



INTERNATIONAL CONFERENCE
“CHALLENGES OF BUSINESS LAW
IN THE THIRD MILLENNIUM”

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ADJURIS
Society of Juridical and Administrative Sciences

SECTION III.
EUROPEAN UNION LAW. INTERNATIONAL LAW

Friday, November 25, 2022

ONLINE ON ZOOM

Keynote speakers:

Lecturer **Ovidiu Horia Maican**, Faculty of Law, Bucharest University of Economic Studies

Associate scientific researcher **Cristina Popa Tache**, Institute of Legal Research of the Romanian Academy

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

**IS THE COVID-19 PANDEMIC REWRITING THE RULES OF CORPORATE GOVERNANCE
IN NIGERIA?**

Postdoctoral research fellow **Oyesola ANIMASHAUN**
Faculty of Law, North-West University, South Africa
Professor **Howard CHITIMIRA**
Faculty of Law, North-West University, South Africa

Abstract

The corona virus (covid-19) pandemic which started as a public health emergency swiftly evolved into a global financial and economic crisis of epic proportions. Thus, it had a far-reaching effect on Nigerian corporations. The advent of covid-19 seems to have changed the guiding principles of corporate governance from the agency theory to stakeholder theory due to the heightened expectations for societal engagement from corporations in Nigeria. For instance, the management of Access Bank which donated ₦1 Billion and other materials like ambulances to the Federal Government of Nigeria, decided to downsize staff by 75 percent in the same week. The outcry by the public on the challenges caused by the aforesaid huge donation vis-à-vis the redundancy policy led Access Bank's management to reverse its earlier decision and for the regulatory body for the banking



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industry, the Central Bank of Nigeria, to prohibit all banks in Nigeria from retrenching their employees during the pendency of the pandemic. The article examines the impact of covid-19 on corporate governance in Nigeria through the prism of stakeholder theories of corporate governance. The authors submit that covid-19 has a profound effect on corporate governance in Nigeria and it seems to be inducing a review and amendment of certain provisions of Companies and Allied Matters Act, 2020 to promote good corporate governance in Nigeria.

**RELATIONSHIP BETWEEN EU LAW AND NATIONAL LAW
IN THE CONTEXT OF CASE LAW OF JUDICIAL BODIES**

Professor **Daniela NOVÁČKOVÁ**

Faculty of Management, Comenius University in Bratislava, Slovakia

PhD. Jana Vnuková

Slovak Academy of Management, Slovakia

Abstract

The European Union requires its Member States to fulfil their commitments stemming from the membership in the EU responsibly and to assist in carrying out tasks flowing from the Treaties and to achieve the Union's objectives in accordance with the principle of sincere cooperation. This scientific thesis points out the responsibility of Member States to fulfil their obligations in bona fide in accordance with principle pacta sunt servanda and it refers to well established case law of the Court of Justice of the EU clarifying the application primacy of EU law over national laws. At the same time it opens the discussion about decisions of constitutional courts related to the primacy of EU law in some EU Member States, in particular in Germany and Poland. This scientific thesis points out the significance of EU law in the process of further deepening of European integration and promoting rule of law values common to the EU Member States.

SUSTAINABLE BUSINESS IN THE EUROPEAN ECONOMIC AREA

Associate professor **Silvia MATÚŠOVÁ**

Bratislava University of Economics and Management, Slovakia

Abstract

The European Green Deal creates a framework for sustainable business and for the implementation of new models of business and service provision. Sustainable business promoted by the European Union is determined by the enforcement of common measures in all EU member states. The paper aims to clarify a new business model, namely a sustainable business model, adopted by business companies which incorporate sustainability into the management and management systems of the company and make managerial decisions with regard to the protection of human rights and the protection of the environment. By using scientific methods such as a systematic analysis of valid legislation framework of sustainable business, a survey of factors influencing sustainable business, synthesis of acquired knowledge, and the comparison of acquired data, the authors formulated recommendations regarding sustainable business. A key aspect of sustainable business is the business environment, based on the principles of fairness, transparency, environmental sustainability, decent work and human dignity. Sustainable businesses are a benefit to the economy of each EU member state and a source of growth and employment. The benefit of the scientific paper is to highlight of the EU activities, promoting sustainable development and the transition of economies and business companies to sustainability.



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THE ADVISORY ROLE OF INTERNATIONAL COURTS IN THE EVOLUTION OF HUMAN RIGHTS LAW

Assistant Professor **Fátima CASTRO MOREIRA**
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IJP-Portucalense Institute for Legal Research, Portugal

Abstract

Human rights have the pedigree of a distinguished struggle against oppression: everyone shall be treated with respect for their inherent dignity and human worth. The horrors of the Second World War provided the legal basis for the modern human rights law. The establishment of the United Nations (UN) signalled the beginning of an international concern for the protection of human rights. Human rights transnational institutions have developed human rights principles, some recognized as jus cogens norms. Nonetheless the application of human rights law in courts is almost always contested. The functions of international courts such as the International Court of Justice (ICJ) are dependant on the States volition and the settlement of disputes between them. Whenever asked by the UN organs and specialized agencies, international courts also give advisory opinions on contentious legal questions. The impact of international jurisprudence on contemporary international law is significant, assessing key areas of international law, such as law of the sea, international environment law and international human rights law. Note that, in this paper we focus on the particular impact of the advisory opinions on the human rights law.

REGULATION OF ADULTERY (ZINA) IN THE CONTEXT OF EGYPTIAN HUMAN RIGHTS OBLIGATIONS

Lecturer **Nqobizwe NGEMA**
University of Zululand, South Africa

Abstract

According to the Egyptian legal framework, a man is considered to have committed infidelity if he had sexual intercourse with another woman other than his wedded wife and such intercourse must take place within the marital home that he shares with his wife. If a man has sexual intercourse with an unmarried maiden in a hotel, that would not be regarded as an act of adultery. On the contrary, a woman does not enjoy the same privilege as her male counterparts. If a married woman sleeps with another man other than her husband, she will be regarded as the one who committed adultery whether she did it in her home or outside it. What is good for the goose must also be good for the gander. An egalitarian society for all is not only a fundamental human right but an essential foundation for a prosperous, peaceful and sustainable society. Egyptian government ought to abolish its domestic laws that promote discrimination in order to comply with its international human rights obligations.

APOSTASY AND BLASPHEMY IN THE CONTEXT OF SOMALIA'S INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Lecturer **Nqobizwe NGEMA**
University of Zululand, South Africa

Abstract

The overthrow of president Siad Barre in 1991 led to a civil war that lasted for decades and the extremist Islamic Group (Al-Shabaab) has been harassing and killing people who are suspected of converting from Islam to join other religions and those who change from Islam and become atheist. so, if it is illegal to be an atheist, change from Islam to join other revealed religions and to freely criticise religion then there is no freedom of religion in Egypt as provided by the international human rights. The Egyptian government ought to truly comply with its international human rights obligations and to cancel any reservations that blocks the implementation of human rights.



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HOW TO CONTROL INFLATION IN MARKET

PhD. **Omid ADNAN**

Omid Adnan logistic services, Kabul, Afghanistan

THE LAW OF THE DIGITAL ECONOMY A REALITY MANIFESTED IN THE LEGAL REPORTS OF PRODUCTION, COMMERCE, SERVICES AND PUBLIC ADMINISTRATION

Lecturer **Bogdan Manole DECEBAL**

"1 Decembrie 1918" University of Alba Iulia

Abstract

Online transactions are a certainty of the moment in all social and economic fields. Digital economy has been part of everyday normality for a long time. The legislation that regulates legal relations is not updated and there is no clear perspective by which to confirm the imposition of "digital economy law" in society. The acts of commerce, services and production in which the digital society participates (hard, software, networks and augmented reality) develop, in themselves, an amount of legal subjects and a large palette of contractual or tortious civil responsibilities that do not have a clear regulation. Through this research, we are trying to launch a current and forward-looking topic to the public professional debate to lay the foundations for the "Digital Economy Right". The research methods used are: observation of flows and case studies of "artificial intelligence" used through software in the private and public economy; reporting of legal subjects involved in legal relations to the legal norm. The implications of the study are relevant for the whole society, but also for legal professionals. The results constitute benchmarks for the debate and drafting of the future legal norms necessary to harmonize the international legislation of classical law with the law of artificial intelligence.

TYPES OF INTERNATIONAL COMMERCIAL AGREEMENTS AND THEIR LEGAL REGULATION

Professor **Olga TATAR**

State University of Comrat, Republic of Moldova

Abstract

The purpose of writing this article is to classify international commercial contracts on various grounds. First, depending on the subject of the international contract: international contract for the sale of goods; international lease agreement; international financial leasing agreement; international factoring agreement; international contract, etc. Secondly, we can distinguish simple international agreements (for example, an international sale and purchase agreement), as well as complex (mixed and unnamed). The latter are becoming more widespread in international trade. European countries carry out legal regulation of this kind of contracts both within the framework of civil law, trade law, tax law, as well as special legislation. So, among the most common in practice mixed (complex) foreign economic agreements are international leasing, franchising, distribution, factoring agreements, investment agreements, etc. Depending on the nature of the delivery and the specifics of the relationship between counterparties: an international (cross-border) contract with a one-time delivery of goods, after the execution of which legal relations between the parties to the transaction terminate; an international (cross-border) contract with a periodic regular supply of goods from the seller to the buyer within a certain period. The methods used in this article were: comparative legal, logical, historical, didactic, imperial.



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THE EU-CHINA ROAD TO THE COMPREHENSIVE AGREEMENT ON INVESTMENT

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Scientific researcher Phd. **Cristina Elena POPA TACHE**
Institute of Legal Research "Acad. Andrei Rădulescu" of the Romanian Academy

Abstract

For about ten years, both the European Union and China have decided to embark on a "not easy" road to reach an investment agreement. So, two different cultures, two international powers, set out to regulate the main aspects of the investment mechanism between them. The road to this agreement is perhaps the most difficult in the recent history of the field, largely because of the narrow loopholes through which the negotiating parties must pass. The only good path for the parties on this road is the public international law governing the treaties, while foreign policies should retain their position as auxiliaries with a limited role. This article aims to analyse the legal aspects of the procedure required by such a treaty, taking into account its particularities. The method used for the elaboration of this study is specific to differentiated comparison and introspection.

THE INTEREST OF THE EUROPEAN UNION IN THE EXPLORATION AND EXPLOITATION OF THE BLUE CONTINENT' RESOURCES

Associate professor **Laura Magdalena TROCAN**
Faculty of Educational Sciences, Law and Public Administration
"Constantin Brâncuși" University from Târgu-Jiu, Romania

Abstract

The existence of unsuspected resources in the seas and oceans of the world and the real possibilities of covering an important part of the food and energy requirements of mankind in the context of the of terrestrial resources ' depletion, in a not too distant interval, have made to continuously increase the interest in the world ocean, the seas and oceans being engines of the world economy, including the economy of the European Union, having great potential for innovation and growth, the maritime sector, at the level of the European Union, offering viable solutions for economic development, job creation and ensuring food resources for a population of over 500 million people. In this context, the present study wants to make a presentation, (using scientific methods such as: analytical, comparative, quantitative method etc.) of the interest of the European Union in terms of the exploration and exploitation of the resources of the blue continent in the light of the initiatives, regulations and measures implemented until present, by this international organization sui-generis.

THE LEGAL REGIME AND THE ROLE OF THE ENTERPRISE AS SUI GENERIS ORGAN OF THE INTERNATIONAL SEABED AUTHORITY

Associate professor **Laura Magdalena TROCAN**
Faculty of Educational Sciences, Law and Public Administration
"Constantin Brâncuși" University from Târgu-Jiu, Romania

Abstract

The problems raised, over time, by the exploration and exploitation of the resources of the seas and oceans have brought in the forefront of the interests of the states, the need to establish precise regulations, as well as the creation of an adequate institutional framework, a fact materialized at the entry into force of the United Nations Convention on the Law of the Sea, which has the merit of regulating all maritime spaces and outlining the legal framework for the establishment of the International Seabed Authority, the only international organization through which the activities in the international seabed area - declared the common heritage of humanity, are organized and controlled in order to administer and manage its resources, for the benefit of all humanity. The Enterprise is the operational body of the Authority, through which, this unique international organization, has the opportunity to directly carry out activities of exploration, exploitation, transport and treatment of minerals extracted from the international seabed area, becoming, at the moment of operationalization, a true industrial and commercial public service on a global scale. In this context, this study wants to make a presentation (using scientific methods such as: analytical,



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historical, comparative method etc.) of the legal regime and the role of the Enterprise, as the main body of the Authority, in the light of the provisions of the United Nations Convention on Law of the Sea.

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THE BRUSSELS II TER REGULATION - ANALYSIS OF SIGNIFICANT INNOVATIONS

Lecturer **Cristina Marilena PARASCHIV**

Faculty of Administration and Business, University of Bucharest, Romania

**LEGAL REGIME OF COMPETITION IN AUDIOVISUAL
COMPARATIVE ASPECTS**

Lecturer **Ovidiu Horia MAICAN**

Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract

The exercise of competition in the audiovisual field is closely linked and cannot be separated from the maintenance and expansion of pluralism in the mass media field. Media pluralism has a crucial role for the democratic process within the community space. The European Union is determined to protect media pluralism to the same extent as the right to information and freedom of expression. As an expression of these realities, the European Commission elaborated in 1984 a Green Paper on the creation of a Common Market in the field of radio and television, and in December 1992 a Green Paper on media pluralism and concentration within the internal market. Reports in this sense were developed by the European Parliament and the Council of Europe. The application of competition legislation in the audiovisual field plays an important role not only in preventing the creation of a dominant position or the abuse of a dominant position, but also in ensuring the access of new competitors (competitors) to the market. Thus pluralism is ensured, both in the traditional television markets and for the new markets.

INTERNATIONAL ASPECTS OF POLLUTION

Lecturer **Ovidiu Horia MAICAN**

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Abstract

The transboundary effects of industrial accidents must be analyzed in the context of Romania's position as European Union member. During the Baia Mare accident in 2000, Romania was not member of European Union. Key principles of international environment law are included in multilateral conventions and other international legal instruments. The issue of transboundary effects of industrial accidents is an important problem in north America too, mainly in United States of America. Finally, the liability regime is very important in order to cover the damages produced by such dangerous activities.



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**THE EUROPEAN PATIENT, BETWEEN THE VALUES OF THE EUROPEAN UNION, THE
PUBLIC HEALTH POLICIES OF THE MEMBER STATES AND THE FREE MOVEMENT OF
SERVICES**

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Lecturer **Anamaria GROZA**

Faculty of Law, University of Craiova,
Judge at the Craiova Court of Appeal, Romania

Abstract

The European citizen who leaves his state of residence to receive medical treatment in another Member State of the Union, is a beneficiary of the free movement of services. Therefore, European citizens should be treated in the host states identically/similarly to the nationals of these states, and the restrictions on mobility, including by the home state, should be analysed from the perspective of the legitimate purpose, necessity and proportionality. But the serious problem of financial resources bars this ideal. For this main reason, European Union law has provided for a system of prior authorisation in the case of patients who want to be treated in other Member States, authorisation on the obtaining of which the reimbursement of the expenses incurred by the patients is conditional. The Court of Justice made this system more flexible for the benefit of patients, but the full reimbursement of medical expenses was recognized only in the case of treatments which have the advantage of not generating a disability.

**GENERAL COMPETENCE IN CIVIL AND COMMERCIAL MATTERS OF THE ROMANIAN
COURTS TO RESOLVE DISPUTES WITH ELEMENTS OF FOREIGNNESS FROM
ANOTHER STATE OF THE EUROPEAN UNION**

Assistant professor **Alexandru Cristian ROȘU**
Romanian American University, Romania

Abstract

Jurisdiction is the ability established by law in favor of an authority to resolve a particular dispute that arises between two or more subjects of law. Outside the courts, the settlement of disputes can be carried out by several jurisdictions, some national and others carried out by bodies with jurisdictional powers, this solution being imposed by the specialization of certain disputes but also by the relief of the courts.

BRIEF ANALYSIS ON THE LIABILITY OF ARBITRATORS

PhD. student **Ingrid MULLER**
Bucharest University of Economic Studies, Romania

Abstract

This article briefly analyzes the issue of the liability of (international) arbitrators, from a comparative perspective. The analysis will focus on arbitrators' liability based the multifaceted nature of arbitration, mostly the judicial nature vs. the contractual nature being considered. At the same time, in general terms, the comparison will be made between the common law system and the civil law system, while some aspects will be analyzed in relation to specific provisions, whether national, supranational, international conventions, or soft laws. Common law countries favor the judicial nature of arbitration, while in civil law jurisdiction there seems to be a preference to apply the contractual nature of arbitration. Usually, when the judicial nature of arbitration is considered, given that arbitrators act as private judges, a type of judicial immunity is applied. In this case, arbitrators are less likely to be considered liable, except when there's a breach of judicial duties. Whereas, when the contractual nature of arbitration is considered, arbitrators enjoy less immunity and are, for the most part, potentially liable for breaches of their contractual duties. Regardless of the nature of arbitration applied or the relevant jurisdiction, arbitrators seem to be held almost universally liable for gross intentional breaches and in the case of criminal misconduct. Furthermore, complete immunity is probably not enforceable in certain situations, even if a jurisdiction provides for it.



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SUSTAINABILITY CHALLENGES IN CONSTRUCTION CONTRACTS

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Abstract

The article aims to identify the EU legal provisions and to analyze, by using the comparative method, the main types of construction contracts that refer to sustainability (FIDIC, JCT, G.D. no. 1/2018). The purpose is to determine how parties can use contractual provisions to reduce carbon footprint in their projects, but also to identify the possible risks and dispute grounds associated with such an approach. The parties can negotiate sustainability provisions, but also the contractor can propose certain measures for meeting environmental objectives. The EU 's Corporate Sustainability Reporting Directive requires certain large and SMEs European and non-European companies listed and operating in the EU regulated markets, to publish regular reports on their environmental and social impact activities. The purpose of these measures is to make companies more accountable and transparent about the environmental impact of their business approach, with the use of digital technologies. In the end we will show that considering sustainability will actually create opportunities for investors, companies and society in general. There is a growing awareness of the financial implications of conducting business “as usual” meaning in a non-sustainable manner.

BRIEF CONSIDERATIONS ON THE 'BEHAVIOUR' OF PROFESSIONAL TRADERS AND CONSUMERS IN THE CONTEXT OF THE SHIFT FROM OFFLINE COMMERCE TO E-COMMERCE. UNIONAL AND TRANSPOSITION REGULATIONS

Associate professor **Elise Nicoleta VÂLCU**
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Abstract

The way in which goods and services are marketed in the European Union is in a continuous process of change. Given that citizens, as consumers as well as professional traders from the Union, are increasingly active in markets outside their country of origin, the possibility of resorting to electronic payments greatly simplifies their current activity. As a result, the Green Paper of the European Commission entitled "Towards an integrated European market for card, internet and mobile payments" notes the increasing proportion of online or internet payments (electronic payments) and payments from the mobile phone". The present scientific study aims to highlight the main advantages conferred by the presence of electronic payments on the markets of the member states among which we mention: many possibilities for consumers and professional traders to choose those tools and those providers that best meet their needs; it gives more innovation, thus generating an integrated market in this way and last but not least the increased security of payments and more trust from customers. The scientific material also notes that this innovative payment system also has disadvantages, among which we mention the activities included in the scope of crimes, committed in the case of non-cash payment transactions carried out with any kind of payment instrument, whether physical, such as bank cards, whether virtual, such as payments through a mobile payment application. So, for a good understanding of the criminal phenomenon, the study approaches the union and transposition legislation in the matter.