SECTION I - PUBLIC LAW

Friday, November 24, 2017

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

Keynote speakers:

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

Associate professor **Ana Vidat,** *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

PUBLIC-PRIVATE PARTNERSHIPS: NO INVESTMENT WITHOUT AN INVESTOR-STATE DISPUTE SETTLEMENT OR INVESTMENT COURT SYSTEM

PhD. Student Samson PASCHAL
University of Bucharest, Romania

Abstract
Investor-state dispute settlement (ISDS) is arguably a neutral procedure that is used for international arbitration. Similar to other types of labour, judicial or commercial arbitration, ISDS is also designed to resolve conflicts through the use of impartial approaches that are founded in law. This arbitration alternative has become increasingly commonplace in recent years and there are currently more than 3,000 such ISDS agreements in place around the world. It is important to note, though, that ISDS is an umbrella term that subsumes a number of different types of approaches, varying in terms of process and scope. The role played by ISDS in problems solving has made entities claim that there is no international investment without ISDS. This paper seeks to examine the role of ISDS to resolve problems in procurement contracts such as PPP.

CRİMİNAL LAW RESPONSİBİLİTY OF LEGAL ENTİTİES IN TURKEY

Professor Berrin AKBULUT
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Abstract
In Turkish Law, it is accepted that perpetrator can be only a real person. Hence it is not accepted that legal entities can commit a crime and that they can be perpetrators. However due to the actions committed by the people who are acting on behalf of legal entities, punishing the legal entities had been deliberated till the entry of the Turkish Penal Code No 5237 into force. Determinations about the legal entities' criminal liability in other penal codes than the Turkish Penal Code increased the debate. The Constitutional Court reached a verdict that legal entities' criminal responsibility is not unconstitutional. In the Code No 5237 that went into operation on the 1st of June, 2005; open regulations were made regarding legal entities and it was strictly specified that penal sanction regarding to legal entities can't be imposed. Since penal responsibility is personal, the legal entities, that doesn't have any ability to commit a crime, can't be punished by the actions of people who is acting on behalf of legal entities. According to this article, security measures can be applied to legal entities on whom penal sanctions can' t be imposed. After the entry of the Turkish Penal Code Art. 20 into force, provisions that are related to legal entities' penal responsibility in other penal codes than the Turkish Penal Code were repealed. However, telling that the problem went away totally in doctrine is not true. Security measures that are going to be implemented about legal entities were regulated in Turkish Penal Code Art. 60. Legal entities about whom security measures were implemented specified as private entities. In addition, to be able to impose sanction to legal entities, there must be a determination about implementation of measure in related code. Security measures that are going to be implemented in Art. 60 were stated as cancellation of permit and confiscation. In this paper, required conditions for legal entities' security measure responsibility, encountered debates and made provisions will be examined.

PRIVACY PROTECTION AND E- DOCUMENT MANAGEMENT IN PUBLIC ADMINISTRATION

Dr. Iur. Olga SOVOVA, Ph. D.
The Police Academy of the Czech Republic in Prague
Miroslav SOVA, MIT
Dr. Zdenek FIALA, Ph. D.

Abstract
The paper reviews and critically examines sharing e-document-based information between public administration and private sector. The documents are not only generated and archived, but also shared among public administrators. The private sector supports digitisation and computerization of public administration. The protection of privacy of persons and confidential information, especially economic about legal entities, together with the necessity of circulation of information within the national state and cross-border, bring new legal and technical challenges. The paper examines legal issues of the right of informational self-determination, privacy protection of the e-data information exchange between the public and private sector. The paper concludes that new relations to technologies form an inevitable and fundamental sign of a post-industrial society, but the professionalism of the public administration together with the duty of confidentiality and the right for privacy together with appropriate legal regulation should guarantee that technologies be used solely for legal interference with the right for informational self-determination.

CONFLICT OF DUAL LOYALTY AND ISSUES OF LIABILITY WHEN PROVIDING HEALTH CARE

Dr. Iur. Olga SOVOVA, Ph. D.
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Abstract
The paper examines topical questions of the conflict of dual loyalty when providing health and medical care in the context of the liability of regulated medical professions. The paper specifies, describes and identifies the impact of professional particularities on the sphere of activity of the vocational holder in general and the particularities in the Czech Republic. The conflict of dual loyalty is highlighted in the relations emerging when providing the medical care, in particular in the relation patient - medical professional - provider of medical care. The article is anchored in the methods of the interpretation of law together with the interpretation from the general to the specific. The medical professionals get very often into the dual loyalty conflict, which concerns legal obligations and the ethics of the profession. The paper examines the difference between the conflicts of dual loyalty and interests. Based on the above-mentioned the paper concludes that the conflict of the dual loyalty and the responsibility of medical profession have many forms, but there are legal, ethical and economic possibilities to solve in in favour of the patient.

TAX MEDIATION IN PORTUGUESE LEGAL ORDINANCE: DE IURE CONDENDO(?)

Assistant Professor Cláudia FIGUEIRAS, PhD.
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Abstract
Mediation is an ADR which falls within the category of means of self-determination and which presupposes the intervention of a third party a mediator whose function is to bring the parties together in a dispute in order to conclude an agreement between them. In the Portuguese legal system, it is not possible to mediate disputes between taxable persons and the Tax Administration. There are several obstacles to the mediatability of litigation in tax matters. In particular, we are thinking about the principles of legality, the unavailability of the tax credit, and equality. In this paper, it is sought to ascertain if these obstacles are absolute, not allowing any openness to the legality of legal-tax disputes, or if, on the contrary, they are not absolute, making feasible the thinking of creating a relation between Law Taxation and mediation. Adopting a method based essentially on dogmatic analysis, it is believed that it is possible to recognize the legality of legal-tax disputes, albeit within certain limits. The mediation will allow a closer approximation between the parties - taxable person and the Tax Administration - thus contributing to the creation of a greater ethical-tax awareness and, in this way, to the reduction of litigation.

HUMAN DIGNITY IN THE CONTEXT OF PRISON PRIVATIZATION AND THE CROATIAN PERSPECTIVE

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Abstract
This paper discusses the legal nature of human dignity and whether it merits consideration in the prison privatization decision-making process. The first chapter grasps the complexity of the legal concept of human dignity by analyzing how it is approached - its status, roles and content - in notable international and domestic regulations, soft law, sociological and legal theory and Croatian case law. The second chapter discusses the qualitative characteristics of the decision to privatize prisons and argues that it is primarily legal in nature, the importance of agent identity and its effect on conceptual permissibility of prison privatization based on Dorfman and Harel's rationale theory of conceptual limitation to privatizing prisons, and finally, presents the institutional and human rights aspects of prison privatization as discussed by Barak-Erez and Feeley following the 2009 constitutional review decision of the Supreme Court of the State of Israel which held prison privatization to be unconstitutional. The conclusion attempts to formulate an acceptable legal definition

of human dignity, gives a summary of author's opinions, and assesses the influence of presented argumentation on recommendation of prison privatization as long-term or short-term solution for addressing human rights violations with overcrowding as underlying cause.

LEGAL REGULATION ON HANDLING CRIMINALLY ACQUIRED PROPERTY AND ITS IMPACT UPON BUSINESS ENVIRONMENT – THE EXPERIENCE OF LATVIA

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Abstract
The prevailing importance of material values in contemporary society, undoubtedly, influences the nature of crime. At present, the main aim of criminal offences is to gain material benefits. In such conditions, in the majority of criminal cases it is inconceivable that the purpose of criminal proceedings could be reached without effective resolution of material issues of criminal procedure. The article examines the regulation on handling criminally acquired property in the Latvian criminal procedure, as well as assesses the impact of this regulation upon the business environment. I.e., the study provides answers to questions related to protecting the rights of a merchant as a victim, by using the tools envisaged by the Criminal Procedure Law. The study also examines business risks linked to such cases, where law enforcement institutions presume illegal origins of a merchant's property. The research also focuses on implementation of the aforementioned legal instruments in correlation with human rights recognized in the European Union. The article provides an insight into the relevant issues in the Latvian criminal procedure in connection with confiscation of criminally acquired property or returning it to the victim, as well as into Latvia's experience in implementing the Directive 2014/42/EU. Hopefully, the findings expressed in the article will be useful both for the theoreticians and practitioners of criminal procedure and will contribute to international sharing of experience. The following research methods have been used in preparing this article: analysis and synthesis of legal literature, of case law, and regulatory enactments; comparative method, analytical method, inductive and deductive method.

PUNITIVE DAMAGES AND THE EXTENT OF ITS APPLICATION IN THE IRAQI AND ROMANIAN COMPETITION LAWS

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Abstract
With the existence of the Romanian Competition Law No. 21 of 1996 and amendments thereto until 2003 and the formation of the Romanian Council of Competition 2004, and with the issuance of the Competition Law and the prevention of Iraqi monopoly No. 14 of 2010 shows the extent of interest in the competition sector and the market at the level of countries, which worked on international bodies, The World Trade Organization (WTO). Punitive damages are compensations designed to deter those with the intent of cheating or deception to obtain illegal gains. It is necessary to pay attention to the incorporation of such compensation into their texts, in order to ensure the safety of competition, Consumer protection.

EMIGRATION OF CROATIAN WORKFORCE AFTER COUNTRY JOINED THE EU

Assistant professor Anton PETRIČEVIĆ, Ph.D,
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Abstract
The biggest problem Croatia is facing at the moment is mass emigration of its workforce. This situation has several factors in its background, such as: terrible economic situation, inability of employment, lack of perspective for young people, slow, large and inefficient public administration, financial instability, poor standard of living, tax repression, job

insecurity, and insufficient engagement of the State to improve conditions through education reform and better use of available resources of the state. Most common reasons of emigration of our workforce are better job opportunities and better salary, better working and life conditions in the country of immigration, better possibilities for education and specialization, better possibilities of fulfilling ones values, acknowledged status according to effort and devotion, better and safer existence. It is both urgent and necessary to keep the workforce and stop its emigration because without young and perspective people and their creative ideas, there will be lack of development and prosperity in Croatia Methods used in this paper were: method of analysis, method of synthesis method of case study and method of observation Keywords: education reform, lack of employment opportunities, demographic reform, creative ideas of young people, mass emigration Classification: JEL K 31

THE LAW OF COMPETITION IN PORTUGAL - A CRIME OR A MERE MISDEMEANOR?

Dr. Noemia Bessa VILELA, MSc,
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Jose Caramelo GOMES

Abstract
Competition is a public good that supports the proper functioning of the market economy and democracy itself. Obviously, it must be considered an integral part of public law. It is necessary to assess, in terms of their impact on the wellbeing of citizens in general, those that are consumers, as well as the impact of competition on preservation and self-preservation of companies. Competition is the priority public good in a market economy since only through it can the goal of efficiency of affectation and well-being be achieved. From immemorial times, this reality has been, at least, intuitive and its function attributed to the Law. Unlawful competition may, from a legal point of view, invest distinct types, as becomes evident from a geographical and temporal comparison. In our study we address the evolution of the Competition law in Portugal throughout he years, and its implications. We conclude that the non-criminalization of acts that violate the provisions of Competition Law promotes a repetition, as reiterated behavior, since these are highly profitable actions, even in the case of very high pecuniary sanctions.

THE ECONOMIC ACTIVITY OF LOCAL SELF-GOVERNMENT ENTITIES AS PUBLIC ENTITIES IN POLAND – EXCEPTION OR RULE?

Assistant professor Wioleta BARANOWSKA-ZAJĄC,
University of Szczecin, Poland

Abstract
The economic activity of local self-government entities entails considerable controversy in Poland. There is no uniform view among the representatives of judicial doctrine and jurisprudence as to the admissibility of economic activity by local self-government entities, and when accepting the possibility of conducting such activity - as to the characteristics of such activity. The doubts also arouse the scope, object and possible forms of economic activity of local self-government. On the one hand, in the situation where legislator increases the number of public tasks given to self-government to perform, and members of local communities are demanding an increase in the quality of performed tasks, the question of additional sources of income, including possibility of conducting economic activity by local self-government entities, as a way to raise funds, becomes important. On the other hand, the pursuit gainful activity by entities of public administration creates the risk of their focus on profit maximization, and thus pursuit public objectives becoming of secondary importance. Pursuit business activity by local self-government is now permissible in Poland, but it is subject to many limitations. They relate to the nature of tasks that could be carried out within this activity as well as its organizational forms. The purpose of the study is to analyze the legal provisions, which are in force in Polish legal system, aimed at identifying and determination of the conditions for using the possibility of pursuit a business activity by local self-government units and evaluation their impact on the effectiveness of the performance of self-government public tasks.

THE CONSTITUTIONAL CONCEPTS OF THE REFORM TREATY (THE TREATY OF LISBON)

Associate professor Emilian CIONGARU
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Abstract
The Lisbon Treaty also known as the "Reform Treaty" provides only an amendment of the treaties considered as fundamental, namely the Treaty on the European Union and the Treaty on the functioning of the European Union and is the result of the constitutional process triggered by the Laeken Declaration adopted by the European Council. The Lisbon Treaty is still built on the content of the European Constitution from which they eliminated the most controversial provisions, first of all the title of "Constitution" that might produce concern and panic among the European Union population through the symbolic power it contained, and for Romania this new treaty was the first it signed in quality of a Union member state. Even if does not bear the name of European Constitution, the Lisbon Treaty is a European Constitution for the following reasons: first it is a Constitution because it gathers together most of the fundamental elements of the Constitutional Treaty, even if it does not have the structure or the name thereof, and second the treaties after the Lisbon reform have become small constitutions from the operational viewpoint, they develop the functions of a constitution, limit power and organize the operation of the organization.

IMPLICATIONS OF DECEIT, FORGERY AND FRAUD OFFENSES REGARDING THE CIVIL LAWSUITS

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Professor Ileana CONSTANTINESCU
Bucharest University of Economic Studies, Romania

Abstract
The objectives of our study refer to the deceit offense regarding the witness statement in the civil lawsuit through the use of lies for impressing the courthouse, based on forgery and fraud offenses used by the person who offers the witness statement in the civil lawsuit, introduced and used by that person even in the day of judging the criminal lawsuit which is invoked by the plaintiff from the moral damages civil lawsuit, considering that this plaintiff was defendant in a criminal lawsuit where he obtained together with the witness proposed by him in the moral damages civil lawsuit can lead to a wrong solution in the civil lawsuit in case the plaintiff from the civil lawsuit does not realize these aspects in time or the courthouses do not put together the pieces of evidence of the plaintiff from the civil lawsuit. The research methods consist of analyzing some decisions of the court. The results of the study lead to the idea that the criminal complaints regarding some crimes from the civil lawsuit must be solved urgently, because the implications of some crimes such as deceit offense in the witness statement, deceit incitement, forgery and fraud ofenses on one hand and not puting together the pieces of evidence of the plaintiff from a moral damages lawsuit, for example can have very severe repercussions for the plaintiff.

FRAUD MANAGEMENT IN THE ROMANIAN CRIMINAL LAW. DIRECT IMPLICATIONS IN BUSINESS ENVIRONMENT

Assistant professor Ioana RUSU
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Abstract
In this paper we have investigated the fraudulent management offense, taking into account the provisions of the new Criminal Code. In this review, we have insisted on the constitutive content of the offense, the elements of differentiation between the rules in force and those laid down in the Criminal Code of 1969, as well as the transitional situations. We have also highlighted the continuation of the tradition of Romanian law, a tradition which implies the incrimination of this fact starting with the adoption of the first Romanian Criminal code of the modern period, namely the Criminal Code of 1864. We have also insisted upon presenting the implications of this crime in the business environment, emphasizing

the need to prevent and combat this crime more effectively, contributing to increasing mutual trust in the business environment and, implicitly, to increasing confidence in the Romanian state institutions. The novelty elements are represented by the examination carried out in accordance with the new law, as well as the presentation of the judicial practice in the matter. The work is a small part of the criminal law course, the special part to be published at the Editura Universul Juridic at the beginning of next year. This paper may be useful to the business environment, law faculty students, and practitioners in the field.

THE EMBEZZLEMENT OF PUBLIC AUCTIONS IN THE ROMANIAN LAW. THE CONSEQUENCES OF THE OFFENSE IN THE BUSINESS ENVIRONMENT

Assistant professor Bogdan BÎRZU
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Abstract
In the present paper we have proceeded to examine the offense provided in the provisions of art. 246 of Criminal Law (embezzlement of public auctions) in the light of the provisions of the new law. The novelty elements brought by this paper are the examination of the offense according to the regulations of the law in force. Representing a novelty in the Romanian doctrine, examining the offense may be useful first of all for the business environment, students of law faculties, and theoreticians. As it is a new incrimination in the Romanian law, it can also be useful to practitioners in this field. The paper is part of an academic course to be published collectively early next year. The implications of this offense in the business environment are relevant.

SOME CONSIDERATIONS ON DECEIT OFFENSE IN THE ROMANIAN CRIMINAL LAW. IMPLICATIONS IN BUSINESS LAW

Professor Ion RUSU
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Abstract
In the present study we have examined the constitutive content of the fraud offense in the light of the provisions of the new law. Against the backdrop of controversy in doctrine and judicial practice, we have insisted upon mentioning and summarizing the incriminations which in their essence constitute special forms of the crime of deception, such as: insurance fraud, misappropriation of public auctions, illegally obtaining funds and offense stipulated in art.181 of the Law no. 78/2000. Last but not least, we have presented some opinions expressed in the recent doctrine, as well as Decision no. 4/2016 of the CCCJ, the competent body to hear the appeal in the interest of the law. The novelty of the study relates to the examination of the constitutive content of the offense of deceit, with direct reference to doctrine and judicial practice in the matter, references to the offenses that constitute the special forms of this crime, the decision of the Supreme Court, and the implications of this crime in the environment business. The work may be useful for students of law faculties as well as for theoreticians and practitioners of criminal law. This research continues the research in this field, which will be materialized by the publication of a criminal law course, the special part.

THE LEGAL STATUS OF THE DIGITAL CERTIFICATE USED FOR SUBMITTING TAX RETURNS ONLINE, IN ROMANIA

Professor Silvia-Lucia CRISTEA
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Abstract
This article analyses the legal status of the digital certificate in Romania, presenting first the steps a taxpayer has to take to submit online tax returns (section 1), the need to issue a power of attorney to the taxpayer's empowered person in order

to obtain the electronic certificate (section 2), the importance of studying the legal nature of the digital certificate (section 3), why is not to be confused this digital certificate neither with the administrative fiscal act nor with an act of authority (sections 4 and 5), and which are the legal characteristics of the digital certificate as a legal act (in the Conclusions section).

THE RIGHT TO INFORMATION AND THE CAPITAL MARKET

PhD. student Alina POPESCU
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Abstract
The right to information, the citizen's fundamental right, must be regarded as a right whose scope is wider, to the extent of social evolution. More and more often, the need for individual information is observed in the most diverse areas, including the economic field. In my opinion, economic information cannot be approached without reference to information regarding capital markets. The information provided to investors must be up-to-date, real, not likely to distort the natural course of the market or be manipulative or misleading. Citizens need market information as an individual right to information, but society as a whole needs well-informed citizens with a minimal economic and financial culture, in order to develop harmoniously and avoid potential attacks on system stability. A relevant, accurate and current piece of information provides the investor with protection and gives him the opportunity to make informed economic and financial decisions. Also, free movement of capital market information, within the limits of competition rules, provides the guarantee of a stable, fair and risk-free market.

THE RIGHT TO INFORMATION AND THE INFORMATION SOCIETY

PhD. student Alina POPESCU
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Abstract
The study starts from the idea that the citizen's fundamental right to information has new valences through the rapid development of information technology. As more and more activities are currently being deployed in the virtual space, and technology occupies an increasingly important place in social life, it is important that users' right to information be respected, that they are protected against abusive practices, concurrently with the achievement of an honest competitive environment. Correlated with the expansion of new technologies and the use of information in the most diverse areas, without space barriers, it is necessary to guarantee an effective protection of personal data and the right to privacy. Individuals' confidence in the information society is crucial to its development and its evolution in line with European and global trends. The virtual space users need to be properly informed so that they can make informed choices and avoid legal conflicts between service providers and end-users. At the same time, the intense development of business in the virtual environment can be noticed, the economic actors seeing the potential that this space represents for their evolution on the economic and financial markets.

CUSTOMS OFFENSES: NOTION, AWARD CRITERIA FOR DANGEROUS SOCIALMENT FACTS TO THE CATEGORY OF CUSTOMS OFFENSES. COMPARATIVE STUDY

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Customs Inspector, Galati-Giurgiulesti Customs Office

Abstract
In the course of this study, the investigation of customs offenses is attempted in accordance with the legislation of the Republic of Moldova and Romania in terms of the concept, evolution and the normative framework in force. The analysis carried out aims at: defining the concept of customs offense, as well as identifying the criteria on the basis of which a

socially dangerous act is included in the category of customs offenses. Different research methods were used to carry out the study, including: analysis, synthesis, deduction, induction. However, the most used method was comparative considering the specifics of the subject under investigation. The concept of customs offenses, their scope, the limits of assigning socially dangerous acts in the category of customs offenses are strictly dependent on the normative framework of each state. In accordance with the criminal law of the Republic of Moldova or Romania, customs offenses are detrimental acts which may take the form of action or inaction committed intentionally, punishable by criminal penalties committed in the sphere of foreign economic activity in connection with the passage of goods across the customs frontier, the ignorance of customs regulations, facts that affect the values and social relations of the customs activity.

PRE-EXISTING ELEMENTS OF CUSTOMS OFFENSES IN ACCORDANCE WITH THE LEGISLATION OF THE REPUBLIC OF MOLDOVA AND OF ROMANIA

Associate professor Aurel Octavian PASAT, PhD.
State University "Bogdan Petriceicu Haşdeu", Republic of Moldova
Customs Inspector, Galati-Giurgiulesti Customs Office

Abstract
Our scientific approach will include, to a considerable extent, the analysis of smuggling offenses. We will analyze the pre-existing elements of customs offenses in accordance with the legislation of the Republic of Moldova and that of Romania, our focus being on the investigation of the object of customs offenses. The analysis carried out aims at: highlighting the generic legal object and the special legal object of customs offenses. Different research methods were used to carry out the study, including: analysis, synthesis, deduction, induction. However, the most used method was comparative considering the specifics of the subject under investigation. In the customs sphere, the Romanian legislator has incriminated: simple smuggling, skilled smuggling, the use of unrealistic acts and the use of falsified documents. The analysis of smuggling (simple and qualified) will make an incursion both in the legislation of the Republic of Moldova and in Romania; analysis of using false documents and use of forged documents will refer to the rules of the Customs Code of Romania, while the analysis evade customs payments will make use of the Criminal Code rules.

SUSPENSION OF CIVIL SERVANT'S SERVICE RELATIONSHIP UNDER LABOR LAW PROVISIONS

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Individual lawyer, Arad, Romania
Chief of works Radu Nicolae STOIAN
West University „Vasile Goldis" from Arad

Abstract
The article deals with situations in which the provisions of the Labor Code must be used for the suspension of a service report on the initiative of a civil servant for a legitimate personal interest, provided that the regime of legal relations between civil servants and the state or the local public administration is regulated by Law no. . 188/1999 on the Statute of civil servants. We appreciate the decisive importance both for public institutions, civil servants and courts of law, to advance a proposal to regulate the suspension of the employment relationship at the initiative of the civil servant, as from 2010, the provisions of Article 95 (2) of the Law no. 188/1999 on the Civil Servants' Statute, are subject to various interpretations: either as an abrogated article or as an existing article outlined as content on the provision identified in the initial form of the normative act.

REFLECTIONS REGARDING CONDUCT OF INDIVIDUALS THAT CHECK AND SANCTION PLAGIARISM

Associate professor Bujorel FLOREA
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Abstract
The establishment of a general framework for the evaluation of plagiarism, accepted by the majority of those involved in the creation of intellectual works, is the main objective pursued in the present study. Obviously, the author does not propose to definitively outline the limits of such a plagiarism assessment framework, but outlines some criteria and exigencies that characterize it, being aware that only through the contribution of those interested in different spiritual fields can one agree such a standard. The question of the plagiarism, old-fashioned and the punishment of the plagiarists, which is necessary for justice, has a wide range of difficulties of appreciation. This is precisely why the present study was born on the basis of the lack of unanimously accepted criteria for assessing the originality of intellectual creations. The author hopes that his imperfect approach will be welcome and arouse approval and interest. The author believes that in the world of today, the Internet and computer science, where an IT program can show the degree of plagiarism of any literary, artistic or scientific work, the evaluation of the suspect work of plagiarism must be done first and foremost by man, and not by technical equipment, either very sophisticated. The man, endowed with correct thinking, artistic and scientific sense, vocation, modesty, temperament, etc., can control and weigh better than the IT apparatus the plagiarism circumstances and especially, can better determine the applicable sanction. This is why the present study is based on the truth that plagiarism judges, specialists dedicated to intellectual creation, are able to value the criteria of the plagiarism authors, correct their flaws and give them the chance to -and develops the natural vocation.

A VIEW ON THE VAT SPLIT PROCEDURE: THE ESTIMATED EFFECTS OF THE PROPOSAL FOR REGULATION

Professor Mihaela TOFAN
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Abstract
In the context of the recent global financial crisis, the methods to efficiently collect the revenues to the public budget became a constant concern for every government. This is a major concern within the EU too, the member states looking for appropriate regulation to insure the fiscal sustainability. VAT split procedure is one of the proposed means of action and it was anticipated in EU Commission Green Paper on VAT in 2010. The main objective of implementing this new procedure to collect VAT is to reduce and, if possible, to eliminate the gap. In theory, the procedure is estimated to reach its best results in more than 15 years of activity but there are already delays in implementing it. Italy was the first state in the EU to opt for this new procedure of collecting VAT, Romania, Poland and UK are about to follow this trend, but major discussion are ongoing both among academics, practitioners of taxation and politicians. Romanian proposal of regulation for VAT split procedure is strongly criticized, but the goals of the prevision and the EU trend will impose, eventually, this collection mechanism for all the MS.

THE BITCOIN CURRENCY - A NEW INSTRUMENT USED IN CONDUCTING BUSINESS?

PhD. Catalin Cristian SELISTEANU
Law Faculty of Craiova, Romania

Abstract
The Bitcoin „phenomenon" has spread it's wings especially over the past two years, experiencing unprecedented growth and being supported by several companies on the international stage. The result is the possibility of buying goods and services using the Bitcoin currency. But the most important thing is the state support, which at the present time, either

does not exist or is in the moment of granting, requiring time. Bitcoin is a cryptocurrency created and given to users (located in front of a computer connected to the Internet) who solve a special category of mathematical problems. Computers around the world „extract" Bitcoin, competing with each other. This extraction can become quite competitive among users because new Bitcoins are created at a predictable and fixed rate. The more users join the network, the more difficult it becomes to make a profit for each of them. Bitcoin is mainly used in the Hidden Internet - that portion of the Internet that is not accessible to the general public through a regular browser - in the purchasing of illegal goods and services.

CONSIDERATIONS ON THE SUBJECTIVE ASPECT OF CORRUPTION OFFENSES

Associate professor Elisabeta BOȚIAN
Romanian-German University of Sibiu, Romania

Abstract
The group of corruption offenses in the New Criminal Code presents certain changes to the old legislation and to the subjective side of these types of offenses. Accepting and offering bribes can now be done with both direct and indirect intent because the legislator has removed the condition of purpose from the subjective side of the offenses. In this way, the range of acts considered to be illicit acts of bribe was expanded and there is no need to prove the existence of other psychic processes additional to those specific to guilt. It is sufficient for the activities that make up the material element of the facts to be made in connection with certain acts of service. Influence peddling has also been reformulated, and from its content the psychic processes of the purpose that characterized the intention have disappeared, therefore, this offense can be committed with the form of guilt of intent in both its forms: direct or indirect. The only incrimination in the group of corruption offenses that has maintained the essential requirement of the purpose in the content of the offense is the buying of influence, and the psychic processes of purpose are expressed by an equivalent expression, having the meaning of finality. In this sense of finality, the psychic processes of purpose may have several meanings, and in the case of the offense of buying influence, the meaning of expression used by the legislator is to adopt or obtain a certain conduct.

PROCEDURAL INCIDENTS: DISCLAIMER OF THE JUDGMENT IN APPEAL OR IN EXCEPTIONAL REVIEW PROCEDURES

Assistant professor Andreea STOICAN
Bucharest University of Economic Studies, Romania

Abstract
The principle of law of availability also implies the possibility offered by the law-maker for the parties to perform any acts of disposition. As far as the giving up on the judgement is involved, the Civil procedural code applicable today has come up, through art. 406 paragraph 5, with an apparently unsignificant change, but which the case-law demonstrated that can not be ignored, being able to create the premises for the parties' prejudice. As such, the current paper aims to signal the possible consequences of the annulment of the previous court decisions in the case of the giving up on the judgement in the appeal or the other extraordinary remedies, fact which, as previously mentioned through the case-law, can lead to important losses for the unguilty party.

"THE PRESUMPTION OF GUILT" IN THE INVESTIGATION OF TAX EVASION CRIMES

Assistant professor Ramona Mihaela COMAN
"Petru Maior" University of Târgu Mureș, Romania

Abstract
Although it is one of the fundamental principles of the criminal process, whose observance is required at all stages of the trial, and therefore in the criminal prosecution stage as well, the principle of the presumption of innocence is often

"forgotten" or transformed into the "presumption of guilt" when a tax evasion crime is under investigation. The major interest in investigating these offenses is the recovery of the damage, which is why there is a need to find solvable persons who are involved in these activities. Due to the fact that most of the times it is difficult to prove their involvement, in practice one can notice a tendency to prosecute such persons for the simple fact of having purchased products or services from ghost societies. The article presents examples of judicial practice and seeks to argue the mistaken view of criminal investigation bodies in the light of European directives as well as ECJ jurisprudence

ABOUT THE APPLICATION OF THE MORE FAVOURABLE CRIMINAL LAW UNTIL THE FINAL TRIAL OF THE CASE IN SOME COUNTRIES OF THE EUROPEAN UNION

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Abstract
The purpose of this paper is to realize a study regarding the comparison of the penal provisions that uphold the application of the more favorable criminal law until the final judgment of the cause between Romania and France, Italy, Spain and Portugal. The study is realized as result of a doctrine, jurisprudentiale and legal analysis from all the five countries, and the author is proposing to identify not only the similarities but also the differences of applying the more favorable criminal law until final judgment of the cause in Romania and another four European countries. We will identify the definitions of the more favorable law, legal regulations, conditions of application, special application situations, application limits. Special attentions will be paid to the concept de lex tertia, because we need to establish if one of these countries applies the more favorable criminal law on autonomous institutions, meaning if there can be a combination of more legal provision from two or more consecutive penal laws. We will see if Romania rallied to the penal policy of the other European countries but also what do they bring new to the matter.

LEGAL IMPLICATIONS OF ADOPTING BUILDING INFORMATION MODELING (BIM)

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Abstract
Building Information Modeling (BIM) is an innovative approach to design and construct buildings, which has changed the practices within the construction industry. Different categories of stakeholders, such as architects, construction companies, professional associations, academia and even the policymakers, who have defined national policies and strategy documents to facilitate the BIM adoption have been interested to understand BIM and its implications in the business environment. The legal implications of adopting BIM in construction projects represent one of the most recently discussed issues, which is still not fully understood and not followed by concrete risk mitigation actions. The paper intends to underline some of the legal implications of adopting BIM, mainly in relation to procurement and contract strategies. Two relevant case studies are discussed. The paper concludes that it is expected BIM to bring more transparency in the construction project implementation and to enable a more comprehensive audit trail that could result in fewer legal disputes.

CONSIDERATIONS REGARDING SOCIAL INSURANCE IN THE PUBLIC HEALTH SYSTEM

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Abstract
1. Objectives of the study The study aims to analyze the issue of social health insurance in Romania and to provide legislative solutions in combating them. 2. The research methods used are the qualitative research method and the observation method. 3. Results and implications of the study 1. Establish a 2020-2030 Strategy to prevent disease by launching national campaigns for healthy eating, reducing smoking and alcohol consumption, and introducing the color scheme for food. 2. Decentralizing the system, establishing a public-private partnership, increasing the patient's freedom in choosing doctors and services. 3. Limiting the cost of medical care by introducing caps, as well as co-payments. 4. Institutional reform of the public sector in this area. In some opinions, "Experience in other countries consistently suggests that introducing a private funding system would create more problems than it would solve. That is why efforts should be focused rather on institutional reform of the public sector " 5. Developing legislation to make differentiated payments for medical services. 6. Closure of non-accredited hospitals and their privatization. 7. Establishment of private health insurance houses.

LEGAL AND TAX TREATMENT OF THE ASSOCIATIONS FOR THE PARTICIPATION IN TENDERS

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Abstract
The participation of groups of economic operators with common tender to public procurement procedures requires conclusion of association agreements published together with the procurement documents by the contracting authorities. The contracting authorities often require to these temporary associations specific legal forms similar to joint ventures or certain conditions concerning their organisation and functioning. This present study analyses the associations for participation to public tenders in light of public procurement and fiscal legislation trying to asses if these contracts are joint venture agreements, to what extent the clauses comprised in the drafts imposed in the procurement documents are compatible with the public procurement and fiscal laws and if they may be challenged by the economic operators.

ASPECTS OF CRIMINALISTICS TACTICS RELATED TO WITNESS HEARING

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Abstract
The article analyses some aspects related to witness statements, with regard to the actual tactics of hearing witnesses and the hearing of child witnesses. Judicial practice has well shown that giving evidence is the most important phase in the course of the activity carried out by judicial bodies, being the way for determining the facts, for finding the truth in the case referred for settlement. Giving the evidence in a correct and complete way, the value of the administered evidence and its correct and lawful evaluation are decisive for the judicial bodies to come to an intimate belief with regard to the factual reality on which the solution they pronounce should be based, the lawfulness itself of court rulings and other solutions given by the judicial bodies being dependent on these elements. In order to obtain the evidence and make the most of it in a criminal trial, legal activities or operations are necessary to discover it and to present it in a form which is perceptible for the judicial bodies, an aspect which is accomplished by legal means of evidence. Criminal doctrine and judicial practice alike have determined that for finding the truth in a criminal trial, besides the statements made by the suspect or the accused, the statements of the other parties in the trial have an appreciable contribution too. In this context, the contribution of Criminalistics – the science of crime investigation – to establishing the facts in a criminal trial is

especially noticeable with the conclusions of forensic examinations and findings. The study put forward reveals some aspects of criminalistics tactics related to witness hearing (this is an activity which needs to be carefully prepared – the psychologist Milton Cameron, The Art of Listening to the Other) in a criminal trial, as well as that the result of the investigation depends on how the activity of witness hearing is prepared and the compliance with all procedural rules. At the same time, as Criminalistics supports the witness hearing activity, it develops a particular tactical hearing procedure, starting precisely from the psychology of witnesses, because the tactical procedure is nothing but the reflection of a particular form of manifestation of the witness, of a particular lawfulness or psychological peculiarities. As regards the research methodology, the logical method and the quantitative method have been used.

CONSTITUTIONAL REFERENCES RELATED TO THE GUARANTEE OF THE RIGHT OF A PERSON AGGRIEVED BY A PUBLIC AUTHORITY IN ROMANIA

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Abstract
The aim of this piece of research is to analyse the constitutional references of Article 52 of the Constitution of Romania, namely the guarantee of the right of a person aggrieved by a public authority. Therefore, the guarantee of this fundamental rights helps ensure the good administration of the rule of law, the respect for the legitimate rights and interests of Romanian citizens and, implicitly, of Romanian businesses. Good administration concerns the interest of both natural persons and legal persons who are engaged in the economic circuit and whose rights are granted by the fundamental law. Good administration is accomplished by granting 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 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 used to identify the right of a person aggrieved by a public authority in the Romanian Constitutions and in the Constitutions of other states, and the historical method, which was used in the analysis of the historical evolution of the studied field. The logical method served to analyse the current research in the field, while the sociological method helped to study social impact. The quantitative method was used to study the relevant applicable legislation. The results of this research have highlighted the current trends and the need of citizens and economic actors to benefit from good administration by public authorities. The implications of research for ensuring the good administration of citizens, economic agents and implicitly, of the business environment, reveals how important it is to ensure the supreme values, granted by the Constitution, namely the right of a person aggrieved by a public authority, a fundamental right analyzed in this study.

THE BORDER BETWEEN BRIBERY AND SPONSORSHIP OF A MEDIC - PUBLIC SERVANT, IN THE EXERCISE OF HIS DUTIES

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Professor Mihaela ONOFREI
„Alexandru Ioan Cuza" University of Iasi

Abstract
Present paper aims to analyze the situation of a medic, civil servant in the exercise of his duties, who is compelled to ask the patient to pay the provided medical services from his own funds. The economic and social context of Romania over the last ten years, along with Romania's entry into the economic crisis, has led to drastic austerity measures. A major area that has been affected was the medical field in which patients were faced with two situations. On the one hand, in order to benefit from medical services, reimbursed by the Romanian state, they had to be included on waiting lists, and

on the other hand, they had the possibility to sign a sponsorship contract with the medical unit and to pay out of their own funds the medical services they were receiving. Thus, as many people have opted for the sponsorship contract, this situation has come to the attention of anticorruption prosecutors who have considered that signing of a sponsorship contract is a disguised form of bribery of the medic. In the context of the fight against corruption, prosecutors investigated whether the constitutive elements of the bribery offense were met in these conditions. The present study follows the arguments used by lawyers to prove that signing a sponsorship contract between a patient and the medical unit not only cannot have criminal connotations but the most important that the criminal responsibility of the physician involved cannot be attributed.

PUBLIC POLICIES REGARDING PERSONS WITH DISABILITIES

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Abstract
1. Objectives of the study The study aims to analyze public policies regarding people with disabilities. 2. The research methods used are the qualitative research method and the observation method. 3. Results and implications of the study Abuses related to the institutionalization of children with mental disabilities result from the fact that the only person entitled to complain of a violation of their rights is even the legal representative or guardian who has decided to place them in a social or medical center. Thus, a legal framework should be created to set up an independent monitoring mechanism involving civil society, and in particular people with disabilities and the organizations that represent them. Children, and as they continue to become adults, in the short term, in order to diminish suicide attempts, they must be monitored so that the traceability of the integration of persons with disabilities can be determined from the moment of their institutionalization. In the long run, these people with disabilities will integrate and from sustained people will become supporters of social health, unemployment and pension insurance institutions, relevant to the change process.

WHISTLEBLOWER PROTECTION

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Abstract
The importance of prevention in the fight against corruption is indisputable. However, prevention is effective and sustainable if it works, meaning that tools and strategies to achieve this goal should be identified. The regulation of whistleblowers and, in this context, their protection, are part of efforts to identify such instruments. The present study reveals aspects of the evolution of the whistleblower regulation in Romania and the world in an attempt to identify solutions for this tool itself to become effective in preventing corruption.

NEW SPECIFIC TECHNIQUES OF INVESTIGATION FOR THE ECONOMIC OFFENCES

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Abstract
The current paper focuses on the specific techniques of investigation for the economic offences as well as on the scientific results which have as a finality realizing penal trial, namely of finding truth and punishing perpetrators, guilty of committing offences in the economic field. In achieving the results of research, classical methods of gathering evidence, specific for the forensics, as the main ones are used, but, at the same time, it is insisted on the other innovative methods and techniques of comparative research as well as the analysis and synthesis in order to harmonize as much as possible all of the legal instruments the legislator provides the practitioners with on carrying out the purpose they were

implemented for. As the main economic offences the tax evasion, money laundering, counterfeiting, trafficking in treasures, underground economy will be analyzed. In carrying on the current research, certain proposal of de lege ferenda will be enunciated in purpose to improve the legal frame into force in this field.

LEGAL LIABILITY THROUGH THE PRISM OF THE NEW CONCEPTUAL MUTATIONS

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Abstract
The general theory of law deals conventionally with the concept of legal liability, which is rightly considered the basis of the stability of legal relationships in society. The existence of the forms of legal liability is regarded in most of the specialized papers as an accessory of the law branches and their divisions within the positive law system, these papers bringing into question the genesis, the conditions of employment and the ways of manifesting its forms, as well and the consequences on positive law. Compared to the traditional coordinates of the legal liability analysis, it is important to question the conceptual mutations that take place within it as a reflection of the legal inflation phenomenon and the need to adapt the right to the mutations of contemporary social life. The process by which legal liability is revealed by its particular forms, which can occur both within independent branches of law or within new ones, can be circumscribed to the idea that the law has no geometric form - because it is not a macro-body - is not a chemical formula - because it is not a substance - it does not have the biological dimension - because it has no life - it is not affective - because it is not a feeling. Its form is an ideological one, at intellectual level that can not be ascertained by our senses: the right is taken into consideration both when it is built and when it is respected and when it is applied. Undoubtedly, as a result of the dynamics of social life, the specialization of the legal norms governing new social relations, we are witnessing the emergence of new branches of law. The effect of these mutations on forms of legal liability and, by generalization, on the inherent subsystem of legal liability can be defined as juridical parthenogenesis, a new concept that is intended to lead to a redefinition of legal liability. The essence of the phenomenon of parthenogenesis of the forms of legal liability lies in the reflection in the normative dimension of the specificity between the personality and the responsibility as a whole, on the one hand, and on the other hand, in the phenomenon of discharging the legal liability in as many forms as persons express (in law) the human personality.

CONSIDERATIONS ON THE EVOLUTION OF NATURAL LAW FROM THE PERSPECTIVE OF THE CHALLENGES OF CONTEMPORARY SOCIETY

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Abstract
This paper briefly analyzes a new perspective regarding natural law and its effects on the contemporary society, especially from the perspective of the social interaction of legal persons. The present study aims to analyze whether natural law can be divided into two components: one internal and one external, which also can influence and complement one another. Although at first glance it can be considered that legal positivism has a special influence on the normative social system, one should consider more likely that the two general schools of thought - natural law and legal positivism - are complementary and harmonize each other. The legal phenomena that systematically influences the cultural matrix of the system of law can be analyzed from the perspective of the natural law. Natural law is closely linked to the external phenomenology that influences the social normative system and implicitly the system of law, while legal positivism is closer to the formal sources of law. Within the concept of natural law, after a thorough analysis, a new different concept may be envisioned, namely the concept of universal law, which may be different from natural law, although it may have the same sources as the latter. These two concepts can be used as tools for analyzing how people interact within the system of law, especially in the framework of social and economic relations that are established today between legal entities. This paper tries to present the structure and the traits of each of these concepts and their similarities and differences. At the

end of the paper, brief conclusions regarding the effects of these concepts on the legal relations established between various legal entities are presented, as well as the effects that appear because of their interaction.

SPECIAL OR EXTENDED CONFISCATION DURING THE CRIMINAL TRIAL ÎN ROMANIA

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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 provide 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.

TRANSPORT SAFETY AND SECURITY FROM THE PERSPECTIVE OF THE FRENCH TRANSPORT CODE

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Abstract
Given the very different forms and modalities, the modalities and conditions that may be imposed by the passenger's access to the means of transport on the one hand and the variety of procedures that allow the passenger to buy the transport price on the other hand the question is where it starts where the security obligation ends. Some time ago, the Court of Cassation made a distinction between unsubsidized transports for the advance purchase of a travel ticket and the other. For the first time, the case law considers that the transport contract is born when the traveler enters the vehicle and the transport safety obligation is born at that time.

THE CONTRIBUTION OF THE DEONTOLOGICAL RULES TO THE EFFICIENT EXERCISE OF THE RIGHT TO EDUCATION

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Abstract
In this article, we intend to analyze the provisions of the code of ethics in pre-university education in order to identify the effective ways in which this normative act will contribute to the improvement of the Romanian education and how the children will continue to benefit of the absolutely necessary right to an adequate education,ment to prepare them for a decent life as adults, in Romania and anywhere else would choose to live. The Romanian Constitution establishes, in Article 32, the child's right to an education, the first provision referring to mandatory education. Thus, to a certain extent and level, in any civilized state, children must receive free education. Romanian pre-university education is currently facing several problems: the drop in birth rate, which results in a small number of children in schools, drop-out at a young age, a lower number of teachers, etc. From our point of view, a major problem of Romanian educational system refers to the low respect of children towards school, teaching and teachers, the main causes of this situation, probably

consisting of material shortages and the departure of parents abroad in order to be able to support the family and leaving children without proper moral and emotional support. The new draft of the code of ethics for pre-university teachers intends to enrich the Romanian legislation with another code of ethics and also, it tries to solve, at least in part, some of the Romanian' educational system problems. Key words: professional deontology, code of ethics, right to education, human rights and fundamental freedoms.

CONSIDERATIONS ON ADVANCED TECHNOLOGY INTERVENTION IN THE ADMINISTRATION OF JUSTICE

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Abstract
The positive and negative effects of the intervention of advanced computing in social life can be quantified in various ways. An area in which the dispute is increasingly fierce is that of justice. For example - using specialized software to assist the judge in solving the case - not just documenting the solution, but further more - pronouncing the solution itself. In a world where formality and bureaucracy - even specific to judicial activities is increasingly standardized - the role of the human factor in the administration of justice decreases every day. Databases, person and object recognition programs, simulated behavior detection tools have replaced the ager's eye or flair or the investigator's experience. And, in the last time, specialized algorithms and software are emerging that actually apply sanctions. On the other hand, judicial proceedings are being carried out more and more in written form, with "biffs" on some cottages, including the recruitment of magistrates and lawyers, based on a grid test. Can we anticipate the long-term outcome?

PROTECTION OF PUBLIC INTEREST GUARANTEED BY ENVIRONMENTAL INSPECTION AND RELEVANT INSTITUTIONS

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Abstract
Albania's natural environment and resources are vital to its economic success and the health and well-being of its citizens. Environmental crime threatens resources on which it is heavily dependent on the pillars of the Albanian economy and acts as a major obstacle and obstacle as Albania moves towards an efficient economy with resources, employment and safe growth. The greatest challenges in today's environment do not conspire in natural disasters, but in the grave, immoral and inexperienced behavior of man to the environment and its elements. Impotence is another important element of this story that is killing us every day, though it does not seem to touch us with any expected tree, no bird that no longer has to stand, no fish that took the river's river hydroelectric power plant .... Inspection in particular, is an important part of environmental protection, because in my view it is the key to everything, based on the ever-popular popular expression "fear preserves the vineyard". The impotence of environmental crime is one of the most important advantages and methods for preserving environmental elements. Inspection in the entirety of many advantages in other instrument reports as a previously studied, well-defined, non-corroborated inspection is efficient both for the environment and economic efficiency, as it affects the ability to increase revenue publicity, transparency, flexibility, etc. Inspection today is considered to be the only pathway that affects law enforcement by all actors set out in it. It is the only tool that, having the authority to take administrative or criminal measures, directly affects the work and life of the objects subject to inspection. In this context, inspection has been successfully used to address a wide range of environmental crime, including waste disposal, water pollution and air emissions.