SECTION I - PUBLIC LAW

Friday, November 17, 2023

ONLINE ON ZOOM

Keynote speakers:

Lecturer **Radu Ștefan Pătru,** *Faculty of Law, Bucharest University of Economic Studies*

Associate professor PhD. habil. **Cătălin Silviu Săraru**, *Faculty of Law, Bucharest University of Economic Studies*

PhD. student **Laura Ramona Nae**, *Doctoral School of Law, Bucharest University of Economic Studies*

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

SCIENTIFIC PAPERS

10.00 - 11.00

REFORM OF THE PROCEDURE FOR SELECTING JUDGES OF CONSTITUTIONAL COURTS AND JUDICIAL DIALOGUE: EUROPEAN EXPERIENCE

Assistant professor **Laura BZOVA**
Faculty of Law, Yuriy Fedkovych Chernivtsi National University, Ukraine
Professor **Oksana SHCHERBANYUK**
Faculty of Law, Yuriy Fedkovych Chernivtsi National University, Ukraine
Associate professor **Oksana MELENKO**
Faculty of Law, Yuriy Fedkovych Chernivtsi National University, Ukraine

Abstract

Given the transformations that have taken place in recent years, the processes of enlargement and the need to respond to the accelerating process of globalisation, it is doubtful that states can continue to think, as they have done in the past, of maintaining a supranational structure that strengthens their power in the domestic sphere and allows them to remain important agents in the integration process. The tension between constitutionalism and Europeanism may disappear in the medium term if Europe is to continue to maintain its level of development and prosperity in the global context. The main function of constitutional courts is to ensure the constitutional order. This guarantee of the Constitution, of which they are the main interpreter, is in principle neutral with regard to the European integration process. The link between constitutional justice and the Constitution means that the process of European integration can only be judged under the conditions laid down by the Constitution itself and in accordance with the general characteristics of the national constitutional order. It is not the same, for example, that the Constitution does not contain specific provisions on the process (as is the case in Spain), other than a general authorisation for accession, and that, on the contrary, the Constitution sets conditions and limits (as is the case in Germany). It is also not the same that, for example, the Constitution sets limits to its reform through immateriality provisions (as is the case in Italy or Germany), nor that it does not explicitly provide for such limits. Constitutional courts play an important role in the realisation of the necessary minimum of rights, i.e. in creating an existential core that ensures security, legitimacy and constitutional protection outside the state. This is not an attempt to standardise rights, let alone to promote standardised judicial decisions, but to unify and condense their constitutional protection. Faced with the vulnerability of fundamental rights in global constitutionalism, constitutional courts are increasingly engaged in a kind of communicative integration process in which legal rationalities are exchanged through the exchange of decisions, which is called international judicial dialogue in the strict sense. This book not only demonstrates that the conversation between constitutional courts has a specific structure, methodology and assumptions, but also proposes a reasonable procedure for systematising and operationalising the incorporation of international jurisprudence into domestic constitutional responses to the legal paradoxes of our time: the process of judicial dialogism.

POSSIBILITIES FOR THE USE OF ARTIFICIAL INTELLIGENCE IN THE ACTIVITIES OF THE JUDICIARY

Chief assistant professor **Diana DIMITROVA**
"Legal Studies" Department at the University of Economics - Varna, Bulgaria
Associate professor **Darina DIMITROVA**
"Legal Studies" Department at the University of Economics - Varna, Bulgaria

Abstract

The implementation of artificial intelligence (AI) in various parts of the workforce is already a fact, but the impact of technology is in all areas of public life. Digitalization not only affects economic processes, it also leads to a transformation in the sphere of judicial proceedings. In Bulgaria, as part of the European Union, the digitalization of the judicial system is based on acts of the European Parliament transposed into national legislation. The aim of this paper is to examine current issues related to various possibilities of using AI in the activities of the judiciary and to discuss the results. In order to realize the set goal the authors use the traditional methods of legal research - induction, deduction, normative and comparative analysis. On the basis of the study conclusions are drawn about the need for improvement of the legal framework, need of professional knowledge in the field of information technology of the employees in the judiciary. The present study was developed in the framework of the national scientific project NPI № 57 of 2022 on the topic "Legal Relations and Status of Persons in the Judiciary in the Conditions of Digitalization".

EMERGENCY REGULATIONS ENTAILING A SPECIAL CASE OF NORM COLLISION REVISITING THE CONSTITUTIONAL REVIEW OF SPECIAL LEGAL ORDER IN THE WAKE OF THE COVID-19 PANDEMIC

Lecturer **Gábor KECSŐ**
Eotvos Loránd University, Faculty of Law, Budapest, Hungary
Senior research fellow **Boldizsár SZENTGÁLI-TÓTH**
Centre for Social Sciences, Institute for Legal Studies, Budapest, Hungary
Project researcher **Bettina BOR**
Centre for Social Sciences, Institute for Legal Studies, Budapest, Hungary

Abstract

This contribution will interpret conflict between an emergency order and an ordinary law as a special case of norm collision and will revisit the constitutional review of such cases through this lens. First, the theoretical framework of emergencies will be taken into account, and then, based on the relevant constitutional case law of Austria, Germany, Hungary, Romania and Slovenia delivered during the recent public health emergency, a comparative analysis will investigate the most popular techniques to outline the scope of emergency regulation. Finally, based on this research, a three-step analysis will be proposed for constitutional courts to approach such issues by taking into account either the theoretical, the formal and the substantial aspects of the case. Apart from highlighting the role of constitutional review to establish the objective limits of emergency regulations, we also aim at giving additional weight on the formal and the theoretical prongs of the assessment of extraordinary state interferences, which have been consistently underestimated in our sense.

ECOLOGICAL FACTORS IN PUBLIC PROCUREMENT AS DRIVERS OF CORPORATE SUSTAINABILITY POLICIES

Associate professor **Raquel CARVALHO**
Faculty of Law, Portuguese Catholic University, Portugal

Abstract

Council of Ministers Resolution no. 132/2023 of 25 October defines the ecological criteria applicable to the procedures for the formation of contracts promoted by entities of the State's direct and indirect administration, including the State's business sector. The Portuguese government's option is in line with similar options in other EU Member States. However, the scope and classification of these "criteria" raises some criticism. This Resolution accompanies a series of government actions aimed at making public procurement greener (National Strategy for Green Public Procurement 2030 – ECO360 – Council of Ministers Resolution no. 13/2023, of 10 February). As far as public organisations are concerned, the Portuguese government's actions are in line with the European guidelines on the matter, However, public procurement also involves economic operators, most of which are companies. It is important to understand how companies can react to these new guidelines in a time when the European Union is discussing a proposal for a directive on "Corporate Sustainability Due Diligence". For the time being, the law does not allow public procurement procedures to require economic operators to have a social responsibility policy in order to pursue social policies when concluding a public contract. Will the future directive serve to leverage the requirements on ecological factors that many Member States are putting into their public procurement legislation? Recital (30) of the proposed directive, on the subject of due diligence, reads as follows: "When identifying negative effects, companies should also identify and assess the impact of the business model and strategies of a business relationship, including commercial, procurement and pricing practices". Thus, maybe the question to be asked should be: Can the obligation to include environmental factors help fulfill the Directive's due diligence obligations?

11.00 - 12.00

COERCIVE ADMINISTRATIVE MEASURES APPLIED IN FINANCIAL LEGAL RELATIONS ACCORDING TO BULGARIAN LEGISLATION

Assistant professor **Antoniya METODIEVA**
Faculty of Law and History,
South-West University "Neofit Rilski", Blagoevgrad, Bulgaria

Abstract

The report examines the enforced administrative measures applied in financial legal relations according to Bulgarian legislation. The enforced administrative measures are considered as a form of state coercion for the fulfillment of obligations arising from financial legal norms and the principles they should be based on. A definition of enforced administrative measures according to Bulgarian legislation is provided. The principles of legality, proportionality, restrictive interpretation of the substantive legal provisions in their application, and actions of the administrative body in conditions of bound competence are examined. The main role of these measures in preventing, stopping, or removing the harmful consequences of administrative violations is analyzed, as well as their specific goal of eliminating the administrative violation and its consequences, rather than sanctioning the violator, and their effect over time. The specific enforced administrative measures that are legislatively regulated in Bulgarian financial laws, such as the sealing of a commercial establishment and others, the supervisory measures imposed by the Bulgarian National Bank, the deadlines for their judicial contestation, and the competent court before which the complaint is filed, are studied. The enforced administrative measures in money laundering, such as measures for the prevention of the financial system, are considered. Current judicial practice of Bulgarian courts in contesting enforced administrative measures through judicial proceedings is cited.

THE OPERATOR IN THE ENVIRONMENTAL LIABILITY. THE EUROPEAN UNION AND PORTUGUESE REGIME

Professor **Cristina ARAGÃO SEIA**
Lusíada University, Porto, Portugal

Abstract

The concept of operator and occupational activity are essential for determining the application of the environmental liability regime. The aim of this paper is to critically analyse those concepts as they are used in European Union legislation (Directive 2004/35/EC) and in Portuguese legislation (Decree-Law 147/2008) as well as the subjective scope of application of these diplomas, referring to options made by the legal systems of other Member States and the case law of the CJEU. In the end, we present some considerations that should enable greater and better application of the legal regime of environmental liability.

ESTABLISHMENT AND TERMINATION OF DEPARTMENTAL ORGANIZATION – APLICATION PRACTICE IN SLOVAKIA UNDER THE CONDITIONS OF THE MINISTRY OF EDUCATION

Associate professor **Zuzana STOLIČNÁ**
Comenius University in Bratislava, Slovakia
PhD. student **Jana BARJAKOVÁ**
Comenius University in Bratislava, Slovakia

Abstract

Budgetary and contributory organizations represent a stable element of public administration organizations in the Slovak Republic. A similar type of organization is also known in the legal regulations of European countries, or countries around the world, most often under the term government agencies. The legal regulation of budgetary and contributory organizations is important from the point of view of their competencies regulation since on the one hand their activities impact a wide spectrum of the users of their services and on the other hand, they are financed from public sources. The aim of the study is to clarify the legal framework for the establishment and termination of these organizations and the application practice in this area under the conditions of Slovak legislation within the competencies of the Ministry of Education, Science, Research, and Sport of the Slovak Republic. Within the research, methods of analysis, synthesis, comparison, and other scientific methods were used. The starting data to analyze are valid regulations in the Slovak Republic, internal legislation of the Ministry of Education, scientific studies, and foreign legislation to regulate the issue abroad. The study provides a basic regulation of the establishment and termination of budgetary and contributory organizations within legal conditions in the Slovak Republic and an overview of the implemented changes in the structure of departmental organizations within application practice in the education sector.

LEGAL REGIME FOR THE PROTECTION OF EMPLOYEES' CLAIMS IN THE CASE OF EMPLOYER'S BANKRUPTCY IN THE REPUBLIC OF SERBIA

PhD. student **Vladimir RADOVANOVIĆ**
Faculty of Law, University of Belgrade, Serbia

Abstract

When bankruptcy proceedings are initiated by an employer, that often leads to uncertainty and problems for its employees. One of the biggest problems in this kind of situation is the protection of employees' claims arising from the employment relationship. Employees have the right to the payment of their claims arising from the employment relationship, such as unpaid wages, transportation allowances, meal allowances, holiday bonuses and the alike. However, in the case of the employer's bankruptcy, these claims are at risk, and there is a possibility that employees may not be able to fully collect them, which compromises the fundamental principles of labor legislation. For this reason, the state intervenes to protect monetary claims arising from employment. The primary mechanism involves granting privileged creditor status with priority claims, along

with mechanisms to protect these claims through a special guarantee institution. If there was no such intervention by the state, the realization of those rights would be difficult. However, even with state intervention, the realization of these rights is not guaranteed. In this regard, this paper will examine models for protecting employees' claims in the event of bankruptcy, while identifying practical problems in this field.

12.00 - 13.00

THEOCRACY - MYSTICISM AND CONTEMPORANEITY

PhD. student **Georgian Ionuț STAN**
Doctoral School of Law, Bucharest University of Economics, Romania

Abstract

Religion occupied a pivotal place in the life of our ancestors, even being a proof, at that time, of raising the degree of civilization of mankind. We say a pivotal place and not just an important one, since a large part of social life revolved around religion and its symbols. Often there was no boundary between politics and religion and what was Caesar's was not Caesar's. In those bygone times, political power was legitimized through a divine, cosmic, supernatural bond. No doubt that connection between politics and the supernatural was shrouded in mysticism. Today, when the importance of religion is in decline, humanity is more concerned with science, evidenced by sometimes exacerbated empiricism. It is as if there is no more room for the spiritual, for religion, the latter falling into a form of obsolescence. But is it so? Has religion really lost its ancestral role, is it headed for extinction? Contrary to a non-religious view we will notice that even in the present time there are societies in which religion and politics are intertwined, in which the source of state sovereignty is divinity and thus, we still have present theocratic political regimes. The divide between religious and non-religious views of society exists but understanding how theocratic regimes exist can lessen this divide.

EUROPEAN PUBLIC POLICY PERSPECTIVES. THE NORWEGIAN WAY VS. THE ROMANIAN WAY IN THE SOCIAL REHABILITATION OF INMATES

PhD. student **Adrian Cristian PALEA**
Doctoral School of Law, Bucharest University of Economic Studies, Romania

Abstract

This article analyzes the institutional approaches in two European states (Norway and Romania) regarding to the social reintegration of inmates. The analysis of public policies and potential of the two prison systems, as well as the results obtained following the implementation of the two systemic approaches, are the main objectives of the study. Also, the study highlights the collaboration between the two European states, the logistical and financial support and the example of good practice that the Norwegian state offered to Romania, in order to streamline the process of social reintegration.

WHY ARE WE AFRAID OF THE PUBLIC-PRIVATE PARTNERSHIP CONTRACT?

Associate professor Cristian CLIPA
Faculty of Law, West University of Timişoara, Romania

Abstract

Although it entered into force on May 18, 2018, Government Emergency Ordinance no. 39/2018 on the public-private partnership did not enjoy special attention from its possible recipients. Regulation by law of other public contracts - easier to understand by public administration agents, but also by those of the business environment (public procurement or concessions of services and works) - the execution of which does not claim the ability to overcome difficult problems that a public-private partnership relationship raises, makes interest in such a business arrangement quite low. The vicious circle is that lack of practice in the field increases reluctance. In an attempt to identify possible answers to the question in the title of this study, the author aims to identify the optimal circumstances of concluding a public-private partnership contract, under conditions that guarantee its success. To achieve this goal, the study will resort to descriptions and comparisons, within a swot-type analytical model, which will focus on the advantages and disadvantages of concluding and executing a public-private partnership contract, compared to what it can claim and involves a public procurement or concession contract.

FRAGMENTATION OF STATE CONTRACTS AND INTEGRITY

Associate professor **Mădălina VOICAN**
Faculty of Law, University of Craiova, Romania

Abstract

This article explores the impact of dividing government contracts into smaller components, highlighting the risks it poses to transparency and integrity in public procurement. Contract fragmentation can obscure decision-making process regarding public expenditure, reduce healthy competition, and facilitate corruption. Real-world examples illustrate these issues. The analysis highlights the need for strengthening public procurement regulations, increasing transparency, and promoting ethical conduct to mitigate these risks. By understanding the complex relationship between contract fragmentation and integrity, decision-makers and stakeholders can better protect public resources by promoting a fairer and more transparent business environment and upholding ethical standards in public procurement.

13.00 - 14.00

THE BINDING NATURE OF DECISIONS MADE BY COLLEGIAL BODIES OF LEGAL ENTITIES

Associate professor **Mădălina VOICAN**
Faculty of Law, University of Craiova, Romania

Abstract

This article explores the reason why decisions made by the collegial governing bodies of a legal entity, whether it is a public or private entity, are considered binding even for members who did not participate in the deliberation or voted against them. The rule applies both to private and public legal entities, and we will examine some specific aspects of its application. On one hand, the majority rule, decision-making efficiency, organizational cohesion, and compliance with the law and statutes are key factors that support this obligation. On the other hand, we analyze the extent to which the principle of relativity of the effects

of legal acts is applicable, which is a concept that generally stipulates that the effects of a legal act are limited to the parties involved in that act. Therefore, the purpose of the article is to provide a comprehensive perspective on the rules and principles governing the binding nature of decisions within legal entities and to clarify how these are applied in practice, whether it concerns private or public entities.

AUTONOMY OF UNIVERSITIES AND JUDICIAL REVIEW: IRRECCONCIABLE CONCEPTS?

Lecturer **Anamaria GROZA**
Faculty of Law, University of Craiova, Romania

Abstract

The autonomy of universities represents the main functional principle of universities in EU Member States. Is is an instrument of defence of higher education institutions from ideological, political and religious interferences and an essential middle of implementing educational right of individuals. Its role is to contribute to the improvement of higher education, to universities performance and to the developments of society. But what happens when decisions of higher education institutions, their inaction or unjustified refusal to resolve a demand are brought in front of tribunals? Is the judicial review possible, does it have limits and witch are these limits? The answer assumes to establish the aim and the content of the university autonomy and to assess the judicial review both from the perspective of legality and opportunity. Our research is descriptive and explanatory, and contains relevant case law. Our conclusion is in the direction of a complete judicial review made by the administrative courts, both from the perspective of the legality and of the opportunity of the act submitted to the control.

QUALITY AND INTEREST TO ADDRESS THE NATIONAL COUNCIL FOR THE SETTLEMENT OF COMPLAINTS IN THE FIELD OF PUBLIC PROCUREMENT. NOTE REGARDING THE DECISION OF CRAIOVA COURT OF APPEAL NO. 1592/6 SEPTEMBER 2023

Lecturer **Anamaria GROZA**
Faculty of Law, University of Craiova, Romania

Abstract

Any person who considers to be harmed in its rights or legitimate interests through an act of a contracting authority or through an unsolved demand in the legal term can ask the annulment of the act, the coercion of the contracting authority to emit an act or to adopt a remedy measure, to acknowledge the pretended right or the legitimate interest through administrative-judicial review or through judicial review, according to Law no. 101/2016. The person considered affected is any economic operator which accomplishes in the same time the next conditions: „has or had an interest in relation to a procurement procedure" and „suffered, suffers or risk suffering a prejudice as a consequence of an act delivered by the contracting authority, able to generate judicial effects or as a consequence of an unsolved demand in the legal term concerning a procurement procedure". The aim of the article is to underline the fact that it is not necessary for the economic agent to have submitted an offer in the procedure; in order to justify its quality and interest to contest acts or operations of the contracting authority pretended to be harmful.

DIGITISATION OF PUBLIC ADMINISTRATION IN ROMANIA: THE WAY TOWARDS EFFICIENCY AND ACCESSIBILITY

Professor **Cristian DUMITRESCU**
Faculty of Legal Sciences, Hyperion University, Bucharest, Romania

Abstract

The digitisation of Public Administration is a subject of great importance in the context of modern societies, both for the authorities and for the beneficiaries of public services, in this case, the citizens. This process involves the transition from traditional methods to the use of digital technologies to improve the efficiency, transparency and accessibility of public services. Romania's journey in the digitisation of the Public Sector has been a topic of interest in recent years. In general, our country has taken significant steps towards the modernisation of Public Administration by introducing digital solutions. The Government and the Private Sector have invested in information technology to improve public services, education and the business environment. E-Government leads to the development of smart cities and contributes to increasing the quality of life, and when the processes are integrated correctly, multiple benefits can occur. However, there are also challenges for Public Administration, such as uneven access to technology between urban and rural environments. Digitisation continues to be a priority in many areas, with a focus on innovations such as artificial intelligence, cyber security and emerging technologies.

14.00 - 15.00

DECENTRALISATION IN PUBLIC ADMINISTRATION: REDEFINING POWER FOR MORE EFFECTIVE GOVERNANCE

Professor **Cristian DUMITRESCU**
Faculty of Legal Sciences, Hyperion University, Bucharest, Romania

Abstract

Local Autonomy and Administrative Decentralisation are fundamental principles in the state organisation of power, in building the rule of law, in the development of democracy at all levels. Decentralisation is an essential principle in the construction of Public Administration. Along with Local Autonomy and the Deconcentration of Public Services, this principle contributes to defining the way in which power and responsibility are distributed between the different levels of administration, with the aim of improving the efficiency and relevance of decisions made according to the needs and particularities of communities. Described as a transfer of administrative and financial powers from central Public Administration to local Public Administration, Decentralisation is seen as a tool that facilitates more effective management of community and citizen needs. Putting the citizen at the centre of administrative reform strategies is a common point in governments' efforts. The objective of making the Administrative System more efficient and closer to the citizen reflects a desire to improve the experience and satisfaction of citizens in the interaction with the Public Administration. Even if ambitious goals are included in governance programmes and reform strategies, their effective implementation requires administrative capacity and effective coordination. Sometimes implementation can be hampered by insufficient resources, lack of expertise, or lack of a coordinated approach between different entities and levels of Administration.

FLAWED ADMINISTRATION THROUGH THE LENS OF FREE ACCESS TO PUBLIC INFORMATION

PhD. student **Vasilică STOINEA**
Doctoral School of the Faculty of Law, University of Craiova, Romania

Abstract

This paper conducts an analysis of the concept of "good administration" in contrast to the concept of "flawed administration", with both concepts being examined through the lens of free access to public information. Issues related to access to public information are often timely and can have a significant impact on society and political processes. Therefore, research in this field can be particularly relevant and can capture public attention. Transparent and responsible public administration is essential for good governance. This theme can contribute to identifying issues of flawed administration in the domain of public information communication and can provide solutions for enhancing governmental transparency. The uniqueness of the theme lies in its multifaceted approach, including transparency and administrative responsibility, legislation concerning access to public information, as well as the use of specific case studies to illustrate issues related to this topic. Thus, in this article, we will present several pertinent cases from judicial practice that illustrate how flawed administration is often linked to the denial or restriction of access to public information.

THE "CRIMINAL" NATURE OF THE MEASURE OF SUSPENSION OF THE OPERATING AUTHORIZATION OF A LEGAL PERSON AS A TAX WAREHOUSE

Professor, PhD. Habil. **Anca-Lelia LORINCZ**
"Dunărea de Jos" University of Galați, Romania

Abstract

The issue of liability of the legal person, in the context of discussing the "challenges of business law in the third millennium", gives us the opportunity to address some aspects regarding the qualification as "criminal sanctions" of some administrative measures taken in fiscal terms. Using, as research methods, documentation, interpretation and comparative scientific analysis, the present study brings to attention the need to continue the process of harmonizing national legislation with European Union law, with a view to the uniform application of a general regime of excise duties. Starting from a recent decision of the Court of Justice of the European Union (Judgement of 23 March 2023) regarding two preliminary questions formulated by a Romanian court, and considering the fact that the phrase "in criminal matters" has a wider meaning in Union law compared to the one in the Romanian legislation, this paper also concludes with a concrete legislative amendment proposal to avoid the risk of violating, in certain situations, the principle of the presumption of innocence against the legal person that functions as a tax warehouse.

THE RIGHT TO DEFENCE. AN INDISPENSABLE RIGHT FOR THE RULE OF LAW

Professor **Carmen-Silvia PARASCHIV**
Faculty of Law, "Titu Maiorescu" University of Bucharest, Romania

Abstract

The right to defense is a principle enshrined since Roman law, being considered a minimum requirement and a necessary guarantee to realize the defense of the fundamental rights and freedoms of any party in a process. According to Roman law, the advocatus (lawyer) "was not a representative in court, because he did not participate in the process in place of the party, but alongside the party supporting it through the legal knowledge he had. The lawyers' services were free. Women could not practice law." At the same time, referring to the application of the right to defense in Romanian law, "the trial took place in a building, in the presence of the magistrate, the parties, the lawyers and some court officials." We thus observe the importance of this principle since ancient times, no person could be tried without the presence of a defender, not even the slave. The study aims to carry out a detailed analysis, both from a theoretical and a practical point of view, of the right to defence, based on the

implications of domestic law, but also the provisions of international treaties on human rights and the jurisprudence of the ECHR.

15.00 - 16.00

THE NULLITY REGIME IN THE CRIMINAL PROCESS

Professor **Carmen-Silvia PARASCHIV**
Faculty of Law, "Titu Maiorescu" University of Bucharest, Romania
Lawyer **Oana Elena BRAN**
Bucharest Bar Association, Romania

Abstract

Nullities represent procedural sanctions that intervene if the fundamental principles of the criminal process are not respected. What is imperative to mention is the fact that these procedural sanctions operate only judicially, which means that they must be ascertained by the judicial body. Unlike the old regulation, the new criminal procedure code regulates new cases of relative nullity and essentially changes the procedure for the application of nullities, the new legislator wanting to impose a new technique for approaching the drafting of the rules. Thus, we find the rules that regulate the conduct of the criminal process in the code of criminal procedure, Constitution, special laws, CEDO a.o. With regard to the procedural phase in which these rules may be violated, the cited provisions are applicable from the start of the criminal prosecution in rem, throughout the criminal prosecution, the preliminary chamber, in court, appeal, extraordinary appeals, including in the execution of court decisions.

TAX EVASION - BETWEEN LEGALITY AND CRIME

Lawyer **Oana Elena BRAN**
Bucharest Bar Association, Romania

Abstract

Tax evasion is an economic-social phenomenon of great scope and interest, located at the crossroads between the economic and legal fields, which many states face and which has become a topic debated more and more often in practice, considering the extension of this phenomenon to all types of companies. Historically, tax evasion has existed since the first tax regulations. To understand this phenomenon it is necessary to know its causes. Thus, among the most controversial causes of tax evasion are: the way tax legislation is designed and applied, the low level of tax education, the lack of effective controls, the lack of staff training, etc.

IMPLEMENTATION OF THE DEPOSIT - RETURN SYSTEM, AN ABSOLUTE FIRST FOR ROMANIA

Associate professor **Elena Emilia ȘTEFAN**
Faculty of Law, „Nicolae Titulescu" University of Bucharest, Romania

Abstract

Identifying legal instruments to involve citizens in voluntary environmental protection has always been on the agenda of public authorities. The world already has a packaging deposit- return system, which aims to reduce pollution. The pretext of

our analysis is the fact that in the media a piece of news was published saying that, in our country, the deposit-return system will operate starting from the 31st of November 2023. This made us curious to analyse the applicable legal framework, using scientific research methods specific to law, so as to know as much as possible about the subject. Considering the novelty of this legal mechanism for our country, we believe that the proposed topic is extremely up-to-date and of general importance, as it will involve the whole of society, citizens, authorities and the business environment. The proposed objective of the study is to investigate the extent to which the deposit-return system for primary non-refillable packaging is effective in practice and can lead to a reduction in pollution through active community involvement. Following our analysis, we will emphasize the conclusion of our paper, namely that the subject matter of environmental protection must concern both the public and the private sectors, because life on this beautiful blue planet depends on our actions.

TRAFFICKING IN HUMAN BEINGS: PARTICULARS OF CRIMINAL LEGAL CHARACTERISTICS

Lecturer **Aurel Octavian PASAT**
Transfrontier Faculty, "Dunărea de Jos" University of Galați, Romania

Abstract

This article is dedicated to human trafficking as one of the most dangerous and highly profitable forms of international organized crime. The study examines the process of the international community's fight against such an international crime, analyzes the international legal acts aimed at suppressing this crime. The legislation in force in Romania is researched, concepts such as "human trafficking", "human exploitation", "recruitment", "transportation", as well as certain features of the criminal law and the forensic characteristics of the analyzed crime, are revealed, which features of this crime must be taken into account, the importance of human trafficking investigations.

16.00 - 17.00

LEGAL RESPONSABILITY IN THE OPERATING ROOM IN THE PARTICULAR CASE OF RETAINED SURGICAL FOREIGN BODIES

Lecturer Raluca Laura **DORNEAN PĂUNESCU**
Faculty of Law, "Drăgan" European University of Lugoj, Romania

Abstract

The study presents an analysis of legal liability in the operating room, in the hypothesis of a retained surgial foreign bodies, as well as the interpretation of the procedure for completing the checklist of surgical procedures, imposed by Order no. 1,529 of December 13, 2013 issued by the Romanian Ministry of Health. Ab initio, there are exposed the legal status of civil liability in medical activity, the definitions of medical personnel and the notion of malpractice, as well as aspects related to the prescription of the right of action and the competent court in such cases. In corollary, jurisprudential elements related to the medico-legal expertise and the relevant conclusions of such evidence administered in the civil process are highlighted.

(RE)TURNING TO KNOWLEDGE

Lecturer **Nicolae PANĂ**
Danubius University of Galati, Romania

Abstract

Society is going through a digitization process imposed by the technological revolution. The technological advance forces us to respond in real time to the demands imposed by the new economic and social context applying for solutions that can affect the social order. We aim of our study is to analyze how artificial intelligence applications are used by students in the design of scientific papers and what are the ways in which these applications could benefit the academic/scientific research process. The paper includes the presentation of some case studies carried out within the postdoctoral research program of ASE Bucharest in which we demonstrated the usefulness of artificial intelligence applications in the analysis of normative acts and legislative proposals so that we can approximate the impact they have on organizations and society. We will apply part of the methods in order to analyze the ways in which students understand how to use artificial intelligence to design scientific works, the verification of these works and proposals for the compliant use of computer applications so as to obtain useful results for scientific research.

CRIMINOGENIC MEMES

PhD. student **Artin SARCHIZIAN**
Doctoral School of Law, „Titu Maiorescu" University of Bucharest, Romania

Abstract

Criminal behavior, first of all, is human behavior, being thus subject to the same laws and determining factors as any human behavior, which allows us to observe and isolate those factors that generate criminal behavior in particular (the so-called criminogenic factors). We also know that the external manifestation (physical activity) of the crime (actus reus) is preceded by a mental activity (mens rea), the latter (bad judgment) being the one that attracts the guilt and responsibility of a person. But - and from here, the interesting part of the paper begins -, this internal phase (of the crime road - iter criminis) has as its starting point, the moment when the criminal idea is born, which is then subjected to a deliberation stage (in which the subject reflects whether to commit the act or not), so that, in the end, once the option has been selected (to commit the act) the criminal resolution is finalized, what will then be expressed by objectifying the criminal act (committing the act in its materiality, the transition to the execution phase). We can thus establish the causal relationship between the idea that triggers the cognitive process completed with the decision to commit the crime, and subsequently, this (decision) that triggers the commission of the crime in its materiality. Therefore, we can logically state that it is the criminogenic idea that determines the criminal behavior with both its facets (mens rea and actus reus). And in this context, we ask What generates the criminal thought? Or in other words, what lies behind the thought (which may be its etiology). Now memes come into play - so-called viruses of the mind - and for this analysis, I will take as a working definition, the one that considers a meme to be an idea, or a type of complex idea that constitutes a distinct memorable unit, replicable and transmissible to other minds. In context, I will analyze those memes with criminogenic potential, which I will generically call criminogenic memes, showing how they can be created, sent and respectively acquired by individuals, so that they can then germinate in the conscious mind and trigger the internal phase of criminal behavior. Thus, a new chapter is opened (through the study of memes - memetics) in the study of crime, as a natural phenomenon (before being a legal fact, crime is a natural fact, said professor Vintilă Dongoroz) but also of the criminal sciences that study this phenomenon, and especially crime prevention policies.

ASPECTS REGARDING THE CONSTITUTIONALITY OF THE LAW ON SOME FISCAL AND BUDGETARY MEASURES TO ENSURE ROMANIA'S LONG-TERM FINANCIAL SUSTAINABILITY

Associate professor **Andrada NOUR**
Hyperion University of Bucharest, Romania

Abstract

In this study, we tried to establish, among other things, if, indeed, by promoting a draft law that includes regulations from a multitude of subjects in the way of engaging the Government's liability, the provisions of art. 1 paragraph (4) and of art. 114 paragraph (1) of the Romanian Constitution are violated or not. In this sense, in the present scientific approach, a series of aspects are presented and analyzed regarding the constitutionality of the Law on some fiscal budgetary measures to ensure the financial sustainability of Romania in the long term, as its whole, a law adopted through the special legislative procedure of engaging the Government's liability provided for in art. 114 para. (1) of the Constitution.