



INTERNATIONAL CONFERENCE:

**“PERSPECTIVES OF BUSINESS LAW
IN THE THIRD MILLENNIUM”**

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AD JURIS
Society of Juridical and Administrative Sciences

SECTION III.

EUROPEAN UNION LAW. INTERNATIONAL LAW

Friday, November 8, 2019

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

Keynote speakers:

- Associate professor **Ioana Nely Militaru**, Bucharest University of Economic Studies
- Assistant professor **Andreea Stoican**, Bucharest University of Economic Studies

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

PROTECTING ENVIRONMENT AND THE EU INTEGRATED MARITIME POLICY

Assistant professor Fatima CASTRO MOREIRA
Law Department, Portucalense University, Porto, Portugal
PhD. Bárbara Magalhães BRAVO
Law Department, Portucalense University, Porto, Portugal

Abstract

Marine and coastal environment are under pressure from several pollution sources. Most of the environmental law was developed on a sectoral basis and does not reflect the interdependence of the various issues and their solutions. Since the adoption of Blue Book EU legislation to protect the marine environment has been progressively implemented in many relevant areas: Fisheries, Shipping, Tourism, energy, etc. The Integrated Maritime Policy covers several cross-cutting policies, more specifically blue growth, marine data and knowledge, maritime spatial planning, integrated maritime surveillance, and sea basin strategies. Oceans and sea are influenced by many activities, interests and policies and are interlinked. A holistic, integrated approach is the best way to handle maritime affairs, with States cooperation not only on an EU States basis but also with third States and International Organizations. International Organizations provide an essential forum for international co-operation in relation to environmental issues. In this context they have two important roles to play: environmental policy-making and the development of international environmental law.



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**INTERNATIONAL BUSINESS LAWS: CONCEPT OF CHARTERPARTY AS INTERNATIONAL CONTRACT
FOR ENGAGEMENT OF SHIP FOR TRANSPORTATION OF CARGO AND LEGAL PERSPECTIVE ON
CRITICAL AREAS OF CHARTERPARTY FOR AVOIDANCE OF DISPUTES**

PhD. Harsh PATHAK

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Abstract

In international business charterparty is a main legal contract of engaging a vessel for transportation of cargo. It is a highly important document since it defines the performance obligations as rights, duties, liabilities, risks, earnings, costs and profits between the contracted parties, i.e. the shipowner and the charterer. The proper incorporation, interpretation and understanding of charterparty terms is crucial for chartering business. Therefore, this paper based on the observations of the various judicial authorities, emphasis on the main types of charter and deals with usual clauses qua distribution of the liabilities and expenses between the shipowner and the charterer. More specifically, type of the charter, important clauses in the charter party for suitability of the vessel, its seaworthiness, the avoidance of unjustifiable deviations, the ship's arrival at the port, the loading and discharging operations, the delivery of cargo, liabilities, exceptions to liabilities etc. The instant paper is based on shipping practices followed in accordance with international and English common laws in pre-to-post fixture in execution of chartering process. As chartering is one of the most critical commercial operation under international business contracts with significant operational, financial and legal consequences. The deliberations in this paper is from a contractual and legal perspective to understand this special purpose contract for better execution and avoidance of disputes.

THE LEGITIMACY OF ACQUISITION OF STATE TERRITORY

Professor Leonid TYMCHENKO

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PhD. Valeriy KONONENKO

Lawyer, Kharkiv, Ukraine

Abstract

Nowadays academia offers new approaches to understanding of state borders, territorial disputes, armed conflicts and wars. While the principles of territorial integrity and inviolability of frontiers are central to the current system of international law, they are sometimes inoperative before the law of force. Moreover, the peaceful resolution of territorial disputes contributes to international security. The purpose of this article is to examine the problems of the legitimacy of acquisition of territory in the past and present, as well as to provide insight into some issues related to the state sovereignty over disputed areas in international territorial disputes. The historical, comparative, inductive methods were used while researching the problem of legitimacy of acquisition of state territory. The study may be implicated during taking decisions concerning investments in Crimea, Transnistria or Nagorno Karabakh.

**STATISTICAL COMPARISON OF PIRACY AND ARMED ROBBERY WITH EMPHASISON
THE SOUTH CHINA SEA-MALACCA STRAIT AND THE PERSIAN GULF-STRAIT OF HORMUZ**

PhD. Mohammad Ali ZOHOURIAN

Xiamen University, China

Abstract

International trading flows have always been the subject of geopolitical risks and conflicts. Different stages of the supply chain, trade always face inherent challenges caused by geopolitical realities along given routes. In this study, the data concerning piracy and armed robberies of ships reported to the Global Integrated Shipping Information System were considered. The statistics include the information on the incidents during the period between 1998 and 2018 on different types of ships, in two most strategic areas, namely the South China Sea (SCS) and the Strait of Malacca (area 1) and the Strait of Hormuz and the Persian Gulf (area 2). According to the GISIS reports, most of the incidents occurred in the South China Sea and the Strait of



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Malacca are respectively 1684 and 610. Because of the importance of both the Strait of Hormuz and the Malacca Strait as the most vital waterway in the world, it is necessary to have a clear picture of the security situation in the two aforementioned Straits. This research allowed us: 1) to make a distinction between the security in two aforementioned areas; 2) to represent the source of the information for researchers.

**IMPLEMENTATION OF THE AGREEMENT-BASED EU SINGLE MARKET SYSTEM AND
ITS IMPLICATIONS IF APPLIED IN ASEAN**

Student Affan MAULANA

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Student Aninda Hasna AFIFAH

Islamic University of Indonesia, Yogyakarta, Indonesia

Abstract

Asean Economic Community is a community built in 2008 by Asean States Members. One of the purpose is to accelerate the regional economy development. As implemented in European Union, System on Single Market was built by International Agreement signed by states in EU. Nevertheless, EU has European Court Justice to solve any dispute that could be arise from the agreement, but unfortunately Asean has no any court to solve any legal settlement dispute toward the agreement. Here, we apply a library and normative research due to our paper. We acknowledge that Asean Economic Community is not a replica from European Economic Community. Moreover, we insist that it's crucial to carefully control the application of Single Market System of Asean Economic Community. Vacuity of legal dispute settlement in Asean could be a big question about how Asean would solve any dispute in the future from the application of the Single Market System.

CLIMATE DIPLOMACY – A GROWING FOREIGN POLICY CHALLENGE

Assistant professor Anna HRISTOVA

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Professor Dobrinka CHANKOVA

South-West University "Neofit Rilski", Blagoevgrad, Bulgaria

Abstract

This paper provides an in-depth analysis of a major global challenge the international organizations are faced with in the 21st century - the climate change. Climate change has detrimental effects on the international security and stability. In the past decades, humanity has faced emerging natural occurrences such as increase in the World Ocean level, higher frequency of monsoon rainfalls, impaired conditions of the ecosystems in the rain forests. The massive population increase in Africa and South Asia also points to the fact that natural resources are not infinite and their spare use becomes a priority of global importance. Managing climate change is a global problem, the solution of which mandates the unified efforts of the entire international community. And this is where climate diplomacy comes at play. The efforts of climate diplomacy need to be focused in two major directions. First priority is limiting the global warming under 2°C compared to the pre-industrial levels and taking actions to reduce the harmful emissions of greenhouse gases. The second priority is about taking adequate measures to handle climate change consequences, amongst which the so called climate migration.



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**INDIVIDUALIZATION AND DEVELOPMENT OF INTERNATIONAL INVESTMENT LAW
AS THE THIRD MILLENNIUM LAW FIELD**

Associate scientific researcher Cristina-Elena POPA TACHE
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Abstract

Approaching such a subject is undoubtedly of particular scientific interest, contributing to the clarification of several aspects regarding the content and delimitation of international investment law, with an emphasis on the law and doctrine of international law, but also on the jurisprudence of international courts. The originality and scientific innovation resides in the way of approaching the research of the legal regime of foreign investments, both from the point of view of interdisciplinarity, interference and interconnections between the fields of incident law, as well as by identifying a coagulating, unifying factor - the international justice and the mechanisms that a put into operation. This approach calls for the creation of a learning mechanism, of study within the university framework of the discipline of International Investment Law and the deepening of the specific notions and problems within some master programs.

STREAMLINING THE FIGHT AGAINST VAT FRAUD ON COMMUNITY LEVEL

Associate teacher Nelu Dorinel POPA
University of Medicine, Pharmacy, Science and Technology of Târgu-Mureș, Faculty of Economics and Law, Romania
Student Cezara POPA
Bucharest University of Economic Studies,
Faculty of International Business and Economics, Romania

Abstract

The value-added tax is an indirect tax that represents both an inherent resource of the European Union budget and a resource of EU Member States budgets. Consequently, frauds against national VAT affect both the national budget and the Member States' budget, which entail the activities for combating this type of fraud to be correlated both at national and at the Community level. Therefore, the Romanian jurisprudence provides examples in which the national judicial authorities have identified a continuous circulation, a "carousel" type, of VAT fraud, between several Member States of the European Union, which has harmed each of the budgets of the states on whose territory it has "transited" and implicitly, the Community budget. The investigation of these frauds and the criminal prosecution of the perpetrators was carried out only at the national level, in a fragmented way, but it also required the judicial cooperation of the Member States in order to support the requesting states in carrying out the investigations. However, the national authorities are missing the cross-border dimension, which requires a European Union authority to investigate such frauds, to correct the deficiencies of the current regime regarding compliance with law, based exclusively on national efforts and to increase their consistency and coordination.

THE BREXIT CONSEQUENCES ON THE EUROPEAN SINGLE MARKET

Associate professor Gabriel Liviu ISPAS
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Abstract

Brexit represents one of the biggest challenges for the European Union since its establishment. The recent political and institutional developments, the decision of the British Parliament not to accept the exit of the United Kingdom from the European Union without a signed agreement, the decision to negotiate a new deal that must be ratified by both the Member States of the EU and the British Parliament, points towards the fact that neither the Union nor the United Kingdom are effectively prepared for such a decision. The paper presents the recent evolution of Brexit, as well as its possible consequences regarding the internal market. We will present, above all, how the free movement of goods will be affected and how the free movement of persons will be realized, for lucrative purposes. A political analysis of the events will be conducted, as well as an analysis of the applicable



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normative acts in question. The implications of Brexit on the economy of the Member States and on trade within and outside the European Union will be evaluated, both quantitatively and qualitatively.

NEXT/CONT

**INSOLVENCY – EVOLUTIONS AND PERSPECTIVES OF LEGISLATIVE REFORM AT NATIONAL,
EUROPEAN AND INTERNATIONAL LEVEL**

Professor Ionel DIDEA

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PhD. student **Diana Maria ILIE**

“Titu Maiorescu” University of Bucharest, Romania

Abstract

At the national level, we can really invoke the passage of a road to maturity of the insolvency legislation, especially the Law no. 85/2014, which was intended to be a legislative reform, with major impact in terms of increasing the percentage of the number of companies that have a second chance, on the one hand, but also on reducing the stigma of insolvency, on the other hand. We wonder if after 5 years of implementation this has been achieved, whether it is a problem of our culture or a problem of certain legislative gaps or administrative impediments. How can we maintain a balance between the culture of a state, which hardly changes over time, and an almost perfect institution, but at the same time difficult to implement? Why is the rate of successful reorganizations still low? When do we manage to have control of a modern insolvency legislation, if we slow down progress or return in time through a simple emergency ordinance, such as the one in 2018? How do we implement at national level the new European Directive, recently entered into force, which aims to develop a “rescue culture” for the insolvent debtor, a direction that at national level we have abandoned? How do we manage to evolve and thus fit into the perspectives for legislation evoked at international level, intensely promoted by UNCITRAL, or at least to maintain the appearance of legislation adapted to the new guidelines inevitably impregnated by globalization? It is interesting to analyze the essence of a critical question in the specialized literature: “Does the imperfection of the legislation generate mistrust or does mistrust generate imperfect results of almost perfect legislation?” It is ultimately a balanced harmonization between culture and legislation, between legislative and administrative, between aspirations and economic, political and social developments, between domestic law and international law, between rights and interests.

**THE NATURAL ENVIRONMENT. THE DEVELOPMENT OF AN INSTITUTIONAL PROTECTION
FRAMEWORK, A PERMANENT CONCERN OF THE EUROPEAN UNION**

Assistant professor Andreea STOICAN

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Abstract

The environmental policy is a relatively new field in the European Union, even at the level of the current year, 2019. Although initially it was based on the creation of general measures programs, within which certain specific measures were adopted, currently, the permanent existing global climate changes can no longer be ignored by national, European or global organizations and institutions. As such, in time, especially in the last decade, the European Union has been forced, by virtue of the principles governing the relationship between the EU law and that of the Member States, to find solutions to the serious problems caused especially by pollution, but also by a series of other climatic factors. Thus, the environmental policy of the European Union is based on a number of principles, including that of precaution, prevention, diminish of pollution from its source, as well as that of the polluter's liability. In this regard, the present paper aims to summarize the measures taken so far at the level of the European Union, as well as to identify additional protective measures that will also lead to the fulfillment of the European Union Sustainable Development Strategy.



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PROTECTION OF FUNDAMENTAL RIGHTS IN THE EUROPEAN UNION

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Abstract

In order to ensure the respect of the values that the European Union is based on, provided for in art. 2 of the Treaty on European Union, Article 7 of the same Treaty, provides for a mechanism of the European Union that allows to determine if serious and persistent violations of the values of the European Union by a Member State have taken place and possibly to sanction such violations. The European Union is obliged to respect the Charter of Fundamental Rights of the European Union. The Charter sets out the rights that both the European Union and the Member States must respect when implementing EU law.

COOPERATION-BASED APPROACHES IN COMPETITION LAW – THE WHISTLEBLOWER VERSUS THE PRISONER’S DILEMMA

PhD. student Ana-Maria Iulia SANTA

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Abstract

Cooperation-based approaches have shaped the trends in European Union Competition Law and in United States Antitrust Law. The present article assesses the latest developments in this area, emphasizing the positive effects of cooperation in competition law issues and proposing solutions in terms of dealing with international competition law cases. Cartels are analyzed using the model of the Prisoner’s Dilemma and the modern Game Theory. The Whistleblower, which gained increasing importance both in European Union Competition Law and in United States Antitrust Law, is assessed taking into consideration these models. A comparative view of European Union Competition Law and United States Antitrust Law on the importance of the Whistleblower is presented. The present article uses an interdisciplinary research method, appropriate to the debated issue, combining aspects of business law, European Union Law and economics in an international perspective. Relevant case law illustrates the presented approaches, trying to find an answer to the research question to what extent can cooperation be seen as a possible solution for competition law issues and to what extent can settlements be accepted as a time-saving solution in competition law cases.

LEGAL ASPECTS OF ECONOMIC ESPIONAGE

Lecturer Ovidiu Horia MAICAN

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Abstract

Economic espionage is the unlawful targeting and theft of critical economic intelligence, such as trade secrets and intellectual property. The term refers to the clandestine acquisition or outright theft of invaluable proprietary information in a number of areas, including technology, finance, and government policy. Offenders get cheap access to critical information, leading victims to suffer economic losses

LEGAL REGIME OF PRIVATE MILITARY COMPANIES

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Abstract

Private military companies are independent companies that offers military services to national governments, international organizations, and substate actors. Private military companies (PMCs) are an important and deeply controversial element of the privatized military industry. PMCs specialize in providing combat and protection forces. Their work ranges from running



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small-scale training missions to providing combat units composed of up to several hundred highly trained soldiers. The use of military force by private-sector organizations is not new. It is present since Middle Ages. The most known example in modern history is british Easta India Company private military units, present in India until 1857.

NON-RECOGNITION OF STATES AS A SPECIFIC SANCTION OF PUBLIC INTERNATIONAL LAW

PhD. student Adrian COROBANĂ

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Abstract

This article analyzes two of the most controversial institutions of public international law: the recognition / non-recognition of states and the sanction in public international law, arguing why non-recognition of states is one of the specific sanctions of public international law. The purpose of this article is to bring a novelty to the current stage of research, by analyzing a specific sanction of public international law: non-recognition of the states created by disregarding international norms, especially jus cogens. Therefore, the research hypothesis of this article is the following: non-recognition of states is a specific legal sanction of public international law, which intervenes as a result of the violation of jus cogens norms in the process of creating the new state that wants recognition.

LEGISLATIVE ACTS OF THE EUROPEAN UNION

Lecturer Adriana DEAC

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Abstract

Whether we are specialist in law, economics, art or a simple individual, all the citizens of the European Union meet in daily life, with legal terms such as regulation, directive, decision. We also get in touch, directly or indirectly with the institutions of the European Union, The Parliament, the Council, the Commission etc. For the states of western Europe, members of the European Communities for decades, these institutions and legal notions are absolutely normal, commonplace. For the citizens of the states from central and eastern Europe, relatively new members of the European Union, after 2000, these legal terms are still novelty. This is the reason why, the scientific paper aims to analyze the provisions of the Lisbon Treaty, Section 1, Chapter 2, art. 288 and the following regarding the legislative acts of the European Union. According to art. 288 of the Treaty on the Functioning of the European Union, „to exercise the Union’s competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions”. The paper aims to presents their legal character, the competent institutions to adopt these legislatives acts, the procedure for adopting and entering into force of these acts. In achieving this scientific objective, we shall present these acts comparatively, emphasizing the similarities and the differences between them, considering both the provisions of the Lisbon Treaty, as well as the scientific works in the field of the European Union Law.

**NEW TRENDS OF INTERNATIONAL TAX EVASION: INTERNATIONAL LEGAL REGULATIONS AND
MODERN COMBATING METHODS**

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PhD. student Roxana Adriana MITITELU

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Abstract

Within the contemporary market economy and the generalization of open type economies, interdependent international economic relations have emerged based on an open system of both economic and financial exchanges. They have contributed to the emergence of new business relationships based on the international exchange of outcrying type that did not involve, due to the dynamism as well as of the new economies of the type of digital economies, and a quick adaptation of the customary normative



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framework and of the legal framework to the new context. The objectives of this article are represented by the identification of these new economic-social relations as well as of the corresponding legal and normative framework and of the forms of circumvention of the resulting taxation principles. The research methods used were qualitative methods respectively descriptive methods as well as quantitative methods respectively indices and aggregate economic indicators and econometric relations of regressive and correlative type. The results of the article aimed to identify new modern and self-contained methods of combating international tax evasion, respectively the exchange of information and the adequacy of the legal normative framework to the new economic realities. The implications are complex and represent the identification of some methods of preventing unfair competition and of not distorting the mechanism of the international competition market with implications on national budgets.

**GUARANTEES, RIGHTS AND OBLIGATIONS IN INTERNATIONAL TRADE THROUGH ELECTRONIC
MEDIA**

Lecturer Manole Decebal BOGDAN

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PhD. Alisa TOMA

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Abstract

The virtual world and artificial intelligence are a "reality" everyday. The electronic environment defined ON - LINE has taken over a large amount of commercial transactions from the classical environment. Classical trading allows you to meet your partners and negotiate directly. In the international trade from ON-LINE, the partners are not often known and they act on a trust given by the community. Business guarantees no longer fall within the attribute of the state (community of states) that confirms the verifiable existence of the company by registering with the Trade Register and/or by fiscal registration. There is no guarantee in e-commerce! The reliable guarantee of the partner's creditworthiness is the system based on the trust and opinions of the other partners who have used transactions. There are situations in which the provider does not exist in the form presented on the web page. There are situations in which the partner company only has an Internet domain and in reality it does not exist. Our paper opens a number of issues that can be debated starting with the statute and the legal definition of companies that act exclusively on-line as "legal persons of private law in the online environment". We assist and participate in a new society that has no defined regulations. How, Who and When can it be regulated?

**THE IMPACT OF AEROSPATIALE-ALENIA/DE HAVILLAND AND RYANAIR/AER LINGUS CASES
ON THE REFORM OF EUROPEAN MERGER CONTROL**

Lecturer Ovidiu Ioan DUMITRU

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Abstract

From our beginning, the fight for resources and the human wish of growth and wealth led to a competitive behaviour of individuals and, by extension, that of their economic undertakings. While some developed an economic outlook on competition, there were some authors further adding the legal component as a governing principle of competition. In the spirit of a form-based approach, early EU competition law aimed to insure the economic freedom, missing openness towards certain practices. The founding Treaties, the modifying ones and the European acts in the field outlined the safeguarding of the internal market as a goal of competition law. Still, an important source of European competition law was offered to us by the case law. The shift towards the effects-based approach ensued the regulation as ex-post assessments of the merger impact on competition were undertaken. All the implications of Merger Control on EU competition law will be thoroughly discussed in this paper, one which follows the spectacular evolution of the impact of different cases on the change of competition law. This paper attempts to illustrate the compelling evolution of the EU Competition Policy through the lenses of merger control pillar.