



INTERNATIONAL CONFERENCE:

**“PERSPECTIVES OF BUSINESS LAW
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November 8, 2019



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Society of Juridical and Administrative Sciences

SECTION I - PUBLIC LAW

Friday, November 8, 2019

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

Keynote speakers:

- Associate professor **Cătălin-Silviu Săraru**, Bucharest University of Economic Studies
- Lecturer **Adriana Moțatu**, Bucharest University of Economic Studies
- Lecturer **Radu Pătru**, Bucharest University of Economic Studies

! Each paper will be presented within 15 minutes

! Fiecare lucrare va fi prezentată în maxim 15 minute

NOISE POLLUTION IN ALBANIA TOWARD EUROPEAN STANDARDS

Lecturer Stela MECAJ

"Ismail Qemali" University, Vlora, Albania

Abstract

Noise pollution is the disturbing noise with a harmful impact on the activity of human or animal life. Inconvenience from noise is a global phenomenon, which generates a feeling of displeasure associated with any agent or condition, known or believed by an individual or group of individuals, adversely affect them. The health impacts of environmental noise are a growing concern for the general public as well as for policymakers in Europe. Unwanted noise can damage psychological health, can cause hypertension, high levels of stress, hearing loss, sleep disturbances and other harmful effects. Albania ranks among countries with the highest noise pollution in Europe. Every citizen has the right to be protected from the harmful effects of environmental noise. The institutional responsibilities for disciplining noise-generating activities are related to the ministry or authority responsible for licensing. The protection applies to noise to which humans are exposed to the environment where they are, in a residential area, on the premises of public institutions, public parks, outdoor, children's institutions, medical institutions, educational, cultural, religious and similar to them. The purpose of this paper is to analyze the legal, administrative and organizational measures taken to manage environmental noise in Albania, as well as to comply with the requirements of the EU Basic Directive and other relevant directives, identifying problems related to this sector. The methods used to carry out this paper are descriptive, analytical, and comparative.



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**EXPERIENCE OF BORDER GUARD UNITS OF THE LEADING COUNTRIES IN COUNTERING TERRORISM
AND PROSPECTS FOR ITS IMPLEMENTATION BY THE STATE BORDER GUARD SERVICE OF UKRAINE**

PhD. Roman LIASHUK

National Academy of the State Border Guard Service of Ukraine, Ukraine

PhD. Valeriy VYCHAVKA

National Academy of the State Border Guard Service of Ukraine, Ukraine

Abstract

The article reveals the results of the study of experience of border guard units of the world's leading countries on combating terrorism and formulation of the prospects of its implementation in the State Border Guard Service of Ukraine. The research was carried out using the methods of legal comparative studies, that is, by comparing the legal support of counter-terrorism units of the state border protection in the leading countries of the world and Ukraine. Based on this, proposals for the improvement of anti-terrorism bodies of the State Border Guard Service of Ukraine have been formulated. Ukraine should use the foreign experience in this sphere, namely: create anti-terrorism legislation, which is accurate, clear, addressing real threats; to recognize all terrorist acts as criminal; define the system of bodies engaged in combating terrorism, including border guard authorities, giving them sufficient competence; assign the bodies of the State Border Guard Service of Ukraine anti-terrorism functions; interact with the border guard agencies of different countries in the context of counter-terrorism activities and exchange of information; apply the latest technical and software developments with investigation and identification of terrorists and means of terror; strengthen anti-terrorist activities during border control.

**NEW TRENDS IN MULTI-FACED CORRUPTION,
A CONTINUING OBSTACLE FOR FAIR BUSINESS
IN BULGARIA: OUR RESPONSE**

Professor Dobrinka CHANKOVA

Faculty of Law and History, South-West University- Blagoevgrad, Bulgaria

Abstract

The focus of this paper is the corruption in economic and business relations in Bulgaria and the registered new trends. This type of corruption impedes economic development, causing distortions and inefficiencies, hence the necessity of an adequate response. The current meta-analysis of the available literature and the researched practice in a chronological and structured way is trying to explore the latest developments of the theory, legislation, institutional decisions and social attitude towards corruption and to present new approaches and ideas for a solution to the problem. Special attention is paid to the relatively new phenomenon "private-to-private" corruption, the new Bulgarian Act on Counteracting Corruption and on Seizure of Illegally Acquired Property 2018 and the best practices for fighting corruption and investigating fraud with EU funds. Some extra proposals for improvement of business climate are offered with a recommendation for probation. If all that is successful, it could be extrapolated in other fields, countries, etc.

COMPETITION LAW AND THE EUROPEAN INTEGRATION

PhD. Noémia BESSA VILELA

Universidade Portucalense Infante D. Henrique, Porto, Portugal

Professor **José Caramelo GOMES**

Universidade Portucalense Infante D. Henrique, Porto, Portugal

Abstract

Competition Law has been at the heart of European integration ever since the first treaties came into force. It was shaped as a ordoliberal policy meant to foster competition among undertakings in a compartmented market aimed to become an integrated market. Hence, its major goal had to be to promote market integration and, as a consequence, to promote market efficiency and ultimately, as a consequence of the former, better resources allocation. The task of integrating national markets proved to be a



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never ending one. Any time the Common market expands, there is some sort of reset to the achievements, and Competition policy has hardly evolved in its goals. Moreover, it's quite clear that EU Competition law has evolved to a cat and mouse game between undertakings and competition authorities, becoming more and more complex and, to some extent, inefficient and unable to promote an efficient resources allocation and an wellbeing economics.

**THE LEGAL NATURE OF THE INDIVIDUAL EMPLOYMENT CONTRACT IN THE SPIRIT OF KOSOVO'S EU
INTEGRATION**

Professor Avdullah Robaj
University "Haxhi Zeka" in Peja, Kosovo

Abstract

As a legal notion, freedom of work and the right to work are respectively the freedom and the right to work or not to work. This thesis is closely related to the action rule of the labour market supply and demand law. Kosovo, on national level, has promulgated a number of laws deriving from labour law, adapting them to international laws and European Union standards. This approach of Kosovo has to do more with its needs and aspirations to join international organizations. The purpose of this paper is the research through statistical data and facts published in the annual reports of state bodies and non-governmental organizations on the practical implementation of the EU and the International Labour Organization labour legislation and standards in the Republic of Kosovo. Empirical character research findings have concluded that labour rights violations in Kosovo are evident and widespread both in the public and private sector, without exception, and these labour rights violations continue.

**DIVISION OF OFFENCES CARRIED OUT ON HUMAN CORPSES DUE TO THEIR STATUTORY OBJECT OF
PROTECTION**

PhD. student Michal NAJMAN
Faculty of Law and Administration, University of Łódź, Poland

Abstract

The purpose of the article is to demonstrate the lack of uniformity in determining the subject of protection of crimes performed on human corpses or their resting place. The conclusions were drawn from the analysis of 48 penal codes, including 15 European, 12 Asian, 9 African and 11 American. It has been shown that the investigated offenses do not constitute a homogeneous group due to the statutory subject of protection. An attempt was also made to answer the question whether non-legal factors, such as religion, social development, economic development or the level of democratization in selected countries have an impact on the definition of the subject of protection of given crimes.

**COMPARATIVE ANALYSIS OF PERSONAL DATA CONCEPT AND PROTECTION IN COURSE OF BORDER
PROCEDURES (UKRAINE, EUROPEAN UNION)**

PhD. student Iryna KUSHNIR
The National Academy of the Border Guard Service of Ukraine, Ukraine

Abstract

The article reveals the results of study on personal data concept, volume and protection, taking into consideration the execution of border procedures. It is based on national Ukrainian and European Union legislation, as well as legal mechanisms for the protection of personal data in the activities of the European Border and Coast Guard Agency (Frontex). The purpose of such research is substantiated by the relevance of establishing the volume of personal data of persons crossing the state border and their protection in the activities of the State Border Guard Service of Ukraine, the need to improve the circulation of such information based on the practice of the border guard agencies of the European Union. The main methods used during the study were analysis and comparison, which made it possible to formulate proposals that are favourable for the development of the



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Ukrainian institute of personal data (regulation and protection) in course of border procedures. The implementation of the proposed measures of both legal and organizational character will enhance the protection level of information rights of persons crossing the state border of Ukraine, will enable to improve the processing and differentiation of personal data by officials of the State Border Guard Service of Ukraine, and to bring the execution of border procedures closer to European standards.

WATER GOVERNANCE

Professor German MARTINEZ PRATS

Universidad Juarez Autonoma de Tabasco, Mexico

PhD. Francisca Silva HERNANDEZ

Universidad Juarez Autonoma de Tabasco, Mexico

Abstract

Water governance presupposes the factors of effectiveness, efficiency, trust and participation, however, there are deficiencies in this regard which do not guarantee the exercise of water governance and policy. This contribution investigates the lines of action established to carry out governance and water policy in a non-hierarchical but horizontal manner. The forms of participation in the exercise of governance are analyzed and described qualitatively. The result allows water governance and policy to be directed to concrete / local actions in an inclusive and participatory manner considering their own contexts for decision making.

WATER RIGHT IN MEXICO

Professor German MARTINEZ PRATS

Universidad Juarez Autonoma de Tabasco, Mexico

PhD. Francisca Silva HERNANDEZ

Universidad Juarez Autonoma de Tabasco, Mexico

Abstract

Water governance presupposes the factors of effectiveness, efficiency, trust and participation, however, there are deficiencies in this regard which do not guarantee the exercise of water governance and policy. This contribution investigates the lines of action established to carry out governance and water policy in a non-hierarchical but horizontal manner. The forms of participation in the exercise of governance are analyzed and described qualitatively. The result allows water governance and policy to be directed to concrete / local actions in an inclusive and participatory manner considering their own contexts for decision making.

**LEGAL ASPECTS OF ELECTRONIC COMMUNICATION ACCORDING TO ITS REGULATION
IN THE ADMINISTRATIVE PROCEDURE CODE**

Associate professor Margarita CHESHMEDZHIEVA

Faculty of Law and History, South-West University "Neofit Rilski", Bulgaria

Abstract

The entry into force of the amendments to the Administrative Procedure Code governing electronic communication sets new challenges for the citizens, administrative and legal authorities. The purpose of this article is to briefly present the results of the analysis of the new rules in announcing and summoning in administrative proceedings, according to their regulation in the Administrative Procedure Code.



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CONSTITUTIONAL GUARANTEES FOR OWNERSHIP RIGHTS AND THE DEVELOPMENT OF THE MARKET ECONOMY

Professor Ivan PANKEVYCH
University of Zielona Góra, Poland

Abstract

This paper presents an analysis of constitutional guarantees for ownership rights set in the key legislation of European states and their impact on the market economy growth. It focuses primarily on the evaluation of the guarantees set in the Constitution and other acting laws of Ukraine granting the ownership rights. In this study, the author employed such research methods as logical, observation, comparative law analysis, etc. The market economy is the opposite of planned economy since decisions are made on production, distribution, pricing, or investments by the owners of production means guided by their interests. Therefore, the topic of constitutional guarantees for ownership and the development of the market economy in post-Soviet and post-Socialist European states can be considered exclusively upon their regained independence (in case of former Soviet Union republics) or upon the collapse of the Socialist system and the termination of activities of the Council for Mutual Economic Assistance (in case of most European post-socialist states). A state would always pursue to restrict private ownership. The right cannot be considered as absolute but it shall be reliably protected by the state against any claims. Ownership rights, in line with such rights and freedoms as freedom of entrepreneurial activity, freedom of contract, freedom to choose the place of employment and residence, establish the legal framework for the market.

**CONSTITUTIONAL HUMAN AND CITIZEN RIGHTS
TO ENTREPRENEURIAL ACTIVITY**

Professor Ivan PANKEVYCH
University of Zielona Góra, Poland

Abstract

An important factor in the development of modern society and a means to form a social state with the rule-of-law is the constitutional declaration of human rights and freedoms as the highest value. However, formal recognition of democratic and broad rights and freedoms does not imply the instant acquisition by an individual of the possibility to fully exercise the values determining the rights. It is important to create an efficient social and legal mechanism for implementation of rights and freedoms that includes guarantees to secure and protect them. Despite the 30 years of market economy functioning in Ukraine, citizens still have inflated demands for the paternalistic role of the state. The principle of social state fixed in the Constitution of Ukraine is partly restricting the exercise of the constitutional right to entrepreneurial activity. In fact, equality before the law is often interpreted as the need to provide for equality of results in society with the help of fair redistribution. At the same time, the shaping a market economy in Ukraine, with the leading role of oligarchic business groups, resulted into mass pulling of their capital into offshore, investment of profits gained in Ukraine into foreign businesses and real estate. Consequently, it generates distrust and disappointment of Ukrainian citizens for their own state and its representatives, and impedes the reform process in the country. In this study, the author employed such research methods as logical, observation, modeling, forecasting, comparative law analysis, etc.

**THE USE OF BLOCKCHAIN TECHNOLOGY
AS AN ANTI-CORRUPTION TOOL
IN CONTEXT OF PUBLIC PROCUREMENT**

Legal researcher Diogo DUARTE
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PhD. Noémia BESSA VILELA
Universidade Portugalense Infante D. Henrique, Porto, Portugal

Abstract

Public procurement refers to the purchase of goods, services and works on behalf of a public authority. As public procurement relies on a substantial portion of the taxpayers' money and the countries public funds, public authorities are expected to act in



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accordance with high standards of conduct, ensuring that the public's financial means are used in an efficient manner. According to the Organization for Economic Co-operation and Development (OECD), the public procurement represents 13% of the GDP in OECD countries and 1/3 of the overall amount of government expenditures. Public Procurement remains an unexploited source of economic and social prosperity, which could be used to develop public services and perform public duties in an efficient manner in line with the public interest. However, due to its bureaucracy, inefficiency and lack of professional integrity, public procurement continues to be highly vulnerable to corruption. The traditional approaches have shown limited effectiveness, as the densification and creation of more rules and bureaucracy procedures often contribute to obfuscate transparency. Corruption tends to predominate whereas the rules' compliance and enforcement are ineffective, and the supervisor authorities fail to act accordingly. In such cases, specially where corruption was penetrated in the public sphere, inequality and unbalance distribution of income become the results that undermines the opportunities to participate equally in social, economic and political life. During the last decades, the objectives of transparency and integrity were part of the anti-corruption's political rhetoric, but only few tangible results were really achieved. Nonetheless, the technological developed provided us with mechanisms and tools that can be used to enhance integrity and transparency in each process. Blockchain technology was first created to accomplish both objectives of integrity and transparency within the electronic payment systems. The fast development of this technology allowed it to be used in other areas of public and private activities. In this study, we analyze how blockchain technology, can be used to ensure integrity and transparency within public procurement and, more importantly, how can it be used to mitigate the vulnerabilities and risks related to corruption.

ATTRIBUTION OF PROFITS TO PERMANENT ESTABLISHMENT: THE CASE OF UKRAINE

PhD. Lina ZADOROZHNIYA

University of State Fiscal Service of Ukraine, Ukraine

PhD. Mariia KARMALITA

University of State Fiscal Service of Ukraine, Ukraine

Abstract

The article deals with attribution of profits to permanent establishment and its application in Ukraine. Changing and elaborate nature of profit attribution was analyzed through prism of OECD Model Tax Convention on Income and on Capital (MTC OECD) and current version of the Tax Code of Ukraine. Double Tax Treaties between Ukraine and 74 countries (both developed and developing) were examined in terms of approaches to definition of "building" permanent establishment, other special cases of definition of permanent establishment. The analysis of this article is based on the approaches to charge tax permanent establishments.

**FORMATION OF THE FORENSIC APPROACH TO THE STUDY OF NON-VERBAL INFORMATION
IN CRIMINAL PROCEEDINGS**

Associate professor Olesia VASHCHUK

National University "Odesa Law Academy", Ukraine

Professor Valerii TISHCHENKO

National University "Odesa Law Academy", Ukraine

Associate professor Yuliia HRES

National University "Odesa Law Academy", Ukraine

Abstract

The article is devoted to the formation of theoretical basis of the forensic approach to the study of non-verbal information in criminal proceedings. The authors have carried out the analysis of different approaches to study of non-verbal information. Formulating the forensic approach to the study of non-verbal information will allow correct determining the content of such information, successful use of it in practice, which will ultimately facilitate timely and complete disclosure of crimes. The purpose of the research in the field of non-verbal information is to develop new knowledge about the physiological and psychological state of a person in criminal proceedings. The article focuses on the definition of the legal status of a non-verbal information specialist. The provisions of the current Criminal Procedure Code of Ukraine are analyzed. In order to improve the legal



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regulation, the conclusion about the necessity to amend certain norms of the main criminal procedure normative legal act of Ukraine is made.

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AXIOLOGICAL BASIS FOR THE TAX SYSTEM

LLD. cand. Valerijs JAKUŠEVS
OÜ 8, Tallinn, Estonia

Abstract

The study is carried out within the boundaries of the research “Taxation policy of the Republic of Latvia within the context of the principle of equity”. The subject of the study is the creation of a theoretical basis for considering the principles of the tax system in terms of the axiology of law. The work is based on the legislative practice of the Republic of Latvia, including with the increasing use of electronic systems for collecting and processing information about the tax base. The study relies on legal literature, judicial practice, state planning documents and the researches ordered by the government and carried out by private contractors or scientists, as well as on statistics. The data collection does not confine itself to the research of phenomena and the systematization of the new knowledge and the knowledge acquired before, but mostly uses the empiric scientific method – observations, surveys. The study also employs the theoretical scientific method by analyzing the aforementioned documents and literature and using these as a basis for developing the theory and suggesting hypotheses, as well as through scientific (conceptual) modeling. Relying on the acquired data, the author verifies the forecasting power in order to achieve the objective of the study.

**THE LEGAL-CRIMINAL PROTECTION OF RELIGIOUS FREEDOM IN THE CRIMINAL LAW OF ROMANIA
AND OF THE REPUBLIC OF MOLDOVA**

Associate professor Aurel Octavian PASAT
State University „Bogdan Petriceicu Hașdeu”, Republic of Moldova,
Customs Inspector, Border Customs Office Galați-Giurgiulești

Abstract

This scientific article is devoted to the reconceptualization of the legal-criminal protection of religious freedom in the criminal law of Romania and of the Republic of Moldova. The purpose of this scientific message is to identify and thoroughly analyze the special legal object of the criminal offenses referred to in paragraph (2) art.381 Romanian Criminal Code and art.185 of the Criminal Code of the Republic of Moldova. On this occasion, they were subjected to a thorough analysis: European legislation in the field of religious freedom, criminal and extra-legal legislation in the field of religious freedom in Romania and the Republic of Moldova, as well as the contemporary doctrine of recent years. Following the study carried out, certain legislative gaps were identified that can be easily eliminated by reviewing the incriminating framework of the criminal acts that affect the religious freedom of the person. The conclusions of the broad law and the recommendations of the ferenda law created under the empire of the latest legislative tendencies at European level can be taken into account in the legislative process.

**HATE-INFRINGEMENTS, DIFFERENTIATION AND RELIGIOUS DISCUSSION IN COMPARED CRIMINAL
LAW
(ROMANIA AND THE REPUBLIC OF MOLDOVA)**

Associate professor Aurel Octavian PASAT
State University „Bogdan Petriceicu Hașdeu”, Republic of Moldova,
Customs Inspector, Border Customs Office Galați-Giurgiulești

Abstract

This scientific article is devoted to the legal-criminal analysis of offenses motivated by hatred, differentiation and religious division in criminal law compared to the model of the criminal law of Romania and of the Republic of Moldova. The purpose of



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this study is to identify and analyze offenses motivated by hatred, differentiation and religious separation in the criminal law of Romania and the Republic of Moldova. Following the study carried out, certain legislative gaps were identified which can be easily overcome by reviewing the incriminating framework of offenses motivated by hatred, differentiation and religious division. The conclusions of the broad law and the recommendations of the ferenda law created under the empire of the latest legislative tendencies at European level can be taken into account in the legislative process.

**ECONOMIC ANALYSIS OF THE LAW
BY THE TAX AUTHORITIES**

Associate professor Ciprian PĂUN
„Babes-Bolyai” University, Cluj-Napoca, Romania

Abstract

According to the Romanian Tax Procedure Code, the Tax Authorities may be to assess the relevance of the legal situation, within the limits of their duties and authority assessment and by using the means of evidence provided by law, and to adopt a solution which is based on legal provisions, as well as on complete findings with regard to all the relevant circumstances in the case at hand at the time of taking a decision. When exercising its right of assessment, the tax body must take into consideration the opinion issued in writing by the competent tax body to the taxpayer/payer in question through the activity of assistance and guidance of taxpayers/payers, as well as the solution adopted by the tax body through an administrative-tax document or by the court of law through a definitive court judgment previously issued for similar states of affairs of the same taxpayer/payer. The Authorities make a reinterpretation of the legal situation of the case, based on the so called economic relevance of the case. What are the instruments, the principles and the means to do so?

THE CONSTITUTIONAL REVIEW OF THE LAW APPROVING THE EMERGENCY ORDINANCE

Associate professor Marieta SAFTA
Faculty of Law, „Titu Maiorescu” University, Bucharest, Romania

Abstract

The issue of emergency ordinances of the Government is, in itself, a complex subject, approached in the specialized doctrine, especially from the perspective of the limits of the legislative delegation, therefore of the interpretation of the provisions of art. 115 of the Constitution that configure the competence and the conduct of the Government in the elaboration and adoption of the emergency ordinances. In this study, however, we will refer to another perspective, which highlights the competence and conduct of Parliament with reference to the same matter, of the Government's emergency ordinances. This is because, on the one hand, as we have already expressed the opinion, the preservation of the exceptional character of the legislation through the legislative delegation is incumbent on both the Parliament and the Government and, on the other hand, the constitutionality review of the laws approving the emergency ordinances involves some particularities in terms of effects, which need to be analyzed separately.

**DECONCENTRATED PUBLIC SERVICES
ACCORDING TO THE ADMINISTRATIVE CODE**

Professor Verginia VEDINAS
Faculty of Law, University of Bucharest, Romania
PhD. Ioan Laurențiu VEDINAS
“Alexandru Ioan Cuza” Police Academy, Bucharest, Romania

Abstract

This study aims to analyze, on the one hand, how the Administrative Code regulates the decentralized public services of the ministries and other authority of the specialized central administration, and, on the other hand, the changes made in the plan of this regulation in relation to the previous Law. no. 340/2004, which was repealed by this normative act. We ascertain that there is a more complete and systematic regulation of this category of public institutions, regulated at the constitutional level through



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art. 123 paragraph (1), which qualifies the prefect as head of these services. Indirectly, they are also targeted by art. 120 paragraph (1), which places, among the constitutional principles of organization and functioning of the local public administration, the principle of the deconcentration of public services. A distinct analysis will be made regarding the heads of the decentralized public services, to whom the Administrative Code regulates a statute that can take the form of both public servant with a managing position, as well as an employee with an individual employment contract and an employee with a management contract.

DESTRUCTION OF NEGLIGENCE IN ROMANIAN LAW

Assistant professor Ioana RUSU

“Dimitrie Cantemir” Christian University, Romania

Abstract

In the present work we proceeded to examine the offense of destruction for guilty provided for in the provisions of art. 255 C. pen. Also, given the transitional situation we are in, the elements of similarity and differentiation between the previous and the current regulations have been examined, a useful examination regarding the application of the more favorable criminal law. The examination carried out is part of an extensive work to be published in a nationally recognized publishing house. The paper can be useful for students, masters and doctoral students of the country's faculties, as well as practitioners.

SOME CONSIDERATIONS CONCERNING THE LIAR TESTIMONY IN ROMANIAN LAW. ACTIVE SUBJECTS OF THE CRIMINAL OFFENCE. CRITICAL OPINIONS AND PROPOSALS DE LEGE FERENDA

Assistant professor BÎRZU BOGDAN

“Dimitrie Cantemir” Christian University, Romania

Abstract

In this paper I proposed to examine some pre-existing conditions for the crime of lying testimony, respectively, of the active subjects of this crime. We also presented some considerations regarding the elements of differentiation and similarity between the current and existing regulations in the Criminal Code of 1969. The examination also considered the formulation of critical opinions, supplemented by proposals of law ferenda meant to contribute to the improvement of the text in force. The paper can be useful to students and masters of law faculties in the country, as well as to practitioners in the field of criminal law.

CRIMINAL LIABILITY OF THE LEGAL PERSON

Associate professor Petruț CIOBANU

Faculty of Law, University of Bucharest, Romania

Abstract

The legal person, with the exception of the state and the public authorities, is criminally liable for the crimes committed in the accomplishment of the activity object or in the interest or on behalf of the legal person. Public institutions are not criminally liable for the crimes committed in the exercise of an activity that cannot be the subject of the private domain. The criminal liability of the legal person does not exclude the criminal liability of the natural person who contributed to the commission of the same deed. The criminal liability of the legal person is direct and personal, which means that the eventual right of recourse of the legal person against the natural person who is responsible for committing the crime is exercisable on the basis of criminal civil liability. Pursuant to the principle of the territoriality of the criminal law, foreign legal persons who commit crimes on the Romanian territory will be criminally liable according to the Romanian criminal law.



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**DRAWING TO THE CRIMINAL LIABILITY
OF THE LEGAL PERSON**

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Associate professor Petruț CIOBANU
Faculty of Law, University of Bucharest, Romania

Abstract

Legal entities, other than those excepted, are criminally liable whether they are public or private. The guilt of the legal person refers to the organs and its organization, so that establishing the guilt of the natural persons who make up the bodies of the legal person is equivalent to establishing the guilt of the legal person concerned. The judicial bodies must establish the rules and practices existing in the organization and functioning of the respective legal person, and if it turns out that the bodies of the legal person have decided, have known or have not prevented, based on the levers available, the commission of crimes, the liability can be committed criminal of the legal person, if the form of guilt required by law for the examined crime is fulfilled.

**WAIVING THE CRIMINAL PROSECUTION ACCORDING TO THE DECISION OF THE CONSTITUTIONAL
COURT NO. 23/2016**

Professor Ion RUSU
“Danubius” University of Galati, Romania

Abstract

In the present paper we have examined the institution of waiving the criminal prosecution, as provided in the current law, a text which was modified after the publication of the Decision of the Constitutional Court no. 23/2016. We also considered the formulation of critical opinions regarding the possible existence of other elements of unconstitutionality in the text in force. A very important aspect is the notification of the absence in the text, of some provisions that condition the application of the institution on the need to repair the prejudice caused to the victim. The paper can be useful to students and master students of the country's faculties, as well as practitioners in the field. Also, the work can be useful to the legislator for operating some changes in the current content of the text that regulates this institution.

**(IM)POSSIBILITY TO RECOVER THE DAMAGE
CAUSED BY EMBEZZLEMENT AFTER THE CONVICTION
TO A SUPERVISED SUSPENDED SENTENCE**

Associate professor Sandra GRĂDINARU
“Alexandru Ioan Cuza” University of Iași, Romania

Abstract

The present paper intends to analyze the real and effective possibility of a civil party in a criminal trial to recover the damage created by the convicted person, under the conditions in which the criminal court orders the sentence to imprisonment but chooses as the option of executing the sentence, a supervised suspension. The basic idea of the present study starts from the possibility of the civil party to request the revocation of the suspension under supervision of the sentence applied to the convicted person, given that it has no other methods to recover his damage by other means of coercion. Present study aims to analyze the jurisprudential optics of the Romanian courts, notified with the solution of such a request, the argumentation being concentrated around the criteria in relation to which the conduct of the convicted person is analyzed during the probation period. The institution of the revocation of the suspended sentence under supervision established by the Romanian legislator is not adapted to the socio-economic conditions in Romania, in the sense that the provisions of the positive law do not establish the criteria in relation to which the criminal court can settle such a request. The academic and practical interest of the present approach is mainly given by the comparative presentation of the solutions pronounced in this field, starting from a specific case analyzed critically. The scope of addressability of the work is relatively extended, being useful not only to the legal practitioners: lawyers, executors, probation counselors, prosecutors, judges, etc., but also to the civil parties - natural or legal persons (public



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institutions or commercial companies), being in the impossibility of recovering the damage definitively found by a criminal decision convicting the defendant who committed mainly an economic offense, or subsidiary any offense against the patrimony.

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MEASURING CRIME

Lecturer Adriana Iuliana STANCU

“Dunarea de Jos” University of Galati, Romania

Abstract

Questions about how crime is measured and what those measurements reveal about the nature and extent of crime are among the most important issues in contemporary criminology. Researchers, theorists, and practitioners need information in order to explain and prevent crime. It is extremely difficult, however, to gather accurate information. Because of these difficulties, it is necessary for students to understand how data are collected, what they mean, and whether they are useful. After we look at the objectives and methods of collecting information, we will consider the limitations of the three information sources criminologists most frequently use to estimate the nature and extent of crime. We then explore measurements of the characteristics of crimes, criminals and victims.

**PARLIAMENTARY GROUPS – INTERNAL STRUCTURES
OF THE CHAMBER OF DEPUTIES AND THE SENATE. CONTROVERSIAL ISSUES REGARDING
THE ESTABLISHMENT OF PARLIAMENTARY GROUPS DETACHED FROM PARLIAMENTARY PRACTICE**

Professor Adrian ȚUȚUIANU

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Subprefect Florina-Ramona MUREȘAN

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Abstract

The political configuration of the Houses of Parliament is determined by the vote of the citizens, expressing the representative character of the legislative forum. Senators and deputies are organized into parliamentary groups, according to the rules of each Chamber. The creation of the parliamentary groups represents a constitutional right and not an obligation, any representative mandate being null. The activity of political parties and other groups involved in the election campaign continues, within the Parliament, by forming "parliamentary groups" or "political groups" usually composed of parliamentarians who belong to the same formation or who subscribe to the same program or are followers of the same idea. In the parliamentary practice it remains controversial to set up parliamentary groups whose deputies and senators became unaffiliated, as a result of leaving the party on whose list they were elected. The Constitutional Court of Romania has repeatedly ruled on the possibility of setting up these groups, whose constitution was blocked by the existing parliamentary majority at one time.

THE RULE OF LAW. FROM CONCEPT TO REALITY

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Abstract

Not a creation of the modern world, such phrases as "rule of law" or "state of law" occurred in the post-December law dictionaries, giving us a new conceptual perspective on the institution of the state. These concepts have been transposed into the phrase "rule of law", which became evident in Article 1, paragraph 3 of the Constitution, where the legislator establishes that "Romania is a state of law, democratic and social ...". Therefore, amongst the best 130 paradigms of the word "law" offered by the explanatory dictionary of the Romanian language, we can consider that they will be added one more, respectively the one that will define a state, whose law system is based on the four already valid principles of the concept of "rule of law", respectively the supremacy of the Constitution and guaranteeing the security and constitutional rights of its citizens, where the



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civil society is an equal partner of the state, the separation of state powers is divided into different compartments (legislative, executive and judiciary) with separate and independent powers and responsibilities and where the legislative power, as well as democracy itself, are related to constitutional rights and principles and which will thus become, from a simple institution, heretofore called a "state" a "state of law". The theme of this article shall, however, propose a debate on the meaning that the legislator wanted to give to the notion of "state of law", since by listing within the following articles of the Constitution, of the principles underlying the concept of "state of law", the explanatory dictionary of the Romanian language will be void of a new paradigm of the word "law", but in the presence of a pleonasm.

THE SOCIAL ACTION FROM THE PERSPECTIVE OF THE LAW. STATE RELATIONSHIP

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Abstract

Starting from the scope of human activity and some of the realities present, to us, but also to others that can be summarized through: politics without healthy principles, market without morality, systemic pollution, science without humanism, inhuman inequalities, legalism without soul s.o., which is increasingly moving away from the imperatives of human life in society: lived life, work and love, the author proposes using concepts that transcend the sphere of law, such as social action, to try to find solutions, derived from the holistic (systemic) vision in the economic interpretation of the type of "integrated live integers". Thus, understanding the social action of the law, but more importantly the understanding of the social action of the state in accordance with the demands of the "live integer health" can help to identify healthy solutions of win-win type, for all the involved parties, which will lay the foundations for an exchange. of meaning in our society. In this sense, we believe that the practical implementation of the proposals made in the last part of the paper can be the beginning of a process of human and institutional spiritualization that we need for Tomorrow's Romania.

THE PRINCIPLE OF REVOCATION. THE EXCEPTION REGARDING THE ADMINISTRATIVE ACTS WHICH ENTERED THE CIVIL CIRCUIT AND PRODUCED LEGAL EFFECTS

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Abstract

In relation to administrative law, private law gains autonomy from the public authority when the civil legal relationship is born. Regarding the specific terminology of the administrative law, this legal phenomenon takes the form of the exception from the principle of revocation by the administration of the administrative acts that entered the civil circuit and produced legal effects. The present paper addresses the issue of the moment until it is considered that the administrative acts entered the civil circuit and produced legal effects, having in mind that, in establishing the concepts with which the exception operates, an important role is played by the traditional law and the historical evolution of the legal norms. At the same time, the analysis of the current doctrine and the relevant case law are effective methods in outlining the applicable legal regime, as well as in identifying the regulatory inconsistencies. The moment by which the administrative act can be revoked is essential, as certain projects can be stopped by the administration itself. In this context, the business environment does not only revolve around the conclusion of contracts, but also covers a number of important material acts prior to their conclusion, which involve the contribution of valuable material and human resources. On the civil procedure level, the incidence of the analyzed exception entails the obligation or exemption from following the administrative procedure before the administration, an element that often raises issues regarding the principle of free access to justice.



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**PUBLIC INTEREST – CHALLENGES AND POSSIBLE SOLUTIONS TO IDENTIFY THE CONTENT OF THIS
CONCEPT**

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Abstract

By exercising its specific powers, the public administration has to find different answers and solutions to respond to the needs of the communities where it has competence. In any community we can identify a multitude of general interests that would be desirable to be realized by the authorities and institutions from the public administration. Unfortunately, most of the time, it is practically impossible to realize all of these public interests at the same time, most often the financial resources available for public administration are insufficient and, for this reason, it is impossible to satisfy all of these legitimate public interests, even if they were identified through an objective process. Accordingly, it is necessary to prioritize these interests, the realization of some of them will become a priority over the others. The public interest is one of the concepts used in the public administration, but is a concept for which it is difficult to construct an unanimously accepted definition, much of the doctrine appreciating that such a definition could not be formulated either. However, we consider that it is possible to establish some elements that are important to identify the substance of this legal concept, as well as some steps and principles to be followed by the public administration in order to indicate these interests and, subsequently, to make a hierarchy of public interests that are needed to be satisfied in that community. Thus, first of all the public administration will be forced to consider those public interests that must be realized because they respond to the needs of the community, not to the interests of our political leaders and managers from the public administration. In this study we will use specific research methods, such as comparative, grammatical, logical, systemic and teleological one, but also some less common methods for the field of law, such as the empirical and experimental method, to analyze theoretical and practical aspects considered relevant to our study.

**LEGAL INSTRUMENTS WITH AN INTERNATIONAL VOCATION THAT REGULATE THE CONTROL OF
WATER SEDIMENTS**

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Abstract

The human being has been since the creation in full process of knowledge, of satisfying human needs but also of wellness, which represented on the one hand a progress, and on the other hand, it represented a forced acceleration of his life on earth, a situation that has created an exhaustion of all that means environment, disturbing the natural balance of nature and contributing to a significant degradation of environmental factors: atmosphere, water and soil. Water, as an environmental factor, essential and indispensable for human existence for survival, knowledge, wellness and progress, has become, in time, an exhaustible resource for the human being and the activities undertaken by it. Under the strong effervescence of the pressure of exhaustion and degradation of water resources, by the deposition of dangerous substances and materials, the necessity of creating new forms of constraint directed against those who disturb the natural balance of water resources was realized. These new forms of constraint and prevention of depletion of water resources, have taken the form of legal instruments meant to solve the problems arising in the prevention, protection and mention of water quality, but which will determine a sustainable progress for the population and for present and future generations.

**THE PUBLIC SERVANT – ACTIVE SUBJECT OF CORRUPTION CRIMES UNDER CURRENT CRIMINAL
LEGISLATION**

Lecturer Andrada NOUR

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Abstract

The state or the institutions of the state operate with the participation of public servants, which entails to the latter of a conduct worthy of the position they hold and of the authority enjoyed. In this sense, the criminal law has, on the one hand, the role of ensuring the prestige of public servants, and, on the other hand, to hold criminally liable those who are guilty of acts unworthy



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related to their activity. In this paper, we intend to identify categories of persons who may be held liable as active subjects of corruption crimes, according to current legislation in force in our country, and certain controversial aspects related to the subjects of these crimes. To better define the notion of public official from criminal law point of view, we have considered including the international and community legal documents of reference.

**THE CRIME OF TRAFFIC OF INFLUENCE
IN THE NEW INCRIMINATION FORMULA**

Lecturer Andrada NOUR

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Abstract

Corruption is an extremely complex phenomenon, contrary to the democratic principle, manifested negatively in both domestically and internationally. Thus, mainly internally, corruption generates distrust in the institutions of the state and the administration of justice, affects economic progress and good governance, and externally, alter the credibility and image of the state. Corruption can know in practice a variety of forms, traffic of influence being one of the most representative expressions of corruption. Since traffic of influence falls in the category of the crimes with a very high degree of social danger, it has been incriminated in international and community legal documents of reference for combating corruption. In our country, it tries to combat this crime by regulations aimed at a variety of concrete forms of expression, regulation which are the subject of our study.

**VALIDITY OF THE OFFER AND THE GUARANTEE OF PARTICIPATION: BETWEEN THE WILL
OF THE CONTRACTING ENTITY AND THE TENDERER. REFLECTIONS FROM THE RELEVANT CASE LAW
IN THE FIELD OF PUBLIC PROCUREMENT**

Lawyer Cosmin SOARE-FILATOV

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Abstract

Participation in a public procurement procedure is by excellency the economic operator's manifestation of will. In certain cases, however, their will may seem limited by that of the contracting authority. This study looks into whether this sort of limitation may be brought by way of an instrument common to all tender procedures, namely the determination of the proposal's and the participation guarantee's validity period. An analysis of the relevant case law reveals a heterogeneous practice, where the literal interpretation of the law is in conflict with the spirit of the law.

ADMINISTRATIVE LITIGATION IN SPECIAL LAWS

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Abstract

The general regulation of the institution of the administrative litigation in Romania is realized today by the Law of the administrative litigation no. 554/2004. In the Romanian legislative system, there are currently numerous laws that use norms to refer to the Law of the administrative dispute regarding the settlement of disputes. Also, there are special laws that derogate from the general provisions of Law no. 554/2004. The special laws have the role to adapt the procedures for the resolution of administrative litigation litigations depending on the specific of the regulated administrative activities.



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**IDENTIFYING THE PETITION RIGHT IN THE ROMANIAN CONSTITUTION, IN MOLDAVIAN
CONSTITUTION AND IN COMPARATIVE LAW**

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Abstract

The present article aims to present selective aspects regarding the petition right and the findings in the Romanian constitution, in Moldavian constitution and in comparative law. The petition right is regulated by the Article 51 of the Constitution of Romania. The petition right is a fundamental right of the citizen that guarantees his right to request petitions in front of the state authorities. This right to ask is an essential right, guarantees the existence and compliance with all the other fundamental rights of the Romanian citizen and ensure the achieving of a good administration of the state in favor of the citizens. The methods used in drawing up this study are: the comparative method, the historical method, the logical method, the sociological method and the quantitative method. The results of this research have highlighted the findings in the Romanian constitution, in Moldavian constitution and in comparative law about the petition right.

**ASPECTS OF CRIMINALIST TACTICS ON RESEARCH
IN CASE OF TRAFFIC AND ILLEGAL DRUG CONSUMPTION**

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Abstract

In the fight against trafficking and illicit drug use, internationally there have been numerous regulations in the field, with states focusing their efforts to combat this scourge. On February 19, 1925, the "International Opium Convention" was signed in Geneva. This Convention regulates the import licenses and export licenses for substances and products with a narcotic content, following a permanent surveillance of the drug movement on the plan. international. On March 30, 1961, in New York, the "Unique Convention on Narcotics" is adopted. In 1971, the Convention on psychotropic substances was adopted in Vienna in the plenipotentiary conference of 77 states with the participation of the World Health Organization, the International Narcotics Control Body and the International Criminal Police Organization (Interpol), the Convention coming into force on August 16, 1976. Countries in the world through legislative measures regulated the circulation and consumption of narcotic products, the 20th century has not undergone radical changes regarding the attitude of the population towards drugs. As a result of the intensification of the narcotics trafficking, it has determined the countries affected by this scourge to modify the internal legislation exercising tighter control. In this context, the Romanian legislation is also inscribed, a great responsibility regarding the application of the law being the duty of the judicial authorities.

MASS-MARKETING FRAUD AND TRANSNATIONAL ORGANIZED CRIME

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PhD. student Nadiia SHULZHENKO
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Abstract

The present research paper describes the most traditional ways of today's mass-marketing financial crimes such as frauds. These crimes typically involve some form of deceit, subterfuge or the abuse of a position of trust, which distinguishes them from common theft or robbery. In today's complex economy, fraud and financial crimes can take many forms. The main task of this article is to introduce you to the more common forms of financial crimes, such as "Hacking" or electronic transmission unintended for the interceptor, such as passwords, credit card information, or other types of identity theft. The article discusses the features of legal regulation and the activities of the EU countries to protect citizens from Internet frauds and to avoid Internet scams, phishing and other cyber crimes in Internet. In this article, we review some principles of the collection, analysis, and management of qualitative data to help scientists, lawyers and law students who are interested in doing research in their practice to continue their learning in this area.



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**CHALLENGES AND PERSPECTIVES OF EVOLUTION OF THE ROMANIAN
ADMINISTRATIVE LITIGATION**

XAT.COM

Associate professor Cătălin-Silviu SĂRARU
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Abstract

The study presented here analyzes the current situation of administrative litigation in Romania, highlighting the causes that have driven an exponential increase in the number of disputes in this field. The evolutionary prospects of Romanian administrative litigation are investigated and solutions are provided for speedily resolving the increasing number of disputes. The proposed solutions include: the adoption of an administrative procedure code; the creation of administrative-fiscal tribunals; the creation of specialized administrative jurisdictions; and the strengthening of the role of the People's Advocate through the greater involvement of this institution in verifying how public authorities comply with the law and the resolution of disputes about administrative contracts by arbitration. The importance of this research lies in its focus on how administrative disputes are regulated in Romania. This is held to reflect Romania's degree of democratization and the extent to which legal guarantees are made available to citizens in order to defend themselves against abuses by public authorities.

