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Section II.

Interdisciplinary Approach in Administrative Sciences in the 21st Century

Friday, May 17, 2019

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

Keynote speakers:

*Professor **Mihai Bădescu,** Bucharest University of Economic Studies*
*Lecturer **Ovidiu Maican,** Bucharest University of Economic Studies*
*Assistant professor **Andreea Stoican,** Bucharest University of Economic Studies*

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SCIENTIFIC PAPERS

MUCH ADO ABOUT THE POST-CHICAGO SCHOOL

Assistant professor Sónia DE CARVALHO
Department of Law, Portucalense Infante D. Henrique University, Portugal

Abstract
In the middle of the 80s, an economic movement, that brings together a group of academics that stand out by the harsh criticisms to the approach of the School of Chicago towards competition, arouses interest among the scholars. This movement will call into question some of the foundations and justifications presented by the Chicago School, by questioning, in first place, the single monopoly profit theory. In this sense, these authors will develop a set of models designed to demonstrate that the monopolist in the primary market has incentives to monopolize the secondary market. This School will also analyse the vertical restraints, standing out the development of Raising Rivals´ Costs Theory and offer an explanation for free-riding. The Chicago School, on the other hand, is a coherent and heterogeneous economic school, responsible for the theory of oligopoly and collusion, which, by advocating the criminalization of price fixing, proceeded to analyse the anticompetitive effects of predatory pricing and various restrictions vertical. In this paper, we aim at demonstrating that the roots of the Post-Chicago School go back to the Chicago School, highlighting the contributions of Director and Levi in the construction of the Raising Rivals´ Cost Theory and, considering the connection between the Chicago school and Transaction Costs Economics, the most complete empirical analysis of this theory led by Elizabeth Granitz and Benjamin Klein. The continuous omission of the Transaction Costs Economics, considering the steadiness between both, is one of the most negative aspects of this school, which can only be explained by the fact that heterogeneity of the Chicago School and Transaction Costs Economics unmask much of the criticism knitted. Post-Chicago School, as we will conclude, will be incapable of thwarting the ideological premises of the Chicago School.

THE US ANTITRUST JURISPRUDENCE THROUGH THE LENS OF CHICAGO SCHOOL AND THE TRANSACTION COSTS ECONOMICS

Assistant professor Sónia DE CARVALHO
Department of Law, Portucalense Infante D. Henrique University, Portugal

Abstract
In the mid-70s, the US antitrust jurisprudence finally embraced the economic approaches developed at the University of Chicago on the 30s. The Chicago School of Economics has as its main characteristic the defence of the private economy and of a limited intervention of the government, which underlies the idea that individual freedoms depend on the existence of a system based on private initiative and market economy, affirming the interdependence of capitalism and democracy. This School was fiercely against the excessive intervention of competition authorities and courts in competition, to which attributed as final goal purpose efficiency maximization. From a methodological point of view, Chicago School will be renowned by the importance of neoclassical price theory and empirical analysis. Later, within New Institutional Economics, will rise another economic analysis, such us Transaction Costs Economics and Property Rights Theory, that even though receiving minor attention from the literature, being until now strangely excluded from the economic and legal mainstream of the competition, will also inspire Antitrust Law. The Transaction Costs Economics will demonstrate that the transactions that make up the market are conditioned by the constraints of behaviour and information, giving rise to transaction costs that make markets imperfect. The institutions in this School are, therefore, structures that, by influencing individuals' behaviour, mitigate market imperfections, becoming indispensable in economic analysis. The analysis of these economic approaches will reveal that both gave the utmost importance to transaction costs, as Chicago School, without explicitly mentioning transaction costs, also considered it in antitrust analysis. In this paper, we aim at demonstrating that this proximity between Chicago School and Transaction Costs Economics is reflected in US antitrust jurisprudence. Therefore, it is pertinent to begin by summarizing the main arguments developed by these economic theories, which later received merits by the courts, thus making more evident the effect they had on US antitrust jurisprudence, often ignored by literature. As we will conclude the US antitrust analysis is performed by the Courts through lens of Chicago School and Transaction Costs Economics.

THE EU ARCTIC POLICY AND ITS CRITIQUE: A VIEW UNDER TOCCI´S THEORY ON FOREIGN POLICY AND NORMATIVE POWER

Professor Elvira MENDEZ-PINEDO,
Faculty of Law, University of Iceland
Legum magister Alesia FRALOVA,
Faculty of Law, University of Iceland

Abstract
What is the role of the European Union (EU) in the Arctic region? On what basis does it claim influence and/or authority (if any) over part of this vast area of the world? What can we learn about EU Arctic policy, tools and instruments adopted so far? Is the EU a normative foreign policy actor as described by Tocci´s theory? What factors do influence the adoption and validity of EU policies in this region? This study tries to reply to all these questions casting a light over an area of great geostrategic importance and at the crossroads of historic developments. In a first part we study the current EU Arctic policy and assess its strength

and weaknesses according to literature. In a second part we summarize Tocci´s theory on kinds of normative policy actors and examine what kind of power is the EU exercising in the region.

THE EU ARCTIC POLICY AND ITS CRITIQUE: A VIEW UNDER TOCCI´S THEORY ON FOREIGN POLICY AND NORMATIVE POWER (PART 2)

Professor Elvira MENDEZ-PINEDO,
Faculty of Law, University of Iceland
Legum magister Alesia FRALOVA,
Faculty of Law, University of Iceland

Abstract
What is the role of the European Union (EU) in the Arctic region? On what basis does it claim influence and/or authority (if any) over part of this vast area of the world? What can we learn about EU Arctic policy, tools and instruments adopted so far? Is the EU a normative foreign policy actor as described by Tocci´s theory? What factors do influence the adoption and validity of EU policies in this region? This study tries to reply to all these questions casting a light over an area of great geo-strategic importance and at the crossroads of historic developments. In a first part we study the current EU Arctic policy and assess its strength and weaknesses according to literature. In a second part we summarize Tocci´s theory on kinds of normative policy actors and examine what kind of power is the EU exercising in the region.

PROTECTING THE RIGHTS OF FOREIGNERS TO INVESTMENT-ATTRACTIVE LAND PLOTS

PhD. Dmytro FEDCHYSHYN,
Zaporizhzhia National University, Ukraine
PhD. Iryna IGNATENKO,
Yaroslav Mudryi National Law University, Ukraine
PhD. Oleksandr BONDAR,
Zaporizhzhia National University, Ukraine

Abstract
The normative legal acts that define the basic guarantees and which are based on protection of foreign investments in Ukraine are analyzed. The emphasis is on the special legal regime of economic activity in the special (free) economic zones, on the territory of which are implemented preferential customs, monetary, financial, tax and other conditions of economic activity of foreign legal entities and individuals. It is determined that industrial parks are one of the most common types of special economic zones. The procedure of acquiring ownership of land plots, which is planned to be used for creation and functioning of the industrial park and subjects of the special regime of management within the industrial park, is considered.

LEGAL ISSUES OF DEVELOPMENT OF ORGANIC FARMING IN UKRAINE

PhD. Dmytro FEDCHYSHYN,
Zaporizhzhia National University, Ukraine
PhD. Iryna IGNATENKO,
Yaroslav Mudryi National Law University, Ukraine
PhD. Oleksandr BONDAR,
Zaporizhzhia National University, Ukraine

Abstract
The theoretical principles of organic farming development in Ukraine are substantiated. The concept and features of the land for organic farming, especially the legal regime of such land are revealed. The analysis of legal forms of land use for organic farming was carried out. The main advantages of using an organic land plot on the basis of emphyteusis are analyzed. The subjects of land use for organic farming have been investigated. The prospective directions are determined and proposals on the improvement of the current legislation of Ukraine are developed. These include the development and approval of criteria for determining the suitability of agricultural land for use in the process of organic farming, resolving at the legislative level issues related to soil conservation and the protection of their fertility, the development and approval of norms of their qualitative condition that would meet the requirements of cultivation organic products of plant origin. In addition, there is a need for legal separation of agricultural land on which organic products are grown, taking into account the specific use of these lands and establishing their special legal regime.

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COMPENSATION OF DAMAGES TO VICTIM OF CRIMINAL OFFENCE UNDER CRIMINAL PROCEDURE CODE OF UKRAINE

PhD. Inna MUDRAK,
National University "Odessa Law Academy", Ukraine
PhD. Oleksandr PODOBNYI,
International Humanitarian University, Ukraine
PhD. Olesia VASHCHUK,
National University "Odessa Law Academy", Ukraine

Abstract
A significant number of criminal offenses affects the life, health or property of citizens, accompanied by physical, property or moral harm. It must be admitted that the most important right of a victim in a criminal procedure is the right to compensation for damages caused by criminal offenses. Today, in Ukraine, the legal regulation of the victims' right to compensation is not in line with constitutional guarantees, therefore measures from the state to strengthen these guarantees are relevant. In this view, international instruments that regulate the compensation for victim in the criminal procedure are analyzed, as well as the practice of developed countries. The evolution of the Ukrainian legislation concerning compensation to the victim in the criminal process is described. The difference in the terminology of international acts, acts of developed states and Ukrainian legislation in relation to compensation to victim is revealed. It is concluded that it is worthwhile to use the term "compensation". It is noted that Ukraine needs to take into account the experience of foreign countries in compensating for the harm caused to victim in a criminal procedure at the expense of the State budget. This mechanism can be implemented by creating a State Victim Assistance Fund that would function as a specific credit institution.

STUDIES AND COMMENTS. COMMERCIAL LAW IN MACEDONIA AFTER 1990

Professor Endri PAPAJORGJI,
Dean of Faculty of Law,
Tirana Business University College, Albania
Associate professor Rezarta TAHIRAJ,
University of Elbasan (Albania)

Abstract
With the Declaration of Independence of 17.11.1991 and the entry into force of the Constitution on 20.11.1991, Macedonia was free to draft its own legislation. But the difficult internal and external situation, the unofficial imposition of the Greek embargo since the end of 1991, and the UN embargo on Yugoslavia, which brought losses of US $ 80 million a month to the new state, had a negative impact on the legislative process. The 1990 (!) amended Yugoslav company law of 1988, which replaced the Organization of Associated Labour as a basic economic subject with the "commercial companies" as a new legal concept, organized the economic life in public companies and limited liability companies. All Art.s that regulated the economic organizations in Yugoslavia were abolished. This amendment was in force until 30.5.1996. In this sense, main objective of this manuscript is the analysis of the commercial law reforms in Macedonia after the fall of communism towards a free market economy and EU membership.

COMMERCIAL LAW DEVELOPMENTS IN YUGOSLAVIA WITH A FOCUS IN THE SOCIALIST REPUBLIC OF MACEDONIA AND ALBANIA

Professor Endri PAPAJORGJI,
Dean of Faculty of Law,
Tirana Business University College, Albania
Associate professor Rezarta TAHIRAJ,
University of Elbasan (Albania)

Abstract
Commercial law is an abstract definition in a central planned economy, but Yugoslavia had a system of its own and in the economic history books it has always a special chapter. It all started with the planned system economy, but very early Yugoslavia followed its own path, namely workers' self-government and a special property form, the so-called social property. Albania instead followed the path of all socialist countries – central planned economy and socialist property. This system can be considered a definition of administrative socialism or etatism. This manuscript aims to analyze the commercial reforms in Yugoslavia, Macedonia and Albania and its consequences towards free market economy. A historic and deductive method will be used to analyze the legal reforms that made Yugoslavia a specialty in the communist block.

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PROBEMS OF IMPLEMENTATION OF WHISTLEBLOWER INSTITUTION IN UKRAINE

Associate professor Serhii Ivanovych KHALYMON
Intelligence Management Department of the Bohdan Khmelnytskyi National Academy of the State Border Guard Service of Ukraine
PhD. Mykhailo Serhiiovych PUZYROV
Chief Researcher at the Research Center for the Activities of Bodies and Institutions of the State Criminal and Executive Service of Ukraine,
Academy of the State Penitentiary Service
Associate professor Anatolii Mykhailovych PRYTULA
Senior Officer of Administration of the State Border Guard Service of Ukraine

Abstract
The article deals with the study of problems regarding prevention of corruption. Based on the studies of national and foreign research papers, the authors proved that such problems became the most urgent themes of modern scientific researches. The origin of the concept of "corruption" was analyzed; it has been stated that different approaches to the definition of corruption are based on legal or normative aspects, and those based on social aspects are different from those based on the understanding of the public service and social interests. It has been proved that one of the most effective tools for combating corruption in the world is using whistleblowers. The main problems of whistleblowers implementation in Ukraine were studied. It has been noted that Ukrainian society ambiguously perceives the whistleblowers institution. Rejecting of corruption whistleblowers by the society negatively affects the effectiveness of preventing this phenomenon. The authors have analyzed social and political problems concerning creation of anti-corruption court in Ukraine and its possible positive influence on the effective process of combating corruption.

CRIMINAL LIABILITY OF THE CIVIL SERVANT – LIMITS

Lawyer Eliza ENE CORBEANU,
Bucharest Bar Association, Romania

Abstract
The paper aims to treat the civil servant's criminal liability, its quality in terms of the existence of a qualitatively active subject. Also, relevant decisions of the Constitutional Court of Romania will be discussed in relation to the quality of the active subject of a civil servant offense. The limits of his liability, the offenses in the criminal code that are actively subject to the civil servant. The last chapter will be a comparison with other comparable law institutions.

ADMINISTRATIVE CONTRACT IN ENVIRONMENTAL LAW

Associate professor Simona-Maya TEODOROIU,
Faculty of Public Administration,
National School of Political and Administrative Studies, Romania

Abstract
The study mentions the usefulness of the contract in the historical-social landscape, as a legal operation and act of culture and civilization, then addressing the theme of the adhesion contract as a real necessity under the conditions imposed by the production and distribution of mass. The adhesion contract is also the legal formula used in the specific conditions of the activity of public authorities, proving its usefulness as an administrative contract. The adhesion contract can also be an effective legal act in the field of the environment by applying the principles of environmental protection through measures agreed by public authorities and various economic operators as well as applying the principle of administrative decentralization. However, the legislation in that field ignores it almost entirely. There is also some necessary clarification on the subject matter of the contract and the subject-matter of the obligation in general as well as on the distinction between the contract and the negotiated administrative act in environmental law or the importance of the content of the legal link the statute of the unilateral character of the administrative act, all of which are applicable to environmental law.

CONSIDERATIONS ON THE FUNCTIONS OF THE EUROPEAN COUNCIL

Lecturer Ileana VOICA,
Department of Law, Bucharest University of Economic Studies, Romania

Abstract
The work focuses mainly on the functions of the European Council, after a brief review of its regulations in the treaties, its composition and organization, as well as on the functioning of the European Council. It also addresses the European Council's connection with the EU Council, mainly in order to underline the importance of the EU Council for Romania in the current period, when our country holds the presidency of the EU Council, for six months, starting with January 1st 2019, but also in order to avoid any confusion between the European Council and the EU Council.

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THE LAWFUL STATE IN THE CONTEXT OF THE NORMATIVE AND INSTITUTIONAL REQUIREMENTS OF EUROPEAN UNION

Lecturer Marius ANDREESCU,
University of Pitești, Romania

Abstract
The doctrine of the lawful state comes from the German theory and jurisprudence, but is now a requirement and a reality of the constitutional democracy in contemporary society. Presently, the lawful state is no longer merely a doctrine but a fundamental principle of democracy consecrated in the Constitution and international political and legal documents. In essence, the concept of the lawful state is based on the supremacy of law in general and of Constitution in particular. Essential for the contemporary realities of the lawful state are the following fundamental elements: the moderation of the exercise of state power in relation to the law, the consecration, guaranteeing and observance of the constitutional rights of man especially by the state powers and, last but not least, the independence and impartiality of justice. In this study we analyze the most important elements and features of the lawful state with reference to the contemporary realities in Romania in the context of the requirements expressed in the political and legal instruments of European Union. An important aspect of the analysis is the separation, balance and cooperation of the state powers, in relation to the constitutional provisions. The excess of power of the public authorities, the excessive politicking and failure to respect the independence of justice are aspects of contemporary social and state reality that contravene to the requirements of the lawful state. Are analyzed the most significant aspects of the Constitutional Court jurisprudence and the jurisprudence of administrative courts in regard to the guaranteeing of the lawful state attribute in Romania, as well as, regarding the power excess.

MEANS, PROCEDURES THAT STRENGTHEN THE FIGHT AGAINST CORRUPTION OR WEAKEN IT

Lecturer Sandra GRĂDINARU,
"Alexandru Ioan Cuza" University of Iasi, Romania

Abstract
The present paper proposes an analysis of the phenomenon of corruption within the public administration, viewed from the perspective of the anti-corruption fight as it can be perceived from the activity of the criminal investigation organs and the jurisprudence of the courts. In Romania's attempt to meet European anti-corruption standards, standards established under the Cooperation and Verification Mechanism (MCV), the Romanian legislation has undergone numerous transformations. However, the experience of recent years highlights the fact that the adaptation of the legislation is not efficient in the conditions in which there are no effective preventive and repressive means against this scourge. Although there have been many progresses in the anti-corruption fight, recognized at European level, administrative reform in Romania is still stagnating. Due to this aspect, corruption was also considered a threat to national security, motivated by the vulnerability of the Romanian State, damaging the economy and creating imbalances in society. In this context, in the attempt to combat the phenomenon through updated legal and technical means, the Prosecutor's Office attached to the High Court of Cassation and Justice concluded two cooperation protocols with the Romanian Intelligence Service in 2009 and 2016. Apparently, this cooperation was fruitful, being finalized with a series of criminal cases involving or involving important political people. Due to the clandestine nature of these protocols and due to the lack of any form of control over the cooperation between the criminal investigation bodies and the secret services, a proper framework for abuses was created, which implicitly led to the violation of the rights of the Romanian citizens on a large scale. The present study aims to highlight the main effects of the cooperation between the National Anticorruption Directorate and the Romanian Intelligence Service, both from the perspective of the recent jurisprudence of the Constitutional Court and from the perspective of the judicial practice of the national courts. The academic and practical interest of this paper lies in the fact that its addressability is not limited, being addressed to lawyers (judges, prosecutors, lawyers, etc.) as well as justices who have recently faced the phenomenon of corruption.

THE IDENTITY AND LEGITIMACY OF THE PHD IN ADMINISTRATIVE SCIENCES

Lecturer Valentina CORNEA,
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Abstract
The public administration research within Doctoral Schools contributes to meeting the need for scientific knowledge of the field. This study deals with the nature of the research in the doctoral programmes organized in Romania. The intention is to make a first diagnosis of the Doctorate state in Administrative Sciences and the extent to which it responds to the new knowledge economy. We synthesize data and information from the analysis of the Doctoral School activity of the Administrative Sciences and we relate them to criteria that configures the identity and legitimacy of the doctorate. We are pursuing three key issues: major research themes, research methods and achieved results that we report them to the subject of Administration Science study and to the context. The conclusion of the study is that the legitimacy of the doctorate in Administrative Science is largely ensured by the need to articulate the university studies in accordance with the principles of the Bologna process and the criteria imposed to pursuit a university career. The major research topics support the trends in the evolution of the Administration Science as a synthetic science.

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CONSIDERATIONS REGARDING THE RIGHT TO WITHDRAW OF THE STAKEHOLDERS IN THE CASE OF FUSION OF SOCIETIES. COMPARATIVE PRESENTATION

Professor Silvia CRISTEA,
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PhD. student Viorel BĂNULESCU,
Bucharest University of Economic Studies, Romania

Abstract
The right to withdraw is a measure of protecting the associate/shareholder of the societies, regulated by Law no. 31/1990, which ceases to exist as a result of the fusion. The present article analyses the exertion of the right to withdraw from the Romanian Law, but also in comparative law. Regarding the Romanian regulation of the matter, it presents in parallel the case of capital societies and those of persons, emphasizing the differences between them, from the point of view of the effects of the right to withdraw.

CHALLENGES OF THE ROMANIAN LEGISLATOR REGARDING PRECARIOUS WORK

Lawyer Raluca ANDERCO
Bucharest Bar Association, Romania

Abstract
The article aims to briefly review some of the key theoretical aspects of precarious work in Romania, starting from the analysis of the factual situation existing at the moment. We will also analyze official statistical information, in relation to European legislation, highlighting the usefulness and weaknesses in the phenomenon of precarious work and its dynamics over time. Last but not least, we will enumerate the legal, quasi-illegal and illegal forms of precarious work in today's Romania (identification, formal description and a brief discussion of socio-economic implications), as well as legislative lacunae existing at this time. Finally, we will refer to case studies that illustrate every form of precarious work analyzed in this article, with reference to both domestic and European legislation: e.g. poor work in the rural population, precarious work through pricing of atypical contracts, precarious work as a fake form of individual labor contract, "domestic" workers, etc.

CONTROVERSIES TRACED OUT IN THE DEFINITION OF PROSTITUTION IN THE MOLDOVAN LEGISLATION

Associate professor Vitalie STATI,
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Lecturer Gheorghe RENIȚĂ,
Faculty of Law, Moldova State University, Republic of Moldova

Abstract
Practicing prostitution in the Republic of Moldova is an administrative offence. Thereat, any attempts of enticing, coercing or facilitating engagement of a person into practicing prostitution is regarded as an offence of pimping. Likewise regarded as an offence of pimping is the case when the offender is taking advantage of recruiting certain persons into practicing prostitution. In October 2018, the Parliament of the Republic of Moldova proceeded to pass a law giving the following definition to the notion of "prostitution" – gratification of sexual desire of a person by any method and/or means in return for money, including such as the use of information technologies or electronic means of communication. Thereat, one could derive that dissemination of the erotic webcam performances via the Internet for certain category of website visitors against payment might constitute prostitution. Clearly highlighted in present article was the fact that the like activities constitute pornography rather than prostitution. Prostitution require a physical contact. The authors have demonstrated that the definition of prostitution provided by the law contravenes to the case law of the Constitutional Court of the Republic of Moldova as well as to some of the regulations passed under the auspices of the Council of Europe and European Union. Finally, the authors suggested a new wording for the notion of prostitution, i.e.: engaging in sexual activity with different individuals benefiting on the services provided by female or male prostitutes, the latter thus pursuing to acquire the means of subsistence or the main source of livelihood.

ROLE AND PRACTICAL ATTITUDES IN ISSUE OF THE PROVISIONAL PROTECTION ORDER

Lecturer Camelia Daciana STOIAN,
„Aurel Vlaicu" University of Arad, Romania
Lecturer Radu Nicolae STOIAN
Arad Court, Romania

Abstract
We have learned to shape solutions through the jurisprudence of the European Court of Human Rights or the European Court of Justice in Luxembourg on what, until not long ago, we were treating an eternal lamentation as a real problem but without a concrete solution have set or reached important standards in

the segment of violence against minors and women but have also provided an adequate degree of protection for professionals directly involved in verifying domestic violence complaints. However, with the entry into force of Law no. 174/2018 regarding the modification and completion of the Law no. 217/2003 on the prevention and combating of domestic violence, the role of the police officer in the exercise of his duties in preventing and limiting domestic violence is strengthened by defining and enumerating the means by which he has the right to obtain evidence by stating his obligations and prohibitions may have immediate application in the content of the provisional protection order but also by regulating the way of its confirmation by administrative resolution issued by the prosecutor. The objectives of the present study, however, concern how this legislative measure is to be reflected in the organizational procedures necessary for the implementation in practice of police, prosecutor's offices and courts, all set in a framework that will procedurally support the efforts to investigate and conclude, in a way that effectively contributes to the diminution or elimination of an imminent risk.

PROCESSING OF PERSONAL DATA. CASE STUDY: JUST A BALANCE IN EDUCATION BETWEEN THE RIGHT TO INFORMATION AND RIGHT TO PRIVATE LIFE

Associate professor Mioara Florina PANTEA,
„Aurel Vlaicu" University of Arad, Romania
Lecturer Camelia Daciana STOIAN,
„Aurel Vlaicu" University of Arad, Romania

Abstract
All those who seek to achieve the concept of 'effective education', both institutions or governmental authorities that are part of the central or local public administration, educational institutions, teachers, or students, aim at achieving a standard that meets the attributes of quality, objectivity and equity in any level, the only ones who can configure and ensure the development of academic quality in a double sense, from teacher to student, respectively from student to teacher. Application and interpretation of personal data protection legislation has its own role in achieving and maintaining quality by continually correlating with everything involving objectivity and impartiality, the only one that can give a fair balance between the requirements of the European framework in the field and the proof of the quality of being worthy of confidence in the personal development and realization of students through the diligence that has been done to ensure the development of the academic body. The point of view is a plea that highlights the importance of correctly interpreting the scope of Regulation 679/2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Published in the Official Journal No 119L of 4 May 2016;] and why not pre-empt the case law of the European Court of Human Rights or the Court of Justice of the European Union not to expose us as representing not just a good practice.

STUDY ON THE LEGAL NATURE OF THE APPROVAL DOCUMENTS REQUESTED FOR COMPANIES

Lecturer Aida Diana DUMITRESCU,
"Alexandru Ioan Cuza" Police Academy, Romania

Abstract
This epistemological approach was generated by the theoretical and practical necessity of analyzing the legal nature of the approval documents required for the registration and / or operation of commercial companies. The evolution of companies is symbiotic to that of the society and has a major economic, legal and social impact. According to its object of activity (environmental statement, banking company) or operations carried out in the process of operation (merger, sale of agricultural land, etc.) the entity must obtain approval documents with complex legal effects. The material is part of the multidisciplinarity criterion and uses several methods of scientific research, of which predominantly logical and comparative methods. The outcome of the research is presented in a gradual and exemplary approach, its conclusions being substantiated by reference to normative provisions, doctrine opinions and legal practice.

MATERNAL ASSISTANCE - A SPECIAL PROTECTION MEASURE FOR THE CHILD IN DIFFICULTY

Associate professor Laura CETEAN-VOICULESCU,
„1 Decembrie 1918" University of Alba-Iulia, Romania

Abstract
Maternal assistance is a measure to protect the child in difficulty, that is, the child who does not enjoy parental care. The special measure of protection of placement and emergency placement (two of the 3 special measures for the protection of the child in difficulty regulated by the Law on the Protection and Promotion of the Rights of the Child) may also be available to a professional maternal assistant. This paper aims to analyze these two special measures of protection through maternal assistance with a special regard to the role and the opportunity of the measure, the order of priority in the overall measures, the critical analysis of the regulation in the matter. The analyzed chapters are: the proximal gender and the specific difference in the subject, the categories of children that can be protected by this measure, the duration of the measure, the analysis of the placement measure and the emergency placement of a maternal assistant, etc.

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THE SPECIFIC NATURE OF THE MATERNAL ASSISTANT'S EMPLOYMENT RELATIONSHIP

Associate professor Ada HURBEAN,
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Abstract
This paper analyzes the special character of the maternal assistant labor contract regarding the actual legislation and the jurisprudence in this matter. By trying to find a balance between the regulations of the Labor Code regarding the individual employment contract and the special regulations regarding labor contract of the maternal assistant, we notice that the institution of the maternal assistant is governed, first of all, by the principle of the best interest of the child. So, because we have to consider this an axiom, the maternal assistant is, in fact, a genuine replacement of a parent for the child who is in placement or in custody. That's why the content of this labor contract is all about the growth, care and the education of the child, without a strict connotation to the specific elements of the common labor contract, as the work program, the time to work and time to rest and even the subordination relationship with the employer. In this context, the common stipulations of la labor Code regarding the individual labor contract are only the general frame in which the work of the maternal assistant is taking place, because the content of his work is much more, legally and morally, that the norm.

THE LEGAL REGIME OF COMPETITION IN NETHERLANDS

Lecturer Ovidiu Horia MAICAN,
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Abstract
The present-day competition regime in the Netherlands begins with the enactment of the Competition Act on 1 January 1998. The substantive provisions of the Competition Act are a copy of the Treaty on the Functioning of the European Union (TFEU). The Competition Act prohibits anticompetitive agreements and the abuse of a dominant position. The Competition Act established the Netherlands Competition Authority (NMa) as the domestic body responsible for the enforcement of competition law. On 1 April 2013, the NMa unified with the independent Post and Telecommunication Authority and the Consumer Authority into a single regulator, the Consumer and Market Authority (ACM).

THE LEGAL REGIME OF COMPETITION IN GERMANY

Lecturer Ovidiu Horia MAICAN,
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Abstract
Antitrust legislation first came to Germany in 1947, while the building of an antitrust framework was constitutive of the forming of the European Coal and Steel Community (ECSC) in 1951 – the first step towards the creation of a European Community. However, during the first ten years, these two developments remained only loosely coupled. After 1957, a year marked both by the passing of the first German antitrust act and the signing of the Treaty of Rome, the German and European antitrust stories became much more closely interconnected.

THE COLLECTIVE NEGOTIATION AND COLLECTIVE AGREEMENTS – LEGAL TASK OR OPPORTUNITY, IN THE MANAGEMENT OF THE LEGAL SERVICE RELATIONSHIPS OF THE POLICE OFFICERS

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Abstract
The issue of collective bargaining will always be of interest from the point of view of the permanent concern of the persons employed to maximize the guarantees received from the employer, regardless of whether he is a public or private person, in connection with the satisfaction of economic and social interests, patrimonial or non-patrimonial, which arise from the legal relations between them. Even though, in terms of service legal relationships, in the public sector in general but also in particular those of police officers, collective bargaining takes on a particular form, much more articulated by rules legally required for organization and conduct, on the merits, but, the importance of this issue determines at least the same concerns. In this context, it has become of interest to study and analyze to what extent, at the level of the public institution involved, in this case the Ministry of Internal Affairs, which is entrusted with the overall material competence to manage police officers' relations, to bring together the social partners in a negotiation collective agreement for the conclusion of a collective agreement can be identified and capitalized as an opportunity to obtain benefits also at institutional level, or it remains exclusively the exercise of a legally imposed obligation from which only benefits can be obtained for the policemen and, at the institutional level, at most, the concern to "get" losses or costs as little as possible, implicated in what is offered or accepted in the negotiation. The analysis carried out is based mainly on documentary analysis, which has covered both a part of the existing doctrinal space in the field, the ideological anchoring of the approach in the general landscape of the problem, as well as the normative framework in force in the field, to ensure the legal framing of the resulting conclusions and to dimension as accurately as possible the proposals formulated and launched for debate or further development.

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NATION'S WEALTH - AN APPROACH BASED ON INTERNATIONAL VALUATION STANDARDS

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Abstract
The paper proposes an approach to the patrimony of a state or a nation by analogy with corporate patrimonial approaches, based on the methodology recommended by international valuation standards and the net corrected net asset (ANC) method. The author notes from the observation that the main statistical indicator currently used for assessing a state's economic status, namely gross domestic product (GDP), is an indicator of the value of the produced output, without really reflecting the patrimonial status of the subject. Unlike states, companies are required by law to present two basic documents: a balance sheet, with assets and liabilities, defining its assets, and a profit and loss account, which defines the revenue and expenditure generated. By presenting a balance sheet document with assets and liabilities by state, one can assess both economic status at a given time, calculating a net asset (ANC) and economic evolution over a period of time by comparing assets net from the beginning and end of the investigation period (ANCn - ANCn-1). As a consequence, when assessing, for example, the evolution of the national economy, we will compare only GDP2018 with GDP1989 but also the net activity of the Romanian state in the same period ie ANC2018 with ANC1989.

PRACTICAL ISSUES REGARDING MOTIVATION IN ADMINISTRATIVE ACTS AND MOTIVATION IN JUDGMENT DECISIONS CONCERNING THE ADMINISTRATIVE AND FISCAL CONTENTIOUS PROCEDURE, AS WELL AS IN THE PRELIMINARY PROCEDURE, IN THE ANTITHESIS WITH MOTIVATION OF THE JUDGMENTS UNDER THE NEW CIVIL PROCEDURE CODE

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Abstract
Subjects of the study: Common aspects regarding the motivating criteria for the administrative act, the motivating criteria in decisions of the contentious procedure in the preliminary procedure, and the court decisions motivating criteria, as well as the measures ordered in the contravention law and contained in legal provisions: Fiscal Procedure Code (Article 46 to Article 54 - Issues regarding motivation of the fiscal administrative act, and Article 272 to Article 274 - Issues related to the motivation of the decisions solving appeals against the fiscal administrative act); The Administrative Contentious Law no. 544/2004 (Article 7 - Preliminary Procedure); Govern Ordinance no. 2/2001 on contraventions (Article 16 to Article 20 - the report-minute on finding of contravention) and corroborated with the New Civil Procedure Code (Article 193 - Preliminary Procedure and Article 425 - Content of the judgment). Research Methods Used: Analyzing the legislative aspects by means of own practice and existing jurisprudence, and leading to a judicial syllogism. The results and implications of the study: Safeguard, promoting and defending legitimate rights and interests of citizens, taxpayers, offenders and petitioners in the administrative and fiscal contentious proceedings.

GENDER DISCRIMINATION. THE INFLUENCE OF THE COURT OF JUSTICE OF THE EUROPEAN UNION JURISPRUDENCE

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Abstract
Gender discrimination in labor legal relationships implies unlawful acts by employers against the principle of equal treatment, which have forms of inequalities as their direct, or indirect object, and the employees' prejudicies as their effect. As a result, employees who find themselves in comparable legal situations in employment relationships will be subject to mechanisms that ultimately involve a process of limiting the use of their fundamental rights and freedoms as regards access to employment, vocational training, promotion and equal working conditions. The prohibition of discrimination facts on gender criterion in labor relations implies the adaptation of the national laws of the Member States to the new provisions of the European normative acts, a transposition process which presupposes the acceptance of the limitations and the recognition of the concepts in the field, when the interpretation of these norms in the legal practice of the domestic courts are increasingly applying the CJEU jurisprudence. The article presents aspects of European and national laws on gender discrimination, the criticism of the lack of regulation, and the analysis of the role of CJEU jurisprudence in the field of employment legal relationships.

THE MAIN ELEMENTS AND FORMS OF PUBLIC-PRIVATE PARTNERSHIP IN ROMANIA

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Abstract
The realization, rehabilitation or extension of goods and / or the operation of services normally held by the public sector can also be achieved through the public-private partnership that engages the public sector and the private sector to provide them. As a result, they reduce the strict budgetary constraints to which public expenses is subject. Public-private partnerships ensure better identification of needs and optimal use of resources, provide alternative management skills and implementation skills, and last but not least, provide additional capital for investment. In other words, public-private partnership has the role of improving public services. In this article we will analyze in detail the main elements of the public-private partnership and their implications as well as the forms of the public-private partnership established in the Governmental Ordinance no.39 / 2018 on public-private partnership.

ASPECTS ON THE PRACTICAL UTILITY OF THE TRANSFER IN THE FIELD OF THE EMPLOYEES AND THE PUBLIC SERVANT. PROPOSALS DE LEGE FERENDA

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Abstract
The transfer institution is intended to ensure the continuity of the individual employment contract and seniority, the new unit being subrogated to the contractual rights and obligations assumed by the first unit. Regarding the practical utility of the transfer, it is necessary to emphasize that the individual employment contract does not cease in relation to the first employer, a new contract is concluded with the second employer; thus, the same individual employment contract is given up definitively (not temporarily - as a posting) from the first to the second employer.

THE SCHENGHEN AREA IN THE CONTEXT OF THE FREE MOVEMENT OF PERSONS IN THE EUROPEAN UNION

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Abstract
The free movement of persons in the European Union is certainly one of the most concrete achievements of the European integration process. The establishment of the Schengen area in 1995 led to the abolition of controls at the internal borders of the European Union. Currently, the Schengen area comprises most of the EU states except Ireland and the United Kingdom, which have opted to stay outside, as well as Bulgaria, Croatia, Cyprus and Romania, which are bound to join Schengen. However, EU citizens benefit from free movement when traveling within the EU, whether or not the country is part of the Schengen area. If they enter the territory of an EU Member State that is not part of the Schengen area, EU citizens are in principle subject to a minimum identity check based on travel documents, respectively passports or identity cards).

WHY DO WE HAVE TO TAKE EXAMPLES FROM OTHERS?

PhD. student Lidia Gabriela HERCIU,
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Abstract
The aim of the paper is to present the good practice in what regards the evaluation of the intellectual capital in other countries. The importance of taking good examples from others.

TRANS-INSTITUTIONAL TEAMS - A POSSIBLE SOLUTION FOR EFFECTIVE USE OF HUMAN RESOURCES IN PUBLIC ADMINISTRATION IN ACCESSING EUROPEAN FUNDS

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Abstract
The study objective is to research the hypothese: will amending the legislation on public-sector mobility in order to create an attractive legal framework for setting up trans-institutional teams can become an effective way of managing the human resource so as to increase the institutional capacity to absorb European funds? Research methods: quantitative and historical observation. Results: Providing legal and managerial arguments to raise awareness of the need to update

legislation on mobility in public office in accessing European funds. Implications: • Law 188/1999 on the status of civil servants, Chapter IX - Modification, suspension and termination of service report, art. 87-89 requires update; • Mobility in the public position must be approached interdisciplinary in terms of the principles of modern public management; •Increasing the absorption capacity of european funds can be effective. Creating trans-institutional structures for accessing European funds by introducing an effective way of mobility in the public service can increase the absorption capacity of european funds.

THE RIGHT OF WORK OF DISABLED PERSONS. COMPARATIVE APPROACH BETWEEN THE SITUATION OF ROMANIA AND THAT OF THE REPUBLIC OF MOLDOVA

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Abstract
The people with disabilities status, as well as their fundamental rights and freedoms, are among the most debated topics at European level, which are constantly reviewed and completed in order to establish a universally valid normative framework that will contribute to eliminate the discrimination in the socio-professional insertion of people with disabilities sphere in order to homogenize and equalize the existing discrepancies in the society.

EU AGENCIES AND BODIES COORDINATING THE ADMINISTRATION OF THE EUROPEAN BORDERS AND INTERNAL SECURITY

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Abstract
The EU institutions play a crucial role in the guidance provided to the national authorities responsible for border control at EU level for the appropriate administration and management of the security risks and threats for the internal security of the European Union. This is translated into operational responses coordinated by the EU Agencies, missions and actions with the participation of the Member States and, in some cases of non-EU countries as well. An appropriate administration of the networking and synergies between this EU entities and bodies on one hand, the cooperation with the EU Member States on the other and the non- EU Countries, might be the platform for a more secure functioning of the EU both from social and economic perspective.

AUTHORITY'S OBLIGATION TO INFORM JUDICIAL BODIES ABOUT OF THE CONDUCT OF CRIMINAL OFFENCES

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Abstract
In order to trigger the criminal proceedings, judicial bodies must be informed of a criminal offence, through one of the referral modes provided for by law. The Penal Code and the Code of Criminal Procedure govern the liability of the public servant who, having knowledge of an act laid down by the criminal law, is obliged to notify the judicial body. The analysis of the concept of civil servant and the limits of its criminal responsibility constituted a constant concern in the literature and judicial practice.

THE MUTUAL INSURANCE COMPANY - A NEW FORM OF SOCIETY AND ITS POSSIBLE INTERACTIONS WITH THE PUBLIC ADMINISTRATION

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Abstract
For many decades, mutual insurance companies have been very present in developed countries, in various areas of activity, often interfering with public administration or with various public institutions. For example, mutual insurance companies can manage mandatory health insurance schemes or provide supplementary insurance for sickness and old age or alternatives to national insurance schemes. In Romania, mutual insurance companies did not benefit from such regulation, although in other less developed countries they could operate at least as voluntary organizations with the role of raising funds and managing financial loans to cover various risks. Very recently was promulgated in Romania Law no. 71/2019 on mutual insurance companies. These societies will undoubtedly be present in social life and many of them will specialize in activities that interfere with those of public institutions and authorities, so a study of this new type of society can be a benefit for everybody.

MOVABLE CULTURAL HERITAGE. WISDOM OF THE EARTH: PUBLIC DOMAIN AND RECOVERY OF POSSESSION

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Abstract
The research and consolidation of cultural heritage legal institutions have only known scarce attention and timid evolution in the past decades in Romania. In turn, the Romanian society in general seems to share the lack of concern. A true national conscience, which embraces the profound values of cultural heritage, seems to be still in formation after the trials of the past regime. Such a conscience cannot be taken for granted; it must be developed, it must be explained with patience and understood in its essence, it must be nurtured with a drive to know the past and the present and to build a common future. In this context, the present study is intended as a useful and attractive instrument for the review of relevant legal institutions, such as the right of ownership over movable cultural goods, the public domain and the recovery of possession of movable cultural goods. Employing the critical analysis of relevant case law, apt to stir curiosity, this study also brings to the forefront our often times inadequate comprehension of cultural heritage legal institutions.

CONTESTATION PROCEEDINGS OF CIVIL SERVANTS' EVALUATION IN ROMANIA

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Abstract
In the present paper we aim to analyze the contestation proceedings of the civil servant' annual evaluation. The Romanian law recognizes the right to career of the civil servants. According to the law, the civil servants have the right to advance in grade and position and to be remunerated at a proper level for the actual position, level of studies and professional experience. In order to progress professionally, the civil servants have to fulfil several conditions: seniority conditions, they have to obtain the qualification very well in the last two prior annual evaluations and / or to support and promote an exam or competition. There for, it is clear that the annual evaluation of civil servants is a key element for their career development. For this reason, the evaluation proceedings must be as clear and transparent as possible and every evaluated civil servant should be able to ask for the annulment of an evaluation that does not properly reflect the quality of his / her professional activity. In the article, we will describe the procedure for challenging the evaluation with its two steps: the internal procedure and the action in the administrative litigation court of law. We will also analyze some cases which are relevant to the subject of our study.

THE IMPLICATIONS OF THE DEMOGRAPHIC DECLINE FOR ROMANIA. A MULTIDISCIPLINARY APPROACH ON PUBLIC POLICIES

Lecturer Claudia BOGHICEVICI,
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Abstract
This article aims to analyze the causes that have led to an increase of the demographic decline in Romania, while emphasizing the implications on education, health, labour market and budgetary policies, as well as on the economy as a whole. At the same time, we will also take into account the public policy options that can have an impact on the demographic evolution.

LIVING SUPPORT ASSISTANCE OF DISABLED PERSONS

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Abstract
The living assistance of the disabled people involves using a pet to help the person in need to overcome their disabilities. The living assistance for people with visual impairments through guide dogs has become a new concern for the decision-makers in Romania. This paper aims to trace and extract those elements that may favor the development of this type of assistance in Romania as well, from the experience of other states in the use of guide dogs. The research articles in the field show that certain elements of the legislative context are necessary for a good implementation of the living assistance programs. But they are not enough either. The high cost of guide dogs training programs can be a serious inconvenient in this direction. This is where specialty medical literature comes to our

attention. It is the one that complements the normative study and provides us with medical research that highlights a number of predictors of the guide dog training success. Applying the results of these research can greatly reduce the costs of training programs, thus facilitating the development of this form of assistance.