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20th-21st of April 2012

LAW SECTION

HUMAN RIGHTS AND THEIR UNIVERSALITY. FROM THE RIGHTS OF THE "INDIVIDULUAL" AND OF THE "CITIZEN" TO "HUMAN" RIGHTS
Dură NICOLAE, Cătălina MITITELU

THE FINANCIAL INVESTMENTS SERVICES COMPANY
Răducan OPREA, Ramona OPREA

SOVEREIGNTY – STATE POWER QUALITY
Mircea TUTUNARU

EUROPE 2020 – MODERNIZING THE EU POLICY ON PUBLIC PROCUREMENT
Florin TUDOR, Andreea-Loredana TUDOR, Ionut JARCĂ

JOINT VENTURE – A SYNTHETIC LOOK ON THE REGULATION OF THIS CONTRACT IN THE NEW CIVIL CODE
Simona Petrina GAVRILĂ

FAMILY HOUSING IN THE REGULATION OF THE NEW CIVIL CODE
Simona Petrina GAVRILĂ

DENOTATION OF SOME TERMS OR PHRASES IN ROMANIAN CRIMINAL LEGISLATION. CONNOTATIONS
Angelica CHIRILĂ, George SCHIN

THE NEW CIVIL CODE - IDENTIFICATION OF THE LEGAL PERSON
Silvia CRISTEA

PREVENTING AND COMBATING HUMAN TRAFFICKING
Nadia Elena DODESCU

STATUS OF CONTRACTS DEBIT RIGHTS AGAINST CREDITORS IN INSOLVENCY PROCEEDINGS
Romulus MOREGA

THE CONSUMER PROTECTION IN RESPECT OF ELECTRONIC CONTRACT
Alexandru BLEOANCĂ

CONSUMER LAW FROM THE PERSPECTIVE OF COMMUNICATION LAW
Oana GĂLĂȚEANU

DISMISSAL OF SCIENCE ON THE PART OF THE ROMANIAN NEW CRIMINAL CODE LAWMAKER
Gheorghe IVAN, Mari-Claudia IVAN

DIFFERENT ASPECTS REGARDING THE THEFT OFFENSE RESEARCH ON THE SPOT
Adriana TUDORACHE

DEVIATION AND JUVENILE DELINQUENCY
Adriana TUDORACHE

THE LAW – CONCEPT AND VALIDITY
Emilian CIONGARU

SOME CONSIDERATIONS ON EXTINCTIVE PRESCRIPTION IN REGULATING THE NEW CIVIL CODE
Costin MĂNESCU

THE LAW APPLICABLE TO CONTRACTUAL OBLIGATIONS IN THE NEW EUROPEAN LEGISLATION – REGULATION NO. 593/2008 (ROME I)
Teodora-Maria BANTAŞ

CYBER NOTARIES CHARACTERISTICS AND THEIR ADAPTING TO THE DYNAMICS OF THE E-BUSINESS ENVIRONMENT
George SCHIN, Angelica CHIRILĂ

CONTRAT DU TRANSPORT INTERNATIONAL MARCHANDISES MULTIMODAL
Alina SULICU

MODALITÉS DE MISE EN MOUVEMENT DE L'ACTION PÉNALE POUR LES INFRACTIONS CONTRE LE PATRIMOINE DANS LE NOUVEAU CODE PÉNAL
Monica BUZEA

LE CARACTÈRE AUTONOME DU DROIT PÉNAL
Monica BUZEA

THE RIGHT TO DECENT HOUSING VERSUS THE RIGHT TO PROPERTY BASED ON THE EUROPEAN CONVENTION OF HUMAN RIGHTS
Gina IGNAT

THE MEDICAL MALPRACTICE
Natalia-Adriana UDRIŞTIOIU

20th-21st of April 2012

20th-21st of April 2012

HUMAN RIGHTS AND THEIR UNIVERSALITY. FROM THE RIGHTS OF THE "INDIVIDULUAL" AND OF THE "CITIZEN" TO ”HUMAN” RIGHTS

Dură NICOLAE

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Abstract

At the meeting of Thessaloniki (June 2003), the European Council adopted at first the 59 articles of the project of the Treaty establishing a Constitution for Europe, and afterwards they analysed the Charter of fundamental rights, adopted in December 2000 at the meeting of Nice, which was in fact incorporated in an almost mot-à-mot manner in the second part of the respective Treaty.

By incorporating the text of the Charter adopted in Nice they wanted to emphasize the fact that the assertion and protection of human rights and liberties is the main preoccupation of the member States of the European Union. Actually, this reality is also evinced by the Treaty establishing a Constitution for Europe, which was ratified in Lisbon in December 2007 and which was already signed by the member States of the European Union. The whole text of the Charter of fundamental rights adopted in Nice in December 2000 is also included in the second part of this Treaty.

Based on the testimonies collected from the studies of some European jurists, competent in the field of human rights and on the brief analysis of the text of the main instruments of international Law and of the community and European law - starting from the Declaration of New York from the year 1948 and ending with the Charter of Nice from the year 2000, - we could notice, as an obvious fact, that the human rights and liberties are a preoccupation of the entire mankind, hence their universalist character. We also noticed the fact that the way how these human rights and liberties are still perceived and expressed by jurists and defended by the States of the world is not yet completely unitary. Hence, the obligation that the specialists (jurists, theoreticians and practitioners) write a constitutional text in which to mention all the principles stated by the main international and European documents regarding the human fundamental rights and liberties, the content of which would include – next to the constitutional Traditions which are common to the member States – all the general principles of the Law of the European Union. Finally, based on the text of the study we can also notice the fact that, in the documents which represent the main instruments of international and European Law, regarding the human rights, they refer to the notion of human and not to the one of citizen, which we unfortunately still find in the text of the Constitutions of some E.U. states, including the text of the Constitution of Romania.

THE FINANCIAL INVESTMENTS SERVICES COMPANY

Răducan OPREA

Ramona OPREA

Abstract

The financial investments services company is the joint stock company which has as an exclusive object the provision of investment services and operates under the supervision of the National Securities Commission.

The financial investments services company can operate main services and related services.

The minimum share capital is Euro 50,000 - 730,000 Euro - depending on the financial investment services it provides.

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SOVEREIGNTY – STATE POWER QUALITY

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Abstract
Sovereignty is a feature of state power that expresses the right of thepower to organize and to exercise, to establish and solve internal and external issues freely and according to his will, without any a mixture, respecting the sovereignty of other states and international law.

Sovereignty is an exclusive attribute of state power. A note of specificity of this power is to distinguish domestic from any other social power and external power of any other state or superstate.

EUROPE 2020 – MODERNIZING THE EU POLICY ON PUBLIC PROCUREMENT

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Abstract
In the European Union the process of public procurement is currently facing new challenges, namely large public deficits and, therefore, need for efficient use of public money, and while the demand increased, public procurement came to contribute to the overall objectives of society (innovation, climate change and social inclusion). The present study aims to analyze the process of upgrading the current system of procurement by the European Union through Europe 2020 strategy, which mainly consists of adopting new regulations to meet the challenges mentioned, reforming the existing rules and also creating more flexible and easier tools to use in order to reduce the cost and duration of contracting and thus achieving efficient use of public money.

JOINT VENTURE – A SYNTHETIC LOOK ON THE REGULATION OF THIS CONTRACT IN THE NEW CIVIL CODE

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Abstract
The joint venture is an agreement by which two or more persons commit to contribute with money, with goods, with specific knowledge or conscription in order for one of them to perform one or several operations, so that each of the parties to participate in the profits and losses of the proposed operation/operations.
Both the incident regulations contained in the old regulation, the Commercial Code, and the current ones, following the entry into force of the new Civil Code, outline this legal institution as a flexible one, widely used by professionals.

FAMILY HOUSING IN THE REGULATION OF THE NEW CIVIL CODE

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Abstract
Regulated for the first time in the New Civil Code, the family housing is being outlined as a new legal institution, which is identical with the common domicile of the spouses.
The particular legal regime of the family housing is dwelling with the confinement of the right of one of the spouses to dispose, without the express consent of the other spouse, by legal acts, of the family housing, even when the concrete matrimonial regime would bestow him/her this right, thereof a series of legal consequences are deriving.

DENOTATION OF SOME TERMS OR PHRASES IN ROMANIAN CRIMINAL LEGISLATION. CONNOTATIONS

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Abstract
Within the activity of developing legal norms generally, therefore of the criminal law norms, the legislator uses different terms and expressions in order to render formally the content of these norms. The will expressed in the provisions of the law is externalized and it is set out in this way.
However, for a proper understanding of the legal content of the criminal norm and its area of application, it is necessary to know the exact meaning of the terms or phrases used in law's texts as literal elements of these texts, provided either in the Criminal Code, or in special criminal laws or in non-penal laws, but which contain provisions with criminal character.

The need to explain certain terms or expressions in the general section of the Criminal Code has been imposed by their repeated usage in the issuance of some texts.
Forensic practice or specialty legal works will not assign other denotations, but the meaning that criminal law itself gave to these words or phrases.

THE NEW CIVIL CODE - IDENTIFICATION OF THE LEGAL PERSON

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Abstract
The article presents issues related to the identification of the legal person in the New Civil Code and in the commercial law special regulations, namely the Law 26/1990 regarding the Commercial Register and the Law no 31/1990 regarding commercial companies. This study aims at identifying the areas where the commercial law, a law for the professionals in the field, has brought changes into the civil law as common law; therefore, this study is meant for academics and professionals in the field. One outcome of this study is the identification of new attributes such as: bank account, registration number for VAT purpose, telephone, fax, and equity, apart from the identification attributes included in the New Civil Code, such as: name, registered office and nationality, registration number and the unique registration number.

PREVENTING AND COMBATING HUMAN TRAFFICKING

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Abstract
The danger represented by the human beings trafficking infringes some of the most important of the people rights, namely the physical and psychical freedom and even life threatening.
The approch of this theme is imposed by the fact that the human beings traicking is a form of criminal behaviour very commonly encountered winthin large socio-geographical spaces which cross the state borders, turning into a global phenomenon.
This fact forces the states and international organizations to adopt drastic and efficient measures for the prevention and stopping of this plague.

STATUS OF CONTRACTS DEBIT RIGHTS AGAINST CREDITORS IN INSOLVENCY PROCEEDINGS

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Abstract
Faced with the threat of loss of control of its business, the debtor will first try to save their business, making efforts to create an image - often false - of good repute and credibility, making that information, financial accounts is in its possession not available to creditors. This information may be used or trafficked in dishonest in damage creditors, who have invested confidence in the debtor, however, when they entered into business with him.
The Insolvency Law sets up an action to annul the transactions and transfers made by the debtor in the suspect period, action designed to remarke the debtor' s estate and to re/instate the creditors in a collective and equal position regarding the estate to share.It is enough to state the fraud, not to prove it, the debtor or the counterpartyof the debtor having the burden to over turn the presumption, in order to keep seif the transaction made in the suspect period.

THE CONSUMER PROTECTION IN RESPECT OF ELECTRONIC CONTRACT

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Abstract
The electronic contract (the contract concluded in electronic form) is a recent concept, but its main characteristics are common with those of the classical contract (i.e. paper-based contract). The last one was created under a fictitious image of the world, according to which all human are equal, not only in their rights but also in their economic power.
Therefore, the legislator granted the parties the right to negotiate their contracts, considering that nobody else knows better their interests. But in the real world, although a person usually knows his interests, there are situations in which he cannot protect them (the common example is the loan contract concluded with a bank: although the person wants a low interest rate, he will be forced to accept the higher one imposed by the bank).
Only recent the legislator accepted that the difference in economic power triggers differences in the legal situation, especially under the contract law. As a consequence, not only to that premise but also to the increase of the consumerism and of the technical involvement in the consumer products, several new legal concepts appeared among which consumer protection and personal data protection are very interesting. Our paper analyzes certain aspects of the first concept (consumer protection) as it is influenced by the use of electronic contract.

CONSUMER LAW FROM THE PERSPECTIVE OF COMMUNICATION LAW

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Abstract
In this paper, starting with the importance which the consumer has in a market economy, there are tackled the rights recognized by law for the consumer.
At the same time, reporting also to the communication law, in this paper there are analyzed the rights which any consumer must have, identifiable or not (and which must be complied with), from this law point of view. There are analyzed also those legal persons, public bodies and institutions that have the obligation to comply with the rights legally recognized to the consumers and the way they must fulfill these obligations.
This paper wants to show that in a market economy, the consumer must not be neglected, as he/she is the "king/queen".

DISMISSAL OF SCIENCE ON THE PART OF THE ROMANIAN NEW CRIMINAL CODE LAWMAKER

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Abstract
The lawmaker of the new Romanian Criminal Code kept most of the regulations from the Criminal Code in force, the so-called invariables of the criminal law but he also introduced new regulations, unknown to our law, some of them being requested by the present socio-economic conditions and others were introduced due to the lawmaker's wish to come up with something new in contrast with the criminal law in force or to simply take them from other foreign laws, although the science of the criminal law did not claim it.
In this study, the authors make an inventory of these innovations, trying at the same time to analyse them and to reveal the inopportunity of introducing or taking them from other foreign laws.

DIFFERENT ASPECTS REGARDING THE THEFT OFFENSE RESEARCH ON THE SPOT

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Abstract
The criminal legislation since ancient times has severely incriminated and sanctioned crime against patrimony.
Nowadays, since the criminal phenomenon expanded in an alarming fashion, taking shapes that make its control impossible by singular efforts of the States, and under the conditions of the use by criminals of modern means in committing criminal offences, the discovery of the perpetrators of these acts has grown increasingly difficult. Therefore, lately it was found the need for a complex collaboration between the States, in the situation in which they began to sign conventions and treaties.
A major concern of justice represents finding the truth, the most troublesome process of the society. The reason for which the legislature has made a special procedure for criminal offences was the obvious disorder of the rule of law, as well as the challenge of resentment and fear in the midst of those who were at the place where the offenses have been committed. An important role in the research activity of crimes is the investigation on the spot.

DEVIATION AND JUVENILE DELINQUENCY

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Abstract
The juvenile delinquencies constitute a problem of the contemporary world intimately linked to the depravity (disruption) of family, which, instead of contributing to the enrichment of the personality of two partners through a new personality, that of the couple, on the contrary, it gets loaded by anxiety, conflicts and even violence.
The juvenile delinquency raises three essential issues in criminological aspect, namely:

- *Avoidance of ambiguity in its definition*, because not every home leave should have considered a delinquency, though the latter is usually preceded, by behavioral disorders. The fact that any delinquency of a minor is preceded by behavioral deflections shall never been overlooked;
- *Scientific explanation of juvenile behavioral dysfunctions*, which should constitute the scientific support for the behavioral rectification and for the avoidance of the risk of for these dysfunctions to remain permanent;
- *The adoption of the most appropriate medico-social and medico-pedagogical measures* for behavioral rectification, which must prevail in the social and judicial attitude towards the juvenile deviation, because the child’s personality is in full development.

THE LAW – CONCEPT AND VALIDITY

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Abstract
The concept of content of validity of the law is definition of the concept of law being characterized by three concepts: sociological - covering social validity, ethical - covering the moral and legal validity It deals with the legal validity. These three concepts of validity are correspondences of three elements of the concept of law: the social efficiency - reflects the quality of any action to ensure satisfaction some needs social human with material, cultural, spiritual, educational fairness of the content and lawfulness authoritarian - with reference the real power establishing of the system of rules that make the right. Analyzing all these elements to shape the legal definition of law which contains the principles on which to build arguments in the decision-making by lawyers for law enforcement.

SOME CONSIDERATIONS ON EXTINCTIVE PRESCRIPTION IN REGULATING THE NEW CIVIL CODE

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Abstract
Extinctive prescription is defined as a penalty consisting of law to settle the substantive law in action has not been exercised within (article 2500 paragraph 1 Civil Code). Through this study we intend to do a parallel analysis of the rules governing prescription extinctive-stated rules in the new Civil Code which came into force on 1 0ctombrie 2011 - with reference to the old regulatory extinctive prescription

THE LAW APPLICABLE TO CONTRACTUAL OBLIGATIONS IN THE NEW EUROPEAN LEGISLATION – REGULATION NO. 593/2008 (ROME I)

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Abstract
Regulation (EC) No. 593/2008 on the law applicable to contractual obligations (Rome I) has become, since entering into force on June 17th, 2008, one of the most important instruments of private international law.
Its main objective is to offer parties to both civil and professional relations, as well as courts of justice and arbitral tribunals, means to determine the law applicable to contracts concluded between parties from European Union member states. Rome I Regulation has a decisive role in regulating conflicts of laws and identifying the same applicable law, irrespective of the nature of the contract, the origin of the parties and the courts of law where the litigation is being carried out.
The present study is dedicated to identifying and analyzing the principles set forth by Rome I Regulation, regarding the law applicable to contractual obligations, which may be categorized as follows: a) the principle of autonomy of will of the parties – lex voluntatis; b) the principle of legally determining lex causae for certain types of contracts expressly mentioned; c) the objective localizing of contracts under a certain legal system upon predetermined criteria.

CYBER NOTARIES CHARACTERISTICS AND THEIR ADAPTING TO THE DYNAMICS OF THE E-BUSINESS ENVIRONMENT

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Abstract
The concept of electronic notary office or "cyber-notary" was developed at the beginning of the third millennium, following to the exponential development of software technologies and applications that support the electronic commerce. At global level, electronic notary documents are more and more accepted by legal regulations, and manifold documents that contain electronic signatures are certified and transferred with the aid of on-line communication networks. New information and communications technologies cannot substitute completely the human factor within the processes implied by traditional notary activities.

CONTRAT DU TRANSPORT INTERNATIONAL MARCHANDISES MULTIMODAL

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Resume
Soutenir l'amélioration des services intermodaux et de l'organisation et les procédures d'analyse des données afin d'assurer un train de marchandises de qualité et moins polluant, en utilisant les modes existants de coordination optimales et les acteurs et les décideurs afin d'assurer la flexibilité et la facilité de l'intermodalité est un moyen d'analyse la question de ce document.

MODALITÉS DE MISE EN MOUVEMENT DE L'ACTION PÉNALE POUR LES INFRACTIONS CONTRE LE PATRIMOINE DANS LE NOUVEAU CODE PÉNAL

Monica BUZEA

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Resume
Le système roumain d'exercice de l'action pénale est de nature mixte, où on prévoit la mise en mouvement de l'action pénale d'office pour la majorité des infractions; pour certaines infractions il est aussi possible de mettre en mouvement l'action pénale suite à la plainte de la personne préjudiciée.
Aujourd'hui, en ce qui concerne les infractions contre le patrimoine, la mise en mouvement de l'action pénale se fait d'office et, dans très peu de cas, suite à la plainte préalable de la personne préjudiciée (vols spéciaux, abus de confiance, gestion frauduleuse dans la variante du premier alinéa, destruction dans la variante du premier alinéa).
Le nouveau Code prévoit de manière supplémentaire le conditionnement de la mise en mouvement de l'action pénale de formulation de la plainte préalable par la partie préjudiciée pour l'infraction de trouble de la possession et la conciliation des parties pour l'infraction d'appropriation du bien trouvé ou arrivé par erreur à l'auteur et pour l'infraction de tromperie. On envisage aussi la possibilité de la conciliation des parties pour l'infraction de vol, simple ou aggravé.

LE CARACTÈRE AUTONOME DU DROIT PÉNAL

Monica BUZEA

Resume
Dans la doctrine juridique on a formulé plusieurs théories concernant le caractère du droit pénal, rapporté aux autres branches du droit : le droit secondaire, punitif ou autonome.
Si on fait une analyse du droit pénal de la perspective normative, conceptuelle et procédurale, on constate qu'il a un caractère autonome ; parfois, il protège les mêmes valeurs sociales que d'autres branches du droit.

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THE RIGHT TO DECENT HOUSING VERSUS THE RIGHT TO PROPERTY BASED ON THE EUROPEAN CONVENTION OF HUMAN RIGHTS

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Abstract
In the spirit of its founders, the European Convention was supposed to be an instrument whose "juridicity" should be indisputable and whose dispositions could authorize a stringent control of the objective law (substantial and procedural) both from the national and international judges in order to avoid arbitrary on the part of public authorities. This preoccupation justifies the insertion of civil and political rights founded on the idea of freedom in the 1950 Convention.
Unlike these rights belonging to "the first generation", true subjective rights that can be pleaded in court, the economical, social and cultural rights do not represent but mere lines of conduct drawn by public authorities.
As an official interpreter of the Convention, the Court in Strasbourg has proved to be sensitive regarding the problem of social rights, especially the right to decent housing, a right whose application is often in conflict with the prerogatives of the right to property.
In this approach we intend, by comparative analysis of some relevant decisions of the European Court of Human Rights, to emphasize the common "standard" imposed by the Court concerning the balance between the two rights so that one could appreciate if the transposition of the court position in the internal law is according to the article no. 46 of the Convention.

THE MEDICAL MALPRACTICE

Natalia-Adriana UDRIŞTIOIU

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Abstract
The medical malpractice error or mistake is understandable that adversely affects the person's professional, as a patient. Medical legal liability, the burden of medical personnel (doctors, pharmacists and nurses), is based on the guarantee they offer state constitutional level, by regulating the right to health.
Medical error is a mistake healthcare domain specific and can be committed only by medical staff. Medical error will be determined by reference to professional standards in force and the conduct of a good practitioner of the same specialty, placed in the same operating conditions as existing at the time of the error.
Law on health care reform in Romania - no. 95/2006 - defines the malpractice, specifying that the liability of medical personnel is essential to establish with certainty a causal connection between damage suffered by the patient and medical error complained of, taking into account the victim-patient is almost always engaged in a disease process that predisposes a person to objectively and necessarily suffer harmful consequences.
Medical negligence is defined as failure to practice medical rules, methods and procedures specific to medical or negligently made, inefficiency or neglect.
We can not speak for malpractice claims and patient outcomes due to victim status, previous surgery or medical procedure performed, or if the damage is due to patient behavior, or lack thereof, advice and prescriptions by non medical personnel involved in the case.
So, in talking about medical errors in diagnosis, treatment, specialized technical and supervisory / care, but medical staff liability and failure to comply with patients' rights, deprivation of chance, or the refusal or necontinuitatea medical care if necessary.

PUBLIC ADMINISTRATION & REGIONAL STUDIES SECTION

PARTICULAR ASPECTS OF URBAN DYNAMICS IN GALATI CITY
Violeta PUŞCAŞU

RESTAURATION OF THE HISTORICAL NAMES OF LOCALITIES - INITIAL PHASE OF THE REFORMATION OF THE TERRITORIAL AND ADMINISTRATIVE DELIMITATION OF THE REPUBLIC OF MOLDOVA
Sergiu CORNEA

LOCAL PUBLIC FUNCTION IN REPUBLIC OF MOLDOVA - EVOLUTION OF A STATUTE
Valentina CORNEA

THE INTERNAL CONTROL WAY TO EFFICIENCY THE PUBLIC ENTITIES ACTIVITY IN ROMANIA
Neculina CHEBAC

FEATURES OF INTERNAL AUDIT PERFORMANCE OF THE ROMANIAN PUBLIC ENTITIES
Neculina CHEBAC

THE ROLE OF GENERALIZED SYSTEM OF PREFERENCES IN THE EU POLICY OF FACILITATING THE INTERNATIONAL TRADE
Florin TUDOR

PLACES OF POWER: THE NOBILIARY RESIDENCES IN THE ROMANIAN ADMINISTRATIVE MECHANISM, 14TH-16TH CENTURY
Cristian APETREI

SOCIAL AND ECONOMIC ASPECTS OF THE MIGRATIONAL PROCESSES IN THE REPUBLIC OF MOLDOVA
Ina FILIPOV

THE APPLICATION OF THE PRINCIPLE OF ELIGIBILITY IN THE REPUBLIC OF MOLDOVA
Natalia SAITARLI

LA SÉLECTION DES RESSOURCES HUMAINES – ASPECTS THÉORIQUES ET PRATIQUES
Liviu COMAN-KUND

LEGAL MINIMALISM
Andreea Elena MIRICĂ

DEONTOLOGICAL ASPECTS REGARDING THE ACTIVITY OF THE CIVIL SERVANTS
Andreea Elena MIRICĂ, Ştefania Cristina MIRICA

ANALYSIS OF THE REGIONAL DISPARITIES IN ROMANIA
Camelia Mădălina ORAC

LABOR LAW VERSUS PUBLIC LABOR LAW
Ana ŞTEFĂNESCU

SOME SPECIFICATIONS AND CONSIDERATIONS RELATED TO CHILD RAISING LEAVES WHICH ARE GRANTED TO PUBLIC SERVANTS IN 2012
Ana ŞTEFĂNESCU

PRINCIPLES OF TRADE POLICY
Dana-Elena BOIAN (ROŞCA)

A BRIEF HISTORY OF THE CONTRAVENTIONAL PROCEEDING
Mădălina- Elena MIHĂILESCU

DISCIPLINARY RESPONSIBILITY OF THE EUROPEAN CIVIL SERVANTS
Ştefania Cristina MIRICĂ

MASS-MEDIA AND THE ENVIRONMENT: ROŞIA MONTANĂ IN THE PRESS CAMPAIGNS
Cristina PĂTRAŞCU

THE SYSTEM OF THE INCOMPATIBILITIES AND THE PLURALITY OF THE CIVIL SERVANTS' OFFICES
Ramona OPREA

JUDICIAL CONTROL OF PUBLIC ADMINISTRATION. COMPARATIVE STUDY IN SOME EUROPEAN COUNTRIES
Flavia GHENCEA

THE RIGHT TO A GOOD ADMINISTRATION IN THE LIGHT OF UE CHART OF FUNDAMENTAL RIGHTS
Elisabeta SLABU

LA PRODUCTION DE GROUPES SOCIAUX MARGINAUX, FACTEUR EXPLICATIF DU SUBURBANISME DANS LE PÉRIURBAIN DAKAROIS AU SÉNÉGAL.
Daouda Guilagnisse SANE

L'INÉGALITÉ D'ALLOCATION DES RESSOURCES SANITAIRES ENTRE LA ZONE URBAINE ET SES PÉRIPHÉRIQUES : « MODÉLISATION DU SYSTÈME D'ALLOCATION PAR LA TAXE D'ALCOOL À MADAGASCAR »
Amaïde Arsan Miriarison TSIKOMIA

20th-21st of April 2012

20th-21st of April 2012

PARTICULAR ASPECTS OF URBAN DYNAMICS IN GALATI CITY

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Abstract
Constrained in its expansion by physical and territorial-administrative limitations, Galați Municipality displays internally manifested functional static units, present at the level of neighborhoods, as well as at the external level, related to its possibilities of territorial connecting and expansion.
The functional enclaves have a double nature within the city, their relative isolation correlating with a certain process of social-cultural segregation, be it positive or negative.
At the outside, the surpassing of the natural and administrative limitations takes two forms, that of territorial community under the shape of pseudo-suburbs or the form of complete "relocation", beyond the administrative boundaries, at different distances, according to the main factor that generated the process.
Our communication aims to highlight the particular forms that wear Galati urban dynamics in the last times.

RESTAURATION OF THE HISTORICAL NAMES OF LOCALITIES - INITIAL PHASE OF THE REFORMATION OF THE TERRITORIAL AND ADMINISTRATIVE DELIMITATION OF THE REPUBLIC OF MOLDOVA

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Rezumat

Numele este unul dintre elementele definitorii esențiale ale identității unei colectivități locale. Prin numele său colectivitatea locală se autoidentifică şi se individualizează în raport cu alte colectivități de acelaşi gen.

Studiul accentuează ideea potrivit căreia reformele toponimice inițiate după anexarea în 1812 a Moldovei de Est de către Imperiul rus și cele din perioada sovietică au fost folosite ca un instrument de a forma o nouă identitate colectivă şi de a şterge memoria istorică. Aceasta se realiza în practică prin acordarea localităților şi unităților teritorial-administrative a unor noi nume cu vădite conotații ideologice şi prin lichidarea toponimelor ce puteau trezi la populație asocieri cultural-istorice „nedorite".

Faza inițială a reformei teritorial-administrative în R. Moldova a fost definită de revenirea la denumirile istorice naționale a localităților, legiferarea toponimelor şi antroponimelor în formele lor tradiționale şi corecte constituind o realizare marcantă.

LOCAL PUBLIC FUNCTION IN REPUBLIC OF MOLDOVA - EVOLUTION OF A STATUTE

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Rezumat
Eficacitatea administrației publice depinde de calitatea umană şi capacitatea tehnică a persoanelor care activează în cadrul administrației publice. Studiul accentuează ambivalența noțiunii de funcție publică, folosită pe de o parte pentru a desemna funcționarul public, pe de altă parte, persoanele numite sau alese în funcție de demnitate publică.
În Republica Moldova bazele juridice ale raporturilor de funcție publică sunt puse după adoptarea Constituției în 1994, cadrul legislativ specific funcțiilor publice şi titularilor acesteia constituindu-l Legea serviciului public nr. 443-XIII din 04.05.95. Deşi sistemul de administrare a fost supus unor numeroase reforme, statutul funcționarilor publici este revăzut abia în 2008, prin adoptarea Legii nr. 158-XVI din 04.07.2008 cu privire la funcția publică şi statutul funcționarului public.
Prin analiza comparativă a celor două legi, precum şi a modificărilor frecvente ce au urmat ulterior adoptării legii din 2008 se urmăreşte a evidenția dacă prin reglementarea statuară a funcției publice locale pot fi asigurate niveluri ridicate ale profesionalizării serviciului public.

THE INTERNAL CONTROL WAY TO EFFICIENCY THE PUBLIC ENTITIES ACTIVITY IN ROMANIA

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Abstract
Internal control is all forms of control exercised in the public entities established by management in accordance with its objectives and legal requirements in managing economic, efficient and effective the use of public funds.

Internal control provides useful information by which managers of public entities evaluate the entity's degree of reaching the objectives, deviations and failures have arisen and the measures to be taken.
Internal control system of public entities in Romania includes the following forms: preventive financial control, legislative control of legal conformances regulations, hierarchical control, management control, accounting control, administration control and management control.
Internal control activities to the public entities consider the protection against risks that may arise and is a process conducted by staff at all levels of both top management and line management.
Practice has identified at least three characteristics of internal control: processuality, relativity and universality.

FEATURES OF INTERNAL AUDIT PERFORMANCE OF THE ROMANIAN PUBLIC ENTITIES

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Abstract

Features of internal audit performance of the Romanian public entities

Internal audit is an assistance function of the public entity manager, which allows to manage very well his work.

According to the Romanian legislation three types of audit are provided: system audit, performance audit and regularly audit.

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

The internal audit activity is a scheduled task that is performed according to standards, based on a plan and activity programs, is a way for improvement of public entities activity.

Internal audits missions are considering the following main objectives: assessment of risk management, assessment of internal control and counseling activity for the public entity management.

To conduct an audit mission is necessary that several steps be followed: preparation of internal audit mission, intervention on the spot, internal audit report and follow recommendations.

THE ROLE OF GENERALIZED SYSTEM OF PREFERENCES IN THE EU POLICY OF FACILITATING THE INTERNATIONAL TRADE

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Abstract
Trade policy plays a key role in the EU relations with the world; the European Community is one of the most important actors in the international trade. Through its policies EU seeks to include more the developing countries in world trade system so that all states should share its potential benefits. The present study aims to analyze the instrument used by the EU in achieving this objective, namely the tariff preferences, and the measures taken at EU level to stimulate traders further to import products from the developing countries and help them compete on international markets, taking into account the economic crisis experienced globally.

PLACES OF POWER: THE NOBILIARY RESIDENCES IN THE ROMANIAN ADMINISTRATIVE MECHANISM, 14TH-16TH CENTURY

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Abstract
The latest researches on the topic of in 14th-16th century's nobiliary residences in Romanian Principalities led us to a better understanding of numerous functions this monuments had. Among these functions is one that gave them a role in exercising the power by the princes of Wallachia and Moldavia. To emphasize this particular function of nobiliary residences is the main objective of the present paper.

SOCIAL AND ECONOMIC ASPECTS OF THE MIGRATIONAL PROCESSES IN THE REPUBLIC OF MOLDOVA

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Rezumat
Este demonstrat faptul că procesele migraționale reflectă reacția populației la situația instabilă din țară, la shimbările social-economice care au loc la nivel de societate. În acelaşi timp, şi migrația populației provoacă schimbări nu doar de natură personală, ci şi la nivelul societății în ansamblu.
Astfel, majoritatea teoriilor contemporane, unanim susțin faptul că migrația are consecințe atât asupra țărilor de destinație, cât şi a celor de origine. Spre exemplu, studiile occidentale arată că migrația nu are un impact negativ asupra țării gazdă.
Cu toate acestea, realitatea este alta, iar consecințele reale ale migrației nu întotdeauna sunt clare. Acest fapt dă naştere la o atitudine contradictorie față de ea. În dezbaterile socio-politice pe probleme de migrație în Republica Moldova, este înaintată şi ideea consecințelor negative ale migrației. Astfel, studiul se va concentra asupra identificării tuturor aspectelor social-economice ale proceselor migraționale, atribuindu-le atât consecințe negative, cât şi pozitive.

THE APPLICATION OF THE PRINCIPLE OF ELIGIBILITY IN THE REPUBLIC OF MOLDOVA

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Abstract
As the real existence of the society is being based on a structure and political democratic governance there should be respected certain basic rules or principles. In a law state the local public governance is being carried out on the basis of the following principles: local autonomy, eligibility, decentralization of public services and consulting the citizens on the issues of special interest.
Namely the principle of eligibility confers the local democracy its dimension signifying the society transition to a qualitatively new stage, which meets the requirements of the rule of law.
As long as the Constitution states a principle it shall be strictly respected, first by those who have adopted it, and second by those who have to enforce it and, not least by all citizens.

LA SÉLECTION DES RESSOURCES HUMAINES – ASPECTS THÉORIQUES ET PRATIQUES

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Resume
La prémisse de notre recherche est que la valeur de n'importe quelle organisation este déterminée de la valeur de ses ressources humaines. Évidement, le succès de l'organisation est conditionné par une multitude des facteurs, mais le facteur humain est le plus important. Par conséquent, l'organisation est obligée de faire la sélection de son personnel. La sélection n'est qu'une discrimination, un choix, entre les candidats qui veulent occuper une position dans l'organisation. Rationnellement, le critère de la sélection doit être le mérite, compris que l'ensable des qualités intellectuelles et morales, auxquelles s'ajoute, où est le cas, les compétences professionnelles, c'est-à-dire la somme des connaissances et habilités nécessaires pour réaliser, avec succès, une activité spécialisé, de nature technique. Pour la sélection du personnel, les organisations peuvent utiliser trois méthodes : la nomination discrétionnaire, l'élection et l'examen ou le concours. Ces méthodes sont utilise également dans le domaine public et le domaine privé. Notre démarche cognitive regarde les institutions publiques, parce que la sélection de leur personnel est d'intérêt général. Nous avons effectué une analyse théorique des règlements actuels des méthodes de sélection applicables dans les institutions publiques de Roumanie, pour dégager les principes de la sélection et les solutions utilisées pour leur application pratique. Ensuit, nous avons procédé à la juxtaposition de ceux-ci avec les observations à l'égard de la pratique de sélection, pour déterminer les différences entre la théorie et la pratique, et pour mettre en évidence les points faibles des réglementations en la matière. À la fin, nous avons identifié quelques solutions pour améliorer la sélection du personnel des institutions publiques roumaines.

LEGAL MINIMALISM

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Abstract
The theme of this paper deals with an issue of interest for both sociologists and lawyers: what should be a state law like, that crime declined, that the rules would be respected, in order for people to be in complete safety.
Most experts consider that the only way to stop crime is a large number of laws and increasing the severity of punishments, but despite an impressive amount of laws to penalize and the punishment of offending increasingly higher, crime does not decrease , on the contrary. Cautery is necessary in this context of alternative methods, one of them being legal minimalism.
A normative system which contains too many regulations leads to an overaddiction to the law and lacks people of the capacity to solve one specific criminogenic situations in the absence of criminal enforcement. One of the main supporters of this theory, Donald Black argues that the law finds itself in an inverse relationship with the other methods of social control. In a system where laws are very numerous, people tend to resolve any conflict or problem in court, which in many cases can be costly and time consuming, and provides criminal offenders with ensurance that the only the police intervene hamper their work. Nobody else dares, the man who is put in front of an offense feels helpless and does nothing, waiting for police intervention which can sometimes come too late.

DEONTOLOGICAL ASPECTS REGARDING THE ACTIVITY OF THE CIVIL SERVANTS

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Abstract
In this paper we focused on describing and analysing the main principles laid down by the Law number 7/2004 regarding the Code of conduct of civil servants. The legal provisions stipulate that the civil servants must be guided in their activity by the following principles: respect for the Constitution and laws, insuring equal treatment of the citizens in front of public authorities, professionalism, independence and impartiality, moral integrity, freedom of speech, honour, fairness and transparency.
We chose this topic because in their activity the civil servants must insure a quality public service in the benefit of the citizens. A code of conduct for civil servants establishes the manner to accomplish the best functioning of the public authorities and institutions and nevertheless, imposing ethic rules has the ultimate purpose the respect of the human being.
Because of the specific of their activity, even though the civil servants have the right to express their opinions, this right is limited by the fact that they are not allowed to share their political and religious opinions during their work activities as it could create a conflict of interests.

ANALYSIS OF THE REGIONAL DISPARITIES IN ROMANIA

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Abstract
This paper aims to analyze the share of the GDP of the eight regions of Romania in the overall national economy and the regional disparities, which are measured using specific methods. The quantitative disparities analysis allowed the ranking of the eight regions with the relative distance method and the unemployment rate, highlighting the advantages and limitations of the methods used for assessing the regional disparities. The whole analysis refers to statistical and financial information related to the GDP, unemployment, industrial activity and employment rate.

LABOR LAW VERSUS PUBLIC LABOR LAW

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Abstract
If, it is accepted the idea that "the labor performed within the service relationships of the public servants, regulated by specific normative acts are based on the Law no. 188/1999 regarding the Public Servants Statute, (governed also by the provisions of Labor Code, the relationships of public service having a contractual nature), it means that the labor law displays also public law characteristics".
There are also other considerations proving this characteristic.
If "the labor law has appeared out of the necessity of protecting the weakest (the employee), the law of public function, as a sub-discipline of administrative law and therefore of the public law, it has been created in order to grow the authority of the public power over the public servants appointed in public functions".
The collocation "the public labor law" is relatively new in the legal doctrine. It has been appreciated that "under the incidence of the public labor law, as a sub-discipline of the labor law, fall all the categories of personnel who performs subordinated activities in exchange of remuneration (including the magistrates and the military staff etc.), without concluding labor contracts.

SOME SPECIFICATIONS AND CONSIDERATIONS RELATED TO CHILD RAISING LEAVES WHICH ARE GRANTED TO PUBLIC SERVANTS IN 2012

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Abstract
In 2012 we witness new changes regarding child raising leaves, which are granted to public servants, more exactly the types of such leaves and their related allowances, more exactly the types of such leaves and their related allowances - their number were fixed upon seven types of leaves (as compared to eight types which were in force last year), and some of their related allowances which are granted, are no longer quantified in lei but in relation to SRI – social reference indicator (its value being maintained at 500 lei).
Also this year, by means of Law no. 292/2011 regarding social assistance, the allowances for child raising have been expressly included under the category of social assistance allowances (which are based on the notion of need), thus being clearly differentiated from the „social insurance allowances" (which are based on the notions of insurance, usualy by the payment of some contributions for this purpose).
Furthermore, there were brought important legislative specifications related to a very disputable matter – it is expressly stipulated that the periods for the child raising leaves are considered to be not only seniority in work and seniority in the job but also seniority in speciality, these periods being taken into consideration when establishing the rights which are to be granted in relation to them.
It seems that very soon it will be possible to cumulate the allowance for child raising with incomes from salaries. We have in view the Governmental Programme for 2012, which brings into attention a new interesting and daring vision, in consensus with the concern of the European Union of encouraging the member states in adopting some measures allowing the concelliation of the family life with the professional life. Prsently it has been imposed the idea of incompatibility between the social assistance allowances and the professional incomes.

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Abstract
The commercial principles resulted from the individual interests of states, regarding the development of a more favorable foreign trade, responsive to the aspirations of their internal development and promotion of advantageous international trade relations. This was accelerated by the financial crisis in the years 1929-1933 when the need for international arrangements appeared, to harmonize the regulations regarding the foreign trade policy in order to accelerate the liberalization of exports and imports between states.
Besides the foreign trade policy principles agreed by the GATT and later by the WTO, were also adopted, principles to guide economic relations between states and their trade policies. This concerns especially the problems of developing countries, about 160 countries and territories, out of about 200 existing in the world today.

A BRIEF HISTORY OF THE CONTRAVENTIONAL PROCEEDING

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Abstract
The legal nature of the offenses qualification had a quite long and tortuous evolution. Even naw, there are divided views regarding the real nature of misdemanours in our legal system.

A part of our romanian authors and specialists consider that contraventions/misdemeanours should be reintegrated in the criminal law system, as originally, but there are, also, specialists who requier their maintainance in the area of administrative liability, as part of an administrative responsibility.

From Caragea statutes, criminal Codex's Ştirbei Barbu, continuing with the text of the Criminal Code of 1865, Carol II Criminal Code or Criminal Code King Michael I , misdemanour was considered a criminal offense that supposed the lowest social danger.

Making a parallel with what is happening today in our administrative practice and doctrine, in the nineteenth century the minutes of offense benefited of the presumtion of authenticity and veridicity, having an absolute power of truth and being valid until the so-called "false enrollment".

DISCIPLINARY RESPONSIBILITY OF THE EUROPEAN CIVIL SERVANTS

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Abstract
This paper is a brief analysis of the disciplinary proceedings laid down by the Staff Regulations of the European civil servants.
Civil servants of the European Union must comply with the obligations stipulated by the Staff Regulations. The disciplinary proceedings are engaged by the Appointing Authority in case of any failure of a civil servant or a formal civil servant to comply with his duties, weather is committed intentionally or through negligence.
The disciplinary penalties are imposed by the Appointing Authority after taking into consideration the seriousness of the misconduct. The officials of the European Union are granted the right to defense during the disciplinary proceedings and they can be assisted by a person of their choice. Also, the Staff Regulations stipulates the right of the civil servant to appeal the decision of the Appointing Authority to the Civil Service Tribunal of the European Union.

MASS-MEDIA AND THE ENVIRONMENT: ROŞIA MONTANĂ IN THE PRESS CAMPAIGNS

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Abstract
The cyanide mining project initiated by Gold Corporation at Roşia Montană generated one of the largest campaigns in the last twenty years in Romania. Many organizations expressed their opposition to the project, from Greenpeace to the Romanian Academy. The present article proposes an analysis of the way in which Roşia Montană has become a topic for debate in mass-media, from the written press to television and internet, with a view to point out the great influence that media can have in forming and changing mentalities, or at least perspectives, and determine people to respond and get involved in solving issues of great concern. Starting from the theory of communication with special focus on communication through mass-media as the main form of mass communication, the present article also intends to point out how environmental problems can be brought to public attention by mass-media campaigns which may also contribute, though in an indirect manner, to the ecological educational process whose importance and necessity is felt once again.

THE SYSTEM OF THE INCOMPATIBILITIES AND THE PLURALITY OF THE CIVIL SERVANTS' OFFICES

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Abstract
The incompatibilities are those limitations or restrictions in the legal capacity, expressly and strictly regulated by the law in order to protect the person or the general interests of the society.
The incompatibilities are not presumed, they can not be deduced by analogy and can not be extended, they are expressly and strictly regulated by the law, operating only according to the conditions and the time periods specified in its content.
According to the paragraph 35 of the Labor Code the incompatibilities are exceptions to the rule of the plurality of the civil servants' offices.
The incompatibilities system for civil servants and the plurality of offices are regulated by the Law no. 161/2003 regarding the measures to ensure the transparency in the exercise of the public dignities, public functions and business environment, preventing and sanctioning the corruption.
The rule is represented by the incompatibilities, and the exception is the plurality of offices. The regime has evolved from 2003 to 2011.

JUDICIAL CONTROL OF PUBLIC ADMINISTRATION. COMPARATIVE STUDY IN SOME EUROPEAN COUNTRIES

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Abstract
The forms of control on administration activities are very different from state to state. Following a review of regulations in Western European countries, we find a variety of forms of control with many features and remarkable differences.
We propose, during this study, to review some characteristic features of the existing Western European structures countries in terms of jurisdciţional control over the administration.
Based on the French model, whose influence we see, in one form or another in most European countries, we follow the organization of judicial control in states that have adopted this model and had adapted him to regional characteristics and specifics of each community, on the one part, and how others have built a distinct system, on the other. The analysis will be pursuing several elements: the existence of a general administrative jurisdiction, distinct from the ordinary courts, the existence of specialized administrative tribunals, the control of the ordinary courts concerning administration activity.
Following analysis of judicial systems with unity, duality or plurality of jurisdictions, convinced that the comparative method of research this institutions will lead to legal interpretation and justification of similarities and differences between the investigated systems, we believe that we will achieve the goal of this work, namely the discovery universal elements in a given phenomenon and especially how these common elements of existing systems whose evolution is confirmed, can help in achieving the Romanian system of performance features by the administration.

THE RIGHT TO A GOOD ADMINISTRATION IN THE LIGHT OF UE CHART OF FUNDAMENTAL RIGHTS

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Abstract
The Court of Justice of UE showed over the years that the human rights are already principles of the communitary right. European citizen has the advantage of having a minimum protection level of his fundamental rights because beside the rights which are written in the National Constitution of Human Rights in the UE Chart of Fundamental Rights are also included new rights such as workers' social rights, the protection of personal data, bioethics and the right to a good administration.
The right to a good administration, foreseen in the art.41 from the UE Chart of Fundamental Rights must be analized in connection with all the other principles of communitary right , taking into consideration that the right of UE must be seen as" a new legal order" and must be applied directly into the National Legal Systems.
The most important aspect which must be taken into consideration is the way in which the State , through its authorities and institutions, gives substance and value to the legal rules which it establishes.
Will the right to a good administration in Romania be feasible or will it remain just a recognized principle but not applied in the reality of social life?
The Constitutional Bases exist but they are not enough so as the elements of this fundamental right to be accomplished. It needs another mentality , respect for all the citizens, public, coherent strategies and a real will to change in good the administration (from both activity and its organs point of view).
The Ministers' Comittee from the Europe Council has defined the good administration as a component of a good government and has underlined that the legal solutions are not enough but the quality and the administration of structures, the efficiency and efficacy of the adjustment to the essential needs of society, so that the right to a good administration should be respected.

LA PRODUCTION DE GROUPES SOCIAUX MARGINAUX, FACTEUR EXPLICATIF DU SUBURBANISME DANS LE PÉRIURBAIN DAKAROIS AU SÉNÉGAL.

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Resume
Appartiennent aux groupes sociaux marginaux, toutes les personnes dont les contraintes politico-économiques et sociales confinent à la périphérie et qui mettent en œuvre l'illégal (du foncier jusqu'au bâtisse) pour se loger.

Le contexte urbain sénégalais place de loin en tête l'agglomération dakaroise sur les plans démographique, politique, infrastructurel et économique. Ce constat est d'autant plus vrai qu'il ne serait pas faux de paraphraser Jean François Gravier (Paris et le désert français) en parlant de « Dakar et le désert sénégalais ». Cet état de fait s'explique par le fait que, Dakar concentre 80 % des activités économiques et 30 % de la population sénégalaise. Le paradoxe qui accompagne cette situation est que Dakar occupe 0.3 % du territoire national et le transport urbain y est sous intégré. Aussi, le caractère de presqu'île fait de Dakar une ville non extensible à volonté. Dès lors, la question foncière, celle du logement et de sa localisation deviennent des priorités pour les citadins dakarois.

Au vu de la politique gouvernementale favorisant la loi du plus offrant, seules les classes aisées et moyennes peuvent s'attribuer les terrains et les logements qui se situent dans les auréoles qui se rapprochent le plus du centre-ville qui concentre l'essentiel des services et équipements dans leur ensemble. C'est également ces classes qui jouissent de statut en conformité avec la législation foncière et urbanistique. Quant à la majorité des dakarois, ayant en commun le syndrome de la pauvreté, ballotés entre un foncier hors de leur portée et des prix du loyer qui ne cessent de connaître des hausses (car n'ayant aucune loi visant à les contrôler ou à les limiter), voient en la périphérie, en l'occupation de terrains non lotis, en la construction de logements hors juridiction cadastrale et urbanistique ; bref au suburbanisme (compris ici comme une subversion de l'urbanisme) une manière de réclamer « leur droit à la ville ». Comment se manifeste ce suburbanisme ? Le laisser-aller de ce suburbanisme est-il un aveu d'impuissance de la part des autorités compétentes ? Pourquoi perdure-t-il ? Ce sont là, autant de questions qui ceinturent cette problématique.

Sur le terrain, la toponymie de certains quartiers tels que « Ben Baraque » (qui signifie en français « une seule baraque ») « Pikine » (qui signifie en français « rien »), « Pikine irrégulier » etc. constituent des indicateurs révélateurs du suburbanisme dans le périurbain dakarois.

L'INÉGALITÉ D'ALLOCATION DES RESSOURCES SANITAIRES ENTRE LA ZONE URBAINE ET SES PÉRIPHÉRIQUES : « MODÉLISATION DU SYSTÈME D'ALLOCATION PAR LA TAXE D'ALCOOL À MADAGASCAR »

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Resume
En général, la politique économique est l'ensemble des décisions de l'Etat et des organismes publics ayant pour objet principal de régler les conditions de la production, de la répartition ou de l'affectation des ressources (taxes, ristournes, investissements,…). La politique régionale est destinée à la réorientation et à l'exécution de cette politique économique au niveau des chaque divisions administratives (les services de centralisations : régions et communes).

Madagascar étant un pays pauvre, son indicateur de développement humain (IDH) égale à 0,435 avec 80% des populations vivent dans les zones suburbaines et rurales. Ce déséquilibre démographique montre déjà que son économie est basée sur les exploitations agricoles. En effet, les problèmes d'accessibilités de routes, d'éducations, de santés, de technologie agricole constituent un problème d'isolement des zones suburbaines et rurales. Il faut alors une bonne politique de développement régional pour résoudre ces différents problèmes.

L'organisation et le fonctionnement du système de santé se réalisent aux niveaux de trois institutions spatiales : centrale, intermédiaire ou régionale et périphériques ou districts. Sa politique nationale de santé est basée sur une politique de décentralisation avec la mise en œuvre des activités opérationnelles de développement sanitaire au niveau périphérique par une planification détaillée dans les programmes et qui sont consolidée dans les budgets annuelle à partir des besoins des communautés contrôlé par le niveau central. Le financement du système de santé est constitué par le financement d'impôts et taxes (impôts et taxes affectés : ITAF), les cotisations sociales, les primes d'assurance et de mutuelle de santé, les paiements directs des ménages et le financement par des organismes privé.

Son principe macroéconomique d'allocation budgétaire et de la redistribution des impôts et des taxes est toujours aussi contrôlé au niveau central (élaboration du budget, priorisation de programme sectoriel et/ou régional, élaboration de nouvelles taxes sans tenir compte de la localisation géographique ou de la division administrative des régions : taxation