SECTION II - PRIVATE LAW

Friday, November 19, 2021

ONLINE ON ZOOM

Keynote speakers:

Lecturer **Simona Gutiu (Chirică),** *Faculty of Law, Bucharest University of Economic Studies*

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

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

THE GOVERNANCE OF GROUPS UNDER ALBANIAN COMPANY LAW: WHAT CAN BE CHANGED?

PhD. Jonida RYSTEMAJ
Faculty of Law, University of Tirana, Albania

Abstract
Corporate groups are an emerging business structure that deserves further elaboration. They are much more encountered in an international context. To reflect this reality, company groups are given special attention in the Albanian company law. The introduction of a detailed regulation for corporate groups was a novelty for the Albanian company law, back in 2008 when it was passed. The experts engaged in drafting the law opted for two categories of company groups which were considered distinct and provided for different legal consequences for each category. This article aims at elaborating governance issues of these groups recognized by the Albanian legislation through an analytical approach of the provisions. First an introduction of the groups and the regulation in the ACL will take place. Then specific considerations as regards governance issues will be further elaborated in order to pinpoint any need for further improvement. Finally, the article concludes with a set of recommendations of what can be changed towards a better organization and governance of groups in Albania.

LEGAL PROBLEMS OF THE USE OF ORPHAN WORKS IN DIGITAL AGE

Associate professor Vira TOKAREVA
Civil Law Department of The National University "Odessa Law Academy", Ukraine
PhD. Iryna DAVYDOVA
Civil Law Department of The National University "Odesa Law Academy", Ukraine
Associate professor Elena ADAMOVA
Civil Law Department of The National University "Odesa Law Academy", Ukraine

Abstract
The aim of this paper is to consider the mechanisms of legalization of use orphan works, based on a comparative analysis of the legal regulation in the United States, the EU and European countries; identify priority ways to reform and to develop proposals for improving copyright law in Ukraine. In the first section the concept of the orphan works and the circumstances which caused emergence of the orphan works are revealed. It has been established that the problem of orphan works mostly concerns works whose authors died and heirs cannot be found. In the second section the models of legalization of orphan works in the United States, Canada, the EU and European countries are analyzed and these interferences formed a proposal for Ukrainian legislation. In the third section the background of development of legislation of orphan works in Ukraine are studied. The necessity to study the legal regulation of the United States, the EU and European countries in light of the recodification of the Civil law of Ukraine and seeking way of its renovation is substantiated. Developing effective mechanisms of using orphan works are stated to become relevant in the process of digitization of libraries' collections and to have gained a new momentum in recent years. Its result has been provided open access to the works on the Internet.

E-COMMERCE AND ITS LIMITS IN THE CONTEXT OF THE CONSUMER PROTECTION: THE CASE OF THE SLOVAK REPUBLIC

Professor **Tomáš PERÁČEK,** PhD.
Comenius University in Bratislava, Faculty of Management, Slovak Republic

Abstract
The COVID-19 pandemic and lockdowns resulted in an unusual increase in electronic commerce not only in the conditions of the Slovak Republic. This fact also causes many unanswered questions in business practice, which bother entrepreneurs in e-commerce, especially in the context of consumer protection. The main goal of the article is to examine the current possibilities of electronic commerce in the conditions of the Slovak Republic and especially its limits in the context of consumer protection as a weaker part. Determining the goal of a scientific studye conceived in this way responds to the current practical problems in the business practice. Due to the nature of the researched topic, we have applied analysis, synthesis as well as comparison of legal regulations in the processing of this issue. However, in addition to the mentioned scientific methods of research, we also used scientific literature, case law and analogy of the law. In our scientific article, we strive for qualified answers to the needs of business practice. In conclusion, we critically point out the application problems we have identified and we proposed legislation.

THE FUNCION OF SECURITY DEPOSIT IN AREA OF THE CZECH TENANCY LAW AND SOME PROBLEMS ASSOCIATED WITH IT

PhD. student Jana MLÝNKOVÁ
Masaryk University Brno, Faculty of law, Czech Republic

Abstract
Security deposit is a special form of securing the landlord's claim against the tenant. This institute is regulated by Section 2254 of Act No. 89/2012 Coll., The Civil Code. Although the rules on certainty may seem to be sufficient and clear to the first impression, after closer examination it is clear that this is not so and that there are a large number of unanswered questions which are mentioned in this paper, for example: Is the statutory maximum amount of security deposit sufficient? Is it possible to count on the security deposit given to the landlord and to supplement the security deposit during the tenancy relationship, if such an arrangement is included in the lease contract? And what about the return of the security deposit? The aim of the paper is to find a solution to the above-mentioned shortcomings of the Czech legislation on the basis of a comparison with the legislation of the Slovak Republic, which for historical reasons is very similar to the Czech legislation.

SOME NOTES ON THE COMMERCIAL CONCESSION CONTRACT

Associate professor Sónia de CARVALHO
Portucalense Infante D. Henrique University, Department of Law
Researcher at IJP - Portucalense Institute for Legal Research, Portugal

Abstract
The concession contract, to which the majority of legal scholars recognize the legal nature of a framework contract, is a commercial contract, which establishes a complex and long lasting contractual relationship, under which the grantor undertakes to sell to the concessionaire, and the latter to buy from him, for resale, a certain quantity of goods, assuming the risk of marketing the goods. The integration of the dealer, who acts on its own behalf and in its own name, in the grantor's network, is ensured by the compliance with certain obligations, relating to commercial policy and promotional and after sales services, under the control and supervision of the grantor. The concession contract started out as a sales contract concluded between the producer and the trader, who acted in his own name and for his own account, characterised by the existence of an exclusivity clause in favour of the latter, provided that he undertook to purchase a certain quantity of products. This negotiating scheme has, however, undergone alterations as a result of the greater integration of the distributor in the network of the licensor, resulting from the complex web of rights and duties that unite the parties, with emphasis on the transformation of the exclusivity clause, hitherto considered a social type element, into one of several possible clauses of the contract. Considering that we are dealing with a legally atypical, but socially typical contract, it is necessary to point out the most relevant clauses of the contract, which are essential to considerer the contract an autonomous category. The supply chain crisis currently experienced worldwide following the Pandemic COVD 19 and the role that this contract can play in the commercial distribution, by allowing the manufacturer to achieve greater efficiency in the distribution of its products, justifies the analysis of the main features of this contract.

DECENT WORK AND DECENT WORKING HOURS IN THE WORLD OF MODERN TECHNOLOGIES

Assistant professor Anton PETRIČEVIĆ
Josip Juraj Strossmayer University of Osijek, Faculty of Law, Republic of Croatia

Abstract
Where human work has been used for centuries, new technologies have been imposed. Systems of generating new information and configurations that help solve problematic issues without human factor interference are imposed to

*us. Is this good for humanity? Some people believe that artificial intelligence will destroy jobs and human labor. Others, in studying history, believe that the stages of job loss were accompanied by the stages of job creation. We are facing a very rapid development of modern technologies today, and at the same time we have a situation where workers 'working hours are getting longer and are more difficult to handle, and we are far from decent working hours today. The method of online research was used in the paper. Basic hypotheses set during the research are: 1. The introduction of modern technologies makes the work easier, working hours become reduced and the work becomes more humane and more dignified. 2.*More dignified work and shorter working hours leads to more stable family relationships. *The purpose is to establish decent working relation and decent working hours. The goal is to protect the worker from hard labor and overtime work.*

AGGRAVATING CIRCUMSTANCES PROVIDED IN ART. 217 'OF THE CRIMINAL CODE OF THE REPUBLIC OF MOLDOVA

PhD. student Carmen – Elena ROȘU
State University of the Republic of Moldova

Abstract
Aggravating circumstances represent data, states, situations, circumstances, qualities, objective and subjective, provided by law, prior, concomitant, or after the commission of the crime, which reveals the increased harmful degree of the crime and/or the person, influencing the realization forms of criminal liability, including the establishment of the category and amount of the criminal punishment. Thus, according to art. 217' para. (3) and (4) CP RM, the liability is aggravated if the offenses specified in par. (1) or (2) of art. 217' are committed in particularly in large proportions by (a) two or more persons; (b) by a person who has attained the age of 18 years with involvement of juveniles; (c) the use of drugs, ethnobotanicals or their analogues, the circulation of which for medicinal purposes is prohibited; (d) using the work position; (e) in the territory of educational institutions, social rehabilitation institutions, penitentiaries, military establishments, places of leisure, places of education, training of minors or youth, other cultural or sporting activities or in the immediate vicinity of them.

LEGAL FRAMEWORK FOR DEVELOPING RENEWABLE PROJECTS IN ROMANIA UNTIL 2030. A REAL ESTATE LEGAL PERSPECTIVE (I)

Lecturer Simona GUȚIU
Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract
Romania has an installed capacity in electrical power production units of 19,581.543 MW. Romania has undertaken under European Green Deal to increase significantly its production capacity until 2030. As per the public available data, Romania's renewable energy contribution to the 2030 EU level target is 30.7% of gross final energy consumption in 2030. The estimated amount of investment is EUR 150 billion for 2021 to 2030 (annually around 7% of current GDP). This investment plan implies developing of many new renewable energy power production capacities. The hereby article offers a brief analysis of the main legal institution in real estate to be applied in developing such renewable energy projects. Depending on the type of the real estate property where the renewable energy projects will be developed on, there are several significant issues that any investor should consider before commencing the development of its projects.

HOW DOES THE GDPR IMPACTS REAL ESTATE TRANSACTIONS

Lecturer Simona GUȚIU
Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract
Any processing of personal data should be lawful and fair. GDPR provides rules relating to the protection of natural persons with regard to the processing of personal data and rules relating to the free movement of personal data. In is well known that a real estate transaction (regardless if it is an asset or a share deal), implies processing some personal data. This is applicable also for the legal persons involved in real estate transaction. This article aims to answer to some relevant questions related to the restrictions imposed by the GDPR in the context of a real estate transaction of whatsoever type.

NEW RESTRICTIONS THAT MAY IMPACT THE DEVELOPMENT OF THE RENEWABLE ENERGY PROJECTS

Lecturer Simona GUȚIU
Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract
*It is notorious that the new subventions from which will benefit also Romania (PNNR) triggered a significant interest for the investor who intend to invest in this renewable energy field. One of the important milestones of such project is securing the land. In the previous periods during which similar investments have been done, the acquisition of such land was a feasible economic business model for the investors. This meanly due the low price of the agricultural land located outside the buildable areas in Romania. Meanwhile, this business model seems to be quite difficult to be replicated again due to some new legislative amendments enacted by Romania. On one side, these make such acquisition of such land very complicated and, on the other side, the procedure takes very long time and it does not give any guarantee at its end, mainly due to the risk of competing with the other legal preemptors. An alternative solution would be to find other legal means to secure the target land. The present article presents the details of the preemption procedure provided under Law 17/2014 on the regulations regarding the sale and purchase of agricultural land outside buildable areas and for the amendment of Law No. 268/2001 on the privatisation of companies administering the State's publicly and privately owned agricultural land and for the creation of the Agency for the State's Domain ("**Law 17**").*

BUSINESS LAW: COLLABORATIVE ECONOMY VS PARTICIPATORY ECONOMY IN THE DIGITAL AGE

Lecturer Nicolae PANĂ
Postdoctoral researcher at the Bucharest University of Economic Studies, Romania

Abstract
The general objective of the postdoctoral paper is to develop a multidisciplinary and cross-sectional study to highlight the role of artificial intelligence in the globalization of democracy and the opportunities offered by technological progress related to the legal phenomenon as a matter of fact. At the same time, the study includes an analysis of the risks to which enterprises and public authorities are subjected in the context of using new technologies and the impact that legal vulnerabilities may have on the calculation of management risks reported through artificial intelligence applications. This article is an integral part of the author's research in the postdoctoral program within ASE Bucharest - Faculty of Law and is focused on the fact that the collaborative economy and participatory economy are major challenges of democracy in general and participatory democracy. Following the analysis of these two concepts, we tried to emphasize the importance of digital processes in the process of globalization of democracy. The author used for this study among the usual research methods, the empirical approach corroborated with the historical approach that underlined the practical relevance of the theses proposed by well-known authors

in the field. Among the results and implications, we mention the dissemination of knowledge of concepts and their analysis to the academic community and beyond, and the study can be useful in calibrating and improving management processes both in private/joint ventures and in local and central public authorities.

THE RIGHT OF ARTIFICIAL INTELLIGENCE IN RELATION TO THE DIGITAL ECONOMY

Lecturer Bogdan Manole DECEBAL
"1 DECEMBRIE 1918" University of ALBA IULIA

Abstract
Artificial intelligence is ubiquitous in human life constantly on multiple levels (professional, social, economic, etc.). In addition to the benefits of using software and hardware equipment at the scale of the digital economy, there are a number of non-compliances. Disputes are complex. The civil liability is attracted by the responsibility of the content creators of the programs, the responsibility of the designers and builders of the machines set in motion by the computer programs, the developers of robotic solutions, the traders and the users/owners. The question is: Is the current legislation sufficient to meet the rights and obligations arising from acts and deeds of trade mediated by artificial intelligence? How do we adapt the classical rule of law to the challenges of artificial intelligence?

CONTEMPORARY PARADIGMS OF LABOR MIGRATION AND THE SOLUTION OF PARENTAL AUTHORITY DELEGATION

Lecturer Mirela Paula COSTACHE
„Dunarea de Jos" University of Galati, Romania
Lecturer Valentina CORNEA
„Dunarea de Jos" University of Galati, Romania
Associate professor Nora Andreea DAGHIE
„Dunarea de Jos" University of Galati, Romania

Abstract
Closely related to the very quality of being European Union citizens, the movement of people and labor migration is significant from Romania to other EU countries. Being a complex process, the labor migration determines a chain of effects, involving both positive aspects (economic, social, cultural or relevant to the labor market) as well as negative, unfortunate and unintended, especially for families and children. Although the parents' choice to work abroad is based on a criterion related to the level of economic development of the family, which meets the legal imperative that any decision must respect the principle of best interests of the child, the imminent risk factor generated by this choice leads to serious vulnerabilities and problems regarding a judicious and real protection of children's rights in our country. Numerous studies and statistics published at national level have determined, on one hand, the need of a more active involvement of the local and central public administration authorities in order to establish the actual dimensions of this phenomenon and, on the other hand, the necessity of establishing an express alternative protection framework for these abandoned children, which are now, in many cases, in the random care of people, other than their parents. Given this general context, this study identifies and analyzes the extent to which the current legislative framework on the situation of children whose parents have moved abroad in order to work is applicable or not. We will also present our opinion on the procedure of delegating parental authority by parents in the situation mentioned above and the efficiency of other alternative care measures, and see if they meet the requirements established by the principle of the best interests of the child.
Acknowledgment: *This paper is financed from the funds of the project carried out by the University "Dunărea de Jos" from Galati with the title: "Society based on democracy and common values", financing contract no. RF 3638/30.09.2021*

PROVISIONAL MEASURES CONCERNING SECURITY FOR COSTS AND SECURITY FOR CLAIM IN INTERNATIONAL COMMERCIAL ARIBTRATION

PhD. student Sofia COZAC
Bucharest University of Economic Studies, Faculty of Law, Romania

Abstract
This paper is an analysis from a theoretical and case law perspective of the admissibility conditions for interim measures for security of arbitration costs and for security of claim. These types of interim measures belong to the category of interim measures that are less common in arbitral practice. However, according to recent statistics, applications for interim measures have increased exponentially in recent years. It is therefore important that the rules governing them are well-known by both parties as well as arbitrators, so that they can be correctly used in these situations. The major benefit is that the party requesting such measures will be protected from the possible insolvency of the other party. In other words, a party making unmeritorious claims who is also in a precarious financial situation could be discouraged by such a measure from pursuing possible bad faith claims. However, arbitral tribunals should carefully weigh the granting of such measures in order not to financially block the party initiating arbitral proceedings who may also be in a precarious financial situation due to the damaging actions of the party requesting such measures. Such a measure could amount to a denial of justice in international law, preventing the claimant's access to courts. What is essential in such a claim is for the arbitral tribunals to carry out detailed analysis, by balancing the interests of both parties in an attempt not to block the claimant's access to justice. This is why these types of requests are very rarely admitted, and only for sound reasons, as we will further demonstrate in the upcoming lines.

CONSIDERATIONS ON THE ACQUISITION OF OWNERSHIP RIGHTS OVER THE ASSETS OF THE COMPANY DEREGISTERED BY THE SOLE SHAREHOLDER, FOREIGN CITIZEN BELONGING TO A THIRD STATE

Lecturer Cristina COJOCARU
Bucharest University of Economic Studies, Faculty of Law, Romania

Abstract
The dissolution and liquidation of a company always has consequences in terms of its assets. After the satisfaction of the company's creditors and the payment of its debts, the remaining assets belong to the shareholders, according to the relevant legislation. However, the case where the partner is a foreign national of a third country, not a Member State of the European Union, and the assets left after the deregistration of the company are land, is a specific situation that has been analyzed by the High Court of Cassation and Justice in a recent case. Although the legislation applicable to companies recognizes the right of shareholders over the assets remaining after the deregistration of a company, the situation of the lands is particular, considering the overriding applicable constitutional provisions, as well as the treaties to which Romania is a party. The existence of reciprocity in the matter of acquiring the right of ownership over land is essential and relevant in an action for establishing the right to property, even for a foreign citizen who has the quality of shareholder in a company established on the Romanian territory.

UNPERMITTED CONSTRUCTION WORKS NO LONGER MAKE TITLE REGISTRATION IMPOSSIBLE

Attorney at Law Mădălina MITAN
Bucharest Bar Association, Romania

Abstract
The year 2020 brought new legal developments in the constructions sector, clarifying certain practical aspects regarding unpermitted construction works . Introduced by Law no. 7/2020 amending Law no. 50/1991, these measures streamline the owners' possibility to register with the land book their title over buildings erected without a building permit. The changes impact unpermitted new buildings, as well as unpermitted construction works aimed at the consolidation, modification, extension, rehabilitation of existing buildings, for which a building permit is mandatory. Until Law no. 7/2020 entered into force, there were no legal provisions which allowed the owner of a building to register with the land book its title over the building erected without a building permit, except those buildings erected before August 1, 2001, which benefited from a derogatory regime . The only way was to restore compliance with the legal provisions and to obtain an actual building permit for the building. The amendment of the urbanism legislation appeared as a necessity, following an extremely large number of owners who filed court actions in order to obtain proof of ownership through artificial real estate accession actions and to register their title over the buildings, erected with-out a building permit, with the land book based on this court ruling.

CURRENT ISSUES RELATED TO THE TAXATION OF TRANSACTIONS WITH FARMLAND LOCATED OUTSIDE THE BUILT-UP AREA

Attorney at Law Mădălina MITAN
Bucharest Bar Association, Romania

Abstract
Law No. 17/2014 on the regulations regarding the sale and purchase of agricultural land outside buildable areas and for the amendment of Law No. 268/2001 on the privatisation of companies administering the State's publicly and privately owned agricultural land and for the creation of the Agency for the State's Domain ("Law 17") , as amended by way of Law no. 175/2020 for the amendment and completion of Law 17 ("Law 175") generated uncertainty on the agricultural real estate market.

SOME CONSIDERATIONS ON THE PERIODIC OWNERSHIP

Lecturer Ana-Maria LUPULESCU
Bucharest University of Economic Studies, Faculty of Law, Romania

Abstract
Under the previous legal regulation, periodic ownership had generated long and, most often, controversial discussions in the juridical literature. As a result, the Civil Code currently in force recognizes the existence of periodic ownership as a case of forced co-ownership, while establishing the basis for its creation, the rights and obligations of co-owners, as well as the ways to terminate this form of forced co-ownership (art. 687-692 Civil Code), even if it is regulated, inexplicably, in a separate chapter of the Civil Code, and not in the section dedicated to forced co-ownership. Unlike other cases of forced co-ownership, periodic ownership has a number of specific features, from several points of view, such as the criterion for determining the extent of the right belonging to each co-owner, its legal content or its exercise. For these reasons, we believe that a critical analysis of the applicable legal regulation in the field of periodic ownership could be relevant and useful both for theoreticians of law, but also for practitioners.

TRANSLATION OF ARBITRAL AWARDS IN THE PROCEDURE FOR RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS. CONDITIONS AND ASSUMPTIONS

Professor Crenguța LEAUA
Bucharest University of Economic Studies, Faculty of Law, Romania
PhD. student Radu-Mihai NECULA
Doctoral School of Law, Bucharest University of Economic Studies, Romania

Abstract
The article aims to analyze the way in which the regulation of the plaintiff's possibility to submit the certified translation for conformity of the foreign arbitral award responds to the legislative desideratum to facilitate the recognition and enforcement of foreign arbitral awards in Romania. It is approached the hypothesis in which the defendant disputes the accuracy of the translation or the ex officio court considers that the translation submitted to the case file presents certain ambiguities. In this case, the question arises as to whether it is necessary to submit a translation by an authorized translator to the case file or whether it is sufficient in that case to submit a translation by a party. The article also examines whether or not, with regard to the translation of the foreign arbitration award, the provisions of the Code of Civil Procedure are more favorable or not than the provisions of the New York Convention (1958).

REPARATION OF DAMAGE IN CASE OF NON-EXECUTION OR IMPROPER EXECUTION OF THE OBLIGATION TO INFORM IN THE MEDICAL FIELD

Associate professor Cornelia MUNTEANU
„Lucian Blaga" University of Sibiu, Faculty of Law, Romania
Assistant professor Raluca Ștefania LAZĂR
„Lucian Blaga" University of Sibiu, Faculty of Law, Romania

Abstract
The Romanian legislator provided both the patient's right to be informed information and the correlative obligation of the medical staff to inform the patient. Information is an autonomous obligation but also prior to any method of prevention, diagnosis and treatment for the patient. Therefore, the physician, or medical staff, should seek and receive the patient's express consent only after he or she has received adequate information about the purpose and nature of the investigation, treatment or intervention, and about the foreseeable consequences and risks generally accepted by the medical society. However, when this obligation to inform is not performed or is improperly performed, the doctor is liable for the damage resulting from the loss of the chance.

A POINT OF VIEW ON THE DIVISION OF PROPERTY IN THE CATEGORY OF FURNITURE AND HOUSEHOLD ITEMS AFFECTED BY THE COMMON USE OF THE SPOUSES - SPECIAL RIGHT OF LEGAL INHERITANCE OF THE SURVIVING SPOUSE

PhD. student Denise Cătălina MARTALOG
Doctoral School of Law, Bucharest University of Economic Studies, Romania

Abstract
This study aims to capture issues related to the surviving spouse's special right of inheritance over furniture and household items affected by the common use of the spouses. The origin of the subject is art. 974 Civil Code, which establishes, under certain conditions, a special right of inheritance in favor of the surviving spouse over furniture and household objects affected by the common use of the spouses. Although the existence of this right dates back more than six decades, the provisions of the Civil Code, as we will see in the analysis we have undertaken, are not

able to provide a solution for all practical situations, which fall under its scope. In this regard, we sought to, by interpreting the relevant provisions, provide a coherent solution for the equitable distribution of goods belonging to the analyzed category. In the elaboration of the study we will highlight the following: general aspects, granting conditions, legal nature, the way of dividing furniture and household items affected by the common use of spouses, conclusions.

MATTERS CONCERNING MULTIPLE OFFICE-HOLDING IN LIGHT OF THE CJEU JUDGMENT IN CASE C-585/19, ACADEMIA DE STUDII ECONOMICE BUCUREȘTI

Assistant professor Mihaela Emilia MARICA
Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract
In the field of labour law, we are currently witnessing a development in the case law of the Court of Justice of the European Union concerning multiple office-holding with the same employer, which is changing the framework of the regulations and practices related to employment relationships at national level. The CJEU's judgment in Case C-585/19 established as a matter of principle that the mechanism for determining the daily rest period for workers who have concluded several contracts of employment with the same employer is to be determined by reference to the total number of contracts - irrespective of how high the number of contracts concluded with the same employer is - and not by reference to each contract individually. Therefore, we will make an attempt at analysing the effect of this ruling at national level, by reference to the specific provisions of the current Labour Code regulations which, in some cases, enshrine differences of nuance and different perspectives from those established by Directive 2003/88/EC concerning certain aspects of the organisation of working time.

RESTRICTIONS ON THE SALE OF AGRICULTURAL LAND. CONTROVERSIES NATIONAL LAW - UNION LAW

PhD. student Gabriela TEODORU
Bucharest University of Economic Studies, Romania

Abstract
Each nation has developed its own system of regulation on the ownership, use and movement of agricultural land to ensure the most beneficial use of land. However, Member States must ensure that national regulations do not conflict with European law. Restrictive measures for the acquisition of agricultural land were taken by some Member States at the end of the transitional period during which the Accession Treaties allowed EU investors to be restricted from buying agricultural land in these countries. It is mandatory to analyze to what extent some of these regulations violate fundamental EU principles, such as the free movement of capital and non-discrimination on grounds of nationality, in order not to distort the business environment and to ensure equal treatment before the law for all EU citizens. The assessment of the proportionality and non-discriminatory nature of these regulations requires a good knowledge of the practical effects that these normative acts will have. For this reason, it is appropriate that in the next period legal professionals notice all the difficulties that will appear in the process of applying these regulations as well as the practical manner in which their application is likely to lead to the achievement of the objectives assumed by the legislator. Certainly, sooner or later the CJEU will be called upon to rule on the compatibility of these regulations with Union law and the research undertaken during this period will be used for the correct assessment of the impact of these new laws.

INFLUENCERS: THE PATH FROM CONSUMERS TO PROFESSIONALS

Phd. student Aura-Elena AMIRONESEI
'Alexandru Ioan Cuza' University of Iasi, Romania

Abstract
The concept of 'influencer' stands at the confluence of law, economy, marketing, sociology and psychology, being in a continuous grinding, generated by the development of social media tools and the diversification of the activities that can be carried out on social media. The influencer has crystallized his presence within the virtual environment, as he started to use social media from the position of a consumer. At the moment, he evolved into an entity that shirks the national imperative legal provisions and has a series of attributes which cannot characterise any other existing and conceptualised entity. The uniqueness of the influencer, along with his constant developing characteristics, have led to several difficulties in the process of regulating his activity. Nevertheless, the time that has passed since their emergence on the market is more than sufficient for providing the possibility of describing the influencers and confining them within a legal regime. Our analysis focuses on the compatibility between the status of a professional, as it is regulated in the Romanian law, and the status of influencer. Then, we will briefly discuss the possible consequences, determined by the compatibility, on the activity of the influencer and on his digital content.

DATA PROTECTION IN THE CONTEXT OF EMPLOYEES' PERFORMANCE APPRAISAL

PhD. student Ioana Cristina NEAGOE-DINIȚĂ
Bucharest University of Economic Studies, Law Doctoral School, Romania

Abstract
By this study we propose to determine what are the conditions and limits of the collection and processing of personal data in the activity of professional evaluation of employees. Personal data are collected and processed in the context of employment relations also for the purpose of the appraisal of employees' professional activity. The monitoring of the employees' activity aims at evaluating the accomplishment of the specific responsibilities of the position, as well as the fulfillment of the individual and/or team goals. A discussion on personal data protection aims at the very analysis of the balance between the legitimate interests of employers in collecting and processing employees' data and the reasonable expectations of employees when it comes to privacy. Facilities allowing real-time access of the employer to employee's location data via smart devices, that is considered less visible to employees, applications that record the time and pace of work, the facial expressions and gestures of employees provide more than a process diagnosis, but also the diagnosis and prediction of behaviors, automatically generating profiling.

SUBSTANTIAL AND PROCEDURAL RULES IN THE PERSPECTIVE OF DIRECTIVE 2019/1023 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PREVENTIVE RESTRUCTURING FRAMEWORKS

Lecturer Cristian DRĂGHICI
"Titu Maiorescu" University of Bucharest
Târgu-Jiu Faculty of Law and Economic Sciences, Romania

Abstract
Since 2011, a series of measures have been adopted by European Union, with the initial purpose to harmonizing of the very specific aspects of substantial law of insolvency, including restructuring, but also regarding the company law. The enforcement of Regulation (EU) 2015/848 on insolvency proceedings aimed solving the conflicts of jurisdiction in cross-border insolvency proceedings and ensuring the recognition of insolvency decisions on the territory of the Union. However, the Regulation did not seek to harmonize the substantial law of insolvency in the Member States. Even though in some Member States, including our country, the Commission's Recommendation was received as a useful proposal to undertake insolvency reforms (adoption of Law 85/2014 regarding the insolvency and insolvency prevention procedures in Romania), it did not succeed in generating

uniform changes in all Member States to facilitate the rescue of companies in financial difficulty and to enable entrepreneurs to benefit from a second chance. The Recommendation did not have the expected effects because its partial implementation, even at the level of countries where real reforms have been made regarding the insolvency law. In this context, this study aims at an analysis of insolvency prevention procedures in our country, reported to the Directive of the European Parliament and of the Council, on preventive restructuring frameworks.

BOOK X ("TRUSTS") OF THE DRAFT COMMON FRAME OF REFERENCE (DCFR): SUBJECT OF DOCTRINAL DISCUSSIONS AND MODEL OF INSPIRATION FOR THE LEGISLATOR OF THE REPUBLIC OF MOLDOVA

PhD. student Irina DIGORI
State University of Moldova, Republic of Moldova

Abstract
The Draft Common Frame of Reference (DCFR) project is a comprehensive work to harmonize the rules of private law in the European area. Although it has not gained legal force at European level, the project has undeniable value for the development of private law and can serve as a model for legislators in different states. This has already happened in the case of modernization of the Civil Code of the Republic of Moldova. For the matter of trusts, in DCFR was allocated a separate book - Book X ("Trusts"), which was the basis for the regulation of the institution "trust" in the Civil Code of the Republic of Moldova. The purpose of this article is to analyze the assessments and criticisms that have been brought to Book X of DCFR, but also to assess the extent to which the legislator of the Republic of Moldova has followed the model of these rules. Thus, the discussions in the doctrine regarding the strengths and weaknesses of Book X are revealed, the sources of inspiration of the DCFR authors are analyzed and the way in which the institution of trust in the Civil Code of the Republic of Moldova takes over the DCFR trust model is presented. Some comparative observations are also made with reference to the trust in the Romanian Civil Code.

PERSPECTIVES OF THE JOINT VENTURE AGREEMENT ON BUSINESS LAW

PhD. student George-Bogdan IONIȚĂ
Bucharest University of Economic Studies, Romania

Abstract
The present research aims to objectively analyze the applicability of the joint venture agreement in the business sphere. Determining the need to use such a legal mechanism in specific contractual relations is an important starting point in order to present the specific elements but also the mechanism of its operation. Thus, we will proceed to the analysis of the current regulation of the Civil Code as well as the practical applicability of this legal mechanism in various fields of law. In carrying out this research, works from the current specialized doctrine as well as current judicial practice were used.

CURRENT ISSUES REGARDING THE EXERCISE OF THE RIGHT TO STRIKE IN THE MEMBER STATES OF THE EUROPEAN UNION

Lecturer Radu Ștefan PĂTRU
Bucharest University of Economic Studies, Faculty of Law, Romania

Abstract
The collective rights of workers are in a stage of adaptation to the new social, technological and legal realities. The right to strike, in its capacity as a fundamental right of employees, is not regulated by the legislation of the European Union, its regulation being left exclusively to the member states. This study will reveal the relevant aspects of regulation and exercise of the right to strike in the member states of the European Union, taking into account the current economic and health situation. The

conclusions will outline the situation of the exercise and the perspectives of one of the most important collective rights of the workers in the space of the European Union.