SECTION I - PUBLIC LAW

Friday, November 16, 2018

Room Virgil Madgearu (0004), main building – Ion N. Angelescu

Keynote speakers:

Professor **Mihai Bădescu**, *Bucharest University of Economic Studies*

Associate professor **Cătălin-Silviu Săraru,** *Bucharest University of Economic Studies*

Assistant professor **Andreea Stoican**, *Bucharest University of Economic Studies*

! Each paper will be presented within 15 minutes
! Fiecare lucrare va fi prezentată în maxim 15 minute

ANALYSIS OF THE LEGISLATION ON JUVENILE DELINQUENCY – KOSOVO CASE

Lecturer Petrit BUSHI
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Abstract
This paper presents an overview of legislative activity in Kosovo in the field of the justice for minors focused after 2004 year. The goal of paper is to offer the legal and institutional experience ragarding the criminal responsibility of minors, procedural regulations related to investigation, prosecution, judicial process, execution of decisions, rehabilitation as well as every measure that has do to with the minor as a victim or as a witness, or any measure which covers the conflict with the law and a minor victim or/and witness of penal act. Problems of minors in the conflict with the law are complex and they require inclusion of many actors before and after the criminal act is done. Without an inclusion of all actors, the system of juvenile justice will not be effective. Paper is focused in the juvenile justice including the penal sanction, diversity measures and education measures. For the needs of this paper the combined methodology is used with the methods of comparaison analysis and the method of sistemic analysis. Paper reviews the legal basis of juvenile justice in Kosovo in order to explain how effective it was from 2004 to 2017 year. Findings witness that legislative measures have not achieved needed efficiency regarding its implementation.

MODERNIZATION OF PUBLIC ADMINISTRATION IN THE REPUBLIC OF KOSOVO

Assistant professor Avdullah ROBAJ
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Abstract
The study is a result of the research-scientific work and observation of the modernization of public administration in the Republic of Kosovo, as a goal and purpose of the government in the function of public administration reforms to make it more efficient, more economical and more accountable according to EU standards. Public administration is one of the main segments through which relations among the state, civil society and the private sector are realized. In this regard, support for innovation in public administration enables the realization of development objectives, in particular in economic advantages, poverty reduction, institutional harmony and stability. Modernization of public administration in Kosovo can be defined as a challenge in making significant government changes, decentralization of public administration, simplification of procedures, informalization of services and e-government at all levels of administration and improvement in the field of human resource development. Through digitalisation and e-government, Kosovo public administration becomes compatible with those of the EU states. The principles and standards of good administration derive from EU legislation and jurisprudence, as well as the good administrative practice of EU member states.

THE PROBLEMS ASSOCIATED WITH THE DETERMINATION OF REASONS OF ENVIRONMENTAL POLLUTION THAT REQUIRE THE IMPOSE OF ADMINISTRATIVE SANCTIONS IN LIGHT OF THE STATE COUNCIL DECISIONS

PhD. Mehmet HATIPOĞLU
Afyon Kocatepe University, Turkey
PhD. Altan Fahri GÜLERCI
Afyon Kocatepe University, Turkey
PhD. Ayşe KILINÇ
Afyon Kocatepe University, Turkey

Abstract
Environmental administrative sanctions are a means of precautions aiming for the protection of the environment, reduction of environmental damages, nonrepeation of acts causing the damage of the environment. The mentioned actions of the administration shall be concluded in accordance with principles of rule of law, legality, legal certainty. It is important to a great extent to demonstrate the legality of the sanctions and measures when applied subsquently for judicial remedy, during which in the process of application of such sanctions, documentation of the contaminative activities and reveal of activities transparently with its justification had been realized. In the Environment Law numbered 2872, the procedures and principles are determined, which must be obeyed by the officer in charge assigned by the central or provincial organization of the Ministry or by the competent authority of state institutions and organizations authorized by the Ministry for the environmental supervision for detection of violations, which require the impose of administrative sanctions. It is important to consider some factors for the establishment of the process to be applied against any environmental violation by the administrative institutions that have duties and powers in the field of protection of the environment, such as the investigations to be carried out in order to clearly reveal the source of the polluting activity, the means that can be used in determining the violation, the conditions to regard real or legal persons to be responsible for polluting activity, which abolishes the hesitations relevant to the source of pollution. When the decisions of the Council of State are examined, in some of the decisions it is noteworthy that the problems related to the determination of the violation are mentioned and some of the sanctions established by the administration according to the procedure stated in the legislation are canceled. In this study, a discussion will be made on the decisions of the Council of State and the reasons of the administration and an emphasis will be given to the problems in implementation and legislation. Recommendations will be put forward for the procedures and principles to be more specific in accordance with the principle of legality and to strengthen the lawfulness of the sanctions, which are followed in the areas where inspection may be carried out by the environmental inspection teams and where sea, land, air and other environmental damages may arise.

PRESIDENTIAL DECREES AND THE PRINCIPLE OF LEGALITY UNDER TURKISH LAW

Assistant professor Yusuf Sertaç SERTER
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Abstract
As of July 9, 2018, Turkey abandoned the parliamentary system and has adopted a sui generis kind of presidential system of government. The said new governmental system provides the President, the Executive Organ of the Turkish State, with the authority to issue presidential decrees on matters relating to executive function, and such authority that is conferred directly by the Constitution "is neither dependent on a prior parliamentary mandate nor subject to any subsequent approval". On the other hand, the principle of legality, an important constitutional principle relating to "the rule of law" states that the Legislative power is "original/primary", and that, as a rule, the Executive Organ possesses a secundum legem authority. As such, the prospective effects of the presidential decrees on the constitutional principle of legality will be reviewed in this study based on various discussions made by Turkish public law academics.

MOTION OF NO-CONFIDENCE AS A SUPERVISING INSTRUMENT OF THE PARLIAMENT IN ITS RELATIONS WITH THE GOVERNMENT AND DISSOLUTION OF THE PARLIAMENT

Assitant lecturer Egzon DOLI
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Abstract
The paper is an attempt to measure the impact of the motion of no-confidence as a supervising instrument of the parliament in its relations with the government, and its effects that come as a result of the government's inauguration, or the dissolution of the assembly and the annunciation of the snap elections; it focuses on its characteristics, especially in the countries with parliamentary democracies, and the consequences it can produce. Acquiring a mandate to govern through the motion of no-confidence is a severe political and constitutional tool that makes the prime minister or the Ministerial Council answer in accordance to their political accountability. The dissolution of the parliament through the motion of no-confidence ought to be the last alternative to be used by the President in order to solve the political and institutional crises, otherwise this decision will not result in the automatic dissolution of the parliament; if another parliamentary majority will obtain the support of the parliament, that Prime Minister and the cabinet or the Ministerial Council will acquire the governance of the country.

THE LEGAL PROTECTION OF THE INTERESTS OF PERSONS WHO HAVE NOT COMMITTED CRIMINAL OFFENCES IN THE CASE OF CRIMINAL PROCEDURAL INFRINGEMENTS – WHEN AND WHERE THE STATE DRAWS THE LINES

professor Kristīne STRADA-ROZENBERGA
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professor Ārija MEIKALIŠA
University of Latvia, Faculty of Law, Riga, Latvia

Abstract
The contemporary criminal proceedings are characterised by the fact that increasingly more often alongside the interests of persons directly linked to a criminal offence also the economic interests of other persons are infringed upon, through the expansion of the institution of the so-called mechanism of confiscation of property not based on sentencing, etc. The article focuses on the legal protection of these persons and the relevant issues of it. The article examines the issues of the circle of persons, who due to the infringement on their economic rights have the rights but have not been granted the rights of an active participant of the criminal proceedings, as well as the scope of rights of these persons as participants of criminal proceedings. In difference to deciding on the issue "guilty or innocent", which both on the national and the international

level has a relatively strictly enshrined model, in deciding on the so-called "secondary" or "consequential" issues, a strict model like this is absent. Hence, the State should decide on the matter of how to ensure full legal protection to persons if their rights have been restricted. Undeniably, also in this case, the requirements regarding a fair procedure should be met. However, the matter, whether and – if – to what extent various rights should be granted in the framework of criminal proceedings, needs to be discussed. The article, based on the analysis of the Latvian experience, outlines some lines of discussion and provides the authors assessment of the possible development thereof. The issues that are raised by the Latvian discussion might be useful for creating and developing discussion also in other states.

WOULD AMENDMENTS FROM 2018 IN THE ACT ON PUBLIC-PRIVATE PARTNERSHIP AFFECT THE INCREASE OF THE SCOPE OF PERFORMANCE OF PUBLIC TASKS IN PUBLIC-PRIVATE PARTNERSHIP FORMULA IN POLAND?

Assistant professor Wioleta BARANOWSKA-ZAJĄC
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Abstract
Public-private partnership is one of the forms of cooperation between public entities and non-public sector entities, undertaken on the basis of an agreement for the performance of public tasks. Such a cooperation is covered by a strictly defined legal framework, which guarantees on the one hand the achievement of public law objectives and makes a guarantee of the protection of public interest. On the other hand, however, such legal framework create a barrier to the development of cooperation between public sector and private sector. The Polish Act of 28 July 2005 and another Act of 19 December 2008 concerning public-private partnership, proved to be ineffective for real and efficient implementation of public tasks in the analyzed formula. The provisions of the latter Act does not however lead to significant increase in the number of agreements concerning public-private partnership. Through the amendment of 5 July 2018 there were made in the Act of 2008 some significant changes, starting from definition of public-private partnership, introducing the obligation for public entity to assess the effectiveness of the implementation of undertaking under public-private partnership as compared to effectiveness of its otherwise, criteria for the selection of a partner, the possibility of concluding public-private partnership agreement with a subsidiary of private partner, control of partnership, up to the partnership in the form of company and the task of public administration body established as competent in partnership matters. The purpose of the study is to analyze the amendments in the Act of 2008 concerning public-private partnership and attempt to assess the impact of these amendments on the efficiency, effectiveness and speed of public administration tasks, as well as to examin if these amendments are able to lead to significant increase in the number of agreements on public-private partnership concluded by central administrative bodies, as well as local government units.

THE LIMIT OF THE ARBITRABILITY OF THE ADMINISTRATIVE ACT - THE FUNDAMENTALITY OF THE RIGHTS

Professor Bárbara BRAVO
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PhD. Fátima CASTRO MOREIRA
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Abstract
The material scope of arbitration in administrative matters has recently been considerably enlarged, especially as regards the administrative act. The Arbitral Tribunal recognized the admissibility of an assessment of the legality of administrative acts. Traditionally, the legality of administrative acts was reserved for state courts. However, the legal incongruity was notorious. The art. 180 nº1 c) of the Administrative Procedure Code of 2002, provided that arbitral tribunals could hear of "matters relating to administrative acts that could be revoked without grounds for invalidity". We could diagnose two types of disease. First, within Administrative Law, it was incomprehensibly admissible to arbitrate the legality of administrative acts pertaining to the contractual sphere and excluded all others from the control of arbitration law. The other illness suffered by the regime of arbitrability of administrative acts related to the possibility of arbitrability of tax acts and the

imposition of strong limitations on the control of the legality of administrative acts in Administrative Law. The revision of the CPTA in 2015 implied a change in the legislative paradigm in the matter of administrative arbitration, providing for the possibility of assessing the legality of the administrative act by the arbitral tribunals, thus putting an end to a doctrinal dispute about the admissibility of the same. However, a literal interpretation of the precept would lead us to subsume within the jurisdiction of the arbitral tribunals the assessment of the legality of any administrative act. Considering the legislative scope of the legal prediction enunciated, the present work will have as answer to three key questions. The first is to assess to what extent the arbitral tribunals may rule on merit and on the legality of the administrative act. The second is to determine whether all administrative acts are arbitrable. The third concerns the search for a criterion of arbitrability of the administrative act, especially in matters related to legality.

INTERFERENCE BETWEEN THE PROTECTION OF PERSONAL DATA AND CONTRAVENTIONAL LEGISLATION

Lecturer Elena Emilia ŞTEFAN
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Abstract
On the 31st of July 2018 had entered ito force Law no. 190/2018 on the measures for the application of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). In the member states of the European Union, the activity of protecting personal data devolves upon authorities or institutions which are specifically set up for carrying on such competences. In Romania this public authority is called the National Supervisory Authority for the Processing of Personal Data. The present study analyzes the interference between the protection of personal data and contraventional law with the entry into force of the General Data Protection Regulation - G.D.P.R. as well as the impact of this European normative act on Romanian society as a whole. Using research methods such as comparative, deductive but also other methods, the study aims to highlight the particular interest of the public and private sector in complying with the rules set by the new General Data Protection Regulation.

ABOUT THE MATERIAL OBJECT OF OFFENSES IN THE FIELD OF ARMS AND MUNITIONS IN THE CRIMINAL LAW OF ROMANIA AND THE REPUBLIC OF MOLDOVA

Associate professor Aurel Octavian PASAT
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Customs Inspector, Border Customs Office Galaţi-Giurgiuleşti

Abstract
This scientific article aims to formulate de lege lata findings and de lege ferenda recommendations obtained through the comparative analysis of criminal and extrapenal legislation in Romania and the Republic of Moldova, as well as through the synthesis of international regulations in the field, to clarify the legal nature of the object material of offenses in the field of weapons and ammunition regime. The normative basis of this study is made up of the criminal and extrapenal legislation of Romania and the Republic of Moldova, as well as the international normative basis at European level. Following the study, several legislative shortcomings were identified that are being removed for improving internal legislation as well as for better cooperation in preventing and combating illicit trafficking in arms and munitions. Methods of research have been chosen systemic method, comparative method, analysis and synthesis. The author analyzed the criminal and extrapenal rules in comparative plan (Romania, Republic of Moldova), identified some gaps in the legal technique and demonstrated the necessity of reviewing some legislative concepts that will ultimately contribute to the reconceptualization of the criminal law in force.

THE „PROPAGANDA" CONCEPT IN THE CONTEMPORARY DOCTRINE AND THE CRIMINAL LAW OF ROMANIA AND THE REPUBLIC OF MOLDOVA

Associate professor Aurel Octavian PASAT
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Abstract
This scientific article aims at the interdisciplinary research of the concept of propaganda through the perspective of sociological, political and legal sciences, as well as the substantiation of a relevant study in the field of criminal liability for criminal acts that are committed in the form of propaganda. Therefore, as the objectives proposed for this study will serve the following: research into the contemporary doctrine in the field of sociology, political science and jurisprudence for the formulation of a concept relevant to the science of criminal law; the synthesis of characteristic traits of propaganda (deliberate action in the form of systematic communication) as ways of committing crimes that are incriminated in the contemporary criminal law of Romania and the Republic of Moldova; conducting a differentiated comparative study of the legal-criminal norms in the Special Part of the Criminal Code of Romania, as well as the Special Part of the Criminal Code of the Republic of Moldova; demonstrating inconsistencies in legislative technique that have been dropped from the legislator's view and suggesting suggestions for improving both criminal science and the criminal legislation in force in both countries. Methods of research have been chosen systemic method, comparative method, analysis and synthesis. The author carried out the investigation of comparative comparative criminal and extrapenal norms (Romania, Republic of Moldova), identified some gaps in the legal technique, and demonstrated the need to revise some legislative concepts that will ultimately contribute to the reconceptualization of the criminal law in force crimes involving elements of propaganda.

OBSTRUCTING JUSTICE ACCORDING TO THE ROMANIAN LAW. THE PREEXISTENT ELEMENTS AND THE CONSTITUENT CONTENT

Professor Ion RUSU
"Danubius" University of Galaţi, Romania

Abstract
Within the present study we have examined the constitutive content and the pre-existing elements of the crime of obstructing justice. We should specify that this offense was not provided in the previous Criminal Code, representing from this point of view a novelty element for the new Criminal Code. However, we pointed out that the offense with similar legal content, without a marginal name, was also provided in two other normative acts, namely Law no. 85/2006 on Insolvency Procedure and G.E.O. no. 46/2013 regarding the financial crisis and the insolvency of the administrative-territorial units. The novelty elements of this paper aim both at examining the constitutive content, the preexisting elements, as well as in the comparative examination of the provisions of the present incrimination and the one existing in the normative acts referred to above. Also, as a novelty, we also support the necessity of completing the provisions of the law by including in its content, as bodies with attributions in the field, the judge of the preliminary chamber and the judge of rights and freedoms, institutions that cannot be assimilated to the term of court. This paper is part of a broader work to be published early next year, continuing to investigate crimes in the light of the new law. The work may be useful to students of law faculties, master students, and law practitioners.

SOME CONSIDERATION ON THE OFFENSE OF FAVORING THE OFFENDER IN THE ROMANIAN CRIMINAL LAW

Assistant professor Ioana RUSU
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Abstract
In this paper we have considered the offense of favoring the perpetrator in terms of constitutive content, the cause of non-punishment, some legislative precedents and the transitional situation in which we are with the entry into force of the Criminal Code. Also, on the occasion of the examination, we have formulated some critical comments, supplemented by appropriate de lege ferenda proposals regarding the legal content of the text of incrimination, namely the use of the terms of criminal prosecution, the prosecution and the execution of a custodial measure. The novelty of the paper consists in the analysis carried out, as well as in the critical opinions and the de lege ferenda proposals. The present work is part of the examinations carried out in order to promote a university course of criminal law. The work may be useful to students and master students of law faculties, as well as to practitioners in the field and to the legislator from the point of view of operating the mentioned modifications and additions.

CULTURAL BUILT HERITAGE: LEGISLATIVE HAZARDS AND ADMINISTRATIVE DEFICIENCIES

PhD. student Cosmin SOARE
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Abstract
Cultural heritage is one of the most valuable values of past, present or future generations. Faced with the dangers it faces, we have the moral and spiritual duty to react promptly, within our limits of competence. The present study is an expression of this task, with the proposed analysis aiming at raising awareness of the danger of a recently initiated legislative intervention by means of which the means of protection of the cultural heritage built would be seriously impaired. This danger is overlapped with the one caused by the lack of reaction and even the implicit support of this initiative by the public administration, which according to the institutional framework in this field has the duty to act as a true guardian of the national cultural heritage.

INTEGRITY IN THE BUSINESS ENVIRONMENT

Associate professor Marieta SAFTA
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Abstract
Increasing integrity, reducing vulnerabilities and corruption risks in the business environment is a strategic goal. Its achievement implies specific measures such as the exchange of good practices in the implementation of integrity programs between the private and the public sector, the organization of regular public consultations between representatives of the public sector and the business sector on the national anticorruption agenda and the public policies with impact on the activity economic development of anti-bribery policies and programs developed at the level of companies, including by bringing them to the attention of potential contractors and suppliers and requiring compliance with equivalent standards, initiating dialogue with regulatory authorities in areas such as energy, mineral resources, to implement legal standards integrity. The present study is dedicated to the analysis of integrity issues in the business environment, to the specific measures adopted by the Romanian state in accordance with and in the application of international reference standards, as well as to the perspectives in this essential area of business law.

THE ROLE OF THE STATE BASED ON THE NEW AMENDMENTS TO THE INSOLVENCY LAW

Assistant professor Andreea STOICAN
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Abstract
Law no. 85/2014 on the insolvency prevention and insolvency procedures, envisaged as of its entry into force as a true "Insolvency Code", is the main tool for setting up a collective procedure for covering the debtor's liability, as well as an opportunity to redress the activity of a company in financial distress. The recent amendments brought by the law-maker through the entry onto force, on October 02, 2018, of the Emergency Ordinance no. 88/2018 for amending and supplementing normative acts in the field of insolvency and other normative acts, although brought with the intention of improving the exiting procedure to date as a result of the practices found during the four years since the Insolvency Law has been implemented, succeeded, although probably unintentionally, to create a potential bias towards one of the main creditors encountered in the procedure, namely, the state. This paper therefore, considering the extremely short timespan since the entry into force of the Emergency Ordinance no. 88/2018, proposes by no manner of means to make no criticism on the new regulation, which might even prove effective on the long run as a result of the observation of the practice and concrete implementation of the provisions therein, but only to raise an alarm on some aspects which, at first sight, seem to create certain differences between the creditors by favouring, at least theoretically, a certain creditor.

BLOGGING CRIME

Lecturer Adriana Iuliana STANCU
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Abstract
The advantages of new technologies are successfully used not only for progress, but also for improving criminal activity. Cybercriminality is currently acquiring new dimensions, such as: - Increased organization degree of the groups activating in this crime field; - Greater degree of specialization and technical resources in view of committing crimes by these groups; - Diversification of operating scope, from card fraud and illegal card operations, to spreading pornographic material, software piracy, illegal accessing of computer systems, and to theft and illegal trafficking of confidential data and blog crime.

THE GUARANTEE OF THE RIGHT OF A PERSON AGGRIEVED BY A PUBLIC AUTHORITY IN ROMANIA - SELECTIVE ADMINISTRATIVE ASPECTS

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Abstract
The present study aims to analyse the selective administrative aspects regarding the granting of the right of a person aggrieved by a public authority in Romania. The right of a person – natural person or juridical entity – aggrieved by a public authority in Romania is regulated by the Article 52 of the Constitution of Romania. Therefore, this fundamental right which guarantees also the right of the players in economy, being granted at the Constitutional level, ensures a good administration of the rule of law and grants a safety of the economic and business climate in Romania. It is granted the fundamental right of a person aggrieved through an administrative deed or through a request which was not settled within the legal time limit and, at the same time, by granting to that person a right to approach the competent authorities and to be entitled to obtain the recognition of the claimed right or of the legitimate interest, with the annulment of the deed and the repair of prejudice, respectively. The liability of the Romanian State for miscarriage of justice, as well as its right of recourse against the magistrates who acted in bad faith or serious neglect in their position are also granted. The methods used in drawing up this study are: the comparative method, the historical method, the logical method, the sociological method and the

quantitative method. The results of this research have highlighted the juridical, constitutional and administrative ways of defence for the natural person or juridical entity – aggrieved by a public authority in Romania.

ASPECTS THAT NEED TO BE CLARIFIED THROUGH CRIMINAL INVESTIGATION IN THE CASE OF CRIMES REGARDING TRAFFIC AND ILLICIT DRUG USE

Lecturer Nicolae MĂRGĂRIT
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Abstract
The knowledge and consumption of drugs are not issues emerged in the contemporary world, are recent phenomena that suddenly appeared and experienced an explosive development. Drug use appeared with the existence of mankind as a rational being. Although these substances still have a scientific attraction for scientists, they also claim a scheme of measures to combat their illicit traffic, measures that only reach their intended purpose to a small extent. At first, mankind as a rational being, has seen the properties and effects of drugs and toxic substances extracted from various plants and minerals. This knowledge came from his desire - which allowed the evolution of mankind - to know the surrounding world and, implicitly, himself.

CRIMINALIZING FRAUD AFFECTING THE EUROPEAN UNION'S FINANCIAL INTERESTS BY DIMINUTION OF VAT RESOURCES

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Abstract
This article aims to analyze the evolution of the EU Member States' obligation to criminalize fraud affecting the European Union's financial interests by diminution of VAT resources as a result of the competence recognized for the European Union in criminal matters, as well as to determine the extent to which the Romanian criminal law in the field corresponds to the provisions of the 1995 Convention on the protection of the European Communities' financial interests ("PIF Convention") and those of the 2017 Directive on the fight against fraud to the Union's financial interests by means of criminal law ("PIF Directive"). For this purpose, the author searched the relevant national and ECJ jurisprudence and presented and compared the relevant legal provisions, which were commented and interpreted according to the rules of law (grammatical, historical, logical-systematic, teleological), taking into account the economic and political context in which they were adopted. The study establishes an obligation to criminalize VAT fraud for EU Member States under the Convention and the Directive, as well as the conformity of the Romanian legislation with the European one in the field, with the consequence that the Romanian legislator should not modify the current regulation in transposing the Directive.

SPECIAL OR EXTENDED CONFISCATION DURING THE CRIMINAL TRIAL IN ROMANIA

Associate professor Daniela Cristina VALEA
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Abstract
In the field of the Romanian Criminal trial, especially regarding the serious defences, judiciary body may order asset freezing, in order to avoid concealment, destruction, disposal or dissipation of the assets that may be subject to special or extended confiscation or that may serve to secure the penalty by fine enforcement or to pay court fees or to compensate damages caused by the committed offense. A general legal frame has provided by art. 112 and 1121 Criminal Code, art. 249-253 Criminal Procedure Code. For a clear outline of the special or extended confiscation, including the fact that such aspects may prejudice the rights of the defendant or could interesting entire criminal trail, must take into consideration the provisions and guarantees provided by the Convention for the Protection of Human Rights and Fundamental Freedoms

(European Convention), and also the Romanian Constitutional Court's jurisprudence or the High Court of Review and Justice decisions regarding the motion of appeal in the interest of the law.

ACCESS TO OFFICIAL DOCUMENTS IN THE LIGHT OF THE GENERAL DATA PROTECTION REGULATION

Assistant professor Andrea KAJCSA
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Abstract
Public access and data protection are both fundamental rights provided for in a wide range of legislation at the national Romanian level and European level. Usually, there is no hierarchical order and no clashes between the two rights. Still, given that the purpose of the right to access to official public documents is to foster access to all documents, whereas the Data Protection Regulation must guarantee the protection of personal data, a tension can arise in some cases. We try in our paper to analyze how these two rights have intertwined before the GDPR and will continue to cross paths after this entered into force. The study uses the logical method, analyzes the legal provisions, as well as the solutions derived from the judicial practice. The conclusions aim at unrevealing some pointers for good practice in the public administration.

COMMERCIAL COMPANIES IN THE CRIMINAL TRIAL

Lecturer Ramona Mihaela COMAN
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Abstract
Defendant or party incurring civil liability?What is the position of a commercial company in a criminal trial?If in the case of some crimes the answer is quite clear, in the case of crimes like tax fraud or money laundering, the practice is not unitary.The article analyzes the cases in which the criminal liability of a company can be attributed, as well as the effect of the status given by the prosecutor to the company- defendant or party incurring civil liability-in the case of criminal offenses such as tax fraud.

THE RELATIONSHIP BETWEEN ENVIRONMENTAL PROTECTION AND ECONOMIC GROWTH FROM THE PERSPECTIVE OF SUSTAINABLE DEVELOPMENT

Professor Lucreția DOGARU
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Abstract
The use of the natural resources of the environment for the purpose of economic development, ignoring the maintenance of ecological equilibrium and triggering irreversible negative environmental phenomena, has generated at the level of theory and also at the environmental policies, disputes, concerns and initiatives. Outlining the idea of economic development in close connection with that of sustainable development of the environment was aimed at identifying solutions and setting objectives to solve the complex problems that concern the quality of life and the environment. Starting from the concept of sustainable development of the economy, we try to prove that the exploitation of resources and the quality of the environment implies a gradual process imposed by the existing realities, but also by the objectives of the strategies or policies of environmental protection at national and external level. In this paper we will show that the new orientation of the economy, namely to a sustainable development, requires the realization of a process of economic growth that must take place in the conditions of ensuring the social welfare of the population, but which must be correlated with ensuring the preservation of the environment and of its natural resources. The basic idea that must be retained is that the environmental protection is not only necessary but this is also extremely important, but as well as economic growth, it must be seen as a way of supporting human development which, from a sustainable standpoint, at the center of his priorities, the human being. The present study,

attempts to demonstrate that the solving of economic problems involves taking into account ecological problems that can generate negative consequences on the quality of human life and environment, so that any economic decisions must be made in accordance with the ecological side.

CORRUPTION - AGGRAVATED CAUSE OF VIOLATION OF THE LEGAL ORDER

Lecturer Andrada NOUR
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Abstract
The theme of this paper is to identify and analyze the causes and effects of corruption, antisocial behaviors that can be identified as having both national and supranational dimension. Although studies of this phenomenon is a concern manifested long both domestically and internationally, we consider, in terms of its implications, that it is an issue that not only that can never be exhausted, but provides real help, especially in the context of a comprehensive process of preventing and combating antisocial behaviors in order to maintain stability and legal order. In carrying out this paper we used research methods established: documentation method, comparative method, analytical method, logical method, arguing our submissions on views expressed in the doctrine. Comments and personal opinions will complete the scientific approach, which would prove to be incomplete without them. We could not end this study without expressing some opinions regarding some possible solutions which could be envisaged to stop or at least minimize the risks. Keywords: corruption, organized crime, law, economics, public administration, political power.

CONSIDERATIONS REGARDING THE REGULATION OF THE PRIVATE PROPERTY OF THE STATE AND OF THE ADMINISTRATIVE-TERRITORIAL UNITS IN THE DRAFT OF THE ADMINISTRATIVE CODE IN ROMANIA

Associate professor Cătălin-Silviu SĂRARU
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Abstract
Property in the private domain is subject to the same rules as the property of private property, unless otherwise provided by law. The Constitution states in art. 44 (2) that private property is guaranteed and protected by law, irrespective of the holder. Also, according to the provisions of art. 553 (4) C. civic objects of the private property, regardless of the holder, are and remain in the civil circuit, unless otherwise stipulated by law. They may be alienated, subject to forced pursuit and may be acquired by any means prescribed by law. Art. 121 (2) of the Law no. 215/2001 of the local public administration shows that the goods belonging to the private domain of the administrative-territorial units are subject to the provisions of common law, unless otherwise provided by law. Per a contrario, the law may establish, for reasons of general interest, rules distinct from those of the common law on private property (eg rules specific to the legal regime of public law). The draft of Administrative Code details the legal regime of property in the private domain of the state and of the administrative-territorial units, highlighting the derogatory aspects of the legal regime of the property, from the property of the private persons.

GOOD FAITH IN EXERCISING THE WORK REPORTS BY THE CONTRACT PERSONNEL IN THE PUBLIC SECTOR

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Abstract
The present study aims to analyze the way good faith is reflected in exercising the work juridical reports of the personnel within the public authorities and institutions. We have in mind all the categories of such persons, mentioned in the legislation and not only by the phrase "budgetary personnel", in which we also include the contractual personnel, officers and officials. In all cases, it is necessary to regain good faith but, in particular, it is revealed to the holders of public functions and officials. This follows expressly Article 54 of the Constitution, which obliges the citizens entrusted with public functions, as well as the military officers, to fulfill their obligations in faith, in which purpose they take the vow provided by law.

MANAGEMENT OF RAILWAY INFRASTRUCTURE - NATIONAL AND EUROPEAN COMPARATIVE ANALYSIS

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Abstract
On November 12, 2016, in Romania the Law no. 202/2016 on the integration of the Romanian railway system into the single European railway area come into force after the 2012/34/EU Directive of the European Parliament and of the Council of 21 November 2012 on the establishment of the single European railway area was adopted in 2012. It is later adopted in Strasbourg on 18 April 2018 and will enter into force on 02.05.2018 The Regulation 643/2018 on rail transport statistics. Statistics on freight and passenger rail transport are needed to enable the Commission to oversee and develop the common transport policy as well as the transport elements of policies on trans-European regions and networks. Under Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways, each Member State of the European Union must establish a national safety authority. In Romania, the Romanian Railway Safety Authority - ASFR, was set up as a national body responsible for the tasks related to railway safety.

JUVENILE JUSTICE: KOSOVO CASE

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Abstract
The paper evaluates policies and practices in the juvenile justice from a comparative perspectives. It is focused in an analysis of the juvenile justice taking into the account also the work of prosecutors and the juvenile judges. In many states of Europe as well as in Kosovo there are developed strategies for reforms of the juvenile justice which have noted qualitative changes and with this it is noted a distinct level of convergence between sistems of European states. By using qualitative methodology and with the use of the method of comparison analysis, method of historical analysis,etc., authors will be focused on the histroical development of the juvenile justice system in Kosovo, under the context of the development of this field in various states of Central and Eastern Europe. The paper in addition to explaining of notions and their comparison which serve scholars and institutions engaged directly in the field of juvenile justice.