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FACULTY OF JURIDICAL, SOCIAL AND POLITICAL SCIENCES

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- Abstracts -

Galați, 23th-24th of April 2010

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GALAŢI, 23th-24th of April 2010

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LA COMPÉTENCE JUDICIAIRE INTERNATIONALE DANS LES RELATIONS DE TRAVAIL DANS L'ESPACE EUROPÉEN

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Résumé

Le développement et le bon fonctionnement d'un libre marché au niveau européen impliquent la mise en place des mesures concernant la coopération judiciaire en matière civile, afin de créer un véritable espace de justice. L'un des piliers centraux de cet espace se penche sur la solution des conflits internationaux de juridiction et couvre aujourd'hui les Etats membres de l'Union européenne et de l'Association européenne de libre-échange.

En effet, le Règlement 44/2001/CE (le Règlement Bruxelles I), qui a remplacé la Convention de Bruxelles de 1968, et la Convention de Lugano de 1988, révisée récemment, ont abouti à la création d'un vaste espace judiciaire européen au sein duquel on trouve des règles uniques de détermination de la juridiction compétente dans les contentieux internationaux.

Les règles relatives à la compétence judiciaire internationale dans les rapports de travail occupent une place particulière dans ces instruments européens (l'un propre à l'Union européenne, l'autre international), conclusion qui découle de l'évolution continue des textes internationaux en la matière, les prises de position de la Cour de justice des Communautés européennes et les décisions rendues par les juges nationaux.

THE PENAL PROTECTION OF THE EU'S FINANCIAL INTERESTS

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Abstract

The article refers to the posibility that the community treatis offers to the European Union institutions to impose penal regulations in the member states and try to emphasize the progress that has been made in this fild, which, lately, became a more and more debated subject because of its importance. The evolution of this problem is regarded from the historical point of view, starting with the Rome Treaty and ending with the European Union Constitution. This paper try to explain why it is so dificult to solve this problem although it is more and more clear that giving the posibility to the european institutions to legiferate into the penal law area would serve much better to the ideea of an unique space of freedom, justice and security. The dificulty derives on one hand from the fact that the right to punish wich is implied by the penal law is in fact a fundamental atribute of a state sovereignty and the member states are not ready yet to give it up and, on the other hand from the lack of european institutional frame in this matter. Howerver, this problems must be overcome in order to succed in insuring an effective protection of some important issues for the EU, such as the penal protection of its financial intrests.

THE PROCEDURE REGARDING THE CRIMINAL RESPONSIBILITY THE LEGAL PERSON

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Abstract

The criminal responsibility of the legal persons is a problem discussed by different countries' doctrines from antiquity. This problem came up again at the end of the XIX century and now it is one of the most important themes of all the civilized countries' legislation.

Recently it was consecrated in the Romanian Criminal Law, this institution was recognised several centuries ago and in our country it was regulated by the Law no.278/2006 and it is the result of the contest between its backers and adversaries, overcoming all those arguments derived from the Contemporary European Law.

THE ENDORSEMENT OF THE BILL

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Abstract

The bill is a credit title in order, transmitted by endorsement. The transmission of the bill of exchange by endorsement can be prevented by including the clause "not in order" on the bill.

The endorsers are forced by regression line, which means they are obliged to pay only if the drawee does not accept or pay.

The obligatory effect of the endorsement has a great practical utility. Most of these endorsements in our country provide additional security to the creditor of the bill.

The assignment of claim is the creditor's disposal of a claim which he has on his debtor to a third person named assignee.

The derived rights are transmitted by assignment of claim while the autonomous rights are transmitted by endorsement.

ON THE DISSOCIATION OF NOTIONS AS STRATEGIC MANEUVERING IN LEGAL DISCUSSIONS

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Abstract

Following the pragma-dialectical approach to argumentation (van Eemeren and Grootendorst 1984, 1992, 2004) and its latest developments on the concept of strategic maneuvering (van Eemeren and Houtlosser (2000, 2002, 2004, 2006), and also considering a legal process as a "specific form of a rational discussion" (Feteris 1994, Habermas 1988, MacCormick 1978), I will address the central question whether a dissociation of notions (see Perelman and Olbrechts Tyteca 1958)– as the prototypical one allowing to distinguish between *the letter of the law* and *the spirit of the law* – is a strategic maneuver which ensures both complying with the dialectical aims of the discussion and reaching the speaker's rhetorical objectives. After a brief presentation of the concept of dissociation, and of its relationship with the concept of definition as viewed in Argumentation studies, its usefulness will be discussed in relationship with an instance of a legal process (Impeachment Trial of President William Clinton). The conclusions of the analysis are in line with those of van Rees (2009), but also complement them by detailing and insisting upon the need of a semantic analysis in relationship with the application of the concept of dissociation to the legal discussion.

REGARDE CRITIQUE SUR LES UNES DES INSTITUTIONS DU NOUVELLE CODE CIVILE ROUMAINE

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Résumé

La nouvelle Code civil roumain, adoptée par la Loi nr. 287/2009, a été attendu quelques décennies pour devenir la plus importante loi civile en Roumanie.

Quelques tentatives de celui ci sont circulées avant son adaptation, occasions dans lesquelles on a fait des observations, des critiques, des compléments de la part des juristes, magistrates, avocats aux doctrinaires, parfois impétueuses, parfois formelles.

Par la suite nous avons l'intention de souligner ce qui a été bien fait, mais en signalant quelques inconvénients de la nouvelle Code civil roumain.

THE ROLE OF THE EUROPEAN PARLIAMENT IN PROMOTING HUMAN RIGHTS

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Abstract

The European Parliament is one institution of the three European Communities, composed of peoples' representatives, of the States reunited in the Community, elected by direct universal suffrage.

In matters of human rights protection, the European Parliament has jurisdiction in respect of petitions received from EU citizens. Any citizen of the European Union and any natural or legal person residing or established in one Member State has the right to address, individually or together with other citizens or other persons, a petition on a matter included in the area of activity of the European Community and which concerns them directly. This competence of the European Parliament is introduced by the Treaty on the European Union. (Spielman D)

CONSIDÉRATIONS THÉORIQUES ET PRATIQUES SUR LA RECONNAISSANCE DES ARRÊTS ÉTRANGÈRES

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Résumé

C'est l'essence de la procédure, la force d'un arrêt prononcée par les juges.

Si dans le droit national n'existe pas des problèmes en ce domaine, le droit international prive pose toujours sur la table du juge national des questions concernant la reconnaissance, la force et la possibilité d'exécution d'une décision judiciaire prononcée à l'étranger.

Les conditions et surtout l'investigation avec la force exécutive d'un arrêt prononcée à l'étranger s'imposent dans une procédure bien qu'elle ne surprend pas par sa nouveauté, elle impose quelques commentaires.

THE MINORITY'S INFLUENCE AND THE DYNAMIC OF THE CONFLICTS

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Abstract

The paper is focusing on the problem of the influence of the minority groups and on the study of the psycho-social processes and atitudes of discrimination by the majority. The relationships between minority and majority can be describe by the perspective of social influence because whenever exists these two categories arise the problems of the balance of forces, the power and the domination from the majority. In the same time the minority is interests to be well established and to gain acknowledgement and social prestige and eventually, to impose and establish its own norms and rules in time. Are discused the concept of social prejudice and social discrimination and are analysed the dynamic and the mechanisms of social conflicts between groups.

L'APORIE DU PRINCIPE DE PRECAUTION DANS LE DROIT INTERNATIONAL

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Résumé

Le principe de précaution soulève controverses et ambiguïtés. L'inscription dans le droit positif d'un principe aussi opaque et, de fait, malléable, est donc en soi porteuse d'une mutation des fondements mêmes de la philosophie juridique qui prévaut dans les sociétés occidentales contemporaines.

Le principe de précaution s'est imposé comme une référence centrale du débat public sur la prévention et la gestion des risques dans une période et pour des questions qui mettent en difficulté la solution classique que constituait le modèle de légitimité rationnelle légale. Elevée au rang de « principe », la précaution prend une dimension supérieure. Le contexte d'application du principe de précaution est soumis à interprétations diverses. Suivant la définition donnée, suivant les domaines d'application auxquels on le destine, l'introduction en droit d'un principe de précaution pourrait en effet donner lieu à de profonds bouleversements de la tradition juridique, ou n'être qu'une goutte d'eau dans l'arsenal invocable par les citoyens face au danger. Préalablement à une réflexion sur la nature des mutations introduites par la reconnaissance juridique du principe de précaution, il importe donc de saisir les caractéristiques des domaines d'application qui en font l'originalité, et de comprendre quels acteurs il est susceptible de viser.

SEDUCTION. PAST, PRESENT AND FUTURE

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Abstract

Article 424 of the 1936 Penal Code incriminated the seduction as follows: "The male person who, by formal promises of marriage, determines a female person under 18 years old to have sexual intercourses with him, commits the offence of seduction and shall be punished with correctional imprisonment for up to 1 to 3 years".

The 1969 Penal Code in force states the offence as consisting of promises of marriage made by a male person who determines a female person under 18 years old to have sexual intercourses with him and the punishment is imprisonment for up to 1 to 5 years; reconciliation of the parties removes the criminal liability (article 199 of Penal Code).

The same outlook – as that of the legislative Penal Code in force – had been embraced by the legislator of the 2004 Penal Code, code which has no more entered into force and has been abrogated by the new Penal code.

The new Penal Code (Law 286 / 2009) no longer incriminates seduction, thus giving expression to the criticisms made at its address and to the opinion that seduction is considered as a total anachronistic incrimination, based on the fact that it protects the institution of marriage in its formal aspect, and on the other hand, literally, the state of virginity of the minor female.

OBSERVATIONS ON THE "PRINCIPLE OF RENUNCIATION OF CRIMINAL PROSECUTION," ONE OF THE PROPOSED CHANGES TO CURRENT CRIMINAL PROCEDURAL PROVISIONS

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Abstract

The present study is to one of the proposals for amending current criminal procedural provisions contained in the draft new Code of Criminal Procedure established in February 25, 2009 - namely the introduction of express among the basic principles of criminal procedure and the alternative of "waiver of prosecution criminal "by the prosecutor.

The author presents in this study their views on the proposal described, and motivating them by analyzing the consequences that these changes might have on institutions that implement the criminal procedural provisions, to that of the parties involved in relationships as criminal and criminal procedural law and, finally, the judicial process itself. The study also refers to some aspects of comparative law frequently used by the author in motivating their views on issues considered.

GRAVITY OF THE OFFENCE COMMITTED – GENERAL CRITERION FOR THE INDIVIDUALIZATION OF PUNISHMENT

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Abstract

There is an indissoluble nexum between the gravity of the offence and the punishment, in the abstract wording of the criminal norm – the description of a deed without punishment or vice-versa cannot be imagined – as well as in the social conscience, which always connects the punishment to the gravity of the offence, in a cause-effect relationship. Therefore, the offence committed must be considered as an assessment criterion for the individualization of punishment.

The Penal Code in force enumerates in article 72, 1st paragraph, the general criteria (*de facto*) for the individualization of punishment (the social danger degree of the deed committed, the perpetrator's person and the circumstances attenuating or aggravating the criminal liability), but without establishing the elements which are to be taken as a principle for the evaluation of the first two criteria.

The lawgiver of the new Penal Code, by embracing the pattern of the German Penal Code, has not only indicated the main general criteria for the individualization of punishment – gravity of the offence committed and the danger presented by the offender - but also the secondary general criteria for the individualization of punishment, which actually are useful for the assessment of the first criteria (article 74 1st paragraph).

EXPANDING FORMS OF PREPARATIONS

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Abstract

During the last few years, the development of new forms of very serious crime has gained ground through the exploitation of both the opportunities and the contradictions of today's global society, emphasizing the need for more effective responses to face the organized and often trans-national character of the phenomenon at stake.

In most countries, acts immediately preceding "the offence" are considered characteristic elements of criminal attempts. They are strongly related to the offence due to the high probability that the criminal act he accomplished even without any further act by the perpetrator.

On the contrary, preparatory acts on those which do not concern the "actual realization" of a given crime, and which need additional acts by the perpetrator or third parties for the realization of criminal attempt, and a fortiori for crime consummation.

Thus, preparatory acts reposent the threshold before constitutive elements of punishable attempt, only the first stage of action, which cannot yet be unavailable determined, as that in its future development; the notion can be more generally applied to a more serious offence, or to a set of non-precisely determined crimes, which one would like to prevent.

LA RESPONSABILITE ECOLOGIQUE DANS LE DROIT REGIONAL

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Résumé

La loi régionale, qui bien évidemment réagi aux questions environnementales en général, et la responsabilité, en particulier, reste de l'UE (dans les cas avancés au sein du Conseil de l'Europe, respectivement, l'Union européenne), avec des fonctions connexes. Au fil du temps, sa forme même des «spécialisation» des deux structures continentales, ce qui signifie que les problèmes de conservation sont concernés principalement Conseil et à protéger l'environnement (en termes d'effets de la pollution) entrées dans le périmètre des communautés avec des implications juridiques.

Ainsi, le droit international et européen classique régionale a pris judiciairement les questions d'environnement grâce à une interprétation créative de la Cour européenne des droits de l'homme (CEDH) de la Convention relative aux droits et libertés fondamentales (1950) et, en particulier, par un traité par la Convention de Lugano (1993), qui a un impact sur l'environnement.

GAINING PROPRIETORSHIP OVER A PIECE OF LAND THROUGH LONG-TERM AND BONA FIDE POSSESSION. OPINIONS

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Abstract

The problem we are focusing on is partly solved by the text of the law, partly remains to be deducted through interpretations. In the first case, we are talking about the admissibility to inscribe the proprietorship rights over a piece of land, acquired through long-term and bona fide possession, in the future territorial registers. In the second case, we refer to the proprietorship regime on which inscriptions of proprietorship rights in the territorial registers will be based.

We intend to focus and debate next on the aspect of proprietorship over a piece of land, as stated in the law on which inscription of rights in the territorial registers will be based, a matter which needs to be deducted through interpretation. That is because, unlike Law no. 115/1938 of the Territorial Registers, Law no. 7/1996 neither set a new proprietorship different from the traditional one set in the Civil Law, nor indicated the type of proprietorship to be implemented in the future.

Following the revocation of Law no. 115/1938 and of proprietorship as set by that law, and once the new territorial registers will have effectively been implemented throughout the country, the only settlement of proprietorship to remain effectual will be the settlement of common right in the Civil Law.

COMPARATIVE LAW CONSIDERATIONS REGARDING THE NOTARIAL ACTIVITY

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Abstract

In Romania the public notary has the statute of an independent function ,but he provides a public interest service and the law doesn't clearly specify whether he is a public clerk or not .In other countries this statute is expressly determined by the law. For example, the first article of the notarial law from Spain defines the notary as 'the public authorized clerk that is in accordance with the country's laws, that certifies contracts and other extrajudicial acts.' In the notarial Regulation from the same country, it is expressly mentioned that the 'public notaries are law professionists and public clerks at the same time'. The same idea is repeated by the Law no 14/1991 from Poland referring to the notarial activity, article no 2 from this law establishing that the notary is fulfilling his function as a public clerk and that he is under the protection insured for the public clerks. The Law referring to the organization of the notarial activity from Belgium, in article no 1, is also recognizing the quality of public clerk for the notary. In Law no 1153/1997 regarding the notarial system from the Republic of Moldova it is mentioned that the notary has the statute of an independent function but in the same time he can't be revoked without his consent.

REFLECTIONS REGARDING THE ENFORCEMENT OF DEBTORS WITH INCOME FROM LIBERAL PROFESSIONS

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Abstract

In matters of budget claims all the income and availability of money amounts that can be prosecuted according to law and are due in any way by the debtor to third persons or legal entities are the subject of seizure. Basically, the procedure of seizure consist of two stages: the establishment of the seizure and its validation, there is an exception to this rule: the seizure regarding tax matters is not subject to validation. In case of nonpayment, after three months, the seizure must be validated by the court. There are cases when the solutions are not uniform thus far the debt collection activity is hindered. We believe that is absolutely necessary, first, to review those provisions of the Code of Civil Procedure but also of the Tax Procedure Code, secondly it is necessary the promotion of those principles that could allow the budgetary creditor to proceed with the seizure directly against the third party sequestrated without having the validation. Our study refers to the collection of health insurance contribution regarding the income from liberal professions.

THE CIVIL ACCOUNTABILITY, THE DISCIPLINARY LIABILITY AND THE CONTRAVENTIONAL LIABILITY OF THE PUBLIC NOTARY

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Abstract

The legal literature is stating that the civil accountability of the notary may occur in very rare situations. This affirmation is based on the noncontecious procedure and on the fact that the most of the notarial acts are made in the presence of the parties and in agreement with their will, if they are obeying the law. Nevertheless the article no 38 of Law no 36/1995 establishes that the civil accountability of the public notary may be engaged within the civil law for breaking its own professional duties, when he caused an prejudice. Even more, the Law requires the obligativity of insurance of the public notary for the possible cases of professional liability. On the other hand, the situations that involve the disciplinary liability of the public notary are determined within the Law no 36/1995 and the Regulation for implementing the Law no 36/1995. Also, in the Romanian legislation for more accuracy in the electronic notarial activity, was adopted Law no 589/2004 regarding the legal practice of the electronic notarial activity. Within this reglementation were included legal rules that refer to certain conducts that are considered to be contraventions and that establish the sanctions that are to be applied in these cases.

L'IMPORTANCE ET LA VALEUR DES INTERCEPTIONS ET DES ENREGISTREMENTS AUDIO-VIDÉO

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Résumé

Pour la résolution des causes pénales, les organes judiciaires ont besoin des informations qui conduisent à la conclusion de l'existence et de l'inexistence de l'infraction, de la culpabilité ou de l'inculpabilité de l'accusé. Les données et les informations qui nous aident a la résolution de la cause pénale sont indiquées par l'évidence des preuves.

Vu leur fonctionnalité dans le procès pénal, les preuves sont definies en tant qu'éléments de fait a rélévance informatique sur tous les aspects de la cause pénale. Dans ce sens, afin de trouver la vérité, l'organe de poursuite pénale et l'instance judiciaire sont obligés à éclairer sur tous les aspects la cause, par l'intermédiaire des preuves.

La vérité, dans tout domaine d'activité humaine, ne se rélève pas spontanément ; elle doit être découverte et prouvée sur tous ses aspects. C'est pour cela que par le principe de trouver la vérité, le procès penal ne représente uniquement une activité judiciaire, mais un procès de connaissance beaucoup plus élargis, dans lequel les organes judiciaires ont besoin de données ou de preuves pour établir si une personne est ou pas coupable d'une infraction. Les réglémentations dans le domaine relèvent le fait que les organes de poursuite pénales et l'instance judiciaire sont obligées à éclairer la cause, sur tous les aspects à base de preuves.

La notion et le cadre légal des interceptions et des enregistrements audio ou vidéo, par le biais des modifications du Code de procédure pénale par la Loi no. 356/2006, présente une grande importance dans le contexte de l'ensemble probateur. Les maintes modifications et changements du Code de procédure pénale et sous l'aspect des probateurs légales, ont été détérminés par la nécessité d'une réforme urgente de la justice sous tous les aspects, de sorte que soit réalisée la demande de transposition dans le droit interne des

engagements assumés dans le cadre des négociations d'adération à l'Union Européenne.

Il est important de tenir compte des éléments de droit comparé, ainsi que de l'importance et de l'utilité des interceptions et des enregistrements audio ou vidéo dans le procès pénal, ainsi que des infractions à l'égard desquelles on peut autoriser l'interception et l'enregistrement des conversations ou des communications en ce qui concerne la réalisation des infractions contre la sécurité nationale, prévues par le Code pénal et par d'autres lois spéciales, infractions telles : trafic des stupéfiants, trafic d'armes, trafic de personnes, actes de terrorisme, blanchiment d'argent, falsification de monnaie ou d'autres valeurs et autres infractions graves.

La réalisation et l'administration des interceptions et enregistremets audio ou vidéo dans le procès pénal, en tenant compte des conditions et des moyens où elles sont réalisées par téléphone ou par tout autre moyen électronique de communication (art. 91 al. 1er du Code procédure pénale) représente un aspect d'importance majeure pour fixer le cadre et la légalité de leur contenu.

La valeur probatoire des interceptations et des enregistrements audio ou vidéo, vu l'expertise de ces moyens de preuve, leur valorification et vérification confère de la substance au matériel probatoire ainsi obtenu.

Par conséquent, une forte garantie de la probité et de la véridicité des interceptations et des enregistrements effectués est constituée par la possibilité de les soumettre à une expertise technique, à la demande du Procureur, des parties ou d'office (art. 91 al. 1er du Code procédure pénale). Au cas où on conteste l'authenticité de l'enregistrement ou de son contenu, la vérification peut être effectuée par la réalisation d'une expertise criminalistique de la voix et de l'acte de parler qui se prononce sur l'authenticité de l'enregistrement, sur l'identité de la personne et de déterminer l'eventuel déguisement de la voix et de l'acte de parler, ainsi que de découvrir les eventuelles tentatives de falsifications du support.

De même, les interceptions et les enregistremets audio ou vidéo ont la signification de certains procédés probatoires similaires aux constatations technico-scientifiques ou aux expertises et peuvent être valorifiés de leur probité par l'intermédiaire des moyens.

Il est évident que la valeur d'une interception ou enregistrement est marquée par la finalité de la valorification des renseignements obtenus, exprimée par des preuves utiles, concluantes et nécessaires légalement administrées.

Or, si les informations ne correspondent pas à la réalité, leur valorification peuvent faire naître des abus et à ne pas pouvoir établir la vérité.

THE EVOLUTION TO A STATE RULE OF LAW

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Abstract

The state is the most important political institution of society. For a society is a necessity and is the superior power of it. The state is immanent to the company of a company, people with rights and duties in relation to it.

The first step toward rule of law was made in England in the XVII-century by police duties (1628). The XVII-century, democratic states of the world has perfected the idea of rule of law through the improvement of judicial review over administrative and general control of the constitutionality of laws.

The concept of rule of law has developed in the concerns of determining a relationship between state law, guaranteein the exercise of citizens' rights to shelter from abuse of power.

FRAUDULENT BANKRUPTCY CRIME CORRELATION WITH STATE OF INSOLVENCY

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Abstract

Economic activity, even if a certain moral would seem cynical or pejorative expression has a speculative final, namely the profit.

Along with objective reasons, commercial insolvency may be caused by subjective circumstances (causes) charged or alleged to the dealer such as dealer's failure knowing they break the rules enrichment desire by any mean etc.

SPECIAL REGARDS ON RECENTLY PRACTICE IN DELEGATION OF LEGISLATIVE POWERS

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Abstract

The paper that we submit to your attention try to analyse the **delegation of legislative powers,** an institution of the constitutional law who has, lately, received added importance in the relation between the Parliament and the Government, mainly in the process of drafting and enacting law-decrees.

The present study attempts to present some issues that we developed on this institution, in recently practice on our country. We also try to present some possible and dangers posed to the proper functioning of the institutions of the state, the possibility of deformation of the relations between the legislative and the executive following the excessive, and sometimes unjustified use of this constitutional instrument.

Finally, we try to suggest some solutions, talk about the need for further reflections on the phenomenon of delegation of legislative powers through the prism of the current practice, process that will lead to concrete legislative changes wich we consider absolutly necessary for the proper functioning of democracy state and rule of law.

SPECIAL PROCEDURES IN THE ROMANIAN LAW IN THE MATTER OF CONTRAVENTIONS

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Abstract

The special procedure in the matter of contraventions means the establishment of a special law which requires to follow other procedures for finding, penalties, enforcement and litigation of tort wrongdoing other than the edict of the Government Ordinance No. 2 from 2001.

It is regarded as a special procedure related to the law framework of implementation of the penalty provision of community work regulated by Government Ordinance 55 of 2002, the controversial penalty in its substance and as a way to implement. Moreover, the intervention of the Constitutional Court amended the rules are applied in the sense that the offender no longer requires the application of the agreement which gave birth to discussions related to the compatibility of this procedure with the European Convention on Human Rights which prohibits forced labor.

CYBERCRIME - REALITY AND PERSPECTIVES

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Abstract

Law specialists do not consider a novelty the fact that currently we are in full swing of a new criminal phenomenon, namely computer crime or cybercrime.

The vulnerability of the network-based computer systems and implicitly based on the Internet is much higher nowadays than the vulnerability of the previous systems. This statement can be justified primarily by the volume of information which is much greater than in other systems (this year 4 Exabytes of unique information are estimated to be generated, meaning a greater volume than the pure information which has been generated over the last 5000 years).

The new computer civilization is based on the information availability and accessibility (specialists estimated that the articles published within one week in New York Times journal contain more information than a person who lived in the 18th century could have found out during their entire existence).

The present paper tackles and focuses on the impact that the emergence and development of information systems has had on the criminal law theory and practice, the way in which the "traditional" legal rules and regulations that are reported to the existence of material world have to cover new situations and aspects related to the birth of the virtual space, the existence of non-tangible assets whose legal protection is required to be provided by the community.

ASPECTS AND FORMS OF TAX EVASION NATIONALY AND INTERNATIONALY

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Abstract

Tax evasion consists of several different methods by which tax payers avoid fulfilling their obligations towards the state and local budgets. This way, the entire economy is affected and, there for, the authorities try to diminish it, because the total extermination is proven to be impossible.

This paper is a brief analysis of the phenomena of tax evasion in our country as well as in other states like Germany, Holland, USA, etc. We tried to establish the best known forms of tax evasion and the ways to put an end to it. We also refered to the causes of the tax evasion, because it is a fact that if the taxes are unbearable for the population, people are prepaired to risk even their freedom in order to delude it.

Because of the many forms it can be encountered, tax evasion does not posses a unanimously accepted definition. A legal definition is encountered in the text of the Law no. 84 /1994 against tax evasion:" the evade, by any means, totally or partly, from the payment of taxes owed to the state or local budget by all the tax payers, Romanian or foreign citizens".

We refered to both forms of legal and ilegal tax evasion, it's causes and the proper ways to fight it, taking in considerations the importance of this problem in all the states.

CONSIDÉRATIONS SUR LA NOMINATION DES ADMINISTRATEURS DE LA SOCIÉTÉ COMMERCIALE

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Résumé

En vertu des dispositions de la Loi no. 31/1990, les gestionnaires peuvent être nommés à la création d'une entreprise ou ultérieurement par la décision de l'Assemblée Générale.

Selon l'art. 7 point e de la Loi. 31/1990: *«Le document constitutif de la société en nom collectif, en commandite simple ou à responsabilité limitée comprendra (...) les associés qui représentent et gèrent l'entreprise ou les gestionnaires indépendants, leurs informations d'identification, les pouvoirs qui leurs ont été conférés et si eux sont appelés à les exercer ensemble ou séparément».*

La nomination d'une personne juridique dans le poste de gestionnaire se produit soit par un document constitutif ou par la décision de l'Assemblée Générale ordinaire des actionnaires.

La nouveauté introduite par les changements législatifs récents en droit des sociétés est l'obligation de la conclusion d'une assurance de responsabilité professionnelle par l'administrateur, conformément à l'art. 153 par. (4) de la Loi no. 31/1990. Cette exigence est spécifique aux professions libérales mais son introduction et en ce qui concerne la matière des sociétés est de nature de remplacer la garantie que les gestionnaires devraient constituer au moment de la prise de leurs fonctions, selon les anciennes règles, mais elle a également le rôle de décrire explicitement le détachement de la profession de l'administrateur.

LE FAIT ILLICITE – LA CONDITION DE LA RESPONSABILITÉ PATRIMONIAL

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Résumé

Les faits juridiques civils sont toutes les circonstances et les conduites humaines qui produisent, modifient ou arrêtent les relations juridiques, sauf ceux qui remplissent les conditions d'une infraction et qui relèvent du droit pénal.

L'acte du salarié qui porte préjudice à sa société est considéré illégal dans une situation où l'employé ne remplit pas les obligations contractuelles telles qu'elles résultent de la convention collective du travail, de la fiche de poste ou du règlement intérieur.

Par conséquent, l'employé répond patrimonialement pour fait illicite ayant causé un préjudice. Cette responsabilité est une forme de responsabilité contractuelle.

LES ASPECTS ACTUELS SUR L'ÉVALUATION JUDICIAIRE DES DOMMAGES EN MATIÈRE DE LA RESPONSABILITÉ CIVILE CONTRACTUELLE

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Résumé

Le problème de l'évaluation des revendications est d'importance primordiale pour les parties en tant que le créancier a l'intérêt de percevoir l'équivalant du préjudice entier et l'emprunteur de payer seulement ce qui constitue un préjudice et rien de plus.

Chaque fois que les parties n'ont pas fourni la somme ou les sommes d'argent que le débiteur contractuel devra payer au créancier à titre de réparer les dommages causés à celui par la non-exécution *lato sensu* des obligations pour lesquelles il est responsable et avec lesquelles le créancier serait considéré comme compensé dans le cas de non-exécution, l'établissement des dommages-intérêts sera rendu par le tribunal ou la juridiction arbitrale compétente, en vertu de la loi.

La détermination des dommages-intérêts devant les tribunaux est faite étant donné le préjudice subi au créancier et, dans certains cas aussi aux tiers en rebond, aussi bien le rapport de causalité d'entre la non-exécution *lato sensu* des obligations contractuelles par le débiteur et le préjudice qui est survenu.

THE SETTING OF THE AMOUNT OF DAMAGES VIA A JUDICIAL WAY

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Abstract

The execution of the contracts is governed by the rule of execution in kind. When the execution in kind is not possible, the execution will be made through a monetary equivalent. The debtor is then obliged to pay damages, consisting in a bulk sum of money that represents the equivalent of the damages due to either the non-execution, or the execution with delay, or an improper execution of the obligation by the debtor. One can establish the value of damages either via a judicial way, or by using the law, or through a convention of the both contractual parts. This work treats the setting of the amount of damages via a judicial way, without minimizing the importance of the other two criteria: using the law and via the convention of parts.

JURIDICAL VALUE OF FREEDOM STIPULATED BY CONTRACT

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Abstract

The present paper intends to tackle the subject of individual freedom stipulated by contract as a direct consequence of his will autonomy. Despite the fact that, at this moment, the theory of will autonomy seems to be overtaken by contemporary reality, its importance remains indisputable, generating the occurrence of economical liberalism and also of its complement in juridical plan, the freedom stipulated by contract, at the same time.

As regards the civil and commercial contracts, the Romanian law is governed by the principle of juridical will autonomy and by the principle of compulsoriness of contract effects, according to which "the legal conventions have the power of a law between the contracting parties" („pacta sunt servanda"). But these principles cannot be applied in an abstract way, not taking into account the fact that the existence and the freedom to act of each individual is closely related to the society in which the individual lives, so that the interests of each individual have to be in harmony with those of his kind. Consequently, the freedom stipulated by contract can take the benefit of a more extended or more restrictive juridical protection, depending on the perspective from which this concept is looked at: civil right or fundamental freedom, the limitations that can be imposed to it depends directly by the preserved interest.

DE LA NATURE JURIDIQUE DES PROCÈS VERBAUX DE CONTRAVENTION

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Résumé

Le présent matériel remet en question la nature juridique du procès-verbal de constat des contraventions, la question étant souvent disputée dans la littérature de spécialité. Comme on a déjà remarqué dans la doctrine, le constat des contraventions représente, en fait, un acte administratif qui présente des caractéristiques spécifiques et qui, malgré tout, dans la caractérisation de sa nature juridique, ne peut laisser de côté le fait qu'il représente, en bref, l'acte de prise de conscience d'une contravention. L'article contiendra quelques thèses actuelles du droit administratif roumain et les différences d'opinion relatives à ce sujet, mais surtout, tentera de trouver une réponse correcte et complète à la question : le procès-verbal de constat est-il un simple acte de prise de conscience ?

LES INFRACTIONS CONTRE LE PATRIMOINE DANS LA RÉGLEMENTATION DU NOUVEAU CODE PÉNAL

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Résumé

Le nouveau Code pénal adopté par la Loi no. 286/2009, publiée dans le Moniteur Officiel no. 510 du 24 juillet 2009, apporte des changements en ce qui concerne les infractions contre le patrimoine, contenues dans le Titre II de la partie spéciale, divisé en cinq grands chapitres : Chapitre I – le vol, Chapitre II – le brigandage et la piraterie, Chapitre III – infractions contre le patrimoine par l'abus de confiance (où on incrimine de nouvelles infractions, comme l'abus de confiance par la fraude des créditeurs, la faillite, de différentes nouvelles formes de tromperie), Chapitre IV – fraudes commises par l'intermédiaire des systèmes informatiques et moyens de paiement électroniques, reprenant les textes de la Loi no. 161/2003 et la Loi no. 365/2002, Chapitre V – la destruction et la prise en possession.

Aux modifications structurales on peut ajouter les aspects nouveaux, visant le contenu constitutif, les circonstances d'aggravation, les sanctions prévues et la modalité de mise en mouvement de l'action pénale.

CONSTITUTIONALITY AND CONVENTIONALISM IN THE EUROPEAN LAW SPACE

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Abstract

The assumption of the belonging to the European Union and European Council claims especially the reporting of the national law system not only to the standards established by the communitarian law, but also to those imposed by European Convention on Human Rights. Consequently, the internal law passes through the philter of the national constitution, the communitarian law and the conventional one at the same time.

A complex judicial phenomenon, having as premises the existence of a fundamental law, considered to be supreme, and also the existence of a constitutionality control, the constitutionalization of the law demands the progressive interpretation of the Constitution norms and of those that are inferior to the Constitution.

If the existence and the width of this reality are accepted by the doctrine in the field, one cannot say the same thing about the attempt to transplant the national reality to a European scale, the international constitutionalism being considered a progressive movement, of support of the international cooperation, rather than a movement of endowment with constitutional value of the fundamental treaties.

In the present approach we intend to emphasize the similarities between the national constitutional order and the judicial order deriving from the founding treaties of the European Union and, particularly, the differences between the two models of normative hierarchy, further insisting on the standards imposed by another compulsory treaty with European vocation, namely the European Convention on Human Rights.

EXERCER LE DROIT DE LA DÉFENSE DANS LE PROCÈS PÉNAL, CONFORMÉMENT AUX PRÉVENTIONS DE L'ARTICLE 6 DE LA CONVENTION EUROPÉENNE DES DROITS DE L'HOMME

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Résumé

L'article 6 de la Convention Européenne des Droits de l'Homme stipule dans le 3^{e} paragraphe, lettre b et lettre c deux modalités de garantie du droit de la défense, dans le sens où on assure le temps et les facilités nécessaires et le droit de la personne inculpée de se défendre toute seule, de faire appel à un avocat choisi ou de bénéficier, dans certaines conditions, d'assistance juridique gratuite.

Chacune de ces préventions trouve son correspondant dans les articles prévus dans le Code de procédure pénale, dont l'application pratique a suscité des controverses dans la pratique des tribunaux roumains, tout comme à la Court Européenne des Droits de l'Homme.

CONSIDERATIONS ON INDIVIDUAL EMPLOYMENT AGREEMENTS AT HOME REGULATED BY SPECIAL LAWS

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Abstract

Romanian regulations in force regarding the employment contract at home are as follows: Romanian Labor Law, Government Decision no. 679/2003 on conditions for holding the attestation, attestation procedures and the status of professional maternal care assistant and Law. No. 448/2006 on the protection and promotion of disabled persons, republished. If performance of work at home according to the Romanian Labor Code is based on parties' agreement, in all the other cases this method results from expressly legal provisions based on which individual employment contracts may be concluded with: professional maternal care assistant, professional personal care assistant, the disabled person, retired persons for 3rd degree disability. Parties can only accept the imposed conditions. Therefore, when regulating them, there are significant differences as compared to the employment contract at home governed by the Labor Code. We put forward hereinafter some considerations on these types of individual employment contracts at home.

PRÜM TREATY AND THE FUTURE OF THE THIRD GENERATION SCHENGEN INFORMATION SYSTEM

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Abstract

The Prüm Treaty is an initiative by seven European Member States which, having decided on their own common action for improving cooperation in combating terrorism and serious cross-border crime, are now attempting to incorporate it into EU law. The issue of the European Union expansion and consolidation in the context of world globalization is a phenomen studied both at the Union level as well as at the national governments' level. The problem related to the border security is one of the most important in the current general context. On the one hand, the globalization of the relations between people, the never ended communication between individuals, the commercial relations, trade cooperation, the exchange of material and spiritual values, tourism, require open frontiers between states. On the other hand among all these that happen at the borders there is organized crime and terrorism. Romania supports the concept of free movement which means to implement a very efficient instrument to fight and prevent border crimes.

THE IMPLICATION OF CEDO'S JURISPRUDENCE ON REFUND IMMOVABLE PROPERTY TAKEN OVER ABUSIVE DURING MARCH 6 1945-22 DECEMBRE 1989

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Abstract

Direct application of international human rights norms, default and those contained in the European Convention on Human Rights, was achieved by the states having ratified the Convention, including Romania.

This has made the task of the Romanian state, as a contracting party, the obligation to transpose into national law by accession commitments consisting of honouring international obligations and harmonization of national legislation with the jurisprudence stemming from the interpretation of the Convention and its Additional Protocols.

ABOUT THE POSSIBILITY OF THE COURT TO PRONOUNCE A DECISION WHICH TO TAKE PLACE OF AN ADMINISTRATIVE DOCUMENT

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Abstract

Law no. 554/2004 of the administrative court, amended, incriminates as infringement and provides the application of a comminatory fine to the public authority which refuses to enforce a judicial decision by which it was required to issue, replace or amend an administrative act. The law believes that these means are sufficient to determine the public authority to execute the obligations imposed. We believe, in agreement with some solutions of the law, that is necessary the recognition of the possibility of contentious court to pronounce a decision to take place of an administrative act, because there were instances when the execution of the decision was refused even after the application of the comminatory means provided for in Art. 24 of the Law. For the delivery of such a decision certain conditions must, however, be accomplished. The jurisdiction to hear such an application would belong to the court for enforcement under Art. 2 point ț of the Law.

LE RÉGIME JURIDIQUE DES IMMEUBLES QUI APPARTENANT À LE FOND COMMERCIAL

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Résumé

Pour répondre à la question du régime juridique des immeubles vise fond de commerce d'un marchand doit d'abord de clarifier la notion de biens immeubles par destination.

Comme art.468 alinéa 2 C. Civil fait pas de distinction, parmi les différents types et l'exploitation commerciale par l'opérateur est le renforcement de la destination, la jurisprudence a décidé que la question que les effets sont des titres immobiliers propreietar séance par destination, est une question de fait et l'intention de l'opérateur pour être laissée à la discrétion de la caisse du tribunal.

THE CONCEPT OF LAW AND RULE OF LAW

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Abstract

The notion of law can be explained taking into account its material content or nature of public authority vested with the right to adopt rules of conduct generally binding and impersonal and the procedure used for this purpose.

Supremacy of the Constitution used the phrase usually specialized in Romanian literature, but also in other literature finds other expressions: supreme legal value, super legality, the supreme law, the law of laws, etc…

CONSIDERATIONS ABOUT THE HOME EMPLOYMENT CONTRACTS GOVERNED BY SPECIAL LAWS

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Abstract

Employment relationships of the cooperative members appear under the conditions established mainly by Law no. 1/2005 regarding the organization and operation of cooperative. Provisions stipulated under art. 105-107 of the Labor Code where lays the subject of the individual employment contract at home have been properly adjusted in compliance with the specificity of employment relationships under craftsmen cooperative in Chapter VI entitled "Work at home" in "Regulations norms governing employment relationships that have as legal authority the individual employment agreement", stipulated under Annex to Council Decision of National Union of craftsmen cooperative no. 11/2006. Those persons who perform work at home for their cooperative society are deemed as craftsmen members working at home when concluding an individual employment agreement at home. We put forward hereinafter some considerations on this form of work at home.

THE PROCEDURE REGARDING THE MINOR OFFENDERS

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Abstract

The criminal responsibility of the legal persons is a problem discussed by different countries' doctrines from antiquity. This problem came up again at the end of the XIX century and now it is one of the most important themes of all the civilized countries' legislation.

Recently it was consecrated in the Romanian Criminal Law, this institution was recognised several centuries ago and in our country it was regulated by the Law no.278/2006 and it is the result of the contest between its backers and adversaries, overcoming all those arguments derived from the Contemporary European Law.

ACHIEVEMENTS AND PROSPECTS OF EUROPEAN VISA INFORMATION SYSTEM

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Abstract

The European Visa Information System will store data on up to 70 million people concerning visas for visits to or transit through the Schengen Area. The legislative package on the European Visa Information System was adopted by the European Parliament and a political agreement was reached within the Justice and Home Affairs Council, the final steps to create the biggest biometric database in the world. A new visa code is applicable in the European Union from 5 April 2010. The EU Visa Code gathers into a single document all legal provisions governing decisions on visas. The Commission says the code "increases the transparency, develops legal security and ensures equal treatment of applicants while harmonising rules and practices for the Schengen States (22 Member States and 3 associated states) applying the common visa policy"[1].

[1] **Regulation (EC) No 810/2009** of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), OJ 243, 15.9.2009, p.1

ORGANIZATION AND FUNCTIONING OF JUSTICE IN THE ROMANIAN PRINCIPALITIES IN THE EARLY NINETEENTH CENTURY

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Abstract

The judicial organization experienced in the eighteenth century and first half of the nineteenth century, a comprehensive reform of feudal justice deficiencies.

The development of economy, commodities production and exchange, as well as modifications in the social relations area imposed changes in the legal institutions area.

The old regulation no longer corresponded, and legal customs, diverse, vague and often unknown to those called to apply them, especially if those persons were foreigners, required these new regulations on the legal plane.

The illuminist ideas of some princes determined throughout the period of the mid-eighteenth century until the unification of principalities a great movement in order to remedy the bad organization of justice.

The revolution of 1848, held simultaneously in the three Romanian principalities had an expressed unitary character, first and foremost through programs supported, which included principles corresponding to constitutional and dominantly bourgeois outlooks (the constitutional monarchy, the separation principle of state powers, the principle of ministerial responsibility, the principle of judges' immovability, the equality of all people before the law and tax burden).

LA RESPONABILITE PENALE DES MINEURS DANS LE DROIT EUROPEEN

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Résumé

Le régime juridique de la responsabilité pénale des mineurs dans le droit européen est déterminé par les conventions et traités internationaux auxquelles les états font parties, par les règlements du Conseil Européen, par des traités communautaires et des actes de l'Union Européenne et par les règlements nationaux. Malgré certaines dispositions internationales et régionales communes concernant la responsabilité pénale des mineurs, les états membres en vertu de leurs souveraineté établissent leurs règles propres qui sont variées et diverses par leurs nature. En raison de la complexité et de la divergence des règlements nationaux, au niveau européen sont mises en évidence différents âges de la responsabilité pénale, des critères subjectifs et objectifs pour établir la responsabilité pénale, des modèles de la justice pénale pour les mineurs, des mesures éducatives et sanctions appliquées aux mineurs, et aussi la nécessité et le contenu de discernement et de la responsabilité pénale. En termes de création d'un avenir européen commun dont la prévention et la lutte contre la criminalité devraient devenir des cibles de priorité, il est nécessaire d'unifier au niveau communautaire les dispositions des États membres relatives à la responsabilité pénale de mineur.

LEGAL EVOLUTION AND REFORM IN THE MATTER OF THE CRIMES AGAINST SAFETY OF TRAFFIC IN THE RAILWAY NETWORK

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Abstract

The author underlines the evolution and reform of penal law in the matter of the crimes against safety of railway traffic starting with the first incriminations (Penal code of 1938) and ending with the latest incriminations in the mentioned matter (Penal code of 2009). The research carried out and the development of the society in the last 70 years have marked the incrimination of the facts that lead to the safety of the traffic by railway on the railway network.

LA PROTECTION DES MINEURS CONTRE LES ACTES CRIMINELS DANS L'UNION EUROPEENNE

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Résumé

La protection des mineurs contre les actes criminaux dans l'Union européenne est déterminée par une augmentation significative de la criminalité au cours des dernières années en raison de développement sociale et économique. L'évolution des règlements internationaux, régionales et nationales a montré que l'internationalisation et la régionalisation des dispositions dans ce domaine ont un impact positif en créant des mécanismes et des institutions spécialisés au niveau national, et en établissant des mesures législatives à cet effet. Bien que la plupart des études doctrinales et statistiques, et l'évolution conventionnelle des lois, des observations et recommandations des organisations internationales et régionales soulignent l'importance de l'objectif prioritaire des efforts visant à prévenir les actes criminels contre les mineurs, mais le progrès conventionnelles et législatives, en particulier de l'Union européenne dans ce domaine est modeste et il ne satisfait pas le nécessaire. Par conséquent, la tendance de réglementation complexe et polyvalente de la protection des mineurs contre actes criminels impose aborder les problèmes prioritaires par rapport à leurs prévention par l'établissement d'une dimension plus profonde en la matière au niveau européen, qui aurait l'effet d'unifier les dispositions des États membres.

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Abstract

European Community regulations concerning safety and health represent a concern of the Community institutions. Security and health at work are all institutional activities aimed at ensuring the best conditions in the process of work, defending life, physical and mental health integrity of workers and others involved in the work process. This paper analyses the new strategy adopted by the Commission that addresses the inequalities still existing between different social groups.

DOUBLETS IN LEGAL ENGLISH AND THEIR TRANSLATION IN LEGAL ROMANIAN

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Abstract

This article investigates the meanings of English binomials, i.e. binary sequences like *act and deed, ends and objects, gods and chattels*. In particular, it seeks to relate the literal readings of doublets members to the textual meaning of their whole. It focuses in doublets in Legal English, as amplification by synonym has long been a part of the language of the law.

FACTORING CONTRACT – IS IT QUESTION OF ENFORCEMENT?

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Abstract

Factoring is not only a financing technique of the postdelivery phase, but also a cash transformation of debts resulting from goods or services provided delivery. Speaking of services due, factoring is defined as a complex financial product that combines credit, claims risk, tracking and debt collection services, and records of claims.

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Marian DOBRANSCHI

ETHNIC ENTREPRENEURSHIP AND THE HOST COUNTRY'S ECONOMIC PROSPERITY. THE SUCCESSFUL STORY OF TURKISH ENTREPRENEURS IN ROMANIA

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Abstract

At present the contribution of ethnic minorities living in various countries to the economic prosperity and cultural diversity of those countries and the integration of ethnic minority communities in the host country's civil society are two issues of major interest. In the last decades, a specific response to these issues has been ethnic entrepreneurship. Research studies on motivation and critical success conditions for ethnic entrepreneurs demonstrate that performance conditions vary across ethnic groups. These studies also emphasize the role of education, informal social networks and traditional cultural attitudes in shaping entrepreneurial spirit and practice (Masurel et al., 2002). Based on these overall considerations our paper proposes a spotlight on Turkish entrepreneurs in Romania, as a success story which can provide meaningful lessons in the current international context. It demonstrates the role played by the robust ethnic entrepreneurship of the Turkish minority, mirrored not only by the development of successful economic businesses, but also by the construction of a cultural identity in the host country. A distinctive feature of the Turkish community in Romania is represented by its combination between the "old branch", mainly living in Dobrogea region, and the "new wave" of dynamic immigrants established in Romania since 1990. The former contributed to the smooth integration of the newcomers, while the latter offered their support to the preservation of the cultural and religious identity of the Turkish minority. Romania becomes increasingly attractive for the Turks settled for decades in Western Europe as well, and this can determine a growing share of Turkish capital as well as a higher quality of the entrepreneurial culture in the Romanian economy. The information for this case study has been collected through in-depth interviews with top representatives of Turkish-Tartar minority associations in Romania and of Turkish Businessman Association (TIAD), and combined with statistical data from various sources such as Statistical Yearbook of Romania, National Bank of Romania's reports, Turkish Businessman Association's reports, UNDP – Human Development Report, World Values Survey data, etc.

PRINCIPLES OF STATE PARTICIPATION IN PUBLIC COMMUNICATION

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Abstract

That governance by a government in democracy is rather carried out by means of the daily information activities in interaction with Parliament in particular, was justified for the first time by representatives of the so-called *Integration-Doctrine* in the late 1920's within the context of the constitutional science of the Weimarer Republic: The government, by promoting decisions already made or forthcoming and by recruiting consensus for it, transmits to the public by means of publicity the procedure which leads to state decisions, for integration effect. The German Federal Constitutional Court justified this dissemination of information by the task of government, appointed to it by the Constitutional Law, to enable citizens to participate within the political opinion process in a democratic state. The fundamental criteria for permissible public relations work of government offices developed by the German Federal Constitutional Court since 1976 are based on the principles of neutrality of government as regards the political parties and independence of the mass media. The recent jurisdiction did not concern only government publicity of activities in a narrow sense, it confirmed, however, the above mentioned principles. As remarked in recent decisions, government publicity has fundamentally changed in the course of time, so that it is to be extended in areas in which the provision of information to the populace is based on interest-led information linked with the risk of biased information, and the social powers are not sufficient to create an adequate informational balance. Since the warnings or recommendations conveyed to the public in these cases are to be classified as government public relation, any possible effects on citizens are to be scrutinized according to the doctrinal construction of the threefold structure for examining a constitutional right (scope, encroachment and limit). The necessary justification of an infringement depends on the nature of the effect concerned as direct or indirect. They require

authorization by law, as long as they do not affect subjective interests directly (as long as they are not a substitute for requirements or prohibitions). Contrary to the legal framework in the U.S.A., if there are no provisions for controlling the authorization by law and the transparent use of appropriated funds for state participation in public communication, it is necessary to introduce procedural requirements for the disclosure of government communication strategies and the evaluation of communication processes as Best Practices developed by the government itself.

SOCIOGEOGRAPHIC SPACE OF SHKODRA'S REGION

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Abstract

Prof. Dr. Sokol Axhemi, lecturer at Geography Department in Tirana University in Albania have a 22 years experience as lecturer in geography. He publish differents books about human geography, especially in social geography and population geography. He take part in differents international conferences in geography themes. In this article the author Prof.Dr.Sokol Axhemi, trying to realize a presentation about sociographic space of Shkodra's region in Albania. As we can see in this material, geographical space and social space are presented from author in different aspects. Especially a big role of this space is oriented to transformations of social places, part of this region. At the same time the geographic, social, economic aspects of Shkodra's region are analizing from author in wiepoint of sociogeographic space transformation.

STRUCTURE AND LIMITS OF EFFICIENCY CONSIDERATIONS IN THE ADMINISTRATIVE PROCEDURE

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Abstract

Administrative measures are efficient when the goals they serve for the public interest are of such an importance as to justify the consumption of time, human effort and social resources and these goals could not be achieved through a lower disposal of resources. The reception of efficiency considerations has been made easier as a result of the fact that the methodological horizon in Public Law has been expanded. For this reception methodological preparatory work is necessary, as, primarily, analysis of the political discussions and the conclusions and proposals from empirical sciences, as well as of the theoretical grounds and the relevant solutions for the crucial questions from the point of view of Economics. Law and Economics maintain their independence concerning particular working methods and any justification and legalization requirements. At the same time a parallelism between them is to be ascertained; that can be both analytical - empirical (for instance, expansion of the economic analysis to the areas of Public Law, consolidation of the economy principle with reference to Constitutional Law) and normative (if the economic view is at the same time constitutionally justified. Examining this parallelism would often prove to be inappropriate, since the mesh of applicable rules contains complex evaluations of the legislator and specialisations of certain constitutional principles.) There are several arguments for the lifting of reserves of subordination of economic efficiency in legal significance as well as favourable circumstances for its reception.

Also a doctrinal subordination of a meta-legal efficiency term can be both as normative and analytical. The basic possibility of the legislator to develop in concreto an objective criterion of differentiation that is not necessarily the most economic one is not restricted. However, wasting resources could be potentially considered as insufficiency concerning the procedural dimension of

the above *property rights* that has as a content the prevention of their restriction, so that it constitutes their infringement. Both efficiency and *proportionality* suggest methods of resolution of conflicts between objectives of administrative measures and decisions and allocated resources, they require rational evaluation in relations of means to goal. This is valid, because their application, on the one hand, is based on empirical estimation (is in effect for the tests of suitability and necessity), on the other hand, they take place in relation of intense interaction (test of stricto sensu proportionality), provided that fulfilling one principle is not possible without the fulfilment of the other. The proportionality as much as the efficiency seek given objectives with the least possible disposal of resources and restriction of legal goods. A medium is characterized not *necessary*, when it involves the same profit with higher cost in disposal of resources. If there are choices that can reach, by the use of softer means, the objective in such a satisfactory way, that is to say they improve the place of somebody without deteriorating the place of another, then this means is necessary and Pareto-efficient. However, the cost cannot exaggerate in important degree the profit (proportionality stricto sensu). The criterion Kaldor-Hicks imposes the choice of this decision that it affixes the better relation between means of (cost, resources) and result of (profit, goal).

In the area of Public Law that is working on the base of a pluralistic system of goals and principles only a formal criterion of economic efficiency can be presumed. For the equivalent with the legal values system the formal criterion of efficiency should be capable of referring to constitutional principles as value determinations of the contents of regulations. The content of the efficiency rule in Public Law will be consumed in the formulation of a decision-making theory with rules for real consequences of the applicable regulations to be calculated, based on the evaluation of all the alternative regulations and practical solutions in connection with the corresponding legislative aims.

The legislator has the competence to decide if and in which context he would recognize the efficiency and in which relation he would delimit as opposed to his actual pursuits, also because of his know-how and the administrative resources allocated to him. Efficiency is a *local* principle, as it namely refers to Budgetary Law; consequently, it is unable to commit the judge to choose the most efficient alternative solution.

A distributive legal order that is based on the free market model and on the principle of the autonomy of preferences does not ensure a distribution of resources that corresponds to the *principle of social state*. Rational balancing that is committed to purely economic goals should be replaced by balancing based on evaluative judgements. Decisions concerning global economic categories should consequently be based on over-individual cost-benefit comparisons. Thus, a system of mixture of elements of efficiency and distributive justice can be proposed. The *individual rights* that are classified as belonging to the status negativus, when they are secured with a limitation clause or without even such a

clause, can be practically limited only by single efficiency aspects as an element of differentiation when making choices of social resources distribution.

Criteria of efficiency that can be consented to their application can be useful as evaluation methods by the choice among several alternative contents of an administrative decision (that seem to be permissible in view of the in concreto legislative program), provided that any commitment of the administration as an expression of the legality principle is not violated.

LES SYSTEMES TRADITIONNELS DE RESOLUTION DES CONFLITS A L'EXTREME NORD CAMEROUN: METHODES DE PREVENTION ET DE GESTION DES CONFLITS, LE CAS DES MAFA ET DES BOULAHAY DE MOKOLO

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Résumé

Les conflits sont l'expression d'une relation tendue entre plusieurs factions rivales. Ils découlent de certaines sources qui peuvent être d'origine sociale, économique, politique, culturelle et stratégique. A ces problèmes, s'ajoutent aussi les réalités de la vie qui s'illustrent le plus souvent par le vol, les rapts de femmes, la pratique de la sorcellerie... C'est ainsi qu'un ensemble de procédés a été mis en place par les Mafa et les Boulahay de Mokolo, dans la localité des Monts-Mandara, situé à l'extrême nord du Cameroun, en vue de prévenir et de gérer les conflits. Car, la situation qui prévaut pour les habitants de cette région reste la recherche d'une paix permanente, et elle passe par une politique de prévention, de gestion et de résolution des conflits. Cette étude se propose d'examiner les démarches employées dans les sociétés Mafa et Boulahay de Mokolo pour éviter et gérer les conflits. Elle s'appuie sur des enquêtes de terrain, et exploite les travaux antérieurs directement ou indirectement liés au sujet. La valorisation du patrimoine culturel du Cameroun en général, et celle de sa partie septentrional en particulier, et la contribution a la paix au sein de ces sociétés traditionnelles est ce à quoi nous tendons à travers cet article.

THE DETERMINING FACTORS OF REGIONAL IDENTITY

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Abstract

The European Union member states show a great heterogeneity in their territorial structures. The regions, like other territorial units, represent a construction made of many elements, with more or less consistency. Regional identity is a key factor in ensuring quality regional government, and it is based on the symbolic capital of the group, thus representing the behaviors, attitudes, values, beliefs and symbols shared by members of a social group.

The determining factors of regional identity are: spatial location and spatial structure of the region; the population structure by sex, age, ethnicity, religion, profession and other relevant criteria in terms of identity; cultural specificities such as traditions, customs, folklore and cultural consumption; attitude towards other communities; and social context, events and issues that affect the region. These factors distinguish two aspects of regional identity, the "endogenous" and the “exogenous” ones. The "endogenous" one is relatively stable and rooted in spatial location, population structure and culture. The “exogenous” one is subject to greater negotiation and is dependent on the social context, the intra- and extra-network and economic development. The degree of contouring the regional identity correlates positively with achieving regional autonomy, thus promoting the construction of a collective actor. The assertion of regional identity legitimates the desire for self-determination by the region as related to the state.

THE ADMINISTRATIVE TERRITORIAL DELIMITATION OF THE REPUBLIC OF MOLDOVA: BETWEEN THE SOVIET PAST AND EUROPEAN ASPIRATIONS

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Abstract

The judicial delimitation of the territory of the state is meant to increase the efficiency of the public authorities' activity, to enhance their initiative and promptness, to improve the links between the central and local authorities, to provide necessary conditions for people's participation in and access to local decision making and local public life.

In 1998, a territorial-administrative reform was carried out in Moldova. This reform reduced the number of territorial-administrative units of level II from 40 to 10.

When the Communist Party of Moldova gained power in 2001, a counter-territorial-administrative reform was prepared and implemented, and through this reform the country returned to the Soviet system of administrative-territorial organization.

Returning to territorial delimitation by territorial administrative units of small size by area, economic potential and population, one does not meet the criteria of efficiency and is contrary to European developments in the field. Moldova's European option requires moving the focus to developing local initiative and strengthening regional centers. The existing administrative-territorial structure should be changed. It is clear that the current territorial fragmentation does not contribute to local economic development and does not favor the development of collaborative relationships between central and local authorities.

THE ROLE OF THE EUROREGION „LOWER DANUBE" IN THE PROCESS OF EUROPEAN INTEGRATION OF THE REPUBLIC OF MOLDOVA

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Abstract

The good relationship between neighbouring countries is important for bringing closer local communities from both sides of the border. The creation of euroregions has significantly strengthened the cooperation between Moldova and its two bordering countries: Romania and Ukraine. Althoutgh Moldova belongs to four euroregions, The purpose of this paper is to highlight the role of Euroregion "Lower Danube" as the first euroregion in the creation of which Moldova participated in 1998, , in strengthening relations of cooperation between local authorities and other institutions at bilateral and trilateral level, but also to demonstrate its contribution to help Republic of Moldova to become closer to European Union standards and values.

MODALITIES TO DEVELOP ACTIVITIES BY THE MERCHANT-NATURAL PERSON. CONNECTIONS WITH THE NOTIONS OF TRADE FUND ENTERPRISE AND AFFECTATION PATRIMONY

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Abstract

The article has as goal to synthesize the differences between the notions of authorized natural person, individual enterprise (company) and family enterprise in the context of Government Emergency Ordinance nr. 44/2008, and to analyse the connections with the notions of trade fund and affectation patrimony. The conclusions are intending to put into evidence that the legal regime of affectation patrimony must determine the reconsideration of the syntagm "Fact Universality" in the context of the new Romanian Civil Code.

NEW TRENDS IN THE ROMANIAN TRANSPORT SECTOR

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Abstract

The paper deals with the transport development in Romania after its adhering to the EU. Based on our analysis, we can conclude that the transport development is connected to the macroeconomic development and to the budget financing, as an effect of this development, as well.

We analysed step by step all types of transport, in order to mark out the weaknesses and the development trends. The key elements of the analysis are supported by maps and significant tables. The statistic databases come from Eurostat and the specific Romanian Ministry.

The main conclusion of the paper is that the transport policy has to be approached as a component of the sustainable development strategy in Romania.

AT THE EDGE OF EUROPEAN SPATIAL PLANNING

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Abstract

Any action or phenomenon being at the edge of a functional system it could explain some of its local disparities. The article proposes an overview on the cause-effects rapports of the national Romanian system with European spatial planning. The analyze focus on the Romanian system as a peripheral territory, at the edge of European system, both in term of space and time.

The study starts with an emphasis on the spatial planning concept in Romania connected to the main European documents in this field. This is materialized by studies, plans, programs and projects that harmonize, at territorial level, the economic, social, environmental and cultural policies in order to ensure the sustainable development of various regions.

The article compares: spatial planning objectives (very similar with any other European system), the compulsory nature of carrying out spatial planning activities, the institutional structure and the duties of the central, county and local public administration in the field, and the categories of spatial and urban planning documentations, responsibilities for endorsing and approving them.

The conclusions show that a certain distance in terms of space and time between creation of European system and national system is due to its position, at the edge of two great planning cultures and systems.

THE EFECTS OF THE ECONOMIC CRISIS ON BRIC

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Abstract

The paper approaches the problem of the BRIC impact on the world economy. The member states of BRIC are big emergent economies and have an important degree in the world GDP. As a result, their evolution is interesting to analyse.

The specialists opinions connected to BRIS reliability are divergent, but they have a common denominator in the necessity that BRIC to function according to the principles of the Euro-Atlantic economies.

Even that the approach is different or not, BRIC represents an economic growth pole with global impact which is not correct to be neglected.

ANALYSIS OF BUDGET EXPENDITURES IN THE LOCAL PUBLIC ENTITY

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Abstract

Public expenditures represent the socio-economic relations in monetary form which occurs between the state on the one hand and individuals or legal persons on the other hand, when the state financial resources have to be earmarked and used in order to fulfill its functions.

Economic significance of public expenditures is determined by the effect produced by them on each purpose. Permanent increase of public expenditures results in the emergence of political issues, financial and scientific. In Romania public expenditures are grouped by classifying public finance indicators developed by the Finance Ministry as: economic classification, functional classification, administrative classification (in the departmental profile) and classification after the funding sources.

The efficiency of public expenditure expresses the results obtained from a socio-economic activity through the use of material, financial and human economic resources. The effectiveness is quantified as the ratio between the effects or the results obtained and the efforts or associated costs.

REGIONALISER AVEC L'OUTIL ENVIRONNEMENTAL

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Résumé

L'article ci-dessous se propose une diagnose macro-régionale par le biais environnemental. Le concept fédérateur est celui de l'aire protégée. Autour de celui-ci on développe toute une analyse sur la distribution géographique des ceux-ci au niveau des départements de la province de la Moldavie, en utilisant le contexte du cadre normative relevant depuis l'an 2000. La structure de l'article est classique – évaluation des concepts utilisés et des repères législatives et territoriaux, la mise en contexte géographique – flux, axe, aire, potentiel – et l'identification des régions portant une richesse naturelle protégée. Le résultat de la recherche propose une pseudo-régionalisation superposée aux découpages administratifs départementaux, possible à avoir effets touristique, administratif et sur l'infrastructure régionale et locale.

ANALYSIS OF BUDGET INCOMES IN THE LOCAL PUBLIC ENTITY

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Abstract

Within the involved resources the public entities use to sustain the development and consumption, the financial recourses are the most important. Financial resources are the total funds needed to achieve economic and social objectives within a limited time. In Romania the public revenues are structured on economic criteria as the structure of the budget system. Public revenues are regulated by classifying public finance indicators developed by the Ministry of Finance. Thereby the public revenues are grouped into: current income, capital income, financial operations and grants. The policy promoted in budget revenues area should set the volume, origin and forms of mobilizing revenue.

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THE CONSEQUENCES OF FAILURE TO COMPLY WITH RULES OF BEHAVIOR - DISMISSAL OF THE EMPLOYEE

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Abstract

In this research theme is the question of legally, if non-compliance behavior by an employee, inside or outside, during the program of work, is grounds for disciplinary dismissal (Article. 61 letters of the Labor Code).

If the Labor Code of 1972 points in art.130 paragraph 1, letter a, the termination of employment for non-compliance behavior in the drive (along with serious misconduct or repeated misconduct), the current regulations (Labor Code subsequently amended and supplemented in 2003) makes no reference outside the rules of discipline of work and rules of behavior in the requires of the employee inserting the following work by legislation because there may be some situations when a person commits the guilt out of service, or working outside certain facts which may affect the image and prestige of the employer, or violates certain obligations of fidelity or secrecy of the service unit.

THE UNICAMERAL OR BICAMERAL PARLIAMENT – ADVANTAGES AND DISADVANTAGES

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Abstract

The constitutional progress of the modern Romania during the history has involved the issuing of significant stages and processes, in order to establish the principle of representing the sovereign wish of the people, as one of the essential principles on political organizing of a company. Within this frame, the Parliament has always been the only lawgiver authority that is defined according to chambers, from where the unicameral or bicameral parliaments were formed. In time, their functionality has defined the advantages and disadvantages that democracy faced with.

CONSIDERATIONS OF HOW TO BUILD CREDIBILITY USING CORPORATE RESPONSABILISATION PRACTICES

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Abstract

Corporate Social Responsibility (CSR) is becoming an increasingly important activity to businesses nationally and internationally. As globalisation accelerates and large corporations serve as global providers, these corporations have progressively recognised the benefits of providing CSR programs in their various locations. CSR activities are now being undertaken throughout the globe.

Corporate social responsibility (CSR) promotes a vision of business accountability to a wide range of stakeholders, besides shareholders and investors. Key areas of concern are environmental protection and the wellbeing of employees, the community and civil society in general, both now and in the future.

With the competition becoming stronger, the traditional distinguishing characteristics of a mark are not sufficient. Companies are more evalued - beyond their economic performance or quality management - alsow by the assumption of social responsibilities. Therefore social responsibility activities, properly communicated, can act as a veritable image campaign.

Yet, unfortunately for economic agents, corportate social responsibility is not made through television or PR or advertising. Corporate social responsibility must be reflected by human resources policies, by product development strategies, and by the sustainable development policies.

CONSIDÉRATIONS SUR LES RAPPORTS CENTRE - PROVINCE DANS LE ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD

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Résumé

Les évolutions d'après la deuxième guerre mondiale de l'Italie, de l'Espagne et de la Belgique, ainsi que la déchirure de la Yougoslavie d'après la guerre froid prouvent que la solution choisie pour le problème des rapports centre-province est une déterminante pour la prospérité ou la ruine d'un pays. C'est une raison suffisante que ce problème fasse l'objet de la recherche scientifique. L'analyse des rapports centre-province suive deux repères essentiels connexes : la structure de l'état et la situation de la décentralisation. Notre attention est ciblée sur le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord puisque sa position insulaire a fait que son système politico-juridique subisse d'influences minimales, faite qui promet des spécificités intéressantes. Comme suite à l'analyse réalisée, sur la situation de la décentralisation et la structure d'état du Royaume, nous considérons que la stratégie britannique, en ce qui concerne les rapports centre-province, est la flexibilité pragmatique, en dehors de contraintes des modèles théoriques. Plus précisément, malgré la reforme décentralisatrice du système politico-administratif des années 1997-1998, la structure d'état du Royaume reste unitaire, mais l'importance de l'autonomie des régions est reconnue par le centre, qui cherche d'aménager les relations avec celles-ci dans une manière réciproquement convenable, ou au moins acceptable, sans renoncer au contrôle.

THE PROTECTION OF EU FINANCIAL INTERESTS THROUGH RISK MANAGEMENT

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Abstract

Customs administrations which are primarily responsible for overseeing the international trade EU helps to ensure an open and fair trade by implementing the external dimension of the internal market, the common commercial policy and other EU common policies, and also hepls to create the security of the chain supply.

Because reducing the compliance costs and administrative costs has become a key issue for an efficient and effective administration within the EU, the customs authorities have the role to protect the financial interests of EU and the EU Member States, and also to protect EU against the unfair trade and illegal practices.

Thus, we believe that is required a high level of cooperation between customs authorities and business community to enhance the compliance with customs regulations and to reduce bureaucracy, especially through a more targeted approach to risk management and the development of services through "one booking office"[1].

[1] For details, see the development strategy for the customs union, European Commission Brussels, 1.4.2008 COM (2008) 169 final.

INSTITUTIONAL FRAGILITY PREVENTION BY TERRITORIAL MARKETING SOLUTION

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Abstract

The research aims to define the general and specific competences necessary for complex territorial systems coordination – one of the key solutions for sustainable development. Based upon a consistent up-to-date body of knowledge -scientific and empirical data analysis and interpretation of validated final reports of national and European research projects - CEEX and FP6 SPAS, we propose a highly predictable territorial business solution relying primarily upon realistic definition and evaluation of traditional/local markets of products and innovative technology. Secondly, the solution is describing regional and local institutional fragility, as threats to be prevented by adapted coordination instruments, in the framework of long-term development cooperation.This interdisciplinary research is designing the framework able to relationship Territorial Marketing; Business Localization Policy and Sustainable Development. The innovative component of the paper follows the harmonizing of the divergent interests of actors involved in territory area, through the development of a new segmentation model consistent with the required performance of administrative strategic behaviour. An integrated Marketing Intelligence System will enable higher predictability in the evolution of territorial attractiveness on one hand, and will coordinate the innovative behaviour of the actors involved on the other hand.

CONSIDERATIONS ON THE STIPULATIONS INCLUDED BY THE ROMANIAN LEGISLATION CONCERNING THE RIGHT TO LIFE

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Abstract

1991 Romanian Constitution includes the standards of the constitutional democracy and state, as they are laid down in international documents, such as the constitutional acts of the European Council , documents adopted in different reunions of the member states of the Organization for Security and Cooperation in Europe and certainly, the documents adopted by the United Nations Organization. Second title of the Romanian Constitution is dedicated to the fundamental rights and duties of the citizens.

In Romanian Constituion the right to life is stipulated in its restrained meaning, the only one to ensure a real protection of this right. This is because it is very difficult for a state to assume and to fulfill such obligations, especially the rights referring to the standard of living, exclusively depending on the economical situation of each state.

LE SYSTEME ELECTRONIQUE D'ACQUISITIONS PUBLIQUES (SEAP)

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Abstract

Les réglementations juridiques dans le domaine des acquisitions publiques sont de manière permanente révisées et adaptées pour leur harmonisation à l'acquis communautaire. Le respect des principes généraux suite auxquels on déroule l'activité d'acquisition publique avec financement des fonds publics, impose une connaissance performante du système électronique d'acquisition publique.

THE ISSUE OF DECREASING THE FISCAL COMPETITION WITHIN EUROPEAN UNION TERRITORY

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Abstract

The problems produced by the control of the fiscal competition within European Union territory are, theoretically, extremely sensitive. From a more practical point of view, of the European construction, though difficult due to the necessity of solving them in reasonable time (to moderate, if not to completely eliminate fiscal competency), these claim finding solutions accordingly to the community legislation.

The monetary union, suggesting to generate a higher mobility of goods and services, of capital and, maybe, of individuals within the European territory, is funding the applying of some fiscal arguments on two types of considerations: some to result from the analysis of fiscal competency between territorial communities inside integrated monetary spaces (federations or Unitarian states) and others to reveal the mechanisms of the competency between the national states inside an economical integrated area.

THE RECRUIT OF PUBLIC SERVANTS

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Abstract

Forming and mantaining a professional body of public servants necessitates the existence and the appliance of laws which can insure a high level of competence in order to properly furfill the tasks of public administration.

Romanian law establishes that the recruit of public servants is to be done in most of the cases, by contest or exam, in order to choose the best qualified person for the job.

This paper consists of a brief annalisys of the recruit of public servants in our country as well as the recruit of public servants in other european states and of the comunitary servants in European Union. We shell observe the different systems of recruiting, the several methods and criterions used in the legislations we mentioned.as well as the upgrades that would be necesary in our ppoint of view in order to improve the romanian system of recruiting public servants.

The present papar also contains a presentation of the rules by which are organised and evolved the contests for obtaining a job as public servant, with it`s most important aspects.

INFLUENCE OF STRUCTURAL AND COHESION FUNDS ON REGIONAL DEVELOPMENT IN ROMANIA

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Abstract

Regional policy funding, and general economic and social cohesion, is made of structural and cohesion funds (mainly), and effects, in terms of cost or net benefits, depend heavily on national organizations (institutions) for implementation of structural funds effectively manage these tools. While during the pre-accession financial instruments created by EU for Romania (and other candidate countries) have been designed after the model of structural and cohesion funds, just the idea of national authorities prepare for reality implied by its membership, however, the common position EU on regional policy and coordination of structural instruments and documents further stated that Romanian authorities do not yet have an adequate capacity for management of structural instruments, which obviously has implications in terms of cost.

ISSUES SUCH AS THE HISTORICAL EVOLUTION OF REGULATIONS ON ADMINISTRATIVE TERRITORIAL UNIT SECRETARY IN THE ROMANIAN

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Abstract

Based on the appearance as secretaries, this paper aims to draw in the Romanian legislation driven evolution of this profession too often confused, any time on any segment studied, with others, not necessarily less important, leading to confusion as the duties of this function.

Without claiming to be drafted a treaty in the field, to reach this goal,the work passes through the entire Romanian legislative route, from the first clear law in regard to the material studied, that municipal law in April 1864 and Law of the county council April 2, 1864, until today,The Local Public Administrative law 215/2001.

Althought we can not take the ideea of the Professor Antonie lorgovan that „the Secretary of the Executive Popular Board must be at least equal emphasis to that of mayor", however,we are still using the idea of argumenting the importance to analys the importance of this function. Or, if the teacher gave this idea to the year of 1986 ,starting from the designated mission of the Secretary respectively, based on scientific substantiation and " coating legal coat"of the popular councils judgments or, where appropriate,the decision of the executive committees (offices) under the conditions that at the Local Public Administration worked by about one hundred officials - the specific example is District 5 Bucharest - more important is this work after 2000, when, following the acquisition of numerous other institutions to be subordinate, the Secretary shall coordinate and lead thousands of civil servants.

Furthermore, any work that aims to improve the analysis of the regulatory framework of this institution, necessarily starts from attending also all aspects of the istoric evolutionary nature of this institution, analysis which allows highlighting the positive aspects,but more important especially the mistakes of their predecessors to be able to avoid them.

SOCIAL SECURITY IN ROMANIA = CONCERN FOR GOVERNANCE

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Abstract

Social protection system is a set of social programs that are designed to protect individuals from the situation interruption or loss of earning capacity. Social security is a special form of protection that society attaches to its members. They provide support to counteract the effects of various economic risks (eg loss of income due to illness, due to reduced work ability in old age, due to unemployment). Therefore, about social security is said sometimes that is a type of social security, sometimes, that is a sector of social policy, the more it considers that, in fact, these two terms are interchangeable.

AN OVERVIEW OF THE ADMINISTRATIVE DOCUMENTS THAT ENSURE THE CHILD'S RIGHTS PROTECTION

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Abstract

Even since the beginning, in order to be able to register the child's birth at the Register of Births, Deaths and Marriages, it must be made a series of administrative documents for the child. During the time interval as a minor, the child's rights protection implies the emission of a series of administrative documents that confers him/ her an identity, financial rights, education etc. These administrative documents are issued by different institutions, on the basis of some different legislation. The things are simpler when we talk about a child who has responsible parents, who are concerned about ensuring their child all the rights given by the law and legislation. On the other hand, in the case when the child comes from a family who cannot or does not wish to offer the child a proper environment for his/ her growth and education, the State, through its institutions, must take over this task and make the necessary approaches and steps so that each child should beneficiate and take advantage of better life conditions. Therefore, it is necessary again the emission of a series of administrative documents that have as purpose or aim the child's rights protection.

DEMOGRAPHIC RISK IN GALATI COUNTY

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Abstract

Demographic component is the "engine" of regional development. The inability to support and exploit the potential of its space to optimum parameters generates dependence on other areas of human collectivities, amplifying the vulnerability and risk status of population. Quantifying the demographic risk has become, nowadays, a national and international priority because of the negative mutations occurred in demographic behavior caused by unfavorable national and especially international economic and political circumstances. This study represents a first attempt to quantify the demographic risk in the county of Galati, the novelty consisting in aggregate analysis, for each administrative-territorial unit, of the most important demographic risk indicators. Aggregation of these indicators and the final values obtained reflected a final synthetic array of the demographic risk mapped into three colors: white- low risk; gray - medium risk; black-high risk.

TOURISME DURABLE DANS L'ESTUAIRE DE LA SEINE – JEU D'ACTEURS ET STRATEGIES D'ALLIANCE POUR UN DEVELOPPEMENT TERRITORIAL AU DELA DE LIMITES ADMINISTRATIVES

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Résumé

L'Estuaire de la Seine représente le plus grand complexe estuarien du nord-ouest de la France et l'un des plus grands de l'Europe. Véritable interface entre fleuve, mer et terre, l'estuaire se constitue d'une mosaïque de milieux très différents, mais complémentaires : patrimoine architectural ancien (abbayes, châteaux…) et architecture moderne (le centre ville du Havre avec son architecture moderne, signée August Perret), espaces urbains et ruraux, zones industrielles, zones SEVESO[1] et espaces protégés (par ex. la Réserve Naturelle de l'Estuaire, le Parc Naturel Régional des Boucles de la Seine Normande)…Une activité maritime et portuaire importantes qui coexiste en même temps avec de nombreux espaces agricoles. On y retrouve une bande littorale avec une tradition touristique importante (Honfleur, Etretat, Deauville, Trouville-sur-Mer), mais aussi un « arrière-pays », zone située plus dans les terres, insuffisamment mise en valeur…et pourtant, bénéficiaire d'une richesse de paysages et de sites, insoupçonnée par les touristes, très souvent attirés par la mer.

Autour de cet ensemble, il existe une ambition politique, démarrée par la ville centre, le Havre, et soutenue par une bonne partie des élus de l'Estuaire de la Seine. Ceux-ci se sont réunis dans une structure légère, - le Comité des Elus de l'Estuaire de la Seine - un club informel, ayant comme principal objectif la cohérence territoriale, au-delà des limites administratives existantes. Dans ce cadre, le tourisme est un sujet fédérateur qui retrouve l'intérêt de ce groupe politique estuarien. Un projet appelé « Tourisme durable dans l'Estuaire de la Seine » a été lancé en 2006 avec l'objectif final d'aboutir à une véritable destination touristique, inscrite dans les principes du développement durable, destination exemplaire qui aura comme objectif principal de s'adresse à une clientèle de proximité, les habitants de l'estuaire, considérés comme la clientèle prioritaire de cet espace et dans la perspective, vers

[1] Zone à risque industriel

une clientèle de l'extérieur, voir même au-delà des frontières de la France.

Le tourisme est un secteur en plein essor et le projet intéresse les acteurs politiques et techniques. Moins polémique par rapport à d'autres projets lancés également à l'échelle estuarienne, il a comme avantage un travail orienté prioritairement vers la population locale, important moyen de construction d'une identité estuarienne.

Dans ce contexte, plusieurs questions se posent. L'espace estuarien, est-t-il une échelle territoriale pertinente ? Quelles sont les possibilités pour repenser et ouvrir les frontières classiques des territoires déjà touristiques ? Quelles solutions pour une mise en connexion des sites touristiques très connus avec d'autres, moins connus, mais en même temps très complémentaires ? Quels points d'encrage territorial pour une politique touristique estuarienne ?

De point de vu géographique, l'estuaire est un ensemble unitaire qui réunit les deux rives du fleuve. Dans une analyse particulière sur son organisation et fonctionnement administratif, nous pouvons observer que le fleuve constitue la colonne vertébrale, l'axe principal qui donne la dynamique de cet espace, mais c'est encore prématuré de parler d'une unité. Nous y retrouvons deux région (la Haute et la Basse Normandie), trois départements (76, 27, 14) et cinq Pays – définis comme des territoires de projet (Point de Caux Estuaire, Haute Falaises, Pays d'Auge, Risle Estuaire et Caux Vallée de Seine). Si on y rajoute également les structures administratives responsables de l'activité touristique, nous pourrions avoir une image assez parlante de la complexité de cet espace et de la difficulté du travail qui reste à faire, pour pouvoir parler un jour, plus ou moins proche, d'une destination touristique « Seine Estuaire ».

Quel intérêt pour les collectivités territoriales pour travailler ensemble pour une destination touristique qui dépasse leurs propres limites territoriales ?

Dans le contexte mondial, les touristes ont une plus grande disponibilité de mobilité. L'époque des séjours passés intégralement dans une seule station touristique est dépassée. Le raccourcissement des séjours et le manque généralisé de temps, le désir de connaitre et de « faire » de plus en plus de lieux touristiques déterminent les touristes à s'intéresser sur la mise en connexion des sites touristiques de proximité. De plus en plus, une logique d'organisation des séjours touristiques sous un principe d'itinérance, s'impose.

La mondialisation a mis en concurrence les destinations touristiques à l'échelle planétaire, mais des nouvelles stratégies d'alliance naissent pour un développement territorial axé sur le principe de proximité.

Des destinations touristiques classiques, comme Deauville, Honfleur, Etretat ou Fécamp commencent à comprendre les enjeux de cette mise en itinérance, de cette ouverture vers d'autres destinations et sortent de l'état de l'autosuffisance. Une ville comme le Havre, avec un poids économique important dans l'Estuaire, gagne de place dernièrement dans l'activité touristique et devient un partenaire intéressant à associer.

Le travail pour un premier produit touristique estuarien structurant a été commencé en 2008. Il s'agit d'une navette fluviomaritime entre Honfleur/Deauville/Trouville-sur-Mer/le Havre. A la base c'est la nostalgie pour une ancienne navette qui faisait la liaison entre les deux rives jusqu'au début du siècle dernier, l'absence d'un tel produit axé sur l'eau, qui fasse la liaison entre les deux rives et une volonté des élus des quatre collectivités qui ont compris les enjeux d'une mise ne connexion des quatre villes, chacune avec sa spécificité : tourisme urbain (le Havre), de passage (Honfleur), résidentiel (Deauville/Trouville-sur-Mer).

Si le projet aboutissait, ce serait la première démarche concrète de tissage d'une nouvelle forme spatiale à finalité touristique dans l'Estuaire, qui dépassera les frontières administratives classiques, un premier espace « noyau » d'une prochaine destination touristique estuarienne. Cela donnera la possibilité aux touristes et aux habitants de se déplacer vers d'autres destinations, autour de thématiques structurantes et en même temps complémentaires : tourisme urbain, patrimoine architectural, offre culturelle, activités ludiques etc…

THE FINANCING OF LOCAL PUBLIC ADMINISTRATION PROJECTS THROUGH STRUCTURAL FUNDS

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Abstract

The structural funds do not constitute the only financing source within the Union budget, but each of them covers its specific thematic area, respectively it answers the European politics objectives, therefore the present paper approaches the programs financed through structural funds, where the public administrations may be applicants. Although the experience gathered through the implementation of the projects financed through pre-accession funds should bring benefits to the local public administrations, the reduced number of projects proves quite the contrary. Given the fact that the accession of structural funds is more complex, we try to highlight the differences existing between the pre and the post-accession funds, presenting at the same time the problems encountered by the local administrations in Romania when implementing the projects financed from structural funds.

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THE IMPACT OF PUBLIC DEBT ON ECONOMIC GROWTH AND DEVELOPMENT IN ROMANIA IN TIME OF FINANCIAL AND ECONOMIC CRISIS

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Abstract

In this time of financial and economic crisis, which affected Romania as the majority of worlds national economies, the issue of public debt is back on the economic policy research agenda. Public finances are key driver in the EU for economic recovery as the debth of the recession and credit constraints require fiscal policy action.

This paper emphasis the needed review of public debt and its role in economic development as a particular challenge for emerging economies such as Romania. We explore the most important effects of public debt (public loan in 2009 contracted of Romania from IMF) on economic growth like crowding-out effect, the realtionship between private and public financial transfers, the effect of public debt over GDP growth, inflation and on the sustainability of fiscal policy on the long run. Finnaly we estimate that the composition of public debt can suport debt stabilization and how debt management can stabilize the debt to GDP ratio in face to real returns and outputs growth and thus supports fiscal restraint in ensuring sustainability.