stand-alone organization, Council of Europe has sustained the global efforts to combat sexual exploitation of children by establishing an effective legal framework and promoting international cooperation.

It is time to act in an efficient way in order to prevent the sexual exploitation and child abuse, to protect children and punish the offenders. The sufferings peoduced , the consequences that, most often, last a lifetime, but also the serious violations of human rights by commiting such crimes have prompted the Council of Europe to react strongly, calling on all member states. In this regard, under the auspices of Council of Europe have been carried out aimed at maintaining attention on protecting children from sexual exploitation and sexual abuse.

Keywords: *children, violence, sexual abuse, protection, cooperation, Council of Europe.*

SOME CONSIDERATIONS REGARDING THE HEADS OF STATE IMMUNITY IN THE EUROPEAN UNION MEMBER COUNTRIES

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Abstract

The purpose of this paper is to analyse the legal framework of the immunity that the heads of state enjoy in some of the European Union member countries, including Romania, according to the constitutional provisions in force nowadays.

The head of state immunity, regardless whether talking about a president of a republic or a constitutional monarch, is justified by considerations of political needs, such as stopping certain abuses, annoying t processes or any other ways that may bring prejudice to the authority that such a state function should impose.

The European comparative law shows that the form of government or the nature of the political regime, the modality of appointment of heads of state or, further more, the extent of their powers are not constitutive variables of immunity.

If in a monarchy, the sovereign still enjoys absolute immunity, the presidents of republics have only a derogation status from the common law in respect of their liability, mainly for crimes committed in the course of their duties and, incidentally, for exterior acts.

As for the crimes committed in the exercise of the presidential function, only those of an exceptional gravity engage consequences, carried out by the nation's representatives to the ad hoc courts, of parliamentary or constitutional nature. However, if the acts are committed outside the office, most of the republics provide only procedures that temporarily postpone the application of the civil, administrative or criminal common law to head of state until his term expires.

Keywords: *constitutional provisions, immunity, mandate, infringement, liability, dismissal.*

THE INFLUENCE OF EUROPEAN UNION LAW AND OF INTERNATIONAL LAW ON THE DEVELOPMENT OF NATIONAL LEGISLATION

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Abstract

The relatively large amount of laws developed by the institutions of the European Union, their supremacy over national laws, the priority of international conventional law and the consequences that result therefrom on national legal systems represent only a few of the elements which have determined us to reflect in the present article on the constraining manner in which community and international law influence the development of national legislation.

Obviously we express a point of view without attempting to slander the European construction or to deny its benefits, especially that the report between the two juridical orders finds its basis in the Constitution, and the union of the national legislation with the European one wishes to be accomplished respecting the democratic demandings.

Keywords: *the development of law, European constraint, internal law, the priority of European Union law, the primacy of international law.*

LEGAL REGIME OF THE INTERNATIONAL ASSOCIATIONS OF PUBLIC AUTHORITIES AND PUBLIC INSTITUTIONS IN SCIENTIFIC RESEARCH FIELD

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Abstract

International associations of public authorities and public institutions consist of various forms of cooperation with similar bodies or private legal entities from other states, with the purpose of meeting a specific public interest in correspondence with their scope of activity, by defining common goals to be achieved. The legal regime of these international associations, materialized either in cooperation and mutual support agreements or in legal entities created by the will of the shareholders, is governed on one hand, by constitutional and administrative rules regulating their competence in this respect and, on the other hand, by the rules of public international law applicable to all types of international cooperation whether it generates new legal entities or not. Considering these, the paper is focused on a foray into the sphere of constitutional and legal framework governing the complex system of principles and rules applicable to the extended concept of association, aiming to identify the main legal instruments and the correspondent terminology which define it.

By analyzing this distinct function which also defines the competence of the administrative bodies, new valences of government actions, outside the classical administrative ones, are identified. This new approach of the administrative competencies, which are subject, not only to the rules of administrative law, but also to other branches of law, may offer a more complex perspective regarding the role of the public authorities and institutions and argues for considering the association of a new administrative concept.

Since scientific research is, by its nature, an important pillar of interstate cooperation's, we believe that an analysis of the forms, features and legal status of international associations in this area, fully supports our opinion that a new administrative institution has to be considered among the classical ones.

Keywords: *public authority, public institution, legal regime, international, association*

LABOR CODE AMENDMENTS - BETWEEN NECESSITY AND THE REALITY OF THE LABOR MARKET IN ROMANIA AND IN THE EUROPEAN UNION

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Abstract

In a united Europe, where the labor market should be an open one, where the free movement of people also means their free workplace setting, the Romanian legislation is constantly changing and adapting. Responding to the necessity of making legal relations between employers and employees more flexible, the Romanian legislator has amended the general law regarding individual and collective labor relations, reforming the legal concepts and institutions in the field. Therefore, an analysis of these changes and their implications on the national and European labor market is absolutely necessary.

The concept of flexicurity and its implementation in national legislation is a guiding principle for the Romanian legislator, which materializes in normative changes in labour law regulations.

In this context, the Labour Code has suffered several modifications and additions which try to answer the need for flexibility of labour relations, in the interests of employers and employees, the last being made by law no. 40/2011.

The provisions of the Labour Code, in its current form, have to stimulate economic activity in the country, to bring undeclared work to formal economy's level, to eliminate corruption and bureaucracy and, last but not least, create better safer jobs that will generate additional constant revenue for the country's public budget.

Keywords: *Labour market, flexicurity, employers, employees, undeclared work, jobs*

Panel 2

Moderators:
Lect. univ. dr. Manuela NIȚĂ
Lect. univ. dr. Florin TUDOR

Speaker:
Lect. univ. dr. Manuela NIȚĂ - **THE RESULTS OF THE INVOLVEMENT OF INTERNATIONAL CHAMBER OF COMMERCE IN PARIS IN CODING INTERNATIONAL TRADE LAW**

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Mirela Georgiana SABĂU - **REFLECTIONS ON ROMANIAN LEGAL FRAMEWORK FOR COMPANY VOLUNTARY DELISTING CONSIDERING EU LEGISLATION AND THE PRINCIPLES OF LAW**

Doina POPESCU **- THE ATRIBUTIONS AND ROLES OF ENGLAND'S LEGIUITOR AUTHORITY**

Mihaela MUSAN - **THE IMPACT OF THE COUNCIL OF EUROPE' S ACTIVITY ON THE INSTITUTION OF ADMINISTRATIVE RESPONSIBILITY**

Constanţa MĂTUŞESCU - **THE ROLE OF THE COMMITTEES AND OF THE NATIONAL EXPERTS IN THE IMPLEMENTATION OF THE EUROPEAN UNION'S LEGISLATION – INTERFACE BETWEEN THE NATIONAL ADMINISTRATIONS AND THE EUROPEAN ADMINISTRATION?**

Constanţa MĂTUŞESCU - **THE ACCESIBILITY OF THE EUROPEAN UNION'S NORMES FOR THE LOCAL AUTHORITIES OF THE MEMBER STATES**

THE RESULTS OF THE INVOLVEMENT OF INTERNATIONAL CHAMBER OF COMMERCE IN PARIS IN CODING INTERNATIONAL TRADE LAW

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Abstract

The outcome of the activity of International Chamber of Commerce in Paris is the result of years of effort in bringing together different business practices conducted by merchants. One concern of the Chamber is to provide merchants information on international commercial usages.

These legal rules ordered, grouped in legal institutions allow merchants to extend and improve their contractual relations while contributing to the adjustment of legal instruments to the new requirements of international trade.

The study outlines the latest achievements of the Chamber in the coding process, aiming to help the Romanian professionals to facilitate and simplify their business activity and to provide the legal framework necessary for a modern retail development, given their voluntary application, the trader being in the situation of choosing one or the other proposed options.

Keywords: *coding, business practices, trade, harmonization, standardization.*

REFLECTIONS ON ROMANIAN LEGAL FRAMEWORK FOR COMPANY VOLUNTARY DELISTING CONSIDERING EU LEGISLATION AND THE PRINCIPLES OF LAW

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Abstract

In order to obtain a coherent legal framework for the security market it is essential to establish clear principles and regulations for both companies' listing and delisting considering the EU legislation and the general principles of law. This essay concludes that the legal framework for delisting a Romanian Company and especially the legal provisions regarding the right of squeeze out, at the date hereof, contains some inconsistent and inconsequent provisions. The Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids (hereinafter the Directive) provides the general main rules applicable to the majority shareholder's squeeze-out right that need to be provided by all EU member state legislations. Among other rules and principles the Directive requests the Member States to assure that the right of squeeze may be exercised by the majority shareholder (offeror) only within 3 months after the finalization of the public bid. Romanian primary legislation – Law no 297/2004 on capital market - in art. 206 alin. 4 allows the exercise of the squeeze out right after the expiration of the 3 months period from the date the public ofer was finalized, stating that in such case the majority shareholder must provide an evaluation report based on which the price offerred to minority shareholders for their shares is established.

Another debatable issue is that the provisions on delisting based on a decision of the general meeting of shareholders contained by the primary legislation (Romanian Capital market Law no 297/2004 edicted by the Parliament) were replaced by the National Seccurities Commission Disposal of Measures no 8 and did not apply despite of the facte they have not been abrogated. The article analyses possible amelioration of Romanian legislation on voluntary delisting.

Keywords: *delisting, squeeze out, European Directive on takeover bids, securities market, listed companies, corporate law, capital market.*

THE ATRIBUTIONS AND ROLES OF ENGLAND'S LEGIUITOR AUTHORITY

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Abstract

Researches about Great Britain's constitutional history leads to the conclusion that in the early times, after British Island taking by the Normans there were functioning three councils on England's teritory: Magnum Concilium, Commune Concilium and Concilium Privatum.

The Great Council, established by the Normand Kings, made to replae Wittena – the Of the Anglo Saxon era, which gradually became the parliament of the country. Those of its members which originally were high court's clerks made up a permanent royal council, sharing legislative, executive and judiciary responsabilities.

The British Parliament has a long tradition although at the begining its responsabilities were preponderantly consultaive. The British Parliament, one of the oldest English constitutional hall i tis made up by The Queen, The House of Lords and The House of Commons. At first there was formed as a public constitution around The King, being summoned by him mainly with the purpose of obtaining subsidiars for the crown and also for advising the Monarch in certain affairs regarding the kingdom. The source of this subsidiars consisted of course in income taxes, taxes previous established by The Great Peers Assembley and Magnum Concilium. The House of Commons is independent of the Crown power. The Parliament can legislate in any field by reason of its sovereigny accepted by the king and recognised by courts. The field of law is practically unlimitted. Concerning the lagislative process The House of Common has the most important role. So as, if a bill was approved by House of Commons but rejected by The House of Lord sit can be approved by the Queen in a certain due date coming into law.

The British law sistem knows two categories of laws: public bills and private laws. Public bills are setted up by the Gouvernment or by the private member's bills, The House of Commons having the essential role of adopting them.

Keywords: *Parliament, The House of Commons, The House of Lords, Public bills,Constitution, The Queen.*

THE IMPACT OF THE COUNCIL OF EUROPE' S ACTIVITY ON THE INSTITUTION OF ADMINISTRATIVE RESPONSIBILITY

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Abstract

The Council of Europe was founded well before the European Union, as an independent organization, its main activity being the protection of human rights, with special emphasis on guaranteeing minimum social rights for every citizen of the Member States, including Romania, starting in 1993.

The accession of Romania to the Council of Europe has had the consequence of the national legal system integration in the organization's legal order, resulting in the modification, adaptation of the main institutions of law for compliance, including the institution of administrative accountability.

Both legal regulations and the ECHR practice have had major influences on the national law, forcing it to beneficial transformations, but the process of harmonisation, alignment to European standards has not been ended, actually the legal system still presenting important imperfections (the multiple adverse decisions of the European Court for the Romanian Government confirming this fact).

Keywords: *responsibility, case-law, human rights, recommendations*

THE ROLE OF THE COMMITTEES AND OF THE NATIONAL EXPERTS IN THE IMPLEMENTATION OF THE EUROPEAN UNION'S LEGISLATION – INTERFACE BETWEEN THE NATIONAL ADMINISTRATIONS AND THE EUROPEAN ADMINISTRATION?[6]

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Abstract

The Treaty from Lisbon brought a series of significant modifications in the European decisional process. The treaty introduces a new system allowing the delegation of certain limited powers by the European Commission, which has the competence to adopt acts without legislative character and with a general application field, that completes or modifies certain unessential elements of the legislative act. The new system replaces the procedure named "of Comitology", that designated the means of exerting the community norms delegated by the Council of the European Commission Union, according to which the technique committees composed of national experts were used in the executive process, these taking decisions that influenced the European legislation.

This paper intends to identify in what measure is preserved the right to control of the member states over the executive competences of the European Commission in the new system of the delegated acts and of the appliance acts provided by the articles 290 and 291 from the Treaty concerning the European Union Functioning and in what measure the national experts groups that assist the European Commission contribute to the rapprochement of the European administration to the national administrations of the member states.

Keywords: *EU legislation, delegated powers, delegated acts, comitology procedure, national experts.*

[6] This work was supported by CNCS-UEFISCDI, project number PN II-RU, code TE_129/2010, contract 28/2010.

THE ACCESIBILITY OF THE EUROPEAN UNION'S NORMES FOR THE LOCAL AUTHORITIES OF THE MEMBER STATES[7]

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Abstract

The raising of the normative production in the last years is a constant of all the European societies. But the normative inflation, justified by the transformations that produced during this period of time, raises a series of problems connected to the law's accessibility (both from the material and substantial point of view) and, eventually, to its effectiveness' guarantee, meaning the assurance of a complete and uniform application of each norm.

At the level of the European Union, the increase of the normative production represented a constant of the last two decades, given then conditions of an unprecedented thoroughgoing study of the European integration. The increase of the community settlements was joined by an increased responsibility of all those implicated in their application: European institutions, member states, local and regional authorities.

For the regional and local authorities, the proliferation of the applicable rules, national and European altogether, determined numerous constrictions. The multitude of the community juridical apparatus (periodically improved in the practice of institutions, especially of the Commission and whose obligatory effect is recognized by the Court of Justice) and the different appliance means in the internal law (direct application, transposition by internal laws, the Court's jurisprudence), complicated the task of their acknowledgement and application.

This paper intends to approach a series of problems connected to the accessibility and the understanding of the numerous, complex and quite rigid European norms that are summoned for appliance by the local authorities of the member states.

Keywords: *accessibility, European norms, local authorities, normative inflation.*

[7] This work was supported by CNCS-UEFISCDI, project number PN II-RU, code TE_129/2010, contract 28/2010.

ASSOCIATIONS ACKNOWLEDGED AS BEING OF PUBLIC UTILITY ÎN FRANCE

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Abstract

In France, the freedom of association was legally established at the end of 19th century, by the Law passed in the 21st of March 1884 concerning the organization of professional unions. Later, the setting-up of the associations with a non-profit organization purpose was set by Law dating the 1st of July 1901. This law refers to the association contract, which is a normative act, partially valid even nowadays. According to the legal definition, the association is that convention through which two or even more people bring permanently together their knowledge and activity, having as purpose the accomplishment of their aims, others than the division of benefits. The French doctrine and legislation distinguish among the non-declared associations, declared associations and acknowledged associations as being of public utility. As far as the acknowledged associations are concerned, the legislation and the administrative jurisprudence established a series of rules concerning the conditions and the acknowledgement administrative procedure, which are taken over by the Romanian Legislative power, too. In contradistinction to the Romanian public utility association whose acknowledgement is achieved through Government Decision, French associations have their status set by Decree in the Council of the State.

Keywords: *association, public utility, administrative procedure, acknowledge.*

BRIEF CONSIDERATION ON THE SCHENGEN AREA AND THE ISSUE OF VISAS IN THE EUROPEAN UNION AND ROMANIA THEORETICAL APPROACHES ON THE NOVELTY ELEMENTS

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Abstract

Regarding the policy of visas, at the institutional level of the Union it is aimed the establishment of a "common corpus" of legislative documents, especially by strengthening and developing the acquis in this area. The Community Code on Visas – Regulation (EC) No 810/2009 – represents the best way of achieving the harmonization and completion of the legislation applicable in the area of visas. The new Code states a unique ensemble of instructions regarding the practical appliance of this legislation and it not only clarifies the already existing texts, but also aims the integration of the new evolutions in the area of granting visas and in the area of security.

Regarding the regulation of the issue of visas in Romania, Government Urgent Injunction No 194/2002 has suffered important amendments as a consequence of the Community Code on Visas' entrance in force, nevertheless considering the fact that Romania still applies the Schengen first category aquis, and on the other hand as a result of signing the Agreement between Romanian Government and the Republic of Moldova Government on the local border traffic, signed in accordance with the Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States.

Keywords: *Schengen Area, Schengen aquis, category of visas, external border, Community Code of Visas, local border traffic*

BRIEF CONSIDERATIONS ON THE AREA OF FREEDOM, SECURITY AND JUSTICE AND ITS APPLICABILITY IN THE UNION'S LEGISLATIVE PROCEDURE ACCORDING TO THE LISBON TREATY

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Abstract

Title IV of the Lisbon Treaty, entitled "Area of Freedom, Security and Justice" replaces Title IV of the Treaty establishing the European Community on visas, asylum, immigration and other policies related to free movement of persons. This title approaches matters as "Policies on border checks, asylum and immigration", "Judicial cooperation in civil matters", "Judicial cooperation in criminal matters", "Police cooperation".

The present article shall analyze the legislative procedure stated by the Union's co- legislator in the above mentioned areas, considering that if for certain mentioned policies the European Union by its institutions has legislative competence stated by the previous treaties, the Lisbon Treaty ends the supranationalism[8]*, using either the ordinary or special legislative procedure, according to Art 289 Para 1 and 2.*

Keywords: *ordinary legislative procedure, special legislative procedure, regulation, directive, lectures, policies.*

[8] Consequently, all the instruments of the III[rd] pillar disappear, framework decisions, which shall be replaced by directives. In addition, the instruments adopted in this area shall be subjected to the jurisdictional control of the Court of Justice of the European Union.

CONSIDERATIONS ON THE RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE AND THE RIGHT TO MARRY. ASPECTS OF THE ECHR

CONSIDERAŢII PRIVIND DREPTUL LA RESPECTAREA VIEŢII PRIVATE ŞI DE FAMILIE ŞI DREPTUL LA CĂSĂTORIE. ASPECTE DIN JURISPRUDENŢA CEDO

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Abstract:

According to the European Convention of Human Rights, everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Considering article 12, men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

In this article we will analyze the content provisions of the ECHR, given some of the most recent decisions of the Court, pursuant to Articles 8 and 12 of the ECHR.

Keywords: *European Convention of Human Rights, private and family life, right to marry, jurisprudence*

În conformitate cu Convenţia Europeană a Drepturilor Omului, orice persoană are dreptul la respectarea vieţii sale private şi de familie, a domiciliului său şi a corespondenţei sale. Nu este admis amestecul unei autorităţi publice în exercitarea acestui drept decât în măsura în care acest amestec este prevăzut de lege şi dacă constituie o măsură care, într-o societate democratică, este necesară pentru securitatea naţională, siguranţa publică, bunăstarea economică a ţării, apărarea ordinii şi prevenirii faptelor penale, protejarea sănătăţii sau a moralei, ori protejarea drepturilor şi libertăţilor altora.

Conform articolului 12, începând cu vârsta stabilită prin lege, bărbatul şi femeia au dreptul de a se căsători şi de a întemeia o familie conform legislaţiei naţionale ce reglementează exercitarea acestui drept.

În acest articol urmează să analizăm conţinutul acestor prevederi ale CEDO, având în vedere şi câteva din cele mai recente hotărâri ale Curţii, pronunţate pe baza articolelor 8 şi 12 pe care le-am citat.

II. Privat Law

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Panel 1

Moderators:
Conf. univ. dr. Maria DUMITRU
Lect. univ. dr. Ilioara GENOIU

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THE NEW CODES – TRADITION END MODERNITY IN THE POST-COMMUNISM

Roxana Gabriela ALBĂSTROIU
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Abstract

The new Civil Code camed into force on October 1, replacing the old code dating from 1864, adopted during Prince Alexandru Ioan Cuza's reign and largely inspired from the French 1804 civil code. The code introduces new elements concerning contracts between clients and banks, allowing the court to intervene in such contracts. The new Code also introduces two new legal institutions: engagement and the marriage contract, and brings modifications in fields such as respect for one's private life, divorce or wills.

We have to mention that, besides this reforms, the new Civil Code retains the traditional principles found in any code. The necessitz of renewal, as well as the chaos-like atmosphere caused by the legislative plethora encountered after 1989 led to drafting a new code. Founden on the Canadian model (Civil code of Quebec), the project adopted in 2009 take account of jurisprudential and doctrinal innovations, and reintroduce the material which were removed of the Code for the last 50 years. The recoding process is more complex as it is found in several European countries, and also at European Union legislation, especially in terms of contract law.

In our scientific approach we try to analyze the traditional elements but also the modern elements found in the new coding act.

Keywords: *the codes, the convergence criteria, the legal security, the accessibility, the law reform.*

CONSIDERATIONS REGARDING UNWORTHINESS TO INHERIT, LEGISLATED BY ARTICLE 958 OF THE ROMANIAN CIVIL CODE

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Abstract

Unworthiness to inherit is the forfeiture by right or judiciary of the right to collect a known legacy, including the reserved portion that person had the right to inherit, as being guilty of a serious offense against the deceased, the person that leaves the legacy or against other heirs before opening the legacy.

This article tackles the issue of unworthiness in Romanian law, briefly discussing and analyzing theoretical concepts and jurisprudential aspects. Relevant elements of comparative law are also presented and explained.

Keywords: *Unworthiness, inheritance, legacy, judicial inheritance, inheritance by law.*

SAFETY MINORS BY CUSTODY, GURDIANSHIP AND FAMILY COUNCIL, ACCORDING TO THE LATEST REGULATIONS

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Abstract

Child care so the parents and the alternative protective measures were changed following the entry into force of the new Civil Code, to October the 1st, 2011.

The new Civil Code governing child care by parents and adoption, but the latter procedure is not the only one which intended to protect the child without parental care, which is why we believe that these provisions should be supplemented by the Civil Code contained in Book I - About people and the provisions of special laws on the subject, such as, for example, 273/2004 Act on the legal status of adoption and 274/2004 Act on protection of child rights.

The amendments relate to the measures provided for in Family Code, now repealed - guardianship and trusteeship, and the family council, which appears again on the Romanian legal scene, after an absence of several decades.

In this paper we propose a critical and objective analysis of these changes, while proposing argued, in order to improve legal protection of minors.

Keywords: *Trusteeship, guardianship, family council, alternative care, the guardianship court*

THE FIDUCIARY CONTRACT AND THE ADMINISTRATION OF THE GOODS OF ANOTHER PERSON IN THE NEW CIVIL CODE. A COMPARATIVE OUTLOOK

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Abstract

The Romanian legislator introduced the offices of the administration of the goods of another person and the fiduciary contract for the first time in the history of our legal system, in order to develop it and also to answer an existing social reality.

These two legal institutions, whose practicability surely raises several questions in your mind, seem at times hard to make sense of, upon a general view. Among the causes for such difficulties we find that a part of the stipulations have been almost wholly taken from the legal system of other states, respectively: the notion of the administration of the goods of another person comes from the civil code of the province of Quebec, while the fiduciary contract was borrowed from the French Civil Code. It is worth mentioning that the French code does not comprise a different regulation for administrating the goods of another person, although the code of Quebec and that of Romania do.

Apart from the analytical outlook of these two newly-founded institutions, the present study offers support for their inclusion into the Romanian legislation and an attempt to faithfully represent them in order to find any possible answers to issues which may be encountered in their application, by identifying the link between these two realities and point out their differences. Although they are regulated differently each from the other, we cannot avoid noticing the direct link between them, especially given that the legislator expressly makes clear references to the administration of the goods of another person within the framework of the fiduciary contract.

Keywords: *the New Civil Code, the administration of the goods of another person, the fiduciary contract, similarities and contrasts.*

SOME CONSIDERATIONS ABOUT THE RESTITUTION OF BUILDINGS ABUSIVELY TAKEN OVER DURING THE COMMUNIST REGIME

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Abstract

Once with the dissolution of the communist regime and the installation of democracy by means of the Romanian Revolution of 1989, the citizens have won back their civil, political, economical and social rights, including the recognition of the private property right and debts incurring on the State.

However, the acknowledgement of the right of property, through its inclusion in the Constitution, would not have been complete without taking legal measures for the restitution of the belongings abusively seized during the communist period.

In 2001, Law number 10 regarding the judicial regime of buildings seized abusively between March 6th 1945 and December 22nd 1989 came into force. This law can be applied almost generally in the field of repairing the prejudices caused to the citizens by the totalitarian regime until 1989, consisting in taking over their properties.

Keywords. *Private property, human rights, Constitution*

FIDUCIARY IN THE ROMANIAN LEGAL SYSTEM

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Abstract

The trust agreement or fiduciary contract, which was introduced by New Civil Code, is an absolute novelty in the Romanian law system. This is a concept that comes from French law, which are called "the fiduciary", but today we found it in most international legal systems, such as United States of America, Canada and Europe. It is called "The Trust" in the United Kingdom, "der Treuhand" in Germany, "The fiduciary" in Italy.

The trust agreement is a transfer of ownership, this taking the essence of this contract. Trust is required to accomplish a certain task, after which the need to return the goods transferred or hand it over to a third person.

The fiduciary is defines by the new civil code as legal operation whereby one or more persons transferring interests, rights instruments, securities or other property rights or an ensemble of such rights, present or future, by one or more fiduciary that manages the a specific purpose, for the benefit of one or more beneficiaries. These rights form a mass of autonomous patrimony which are distinct from other rights and obligations of the fiduciary assets.

Keywords: *trust, security, fiduciary contract, property, rights and obligations*

Panel 2

Moderators:
Lect. univ. dr. Ana ŞTEFĂNESCU
Asist. univ. Laura GEORGESCU

Speaker:
Conf. univ. dr. Maria DUMITRU –- **THE LEGAL REGIM OF SHARES IN THE SHARES IN THE MATRIMONIAL REGIME OF LEGAL COMMUNITY**

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Laura GEORGESCU **- CONSIDERATIONS REGARDING THE INCREASE OF THE INDEMNITY FOR EACH BORN CHILD COMING FROM A TWIN, TRIPLETS OR MULTITRIPLETS PREGNANCY**

Ana ŞTEFĂNESCU **- EMPLOYEE'S TRANSFER *VERSUS* UNEMPLOYMENT INSURANCES SYSTEM AND STIMULATION OF THE OCCUPANCY OF LABOUR FORCE**

Răducan OPREA **- REGARDING THE IMPORTANCE OF INTERNAL REGULATIONS AS SPECIFIC SOURCE OF THE LABOR LAW**

Lavinia CIOBANU SAVU - **DISCIPLINARY LIABILITY IN THE LABOUR CODE**

Laura GEORGESCU **- PROPERTY LIABILITY FORMS**

THE LEGAL REGIM OF SHARES IN THE SHARES IN THE MATRIMONIAL REGIME OF LEGAL COMMUNITY

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Abstract

The possibility of a husband to participate with common goods at the creation of a limited company and especially the legal status of the shares acquired as consideration for this contribution were the subject of controversy in the doctrine and the source of a non-unified court practice.

The difficult situation in which the theoreticians and practitioners of law were was as a consequence of the fact that, before 1st October 2011, there was no stipulation in Romanian law regarding this problem. Related to the difficulties viewed, the lawmaker proposed using some articles in the Civil Code to repair the flaws.

The present study proposes to present the judicial regime of social shares acquired by one of the husbands by using common goods at the creation of a commercial entity with limited liability. The emphasis will be on the establishing the social shares acquired in this fashion as an own or common good. In close relation with this we will try to analyze if and in what conditions one of the husbands or the court of law can alienate, change the owner respectively, this kind of social shares. We find this part of the law interesting, mostly from the perspective of the creditors of one of the husbands, and the way in which the matrimonial regime changes and influences the judicial regime of social shares.

The entire judicial work tries to emphasis in what measure the regulations in effect today reached its goal and what would be the propositions that would bring clarity in the judicial regime of social shared held by husbands in a limited liability company.

Keywords: *Social shares, participation husbands common goods.*

IDENTIFICATION ELEMENTS OF THE PROFESSIONAL SUBJECT TO REGISTRATION WITH TRADE REGISTRY

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Abstract

Any professional subject to registration with the Trade Registry has the subjective non-patrimonial right and the correlative obligation to have a name which awards him or her own identity, particularizes him or her in the business landscape and, implicitly, differentiates him or her from the competitors. These tasks are the company's responsibility, individualization element protected by the law through recognition of holder's use exclusivity and obstruction of potential usurper.

The emblem is a complementary and optional element of professional's identification which optimizes and intensifies company's functions as part of the goodwill.

Keywords: *Company name, emblem, goodwill, customers.*

OBSERVABLE INFLUENCES ON CONSUMER BEHAVIOR DURING THE CRISIS

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Abstract:

This paper aims to analyze how consumer behavior is influenced during the crisis. Economic and financial crisis has changed consumer behavior and gave birth to a new consumer, adaptable to any change to a consumer market.

The consumer may be adaptable to market called chameleon.

In such situations, consumers have become a kind of promotions and bonus hunters.

Consumers are more difficult to define, understand and please, now in economic crisis, more than before.

Keywords: *consumer behavior, crisis, market, consumption, barometer*

CONSIDERATIONS REGARDING THE INCREASE OF THE INDEMNITY FOR EACH BORN CHILD COMING FROM A TWIN, TRIPLETS OR MULTITRIPLETS PREGNANCY

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Abstract

On June 18th, 2009 under the domestic Romanian law it was stenforced the controversial regulations regarding the increase of the quantuum of the child raise indemnity with 600 lei for each child born from a twins, triplets or multiplets pregnancy, granted starting with fthe second child coming from such a birth.

Moreover, on January 10th 2012 it was admitted the appeal for the convenience of the law by means of which it was established that the court of laws are required to take into consideration this solution even retrospectively – starting back with January 1st, 2006.

We are dealing with a juridical logic taking into account the situation of social need, on which we will express hereinafter some considerations.

Keywords: *twins, triplets, multiplets, increased indemnity, social needs*

EMPLOYEE'S TRANSFER *VERSUS* UNEMPLOYMENT INSURANCES SYSTEM AND STIMULATION OF THE OCCUPANCY OF LABOUR FORCE

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Abstract

The transfer represents the employee's final transit from one working place, with the employee's agreement or at the employee's request, under the authority of a new employer, due to social and economic needs, having as a result the transmission, either under the same form, or under a changed form of the content of the labour relationship, by means of a new labour contract.

Having this aspect in mind, we think that the employer transferee (the employer who takes over the employees) could benefit from the funding of the working places and from being granted some facilities. In exchange, the targeted employees, would not benefit from the rights deriving from their capacity of unemployed existent at the moment of transfer.

At the same time, it is normal that the transfer results in the cession of such rights if such rights pre-existed the transfer.

Keywords: *individual transfer, collective transfer, employer transferee, funding of working places.*

DISCIPLINARY LIABILITY IN THE LABOUR CODE

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Abstract

In matters of labour relations, the Labour Code provides in art. 39, para. 2, letter. B and C, employee obligations: to respect labour discipline and to respect the provisions of the law in the applicable collective agreement and individual employment contract, by these provisions instituiting employee's obligation to respect the discipline work, generally from subordination, specific legal relationship of employment, together with the applicable laws that employee must meet exactly the instructions given by the employer.

Keywords:

Labour, subordination, employee, employer

PROPERTY LIABILITY FORMS

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Abstract

Legal liability is an obligation to support a legal sanction for the violation or failure of a legal norm.

Pecuniary liability is a special contractual liability, regulated by the Labor Code in a separate chapter (Title XI, Chapter III).

The repair liability as one that produced a loss will be obliged, with his treasures to cover that loss, reunification assets assigned.

Keywords: *Pecuniary liability, responsibility, worker, employees, employment.*

ON UNEMPLOYMENT INDEMNITY AND OTHER FINANCIAL RIGHTS DIRECTLY GRANTED TO E.U. AND NON-E.U. CITIZENS IN ROMANIA

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Abstract

While the legislation, usually, distinguishes between the European citizens (who have the citizenship of a state member of the European Union or from the European Economic Space or from the Swiss Confederation) and the foreign citizens (who do not fall under the above-mentioned categories), Law no. 76/2002 regarding the unemployment insurances system and stimulation of the occupancy of labor force, nominate both categories of citizens by the term of foreign citizen, stipulating that they are the beneficiaries of its provisions..

While the benefits directly granted to the employers have in view both the quality of un-employed person receiving the unemployment indemnity as well as the quality of unemployed person non-receiving the unemployment indemnity, the benefits directly granted to E.U and non-E.U. citizens have into view either the first quality, or the second one.

We will approach in this material only the questionableness of the granting of financial benefits directly to E.U and non-E.U. citizens and of the influence of the reason which lead to the termination of the work relationships over the two categories of benefits.

Keywords: *E.U. non-E.U. unemployed person; person receiving unemployment indemnity and person non-receiving unemployment indemnity; unemployment indemnity; employment bonus; settlement bonus; completion of incomes from salaries; funding of jobs.*

MATERNITY VERSUS PARENTING - NATIONAL LEGAL FRAMEWORK, INTERNATIONAL AND EUROPEAN TRENDS IN 2012 -

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Abstract

While motherhood is an insured social risk supported by maternity leave and allowance, childcare is a statement of need, supported by national social security system by the leave and specific allowances.

From March 1, 2012, they are granted on a non-transferable basis to the persons entitled. Thus, our legislation is according to the Council Directive 2010/18/UE.

In 2012 government program it is stated "the elimination of the restriction on employment during child care leave" - surprising, laudable, effective approach, according to the doctrinal proposals.

Keywords: *maternity, parenting, insurance risk, a situation of need, untransferable, the aggregate wage compensation*

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III. Public Law

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Panel 1

Moderators:
Lect. univ. dr. Lavinia Mihaela VLĂDILĂ
C.S. III dr. Ion IFRIM

Speaker:
Lect. univ. dr. Oana Roxana IONESCU – **REFLECTIONS ON THE PUNISHMENT OF THE CRIME OF ATTEMPTED ROBBERY TO THE OFFENCE OF CAUSING INJURY OR FLICKS OF DEATH**

Contents:

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REFLECTIONS ON THE PUNISHMENT OF THE CRIME OF ATTEMPTED ROBBERY TO THE OFFENCE OF CAUSING INJURY OR FLICKS OF DEATH

Oana Roxana IONESCU
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Abstract

The author put in discussion the problem that might arise in connection with the punishment prescribed by law for the criminal attempt to commit the offence of robbery (art. 222 of c. pen in force) which resulted in the death of the victim, unless we find out in front of the disparities between resource penalty provided for the offence of causing injury or flicks of death?

Keywords: *punishment, attempts, robbery, causing injury or flicks of death.*

CENTRAL FISCAL COMMISSION

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Abstract

Broadly the financial apparatus of the state includes all state bodies that contribute directly or which only facilitate the achievement of financial activities by means of which the financial policy of the state is applied.

In a narrow sense, the financial apparatus includes specialized state bodies with responsibilities in financial matters.

From the above, it results that there are two categories of bodies in the financial apparatus, namely:

1. state bodies that have general jurisdiction, which includes the Parliament, the Presidency, the Government, the county and local councils, other central and local bodies of state administration, and public institutions of central and local subordination;

2. state bodies that have special jurisdiction which includes:

- specialized central agencies: Ministry of Finance and the Court of Auditors.

- local specialized bodies (those belonging to the Ministry of Finance and the Court of Auditors).

According to art.17 of the Financial Procedure Code "The state is represented by the Ministry of Finance by means of the National Agency for Fiscal Administration and by its subordinate units with legal personality (paragraph 3). Administrative-territorial units are represented by local administration authorities and by their specialized departments in terms of the responsibilities delegated by those authorities (paragraph 4). The National Agency for Fiscal Administration and its subordinate units, as well as the specialized directorates of local administration authorities are called in the above mentioned code fiscal bodies" (paragraph 5).

Legal regulation of CENTRAL FISCAL COMMISSION In this context, the article aims to study CENTRAL FISCAL COMMISSION as authority with powers of financial control.

Keywords: *Central Fiscal Commission; authority with powers of financial control; financial apparatus.*

CONTROL THE BEHAVIOR OF JUVENILES SENTENCED TO CONDITIONAL SUSPENSION OF SENTENCE DURING PROBATION PERIOD IN ROMANIA AND IN MOLDOVA

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Abstract

Both in Romania and in Moldova the behavior control of juvenile convicts with conditional suspension of the sentence is carried out by specialized services in the special legal rules.

This activity made by such specialized services is generally called "probation".

The word "probation" is a term used internationally, beyond differences of language or legal system and is one of the first intermediate community sanctions as a regulated alternative to imprisonment.

Keywords: *juvenile convict, conditional suspension of the sentence, probation, community sanctions.*

MEDIATION IN THE CRIMINAL PROCEEDINGS
MEDIEREA ÎN PROCESUL PENAL

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Abstract

Mediation is a voluntary way of resolving conflicts amicably with the aid of a third party as mediator specialized in conditions of neutrality, impartiality and confidentiality. Mediation is based on the trust the parties award to the mediator as a person able to facilitate negotiations between them and support them to resolve the conflict by obtaining a solution mutually convenient, efficient and sustainable.

Conflicts appear from the unlawful conduct of individuals when they don't do what the rule of conduct orders, when they do something different, incompatible with the rule of conduct or when they react otherwise than as prescribed by rule of conduct.

Legal illicit takes different forms depending on the legal rules of conduct rule violations such as civil illegality, trade illicit, administrative illicit, financial illicit, crime etc.

In terms of our approach, of all these forms of illicit, we are interested in the crime which poses the most serious form of illegality legal because it disturbs essentially the law, the public peace, irreparable damage, public and social evil. For this purpose the legislature intended expressly to provide the crime in each state's criminal law and in special provisions in the Law Courts.

Mediation is likely primarily to relieve our Courts to resolve a significant number of cases. This process of mediation as a preliminary procedure is mandatory in some European countries, unlike Romania where neither person injured nor the perpetrator are not forced to accept the mediation procedure even not as the prior procedure. One of the big 'bugs' of processes including criminal processes in our country is the slowing of these processes, even if the European regulations stipulate their resolution in a reasonable time. It is discussed whether the 'confrontation' between the principles of speed and finding out the truth would be detrimental to the primacy of the other. That is why individuals and mediators expressly require that the new Code of Criminal Procedure and the draft amendment of Law 192/2006 to provide that judges advise the parties to mediation before trial.

Keywords: *criminal process, mediation, judge, conflict, criminal action, civil action.*

THE COMPETENCE INSTITUTION IN ROMANIAN NEW CODES OF PROCEDURE

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Abstract

Common institution of processual law, the competence has always been object to a topic of high doctrinal and practical interest. Considered simultaneously from the perspective of both procedures, civil and criminal, in the foreseeable context of enforcing the New Codes of procedure[9], the preoccupation for the knowledge of the manner in which the matter is reconfigured is fully understood. Subscribing to this preoccupation, the present study proposes a two layer comparison: a substantial one (derived from the nature of the procedure) and a chronological one (derived from the nature of the regulation and, starting with a few aspects concerning the current regulation of the matter, observing the common and specific elements of the two judicial procedures, then examines the regulation proposal offered by the New Codes of procedure, highlighting the regulatory constants and novelties.

Keywords: *justice, competence, judicial court, judicial functions.*

[9] Law 134/2010 of the Code of Civil Procedure (published in Monitorul Oficial, Part I, No. 485 of July 15, 2010) and Law. 135/2010 of the Code of Criminal Procedure (published in Monitorul Oficial, Part I, No. 485 of July 15, 2010).

WORKPLACE HARASSMENT

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Abstract

Equality between women and men is one of the fundamental principles of European Union law. One of the EU objectives is to ensure equal opportunities and equal treatment for men and women and to combat any form of discrimination on the grounds of gender. Equality between women and men is also an international issue. The EU has approached this issue, combining non-discrimination legislation with gender mainstreaming.

A specific form of discrimination is harassment at work. Most attention has been given to sexual harassment that women (mainly but not exclusively) are subjected at workplace. According to the Council, the European Parliament and the Commission, sexual harassment constitutes a breach of the principle of equal treatment and is an affront to the dignity of women and men at work.

In national legislation the concept of harassment is defined only by reference to sexual harassment, but literature speaks of another form of harassment: mobbing or bullying. In romanian legislation sexual harassment is regarded as a form of discrimination based on sex. Mobbing affects the right of each employee to the respect of dignity at work.

The problem of sexual harassment has been acknowledged recently in the majority of the Member States and has resulted in the enactment of legislative acts. As far as mobbing is concerned, things have reached a different position. Most of EU members do not recognize the legal point of view and not incriminate mobbing as a national crime. In Romania there is not a legal measure which could protect workers against mobbing.

Almost all people who are victims of harassment report negative consequences, not only in private matters, but also regarding their job. As regards the former, psychosomatic symptoms, loss of self-esteem, interference with private life are most commonly reported. As regards the latter, it appears

that harassed employees experience a negative impact on their career more often than their harassers.

Some specific groups are particularly vulnerable: divorced or separated women, new entrants to the labour market, those with irregular or precarious employment, women with disabilities, women from racial minorities, homosexuals and young men.

Keywords: *equality, discrimination, gender, harassment, mobbing, bullying*

CORRELATIONS BETWEEN THE OFFENCE OF DECEIT AND THE REGULATION OF VICES OF CONSENT AS ESTABLISHED BY THE NEW CIVIL CODE

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Abstract

When a person's consent is fraudulently obtained by the other party in the conclusion or execution of a contract, this can be sanctioned under civil law, according to the stipulations in the New Civil Code regarding vices of consent, but it is possible to transcend the civil law framework and sanction these acts as offences of deceit in conventions, as the vitiated consent becomes a specific required element by article 215 para. (3) of the Criminal Code. The offence of deceit in conventions attracts criminal liability for persons who, through actions of deceiving or maintaining the deceit of others in the context of the conclusion or execution of a contract, performed with the purpose of obtaining unjust material benefits, damage the patrimony of the people representing the other contracting party, thereby creating damages to the defrauded party. Even though consent is protected, mainly, by the regulations in civil law concerning vices of consent, should these legal provisions prove insufficient, and in order to ensure an efficient protection of patrimonial relationships, the fraudulent alteration of one of the party's consent in the conclusion or execution of a contract can determine the criminal liability for committing the offence of deceit in conventions, and the enforcement of criminal law is justified by a certain gravity of these actions.

Keywords: *offence of deceit, article 215 of the Criminal Code, vices of consent, new Civil Code*

Panel 2

Moderators:
Lect. univ. dr. Oana Roxana IONESCU
Lect. univ. dr. Olivian MASTACAN

Speaker:
Lect. univ. dr. Lavinia Mihaela VLĂDILĂ – **EUROPEAN AND INTERNATIONAL MARKS ON THE FAMILY VIOLENCE**

Contents:

EUROPEAN AND INTERNATIONAL MARKS ON THE FAMILY VIOLENCE

Lavinia Mihaela VLĂDILĂ
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Abstract

The adoption in Romania of the Law no. 217/2003 regarding the family violence was the result of a broader process that has been done in several European countries. Beyond the manifest need to do something at the legislative level, in order to stop this phenomenon, the law was also the fruit of the accession of Romania to the european area of Justice, as well as the ratification of international conventions regarding the aggression whose victims are primarily women and children.

In the conditon of what the advertising space was recently occupied by a disturbing news about the killing of two women and wounding seriously four other, on grounds of jealousy, it is necessary to amend the existing law. This time the action was prompt and in line with European regulations.

On the latter we will lean out the study, and in particular, on the correlation between national legislation and the European one.

Keywords: *family violence, the violence against women, physical violence, verbal violence, order of protection.*

BRIEF CONSIDERATIONS BAIL

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Abstract

Bail is an institution of substantive criminal law (material). Bail is at the same time, an institution complementary regime of imprisonment or life imprisonment, but also a means of individualization administrative penalty.

It is the release of prisoners in the detention, before the full execution of the sentence, provided that until the end of its life not to commit crimes.

Analysis of conditional release we made with regard to the regulation of this institution for life imprisonment and then of imprisonment imposed for offenses committed with intent and offenses committed by negligence, and in the end to consider revocation, effects and how grant.

Keywords*: crime, criminal, punishment.*

SAFETY WITH MEDICAL NATURE

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Abstract

Reality has shown that crime is complex, to which must be used against various and specific ways. Is noted that penalties are not sufficient just to remove objectionable social phenomena. Threatening condition that involves a criminal offense and may be removed by taking a security measure or by joining its main penalty when it generates the mentally ill.

In this study, we analyze the safety of a medical nature, ie measures that may be applied by the court and even the prosecutor, where, who committed an offense under the criminal law is a person posing danger to society due to illness or chronic intoxication by alcohol, drugs or similar substances.

Keywords: *crime, social danger, disease.*

CRITICAL ASPECTS REGARDING ERROR IN PERSONA FORM OF TRANSFERRED INTENT

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Abstract

The present study proposes to examine the error in persona form of the transferred intent, debateing on the problem of its belonging to a unity offence or to a plurality of offences.

From the author's point of view, the correct solution should be that of the plurality of offences, taking into consideration that the author of the crime acts with both intention and negligence.

The author analyzes theoretical concepts and jurisprudential aspects, but also elements of comparative law regarding this issue.

Another aspect being analised is the diffrence between error in persona and aberratio ictus, that lies in the fact that in the former, the offender killed the person he had individualized as a target as opposed to the case of aberratio ictus, where the offender does not kill the person he had individualized. In the case of an error in persona, the offender aims to kill the person he had in his sight and he succeeds in hitting this person at target, but he was mistaken about the identity of this person.

Keywords: *error in persona, aberratio ictus, unity of offence, plurality of offences, sanction, comparative law.*

THE OFFENCE OF CHECK FRAUD - A REASON TO PREVENT BUSINESS -

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Abstract

According to Art. 215, para. 4 of the Criminal Code, the cheque fraud offence shall be the issuance of a cheque to a credit institution or a person, knowing that, for its capitalization, there is no necessary provision or coverage, and the deed of withdrawing the provision after the issuance, in total or in part, or of prohibiting the drawee from paying before the expiry of the submission term, for the purpose of obtaining an unfair material advantage for itself or for another, if a damage was caused to the cheque holder.

In judicial theory and practice, examining the features of the cheque as a commercial title to order including an abstract obligation to unconditionally pay an amount of money at sight, they noticed that some of its features are common to other titles or commercial papers, such as bill of exchange and promissory note. Therefore, they have often thought if the lawmaker forgot to include them in the above mentioned text or if they deliberately took into account only checques as payment tools. Starting from the analysis of the cheque fraud offence, we will set out at length the arguments against the assimilation of the bill of exchange and the promissory note to a checque – as payment tool – considered by the text of Art. 215, para. 4 of the Criminal Code.

We will also set out the different ways in which the courts have regarded the legal status of the deed of checque kiting (issuing rubber checques), emphasizing the opinions expressed in the legal doctrine regarding such legal status.

Keywords: *economic offense, business, legal qualification.*

THE COMPLAINT AGAINST THE PROSECUTOR'S DECISION NOT TO INDICT, FROM THE PERSPECTIVE OF THE NEW CODE OF CRIMINAL PROCEDURE. PERSPECTIVES OF A NEW LEGISLATION

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Abstract

The article is an analysis of the complaint against the prosecutor's decision not to indict, from the perspective of the new Code of criminal procedure and of the amendments which are intended to be brought to this law, through the law implementing the Code of criminal procedure, which is currently in the drafting procedure at the level of the Ministry of Justice. The article deals with the subject, the holders and the term of the complaint as well as issues concerning the jurisdiction and the settlement procedure, which are of current interest for both theorists and especially for law practitioners, starting with the numerous problems that may arise in this field, as well as with the frequency with which such problems are to be found in the jurisprudence of the courts.

Keywords: *complaint against prosecutor's decision, criminal procedure, the new Code of criminal procedure, decision not to indict, pre-trial judge*

Panel 3

Moderators:
Lect. univ. dr. Rada POSTOLACHE
Lect. univ. dr. Mihai GRIGORE

Speaker:
Lect. univ. dr. Rada POSTOLACHE – **SAVING AND HOUSING CREDIT BANKS**

Contents:

SAVING AND HOUSING CREDIT BANKS

Rada POSTOLACHE
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Abstract

Saving and housing credit banks constitute credit institutions specialized in financing the housing sector on a long term, which are subject to the Government Ordinance No. 99/2006 on credit institutions and capital adequacy. They have a legal regime which is different from that attributed to the other types of credit institutions and which is mainly provided by: general business conditions; general conditions of saving-credit contracts; the mandatory special fund; contributions of such banks to other entities; specialization of their bank activity. These banks, as well as the saving-credit contract, will be the subject of the present analysis, which uses law as main instrument.

Keywords: *general conditions, saving-credit in the housing field, state premium.*

NATIONAL AGENCY FOR FISCAL ADMINISTRATION AS AUTHORITY WITH POWERS OF FINANCIAL CONTROL

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Abstract

Broadly the financial apparatus of the state includes all state bodies that contribute directly or which only facilitate the achievement of financial activities by means of which the financial policy of the state is applied.

In a narrow sense, the financial apparatus includes specialized state bodies with responsibilities in financial matters.

From the above, it results that there are two categories of bodies in the financial apparatus, namely:

1. ***state bodies that have general jurisdiction****, which includes the Parliament, the Presidency, the Government, the county and local councils, other central and local bodies of state administration, and public institutions of central and local subordination;*

2. ***state bodies that have special jurisdiction*** *which includes:*

- specialized central agencies: Ministry of Finance and the Court of Auditors.

- local specialized bodies (those belonging to? the Ministry of Finance and the Court of Auditors).

According to art.17 of the Financial Procedure Code "The state is represented by the Ministry of Finance by means of the National Agency for Fiscal Administration and by its subordinate units with legal personality (paragraph 3). Administrative-territorial units are represented by local administration authorities and by their specialized departments in terms of the responsibilities delegated by those authorities (paragraph 4). The

National Agency for Fiscal Administration and its subordinate units, as well as the specialized directorates of local administration authorities are called in the above mentioned code fiscal bodies" (paragraph 5).

Legal regulation of NAFA (The National Agency for Fiscal Administration) In this context, the article aims to study NAFA as authority with powers of financial control.

Keywords: *The National Agency for Fiscal Administration; authority with powers of financial control; financial apparatus.*

LEGAL UNCERTAINTY – A LEGITIMATE CHALLEGE FOR LEGAL METHODOLOGY

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Abstract

A reasonably interpretation of legal texts represents a main task of the legal methodology. But a coherent methodology requieres joint efforts of a wide range of disciplines and also interdisciplinary approaches for yielding a methodological framework. Different unclear law provisions or stipulations could induce many ambiguous contexts that can generate moral dilemmas and also multiple moral conflicts. In such cases the law interpretation must find a strong moral support in dealing with arbitrary rules.

The paper intends to bring to the fore legal methodology as a possible solution in legal uncertainty from unclear laws to judge dissents

Keywords: *legal uncertainty, legal methodology, moral dilemmas, judicial dissent, unclear laws*

THE EVOLUTION OF THE REFORM IN THE AREA OF HUMAN RESOURCES OF THE ROMANIAN JUDICIAL SYSTEM

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Abstract

Considering that humans are the main resource of the public sector, it is expected that any fundamental re-evaluation of the state's institutions to offer a special attention to this segment.

In the context of the profound changes that happened worldwide in the area of human resources in the public system, also in Romania were adopted reforms, with a gradual approach and implementation, by introducing stages over the years. Any change or transformation in this area could not take place without support or interaction with financial aspects or structural changes, all aiming the considerable transformation of the functioning of the judicial system in its ensemble.

In the Romanian judicial system, even though reforms in the area of human resources were conceived in a coherent framework, the main changes in this area not always complemented each other, their implementation being sometimes inconsistent with the previous adopted measures.

For these reasons, the present paper aims to analyze the evolution of the Romanian judicial reform in the area of human resources, both from the perspective of the pre-adhesion to the EU period, as well as from the perspective of the post-adhesion period.

Keywords*: magistrates, judicial system, reform, European Union, reform strategy.*

RECENT DEVELOPMENTS IN THE FIELD OF PUBLIC ADMINISTRATION REGULATIONS CODING

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Abstract

The public administration regulations coding represent, together with other encodings, the systematic quintessence of law, established itself in reforming public administration, overcoming the shortcomings that it faces today.

The public administration regulations coding would provide multiple benefits, including the legislation`s simplification and correlation, the existing regulatory huge reduction in the area, creating a general legal framework of reference and in accordance with the code.

Keywords: *Public administration, regulations, coding, development, simplification.*

THE ADVENTURE OF ADOPTING THE ROMANIAN ADMINISTRATIVE CODE: CONTEXT, CHALLENGES AND PARADOXES

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Abstract

In the lately decades, all the European countries were involved into a movement of modernization of the public administration, in order to bring it closer to the citizens and to their social needs. The distance between the political speech, the objectives of the reform process and the reality is still very wide, so the premise needed to obtain this aim, is to have a clear, logical and systematized legal frame. The Romanian law that regulates public administration often contains a parallelism of regulations, or even worst, they contradict each other, or some of the dispositions are lacunars. This is the main reason for the necessity to adopt an Administrative Code or an Administrative Procedure Code.

All the programs of governance after the Romanian Revolution bring this idea on the top, the Romanian doctrine in the last 20 years (and even before) claimed for the adoption of an administrative code, but until now, nothing became concrete. The delay in adopting the Administrative Procedure Code is started since 2004, when the draft of the code was finished. Only in 2008 the Romanian authorities have started the legislative procedure in order to adopt this code, but, unfortunately, the procedures were blocked in 2009. As a matter of consequence, a new project of Administrative Code (this time) begun, being coordinated by ones of the bests theoreticians and practitioners in the public administration from Romania. The new project, financed by European founds was finished at the end of 2011. The responsibility for transposing it into reality belongs now to the Parliament.

Our study will analyze the European highlights contained in this draft, from the perspective of a good administration's values. One of the main dimensions of a European administration refers to the transparency in the functioning of public institutions at the central and local level. We will analyze from a comparative view the provisions in the current legislation and in the drafts of Administrative (Procedure) Codes, by enlightening the progresses, but also the things that still need to be clarified or improved in the future regulation.

Keywords: *modernization, Administrative Code, transparency, European dimension*

IS THE ROMANIAN RULE OF LAW JEOPARDIZED?

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Abstract

Taking into consideration the way in which the state powers work and interfere in Romania nowadays, we asked themselves whether the state of law is jeopardized. In order to provide an answer to this matter, the aim of our scientific approach is to analyse several problems that our young Romanian democracy has to deal with while trying to successfully implement the principles that govern the state of law. In our study, we paused on certain risks that are threatening the present state of law, namely: the corruption, the political migration, the legislative inflation, the increasing role of the Executive over the Parliament in the law making process, the increasing interference of the political among the judicial sphere, the lack of a genuine civil society.

While trying to provide an answer to our first question, we put forth throughout the research and in conclusion as well several solutions that might be taken into consideration during a future constitutional reform and might bestir the rule of law in Romania.

Keywords: *rule of law, risks, corruption, civil society, constitutional reform.*

LOCAL TAXES. LEGAL REGIME

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Abstract

Local taxes have a distinct legal regime, which acquires particular features in respect to that attributed to fiscal incomes from the state budget, emerging, at least, from: different legal regulation; integration of taxes in the context of the distinct organization of public local finances and of financial local autonomy; distinct legal administration which derogates from common law. Both the features mentioned above and the types of local taxes constitute the object of the present analysis, which uses law as main instrument and which is aimed to determin their legal regime.

Keywords: *local financial autonomy; establishment of taxes; administration of local taxes.*

SAVING AND HOUSING CREDIT BANKS

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Abstract

Saving and housing credit banks constitute credit institutions specialized in financing the housing sector on a long term, which are subject to the Government Ordinance No. 99/2006 on credit institutions and capital adequacy. They have a legal regime which is different from that attributed to the other types of credit institutions and which is mainly provided by: general business conditions; general conditions of saving-credit contracts; the mandatory special fund; contributions of such banks to other entities; specialization of their bank activity. These banks, as well as the saving-credit contract, will be the subject of the present analysis, which uses law as main instrument.

Keywords: *general conditions, saving-credit in the housing field, state premium.*

IV. Law and Related Sciences

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Panel 1

Moderators:
Lect. univ. drd. Roxana Elena LAZĂR
Lect. Univ. Dr. Antonio SANDU

Speaker:
Lect. univ. drd. Roxana Elena LAZĂR - **EUROPEAN REFORMULATION OF PRINCIPLES AND STRATEGIC OBJECTIVES IN ROMANIAN RESEARCH - DEVELOPMENT - INNOVATION SECTOR**

***Contents*:**

EUROPEAN REFORMULATION OF PRINCIPLES AND STRATEGIC OBJECTIVES IN ROMANIAN RESEARCH-DEVELOPMENT-INNOVATION SECTOR

Roxana-Elena LAZĂR[10]
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Abstract

Establishing, in advance, strategic objectives of research-development-innovation sector takes a unified form – National Research, Development and Innovation Strategy 2007-2013. This is an optimal way to align a domestic policy of research, development, innovation to new trends of European Union and European Research Area. The principles of Romanian market for research, development, innovation are: ex-ante and ex-post evaluation of research-development-innovation sector; international evaluation of implementing policy in this sector, addiction between financing research institutes and their performance, real career advancement for researchers, principle of non-discrimination between researchers, promotion links with the Romanian scientific diaspora, increasing Romanian demand and offer in research-development-innovation sector, establishing a permanent dialogue between scientific community and Romanian society.

Keywords*: research, development, innovation, strategy, objectives*

[10] Acknowledgements: drd. Scoala Doctorală de Economie, Universitatea „Al. I. Cuza" din Iaşi - Proiectul POSDRU/88/1.5/S/47646, lect. Universitatea „Petre Andrei" din Iasi.

SOME ASPECTS ON RECOGNITION AND IDENTIFICATION OF PERSON BY IRIS

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Abstract

In the context of the informational and technological revolution, the field of identifying humans on the basis of their biometric data has had a spectacular evolution.

The iris and retinal scanning recognition and identification systems are being implemented on a wider and wider scale in top fields of activity such as security, defense, data protection, banking, etc.

The present article aims to enlarge on some aspects regarding recognition and identification of the person by iris, highlighting: advantages and peculiarities connected with this method, technologies currently used and applications exploited in this field.

Keywords: *biometry, security, identification, recognition, IrisCode, digitalization.*

OBSERVABLE INFLUENCES ON CONSUMER BEHAVIOR DURING THE CRISIS

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Abstract

This paper aims to analyze how consumer behavior is influenced during the crisis. Economic and financial crisis has changed consumer behavior and gave birth to a new consumer, adaptable to any change to a consumer market.

The consumer may be adaptable to market called chameleon.

In such situations, consumers have become a kind of promotions and bonus hunters.

Consumers are more difficult to define, understand and please, now in economic crisis, more than before.

Keywords: *consumer behavior, crisis, market, consumption, barometer*

NATIONAL INTERESTS AND THE GLOBALIZATION

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Abstract

Until recently, globalization was seen as an inexorable process, which most countries would be forced to sacrifice a growing part of independence and sovereignty.

However, after the economic and financial crises in Asia and Latin America, many countries have reconsidered their attitude towards globalization, a trend of active adaptation to this process being outlined, in accordance with national interests.

Objective basis of globalization emerged but not independent of the countries' national interests, but by their manifestation in the world economy, as well as in other international relations. So far, in all categories of international relations prevailed the interests of great powers. Therefore, although globalization concerns through its very objective basis all countries, this process has been targeted so far, according to the interests of the most developed and powerful countries, ignoring largely the interests of the developing countries, which forms the majority of mankind.

Besides presenting the effects of globalization worldwide, this paper focuses on presenting the more adverse effects they have generated in Romania.

The conclusion I reached from this approach is that the leading goals of each people are happiness and culture, and the value without culture, without freedom and freedom without existence and national honor are not possible.

Keywords: *globalization, internalization, national interests, international organizations*

SOME CONSIDERATIONS REGARDING THE RELATION BETWEEN MORALITY, ETHICS AND LAW

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Abstract

This paper aims to present the relationship between ethics and law from a structural phenomenological perspective. In our opinion, the two domains are correlative, normative ethics is prior to formal establishment of the rule. Towards legal, ethics has a background and control function. Both normative areas regard the regulation of relations between individuals and society and desirable behaviors. The main ethical theories generate law principles therefore we can say that the law has an ethical foundation. The paper will present a series of ethical theories that have generated principles of law, or are a source of contemporary paradigms in the field. We also present ethical codes as a way of formalizing deontic with legislative power and their application in legal domain. Ethical theories are designed to validate legal norms from compliance perspective between legal norm and the value system accepted by the community.

Keywords: *morality, law, ethic, ethical codes, utilitarianism, Kantianism*

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ELECTORAL CAMPAIGNS IN THE PROCESS OF TRANSITION TO DEMOCRACY IN ROMANIA AFTER DECEMBER 1989

RESEARCH THEME: LOCAL CAMPAIGN FOR MAYOR'S OFFICE OF IASI, 2004 – THE CONSTRUCTION OF A POLITICAL PRODUCT

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Abstract:

This study aims to present the electoral campaigns in Romania after December 1989. Electoral campaigns are designed, at least in theory, to inform voters about candidates and to help them better understand their position on problems of the moment, the causes for which they stand up for and party affiliations. Knowing the candidates and being aware of their conceptions and actions, the electors can decide who to vote for, whether to adjust or not their electoral options or if there is a need of changing the political power. Unfortunately, electoral campaigns succeed only partially to achieve these goals, failing most of the time to inform the electors and help them to vote according to them.

The construction of the political figure, the notoriety of the candidate, the credibility, the slogan, the media agenda versus the population agenda, are matters of discussion absolutely necessary for a suitable analysis, and we cannot create an image of coherency in the planning of a campaign or, even more specific, in the construction of a political product.

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After the first part, which is to some extent theoretical, in the second part I will put forward a practical study which in this case can only be the presentation of a fragment of electoral campaign. It is a fragment because the amplitude and complexity of approaching an electoral campaign with all of its elements would overcome the time allocated during this conference, this is the reason why I will analyze the electoral campaign through the construction of the political product.

The research's presentation consists of the local campaign for the Mayor's office of Iasi, in 2004, considered through the national electoral context: the realization of the D.A. alliance between PNL and PD in the autumn of 2003, meant the beginning of the actual electoral struggle in Romania. If when the alliance was launched, in the autumn of 2002, the two parties were almost alike, around 10-12%, after one year, PNL rose to 18-20% and PD remained at 10-12%.

In order to have a clearer image upon the political „market" of Iasi I have presented the first five „brands" (political parties) with their „the political products" (candidates for the position of Mayor) resulted from this campaign and, bearing in mind the criteria announced above, I found interesting the evolution of two candidates for the seat of Mayor of Iasi: Dan Carlan- Democrat Party (PD) and Relu Fenechiu- National Liberal Party (PNL). Finally, I was concerned with the construction of the political product of PD and PNL, and moreover, the logical conclusions of the scientific study.

***Keywords**: Electoral campaign, local elections, political product, USP (unique selling proposition).*

SOME CONSIDERATIONS REGARDING SOCIAL POLICIES IN THE EU LEGISLATION

UNELE CONSIDERAȚII PRIVIND POLITICILE SOCIALE ÎN LEGISLAȚIA UE

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Abstract

In the 21st century, the statute of social welfare confronts itself with a true major dilemma regarding the elaboration and the implementation methods for the European legislation in terms of social policies. While economic development no longer constitutes the appanage of national economic policies, social matters still occupy a leading place on the priority list of the European nation states. European social policies are not the consequence of the solidarity between the citizens of Europe but the result of the creation of a single EU market. Therefore, the main decisions in the field of social policies at the level of the European Union are connected to the right to work, so that within the European Social Charter, the concrete decisions are those regarding labor rights, the equality of rights between workers from foreign states and the native workers, the right to integration for the families of the laborers working in a foreign state, etc. The assiduous preoccupation is justified within the context of the confrontation between member states having a high unemployment rate, of the tough economic competition at global level, but also within the context of the social tensions which can create difficulties for the organism of the European Union. For this purpose, an essential part is played at the European level by the European Social Fund that is oriented towards supporting professional qualification, the requalification of the labor force and the reintegration of the youth in the labor market, this way representing the main instrument of European social policies.

Keywords*: social policies, labor rights, the European Social Fund, statul bunastarii sociale.*

Rezumat

In secolul XXI, statul bunăstării sociale se află în fata unei adevărate dileme majore privind modalitătatea de elaborare si implementare a legislatiei europene privind politica sociala. În timp ce dezvoltarea economică nu mai constituie apanajul politicilor economice nationale, problemele sociale ocupă încă un loc fruntas pe lista de prioritäti a statelor nationale europene. Politicile sociale europene nu sunt consecinţa solidarităţii între cetăţenii Europei, ci rezultatul creării pieţei unice. Drept urmare, principalele decizii din domeniul politicilor sociale la nivelul Comunităţii Europene sunt legate de dreptul muncii, atfel incat in cadrul Cartei sociale europeane, deciziile concrete, sunt cele cu privire la dreptul muncitorilor, la egalitatea drepturilor muncitorilor din alt stat cu muncitorii cetăţeni ai statului în care lucrează, dreptul la integrarea familiei muncitorilor care lucrează în alt stat etc. Preocuparea asidua se justifica in contextul confruntarii statelor membre cu o rata de somaj foarte ridicata, a unei concurente economice dure la nivel global, dar si a tensiunilor sociale care pot pune in dificultate organismul Uniunii Europene. In acest scop, un rol esential il detine la nivel european, Fondul Social European, care, este orientat catre sprijinirea pregatirii profesionale, recalificarea fortei de munca, reintegrarea tinerilor pe piata muncii, reprezentand in acest fel, principalul instrument al politicilor sociale europene.

Cuvinte - Cheie*: politici sociale, drepturile salariatilor, Fondul Social European, welfare state.*

ALLOCATION AND USE OF RESOURCES IN HEALTH SYSTEM: A MODEL OF FINANCIAL MANAGEMENT

ALOCAREA ŞI UTILIZARE RESURSELOR ÎN SISTEMUL DE SĂNĂTATE: UN MODEL DE MANAGEMENT FINANCIAR

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Abstract:

Thehealthsystemresource allocation and utilizationis a key issue.The literature offersa series ofeconometricmodelsby with we canfind an answerto the question: What is theoptimalpatternof resourceallocationin health care? The answer tothis question willbe in Allocation anduseof resourcesinhealthsystem: Amodeloffinancial management.Balance betweenresource allocation and utilizationis determinedby acorrelationbetween supply and demand.

Keywords: *economic resources, healthsystem, econometric model*

COMBATING SOCIAL EXCLUSION THROUGH EARLY INTERVENTION AND EARLY EDUCATION

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Abstract

The social reality reveals a social phenomenon that is framed in terms of early motherhood and which requires a special attention. The under age mothers, who come from socio-economically disadvantaged families, have slim possibilities to ensure a good and proper development for the infant, to achieve further school education for enrollment in a professional category that is able to provide substantial support for the early, already created family.

The legislative regulations within the child protection area supports motherhood and children's rights, but there can be observed a need for early intervention programs and for early education program for the child who is likely to become marginalized and socially excluded. Through the induction method, beginning from concrete cases, generalizations can be made in order to identify the most appropriate forms of intervention, which ensures the development of children's life quality.

Proper social policies, institutional projects and also the involvement of the community human resources can constitute forms of adjustment of the social welfare to the social realities and forms of assumption of the collective responsibilities with a significant role in the social development.

Keywords: *social exclusion, minor mother, early intervention, early education, social protection.*

SOCIAL CHANGES IN ROMANIAN RURAL COMMUNITIES

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Abstract:

Romanian rural communities have certain characteristic features that need to be taken into account when speaking about rural modernization. Here we find a specific religiosity as a particular way of relating to the sacred. Traditional village is the village which tends to preserve as purest posible its specific elements, acquired and rooted in a long history. The villageis"purposely placed around the church and cemetery, namely around God and the dead" *(Lucian Blaga). The village's destiny was always fighting for survival, while the city's was fighting for renewal and transformation.*

The technical transformation of the rural area (agriculture, forestry, animal husbandry, etc..) and its urbanization efforts introduced in villages varied activities and interests (commuters, traders, workers, pensioners), which decenter the specific paternalistic household, turning it into an

economical productive, spiritual and religious depersonalized household. Religious vocation becomes a paid profession as a public service, religious education is transferred to schools, faith is being rationalized. The organized education of the village through schools and media leads to the artificiality and disappearance of the folkloric creation.

The Church has a decisive role because it has authority, a clear status, precise rules of functioning and it is indispensable to man's existence. It filled the structural gaps when other institutions were absent. The role of the Church has oriented also on the formal education of children and often the teacher's role was played by the priest.

Religious institution passes through all stages: life, social life and dynamics of social life. In our present time, the social life develops in parallel with religious institution and at some point in time they overlap and complement each other.

***Keywords**: village, rural community, church, dynamics.*

CUSTOMER ORIENTATION OF ROMANIAN COMPANIES - MAJOR TREND IN THE KNOWLEDGE ECONOMY

ORIENTAREA SPRE CLIENŢI A FIRMELOR ROMÂNEŞTI – TENDINŢĂ MAJORĂ ÎN ECONOMIA BAZATĂ PE CUNOAŞTERE

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Abstract

The opened and honest orientation to solve customer problems is the key to unlocking success door. In business there are only two ways to create and sustain long-term superior performance: an exceptional customer care and constant innovation.

Customer orientation means that all that makes a manager must be based on the care of fulfilling its requirements, whether a customer is very profitable or less profitable, whether is a public sector or a nonprofit organization. This should mean that everything that is done at the strategic level - setting priorities, making decisions, planning various types of management projects - to be focused on the continuous changing needs of customers.

Impeccable customer service must be the reason why firms exist, leading to customer loyalty, which generates high profitability.

The real „capital" of the firms' performance is the sum of knowledge and experience gained after the relationship with the customer, which will determine future market value.

Keywords: *customer relationship management, success, competition, knowledge economy.*

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