



INTERNATIONAL CONFERENCE:

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

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SECTION II - PRIVATE LAW

Friday, November 13, 2020

ONLINE ON ZOOM

Keynote speakers:

Lecturer **Cristina Cojocaru**, Faculty of Law, Bucharest University of Economic Studies

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

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MAIN CHARACTERISTICS OF THE COMPANIES IN THE REPUBLIC OF NORTH MACEDONIA

Professor Adnan JASHARI

Faculty of Law, South East European University, Tetovo, Northern Macedonia

Professor Arta SELMANI

Faculty of Law, South East European University, Tetovo, Northern Macedonia

Abstract

The companies in North Macedonia are organized in five different forms, such as: public limited companies, limited partnerships, limited partnerships with shares, limited liability companies and joint stock companies. All these forms have their characteristics on the basis of which they are distinguished, but they also have common characteristics. In this paper I am dealing with some of the common characteristics of companies, starting with their establishment, the founders, the founding capital, the founding act, the features with which the companies are identified in the market. Normally, separate works can be done for each of them, but with this work I am trying to give an overview of these features, without going into details on each of them. I intend to provide readers with a general overview of some of the characteristics of companies in Northern Macedonia based on the normative method.

REVISITING THE FRANCHISE AGREEMENT

Associate professor Sónia De CARVALHO

Portugalense Infante D. Henrique University, Department of Law,

Researcher at IJP - Portugalense Institute for Legal Research, Porto, Portugal

Abstract

Commercial distribution corresponds, in the economic process, to the activity of intermediation between supply and demand, through which the producer, using intermediaries, manages to deliver products and services to consumers, while at the same time seeks to know and satisfy the demands of the latter. Within the industrial revolution, mechanization combined with new production techniques, allowed production directed towards self-consumption to be replaced by surplus production, on a large scale, which created the need to dispose of goods. With the advent of industrial capitalism, the industrial enterprise started to assume the central role of the economic system, with trade being relegated to a secondary role. The producers, in view of the surpluses resulting from mass production, began to feel the need to resort to intermediaries who would assume the distribution of the products in several markets, namely, in distant markets. Distribution gradually begins to become independent from the production phase, presenting itself as an auxiliary activity for the industry. In this sense, commercial distribution is no longer centred on the physical distribution of products, but takes on a series of activities aimed at adjusting supply to demand, which includes



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attracting customers, providing after-sales services, financing and risk-taking, advice, promotion and advertising, among others. These activities are articulated in more or less complex processes. Thus, distribution begins to represent the main means to increase the company's profits, becoming the object of study and deepening. However, given the insufficiency of the occasional purchase and sale contracts to cover the web of complex obligations required in the distribution of goods to the various operators of a distribution chain, leading to an undesirable increase in distribution costs, there was a need to create more complex contractual schemes. In contracts, such as franchising, it is possible to witness the productive integration of the distributor into the producer network, accompanied, in different degrees of intensity, by the attribution and recognition of intellectual property rights. This contract was associated, both in the United States, a country where this system first appeared, and in Europe, to periods of economic recession, in which excess supply in face of demand will compel producers to conquer new markets. This objective, given the lack of capital, characteristic of post-recessive times, for the producer to assume the distribution of the products, will be achieved through the delivery of the distributive function to the distributor, thus seeking, in accordance with the principle of division of labour, achieve greater efficiency. The crisis currently experienced worldwide following the Pandemic COVID 19 and the role that this contract can play in the economic recovery, makes it imperative to revisit this contract in order to approach its modalities, advantages and the legal framework.

PREMARITAL AND MARITAL AGREEMENT- CASE OF KOSOVA COMPARED TO OTHER EUROPEAN COUNTRIES

PhD. student Detrina ALISHANI
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Abstract

Kosovo is in the process of codifying the Civil Code and the institute of the premarital and marital agreement will be part of it, enabling spouses, according to their will, to choose how they will regulate their property relations and in what property regime they will enter. Unlike current law where spouses have only been able to make agreement for division of joint property of spouse, through a marriage contract they will have the opportunity to determine the property relationship before marriage and during the marriage by providing prior solutions to problems that may occur in the future. Marriage as part of civil law and part of private law must be in harmony with European family law. The aim of this paper is to analyze marriage contracts and assessment if this contract will be a good opportunity for the spouses to resolve property issues basis on their free will. This analysis will be done by comparing it with other European countries which already have in their legislation a marriage contract. During analyzing and comparing, will be noted, the pros and cons of applying a marriage contract. The data to be used will be qualitative obtained from already published documents and different civil code of EU members.

RESTRICTION OF TESTAMENTARY FREEDOM-COMPARATIVE ASPECTS

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Abstract

In this paper is analysed the restriction of testamentary freedom in a comparative aspect in some countries in the region and the EU. During the paper, the following research questions were asked: 1. What is the purpose of restricting testamentary freedom?; 2. What is the size of the necessary part, which testator no longer has the right to dispose a will or gift in favour of other persons, outside the circle of necessary heirs?; 3. How is the categorization of necessary heirs carried out according to the legislations of different states?; 4. How is the necessary part calculated?; and 5. How to act in cases when the necessary inherited part is violated? The paper is mainly based on the method of analysis of legislation and the comparative method. From the analysis of laws in the countries under study, several conclusions found in this paper are: In Kosovo and the countries of the former Yugoslavia, as necessary heirs are considered: the children of the testator most of their descendants; conciliatory spouse; parents; brothers and sisters and grandparents of the testator. Whilst, in most EU countries, the circle of necessary legal heirs is much narrower, namely the tendency of contemporary legislation is to limit the circle of relatives of the testator, as necessary heirs.

ASPECTS OF LEGISLATIVE AND PROCEDURAL UNIFICATION OF CIVIL AND CRIMINAL INSTRUMENTS FOR FIGHTING DOMESTIC VIOLENCE

PhD. student Mihaela SAVA
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Abstract

This research is structured in three subchapters, namely – the characterization of the civil and criminal legislative context that regulates the framing and sanctioning of crimes of domestic violence, identification of gaps or problematic aspects in legal or procedural matters and formulation of proposals to improve the sanctioning regime of crimes of domestic violence. The conclusions of the research are useful suggestions for the legislative and procedural unification of civil and criminal instruments to combat domestic violence.



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REFLECTIONS ON THE INSTITUTION OF DISINHERITANCE

Police officer Denise MARTALOG

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Abstract

This study is dedicated to the analysis of the regulations regarding the will of the deceased in connection with the division of his succession patrimony, both in terms of his will manifested directly by the removal of legal heirs and indirectly by the establishment of legatees. In the elaboration of the study, we take into account the legal institution of disinheritance, the implications it has in the context of the return of the inheritance, as well as the possible situations that would not be covered by the current legal provisions. Thus, through art. 1.075 of the Civil Code, which highlights the effects of disinheritance, the legislator analyses the disinheritance of the surviving spouse, ordering that the part remaining after the allocation of the quota of the surviving spouse, be collected by the heirs from the class with which he comes in competition. We notice that the legislator discusses the “quota attributed to the surviving spouse” and does not take into account the hypothesis of allocating the succession reserve, for example in the situation of establishing a bequest smaller than the succession reserve. The disinheritance of the other heirs, other than the surviving spouse, is presented in the same way. In this situation it is necessary that we consider all possible hypotheses in case of disinheritance, so that the legal provisions to be adapted accordingly.

MARRIAGE CONVENTIONS. AN OVERVIEW IN ROMANIAN AND COMPARATIVE LAW

Lecturer Carmen Oana MIHĂILĂ

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Faculty of Law, University of Oradea, Romania

Abstract

Responding to current needs related to family, marriage, divorce, divorce settlement, the Civil Code provides the spouses with a new legislative technique, with tradition in community law and not only, known in our legal system until the communist regime declared it immoral, as the marriage convention. The choice of the matrimonial regime that best suits the wish of the spouses to live together, the possibility of changing it during the marriage, the imposition of special publicity formalities of the marriage conventions to protect the third parties, are elements of novelty of special importance that exceed the obvious perhaps normal shortcomings (starting with the lack of a legal definition of the marriage convention, with the possible derogations from the chosen matrimonial regime that can create the possibility of the abusive exercise of the rights of the spouses). Presenting specific elements of this institution in the European, American or Islamic system can create an overview of what pre- and post-marital contracts mean today.

THE RIGHT TO DIGNITY. A FUNDAMENTAL PRINCIPLE IN THE REAL WORLD

Lecturer Felicia BEJAN

University of Bucharest, Romania

Abstract

Every person is born with the right to dignity. But is this right respected in our day-by day life? Infringements of the right to dignity are still common and, unfortunately, they are accepted by the society and, paradoxically, often by those whose dignity has been violated. Beyond a general analysis of the legal framework that governs the right to dignity, this article aims to reveal the long way from the rules of law to the real world and to design some possible solutions to connect theory with practice.

**THEORETICAL AND PRACTICAL ASPECTS RELATING TO OCCUPATIONAL ACCIDENTS ABOARD SHIPS
IN ROMANIA**

Professor Florentina Camelia STOICA

Faculty of Law, Bucharest University of Economic Studies

Lecturer Radu Ștefan PĂTRU

Faculty of Law, Bucharest University of Economic Studies

Abstract

This study analyses the theoretical and practical aspects relating to a special category of occupational accidents, more precisely the occupational accidents aboard ships. The International Labor Organization (I.L.O.), while aware of the importance of this topic, has issued the Maritime Labor Convention (MLC 2006), ratified by Romania through the Law no. 214/2015, ensuring the legal framework for maritime personnel by considering the special labor conditions thereof. On the internal level, a series of regulations in the Romanian law provide a legal framework in this matter. Among these, the Guide of March 19, 2018 is a document for the safe management and health protection of seafarers aboard the ships under the Romanian flag, bringing important regulations in this field. In this study we will also present the jurisprudential issues regarding the occupational accidents aboard ships. The topic is of interest because accidents



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on ships represent a special category of accidents at work. Romania is in a leading place in the top of the fatal work accidents at European Union level, as EUROSTAT statistics show. Accidents that occurred on board the ships will also be presented in the chapter dedicated to the case law of this study, presenting the history of shipboard accidents that resulted in the death of six people. The jurisprudence, together with the theoretical approach, will lead conclusions relating to the relevant regulations in the internal law.

MORALITY, AT THE CONFLUENCE BETWEEN THE LEGAL AND THE NON-LEGAL NORM

Phd. Raluca Antoanetta TOMESCU

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Abstract

Morality is probably one of the oldest rules of conduct that have been imposed on members of a community, in order to establish and ensure a good coexistence. Prior to the emergence of the legal norm, it evolved with human society, being subject to continuous paradigm shifts, in a permanent attempt to reflect as accurately as possible the evolutionary trends of human communities. Although it does not yet benefit from a concrete definition or a precise limitation, morality is, first of all, the object of study of ethics, as a philosophical discipline, but when it interferes with the legal norm, inevitably a theorizing from its legal perspective becomes imminent. Plurivalent subject, but also constant of our social life, morality remains one of the most complex and controversial topics, not only in legal doctrine, but also in philosophy.

**FOREIGN ARBITRAL AWARD UNDER THE CODE OF CIVIL PROCEDURE AND THE CONVENTION ON
THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS, ADOPTED IN NEW YORK
(1958). COMPARATIVE LOOK**

PhD. student Radu-Mihai NECULA

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Abstract

The purpose of this study is to establish the categories of arbitral awards that may be classified as foreign by reference to the provisions of the Code of Civil Procedure and the provisions of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, adopted in New York (1958). In carrying out this approach, we had as a starting point certain doctrinal opinions that we tried to analyze critically, in order to capture as clearly as possible the regulatory differences between the provisions of the Code of Civil Procedure and those of the New York Convention, in regarding the qualification of an arbitral award as foreign. Thus, following the analysis of the approached subject, we found that the provisions of the Code of Civil Procedure differ from the provisions of the New York Convention, regarding the qualification of an arbitral award as foreign, the domestic provisions being more favorable than the conventional ones, in terms of in the execution of arbitral awards.

**THE ROLE OF COURTS IN THE PROCEDURE FOR RECOGNIZING AND ENFORCING FOREIGN ARBITRAL
AWARDS. COMPARATIVE VIEW BETWEEN THE ROMANIAN CODE OF CIVIL PROCEDURE AND THE
CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS,
ADOPTED IN NEW YORK (1958)**

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Abstract

The purpose of this paper is to identify the main procedural steps that the court must go through in the procedure for the recognition and enforcement of foreign arbitral awards, without seeking a thorough analysis of all possible procedural incidents that may occur in such cases. procedures. At the same time, in this material we did not intend to analyze the merits of requests for recognition/enforcement of foreign arbitral awards, respectively the validity of these requests in relation to the defenses that may be made by persons against whom the recognition/enforcement of arbitral awards or issues which can be invoked, ex officio, by the court. More precisely, we limited ourselves to identifying and analyzing the attributions of the court, from a procedural perspective, in the situations in which the court is invested with requests having as object the recognition and/or execution of the arbitral awards. Also, the procedural means available to the parties in these proceedings were also addressed, in the context of the subject of this paper. Within these limits, we referred to the provisions of the Code of Civil Procedure and the provisions of the New York Convention, as these are the main normative instruments, of particular importance in the analyzed field.



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INSTITUTIONALIZED ARBITRATION IN ROMANIA: SOME LEGAL ASPECTS AND INSTITUTIONAL DEVELOPMENT

Associate professor habilitated Crenguța LEAUA

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PhD. student Sofia COZAC

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PhD. student Ingrid MÜLLER

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Abstract

The objective of this study is dual in nature. First, to analyse the provisions concerning institutional arbitration in Romania — an aspect incorporated in the Romanian legislation with the enactment of the New Code of Civil Procedure — while identifying certain particular characteristics of the administration and course of institutional arbitration proceedings. Secondly, to analyse institutional arbitration in Romania and to present the most relevant arbitral institutions in Romania, with the application of certain criteria relevant for arbitration. The research method used is analytical, as well as comparative. To analyse the arbitral institutions in Romania, the comparative method was applied, based on relevant criteria, such as: the availability of arbitration rules and options for expedited arbitration procedures, the availability of schedules of arbitral fees and expenses, the domestic or international experience of arbitrators, or whether or not there is a standard arbitration clause. The results of the study show that both the provisions concerning institutional arbitration in Romania, as well as the arbitration procedures and the regulations of the arbitral institutions analysed, enable the parties' access to a modern and efficient way of settling their disputes.

COMPARATIVE VIEW ON THE ROLE OF COURTS IN RELATION TO ARBITRATION FROM THE PERSPECTIVE OF ROMANIAN LEGISLATION AND THE UNCITRAL MODEL LAW

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Abstract

The present paper is a comparative study between the Romanian legislation and the UNCITRAL Model Law. Its main goal is to identify the similarities and differences between the law applicable in Romania and the soft law instrument mentioned above, with respect to the role of domestic courts in the arbitral procedure. Thus, we will see that — although, in abstracto, the differences between the international pursuit and the national approach can be important and caused both by objective factors like national specificity, and by subjective factors like judicial internationalism — the Romanian legislation is in congruence with the UNCITRAL Model Law, despite the fact that it was not implemented per se in the Romanian legislation. Also, counterintuitively considering that arbitration is, by definition, an alternative to state courts, it will become evident that, although limited by applicable norms or by the parties' choices, the role of domestic courts in arbitration is potentially decisive for certain administrative matters or pertaining to the course of the arbitral procedure, as well as essential when it comes to the setting aside of an arbitral award.

USE OF THE ORDER OF PAYMENT PROCEDURE IN CASES OF DISPUTES BETWEEN PROFESSIONALS

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Abstract

The main objective of this study is to analyze the mechanism of operation of the special procedure of the payment order regulated by the Code of Civil Procedure. The specificity of the research aims to observe an important aspect of this procedure, namely the quality of "professionals" of the parties who can use this institution of civil procedural law in case of possible disputes arising between them. In order to be able to include in as much detail as possible the specific elements and legal theses on the basis of which the contracting parties, having the quality of "professionals" in the contracts concluded between them and under which they chose to go through this procedure, relevant Romanian and European laws in force with the current amendments and updates, then the specialized works that dealt with this issue will be taken into account and last, the relevant decisions pronounced by the Romanian courts will be analyzed.



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THE SOURCE OF PRECARIOUS WORK

PhD. student Raluca Elena ANDERCO

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Abstract

The article aims to analyze the specific sources of precariousness: Undeclared work, False-independent activities, Atypical employment contracts, "Very atypical" employment contracts, Standard employment contract. The concept of precarious work could not be given an overview without referring to atypical working relationships, which implicitly have a precarious component. In this sense, for the analysis of the precarious elements within the atypical work reports, it is important to define this concept, starting from the definition of the standard/typical work relationship. These economic, political and social influences, which encompassed society, led to the emergence of atypical forms of work, as a consequence of labor market flexibility. Here that, in such an unstable and variable economic environment, the deviation from the standard employment contract appears to be imminent. Consequently, we intend to further analyze, starting from the definition of standard work, atypical employment contracts, as well as other non-standard activities (undeclared work and false self-employment), as activities that underlie the phenomenon of precarious work.

COVID-19 – THE CATALYST OF A LEGISLATIVE REFORM IN THE FIELD OF INSOLVENCY

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Faculty of Law - Doctoral School, Titu Maiorescu University, Bucharest, Romania

Legal adviser Diana Maria ILIE

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Abstract

As the cases of insolvency increase worldwide, thus the articles provided by insolvency researchers and practitioners offer new perspectives for legislative reform. Climate changes, pollution, globalization, digitalization and massive industrialization remain in the shadows of the new challenge of humanity regarding the aggressive spread of the Sars-CoV-2 virus and which painted the picture of society in gray shades, triggering a real health, economic and social crisis. In this sense, Covid-19 becomes a nucleus for a significant reform at the level of each state. The time has come for the judicial system, especially the "key" rules in supporting the economy, such as insolvency, to be upgraded. The speed with which provisional measures were introduced and additions or exceptions to the legislation were regulated in response to the crisis generated by the pandemic, shows us that the dead end in the reform of "obsolete" laws can be overcome. We are almost talking about a "coronavirus law" which could include a series of temporary regulations, the legislation discovering perhaps the most diverse and complex form of creation. This pandemic context has contributed not only to the diversification of meanings and to the development of the horizon of legal knowledge, but has managed to revive traditional legal institutions, law being the indispensable vector for transposing the social and economic policies of a State. Beyond these interim measures, however, we must look at the whole, as the effects of the pandemic on certain areas such as labor law, digitalization or the State economy can be long-lasting, and for decision-makers working in the field of insolvency and debt restructuring, the crisis becomes an opportunity for a significant reform. The need for judicial reorganization of business in order to stimulate the survival of viable businesses and save jobs, as a strategy of economic recovery in the coming years, will now "reveal" more than ever the regulations that need insolvency reform and will be born in our culture acceptance of the harmonization of domestic legislation with Union and international standards on best practices in the field. For the moment, we could say that we are facing a "false comfort" of the measures extended by the temporary insolvency legislation, and a much deeper structural reform is certainly needed. Moreover, many of the support measures have expired or are due to an end, which is why a "dilution" of these temporary measures or the reactivation of expired ones could make the difference between survival and collapse, especially for small, with limited cash reserves and narrow margins.

ILLEGAL TERMINATION OF THE INDIVIDUAL EMPLOYMENT CONTRACT - APPLICATION OF THE PROVISIONS REGARDING ILLEGAL DISMISSAL OR NOT?

Associate professor Sandra GRĂDINARU

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Abstract

The legal termination of the individual employment contract represents the termination of the individual employment contract for reasons not related to the will of the employer or the employee. In the judicial practice, as well as in the specialized literature, it was appreciated that a distinction must be made between dismissal and the reasons for the legal termination of the individual employment contract. At the same time, it was appreciated in the specialized doctrine the fact that in case of legal termination of the employment contract, the employer would not have to comply with additional obligations than the issuance of a notification to the employee to inform him that his legal relationship has ceased. for work. The Romanian legislator provided for the need to go through a preliminary procedure in case of legal termination of the individual employment contract as a result of admitting the request for reinstatement in the position held by the employee of a person fired illegally or for unfounded reasons. The preliminary procedure presupposes that prior to the notification of the employee regarding the legal termination of the individual employment contract, he proposes to the employee other vacancies in the unit, compatible with the professional training or, as the case may be, with the work capacity established by the occupational doctor. Romanian legislation on labor law is regulated in the sense of preventing and sanctioning any violation of the employer's legal obligations. Thus, in the situation of illegal dismissals, the sanction provided by the legislator



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is the absolute nullity with the possibility of reinstating in the situation prior to the issuance of the dismissal decision. During this work we intend to analyze whether the legal provisions on sanctioning illegal dismissals can be applied by analogy and in case of non-compliance with the employer's obligation to complete the prior procedure in case of termination provided by Article 56 paragraph 1 letter e) of the Labor Code. The present paper has a theoretical and practical importance because the specialized doctrine has not analyzed this hypothesis, and at the level of the courts a unanimous judicial practice has not been established.

**PARTICULARITIES OF THE LABOR RELATIONS OF YOUNG PEOPLE AND THE ELDERLY DURING THE
COVID-19 PANDEMIC**

PhD. student Elena Daniela OPRESCU
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Abstract

The present study aims to identify the legislative changes caused by the Covid-19 pandemic and to analyze the consequences of these changes on the employment relationships of young people and the elderly. During the pandemic, a flexibility of labor relations at national level and the need to regulate exceptions regarding the modification of individual employment contracts can be observed. Support measures have also been adopted for vulnerable groups of workers, young and old, respectively. Telework during the Covid-19 pandemic and beyond may encourage the exit from the labor market of older workers whose digital skills are lower than those of other categories of workers. To avoid this effect, it is necessary for employers to take measures to train the digital skills of employees, especially of older workers, having in mind the demographic aging of the population, which is also visible on the labor market.

THE LAW OF THE XII TABLES, THE MOST IMPORTANT LAW IN ROMANIAN LAW

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Abstract

The most important of Roman law, the Law of the Twelve Tables, *LEX DVODECIM TABVLARVM*, was adopted in 449 BC and was never formally abolished. The consequence of conflicts between the social classes of the Roman state, patricians and plebeians, the Decemviral Law constitutes a true code, given the nature of the regulations of the famous law which concerned both the institutions of Roman private law and the Roman public law. Although it was adopted about 2,500 years ago, the analysis of the Law of the Twelve Tables does not cease to attract the scholars and practitioners of contemporary private law, the study of the current legal institutions requires a retrospective look at their primary source. The paper aims to present the historical and social context that allowed the adoption of the Law of XII Tables, the procedure for the adoption of the law, the persons and bodies involved in this procedure. I will also analyse the content of the law and even present the text of the Law of the XII Tables, as reconstructed over time by the scholars of Roman law. In carrying out this scientific approach, I will use the specific methods of interpretation of the legal norms, namely, the historical, grammatical, systematic and teleological method.

**CROWD EMPLOYMENT - AS AN INNOVATIVE FORM
OF EMPLOYMENT**

Assistant professor Mihaela MARICA
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Abstract

The legal contemporary framework regarding individual employment relations has proven to be generally based on the proliferation of non-standard forms of employment, which respond to the need for flexibility in the labor market. The economic and financial crisis has resulted in a significant increase in number of workers looking for alternative forms of employment. Similarly, as companies face an unpredictable business environment, they began to rely more on innovative forms of employment. Practically, by using more flexible workforce the companies have better adjusted to the demands of today's market places. Although, there are many new employment forms which are emerging across EU, the concept of crowd employment has an important potential for development in the context of opportunities offered by the new technologies. In Romania, it is still relatively little known, whereas in the companies operating on the European market it is a common solution to the problems on need for flexibility. The following article emphasizes the particular features of the crowd employment as an innovative form of employment with an explosive growth in the current context. Based on a comparative law analysis conducted in order to uncover various perspectives of the European Union's Member States, this paper highlights the degree of utility-precarioussness of crowd employment, in the event of its implementation into Romanian labour practice.



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**THE ISSUE OF REVOCABILITY OF THE MANDATE
IN COMMON INTEREST**

XAT.COM

„Babeş-Bolyai” University of Cluj-Napoca, Romania

Assistant professor Dana-Lucia TULAI
Faculty of Economics and Business Management,

Abstract

Our scientific approach aims to bring to attention a typology of contract that is as old as it is current. Today, more than ever, the mandate contract proves its usefulness, especially as a legal mechanism that provides an extremely flexible juridical framework for many professional activities. The doctrine revealed the complexity of the legal relations derived from this type of conventions, relations that are complicated especially in those situations, quite frequent, in which the principal chooses to unilaterally revoke the mandate conferred. An issue that legal doctrine has paid special attention to is that of the revocability of the mandate in common interest. The revocability of such a mandate agreement is questionable, given that the principal's discretionary right to revoke the mandate is based precisely on the fact that the mandate was conferred in his interest, and therefore only he is able to assess whether his interest has been pursued and fulfilled by the trustee or not. We consider that the principal retains the right to revoke the contract, but with the correlative obligation to compensate the agent for any damage caused, unless the cause of revocation is the proven fault of the agent, or a fortuitous cause, which makes it impossible for the principal to continue the contract.

**SOME PARTICULARITIES CONCERNING THE ADMINISTRATION OF THE LIMITED LIABILITY
COMPANY**

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

Abstract

From the point of view of the organization and functioning of the limited liability company, the legislator has chosen a mixed approach, combining some rules concerning companies of persons, particularly related to the presence of the intuitu personae element, with more formal and rigid rules enacted in the matter of the company by shares. With reference to the rules regarding the administration of the limited liability company, the law expressly states the inapplicability in this matter of the legal provisions governing the administration of the company by shares. On the contrary, in order to define the legal regime applicable to the administrators of this legal form of company, in addition to some special provisions enacted in the matter of the limited liability company, which are not sufficient to fully define such a statute, the legislator chooses to send to the provisions applicable in relation to the administration of the general partnership, emphasizing once again the mixed nature of the limited liability company and the similarities that exist, in certain respects, between it and companies of persons.

**THE CONCEPT OF "LEAVE DAYS" IN ROMANIAN
LABOUR LAW**

Professor Raluca DIMITRIU
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Abstract

Working time has maximum limits strictly regulated at national and European level. Periods that do not constitute working time are considered rest time. Among the periods that do not make up working time, in this paper we will explain the concept of "leave days" (days off), not legally defined and even slightly obscure in the current Romanian legislative landscape. The notion of leave days does not benefit from a rigorously outlined legal definition. So we shall attempt some clarifications. Besides, the paper includes an analysis of recent developments in Romanian Labour Law on working time, in the period of COVID 19 crisis. The heterogeneous nature of the situations considered, and their disparate regulation makes it difficult to outline a single legal regime for leave days; from justification to effects, they cover a wide range of legal realities. That is why, however, we deemed useful a synthesis of the situations where this concept is regulated in Romanian law, as well as the legal consequences of these rules on the parties to the individual employment contract.



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ASPECTS OF SALARY REDUCTION IN THE CONTEXT OF THE EPIDEMIOLOGICAL SITUATION DETERMINED BY THE SPREAD OF SARS-COV-2 CORONAVIRUS

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Abstract

In the private sector, the salary, established by individual negotiation, can be modified, as a rule, only by the agreement of the contracting parties - in compliance with the provisions of art. 38 of the Labour Code. However, in the field of individual labour relations, the incidental legal regulations also provide for some hypotheses of unilateral reduction of the contractual element seen in the above. The modification of the collective labour contract - in the private sector - through the adopted laws, determines the modification of the individual labour contract (because art. 132 paragraph 4 of Law no. 62/2011 of the social dialogue specifies: “the individual labour contract cannot contain clauses establishing rights at levels lower than those established by the applicable collective bargaining agreements”).

METHODOLOGY AND APPRAISAL TOOLS UNDER COLLECTIVE REDUNDANCY WORKFRAME

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Abstract

The legal rules on collective redundancies abound in matters of interpretation and application; the most thorny of the questions arising from this process is related to the integration of the performance goals appraisal and general professional competence appraisal in a legal context that the legislator wanted to be eminently objective. Beyond the substantive aspects of this complex process, all stages of information, consultation, regulation and implementation of aspects related to the selection of employees in scope of collective redundancy must be clearly and accurately recorded in the documents issued in collective redundancy processes. Their non-compliance entails the risk of the court annulling the dismissal decision, affecting the effectiveness of a long, complex and traumatic process for the individuals and the organization. We further aim to capture some of the best practices regarding the steps taken for the smooth implementation of a collective redundancy process, with a special focus on issues related to the professional evaluation of employees.

ONLINE ARBITRATION - SOLUTION FOR COMMERCIAL DISPUTES DURING AND AFTER THE CRISIS

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Abstract

Adapting justice to the new global status quo is the challenge of the year for courts of law and arbitral institutions. But in such moments of crisis in which the entire judicial system (including private dispute resolution mechanisms) risks to collapse if they do not adapt fast and efficient, big steps in its evolution arise. The switch to online arbitration becomes almost natural in these times. Arbitration institutions and arbitrators face the challenge to rethink and reimagine themselves in this new digitalised era, while still complying with the requirements of the law for a due process and effective dispute resolution. The main objective of this paper is to present and analyse the legal instruments and framework that can be used by arbitrators, lawyers and arbitral institutions as tools to organising efficient online procedures without any prejudice to all the due process guarantees and other fundamental rights and principles of the parties. The result of the study is that the system is prepared to sustain online and digitalised proceedings, but the agreement and openness of the parties is essential in implementing and applying these tools to their dispute in arbitration.

RIGHT TO A NAME ÎN TERMS OF IDENTITY RIGHT

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Abstract

The identity of a person mainly supports discussions in a philosophical way, its definition being the subject of multiple debates. However, from a philosophical point of view there is no unanimity regarding the concept of identity, the established interpretations cumulating a series of common points, but subject to the mark of personality. In order to satisfy the need to differentiate humans in all manifestations of social life, and in order not to give rise to confusions about one's identity, the use of the name was imposed. The aim of this article is to contribute to a better understanding of both rights and to emphasise each and any existing connection between them. Another aspect that determined the elaboration of this article is represented by the fact that the doctrine is largely limited in treating



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the name right only in the chapter allocated to the identification attribute of the natural person without emphasizing its valences according to the conclusive legal relations.

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**SOME CONSIDERATIONS REGARDING THE REGULATION OF „FIDUCIA” IN THE CIVIL CODE OF THE
REPUBLIC OF MOLDOVA AND IN THE CIVIL CODE OF ROMANIA**

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Abstract

The „fiducia” represents a new institution in the legal system of the Republic of Moldova, being introduced by the Law on the modernization of the Civil Code and the amendment of some legislative acts, no. 133 of 15.11.2018, in force since 01.03.2019. In the process of elaborating the legal framework, the legislator took into account international legislative developments, including the provisions of the Civil Code of Romania. However, the basic source of regulation in the Republic of Moldova was the Book X – „Trusts” of the Draft Common Frame of Reference of the European Union. Therefore, there is a considerable difference between the „fiducia” under the Civil Code of the Republic of Moldova and the „fiducia” under the Civil Code of Romania. This article aims to present in a comparative aspect the institution of „fiducia” in the light of the regulations of both states. Mainly, some terminological issues will be discussed and some conceptual similarities and differences will be revealed, which concern important aspects such as: sources of „fiducia”, fiduciary parties, conditions, grounds for termination of the „fiducia” etc.

CONSIDERATIONS REGARDING THE MINOR'S ALTERNATIVE RESIDENCE

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Abstract

If the parents do not live together, regardless of whether they are married or not, they will establish, by mutual agreement, the child's home. In case of disagreement between the parents, the guardianship court will decide, taking into account the conclusions of the psychosocial investigation report and listening to the parents and the child, if he has reached the age of 10 years. The present study aims to analyze the possibility of the court to establish an alternative residence for the minor, for equal periods of time, to each of the parents, taking into account the best interests of the child. The study uses the logical, historical and experimental method, analyzes the legal provisions currently in force, as well as the point of view of the doctrine and the solutions derived from the judicial practice. The conclusions are in the direction of expressing concrete proposals to amend the current regulations.

**CONSIDERATIONS ON THE ADMISSIBILITY OF THE CREDITOR’S CLAIM IN THE INSOLVENCY
PROCEDURE**

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Abstract

According to the law, the holder of claims born prior to the opening of the insolvency proceedings, who does not submit the application for admission of the claims until the expiry of the period laid down by the law, will be deprived, as regards of those claims from the right to be in the debts' list and will not acquire the status of creditor entitled to participate in the proceedings. Thus, a claim prior to the opening of insolvency proceedings cannot be valued by means of an action brought after the closure of the insolvency proceedings, since its recovery could only be made in the context of the procedure provided for by the special law. This article aims to highlight the most important aspects on this subject, without claiming of having exhaustively treating the subject.

**CONSIDERATIONS REGARDING THE REDUCTION OF THE EMPLOYER'S ACTIVITY IN
THE CONTEXT OF THE COVID CRISIS**

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Abstract

In the context generated by the effects of the epidemiological crisis, a series of normative acts applicable in the field of labor relations have been adopted, which include a series of incentive measures for employers. Among them is the adoption of the "kurzarbeit" model which involves reducing the working time of employees by granting a reduced time allowance. The study aims to analyze the conditions under which the employer may order the reduction of employees' working time and in which it may benefit from financial support for the payment of the reduced-time allowance, as well as the consequences of taking this measure.

CONSIDERATIONS ON RECENT AMENDMENTS TO THE LABOR CODE

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Abstract

The present study aims to present and analyze the latest amendments to the Labor Code regarding the human resources specialist and his intervention in legal employment relationships.

