„DUNĂREA DE JOS" UNIVERSITY OF GALAŢI
FACULTY OF JURIDICAL, SOCIAL AND POLITICAL SCIENCES

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THE UNIVERSITY OF URBINO "CARLO BO" ITALY

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INTERNATIONAL CONFERENCE „EXPLORATION, EDUCATION AND PROGRESS IN THE THIRD MILLENNIUM"

- Abstracts -

Galaţi, 29th - 30th of April 2011

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29th-30th of April 2011

THE ACCEPTANCE OF THE BILL OF EXCHANGE

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Abstract

The acceptance of the bill represents, in fact, the acceptance of this title by the drawee, becoming the bill debtor and he must pay the bill at maturity.

The acceptance must be unconditional.

The acceptance of the bill usually is obtained by the drawer who gives the accepted bill to the beneficiary.

The bill must be submitted for acceptance at the drawee's domicile.

The drawer may prohibit the submission of the bill for acceptance.

The submission for acceptance may be done in a working day.

When the submission of the bill or the protest within prescribed terms is prevented by an obstacle, these terms may be extended.

ADMISSION OF GUILT IN CRIMINAL TRIAL

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Abstract

The need for this institution was determined in the second half of the nineteenth century, by the high number of criminal acts trialed in the United States courts, which led to the impossibility of resolving them within a reasonable time and in a proper manner, given that it was mandatory to respect the excessive formalism that was borrowed from Europe.

That is how the institution of guilt admittance was created, as a procedural system, a system which enables a better management of justice by negotiation between the prosecution and defense, in the sense that the latter may plead guilty in exchange for concessions from the prosecutor.

We may affirm that the admission of guilt is a mutually binding contract, of benefit to both parties, ultimately representing a compromise after which the defendant succeeds to minimize the penalty while the prosecution can obtain an optimal level of imposed penalty, at the lowest cost.

THE BYZANTINE LAW, SOURCE OF THE OLD ROMANIAN WRITTEN LAW

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Abstract

Byzantine Law has been known and applied in the Romanian Principalities since the XIVth and XVth centuries, especially by means of Nomocanons (Pravile), which are fundamental sources of the old written (positive) Romanian law.

Getting to know this old Romanian Law, implies, above all, our jurists` getting acquainted with the text and content of the Codes` of Laws (Pravile), these being not only monuments of this Law, but also of the Southeast European one. Secondly, to explore their content implies, on the part of our jurists, not only knowledge of Roman law, of Byzantine Law and of Greek and Church Slavonic, but also being well grounded in the fields of Eastern Theology and the history of the Byzantine Empire. But, as there are few Romanian jurists or researchers of old Romanian Law to meet these requirements, we could also say that the old written (positive) Law has no chance to become well known, yet. Actually, in the Romanian Law`s History handbook – being taught for only one Semester at the Faculties of Law in our country – the Codes of Laws (Pravilele) are only presented on a few pages, that, in addtion, lack much information as regards the knowledge of Byzantine Law, that was also exiled from the Romanian Academic Fortress, once with Canonic Law, around the years 1947-1948.

That is why we consider that the students at our Faculties of Law, Theology, History etc., should also study the text of these Pravile (Nomocanons), that are not only fundamental sources of old written (positive) Romanian Law and monuments of the European legal culture, but also first-hand information sources for the ones who want to know both the history of Byzantine institutions and of Romanian ones, of the XIVth to –XIXth centuries.

APPROCHE CRITIQUE SUR CERTAINES INSTITUTIONS DU NOUVEAU CODE CIVIL ROUMAIN: LA FIDUCIE

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Résumé

Le nouveau Code Civil roumain représente sans aucune doute une nouvelle loi, moderne, adaptée a des besoins sociaux actuels qui ont imposé un travail sérieux de légiférassions, systématisation et harmonisation de toute la législation civile roumaine.

En principe, le nouveau code adopté par la loi 287/2009, suit l'ancienne systématisation technique , étant divisé dans des « cartes », « titres », « chapitres » et « sections » certains pouvant arriver jusqu'a l'identité, quand on parle par exemple de la Carte I « La personne » ou la Carte III « Les biens ».

Bien sur, dans sa nouvelle systématisation, le nouveau code réunit un nombre de sept cartes, certaines cartes représentant des adaptations des anciens textes, comme c'est le cas, par exemple, de la Carte IV « Héritage et libéralités » qui représente les anciens titres I et II de la Carte III. D'autres, présentent un véritable caractère de nouveauté, il s'agit de la Carte V « Les obligations » , la Carte VI « La prescription extinctive, dégradation des droits et le calcule des termes » ou bien la Carte VIII « Dispositions de droit international privé ».

Très riche en prévois nouvelles, les unes bénéfiques, les autres moine inspirées, le nouveau Code civile offre de larges perspectives certaines institutions qui s'imposent par inventivité et originalité. La fiducie est une de ces créations, bien q'elle ne soit pas une très originale, les opérations fiduciaires sont connues a partir du droit romain.

L'article 773 et les suivantes du N.C.civ. donnent la caractérisation générale de la fiducie; c'est l'acte juridique par lequel une personne – fiduciant, transfère la propriété d'un bien corporel ou incorporel, droits de créance, des garanties ou autres droits patrimoniales a une autre personne nommée fiduciaire, soit a titre de garantie d'une créance sous l'obligation de garantie d'une créance sous l'obligation de rétrocéder le bien au constituant de la surette lorsque celle-ci n'a plus lieu de jouer, soit en vue de réaliser une libéralité, sous l'obligation de retransformer le bien a un tiers bénéficiaire après l'avoir gère dans l'intérêt de celui-ci ou d'une autre personne pendant un certain temps, soit afin de gérer le bien dans l'intérêt du fiduciant sous l'obligation de le rétrocéder a ce dernier a une certaine date.

Les caractères juridiques, les conditions, les acteurs de la fiducie, la finalité etc., font l'objet de l'analyse de cette étude.

LA COMPOSITION DE LA COUR DE JUSTICE DE L'UNION EUROPÉENNE

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Résumé

La Cour de justice de l'Union européenne, dénommée avant l'entrée en vigueur du traité de Lisbonne « Cour de justice des Communautés européennes » - CJCE, est établie à Luxembourg. Elle est composée de 27 juges, nombre qui peut être agrandi par vote unanime, assistés de 8 avocats généraux. Tous sont désignés d'un commun accord par les gouvernements des pays membres, pour un mandat de 6 ans renouvelable, après avis d'un comité consultatif. Le Président de la Cour, désigné parmi les juges, pour une période de 3 ans renouvelable, dirige les travaux et services de la Cour. Il préside les audiences et les délibérations. Dans la présente communication on se propose de revoir la composition de la cour, l'institution du Président de la Cour et celle de l'avocat général.

UTILITÉ DE LA FIDUCIE EN TANT QUE FORME DE CAUTION BANCAIRE DANS LE CONTEXTE DE LA CRISE ECONOMIQUE

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Résumé

Parmi les institutions juridiques récemment introduites par le Nouvel Code Civil Roumain (Loi 287/2009) la fiducie a sa place bien à part. Pour établir si la fiducie est utile en tant que forme de gestion des biens d'autrui ou en tant que forme de caution, nous l'avons comparée, d'abord aux institutions juridiques préexistantes et ensuite aux institutions juridiques d'autres systèmes de droit et par rapport auxquels nous avons trouvé quelques particularités (à voir le droit français, américain et canadien).

Nous avons fait quelques suggestions dans les conclusions, à partir des particularités de l'institution de la fiducie dans le droit français (où le constituteur ne peut être qu'une personne morale soumise à l'impôt sur société) et dans le droit canadien (où la fiducie peut se constituer sous forme de donation ou de légat).

LES DISPOSITIONS COMMUNAUTAIRES À L'ÉGARD DES TRAVAILLEURS MIGRANTS DANS LES ÉTATS MEMBRES

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Résumé

Le régime de sécurité sociale dans les pays appartenant à l'Union Européenne (UE) de l'Espace Economique Européen (EEE) est coordonné par les Règlements (CEE) no 1408/71 et 574/72 du Conseil avec les modifications et les corrections successives, ainsi que par le Règlement (CE) no 883/2004. L'objectif des règlements est de protéger les droits acquis de sécurité sociale des personnes qui se déplacent dans l'Union Européenne et l'Espace économique européen au but de détachement de travail. Les règlements s'appliquent aux travailleurs (salariés et non salariés) ressortissants d'un État membre soumis à la législation d'un ou de plusieurs États membres, ainsi qu'aux membres de leur famille et à leurs survivants.

Le présent travail se propose de voir quel est l'impact du détachement en matière de sécurité sociale dans le droit communautaire, vus les principes de la libre circulation et déplacement des travailleurs.

LEGAL REGIME APPLICABLE TO DIFFERENT FORMS OF LEGAL LIABILITY OF CIVIL SERVANTS

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Abstract

Violations by public servants, with culpability (intent or negligence) regarding the duties of service, attract legal liability, which may take, depending on the legal rules violated, the form of disciplinary, criminal or material liability.

If there aren't major differences regarding the disciplinary, criminal or administrative liability in the field of the applicable juridical regime – Public or Private Law – perhaps certain legal inconsistencies, the things stand in a different way when it comes to the servant's liability for different material harms brought to the private or public authorities in the line of duty. The Romanian legislation consecrated the notion of civil liability although the doctrine uses more frequently the notions of patrimonial, material or pecuniary liability.

Another interesting and relevant aspect is the punishment of illegal facts committed by a person when the punishment of the illegal acts supervenes after it had lost the position of a public servant.

EUROPEAN FOUNDATION OF THE ADMINISTRATIVE LAW

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Abstract

For starters, although it was put particular emphasis on the economic integration in the process of European integration, later it was taken into account also the legal aspect, as a condition for achieving harmonization and convergence of the legal systems of the Member States. Although in certain fields of law this proves to be easier to be achieved, one cannot say the same about the Administrative Law, respectively the national public administration system. Even today, perhaps more than ever, there's an obvious need for harmonization and convergence among Member States' Administrative Law and the national administrative system. Although, at first in a modest way, then increasingly more pregnant, it began by tackling the issue of the relationship between National Administrative Law and European Law, namely the influence of European Law over the National Administrative Space.

Perhaps nowadays it is premature to talk about a "European Administrative Law", but still, one cannot ignore certain facts: the European law, both the primary and the derived are imposed to the Member States; the concepts such as "European Administrative Space", "Common set of principles applicable to the Member States" and "Specific principles of public administration" are established (even if not legally, at least doctrinally, and, certainly, jurisprudential – the European Court of Justice); the necessity to organize a unique administrative jurisdiction for EU (Lisbon Treaty providing consistent premises for its achievement). Of course, it shouldn't be forgotten that, however, many of the defining aspects of public administration and implicit of the Administrative law remain specific aspects for the national systems of the Member States.

In this context, this paper proposes to present a brief overview regarding the basis of the European Administrative Law, with an emphasis on the influences of the European Law in the field of Administrative Law, such as local communities, administrative contracts, public services, administrative decisions, administrative contentious, administrative liability, the civil service etc.

SPECIAL CRITERIA FOR INDIVIDUALIZATION OF THE FINE AS A PUNISHMENT

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Abstract

The fine is a financial punishment and the offenders' assets may vary in extent and social and economic duties; therefore when establishing the fine concretely, it was necessary to take also into account certain criteria of individualization, others than the general ones.

The provision of the 5th paragraph, Article 63 of the Criminal Code in force stipulates special legal criteria with regard to this matter which must be considered by the Court when setting out a fine. Thus, according to this provision, when establishing a fine, the general criteria stipulated by Article 72 of the Criminal Code in force must be observed, but at the same time the fee must be set out so that the convict may fulfill his legal duties regarding the support, upbringing, education and professional training of his dependants.

Furthermore, the Article 61, 3rd paragraph of the new Criminal Code (law no. 286/2009) stipulates that the Court establishes the number of the days-fine according to the general criteria for individualization of punishment. The amount corresponding to a day-fine is to be established also in accordance with the legal obligations of the convict towards his dependants.

THE CONCEPT OF THE EDIFICATION OF THE STATE LAW

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Abstract

As a concept and as a form of expression of the "modern state", the Law State is not just a simple word association. It expresses a condition on the power, a rationalization movement and its ordering, and also a new outlook on law, on its role and functions. The limiting power of the Law State means an authentic and humanistic conception of the democracy. The Constitutional State crystallized as a modern one. The Law State's theory has become a veritable axiom of the public law and as effective tools of its achieving, there were created the judicial review of administrative acts and the control of the constitutionality of laws. The Law State includes a strict separation of state in social life. The essence of the rule of law is the normativism.

THE FORENSIC IDENTIFICATION- THE SIDES OF THE PROCESS OF ESTABLISHING THE FACTS

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Abstract

Judicial investigation aimed at establishing the truth out of all the circumstances in which a criminal act was committed, as well as the persons involved, almost always implies the identification of persons an objects.

The most important way to establish judicial identification is criminalistic identification. Their relationship may be defined as whole-part relation, criminalistic identification being both a stage and a premise for judicial identification.

The former regards particular individual aspects whereas the latter is comprehensive, as it has to judge all the evidence presentented.

Although „identity" ant „identification" seems simple Word at first sight, jurisprudence proves that in legal proceedings they get different meanings and are sometimes misinterpreted.

UNPREDICTABLE IN THE NEW ROMANIAN CIVIL CODE

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Abstract

Contracts affected by a suspension term and the one with successive execution can be subject during their execution to circumstances which were not foreseen and could not be foreseen by the parties when they have completed and which may affect the value of benefits to which they have been obliged. The unpredictable theory allows a debtor who is in a situation caused by drastically and unpredictable changing of economic circumstances from the execution time of the contract against conclusion time of the will contract of the contracting parties to prevent the loss that would arise if he would be held to perform this obligation.

With the title of novelty, the new Romanian Civil Code consecrates the institution of unpredictable, in art. 1271.

THE PENALTY SYSTEM OF THE MINOR CRIMINAL

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Abstract

The present paper outlines the most important criminal procedures for the minor criminal as stipulated in the current Penal Code focusing, also, on topic-related completions and modifications in the light of the new Penal Code. The article also illustrates aspects of foreign legislation regarding this issue.

The penalty system of the minor criminal must take into consideration two aspects: the age the minor criminal becomes liable from a penal approach and the penalty system which should consider the age and the personality of the minor.

The topic is deeply-rooted in reality because of the increasing number of minor criminals, of diversity of the crimes and factors which greatly influence the youngsters to break the law. It also appeals to psychologists, sociologists, pedagogues, etc.

LOGICAL DYNAMISM OF A JUDICIAL TEXT IN THE JUDICIAL INTERPRETATION DOMAIN

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Abstract

Subject to any interpretation is the sign, with priority emphasis given to the word - "sign of signs". It can "talk" about all the words in words but also semiotic, because words translate significant relevance to all the other signs. Interpretable are not only the books but also gestures, sounds, tastes, tactile impressions, the smells, all that affects intentional one or another of our senses. Such passages can be found, that taken literally, to pass as absurd, unnecessary or contradictory, requiring other methods to complete the interpretation of the text, claming a specific method of interpretation.

The comparison and interpreting modalities are diverse bringing into light series of senses: a historical sense, an analogical sense, and etiologic or factitive sense, the typological sense that search for resembles between successive events and analogies, the parabolic sense that implies an update of the text meanings by sending to another referential situation, analogical to the given announced situation and updating the interpreted text, so that it fits to the nature of the legal rule.

RIGHT COMMUNICATION AND CENTRAL PUBLIC AUTHORITIES AS SUBJECTS OF LEGAL RELATIONSHIP OF PUBLIC COMMUNICATION

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Abstract

Communication is the transmission and reception of information between various subjects through certain means.

As one of meanings of social psychology data communication, communication is the mechanism by which human relationships that exist and evolve.

Right communication plays complex relationships. These rules are submitted by the impersonal, time and space, messaging to organize social relations and maintaining relations communities organized state.

The right of communication establishes and guarantees content of those messages, mainly service based on fundamental human rights of freedom of expression and free access to information. This right legislates public aspects of communication, modes and types independent transmitting and receiving.

Subjects of legal relations of communication are miscellaneous and can be represented by individuals and legal entities. We mention that with this attribute: single individuals persons, media agencies, public authorities.

The study presents the central authorities in their capacity as subjects of legal relations of public communication.

UNDERCOVER INVESTIGATORS, THE SCOPE OF CRIMINAL LIABILITY

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Abstract

Article 2241 and the following of the current Criminal Code regulate the use of undercover investigators, the legislator establishing the criminal offences for which undercover investigators may be used, as well as the scope of practice of such investigators.

However, the legal text does not state expressly that the actions and potential offences, performed by an undercover agent while investigating a transgressor, do not constitute offences or contraventions, this fact being only presumed as the investigator acts upon the decree issued by the Prosecutor in charge with the case in question.

This omission has been remedied by the regulations of the new Criminal Code (adopted by Law 135 / July 1, 2010) which shall come into force on October 1, 2011.

Thus, in chapter IV "Special supervision or investigation techniques", article 148 and the following stipulate that "the activities for which the undercover investigator receives authorization shall not be considered contraventions or offences."

The legal provisions also include concrete situations which do not constitute offences as long as they are related to the developing investigation, such as the use of certain writs or objects.

ECONOMIC ENTITIES GOVERNED BY EMERGENCY GOVERNMENT ORDINANCE NO. 44/2008. A COMPARATIVE PERSPECTIVE

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Abstract

EGO no 44/2008 introduced, in the Romanian legal system, three economic entities, without legal personality: Authorized Natural Person (in Romanian, persoană fizică autorizată – PFA), Individual Enterprise (in Romanian, întreprindere individuală) and Family Enterprise (in Romanian, întreprindere familială). The three economic entities were created for offering an organizational framework to those natural persons willing to carry on economic activities in an independent manner.

The present study aims to carry out a radiography of the economic entities governed by EGO no 44/2008. The main features of the legal regime of the above-mentioned three economic entities are to be analyzed in order to highlight the similarities and differences between them.

The comparison implied by the main objective of the present study will focus over: a) the categories of persons who may acquire the status of an authorized natural person, entrepreneur, owner of an individual enterprise, member or representative of a family enterprise, b) the process of acquiring the above-mentioned status, c) the process of performing economic activities acting under this status and, in the end, d) the cessation of the status referred to above.

EUROPEAN POLICIES ON HUMAN BEING TRAFFICKING

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Abstract

At European level, the issue of human being trafficking is part of the justice and internal affairs domain, being a component of combating organized crime. Politically, it can be said that since 1986, human trafficking is a different theme in the justice and internal affairs domain, ever since the European Parliament began adopting measures regarding women generally speaking, and more particularly regarding women trafficking.

However, the human beings trafficking became more of an issue for the European Union after a decade, when the Commission publicly announced her first conclusions on the matter. Ever since, at European institutional level a series of policies, legislation and financial schemes have developed, which made the prevention and combating of human beings trafficking a more important theme.

ABOUT JUSTICE AND LAWFUL CONDUCT

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Abstract

Reflection and attention on the problematic behavior of legal jurisprudence has become constant in legal science at the time that it was aware that the process of establishing the rules of the law and their realization must be regarded, first of all, as the conduct of the subjects to whom they are addressed.

Obviously, no human society cannot function in the absence of a set of rules to govern and to steer the conduct.

As a result, the choice of the theme of this article was dictated by the timeliness and importance of conduct lawful in building the rule of law.

In this vein, the approach of a general assessment of the conduct of legal theories, as inseparable element of the other institutions and categories of the general theory of law-order legal and justice, seems to be big news, especially today, when you bring many critics justice sometimes unmerited favors, sometimes justified.

L'HÉRITAGE TERMINOLOGIQUE DES PRINCIPAUX SYSTÈMES JURIDIQUES

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Résumé:

Trois grands systèmes juridiques se partagent le monde : la « common law » des pays de langue anglaise, les droits religieux (islamiste et hébraïque) et le droit romano-germanique du continent européen et de ses anciennes colonies. Tenant compte des deux principes importants, le principe de la territorialité des lois qui caractérise le monde juridique moderne et que le droit a comme caractéristique d'avoir un lien très étroit avec la langue qui le véhicule, la présente contribution se propose d'inventorier les caractéristiques linguistiques et culturelles du droit, qui distinguent la traduction juridique de la traduction dans d'autres domaines de spécialité.

INTERNATIONAL AND INTERNAL SYSTEMS FOR PROTECTION OF THE RIGHT TO LIFE

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Abstract

The protection of human rights in general and of the right to life in particular is obtained on the one hand internally through legal provisions contained in the fundamental laws and other regulations, and on the other hand internationally through the protection system established by the United Nations for the entire planet as well as through regional protection systems.

On the European continent the protection of the right to life is obtained through the system of the European Convention on Human Rights with an important contribution from the European Court of Human Rights; similar systems work on other continents having a regional calling and being stimulated by continental courts such as the African Court on Human and Peoples' Rights whose first decision was pronounced on December 15th, 2009 or the Inter-American Court of Human Rights established in 1979.

MEDIATION AND OTHER SIMILAR PROCESSES

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Abstract

In the absence of legal definitions of the concept of mediation, the task quite difficult to propose definitions went to the legal doctrine. According to one of these definitions, mediation is a way of settling disputes, through which a person, chosen by the opposing parties, proposed them a draft resolution, without trying to approach them and without being invested with the power to impose a judicial decision.

It was considered that this definition is useful because most of the laws governing mediation as a way of settling disputes prefer to use the operational description and to avoid the legal concept.

To better specify the nature of mediation is useful to indicate what it isn't, in relation to similar concepts that are sometimes confused.

Thus, in this study we will show that although mediation has many common elements with other methods of settling disputes, such as for example the negotiation, arbitration, conciliation, we cannot conclude that these concepts are identical. In this respect, we will identify what are the differences that make these concepts should be clearly distinguishable.

The most difficult seems to be drawn border between mediation and conciliation, which is a real concern for the legal literature.

EUROPEAN UNION ACCEPTANCE FOR A JOINT CONCEPT CONCERNING INTEGRATED MANAGEMENT OF EXTERNAL BORDERS

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Abstract

In recent years, concepts of Integrated Border Management (IBM) have been developed to tackle this neuralgic point in border mechanisms in the perspective of reconciling facilitation and security needs, both vital for the functioning of modern societies. In accordance with its specific needs, the EU established its own IBM concept which pays particular tribute to the incomplete state of the Union and the multitude of competent authorities involved at national and EU level.

While the US based on its established status of a sovereign nation state and a set of fixed and clear borders has been able to adapt its concepts rather rapidly to changing global challenges including those of post-9/11, the EU still finds itself hampered by institutional inconsistencies when trying to react to such situations. Enlargement of the Schengen area had been a deliberate choice of the European Union to focus more on the free movement of persons than on security aspects.

LA POLLUTION DE L'ENVIRONNEMENT EN CONTEXTE INTERNATIONAL: L'ÉVALUATION DES DOMMAGES ET LES SUJETS ACTIFS DE L'ACTION EN RÉPARATION

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Résumé

Le mécanisme de la responsabilité civile pour les dommages dûs à la pollution (transfrontière) soulève certaines difficultés dans les cas où l'environnement même est la "victime" de la pollution.

Dans des telles situations, on constate, d'une part, que la pollution ne détermine pas, nécessairement, des conséquences négatives au niveau de la personne ou du patrimoine individuel, ce qui met en discussion la notion même de "dommage" (la formule classique de la responsabilité délictuelle postule une liaison étroite entre cette dernière notion et l'effet négatif causé à l'individu).

D'autre part, l'inexistence, dans le cas analysé, d'une "victime" personnifiée de la pollution, met en doute la légitimation d'une personne, quelle qu'elle soit, d'engager la responsabilité de l'auteur du fait dommageable.

Les instruments juridiques élaborés au niveau international pour la réglementation de la réparation des dommages causés par la pollution de l'environnement (et qui font l'objet de la présente étude) tentent d'offrir certaines solutions aux problèmes énoncés.

INTERMESTIC SECURITY AND FORESHADOW OF A NEW STRATEGY OF EUROPEAN UNION INTERNAL SECURITY

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Abstract

The term intermestic is an abbreviation standing for international and domestic and it is a strategic management approach in the field of foreign affairs and security that views the relatively equal important spheres of domestic and international affairs. Europe must consolidate a security model, based on the principles and values of the Union: respect for human rights and fundamental freedoms, the rule of law, democracy, dialogue, tolerance, transparency and solidarity.

The Internal Security Strategy has been adopted in order to help drive Europe forward, bringing together existing activities and setting out the principles and guidelines for future action. Security has therefore become a key factor in ensuring a high quality of life in European society, and in protecting our critical infrastructures through preventing and tackling common threats.

THE ELECTRONIC CONTRACT UNDER ROMANIAN LAW

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Abstract

The paper analyzes certain aspects of the electronic contract (the contract concluded in electronic form) as regarded from the perspective of its dynamics, i.e. the sequence of its chronological stages (advertising and negotiation, execution, performance and dispute resolution). It starts from the premise that the use of electronic communication means, which allow the contract to take the electronic form, is the modern expression of collaboration between legal science and computer science.

The first topic regards the informational fundaments of the contract, which is the characteristic that allows a contract to accept an electronic form.

Definition of the electronic contract is centered on the special feature of the legally accepted evidence of such contract.

The classification of electronic contracts is based on criteria such as quality of the parties to the contract, the distance between them at the moment the contract is concluded and the way performance should be carried.

Specific rules for the conclusion and performance of electronic contracts are also analyzed (contractual negotiation, offer and acceptance, place and moment of conclusion, obligation carrying a dematerialized object), as well as the special problems regarding consumer protection and personal data protection.

The last but not the least, the paper includes two proposed law changes (for the Romanian law) aimed to enhance the way electronic communication means are used in contractual relations.

THE INDIVIDUAL EMPLOYMENT CONTRACT AT HOME ACCORDING TO THE COMMON LAW AND THE TELEWORKING INDIVIDUAL CONTRACT - SPECIFIC ELEMENTS

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Abstract

The individual employment contract at home under our common law is an individual employment contract, nameable, with special character, having as its main feature the fact that the "working place" is not located in the unit, at the employer's - but at the employee's residence.

The individual teleworking contract is also an individual employment contract with special character, unnamable, which sometimes is identified with the individual employment contract at home, due to the fact that the "working place" is the teleworker's residence or any other place chosen by him. What distinguishes these contracts is "the nature of work." This work consists in performing an activity helped by information devices.

These specific elements have no impact on the normal system of organization of work, in the sense that the employee's/teleworker's subordination to the employer still remains an essential element and the working duties performed outside the employer's locations thus remain, both from a functional and legal point of view, "connected" with its headquarters, but not in the classical meaning.

CRIMINOLOGY ASPECTS OF COMPUTER CRIME SUBCULTURES

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Abstract

The sociological term "subculture" refers to groups that share several elements of mainstream culture, but maintain their own customs, values, norms and distinct styles of life.

Merton's theory according to which those with low formal education and limited economic resources are more likely to head to a life of crime, cannot explain the appearance of hackers - who are the product anomie of influence, and have ample means of U.S. aims to achieve success, but instead, may explain their involution.

Internet as the industrial revolution had transformed every aspect of our social life, including criminal subcultures.

Today, criminology, agree on the fact that hackers are subcultures with very different cultural values, norms and practices.

NATIONAL MARGIN OF APPRECIATION OR MULTIPLE STANDARDS IN THE ECHR CASE-LAW CONCERNING FREEDOM OF EXPRESSION?

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Abstract

The concept of national margin of appreciation varies from case to case and from a moment to another, as a result of the "living instrument" quality of the European Convention of Human Rights which is subject of an autonomous interpretation from the Strasbourg Court. The national restrictions applied to the freedom of expression (art. 10 of the ECHR) are subject of a restrictive interpretation. The extent of the discretion for the state authorities is determined by the character of the measure adopted, the nature of the activities, the legitimate objective pursued. By application of these elements there are cases of inexistence of a margin of appreciation and cases of an extensive national discretion. Participation in politics or in general interest debates, press activity have an indispensable role for the democratic society and are the beneficiaries of a special status which determines a limited maneuver space for states.

This paper will emphasize the variable character of the national margin of appreciation and interpretations of the Court that contradict the general principles established previously.

THE OFFENCE OF DECEIT IN CONVENTIONS AND THE SALE OF GOODS OWNED BY OTHER PERSONS, WITHOUT THE ABILITY TO PASS TITLE

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Abstract

In the sales contract, the seller must be the owner of the right which is alienated, because the property is conveyed to the buyer only if the seller is the true owner of the property sold. Due to the lack of regulation in this field in the Romanian civil law, the sale of goods owned by other people remains a controversial issue; taking into consideration other legal systems where the sale without the ability to pass the title is regulated, the New Romanian Civil Code includes provisions concernig this problem.

In the matter of sales contract, when the seller does not have title, it is sometimes difficult to separate penal responsibility from civil liability as the sale of ascertained goods owned by other people can match the offence of deceit in conventions, regulated by article 215 of the Romanian Criminal Code, because the seller can deceive or maintain the deceit of the buyer by presenting him, in a misleading way, as the true owner of the sold goods, in order to obtain unjust material benefits, causing damage to the buyer; the legal framing of the sale by a non-owner as deceit should be solved on a case-by-case basis.

LE CONCEPT DE FAIT ILLICITE – CONDITION POUR LA RESPONSABILITE CIVILE CONTRACTUELLE

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Résumé

Dans le cas de la responsabilité civile contractuelle le fait illicite consiste soit en inaction – non-exécution totale ou partielle de l'obligation, soit en action – l'exécution impropre ou bien en retard de l'obligation.

L'actuel code civil roumain ne définit pas la notion de non-exécution des obligations contractuelles. Cette tache revenant à la littérature de spécialité, celle-ci a défini la non-exécution de l'obligation contractuelle comme l'expression qui désigne le non-accomplissement par le débiteur de la prestation constituant l'objet de l'obligation assumé par celui-ci par contrat. Par conséquent la non-exécution constituera toute défaite ou exécution malpropre d'une obligation contractuelle. Toute non concordance entre la prestation promise par le créditeur par contrat et la prestation effectivement exécutée par le débiteur entrera dans la sphère de la notion de non-exécution.

Le nouveau Code Civile ne définit non plus la notion de non-exécution des obligations contractuelle, toutefois on remarque dans le texte alinéa 1 de l'art. 1.516 une individualisation des caractères qu'une prestation conforme doit remplir : « Le créditeur a droit à accomplissement intégral, exacte et à temps de l'obligation. »

La non-exécution gagne valeur de fait illicite parce que tout contrat est loi des parties, formule exprimant le principe de la force obligatoire du contrat expressément règlementé dans l'art. 969 alinéa 1 C. civ. Le non-accomplissement de toute obligation contractuelle signifie donc aussi abus de droit s'il n'y a pas de circonstances qui en enlèvent le caractère illicite du fait.

ABSOLUTE JURISDICTION AND RELATIVE JURISDICTION. OBJECTION ON LACK OF JURISDICTION. CHANGES BROUGHT BY THE "LITTLE JUSTICE REFORM" ON THE CIVIL CODE. REFERENCES TO THE NEW CIVIL CODE

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Abstract

The legal provisions on the subject of regulation of the legal jurisdiction may have either a binding character thus determining the exclusive capacity of certain courts to settle the claims and trials assigned to them, or a provisional character based on rules that do not prescribe binding provisions for the parties or for the court.

The legal system applicable in case of disregard of the jurisdiction provisions is determined precisely by the delimitation of the absolute provisions from the relative ones thus resulting the fact that the concept of lack of jurisdiction is indissoluble related to the one of the existence of jurisdiction this being exactly its opposite.

The lack of jurisdiction is an abnormal situation which may appear in the course of the legal procedure and the clearance of this situation may be realized only by legal means provided by the law to this end, one of these being precisely the objection on lack of jurisdiction.

The changes brought by the "little justice reform" on the Civil Code create however a system of exceptions from the Common Law for the binding provisions which regulate issues regarding jurisdiction or lack of jurisdiction; these changes seem to be maintained mainly by the new Civil Code (Law 134 from July 1st, 2010, published in the Official Journal 485 from July 15th, 2010 but still unenforced).

CONSIDERATIONS THEORIQUES CONCERNANT LE CONSEIL DE SURVEILLANCE D'UNE SOCIETE EN COMMANDITE PAR ACTIONS

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Résumé

Le conseil de surveillance de la société commerciale en commandite par actions est compose d'un nombre d'au moins 3 membres et au plus de 11 membres. Ce nombre de membre situé entre 3 et 11 est laissé à la latitude des commanditaires pour l'établir par l'acte constitutif en conformité avec art. 1536 de la Loi numéro 31/1990.

La nature juridique des rapports entre membres du conseil de surveillance et société est établie par les dispositions concernant le mandat et celles spéciales inclues à la loi des sociétés commerciales, comme il résulte de l'interprétation de l'art. 72 et 1538 alinéa (3) de la Loi numéro 31/1990. Conformément à ceux-ci, l'art. 1442 alinéa (1) s'applique par conséquent aussi aux membres du directorat, pendant que art.1442 alinéa (1) fait envoi à l'art.72 de la Loi 31/1990 qui règlemente les rapports entre administrateur et société.

EVOLUTION DE LA CRIMINALITE CONCERNANT LES INFRACTIONS CONTRE LE PATRIMOINE

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Résumé

En Roumanie, comme dans tous les autres états européens, les infractions contre le patrimoine constituent une grande partie du phénomène infractionnel et se situent sur les premières places par rapport au nombre total des infractions commises.

L'évolution statistique des infractions par lesquelles on porte atteinte au patrimoine démontre que malgré le progrès des conditions moyennes de vie, elles ont des motivations complexes du point de vue criminologique, à partir des conditions économiques et jusqu'aux modifications culturelles et idéologiques, spécifiques aux périodes de crise, qui font que le patrimoine devient prioritaire, même comparé aux droits fondamentaux de la personne.

QUELQUES CONSIDERATIONS SUR L'IRRESPONSABILITE ET L'IVRESSE INVOLONTAIRE, CAUSES QUI ENLEVENT LE CARACTERE DE CONTRAVENTION DE L'ACTE

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Résumé

Notre brève étude se propose d'approcher deux de ces causes ayant posé des questions et mis les bases de quelques discussions intéressantes autant dans le plan de la doctrine roumaine que dans le plan de la doctrine européenne ou américaine et c'est justement la raisons dont nous avons compris nous pencher sur elles avec une attention plus grande – irresponsabilité et l'ivresse involontaire.

L'irresponsabilité est une cause qui écarte la culpabilité grâce au manque de discernement de la personne qui, au moment de l'acte, ne pouvait avoir le contrôle de ses faits ou ne pouvait se représenter les conséquences de ses actes d'une manière correcte. L'ivresse involontaire est la cause qui exclut la culpabilité dû à la circonstance où l'auteur se trouvait au moment de l'acte prévu par la loi contraventionnelle en état d'ivresse involontaire totale produite par l'alcool ou d'autres substances.

PRINCIPLES OF NOTARY ACTIVITY

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Abstract

Generally, the notion of principle designates a basic element, an idea, a basic law on which it is established a scientific theory, a political, legal system, a conduct norm, etc.
Correlatively, we appreciate that the principle of notary activity represents the basic ideas, value judgments that are checked in the entire legislative frame that regulates the activity, as a whole or in some constituent parts.

The basic principles of the notary activity can be detached from even the provision of the first chapter of Law no. 36/1995. Some of these principles derive even from the constitutional norms, representing a particular application of them. Other principles are, of course, specific to the notary activity.

CONSIDERATIONS SUR L'APPLICATION DE L'ART. 320 INDICE 1 DU CODE DE PROCEDURE PENALE DANS LE JUGEMENT PENAL EN CAS DE RECONNAISSANCE DE LA FAUTE

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Résumé

La Loi 202/2010, concernant plusieurs mesures pour accélérer la solution des procès, publiée dans le Moniteur Officiel no. 714 du 26.10.2010, apporte un élément nouveau par l'article 320 indice 1 du Code de procédure pénale, concernant le jugement en cas de reconnaissance de la faute.

La procédure prévue par cet article est conditionnée par la déclaration de l'inculpé qui reconnaît avoir commis les faits retenus par l'acte de saisissement et de sollicitation de son jugement basés sur les preuves administrées pendant l'étape de poursuite pénale, déroulée avant le début de la recherche judiciaire. Les effets principaux consistent dans la célérité de la solution de la cause et le bénéfice accordé à l'inculpé, la réduction d'un tiers des limites de punition en cas d'emprisonnement et la réduction d'un quart des limites de punition en cas d'amende.

Comme toute autre disposition législative nouvellement introduite, l'institution analysée a déterminé dans la pratique judiciaire des discutions liées au moment où elle devient incidente et la modalité d'application.

WITHDRAWAL OF AGGRIEVED PARTY'S PREVIOUS COMPLAINT

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Abstract

According to the legal provisions, in case of offences for which putting to motion the penal action is performed following to aggrieved party's previous complaint, the dismissal of criminal responsibility effects not only due to the lack of complaint, but also due to its withdrawal.

The withdrawal of previous complaint dismisses therefore the penal responsibility, being regulated in the provisions of article 131 paragraph 2 Penal Code. The withdrawal represents the unilateral document of will of the aggrieved party that comes back to the complaint performed, according to law, until the conviction decision remains final. Accordingly, the right to give up the exercise of penal action of the aggrieved party in these cases (ius abdicandi) can be exercised in any phase of the penal case until the moment shown.

The withdrawal of previous complaint has the same legal nature, the same grounds of penal politics and the same consequences as the lack of previous complaint.

PARTICULARITES DE L'INADMISSIBILITE DE LA PLAINTE FORMULEE DEVANT LE JUGE CONTRE LES RESOLUTIONS OU LES ORDONNANCES DU PROCUREUR DE NON ENVOI EN JUGEMENT

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Résumé

L'apparition dans la législation roumaine des prévoyances de l'art. 2781 du Code de procédure pénale a créé les conditions de censure des solutions de non envoi en jugement adoptées par le procureur.

Malgré tout cela, le droit de demander la vérification des résolutions ou des ordonnances de non envoi pénal ne représente pas un droit absolu reconnu à toute personne et dans n'importe quelles conditions.

L'inadmissibilité de la plainte formulée dans les conditions de l'art. 2781 du Code de procédure pénale est déterminée par des considérants qui dépendent du type de solution contestée, la personne qui a le droit de réaliser une telle démarche ou les conditions imposées par les dispositions légales dans la saisine de l'instance de jugement.

COORDINATES OF THE FAMILY LIFE ACCORDING TO THE ARTICLE NO.8 OF THE EUROPEAN CONVENTION OF HUMAN RIGHTS AND THE ARTICLE NO.3 OF THE HAGUE CONVENTION

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Abstract

A vector of the protection ascertained by the European legislator in the article no 8 paragraph 1 of the Human Rights European Convention, family life, which is not explained in the content of the Convention, enjoys – like many other cardinal institutions targeted by the conventional text – the dynamic and progressive interpretation of the human rights claim court. This court has explained its content, establishing multiple valences in agreement with the internal law of the national states, and with the relevant stipulations of the international law.

The parent's and child's possibility of enjoying each other's company represents a primary element of the family life that claims urgent and efficient interventions from state authorities for the exact implementation of both positive obligations arising from the Convention and those stated in the Hague Convention in 1980 regarding the civil aspects of children kidnapping.

Thus, the European Court of Human Rights has emphasized continuously each contracting state's duty of providing itself with an appropriate and sufficient legal arsenal to ensure that positive obligations are abode on grounds of the article 8 of the Convention and to other international law instruments which it has ratified.

In this paper we intend to focus on the essential coordinates of the family life as they are presented both in the Convention text written down by the European Court of Human Rights and the Hague Convention in 1980.

COMPUTER SEARCH IN NEW CODE OF CRIMINAL PROCEDURE

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Abstract

The evidences and the means of evidences are fundamental institutions that ensure finding the truth in criminal trials, and they are separate legal categories, which can be theoretically explained in conjugate way, because the evidences are factual (realities, events or circumstances) that serve at finding the truth, while the means that help observing these facts that can serve as evidence in criminal proceedings, are named means of evidence.

The evidences are extra procedural fact entities but concerning the subject of the trial, by the administration of which they gain procedural character, while the means of evidence are also extra procedural realities that gain legal procedure character by using them in criminal proceedings.

In this context, the computer search and the access in informatics systems reglemented by the New Code of Criminal Procedure gains a special valence alongside other means of evidence inserted in the law, because it contributes at the understanding of the research process and discovering and identifying of those evidences stored in a computer system or computer data storage.

THE MANAGEMENT OF THE COMPANY BY THE DIRECTORS

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Abstract

The company may be administered by one or more administrators, they may be associates or not and also they are appointed by the memorandum of associates or by the General Meeting of Associates. The company's administrators may depute the management of the company to one or more managers and one of them will be „the general manager".

The managers may be administrators of the company and in this case they are the executive administrators or they are not part of the Board of Associates and in this particular case, they can be appointed as"Delegate Administrators".

Regarding the object of the delegation as the commercial mandate, the judicial form of the delegation is included in the category of a third person'substitution.

The managers will conclude a contract mandate with the company and there will be stipulated that the managers are the company' mandataries and they act in the name and for the Board of Associates.

SITUATION OF PROTECTION OF HUMAN DIGNITY IN ALBANIA AND ROMANIA

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Abstract

The article presents an analysis of the crime against dignity in Albanian criminal law: insult and defamation.

We examined certain judgments of courts in Albania and the solutions given by those courts that violate the right to freedom of expression protecting the dignity of misuse and abuse protection.

With all the pressure of the Albanian civil society and the world on the decriminalization of insult and libel, the study tries to argue that there is compatibility between the existence of such offense and the European Convention on Human Rights.

The solution is not decriminalization of those and unlimited freedom of speech, but protecting both principles, dignity and freedom of expression because they are equally protected by the European Convention of Human Rights.

Actually human dignity protection in Romania is analyzed in terms of Constitutional Court Decision and the Decision of the High Court of Cassation and Justice.

Will present an analysis of the decision of the Constitutional Court of Romania nr.62/2007 and effects have to produce.

I will examine the appeal in the interest brought by the General Prosecutor of Romania, although i prefer to analyze Decision nr. 8/2010 of the High Court of Cassation and Justice that upheld the interest of law, but the decision have not yet published in the Official Gazette of Romania.

I will present arguments that allowed appeal in the interest of law and the implications of the decision to produce will be asked wether the Constitutional Court under article 146 letter is due to the legal conflict between the legislative authority of Parliament and High court of Cassation and justice as judicial authority.

AGREEMENT OF WILL IN THE MATTER OF TRADE REGISTER

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Abstract

Agreement of will can be defined as an agreement between two or more parties in order to conclude, to amend or to abolish a juridical act source of rights and obligations. Formation of the will represent an internal psychological process, starting from a need that an individual wishes to satisfy it.

Consent is the agreement between the parties in the bilateral or multilateral juridical acts (concursus voluntatum).

The juridical act is actually in the narrow sense, the exteriorization method of the manifestation of will with the intention to create, modify or extinguish a legal relationship, and in the broad sense, designate the requirements of form: the form required for validity of the juridical act and the form required for proof of the juridical act.

CONSIDÉRATIONS THÉORÉTIQUES ET PRATIQUES CONCERNANT LE LICENCIEMENT DANS LA NOUVELLE VISION DU CODE DU TRAVAIL

Mihaela NEAGU

Mihaela NEAGU
Président de Cour d'appel Galati

Résumé

Le licenciement est le mode de rupture du contrat de travail par l'initiative d'employeur, qu'il intervienne pour motif personnel (disciplinaire ou non) ou pour motif qui n'est pas inhérent à la personne du salarié.

Le Code du travail pose de nombreuses règles que l'employeur doit respecter sous peine d'avoir à verser des indemnités aux salariés.

Par la Loi no. 40/2011, qui sera appliquée après 30.04.2011, le Code du travail a été amendé. Les plus importants changements concerne la procédure du licenciement collectif.

Le but de la loi a été de faciliter les licenciements pour motif économique, par exemple, une restructuration, des difficultés économiques, des mutations technologiques, une réorganisation, la cessation d'activité, etc.

La décision de l'employeur dois respecter strictement tant les règles procédurales que les règles de fond (motif réel et sérieux de licenciement, durée du préavis, indemnités, etc.)

Dans la situation du licenciement illégal, le Code du travail roumain établit le rétablissement dans le même emploi, aussi des compensations.

La pratique judiciaire a rencontré beaucoup de difficultés théorétiques et pratiques concernant « restitutio in integrum ».

Certaines questions ont été résolues par les modifications du Code du travail, mais il y a encore de problèmes non réglementées.

THE CONSTITUTIONAL FUNCTIONS OF THE JURIDICAL AUTHORITY

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Abstract

The coherent formation of the juridical system, together with an effective justice act, are considered to be the main factors contributing to the creation of a state governed by the rule of law. Nevertheless, history demonstrates that the juridical system's reformation becomes increasingly difficult when faced with continuous political confrontations and a hostile socio-economic environment. In order for reforms to be successfully implemented, regardless of their aim, a proper and encouraging environment is required, together with a scientifically-formed strategy. Only this way can the reforms be successful. The way of overcoming every critical situation consists of both society's consent and the actual will for reformation express by the political parties of every emerging state.

THEORETICAL AND APPLICATIVE ASPECTS IN PUBLIC LAW: MEDICAL LEGAL REPORT

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Abstract

Medical legal report is a species of civil legal relationship and a social relationship is regulated by law. Subjects participating medical rights and obligations in order to obtain moral and material satisfaction.

In referring to the medical legal report: health worker and patient - as subjects, the specific rights and obligations of both parties - as well as content, and the actions and inactions that are participating as subjects to perform, times are kept to respect them - as the object.

Medical Malpractice your error is understandable as a professional mistake or causing injury. In this respect, medical legal liability, borne by medical workers, is based on the guarantee it provides to the state constitutional level, by regulating the right to health.

LUTTE CONTRE LA CYBERCRIMINALITÉ EN ROUMANIE

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Résumé

L'Internet a fondamentalement changé le fonctionnement de la société, en fournissant un environnement économique et rapide, avec une couverture mondiale, d'obtenir et de communiquer des informations.

Avec un certain nombre d'avantages remarquables, le développement rapide de l'Internet a soulevé un certain nombre de questions juridiques qui doit être traité avec beaucoup de prudence. Certains pays comme la France ou les Etats-Unis, ont pris et prendra de nouvelles mesures pour réglementer l'activité de ce système mondial d'échange d'informations.

Parmi les questions juridiques soulevées par l'Internet, on peut citer la distribution de matériel obscène, des questions contractuelles qui se posent dans l'exécution des contrats sur l'Internet, le problème de la réalisation de spots publicitaires, messages par l'Internet recevabilité comme preuve en cour, la juridiction applicable, etc.

La criminalité informatique est un phénomène de notre époque, reflète souvent dans les médias. Une étude indique que la crainte d'attaques dépasse même l'intensité d'un vol ordinaire ou de fraude. Les recherches criminologiques de la criminalité menée par des systèmes informatiques est encore sous contrôle. Même ceux réalisés jusqu'à présent ont tendance à changer la criminalité classique dans laquelle les systèmes actuels de justice pénale.

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THE GLOBAL CRISIS AS A CONNECTION BETWEEN PAST, PRESENT AND FUTURE

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Abstract

The paper deals with a historical approach of the crisis, in order to mark out the cyclical world economic evolution and the idea that people and their leaders are not able to learn from past mistakes.

The first step of the analysis deals with a critical approach of the economic crisis in different countries during 1907-2002. A distinct part of the paper deals with the great depression from 1929-1933.

An important part of the analysis is focused on the causes, the differences and the similarities between the present and the previous crisis.

The most important conclusions of the paper are: the present crisis is not defeated yet and the same crisis supports a new world economic order implementation.

LE DÉVELOPPEMENT DANS LES AIRES, RÉSEAUX ET SATELLITES CULTURELS: L'EXEMPLE FRANCO-ROUMAIN

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Résumé

L'étude est centré autour de l'idée de compatibilité culturelle et du phénomène de mimétisme et transfert des modèles de développement au niveau d'aire culturelle, ayant comme sujet le binôme France / Roumanie.

Dans la structure de l'ouvrage la partie introductive présents les aspects d'ordre épistémologique concernant les notions d'aire, réseau et satellite culturel, en appelant les références de la littérature occidentale socio-philosophique, géo-historique et politico-économique.

Apres l'identification des découpages aire culturelle dans l'espace européen, on présente le contexte contemporain de l'européanisation comme supra-aire culturelle de développement. L'évolution de type réseau/satellite fait aussi l'objet d'une présentation distincte, après laquelle on détaille le cas du modèle régional de développement, de l'aménagement du territoire et de planification. L'étude relève les similitudes existant entre les deux pays en ce qui concerne la culture de la planification territoriale, le modèle de la région de développement, comme unité territoriale de projet, et identifie les repères temporels et contextuels de la diffusion de celui-ci.

Une tentative de typologie des possibles conséquences conclut l'étude.

COMPARATIVE ANALYSIS OF THE PAYMENT SYSTEMS ACROSS THE EU27

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Abstract

The basic idea of the paper is that the wage is very different across the EU and in time. As a result the first part of the paper deals with the wages' analysis in Romania during 1990-2010. The second step is to present the wages and the pay system in different member states and to realize their critical analysis.

A distinct part of the paper realizes the analysis of the minimum wages across the EU27, according to the latest Eurostat information.

The main conclusion of the paper is that the pay system and the minimum wage especially represent important elements which dimension the labour market, the free labour movement and which are able to potent the economic growth.

The analysis and the conclusion are supported by the latest European statistical database, diagrams and pertinent tables.

ISSUES REGARDING THE CLUSTERS IN LESS DEVELOPED REGIONS: TYPOLOGIES AND SUPPORT POLICIES

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Abstract

The strong cluster support offered by the EU has been conceived in tight relation to those cohesion policy programmes aiming at fostering regional innovation and knowledge-based networks, with a special emphasis on the technology-intensive activities.

Nevertheless the "obsession" with high-tech industries has begun to encounter sharp criticism by various authors, the idea that medium and low-tech industries can be also innovative and can provide substantial impulse to regional growth getting more attention. This issue has a specific significance to the lagging regions, usually confronted with economic structures dominated by mid- and low-tech industries. In author's view the question of clusters in lagging regions can become an interesting niche for the cluster-devoted research in the forthcoming years, the factors and the policies conducive to effective clusters in these regions requiring a deeper exploration.

As a preliminary step in this direction, this paper proposes a discussion on the cluster typologies provided by the international literature, aiming to point out those criteria and resulted classifications of a particular relevance for the study of clusters in lagging regions. Some reflections on the most appropriate support policies for cluster development in these regions are also provided, based on various successful experiences recorded by less developed regions in Central and East European countries.

ASPECTS REGARDING THE PERFORMANCE OF THE AUDIT OF PUBLIC PROCUREMENT MISSION

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Abstract

The internal audit in public institutions is carried out by the internal public audit department, which evaluates to what extent the management and internal control system are transparent and true to the legality, regularity, economy and efficiency rules.

The internal audit is exercised over all activities which take place in public entities regarding the formation and use of public funds and public property management.

The internal audit covers six support public entities functions: human resource management activities, public procurement activities, legal activity, financial-accounting activity, IT activity and management activities.

In the above mentioned paper we intended to treat the audit mission of the „public procurement activity" support function in terms of identifying risks, determining the risk level and total risk score as well as ranking risks on total scores.

The risk identification is carried out within the „Risk analysis" procedure and it involves the association of significant risks to the operations established in the „Summary list of auditable objects". The internal auditors have divided risks into three categories: low risks (1,00-1,20), average risks (1,25-2,00) and higher risks (2,05-3,00).

THE REALIZATION OF THE PRINCIPLES OF LOCAL AUTONOMY IN MOLDOVA: THE CASE OF GAGAUZIA

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Abstract

The author examines the aspects of practical realization of the principles of local autonomy and the particularities of the local public administration reform making in the Republic of Moldova. This study also analyses the correspondence between the rules laid down in national legislation on local autonomy and the European standards.

The particularities and the consequences of creating the autonomous territorial unit with the special legal status – Gagauzia have been presented.

The prerogatives of the People's Assembly of Gagauzia and in particular to adopt the "local laws" have been critically examined. There is no such category of "local laws" under the Constitution, in the Republic of Moldova. The constitutional text expressly provides that the laws can be: constitutional, organic and ordinary. The author mentions the fact that the areas where the Gagauz People's Assembly is empowered to adopt "local law" are regulated by organic laws.

One insists on the fact that the local autonomy is a general principle of democratic administrative policy, whose application cannot be subject to ethnic or other criteria. Local autonomy serves all citizens, provides more resources, and amplifies the local administration’s initiative to improve the living standards. Using the principle of local autonomy as an opportunity to encourage the ethnic autonomy is a prerequisite for separatism and segregation, acts contrary to democratic society.

COMPARATIVE ANALYSIS OF THE REVENUE AND EXPENDITURE BUDGET EXECUTION OF GALATI COUNTY COUNCIL ON THE 2009-2010 BUDGET YEARS

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Abstract

After having elaborated the draft budget (first stage) and after having debated and approved it (the second stage), the budget execution is the third stage of the budget process and it consists of collecting revenues and perform the payments authorized by the Parliament by approving the budget laws.

In Romania, the house budget execution, meaning the proper collection of the revenues and the payment performing giving the resources allocated, was provided by the National Bank in cooperation with the specialized banks until 1992, when this task was took over by the Treasury of public finance.

The budget execution consists of two parts, namely, the revenue execution and the expenditure execution.

The Ministry of Public Finance holds the attribute of tracking and permanent supervising the budget execution using for this purpose the quaterly accounting reports of the credit release authorities.

At the end of the budget year, the Ministry of Public Finance has to prepare the annual general account of the state budget execution and the Execution account of the social security state budget having as annexes, the execution annual accounts of the special funds budgets and the budgets of the main credit release authorities with the proper annexes.

The Court of Accounts performs the further control of the budgetary execution Account in every public institution, regarding the legality, the reality, the efficiency, the effectiveness and the economic aspect.

RELATIONS BETWEEN SOCIAL CAPITAL AND SELF-ADMINISTRATION

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Abstract

The study addresses to the relations between elements of social capital and self-administration. Economic development of a local authority is included as a social element, being determined decisively the social structure, especially by the size and type of capital stock. Strong social capital networks can maintain a certain degree of development in case of collapse of formal institutions and to ensure in short-term economic and social welfare. Local rich in social capital authorities have a greater capacity for self-administration.

The economic aspects of social capital are important because they directly affect the social structure and dynamics of political processes, promoting / stopping up public confidence in the system of institutions.

Institutions, mechanisms of social control, laws that reallocate benefits, the costs of collective actions create the social capital.

Recovery by the authorities of public administration of the existing social capital in a local authority provides a better synergy and coordination of actions aimed at satisfying the public interest. Social capital is productive, making possible the achievement of goals, which could not be reached in its absence. Major effects are related to the generation of knowledge, production of public goods, and political involvement of individuals.

COMPARATIVE STUDY OF THE EXPERIENCES OF SELECTED EUROPEAN COUNTRIES IN THE FIELD OF LIFELONG LEARNING

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Abstract

Lifelong learning has become a recognized mission of higher education institutions in nearly all European countries, being promoted as an essential element of the European Higher Education Area by the Bologna Process. Although its expansion has become one of the guiding principles for the development of all education and training policy in Europe, and discussions on lifelong learning have grown rapidly in frequency and importance in recent years, the range of national responses to this topic suggest that there is still no widely accepted European or international definition of the concept in the context of higher education. Also, the implementation and applicability of this concept varies extensively from a European country to another, due to reasons that will be analyzed in this paper. Measuring selected countries' advances toward lifelong learning with the use of empirical evidence reveals differences in policy patterns in terms of focus, approaches, implementation and coordination, development stage, legislation and others, being shaped mainly by specific historical, economic and social developments.

THE FORMATION TERRITORIAL UNIT - ADMINISTRATIVE UTAG GAGAUZ. LEGAL STATUS

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Abstract

In the present article the author focuses on the creation of the Territorial Administrative Unit of Gagauz Yeri in the famework of the constitutional system of the Republic of Moldova. One can see that it had some stages before coming into existence. The first stage referes to its unconstitutional period since the establishment of Gagauz Republic in August 1990 when its status was unconstitutional. And the second stage, since the adoption of the Gagauz Yeri status as an integral part of the Republic of Moldova and according to its fundamental law.

THE CESSATION OF TOWN COUNSELLORS' SEAT

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Abstract

Town councils represent deliberative authorities throughout local autonomy is realized in villages and cities. Town councils are composed of town counsellors'. They are elected through universal, equal, direct, secret and free expressed vote. According to the law of local public authorities' election their seat lasts 4 years.

In conclusion the normal period of town counsellors' seat lasts 4 years. The town counsellors' seat ceased at the time the new town council is declared legally constituted.

Nevertheless, there are situations when town counsellors' seat ceased schedule. It is the case of town council's dissolution. There are, also, the situations of legal cessation presented in Local Selected Statute.

The new town council voted after previous' dissolution or legal cessation will exercise its seat until the next general elections.

Our study will try to present and analyze the characteristics of the cessation of town counsellors' seat before term.

RÉFLEXIONS SUR LE SYSTÈME POLITICO – ADMINISTRATIF ROUMAINE

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Résumé

Les résultats de notre recherche sont organisés sous cinq titres: Le concept d'administration publique, La vision systémique sur l'administration publique, Le système politico – administratif, Le contrôle des composantes du système politico – administratif roumain et Conclusions. En partant de l'observation qu'en réalité les autorités de l'administration publique ont un caractère politico – administratif, c'est-à-dire, leurs direction est située dans la zone d'interférence du domaine politique avec le domaine administratif, nous avons arrêté sur la conclusion qu-il n'existe pas un système administratif pur et simple, mais un complexe système politico – administratif. Le noyau dur du notre démarche se trouve sous le titre Le contrôle des composantes du système politico – administratif roumain et consiste dans la diagnose des situations de contrôle abusif ou de non contrôle du système, notamment en ce qui concerne le pouvoir législatif, le pouvoir exécutif et la justice constitutionnelle. En fin, dans les Conclusions sont exprimées nos opinions sur les remèdes du non contrôle. La principale idée est que l'efficacité des remèdes de nature technique – juridique est conditionnée par les moeurs de la société romaine, en général, et de la classe politique, en spécial. De cette raison, il faut utiliser des remèdes complexes, de nature morale, psychologique et juridiques, capables de prouver à tout le monde, sans doute, que la violation des règles du jeu démocratique par les hommes politiques n'apporte pas le succès, mais des sanctions et le blâme public.

CROSS BORDER COOPERATION AND NEIGHBOURHOOD MANAGEMENT AND THE IMPLEMENTATION AN IMPERATIVE FOR THE REGIONAL DEVELOPMENT PROJECTS. CASE STUDY: THE REPUBLIC OF MOLDOVA

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Abstract

Given that EU enlargement is not a priority, cross-border cooperation and European Neighborhood Policy with the countries situated at the eastern borders of the Union is a regional approach that can and should promote the common values, the development and trade integration. The accession to the EU financial assistance is a priority for Moldova, its ability to incur and efficient use of such funds is an important criterion in the opening up of new European partners. In our approach, based on the concepts of regional development policy of the Republic of Moldova, we intend to identify to what extent the creation of regional partnerships with Romania and Ukraine can attract the regional development financial projects.

THE ROLE OF REMITTANCES IN THE WELFARE CERTAINTY OF MOLDOVA DEVELOPMENT

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Abstract

Emigration in Moldova has become one of the most important issues, having a direct impact on economic, demographic and socio - political development of the country. This phenomenon proves that the migration has several functions, both for country and for citizens and their families. In this context, migration is increasingly considered a powerful factor of development. As a result the interest of the relationship between the migration and the –development is growing.

Many researches reveal that the remittances play an significant role in relation described above. This may bring a welfare surplus to all parts involved in migration process, here including: migrants, country of origin and country of destination. Also, migration brings benefits to Moldovan migrants' families, communities, and to the country as a whole, considering the cash flow in to the country out the money send home. Considerable sums, generated by the migrants support annually the local consumption and economic macrostructure. Therefore the specialists have an focused attention for analysis of remittances fluctuation.

These trends will directly influent the potential of the country towards economic development. Although most the official estimates indicate the decline the remittances level, they continue to remain a reliable source of welfare for migrants families.

FINANCIAL PROPERTY AND THIN CAPITALIZATION

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Abstract

This article will define property, its structure and accounting. Article will also concerned with purchase, submission and assessing of financial property. Centre of vision will be to principle and method of thin capitalization. It will also show influence of incorrectness the submission in reporting