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„EXPLORATION, EDUCATION AND PROGRESS IN THE THIRD MILLENNIUM"

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LAW
SECTION

11.30 – 13.00 – Panel Works – room M119
13.00 – 15.00 – Lunch – room M119
15.00 – 18.00 – Panel Works

KEYSPEAKER
Ph.D. Assistant Professor Ioan APOSTU

CONSIDERATIONS REGARDING THE SALE OF THE PROPERTY BELONGING TO ANOTHER, WITH REFERENCE TO IMMOVABLE PROPERTY SOLD TO TENANTS IN ACCORDANCE WITH LAW NO. 112/1995

Ph.D. Professor BUNECI
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CONSEQUENCES OF THE EMPLOYEE'S RESIGNATION BY THE EMPLOYER'S FAULT ON THE EMPLOYEE'S REINSTATEMENT IN HIS FORMER JOB

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(Ecological University, Bucureşti)

ADMINISTRATION OF ECONOMIC INTEREST GROUPS

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THE TRANSFER OF SENTENCED PERSONS

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Professeur Docteur Viorel DAGHIE
(Université Dunărea de Jos, Galați - Faculté de Droit)

OBSERVATIONS EN RESUME CONCERNANT LE PREJUDICE MORAL

Maître de Conferences Ioan APOSTU
(Université Dunărea de Jos, Galați - Faculté de Droit)

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Ph.D. Assistant Professor Mihnea Claudiu DRUMEA
(Spiru Haret University, Constanța - Faculty of Law and Public Administration)

ACTIONS OF FULL JURISDICTION IN FRONT OF THE COURT OF JUSTICE OF EUROPEAN COMMUNITIES

Ph.D. Lecturer Ioana-Nely MILITARU
(Bucuresti University - Faculty of Economics)

CONSIDERATIONS THEORETIQUES ET PRATIQUES CONCERNANT LA COMPETENCE SUR VALEUR EN MATIERE CIVILE

Maître de Conferences Ioan APOSTU
(Université Dunărea de Jos, Galați - Faculté de Droit)

THE PROGRESS IN THE FIELD OF LEGAL MODALITIES OF SETTING THE ENDING OF USAGE CAPACITY OF NATURAL PERSONS

Ph.D. Lecturer Roxana DRUMEA
(Spiru Haret University, Constanța - Faculty Of Law And Public Administration)

KNOWLEDGE AND INNOVATION – THE ROAD TO COMPETITIVITY
Ph.D. Lecturer Georgeta MODIGA
(Danubius University, Galaţi - Faculty of Law)

THE SETTLEMENT OF INTERNATIONAL COMMERCIAL DISPUTE THROUGH ALTERNATIVE DISPUTE RESOLUTION
Lecturer Ph.D. in progress Angelica ROŞU
(Danubius University, Galati - Faculty of Law)

THE PENAL RESPONSIBILITY OF THE NOTARY PUBLIC
Ph.D. Lecturer Bogdan CIUCĂ
Lecturer Ph.D. in progress Angelica CHIRILĂ
(Danubius University, Galaţi - Faculty of Law)
Ph.D. in progress George SCHIN (Notary public)

INFRACTIONS OF THE INFORMATION AREA. LEGAL SETTLEMENT
Lecturer Ph.D. in progress Angelica CHIRILĂ
(Danubius University, Galaţi - Faculty of Law)

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("Constantin Brancusi" University, Targu-Jiu - Faculty of Juridical Science)

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("Petru Maior" University, Tg. Mureş - Faculty of economic, legal and administrative)

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Ph.D. Lecturer Victoria CRISTIEAN
("Dimitrie Cantemir" Christian University, Bucureşti
Faculty of economic, legal and administrative)

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("B.P.Hasdeu" State University, Cahul - Republic of Moldova)

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(Dunărea de Jos University, Galaţi Faculty of Law)

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(Dunarea de Jos University, Galati - Faculty of Law)

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Ph.D. Lecturer Dragu CREŢU
(Dunărea de Jos University, Galaţi - Faculty of Law)

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Ph.D. Lecturer Oana GĂLĂȚEANU
(Dunărea de Jos University, Galați - Faculty of Law)

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Ph.D. Lecturer Gheorghe IVAN
(Dunarea de Jos University, Galati - Faculty of Law)

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Ph.D. Lecturer Dragu CREȚU
(Dunărea de Jos University, Galați - Faculty of Law)

LEGAL EDUCATION VOCABULARY
Lecturer Ph.D. in progress Onorina GRECU
(Spiru Haret University, Constanta - Faculty Of Law And Public Administration)

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(Spiru Haret University, Constanta
Faculty Of Law And Public Administration)

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Faculty of Law and Public Administration)

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(Spiru Haret University, Constanta
Faculty Of Law And Public Administration)

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Assistant Lecturer Ph.D. in progress Andrada Truşcă TRANDAFIR
("Dimitrie Cantemir" Christian University, Bucureşti
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("Dimitrie Cantemir" Christian University, Bucureşti
Faculty of economic, legal and administrative)

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Assistant Ph.D. in progress Nicoleta BUZATU
("Dimitrie Cantemir" Christian University, Bucureşti
Faculty of economic, legal and administrative)

THE INFRIDGEMENT OF HUMAN RIGHTS IN ANGHEL VERSUS ROMANIA – A CASE ANALIZED BY THE EUROPEAN COURT OF HUMAN RIGHTS

Assistant Lecturer Ph.D. in progress Mădălina- Elena MIHĂILESCU
(Dunărea de Jos University, Galaţi - Faculty of Law)

THE RIGHT TO DEFENSE - THE SOLICITOR'S ATTRIBUTIONS IN THE PENAL TRIAL

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(Dunarea de Jos University, Galati - Faculty of Law)

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PhD Assistant Dragoş-Mihail DAGHIE
*(*Université Dunărea de Jos, Galaţi - Faculté de Droit*)*

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PhD Assistant Monica BUZEA

(Dunărea de Jos Université, Galați - Faculté de Droit)

AMICABLE CONSTANT OF ACCIDENT
Assistant Lecturer Elena POPA
(Dunărea de Jos University, Galați - Faculty of Law)

RESTORATIVE JUSTICE VS. RETRIBUTIVE JUSTICE
Assistant Lecturer Stelian LUPU
(Dunărea de Jos University, Galați - Faculty of Law)

MARRIAGES HAVE FALLEN DRAMATICALLY
Assistant Lecturer Veronica NEGUȚU
(Spiru Haret University, Constanța
Faculty Of Law And Public Administration)

EUROPEAN SOCIAL CHARTER
Assistant Lecturer Alina SULICU
(Constantin Brâncoveanu University, Brăila)
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CONSIDERATIONS REGARDING THE SALE OF THE PROPERTY BELONGING TO ANOTHER, WITH REFERENCE TO IMMOVABLE PROPERTY SOLD TO TENANTS IN ACCORDANCE WITH LAW NO. 112/1995

Ph.D. Professor BUNECI
Bucureşti University
Faculty of Ecology

Abstract

The limiting possibility of the former proprietor, to recover the immovable properties, in kind, taken over by the State, infringes the provisions of the Article 20 § 1 and 2 of the Constitution of Romania, related to the priority of international regulations to which Romania is a party, on municipal law, because the ECHR has repeatedly stated that "the sale by the State, of an asset belonging to another, to third parties of good faith , even prior to final compliance, in court of the property right of the plaintiff, combined with lack of compensation, constitutes a deprivation of property contrary to Article 1 of Protocol 1 to the Convention ".

The ECHR held that Law No. 112/1995 invoked by the Romanian State, doesn't allow it to sell its tenants a property abusively nationalized, since the law only regulates the sale of the properties legally entered into State's patrimony.

The appeal in the interest of the law admitted by the High Court of Cassation and Justice, has established in a final and binding manner, that irrespective of the solutions pronounced by the trial courts, the European Convention has priority, so that solutions of domestic courts should be in line with the European law.

CONSEQUENCES OF THE EMPLOYEE'S RESIGNATION BY THE EMPLOYER'S FAULT ON THE EMPLOYEE'S REINSTATEMENT IN HIS FORMER JOB

Ph.D. Professor Alexandru ȚICLEA
Ecological University, Bucureşti

Abstract

Romanian legislation should adopt an explicit text acknowledging the right of an employee who resigned to prove that his act was due to the employer's abusive conduct, who made impossible for the employee to continue his employment and that what in fact occurred was a constructive dismissal.

As "constructive dismissal" or "self-resignation" are jurisprudential creations operating abroad, we consider that there is nothing to hinder our law courts from creating them, as it would be in the employer's best interest, whose protection is the Employment Law reason for existence and continuous improvement.

A test case settled down by Bucharest Court of Law and Bucharest Court of Appeal makes us tackle upon the employee's interest to seek in a civil action the observance of his right regarding his stability in work, which being breached forced him to resign.

ADMINISTRATION OF ECONOMIC INTEREST GROUPS

Ph.D. Assistant Professor Răducan OPREA
Dunărea de Jos University, Galați
Faculty of Law

Abstract

Just like in case of the commercial companies, the managers of E.I.G. represent the executive body of the general management of the members of the economic interest group.

The E.I.G. managers may be members who represent and manage the group, natural or moral persons administrators.

The powers and attributions of the managers are established by the general assembly of the members of the group who also establish the way in which the E.I.G. management will be carried out, together or separately, as well as the conditions for revocation.

In brief, one may conclude that the E.I.G. managers carry out the social will of the members of the group, according to its economic interest.

SPECIFIC FEATURES OF THE BANKING COMPANIES

Ph. D. Assistant Professor Silvia CRISTEA
Ph. D. Assistant Professor Camelia STOICA
Bucureşti University, Faculty of Economics
Law Department

Abstract

The aim (purpose, goal) of the study is the legal (juridical) regime of banking commercial companies (societies) as credit institutions, according to the Government Emergency Ordinance 99/2006 (Section 1). The specific characteristics of banking companies are analyzed beginning with their legal qualification (definition) as commercial companies (Section 2), continuing with their special (specific) issues. Section 3 is discussing the legal regime of bank directors and the conclusions are referring to the legal rules of banking companies administration activities.

THE TRANSFER OF SENTENCED PERSONS

Ph.D. Professor BUNECI
București University
Faculty of Ecology

Abstract

The concept of transfer of sentenced persons was regulated by the Convention on the transfer of sentenced persons adopted in Strasbourg on 21. 03. 1983 and ratified by Romania by Law No. 76 of 12. 07. 1996.

In the preamble of the Convention, as well as in the Additional Protocol thereto, was mentioned that the Member States of the Council of Europe are obliged to cooperate in order to accomplish a better administration of the justice and for the social re-integration of sentenced persons, to this end, those deprived of liberty as a result of a criminal offence, having the possibility, by the transfer in their own countries, to serve their sentence in their milieu of origin.

Romania ratified the Convention by Law No. 76 of 12. 07. 1996, and the legislator had to amend the provisions of the law relating to the transfer of sentenced persons, so that, through the years have been adopted several normative acts in this area, the last amendment occurring by Law No. 224/2006, updated by Law No. 222/2008, which in Title VI refers concretely to the transfer of sentenced persons and to the transfer of criminal procedures.

ORIGINE ET APPARITION DU DROIT. SYSTEMES DE DROIT DANS L'ORIENT ANTIQUE

Professeur Docteur Viorel DAGHIE
Université Dunărea de Jos, Galați
Faculté de Droit

Résume

Nous avons vécu et probablement nous vivrons dans un monde gouverné par normes, c'est-à-dire par de règles qui ont fait et continuent à faire la preuve de leur utilité sociale.

Tenant compte que lesdites règles naissent par suite de l'exercice de la pratique sociale, il est indéniable qu'elles s'imposent par la volonté des membres de la société, lesquels souhaitent qu'il existe une garantie du respect de ces règles par tous, justement pour assurer un climat de sécurité sociale, dans la cadre de la participation au circuit juridique. Il est bien connu qu'aucune loi ne peut être au gré de tous, mais pour englober la volonté sociale générale, devenue ensuite volonté juridique, donc obligatoire, il faut qu'elle soit au gré de la plupart, de telle façon que, ultérieurement, la minorité se soumette à la volonté de la majorité.

Le droit est envisagé comme l'un des plus profonds concepts de la civilisation de l'homme, parce qu'il offre une protection contre l'ironie et l'anarchie, le droit c'est l'un des principaux instruments de la société pour conserver la liberté et l'ordre, contre l'immixtion dans les intérêts individuels.

OBSERVATIONS EN RESUME CONCERNANT LE PREJUDICE MORAL

Maître de Conferences Ioan APOSTU
Université Dunărea de Jos, Galați
Faculté de Droit

Résume

Le préjudice, l'un des components essentiel de la responsabilité civile délictuelle, constituent en présent l'objet de certaines disputes jurisprudentielles et doctrinaires, alimentées par certaines consacrassions législatives récentes.

Le préjudice moral, en qualité de composante de 1'institution du préjudice en général, constitue encore la source des clarifications et orientations théorétiques et pratiques ayant leur racines les plus inédites, du point de vue de la nouveauté et de la variété.

Son quantification pour atteindre le but de la responsabilité civile, comme finalité de Faction civile en justice, constitue l'étape la plus importante dans toutes les solutions doctrinaires, mais surtout jurisprudentielles.

THE EUROPEAN SYSTEM OF PROVIDING AND IMPLEMENTING THE RULES OF PROFESSIONAL TRAINING - THEIR APPLICABILITY IN ROMANIA

Ph.D. Assistant Professor Mihnea Claudiu DRUMEA
Spiru Haret University, Constanța
Faculty of Law and Public Administration

Abstract

In the states of the community, the courses of professional qualification have become a long habit. The employers rely on the idea that it is better to prepare an employee from the inside than to spend more money on an already skilled worker. In exchange, in our country the system of appointing unqualified persons on qualified positions is still functioning. In this way, the employer does not assume any risk if the worker decides to leave. In Europe, the professional training degree is of 25% while in Romania it is of less than 5%. We have to understand that the way things evolve the professional qualification will become something vital. The employers would benefit due to increased labour productivity, and the employees could more easily find work.

ACTIONS OF FULL JURISDICTION IN FRONT OF THE COURT OF JUSTICE OF EUROPEAN COMMUNITIES

Ph.D. Lecturer Ioana-Nely MILITARU
Bucuresti University
Faculty of Economics

Abstract

The article lights up the role of the actions of full jurisdiction from the perspective of the Luxembourg Court to appreciate all the elements de facto and de jure of the case brought before it. By this it is modified the decision of the respective community organism that was challenged, by adopting a new biding solution for the parties. It is analyzed, in this regard, the most frequent types of actions in the community practice, as follows: the actions for failure of a member state to fulfill the obligations assumed by the Community Treaties; actions for damages; actions brought by public community employees; actions for extra-contractual liability of the European Communities; as well as the appeal against the decisions of the First Instance Tribunal.

CONSIDERATIONS THEORETIQUES ET PRATIQUES CONCERNANT LA COMPETENCE SUR VALEUR EN MATIERE CIVILE

Maître de Conferences Ioan APOSTU
Université Dunărea de Jos, Galați
Faculté de Droit

Résume

Déterminer la compétence de l'instance représente le plus important moment préliminaire du commencement de toute procédure judiciaire dans le domaine du droit prive.

Si les normes de compétence générales, matérielle et territorialité, ont déjà une réglementation stable, confirmée par unité jurisprudentielle, les récentes normes concernant la compétence du point de vue de la valeur implique certaines détails et une nouvelle orientation dans la pratique des instances judiciaires et dans la science du droit processuel civil.

Cella impose certaines clarifications doctrinaires, auxquelles on va faire référence ensuite, la démarche en cause.

THE PROGRESS IN THE FIELD OF LEGAL MODALITIES OF SETTING THE ENDING OF USAGE CAPACITY OF NATURAL PERSONS

Ph.D. Lecturer Roxana DRUMEA
Spiru Haret University, Constanța
Faculty Of Law And Public Administration

Abstract

The court declaration of death is a legal institution and, from the time perspective, the means by which the court determines the ending of the capacity of usage of an individual when his/her death can't be ascertained directly based on a medical report.

The presence of this legal institution is found on a socio-legal necessity as to clarify the juridical situation of the missing person, which situation of death or life is not clear.

Clarifying the situation of a person is of major interest for both society and relatives or associated persons (his/her creditors and debtors, heirs)

KNOWLEDGE AND INNOVATION – THE ROAD TO COMPETITIVITY

Ph.D. Lecturer Georgeta MODIGA
Danubius University, Galați
Faculty of Law

Abstract

The central idea around which this essay is built is that knowledge, as an appreciating asset, intellectual capital and investment in education are becoming dominant realities in the new economics and knowledge-based society.

The first chapter underlines the importance of knowledge and intellectual capital as the main driven forces in the new millennium.

The nation's output depends not only on the number of hours people work ,but also on how productive those hours are. One of the important determinants of workers' productivity is education Both private and public returns to education are highlighted in the third chapter.

The implications of globalization on the business world are of such nature that it is necessary for us to redefine the economic concepts and models, aspect which I've tried to focus on in the fourth chapter.

In the fifth chapter the attention is headed towards the new economies, which in the global civilization are based on innovations and furthermore on technological development which leads towards a high level of competitively and human development.

More and more countries are interested in becoming knowledge-based societies, thus being more prepared to face the challenges of the new millennium.

THE SETTLEMENT OF INTERNATIONAL COMMERCIAL DISPUTE THROUGH ALTERNATIVE DISPUTE RESOLUTION

Lecturer Ph.D. in progress Angelica ROȘU
Danubius University, Galati
Faculty of Law

Abstract

During the past years, alternative dispute resolution – ADR – has become increasingly topical in the international business community.

The increased interest in ADR can be interpreted as a response to negative factors attributed to litigation, such as length and cost of legal proceedings.

ADR is generally taken to cover all forms of dispute resolution other than litigation and arbitration. There is nothing new in the concept of ADR. Mediation and conciliation have been used for centuries. What is new is the kind of techniques that have been developed in the United States, which has led the way in developing new methods of dispute resolution other than by way of litigation and arbitration.

ADR may be described as a structured negotiation process during which the parties in dispute are assisted by a third person (the neutral) and that is focused on enabling the parties to reach a result whereby they can put an end to their differences on a voluntary basis.

ADR process can only be commenced if all parties agree to this effect. An agreement to initiate ADR process may arise from a clause in the contract between the parties or from an agreement into after the dispute has emerged. The inobservance of this clause was differently ratified by the various legal systems.

The International Chamber of Commerce has promoted the rules to govern these proceedings that became the model for all the institutions referring to ADR techniques.

PENAL LIABILITY OF NOTARIES PUBLIC

Ph.D. Lecturer Bogdan CIUCĂ
Lecturer Ph.D. in progress Angelica CHIRILĂ
Danubius University,Galați
Faculty of Law
Ph.D. in progress George SCHIN
Notary public

Abstract

Notaries represent, together with lawyers and legal advisers, a partner for justice, a „magistrate" in the non-contentious field.

The notary's status constitutes the main originality of an institution located at middle road between public functions and liberal professions: the notary is a public official (functionary), without being necessary for him to be a public servant, he is the titular of a liberal profession, without this meaning he is released from the state's guardianship. The breaking from the state cannot be complete, because "he is a public official who has received a delegation of authority from the state, in order to invest documents written by him with authenticity, thus guaranteeing the preservation, the probative and executory power of the mentioned documents". This is why the notary public is designated by the Ministry of Justice, submitted to the control of the state and bound by obligations typical to public services.

The current regulations do not provide specific provisions regarding the penal liability of the notary public. Given the lack of some norms derogatory from common law, the general regulations in the penal legislation will be applied.

The manner we chose to perform an analysis of contraventions which can be committed by the notary public follows the order given by the Penal Code and by the specific laws consecrated by it. The first elements that will catch our attention are the contraventions in the Penal Code, in the order given by the titles from which these contraventions are part of. The deeds qualified as contraventions by special laws will be analyzed according to those in the Penal Code, and the order will decrease chronologically, depending on the year when the normative document in question has been adopted.

INFRACTIONS OF THE INFORMATION AREA. LEGAL SETTLEMENT

Lecturer Ph.D. in progress Angelica CHIRILĂ
Danubius University, Galați
Faculty of Law

Abstract

Member States of the European Council have drafted and signed on 23 November 2001, "Convention on cybernetics crime". After the event, on 28 January 2003, was submitted for signature by Member States „Additional Protocol to the Convention on cyber crime, for the incrimination of acts of xenophobia and the act of racial discriminating committed through computer systems". Romanian State has signed the Additional Protocol on 9 October 2003.

Through the Convention and Additional Protocol is established the base for enquirying and sanctioning of criminal offenses committed through the computer and inter-governmental agreement necessary to stop this scourge.

Convention put at issue the need the conviction of criminal acts such as illegal access to a computer system, unlawful boud trap, computer forgery, informatics fraud, child pornography through internet, violation of property rights and other rights related etc.

The Romanian Parliament has tried to transpose this directivs introducing Act 161/2003 respecting measures to ensure transparency and exercion of the public dignity functions to public and business environment, preventing and sanctioning corruption in Title III of Book I (Prevention and combating computer crime, art. 34 - 67).

The purpose of this normative act is to prevent and combat computer crime by specific measures of prevention, discovery and punishment of crimes committed through computer systems, ensuring the respect for human rights and protection of personal data (art. 34).

Act does not offer a definition of "computer crime" (as beside it s not made by the Council of Europe Convention). A definition like this is in fact very difficult to lay down considering the great variety of criminal matters that have been discovered so far, and how new criminal acts in this field.

"The computer science deliquency" is "the entirety of the acts committed in the area of new technologies....", "crime computer science "could be defined as" all acts of criminal nature committed in the computer science space''.

For crime prevention and detection information, the law requires the public authorities and institutions witch competences in the field, service providers, nongovernmental organizations, representatives of civil society that promotes policies, practices, measures, procedures and minimum standards of security of information systems, The Romanian Executive Justice Department The Romanian Ministry of Administration and Administrative Reform, Ministry of Communications and Information Technology, the Romanian Information Service and Foreign Intelligence Service (which must be continuously and update the database on crime), the National Institute of Criminology, etc.

NEW STIPULATIONS OF THE ROMANIAN PENAL PROCEDURE DRAFT CODE AND THE PRACTICE EXPECTATIONS

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Abstract

The paper focuses on the main juridical institutions of penal procedure law, which are stipulated in the current Romanian Penal Procedure draft code. Even if the rules are still in project phase, the legislator must define well its changing and use more efficiently these new procedures. Moreover, in this paper I would like to present how the Romanian society will receive all of these and what exactly are the changes in the jurisprudence field.

THE LEGAL NATURE OF THE ECONOMIC ACTIVITY OF NATURAL PERSONS, IN THE LIGHT OF THE PROVISIONS OF URGENCY ORDINANCE OF THE GOVERNMENT NO. 44/2008. OPINIONS

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Abstract

The Urgency Ordinance of the Government no. 44/2008 concerning the economic activity of authorized natural persons, individual companies and family companies, enacted in the idea of reducing paper work, combating corruption and shortening the period necessary to obtain authorizations, thus allowing the observance of two aspects.

Firstly, the classic notion of "commercial fact" was replaced with the more restrictive notion of "economic activity". Yet, commercial law applies exclusively to commercial facts. Moreover, the provisions of the ordinance establish in a different way the legal nature of commercial activities.

In the situation when a natural person gains the legal status of an authorized natural person, the displayed economic activities, provided in the Code of Classification of Activities in the National Economy, have a commercial nature only in the conditions of art. 7 Commercial Code.

In the hypothesis when a natural person organizes an individual company or a family company, the displayed economical activities – the same activities provided in the CAEN Code for an authorized legal person – have a commercial nature, due to the fact that the holder of the individual company or the members of a family company have the status of merchant starting from the date of their registration in the Registry of Commerce (art. 24 and 30).

From the perspective of the provisions of the Commercial Code the solution proposed by the ordinance is doubtful. A commercial fact is commercial – under the authority of commercial law – by its nature, regardless of the person who fulfils it.

We consider that the same economical activity has a commercial nature, be it for the authorized natural person, for the holder of an individual company or for the member of a family company.

THE TRANSFER OF CONVICTED PERSONS AS AN ACT OF INTERNATIONAL COOPERATION IN PENAL LAW

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Abstract

The transfer of convicted persons is an act of international cooperation in penal law. It means moving the persons convicted to sanctions implying freedom deprivation, persons who are not inhabitants of the state where they have been convicted, from this territory to that they belong to in order to execute or carry out the execution of their conviction.

The execution of punishment in the state of origin of the convicted person has several advantages. Among them are the following: it allows the use of proper education programmes for the convicted, in their mother tongue; social integration in the socio-cultural environment they have been formed into is an important objective.

The transfer of convicted persons is not aimed to apply justice stricto sensu, but to assure the carrying out of punishment implying deprivation of liberty with a maximum efficiency; more precisely the state takes on its side the task of executing a sentence of conviction given in the state of conviction, which is thus excused from carrying out the sentence, including the financial efforts involved.

THE PROBLEM OF VISAS AND MIGRATION IN THE CONTEXT OF MOLDOVAN-ROMANIAN CROSS-BORDER COOPERATION AND THE EUROPEAN INTEGRATION OF THE REPUBLIC OF MOLDOVA

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Abstract

The improvement of the cross-border cooperation of the Republic of Moldova with neighboring countries is one of the objectives of the Action Plan Republic of Moldova - European Union. The achievement of this objective, however, confronts a series of obstacles due to the rigors for securing the EU external frontiers set forth for Romania, the difference of normative framework, or, which may be more important, to political will of the authorities of the two states. The problem of visas and freedom of movement in border line areas are two major aspects which we put forward to approach in this communication by means of Romania as a state on the EU external frontier and the Republic of Moldova as a member in the European Neighborhood Policy as well as the perspectives of its aspirations to European integration.

REGULATIONS APPLICABLE TO THE PRESS WITHIN THE NEW ROMANIAN CIVIL CODE

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Abstract

At present, the only express regulations, applicable both to the written press and to the audio-visual are those dating from the time of the old regime.

They are included in 5 articles (72-75 and 93), still in force, of Law no. 3/1974 concerning the press of the Socialist Republic of Romania. They establish, mainly, the right to reply.

The need to adopt a law which would expressly govern and regularize the press has been the subject of several debates, both mediatic and doctrinarian.

Meanwhile, the project of the new Romanian Civil Code, being in public debate, includes regulations concerning this field.

It is still left to see to what extent these provisions represent a sufficient minimum in the field and to what extent they match to the international legal dispositions protecting man's rights.

REFLEXIONS ON THE INFANTICIDE OFFENCE

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Abstract

Infanticide has incriminated of the olden time, being different only the shapes of incrimination or the options of the legislators regarding her ways of punishment (more severe or kind vis-à-vis of the murder offence).

In the penal Code in force (177th article) is incriminate ,,the new-born children's killing, effected immediately after the birth by the mother who is in a condition of confusion caused by the birth" and it is punishment with prison from 2 to 7 years.

In the 180th article from the new penal Code (adopted in 2004 and postponed his entering in force at the 1st Septembers 2009) infanticide has the same legal content.

In the draft of penal Code of the Ministry of Justice (published at the 24st of January 2008, on the Ministry's Justice site-www.just.ro) was proposed the same way of tackling of the problem. Thus, in 197th article under the marginal naming of ,,killing or hurting of the new-born effected by the mother" has incriminated not only the action of new-born children's killing, but also the action of striking or another violence, corporal hurting and striking or hurting which causes death by the mother being in a condition of confusion caused by the birth.

THE REVIEW WITHIN THE ROMANIAN PROCEDURAL LAW AND THE REVIEW WITHIN THE COMPETENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS

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Abstract

This paper focuses on a comparative analysis of the review within the Romanian procedural law and of the review within the competence of the European Court of Human Rights.

The review within the Romanian procedural law is an extraordinary legal remedy, a retraction, undevolutive, common and unsuspensive execution way.

These features of the review institution can also be found at the level of the same institution within the competence of the European Court of Human Rights.

REFLECTIONS ON THE REGIME SANCTIONED APPLICABLE MINORS IN CRIMINAL MATTERS

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Abstract

"Exploration, education and progress in millennium III "... Starting from the title of this conference is an author reflection and express opinions on the regime applicable to minors punished in Romania. In presenting its views are as a starting point penal provisions in force concerning the criminal liability of minors and the legal consequences of this responsibility.

First a brief overview of the current criminal provisions and proposals amending the Criminal Code and Criminal Procedure, which included proposals for projects new codes to be submitted to the Romanian Parliament for debate and adoption.

Subsequently the author begins his presentation of their views on aspects of minimum age at which a minor can meet penal consequences of criminal liability of minor and prosecution of minors who commit criminal acts. It expressed the view that it would be desirable to treat with greater care interest and concern the re-education of minors who have committed crimes, and creating an appropriate system of drawing responsibility of parents and other individuals who have care and educate children and show indifference, indolence and immorality in the process of educating them.

Is presented in its final opinion on the prosecution of offenders minors, emphasis need to create a specialized research, trial and execution of criminal penalties - they set for juveniles who commit crimes, to receive system of organs of inquiry , public prosecutor, judges and staff to ensure enforcement of judgments given by courts of final competent.

THE CONCURRENCE OF THE CAUSES MODIFYING THE PUNISHMENT

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Abstract

The judicial individualization of punishment effects through a complex operation in which are used all of that individualization criterions foreseen by the law (general and special criterion); as part of this criterions is situated the necessity of taking into consideration all the aggravating or attenuating causes of punishment, because only through a general appreciation over all the circumstances which have influence over the degree of concrete social danger of the action and over the state of dangerous perpetrator the proper punishment can be established and can be reached the purpose of repressive reaction. Because, in the complex of circumstances in which can be committed an offence can be both aggravating circumstances, and attenuating, so circumstances which produce opposite effects, figures like necessary the regulation through law of the effects of this coexistent circumstances in establishing of concrete punishment. But, besides this circumstances, can be and some aggravating states which can enter in concurrence with the first ones, situation which also must to find her regulation through law.

Determined by this necessity, the Penal Code in force contain regulation looking at way in which must be applied the different causes modifying the punishment when these come in concurrence, regulations comprised in 80th.

THE JURISDICTIONAL COMPETENCE OF THE ROMANIAN COURTS UNDER THE GENERAL PRINCIPLES OF LAW NO. 105/1992

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Abstract

This paper analyses the norms governing the jurisdictional competence of the Romanian courts, under the general principles of Law no. 105/1992.

The laws of each country set norms which determine, for the courts of that country, the competence in private international law.

Such norms reveal whether the courts of that country are competent or not to settle a conflict with an element of extraneity.

These norms, applied directly to the legal report submitted to judgement, differ from the conflictual norms, which are reference norms and which solve the conflict of laws.

LEGAL EDUCATION VOCABULARY

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Abstract

Legal education is the education of individuals who intend to become legal professionals or those who simply intend to use their law degree to some end, either related to law (such as politics or academic) or business. It includes: first degrees in law, which may be studied at either undergraduate or graduate level depending on the country, vocational courses which prospective lawyers are required to pass in some countries before they may enter practice, and higher academic degrees.

The law school program is divided following the European standards for university studies (Bologna process): first a license program - three-year period, then a Master of law program - two-year period, and eventually, for those who are interested in academic careers, there is the third program of doctorate studies - three-year period.

Legal English is now a distinctive field of language instruction within the overall ESP disciplines and assuming an increasingly high profile in Law degree programmes across European universities, particularly among those of EU member states.

While intercultural differences may pose little number of issues in Business English or be even unimportant in Technical English instruction, they are of major importance to Legal English. The teacher must raise the students' awareness of intercultural aspects, such as different sources of law when two legal systems are involved, different juridical culture, different legal institutions.

Nouns "lawyer" and "attorney" and "barrister" and "solicitor" as well are legal culture-bound terms. The common sense of the term "attorney" – "avocat" is very well known, as in "attorney-at-law", the original meaning as that of a person who acts in name and on behalf of someone on its request is somehow forgot. Thus, when one acts in his/her own behalf, we can say that he or she is "his own attorney". In this very situation, "attorney" must be translated by "mandatar", "reprezentant" or "împuternicit". The term "lawyer" represents, at origin, any person who owns a law school diploma; it should be translated, in this larger sense, as "jurist". We could, as well, for this very term to use the expression "om de drept". If both "lawyer" and "attorney" may be translated as "avocat", one must remember that "lawyer" does not intrinsically mean "attorney", after all one is a lawyer before being an attorney, representing or counseling clients.

THE NOTICE OF CLAIM FOR AN IMMOVABLE ASSET, A COMMON SHARES PROPERTY – INITIATED BY ONE OF THE JOINT OWNERS

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Abstract

As a rule, the notice of claim in real estate can be initiated only by the holder of the right to property. The acknowledged doctrinal view is that, in order for this kind of notice to be admissible, the holder must be the exclusive owner of the property. Consequently, in the situation of an asset that is under common share ownership, the notice of claim is admissible only if it is initiated by all the joint owners and one owner has no such means of defense of the right to property. Especially in the last decade, the doctrine has registered another opinion according to which the notice of claim carried out by a single owner is admissible.

SEVERAL CONSIDERATION ON THE LATEST CHANGES IN REGULATIONS MADE ON CONSTRUCTION`S AUTHORIZATION

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Abstract

Urban population is 55% from entire contry and only in capital lives over 16% of them.

Now, 181 towns and municipalities have an General Urbanistic Plan (PUG), maded before 2004, who must renewed and updated to the present dinamism of social life.

After 19 years of chaos in building, after some „big" scandals maded by unbelievable situation – Platza Cathedral, Bordei Park etc, the latest changes in buiding reglementation try to make order and to give back the city to the cititzen.

Authorizations and opinions are the only methods by which the administrative body can control compliance with the rules issued by it.

In this paper, we try to show which are the major changes in buiding rules, with special overview on construction`s authorization.

We will try to see what was happened in our legal sistem, for what reason do we need so many changes in this domain – after the 1990 when was adopted the Building law, it changed at least twice a year, the latest one was in december 2008, and in the same time Ministry has developed and proposed for debate a project for a „Buiding Code".

We analise, on the one hand, the impact of this new rules on real estate developers businesses, their reaction and, on the other hand what is the authotity`s position on this „war", between the cititzens - who want good condition of life - and the builders – who want mesures for reduction the bureaucracy.

SPECIAL PROBLEMS CONCERNING THE FIELD OF EXCTINCTIVE PRESCRIPTION AND THE IDEA OF THE FLOW OF TIME AS TO THE INVALIDITY OF THE LEGAL ACT

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Abstract

Completing the field of extinctive prescription requires the submission of aspects towards which there is no unity in theory or practice.

In this paper we will refer, in particular to the problem of extinctive prescription regarding the invalidity of the legal act.

In practice, to this point have been shown to be necessary some explanations in order to understand this problem or there were given non-homogenous solutions.

ASPECTS REGARDING JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS IN MATTERS OF MORAL DAMAGES

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Abstract

In conformity with art. 34 of the European Convention on Human Rights, the Court may be asked to an application by any person or nongovernmental organization or a group of individuals who alleged victim of a breach by one of the high contracting parties of the rights recognized in the Convention or in its protocols. If the Court finds that there has been a breach of the Convention or its Protocols, and if law does not allow only incomplete removal of the consequences of such violations, the Court may grant an aggrieved party repair fair.

Moral damages awarded for harm caused such a person, consisting of a mental suffering as equity and ethics rules prohibit in principle the granting of compensation for material damage morale, because the pain of mind is incompatible with a cash equivalent. It is however justified the granting of material compensation to those persons whose opportunities for social and family life have been altered as a result of unlawful acts committed by others. This compensation is intended to create living conditions that counterbalance to some extent the victim's mental suffering.

UNE RÉÉVALUATION DU PRINCIPE «PACTA SUNT SERVANDA» SOUS L'EMPIRE DE L'INSTABILITÉ DU MILIEU ÉCONOMIQUE ET SOCIAL

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Résume

« les bœufs se lient de cornes, les hommes se lient par le biais des mots »

L'accord de volonté représente l'élément essentiel dans la théorie générale du contrat mais son effet obligatoire ne réside pas dans la puissance souveraine des volontés individuelles, mais il est offert par la loi dans la considération des idées de morale, d'équité et d'unité sociale. Les raisons de la reconnaissance de la force obligatoire des contrats / soit celle originaire, de facture romaine et juste naturaliste-divine, soit celles proposées par les courants modernes – démontre que ce principe ne doit pas être compris et appliqué dans le sens absolu, intangible, n'étant pas un but en soi.

Par conséquent, la nécessité pour que la force obligatoire soit en harmonie avec les éléments fondamentaux de la vie sociale et en conformité avec les exigences de la vie économique, n'apparaît pas seulement par un jeu du déterminisme économique-social ou indépendant de conditions imposées pour sa réalisation comme principe des effets du contrat. De plus, il ne s'agit pas seulement d'une nécessité, mais aussi de la possibilité de la mise en accorde de l'obligation du contrat avec les données de la réalité ou, plus précisément, avec le changement des circonstances contractuelles, possibilité « assurée » par la recherche fondamentale de l'obligation.

Il s'impose alors, une solution d'équilibre et une remise du rapport entre « pacta sunt servanda » et « rebus sic stantibus » : « s'il ne faut pas exagérée l'admissibilité du principe rebus sic stantibus, ni pacta sunt servanda ne doit pas être considéré comme principe avec valeur de refus ».

CORELAREA NORMELOR JURIDICE DIN SISTEMUL DE DREPT NATIONAL CU NORMELE DIN DREPTUL COMUNITAR

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Abstract

After a thorough doctrine research on the the correlation of the legal norms of the Roman-Germanic law system, after the analysis of the laws of Romania, of the Republic of Moldova as well as of other states, especially of those that are part of the Roman-Germanic law system, we have reached the conclusion that the assurance of an efficient correlation of the legal norms contributes to the assurance of the unitary character of law. It makes law clearer, it makes it operate as a whole without discrepancies and contradictions and it makes it assure the accomplishment of its purpose.

FORENSIC MEDICINE - SCIENCE IN THE INVESTIGATION OF MINORS WITH LEGAL PROBLEMS (VICTIMS/AGRESSORS)

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Abstract

Forensic medicine represents a medical speciality that offers all its knowledge and effort to legal purposes every time medical and biological expertise is required to solve a legal issue. These medical views are included in the forensic report, a complex document that stands for evidence in the court of law.

The paper herein presents the legal background, aims and methodology of the forensic psychiatric report as well as tactical particularities in case minors are evaluated. The paper also approaches from a forensic point of view the educational and legal protection measures for minors and social prophylaxis for preventing juvenile delinquency.

HOW TO ACHIEVE THE FUNDAMENTAL RIGHT TO A HEALTHY ENVIRONMENT AND THE JUDICIAL RESPONSIBILITY THROUGH THE PRINCIPLE OF THE PUBLIC'S INFORMATION AND PARTICIPATION IN THE DECISION-MAKING PROCESS

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Abstract

In the domain of the protection of the environment, the general tendency is that the environment should be protected by laws meant to settle down those activities able to bring prejudices; there shall be passed more laws to prevent prejudices and less to lay responsibilities: very often the ecological prejudices are definitive, the degradation is irreversible and the costs of the reparations –be they partial or total – are very high. The result is that an "a posteriori" step in the domain of "the committed evil" will more often be unclear and its effects will not lead to a complete and efficient reparation.

CONSIDERATIONS ON THE EFFECTS OF TAXATION

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Abstract

The taxation is a complex, many-disciplinary phenomenon, mainly juridical, made up of all the taxes and duties provisioned by the fiscal legislation and based on a set of measures and actions imposed by an adequate State fiscal policy.

Thereby, when taking a political decision regarding the tightening of taxation, should be commensurate with objectivity the short, medium and long effects against the objective - the maximization of public financial resources -, as an uncontrolled growth of taxation discourages the formation of savings and making investments, narrows the tax bases and cancels any beneficial effects on the revenue budget brought by the increase tax rate. And, a reduced rate of taxation leads to a change (in a positive way) in inclinations for consumption and investment.

So, according to literature, the effects of taxation, especially negative ones, may include, for example:

- *fraud and tax evasion;*
- *risk of inflation through taxation;*
- *international competitiveness deterioration;*
- *risk reduction of productive effort.*

LEGAL INSTRUMENTS OF THE ROMANIAN STATE IN THE PREVENTION AND FIGHT AGAINST ILLICIT DRUG CONSUMPTION AND TRAFFIC

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Abstract

The very serious problems raised by the present-day fight against various forms of international criminality – especially the traffic and the illicit consumption of drugs - has become a main preoccupation of more and more international organizations at either global or regional level. Due to its vastness and dimensions the drug traffic has reached a planetary scale raising obviously serious problems with respect to the growth of the trans-national organized criminality. By the sustained efforts of the specialized bodies this phenomenon can be known, controlled and repressed, yet it cannot be significantly diminished or eradicated. The problem cannot be totally solved within a short period of time, but, through an active participation of all the specialized bodies, institutions and organizations – should it be individually or collectively – this phenomenon can be diminished.

THE INFRIDGEMENT OF HUMAN RIGHTS IN ANGHEL VERSUS ROMANIA – A CASE ANALIZED BY THE EUROPEAN COURT OF HUMAN RIGHTS

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Abstract

The Convention for the Protection of Human Rigths and Fundamental Freedoms was drown up within the Council of Europe. In addition to lying down a catalogue of civil and political rights and freedoms, the Convention set up a mechanism for the enforcement of the obligations entered into by the Contracting States.The right of individual complaint, which is one of the essential features of the system today was originally an option that the Contracting states could recognize at their discretion.

The European Court of Human Rights has a peculiar system of analizing different types of law's infidgement as crimes, misdemeanours as there are differences of treatment between the national and european criminal law. Not all national common law legal systems draw a clear distinction between misdemeanours and felonies, the former being still included, in certain Western states, in the Penal Codes texts, even if only in the last chapter, being looked upon as a type of law infringement with a lower degree of social risk.

Anghel versus Romania is one of the most important cases for our state that provoqued decisive changes in our legal system regarding misdemeanours and the adminsitratice procedure applied during the civil trials which object is to solve the complaints against contraventional documents.

THE RIGHT TO DEFENSE - THE SOLICITOR'S ATTRIBUTIONS IN THE PENAL TRIAL

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Abstract

This paper consists in an analyze of the solicitors' (lawyer's) attributions in the penal trial – especially refering to the debates. It is divided in four sections as it follows: 1) The organization and exercise of the lawyer profession established by the Law no. 51/1995, with a special look to the penal trial, 2) The participation of the lawyer to the penal trial, 3) The lawyer's rights and the liabilities in the penal trial and 4) The lawyer's role in the penal trial debates.

In the content of this paper we chose to analyze the lawyer's activity according to the Romanian laws: the Law no. 51/1995 regarding the exercise of the lawyer profession, The Constitution, Law no. 92/ 1992 regarding the organization of the justice system, The Code of the penal proceedings, etc. and international documents as The European Convention for the human rights.

The main importance of this subject consists of the fact that the lawyer's attributions in the penal trial constitutes a real guaranty for the right to a defense during this trial – the juridical assistance is the most important aspect of the right to a defense. The juridical assistance can be exercised for any of the parts in the trial, the most important and complex is the defense of the defendant. This is considered a very complex matter and the exercise of this right for the defendant is considered to be rightly done if a lawyer participates to the penal trial. Romanian law – as well as international laws – institutes situations when the legal assistance of the defendant is imperative and the penal trial can not take place in the absence of a lawyer.

This paper is ment to underline the importance of the right to a defense, which is considered one of the most important rights internationally and which deserves a special attention from our part as lawyers.

LE BÉNÉFICE - LA VIE DE L'ENTREPRISE COMMERCIALE, L'OBJECTIF PRINCIPAL DES ASSOCIÉS OU MOYEN DE DÉVELOPPEMENT DURABLE

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Résume

Le but de l'entreprise commerciale est d'obtenir du profit de l'activité commerciale développée et de le partager entre les associés.

Le profit représente le gain évaluable, résulté de l'activité commerciale. Généralement, le profit désigne un gain matériel qui, réparti sous la forme des dividendes, augmente le patrimoine des associés.

Durant la société, les associés son convenus des parties de bénéfices selon le bilan comptable et après la dissolution de la société, des partie convenues après la liquidation.

La cote partie du profit qui se paye é chaque associé constitue un dividende.

Les dividendes se répartissent aux associés proportionnellement à la cote de participation au capital social versé, si on ne prévoit pas d'une autre manière. Ceux-ci se payent au terme établi par l'assemblée générale des associés ou, selon le cas, établi par les lois spéciales, mais non plus tard de 6 mois de la date de l'approbation de la situation financière annuelle afférente à l'exercice financière conclu. Au contraire, la société commerciale payera des préjudices-intérêts pour la période de retard, au niveau de l'intérêt légale, si par l'acte constitutif ou par`la décision de l'assemblée générale des actionnaires qui a approuvé la situation financière afférente à l'exercice financier conclu il n'a pas été établi un intérêt plus grand.

CONSIDERATIONS ON THE CORRECTITUDE OF RADAR DEVICE MEASUREMENTS RELATING TO OVER-SPEEDING TRAFFIC OFFENSES

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Abstract

According to the Road Traffic Code, over-speeding is punished pro-rata, depending on the speed of the vehicle. The sanction depends upon correct measurement of the speed. According to Metrology Norm 021-05, for a radar device to pass the metrology test, the measurements must obey certain maximum error limits. This means the device does not accurately measure the speed of the vehicle. The author argues that, if the correctitude of the speed measurement is questioned in court and by applying the maximum error limits the speed can be below a certain threshold, the court should annul the ticket or retain a less severe traffic offense and reduce the fine.

LE REGIME PUNITIF APPLICABLE AUX INFRACTEURS MINEURS REGLEMENTATIONS ACTUELLES ET PERSPECTIVES

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Résume

A partir des quatre étapes de la vie, délimitées en enfance, adolescence, maturité et vieillesse, le droit pénal a délimité seulement deux catégories auxquelles on applique des institutions distinctes, c'est-à-dire majeurs et mineurs.

Le premier article de la Convention O.N.U. concernant les drooits de l'enfant, ratifié dans notre pays par la Loi 18/1990, définit l'enfant comme : « toute personne qui a moins de 18 ans, excepté les cas où la loi applicable à l'enfant établit la limite de la majorité sous cet âge ». Le mineur est une personnalité en formation, en train de se développer de manière biophysique, son achèvement dépendant du milieu social familial, éducationnel où il est élevé. En conflit avec les normes de conduite généralement acceptées, le mineur, en fonction des conditions de responsabilité pénale, se transforme en délinquant, provoquant des problèmes regardant l'établissement de la responsabilité juridique, ou prédélinquant, imposant l'application de mesures de protection et éducation.

Au cours des années, on a fait des débats en ce qui concerne la nature des sanctions qu'on doit appliquer aux mineurs, tenant compte du fait qu'il y a de nombreux facteurs qui puissent influencer la manière de se conformer aux exigences des normes de conduite admises du pont de vue social.Dans ce sens, on avance le concept de « justice ré-intégratrice », basée sur la réconciliation, plutôt que sur les mesures punitives. Elle part de l'abord du phénomène de délinquance juvénile à travers l'analyse de ses causes, des moyens de manifestation et de prévention.

ASPECTS OF THE STAFF REGULATIONS OF OFFICIALS AND STATUS OF CIVIL SERVANTS IN ROMANIA

Assistant Lecturer Elisabeta SLABU
Dunărea de Jos University, Galați
Faculty of Law

Abstract

The concept of public office is closely linked to government activity. A public authority includes generally three elements: power, material and financial means and staff. Staff, in turn, is divided into departments, functions and hierarchical lines. But some functions are public. The staff of an institution or public authority is limited, practically, in two categories: contract staff - operating under the contract of employment, and public officials - operating under the civil service appointment. The holder of a public office shall be known as a public official and legal relationship established by this institution or public authority where the operating name of the service.

Within the European Community bodies operate as agents subject to special rules, called officials or European Community as well as contract staff. A potential model for structuring the minimum requirements must be met by the public in European countries can be considered the Staff Community, anticipating the future shape of a common administrative area of civil service.

Adoption of a statute of the general influence of the civil service community, as it is intended to group the main issues involved provided notice to the employee. There are, outside of this unique status, some special regulations that concern officials of scientific and technical departments.

Romanian civil servants provides that the public is "all the powers and responsibilities established under law, in order to achieve the credentials of public power by the central public administration and local government", and the public servant is "the person appointed to public office." Between the two statutes are similarities and differences that must be considered thoroughly if there is a real integration of the Romanian legal system in Europe.

THE EUROPEAN JUDICIAL CONVERGENCE IN THE FIELD OF CONSUMERS`PROTECTION

Assistant Lecturer Gina IGNAT
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Abstract

Taking into account that the main priciple of the integration is that of applying/implementing the European communitarian law, it is absolutely necessary that the regulations from the primary and derived communitarian legislation should be correctly understood and put into practice.

Expressed normatively in the plan of a sui generis judicial order, known as communitarian law, the European judicial convergence is a process that involves specific mechanisms for the making and the applying of the communitarian law.

The field of the consumers' protection has drawn and draws the attention of both the communitarian legislator and the national ones, the commun denominator of the measure of normativizing the consumers' prerogatives being represented by the assurance of the necessary frame in the free access to products and services, to complete correct and precise information and to the guarantee of their legitimate interests and rights as well.

The consumers' protection is part of the social policy of each state.

At the same time, due to its importance, it must become a policy itself with objectives, priorities and instruments.

During the last decades, the problems of the consumers' protection is in the spotlight of the judicial economical practice and theory of the entire world. These concerns that became more complex through content and especially through the demanded solutions, must remain circumscribed to the priviledged domains from the perspective of the social relevance.

In the European Union a series of norms have been elaborated, norms that at a national level are materialized into laws, regulations with a compulsory character, which mainly consider the security of products, the delusive advertisement, the producers' responsibility for the damaged products, the credit for consumers, the labelling of products.

AMICABLE CONSTANT OF ACCIDENT

Assistant Lecturer Elena POPA
Dunărea de Jos University, Galați
Faculty of Law

Abstract

Insurance is one of the areas in our country that has suffered the most profound changes due to European Integration. A series of legislative changes envisaging harmonization with the acquis communautaire have been made during the accession to the EU.
The need of harmonizing with EU practices, aligning with European standards of road legislation in Romania, resulted in changing insurance laws. "Amicable constant" was introduced in case of road traffic accidents which resulted in material damage only. This is a procedure designed to facilitate faster settlement and less bureaucratic activities in a traffic incident involving plugging light road without breaking the law in force.

RESTORATIVE JUSTICE VS. RETRIBUTIVE JUSTICE

Assistant Lecturer Stelian LUPU
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Faculty of Law

Abstract

The end of 20th century saw the idea of a new way of dealing with conflicts in penal matters as against traditional approaches to criminality, consensual models being promoted as alternative to classic system.

The paper herein undertakes to make a review of all principles lying at the basis of Restorative Justice (where mediation and mutual understanding between parties involved play a dominant role) as against the principles of Retributive Justice (where the penalty of the offender is as per the breach committed)

The paper herein most certainly does not solve the issue of the eternal question "SHOULD WE PUNISH OR RECOVER?". Nevertheless, the same undertakes to be a defence for the ones that believe that Restorative Justice offers viable solution for solving legal disputes and stands for a promising way of restructuring the penal law.

MARRIAGES HAVE FALLEN DRAMATICALLY

Assistant Lecturer Veronica NEGUȚU
Spiru Haret University, Constanța
Faculty Of Law And Public Administration

Abstract

Preference for consensual union is reflected in the decline of marriage. According to the INS, in 2002 were 129.018 registered marriages, 30% less compared to 1990. Among those who said they live in consensual union, 73.6% were unmarried, 17.9% divorced, 7.1% widow and 1.4% married (in this case, they recognized that, apart the legalized relationship, they have a relationship with a lover / a mistress).

Many of the couples living in consensual union are made up of young people. The partners have never been married and consider the arrangement an optimal variant for their age and their existing status. On the basis of preference for consensual union are some factors like: economic ones, social ones and change of mentality. Obviously, there are couples who stay longer in consensual union, because either partners or only one of them was married and has no courage to legalize their new relationship.

EUROPEAN SOCIAL CHARTER

Assistant Lecturer Alina SULICU
Constantin Brâncoveanu University, Brăila
Legal Adviser Orest SULICU

Abstract

*It is a document ellaborated **by the European Committee**, in Torino, on the 18th of October 1961, and enforced on the 26th of February 1965. Until the adoption of the (revised) European Social Charter, in Strasbourg, on the 3rd of May 1996, The 1961 Charter was successively modified and completed in 1988, 1991 and 1995.*

*The European Social Charter represents not only a solemn, **abstract declaration**, with pragmatic vocation, but also an assembly of fundamental rights in the areas of work, employment, social relationships ans social security. In its essence, the European Social Charter is a mixed text which states the objectives of the social policy that must be pursued by the member states of the European Committee, and also a juridical part, by which the state that ratifies it assumes a series of obligations.*

*The revised Charter is part of the great treaties of the European Committee in the area **of human rights** and it is the reference european instrument for social cohesion. Not by chance, the revised Charter was named "**Social Charter of the 21st Century**".*

PUBLIC ADMINISTRATIN & REGIONAL STUDIES SECTION

11.30 – 13.00 – Panel Works – room M119
13.00 – 15.00 – Lunch – room M119
15.00 – 18.00 – Panel Works

KEYSPEAKER
Ph.D. Professor Victor Romeo IONESCU

INSTRUCTION AND EDUCATION WITHIN THE THEMES OF SOME INTERNATIONAL CONFERENCES AN EVALUATION OF THE SUBJECTS APPROACHED FROM THE ANGLE OF SOME RESOLUTIONS AND DECISIONS OF THE EUROPEAN UNION

Ph.D. Professor Nicolae V. Dură
(Vice-Rector of „Ovidius" University ,Constanța)

THE IMPACT OF THE EUROPEAN FINANCIAL INSTRUMENTS AND THE COMMON INITIATIVES ON THE REGIONAL DEVELOPMENT

Ph.D. Professor Romeo IONESCU
(Dunarea de Jos University, Galati - Faculty of Law)

SPATIAL PLANNING AS INSTRUMENT FOR SUSTAINABLE DEVELOPMENT IN THE CONTEMPORARY CRISIS

Ph.D. Assistant Professor Violeta PUSCAŞU
(Dunărea de Jos University, Galați - Faculty of Law)

FOREST POLICY IN CAMEROON

Senior Lecturer Ph.D. Hilaire NKENGFACK
(University of Dschang, Cameroon)

SEVERAL CONSIDERATIONS ON THE DEONTOLOGY OF PUBLIC SERVANTS IN ROMANIA AT PRESENT

Ph.D. Lecturer Liviu COMAN-KUND
Assistant Lecturer Ph.D. in progress Cristina PĂTRAŞCU
(Dunărea de Jos University, Galați - Faculty of Law)

ROMANIA'S PARTICIPATION TO THE REGIONAL COOPERATION STRUCTURES

Ph.D. Lecturer Gheorghe Teodor ARAT
(Dunărea de Jos University, Galați - Faculty of Law)

EQUALITY OF CHANCES AND TREATMENT ON THE MARKET LABOUR OF MEN AND WOMEN

Ph.D. Lecturer Simona GAVRILA
(Dunărea de Jos University, Galați - Faculty of Law)

THE EUROPEAN COMPETITION POLICY: ROMANIA'S SITUATION

Ph.D. Professor Romeo IONESCU
(Dunarea de Jos University, Galati - Faculty of Law)

THE REGIONS OF ROMANIA – KEY STRUCTURES FOR INTEGRATION IN THE EUROPEAN UNION

Assistant Lecturer Ph.D. in progress Doina MIHĂILĂ
(Dunărea de Jos University, Galați - Faculty of Law)

HISTORY AND TOURISM POLICY: ABOUT THEIR KEY ROLE IN THE CAMEROONIAN HOTELS INFRASTRUCTURE SINCE COLONIAL PERIOD TO THE CONTEMPORARY TIME

Ph.D Student Catherine Lytrice AKAMBA MANI
(University N`Gaondere)

THE FINANCIAL ASPECTS OF THE BUILDING SECTOR TO THE REGION 2 SOUTH-EAST

Ph.D. Lecturer Nicoleta MIŞU
(Dunarea de Jos University, Galati - Faculty of Economics)

THE EXTERNAL TRANSIT OF COMMUNITY FREIGHT THROUGH A FREE ECONOMICAL AREA. CASE STUDY: GALATI FREE AREA

Ph.D. Lecturer Florin TUDOR
(Dunărea de Jos University, Galați - Faculty of Law)

PROCESS OF GLOBALIZATION AND ITS CHALLENGE IN STATES IN TRANSITION

Assad Marwan Hayel ABDULMOULA
(Dr. in Law, Almansura Ltd. Tg-Jiu)

THEORETICAL ASPECTS CONCERNING THE IMPLICATION OF THE PUBLIC-PRIVATE PARTNERSHIP IN THE SECTOR OF SOCIAL SERVICES

Assist. Ph.D. Lecturer in progress Ana-Maria ȚIGĂNESCU
Merei Luminița Eleni
(Spiru Haret University, Constanța
Faculty of Law and Public Administration)

THE MANAGEMENT OF THE HUMAN FACTOR IN THE CREATION, STABILITY AND DEVELOPMENT OF THE LABOUR MARKET

Assistant Lecturer Georgiana COVRIG
(Spiru Haret University, Constanta
Faculty of Law and Public Administration)

INSTRUCTION AND EDUCATION WITHIN THE THEMES OF SOME INTERNATIONAL CONFERENCES
AN EVALUATION OF THE SUBJECTS APPROACHED FROM THE ANGLE OF SOME RESOLUTIONS AND DECISIONS OF THE EUROPEAN UNION

Ph.D. Professor Nicolae V. Dură
Vice-Rector of „Ovidius" University ,Constanța

Abstract

In the last decades, both on an international and European, as well as international level, Instruction and Education were not only the object of a specific legislation, but the subject of some scientific communications and of some academic debates within some International conferences. Usually, the participants in these international conferences have approached the proposed subjects in the ideatic light of the text drafted by the Council of the European Union – mainly through its Education Commission – the European Parliament etc. and published in the form of Resolutions, Decisions, Reports, Statements etc.

The assessment – be it brief – of the texts or of the Conclusions of these International conferences gave us the possibility to better know both the thematic debated in their work Sessions, as well as the way how their problems were thought and solved. Also, this assessment allowed us to find that within the Romanian education system, the reform thought and proposed by the Council and the Parliament of the European Union, by the respective Resolutions and Decisions, was not yet thoroughly applied and that the legislation of our country – regarding this system – is not yet thoroughly harmonized with the principles issued by these, where from the stringent necessity of knowing and making known the themes of International conferences, as well as the text of the international instruments regarding Instruction and Education.

THE IMPACT OF THE EUROPEAN FINANCIAL INSTRUMENTS AND THE COMMON INITIATIVES ON THE REGIONAL DEVELOPMENT

Ph.D. Professor Romeo IONESCU
Dunarea de Jos University, Galati
Faculty of Law

Abstract

Te paper is focuses on the impact of the European financial assistance on the sustainable development. For the beginning, we talk about the ERDF and its objectives during 2007-2013 and about the European Social Fund and its horizontal policies' implication. More, the paper analyses the role of the Cohesion Fund as the main instrument of the European Cohesion Policy.

Another part of the paper deals with the complementary financing: the European Fund for Agriculture and Rural Development, the European Fund for Fisheries and the European Union Solidarity Fund, giving examples for their implementation in the Member States.

A distinct part of the paper operates with the support of the international financial institutions. So, there are analysed the foreign credits from the European Investment Bank, the European Rebuild and Development Bank, the World Bank and so on.

The second great part of the paper deals with the common initiatives like: Intereg IV, Equal, Leader+ and Urban II, and with other financial instruments: JASPER, JEREMIE and JESSICA.

The last part of the paper analyses the distribution of the European Funds across the E.U. in 2008.

The conclusions aren't so positive from the Romania's point of view. There are some challenges for our country in order to obtain a high regional development using the European Funds like the following: the legislative instability, the institutional deficit and the electoral factor, as well.

SPATIAL PLANNING AS INSTRUMENT FOR SUSTAINABLE DEVELOPMENT IN THE CONTEMPORARY CRISIS

Ph.D. Assistant Professor Violeta PUSCAȘU
Dunărea de Jos University, Galați
Faculty of Law

Abstract

The paper presents the spatial planning as the unique action having the potential to integrate the three interdependent dimensions of sustainable development: economic, social and environmental whatever is the context. By this it becomes an instrument to coordinate socioeconomic development by preventing environmental problems and simultaneously protecting the natural environment and the cultural environment. The aim is to discuss a possible shift from a solution that are bound to specific geographical territories, tributary to central-place paradigm to a solution that target a network paradigm in local and regional planning practices.

Spatial planning can coordinate various aspects of socioeconomic development across the sectors of society: urban development, development in rural districts, urban-rural relationships, the development of infrastructure and environmentally sound use of land and natural resources even in the crisis period. Planning procedures are based on and should be developed further to ensure the involvement of the public in a real and productive decision-making process so that various societal interests can be weighed and balanced in decisions on development.

FOREST POLICY IN CAMEROON

Senior Lecturer Ph.D. Hilaire NKENGFACK
University of Dschang, Cameroon

Abstract

The paper deals with the problem of interrelation of economic and politic decision issued by forest policy. It's generally accepted that the industrial exploitation of timber in most producing African countries, though has contributed to the consolidation of their respective Gross Domestic Products (GDPs), has practically brought fewer to the neighbouring populations of the zones of exploitation of the resources. This is why since 1994, Cameroon adopted a new forest legislation which put forward the concept of community forest which is supposed to first of all profit the rural local populations concerned through their participation in the conservation and management of their forest.

SEVERAL CONSIDERATIONS ON THE DEONTOLOGY OF PUBLIC SERVANTS IN ROMANIA AT PRESENT

1. Terminology issues
2. Fundamental aspects of professional ethics and deontology today
3. Can we speak of a deontology of public servants in Romania?
4. Deontological aspects of the Public Servants' Code of Conduct established by Law no. 7/2004
5. Conclusions

Ph.D. Lecturer Liviu COMAN-KUND
Assistant Lecturer Ph.D. in progress Cristina PĂTRAȘCU
Dunărea de Jos University, Galați
Faculty of Law

Abstract

The scope of our research is represented by the deontology of public servants whose employment regime is regulated by Law no. 188/1999 on the Public Servants' Statute, with all its subsequent amendments, as well as by Law no. 7/2004 regarding the Public Servants' Code of Conduct. Our study aims to clarify several important aspects concerning the ethical values and rules that public servants should abide by in their conduct. In as far as methodology is concerned, we used the principles of general logic in our analysis based on legislation and studies in the field. We believe that the conclusions we reached may be useful for those who are interested in the improvement of morals and professional ethics in the Romanian public administration.

ROMANIA'S PARTICIPATION TO THE REGIONAL COOPERATION STRUCTURES

Ph.D. Lecturer Gheorghe Teodor ARAT
Dunărea de Jos University, Galați
Faculty of Law

Abstract

The international society nowadays and especially the European one are strongly influenced by several processes, the most obvious being globalisation and regionalism.

However, regional and sub-regional cooperation develop faster and more efficiently than international cooperation.

In Europe, regional cooperation within certain structures outside the European Union has generally resulted in the integration within Euro-Atlantic and European structures. Cooperation and interaction at a regional level represent a useful exercise for taking part to the promotion of European and Euro-Atlantic common interests and goals.

Experience showed that a series of political, economic, safety and cultural issues can be better approached and solved in a relatively homogenous framework, where there is a certain degree of cohesion and common development experience.

Regional cooperation represents a significant dimension of the Romanian diplomacy, manifesting itself through the knowledge, observation and participation to regional cooperation structures such as: South-East European Cooperation Process, Central European Initiative, Danube Cooperation Process, South-East European Cooperation Initiative, Organisation of the Black Sea Economic Cooperation and various forms of trilateral cooperation created for strengthening the political and economic environment of the area.

EQUALITY OF CHANCES AND TREATMENT ON THE MARKET LABOUR OF MEN AND WOMEN

Ph.D. Lecturer Simona GAVRILA
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Faculty of Law

Abstract

Unequal treatment of men and women is very old-established.

Although the civil society and, especially, the associations militating for women's rights have long ago emphasised the inequalities between women and men in Romania, the public institutions have only started to approach the issue of sex equality only in the context of the negotiation process in view of joining the European Union, as fulfilling the standards in this field is one of the accession criteria.

The elaboration of a broad legislative framework regarding the equality between the sexes is a developing process and a lot of important steps have already been taken.

THE EUROPEAN COMPETITION POLICY: ROMANIA'S SITUATION

Ph.D. Professor Romeo IONESCU
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Faculty of Law

Abstract

The competition and the market guarantee the consumers' welfare. So, we start this analysis with the evolution of the competition policy. We used two distinct periods (1958-1972 and 1973-1981) in order to define the basis of this policy. Then, we made an inventory of the specific legislation and the main actors of this policy.

The second part of the paper deals with the policy connected to the cartels and with its specific legislation, including the secondary one.

The next part of the paper treats the anti-monopoly policy and the dominant position interdiction. More, we talk about the control on concentrations and the simplify procedure for decreasing the administrative constrains, as well.

We analysed the necessity of the control of the public interventions which are able to distortion the competition between the enterprises (the public incentives and the public enterprises) in order to understand the necessity of reform in this policy.

The next chapter of the paper deals with the competition policy in Romania. We talk about the framework of the Romanian specific policy and the antitrust policy evolution, as well.

The last part of the paper supports the necessity of harmonization between Romanian and European competition policy in order to create equal conditions for the Romanian and the foreign enterprises on the European markets. We conclude that a common competition policy across the E.U.27 is the best way to obtain efficiency for all enterprises, including the Romanian ones.

THE REGIONS OF ROMANIA – KEY STRUCTURES FOR INTEGRATION IN THE EUROPEAN UNION

Assistant Lecturer Ph.D. in progress Doina MIHĂILĂ
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Abstract

The European Union's Regional Policy was built around the concept of social and economic cohesion. This concept aims at reducing disparities among the development levels of the regions, supporting the regions left behind and reducing the differences between them and the more developed regions of the EU.

EU's Regional Policy is, before all, a policy of solidarity, based on the financial solidarity of the Member States and, as such, a substantial amount of their contribution to the Community's budget is redirected towards less prosperous regions and disadvantaged social groups. Supported financially by the Structural Funds, EU helps the regions whose development is stalled and aids the reconversion of industrial areas in need and the urban regeneration of cities in decline.

HISTORY AND TOURISM POLICY: ABOUT THEIR KEY ROLE IN THE CAMEROONIAN HOTELS INFRASTRUCTURE SINCE COLONIAL PERIOD TO THE CONTEMPORARY TIME

Ph.D Student Catherine Lytrice AKAMBA MANI
University N`Gaondere

Abstract

Cameroonian's hotels translate very imperfectly the density and the variety of its hotel park. In fact, certain Cameroonian's localities are more provided in hotel infrastructures than others. These hotel inequalities take their origin of colonial period, and these inequalities continued even after the independence of Cameroon. The French and English colonial administrators influenced in an indelible way the hotel presences in Cameroon. By relieving, the Cameroonian State continued to immortalize this imbalance of the hotel spatial presence. This article suggests presenting the reasons of these spatial hotel unbalanced distributions of colonial period in our days; we shall present during our analysis which influences these various politics so colonial as those lauded by the Cameroonian State in imbalance distribution of whom Cameroon is subject as regards its hotel infrastructures.

Keys words: *history, tourist policies, factors, implantation, hotel, colonial period, cameroon, colonial administrators*

THE FINANCIAL ASPECTS OF THE BUILDING SECTOR TO THE REGION 2 SOUTH-EAST

Ph.D. Lecturer Nicoleta MIȘU
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Faculty of Economics

Abstract

This paper shows the evolution of the building sector in period 2001-2007 both the national level as regional level with particular emphasis on the Region 2 South-East. The main indicators analysed were: building sector share in GDP, net investments, net investments on financing sources, weighted average number of employees in the building sector in total employees, enterprises active in building sector, turnover and gross profit.

THE EXTERNAL TRANSIT OF COMMUNITY FREIGHT THROUGH A FREE ECONOMICAL AREA.
CASE STUDY: GALATI FREE AREA

Ph.D. Lecturer Florin TUDOR
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Faculty of Law

Abstract

As long as the custom legislation does not foresee regulation in the field, the member states decide the competence of various custom offices situated on their territory and must take into consideration, as much as possible, of the nature of freight and custom regimen under which will be placed.

The fact that an exporter sells the goods under the "ex-works" condition and the foreign buyer becomes responsible for the transport, does not give to the buyer or to the transport company, the right to decide upon the place if carrying out the custom formalities (for export).

The custom authorities must have a firm attitude in applying the rules concerning the competence, established in the community custom Code. However, due to the fact that some cases need flexibility, an export custom declaration presented to a custom is not necessarily to be refused. The custom authority has the obligation to analyze the transaction and to decide depending on the exporter's commercial interest (non) community.

The free areas and free repositories are parts of the custom territory of the Community or enclosures situated on its territory, separated from the rest of the custom territory, for which there is such a disposition which regulates specific domains, benefits from the measures mainly concerning the export of freight, based on placing the freight in a free area or in a free repository.

The transition of freight exported of community origin through a free area, until taking the freight out from the community custom territory, raises some question marks concerning the legality of such operation. We have proposed to analyze all these aspects, having as starting point the Galati Free Area, placed in the near vicinity of the external border to European Union.

PROCESS OF GLOBALIZATION AND ITS CHALLENGE IN STATES IN TRANSITION

Assad Marwan Hayel ABDULMOULA
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Abstract

In this paper, I would like to present certain aspects regarding the current juridical-economic and political situation of states in the South-Eastern of Europe, which are in transition period. As well as, it will be taken into consideration the most sensitive fields in this matter, which are influenced by the phenomenon of globalization, such as: economic sector, internal politics of states in transition, and, not in the latest, the conceptual approach of human rights.

The building process of society based on the principles of globalization presents a special interest for societies in transition, as well as its challenges to consolidate the defense capacity of states, in particular, the human society.

Moreover, the importance of each juridical institution and public organizations, which fight against instability, both in the internal politics framework and abroad, in relations with other states, at regional or International level, will be emphasized in this paper.

THEORETICAL ASPECTS CONCERNING THE IMPLICATION OF THE PUBLIC-PRIVATE PARTNERSHIP IN THE SECTOR OF SOCIAL SERVICES

Assist. Ph.D. Lecturer in progress Ana-Maria ȚIGĂNESCU
Merei Luminița Eleni
Spiru Haret University, Constanța
Faculty of Law and Public Administration

Abstract

The private sector makes its presence felt by closing partnerships with the public sector, and in this manner, contributing greatly to solving different community issues. The public-private partnership has known lately a surprising expansion in providing many forms of public services, including social services. This progress brought a series of benefits to the private and public institutions as well as to the entire system of social assistance. Based on the principle of voluntary cooperation, the public-private partnership represents the conviction of public and private actors that they will benefit from this kind of approach much more than if they act alone.

This work offers some theoretical details on the importance of such cooperation in the field of social services, and on the concrete effects that have resulted and can result, as a consequence of this collaboration.

THE MANAGEMENT OF THE HUMAN FACTOR IN THE CREATION, STABILITY AND DEVELOPMENT OF THE LABOUR MARKET

Assistant Lecturer Georgiana COVRIG
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Faculty of Law and Public Administration

Abstract

The human resources management consists of all activities directed towards ensuring the development, motivation and retention of human resources within the organization, in order to achieve its objectives with maximum efficiency and to satisfy the needs of employees.

The human resources are the creative, active and coordinator element of activities within organizations. They influence decisively the effectiveness of the use of material resources, financial and informational. The evolution of managerial ideology and practice has determined the displacement of specialists' attention from the material factor to the human resource. It was thus concluded that the individual is more than a mere component of productive factors, and the management of human resources exceeds the rigid principles of administrating the company assets and must take into account a number of characteristics that escape economic calculation.