8th INTERNATIONAL CONFERENCE

"EXPLORATION, EDUCATION AND PROGRESS IN THE THIRD MILLENNIUM"

12th May 2016

Organized by:

"DUNĂREA DE JOS" UNIVERSITY OF GALAŢI, ROMÂNIA
FACULTY OF JURIDICAL, SOCIAL AND POLITICAL SCIENCES
JURIDICAL, ADMINISTRATIVE, SOCIAL and POLITICAL RESEARCH CENTER

UNIVERSITE PARIS-EST CRÉTEIL, FRANCE
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THE STATE UNIVERSITY "BOGDAN PETRICEICU HAŞDEU" CAHUL
REPUBLIC OF MOLDAVIA

EUROPEAN DOCUMENTATION CENTER "DUNĂREA DE JOS UNIVERSITY"

General overview

CONFERENCE'S PURPOSE: The conference will have as a purpose an interdisciplinary approach of various themes in the field of social and humanistic sciences: law, administrative sciences, regional studies, economics, psychology, sociology, theology and other interrelated domains.

CONFERENCE'S OBJECTIVES: The conference intends to bring together researchers and professionals in the above mentioned fields. The participants are expected to answer to the various questions related to and deriving from the thematic under debate by means of an innovative and accurate methodology.

The conference's coherence and originality will be ensured by the combination of two fundamental elements: on the one hand, special attention will be given to the classic aspects of the study of the social and humanistic sciences, and, on the other hand, the classical perspective will be complemented by the modern European and international approach of the topics under analysis.

PANELS:

- LEGISLATIVE REFORM IN THE DOMAIN OF CIVIL AND PENAL LAW
- INTERNATIONAL RELATIONS AND CROSS-BORDER COOPERATION, STATE, ECONOMY, SOCIETY. DIACHRONIC PERSPECTIVES

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Programme

Thursday, May 12th 2016

10:00 AM: **Arrival and registration** - Faculty library - AE 103 Room

10:30 AM: **Welcoming participants** (Dean's speech)

11:00 AM: **Coffee Break**

11:00 AM: **Session**

12:45 PM: **Debate; Conclusions**

14:30 PM: **End of debate**

Each session, moderated by a president, will take place in three stages:

• Rapporteur's presentation of the session terms of thematic, communications and questions arisen.

• Presentation in a synthetic form of the ideas proposed and analyzed by each author.

• Debate between the audience, rapporteur and authors.

PARALLEL SESSIONS

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President: Lecturer Ph.D. Dragoș DAGHIE

PANEL 3 - INTERNATIONAL RELATIONS AND CROSS-BORDER COOPERATION, STATE, ECONOMY, SOCIETY. DIACHRONIC PERSPECTIVES

President: Professor Ph.D. Florin Tudor

PANEL 1 - LEGISLATIVE REFORM IN THE DOMAIN OF CIVIL AND PENAL LAW

President: Lecturer Ph.D. Dragoș DAGHIE

The managing board of the corporation – internal law and comparative law

Răducan Oprea
Professor Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

The right of the accused to be present at the trial hearing from the perspective of the European Court of Human Rights

Costela Dumitrache
Judge, First Instance Of Liești
Halil Adinan
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Brief considerations regarding the presumption of innocence in the Romanian legislation and in the European Convention On Human Rights

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Durata rămânerii la dispoziţia organelor judiciare în procedura mandatului de aducere, conform noului Cod de procedură penală şi corelarea cu prevederile Convenţiei Europene a Drepturilor Omului

Monica Buzea
Lecturer Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati
Procuror şef secţie judiciară, Parchetul de pe lângă Curtea de Apel Galaţi

Consideraţii privind infracţiunea de nerespectare a hotărârilor judecătoreşti,prevăzută de art. 287 alin. 1 lit. a Cod penal, prin împotrivirea la executare

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The concept of competence of fiscal authorities in new fiscal procedural law

Nadia-Cerasela Aniţei
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Liviu-Bogdan Ciucă
Professor Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

Procedura reorganizării judiciare în reglementarea Legii nr. 85/2014

Dragoş Daghie
Lecturer Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

Actul juridic unilateral – izvor de obligaţii civile în Codul civil din 2009

Nora Daghie
Associate Professor Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

About citizens' initiative. European and Romanian contemporary perspective

Mădălina Mihăilescu
Lecturer Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

The Incidence of the European Convention of Human Rights on Administrative law Relations

Gina Ignat
Lecturer Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

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Gina Ignat
Lecturer Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

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Mihaela Agheniței
Lecturer Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

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Ungureanu Adelin
Lecturer Ph.D., Faculty of Science, University of Petroşani
Răvaş Oana
Lecturer Ph.D., Faculty of Science, University of Petroşani

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Silviu Jîrlăianu
Lecturer Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

Teorii sociologice moderne privitoare la cauzalitate și aplicabilitatea lor în materia criminalității informatice

Adriana Stancu
Lecturer Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

Discuţii privind acţiunea civilă şi obiectul său

Alexandru Bleoancă
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Curtea Internațională împotriva Terorismului – ideal sau utopie?

Mihai Floroiu
Professor Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

Antecontractul ca generator de drepturi și obligații civile

Moraru Marina
„Bogdan Petriceicu Hasdeu" State University of Cahul

Consideraţii privind iniţiativa cetăţenească de revizuire a Constituţiei

Ștefania Mirică
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Aplicabilitatea logicii clasice în dreptul pozitiv

Andreea Matic
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Consideraţii privind certificatul european de moștenitor

George Schin
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Traficul de ființe umane ca fenomen criminologic. Cauze generatoare şi favorizante ale traficului de ființe umane

Liliana Niculescu
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President: Professor Ph.D. Florin TUDOR

Romanian economy between economic groth and poverty: a regional approach

Romeo Ionescu
Ph.D Professor

The relationship sovereignty of the people - public power: the case of Moldova

Cornea Sergiu
Ph.D, Vice-rector, „Bogdan Petriceicu Hasdeu" State University of Cahul

Importanța geopolitică a ieșirii României la Marea Neagră

Nicolae Iuga
Ph.D Professor, Faculty of "Vasile Goldiș" Western University of Arad

The new Iranian deal: a long-term comprehensive agreement?

Lașan Nicoleta
Lecturer Ph.D., Faculty of "Vasile Goldiș" Western University of Arad

Îmbătrânirea demografică și căminele pentru seniori – o relație neimplicită în spațiul românesc

Violeta Pușcașu
Ph.D Professor, Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

Tax evasion in the UE through offshore financial centers

Florentina Moisescu
Ph.D Associate Professor, „Dunarea de Jos" University of Galati

Financial leasing in romania – integration in the european normality

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Using COSO model for an eficient internal audit

Mădălina Beldiman
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„Construcția comunitară și extinderea spre estul Europei". Studiu de caz: „Profilul migrantului român"

Vendelin Francisc Glazer
Lecturer Ph.D., Western University „Vasile Goldiș" from Arad

Belarusians: The prevalence of heterodoxy and cultural hybridization. Legislative perspectives

Ilie Iulian Mitran
MA Candidate, Ovidius University of Constanța

Russian as discontent's lingua franca. The interwar Romania and contemporary Ukraine cases compared

Arthur Viorel Tuluș
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Rolul serviciile vamale privind combaterea criminalității transfrontaliere

Florin Tudor
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Administrative capacity – essencial factor for the legitimacy of decentralization

Valentina Cornea

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The transit of Cretan wine and the economy of Moldavia, cca 1550-1620

Cristian Apetrei
Associate Professor Ph.D., Faculty of Juridical, Social and Political Sciences, „Dunarea de Jos" University of Galati

Conservative Canadian Christians and their role in national political affairs

Ilie Iulian Mitran
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Schmitz Timo
Student, Ovidius University of Constanța

PANEL 1

LEGISLATIVE REFORM IN THE DOMAIN OF CIVIL AND PENAL LAW

President: Ph.D. Dragoș DAGHIE

The managing board of the corporation – internal law and comparative law

Răducan Oprea
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Abstract

The article intends to analize the situation of the managing board of the corporation in the romanian law, as well as in the comparative law. In the first part of the study, we shall focus our attention on the managing board in Romania, after that, we will discuss in detail the situation in some european states, as: France, Italy, Spain and The United Kingdom.

Keywords: The law no. 31/1990 regarding firms, corporations, managing board

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***Comments*:**

The right of the accused to be present at the trial hearing from the perspective of the European Court of Human Rights

Costela Dumitrache
Judge, First Instance Of Lieşti

Halil Adinan
Judge, First Instance Of Lieşti

Abstract

The right of the accused to be present at the trial hearing is one of the fundamental features of a fair trial. Although this is not expressly mentioned in paragraph 1 of Article 6, the European Court of Human Rights established that the object and purpose of the Article taken as a whole show that a person charged with a criminal offence is entitled to take part in the hearing. This study has as a primary aim to examine in what manner this right is interpreted and applied domestically. According to the provisions of the New Romanian Code of Criminal Procedure, the accused has a right to be present at his trial. However, if the accused voluntarily waived that right then the judge has a discretion to continue the proceedings in the accused's absence.

Keywords: criminal trial, presence at trial, convicted *in absentia*

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***Comments*:**

Brief considerations regarding the presumption of innocence in the Romanian legislation and in the European Convention On Human Rights

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Abstract

The presumption of innocence is one of the elements of a fair criminal trial required by Article 6 § 1of the European Convention On Human Rights. The case law of the European Court of Human Rights indicates that an accused should not be declared guilty until a court has established his or her guilt, and that pre-trial detention should be the exception rather than the rule. The right should be respected inside the courtroom and outside. The purpose of the present study is to examine what actions by public officials might contravene the presumption of innocence.

Keywords: presumption of innocence, criminal trial, violation

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Durata rămânerii la dispoziția organelor judiciare în procedura mandatului de aducere, conform noului Cod de procedură penală şi corelarea cu prevederile Convenției Europene a Drepturilor Omului

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Rezumat

În reglementarea actuală a noului Cod de procedură penală, spre deosebire de cea anterioară, conform art. 265, persoana adusă cu mandat de aducere este ascultată de îndată sau organul judiciar efectuează de îndată actul ce a necesitat prezența acesteia. Pentru evitarea unei dețineri ilegale, durata maximă în care pot fi efectuate aceste activități este de 8 ore, fără ca această perioadă să fie inclusă în aceea a reținerii sau arestării preventive, fiind diferită ca natură de conducerea administrativă realizată de organele de poliție.

Prin această modificare, legislația română s-a adaptat la jurisprudența Curții Europene a Drepturilor Omului, care a apreciat, în mai multe cauze, că punerea în executare a unui mandat de aducere poate suscita discuții legate de existența unei privări de libertate, în sensul art. 5 din Convenție.

Cuvinte cheie: mandat de aducere, durata, privare de libertate, proporționalitate

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***Comments*:**

Considerații privind infracțiunea de nerespectare a hotărârilor judecătoreşti,prevăzută de art. 287 alin. 1 lit. a Cod penal, prin împotrivirea la executare

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Rezumat

Art. 287 alin. 1 lit. a Cod penal prevede ca infracțiune de nerespectare a hotărârilor judecătoreşti împotrivirea la executare prin opunerea de rezistență față de organul de executare, spre deosebire de prevederile art. 271 Cod penal 1969 care făceau trimitere la împotrivirea la executarea unei hotărâri judecătoreşti, prin amenințare față de organul de executare sau prin acte de violență.

În acest context, se mențin aprecierile legate de condițiile situației premisă şi de calitatea subiectului pasiv, însă se remarcă o extindere a modalităților de comitere, fără limitările din reglementarea anterioară. Din această perspectivă, însă, trebuie definit noul concept de opunere de rezistență, prin stabilirea actelor care au acest caracter, a caracterului direct sau indirect al acestora, a efectelor produse.

Cuvinte cheie: nerespectarea hotărârilor judecătoreşti, organ de executare, opunerea de rezistență

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***Comments*:**

The concept of competence of fiscal authorities in new fiscal procedural law

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Abstract

Fiscal authorities competence has been analyzed in the research literature in terms of certain expressions common in practice, namely that of *financial apparatus* or *fiscal apparatus*.
Broadly the financial apparatus of the state includes all state bodies that contribute directly or which only facilitate the achievement of financial activities by means of which the financial policy of the state is applied.
In a narrow sense, the financial apparatus includes specialized state bodies with responsibilities in financial matters.
Legally, the issue of competence has been studied by all branches of law, on its value depending the knowledge of the authorities called to address the problem regarding the observance of rights and of the interests of natural persons and legal persons.

Keywords: competence, fiscal, fiscal procedure

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***Comments*:**

Notary Activity between Tradition and Requirements of the European Community

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Abstract

The evolution of notary institution within Romanian territory covers an extremely interesting and challenging route for any researcher from the Middle Ages, continuing with the tumultuous period of the nineteenth century and ending with the Romanian integration into the European community. Among the documents that we remember in this material, we mention *Pravila aleasă sau Cartea de îndreptare 1632*, *Pravila mică de la Govora 1640*, *Cartea românească de învățătură de la pravilele împărăteşti şi de la alte giudețe*.
Exceeding the period XI-XIII century, where the will agreement was dominated by the verbal agreement of the parties, the end of the thirteenth century requires *charters, written proofs, old documents issued within Romanian Principalities, acts of privilege granted to a uric,* or books as written acts that reinforced the Convention of the parties and ultimately defining the means of evidence. It is obvious that the notarial activity has grown and became increasingly necessary once with the development of society and the legal relations between members of the society, but also in parallel with the development of the right of ownership, diversifying its ways of transfer and strengthening the institution of inheritance. Even if the literature is poor in terms of a complex research, it is time to recall the exceptional work of Mr. Cosmin Mihailovici, *The notary public. The destiny of a profession,* work published under the aegis of the National Union of Notaries Public from Romania, in 2015, by Notarom Publisher and initiated and coordinated by Doina Rotaru-notary public, Vicepresident of UNNPR.
This work aims to highlight the tradition of the profession, its strength and beauty, enhancing and promoting it as a *graceful genuine court*, the public notary becoming *justice of the peace.*

Keywords: notary activity, european, tradition, community.

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***Comments*:**

Procedura reorganizării judiciare în reglementarea Legii nr. 85/2014

Dragoş Daghie
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Rezumat

Procedura insolvenței reprezintă o realitate din ce în ce mai întâlnită în plaja activităților comerciale. Insolvența reprezintă, pe de o parte, o modalitate de redresare a societății confruntate cu anumite dificultăți de natură economică.

Pe de altă parte, insolvența reprezintă eșecul comerciantului în afaceri, insucces ce poate comporta două fațete: redresarea economică și reluarea activității și falimentul care echivalează cu moartea comerciantului.

Redresarea economică se poate realiza prin procedura generală, respectiv reorganizarea judiciară a debitorului. Astfel cum prevede legea, reorganizare judiciară este procedura ce se aplică debitorului în insolvență, persoană juridică, în vederea achitării datoriilor acestuia, conform programului de plată a creanțelor. Procedura de reorganizare presupune întocmirea, aprobarea, confirmarea, implementarea şi respectarea unui plan, numit plan de reorganizare, care poate să prevadă, nelimitativ, împreună sau separat: a) restructurarea operațională şi/sau financiară a debitorului; b) restructurarea corporativă prin modificarea structurii de capital social; c) restrângerea activității prin lichidarea parțială sau totală a activului din averea debitorului.

Cuvinte cheie: insolvență, reorganizare, administrator judiciar, faliment

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***Comments*:**

Actul juridic unilateral – izvor de obligații civile în Codul civil din 2009

Nora Daghie
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Rezumat

Codul civil în vigoare de la 1 octombrie 2011 nu a preluat clasificarea izvoarelor obligațiilor civile din vechiul cod. Legiuitorul român contemporan a preferat o clasificare modernă, inspirată din mai multe sisteme legislative, care să cuprindă toate acele situații care pot constitui izvoare obligaționale.
Sub influența Codului civil german, dar și a soluțiilor avansate de proiectele europene de codificare a dreptului obligațiilor, actul juridic unilateral este consacrat pentru prima dată ca o categorie distinctă în cadrul izvoarelor raporturilor juridice civile. În anumite condiții, manifestarea de voință a unei singure persoane poate genera drepturi și obligații fără a fi nevoie de acceptarea acesteia de către o altă persoană, de regulă.
Textele noului Cod civil român cuprind atât o reglementare de principiu prin câteva dispoziții generale, cât și o reglementare specială pentru promisiunea unilaterală și promisiunea publică de recompensă.

Cuvinte cheie: codificare, actul juridic unilateral, promisiunea unilaterală, promisiunea publică de recompensă, surse de inspirație

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***Comments*:**

About citizens' initiative. European and Romanian contemporary perspective

Mădălina Mihăilescu
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Abstract

Participatory democracy is the process by which groups of citizens, interested in the proper functioning of society, initiate various projects, proposing the government body the implementation of solutions for the deployment of which the latter possess the necessary legislative levers.
In one of the studies conducted by the Centre for the Study of Democracy at the Faculty of Political, Administrative and Communication Sciences in Cluj - called "*The reform of political representation mechanisms of the citizens of Romania", coordinated by* G. Jiglău, G Bădescu " I concluded that it is important, both at the level of the Romanian society and political elites, to cultivate a culture of debate in the decision making process which should ensure transparency, valuing intellectual and professional energies and to identify the best practical solutions to implement public policies.
We believe that Romania is not very familiar with the participatory democracy phenomenon because the civil society in our country is perceived more as a concept than as the real voice of the people, without denying though the existence of outstanding personalities who have tried over the years to promote the interests of society at the level of institutions and public authorities, hoping to get a reaction but also finding practical solutions to the acute problems of the respective society.
As per article 9 of the EU Regulation no. 211/2011 of the European Parliament and of the Council of the 16th of February 2011 regarding the citizens' initiative, the entities, especially the organizations which contribute under the Treaties to the formation of the European political awareness and to the expression of the will of the citizens of the Union, should be able to promote citizens initiatives provided they do so with full transparency. A European citizens' initiative is an invitation for the European Commission to propose legislation on matters where the EU has the competence to legislate and it must be supported by at least one million EU citizens from at least seven member states out of the total of 28.
Our study aims to demonstrate that, although citizens' initiative in Romania is less present than in other European countries, citizens' initiative and social involvement exist however, in Romania starting with the legislative initiative exerted at national level and continuing with the involvement process of the citizens in the public administration area, including the county of Galati.

Keywords: Citizens' initiative, democracy, involvement, decision.

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***Comments*:**

The Incidence of the European Convention of Human Rights on Administrative law Relations

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Abstract

Initially thought to shape the public law relations, the European Convention of Human Rights, thanks to the interpretation offered by the European Court of Human Rights, has succeeded in leaving its overwhelming mark on private law branches as well, so that nowadays we can discuss about an infusion of human rights not only in the civil law but also in the administrative one.
In this paper we propose an insight into how the letter and the spirit of this treaty are reflected both in the substantial administrative law and in administrative litigation, in order to identify the changes influenced by the exigencies of the Convention inside some administrative judicial institutions.

Keywords : European Convention of Human Rights, sunstantial administrativ law, adminsitrative litigation

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***Comments*:**

Accessing the means of appeal (calls for withdrawals) between necessity and abuse

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Abstract

The principle of the judicial relations' security, favoured by the national and international law, is against the modification of a judicial decision (Court order) that came into power. The only exceptions to this principle are provided in a limited way and belong strictly to interpretation. However, in practice, a tendency of accessing virtually all legal remedies may be noticed, including the calls for withdrawals, which translates into the artificial overcharging of the Courts of law activity.
Our intention in the present paper is to identify the factual and judicial premises that encourage the exacerbation of accessing the calls for withdrawals. We will also configure concrete ways of avoiding abuse in this matter.

Keywords: calls for withdrawals, abuse, judicial relations' security

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***Comments*:**

Combaterea traficului de organe umane în Uniunea Europeană

Mihaela Aghenitei
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Abstract

Organ trade is the trade involving inner human organs (heart, liver, kidneys, etc.) for organ transplantation. There is a worldwide shortage of organs available for transplantation, yet commercial trade in human organs was a while ago illegal in all countries except Iran. The problem of illegal organ trafficking is widespread, although data on the exact scale of the organ market is difficult to obtain. Whether or not to legalize the organ trade to combat illegal trafficking and organ shortage, is a subject of much debate.
Now monetary compensations for organ donors are being legalized in Australia and Singapore too.
The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons includes "organ removal" and its subsequent sale as on and purpose of trafficking, in Article 3.
In Strasbourg, 09.07.2014 – the Committee of Ministers of the Council of Europe has adopted an international convention to make trafficking in human organs for transplant a criminal offence, to protect victims and to facilitate cooperation at national and international levels in order to prosecute more effectively those responsible for trafficking.

Keywords: "organ trade", "trafficking", "international convention", "organ removal", "criminal offences"

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***Comments*:**

The Mandate: The Chronological Limits Of The Exercise Of A Public Dignity

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Abstract

By elective system, public dignities are occupied for a period of time. However those who are declared winners of competitive elections and are caring out their activity from the position of representatives of those who elected them, their mandate having, besides a time limit, also a implementation of mandates offered by vote. From the smallest elected office from the local government level, to the Head of State, the notion of mandate encounters more specific aspects of various functions: to municipalities, county legislative authority or even the presidential institution. The mandate can be achieved in other ways than by universal suffrage when it comes to nominations in the various institutions or state structures in order to ensure their operation in line with their activity.

Keywords: elective system, authorities, the mandate, universal suffrage, public administration

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***Comments*:**

Controlul judiciar şi controlul judiciar pe cauțiune, măsuri preventive între concept şi realitate

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Abstract

Romania's quality state of the European Community, imposed harmonization of national legislation in relation to Community law. In this context it was imposed introduce preventive measures among judicial control, judicial control on bail and house arrest.
These measures are adopted by judicial bodies or courts and are implemented by specialized organs of the judicial police of the Romanian Police and working under judicial supervision structures.

Keywords: judicial control, judicial control on bail, house arrest, judicial supervision structures.

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***Comments*:**

Teorii sociologice moderne privitoare la cauzalitate și aplicabilitatea lor în materia criminalității informatice

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Rezumat

Calculatorul electronic a fost și este un factor criminogen de prim ordin ce pune la dispoziția conduitei criminale atât un obiect nou (informația conținută și procesată de sistemele informatice) cât și un nou instrument.
Criminalitatea informatică poate fi studiată prin prisma dispozițiilor legale penale (a dreptului penal material), prin prisma aspectelor de ordin procesual penal sau din punct de vedere al elementelor de tactică criminalistică referitoare la investigarea acestor infracțiuni. Cu siguranță o componentă indispensabilă a înțelegerii acestui fenomen a constituit elementele de ordin criminologic ale cybercriminalității.
Cauza criminalității reprezintă una din problemele esențiale ale criminologiei. Înțelegerea acestor cauze permite o bună prevenire a comportamentului criminal, o prevenție mult mai necesară decât prevenția specială rezultată ca urmare a sancționrii încălcării legii.
În materia criminologiei există trei mari curente ale cauzalității, *orientarea biologică*, *orientarea psihologică* și *orientarea sociologică*.
Teoriile sociologice moderne, dezvoltate începând cu secolul al XX-lea pe continentul american sunt cele mai apropiate în a putea explica cauzalitatea comportamentului criminal față de infracțiunile informatice, aceasta și prin prisma vârstei relativ fragede a acestor forme de criminalitate.

Keywords: orientarea biologică, orientarea psihologică și orientarea sociologică

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***Comments*:**

Discuții privind acțiunea civilă şi obiectul său

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Rezumat

Studiul propune o trecere în revistă a elementelor acțiunii şi a condițiilor legale de exercitare a sa, apoi analizează legătura dintre elemente şi condiții. În continuare, se opreşte asupra obiectului acțiunii, unul dintre cele mai importante elemente, în privința căruia analizează sensurile şi dă exemple practice. Apoi, pornind de la noțiunile istorice de *jus in re* şi *jus ad rem*, atrage atenția asupra naturii juridice speciale a dreptului de ipotecă pentru ca, în final, să analizeze şi excepția lipsei de obiect.

Cuvinte cheie: acțiune, elemente, condiții de exercitare, ipoteca, excepția lipsei de obiect

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***Comments*:**

Curtea Internațională împotriva Terorismului – ideal sau utopie?

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Abstract

Recentele atentate de la Paris și de la Bruxelles, provocate de exponenți ai unui curent terorist de tip nou, au readus în atenția comunității internaționale nevoia de conștientizare a faptului că terorismul nu are frontiere și că doar printr-o acțiune concertată a întregii comunități internaționale se poate încerca stăvilirea acestui fenomen care, din punct de vedere ideologic și religios, amintește de Evul Mediu și de expansiunea Imperiului Otoman.
In contextul generat de primul atentat teroist de la Paris din ianuarie 2015, urmat de inca două asemenea evenimente de o mai mica anvergură în Franță și unul în Danemarca, la 16 aprilie 2015, ministrul român de externe, în marja unei reuniuni de consultare cu experți de specialitate și reprezentanți ai ministerelor afacerilor externe din Olanda și Spania, a propus crearea unei instanțe internaționale pentru combaterea terorismului, care să se pronunțe și cu privire la definirea clară a infracțiunii de terorism, în contextul în care definiția acesteia, dată de jurisprudența internațională sub egida Tribunalului Special pentru Liban în anul 2011, a generat importante polemici în rândul doctrinarilor dreptului internațional.
Așa cum doctrina s-a referit de-a lungul ultimilor ani cu privire la modul de articulare a acestei definiții cutumiare a terorismului cu nevoia de evoluție a dreptului internațional, demersul privind crearea unei noi instante internaționale, deși lăudabil pe plan politic, riscă să se confrunte cu unele probleme juridice generate, pe de o parte, de modul în care societatea internațională înțelege nevoia unor noi mecanisme de protecție, iar pe de altă parte, de felul în care va reuși să lase iasă din paradigma de corectitudine politică ce poate afecta interese superioare ale ansamblului comunității internaționale.
Acest studiu va analiza definiția cutumiară a infracțiunii de teroism, plecând de la evoluția acesteia de-a lungul timpului și la efectele deciziei Tribunalului Special pentru Liban, pentru a trece apoi în revista atât avantajele cât și problemele cu care se poate confrunta demersul de constituire a unei noi instanțe internaționale specializate.

Keywords: Terorism internațional, Tribunal Special ONU, Curtea Internațională împotriva Terorismului

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***Comments*:**

Antecontractul ca generator de drepturi și obligații civile

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Abstract

According to Art. 679 paragraph 3 CC RM "By contract may arise obligation to conclude a contract. The form prescribed for the contract applies to pre-contract ".
So pre-contract is an agreement of wills by which one party (the pre-contract unilateral) or both sides (pre-contract bilateral) undertakes to conclude in the future a particular contract, the content of which essentially is foreshadowed today and gives each party the right to the main conclusion of the contract requires court.
The Civil Code of the Republic of Moldova provides for the parties to engage with the promise to contract, which is a legal form of pre-contract, unspecified character essentially promise that one hue unilateral or bilateral. The civil law stipulates express only act juridiccshape in the form of promise to contract, according to art.208 paragraph 6 "The promise to conclude a legal act don't must take the form required for that act."
Therefore, the pre-contract can be concluded in a single contract, as well as through offer and acceptance.

Keywords: obligation, pre-contract, contract, the promise to contract

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***Comments*:**

Considerații privind inițiativa cetățenească de revizuire a Constituției

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Abstract

Dând eficiență principiilor democratice, sistemul nostru constitutional actual consacră posibilitatea cetățenilor statului de a iniția o propunere de revizuire a legii fundamentale. Acest articol conține o prezentare a procedurii de urmat în vederea modificării uneia sau a mai multora din dispozițiile constituționale. Totodată, articolul cuprinde şi aspecte de drept comparat referitoare la domeniul supus analizei.

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***Comments*:**

Aplicabilitatea logicii clasice în dreptul pozitiv

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Rezumat

Lucrarea de față își propune să analizeze modul în care principiile şi axiomele logicii clasice, aristotelice își găsesc aplicabilitatea în dreptul pozitiv. Este cunoscut faptul că, mai mulți autori au considerat că logica clasică nu permite o analiză completă a fenomenului juridic transpus în raționament juridic. Complexitatea vieții moderne şi multitudinea de norme juridice care o guvernează par a depăşi, de multe ori, claritatea şi eficiența gândirii logice.
Deşi dreptul este privit astăzi în mod diferit de antichitatea greacă, nu trebuie să uităm totuşi că, distincția realizată de Aristotel în *Retorica* între justiția distributivă şi justiția comutativă stă la baza disitincției dintre dreptul public şi dreptul privat. Nu toată logica prezintă interes pentru discursul juridic ci doar chestiunile referitoare la raționament, definiție, clasificare.
Motivat de faptul că realitatea juridică este creată şi modificată de realitatea socială, s-a susținut uneori şi se poate crea impresia că viața şi implicit dreptul, nu au, uneori, logică, sau, ca să vorbim juridic, există „un divorț" între viață şi logică. Însă, viața în societate şi permanenta nevoie de norme care să reglementeze eficient conviețuirea oamenilor şi să facă posibilă atingerea scopurilor legitime pentru fiecare dintre noi, ne face să sperăm că este posibilă şi conformă cu realitatea sintagma lui Edward Coke conform căreia „rațiunea este viața dreptului" (Edward Coke – *Law, Logic and Human Comunication, Archive fur Rechts und Socialphilosophie, no. 3, 1964, p.331-364)*
Prin acest articol urmărim să conciliem aceste aspecte aparent contradictorii şi să argumentăm că o eventuală aplicare şi interpretare a normei juridice în afara principiilor fundamentale ale logicii este lipsită de sens. În hățişul de norme uneorii contradictorii ale dreptului actual, este, uneori, uşor să cedezi şi să pară totul mult prea complicat pentru a putea fi structurat şi formalizat logic, în aşa fel încât să fie eiminate erorile de gândire şi raționament. Dar încălcarea principiilor fundamentale ale logicii atrage, inevitabil, nedreptăți şi abuzuri ale cărei vicitmă este justițiabilul, individul căruia i se adresează şi pentru care a fost creată justiția.

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Considerații privind certificatul european de moștenitor

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Rezumat

In data de 9 decembrie 2014,Comisia Europeană a adoptat regulamentul de punere în aplicare a Regulamentului „Succesiuni" (UE/650/2012),acesta fiind adoptat în baza competenței delegate Comisiei,de catre Consiliul UE fiind publicat in Jurnalul Oficial al Uniunii Europene. Punctul de pornire al temei abordate îl reprezintă problematica legaturii dintre regulament si normele statelor membre de drept internațional privat. Având în vedere că în fiecare an în statele membre ale Uniunii sunt dezbătute peste 400.000 de succesiuni transfrontaliere a existat necesitatea consultării notariatele statelor membre ale Uniunii,de către Comisia Europeană, consultare ce a relevat necesitatea armonizării în domeniul succesiunilor internaționale, astfel impunandu-se, o armonizarea a regulilor de conflict în cadrul Uniunii, regulile ce sunt aplicabile în materia succesiunilor internaționale, si nu in ultimul rand, a necesitat formarea în acest sens a celor confruntați, în principal, cu succesiunile internaționale – notarii publici.

Cuvinte cheie: notar public, certificat european, competență, circulație, regulament, succesiune internațională

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***Comments*:**

Traficul de fiinţe umane ca fenomen criminologic. Cauze generatoare şi favorizante ale traficului de fiinţe umane

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Abstract

Human trafficking is the recruitment, transportation, harbouring, or receipt of people for the purposes of slavery, forced labor (including bonded labor or debt bondage), and servitude.Exploitation includes forcing people into prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery and servitude. For children, exploitation may also include forced prostitution, illicit international adoption, trafficking for early marriage, or recruitment as child soldiers, beggars, for sports (such as child camel jockeys or football players), or for religious cults.

Women are particularly at risk from sex trafficking. Criminals exploit lack of opportunities, promise good jobs or opportunities for study, and then force the victims to become prostitutes. Trafficking of children often involves exploitation of the parents' extreme poverty. Governments, international associations, and nongovernmental organizations have all tried to end human trafficking with various degrees of success.

Keywords*:* human trafficking, prostitution, exploitation, forced labor, organised crime, victim of traffic.

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***Comments*:**

PANEL 2

INTERNATIONAL RELATIONS AND CROSS-BORDER, STATE, ECONOMY, SOCIETY. DIACHRONIC PERSPECTIVES

President: Professor Ph.D. Florin TUDOR

Romanian economy between economic groth and poverty: a regional approach

Romeo Ionescu
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Abstract

The paper deals with the contradiction between Romania's economic performances and its population's welfare. The whole analysis is made under the European context. Using the assumption of economic recovery across the EU28, the comparative analysis point out the idea that the Euro area's economic performances are worsen than those of the EU28, at least during the latest period.
A distinct part of the paper uses regression analysis in order to quantify the economic disparities between EU28, Euro area and Romania.
The analysis is focused on relevant economic indicators: GDP growth rate, total investment, labor productivity, saving rate of households, government gross debt. A very interesting analysis is that related to population at risk of poverty or social exclusion.
The main conclusion of the paper is that is a great difference between the official economic growth and population welfare in Romania and this difference becomes greater at NUTS2 regions. The paper uses the latest official statistic data and pertinent diagrams in order to support the analysis and its conclusions.

Keywords: economic growth; total investment; risk of poverty; regional disparities.

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***Comments*:**

The relationship sovereignty of the people - public power: the case of Moldova

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Abstract

The sovereignty of the people in democratic states is implemented through the system of public power at every level of existence of territorial collectivities. That is why studying and improving the mechanisms of realization of public power must not be made in isolation, but holistically.

In order to define public power, it is necessary to address it not only from the constitutional law perspective, but also as a socio-political concept. The definition of the notion of public authority begins with the assumption that it is a socio-political category, and the study of it must consider its essence, its forms and levels of its realization. Only the theoretical clarification of these essential concepts could permit the "decoding" of the legalities of public governance and identification of the most efficient mechanisms applicable to contemporary society that would promote the efficient involvement of the people in the realization of public power.

Keywords: state, sovereignty, public power, territorial collectivities

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***Comments*:**

Importanța geopolitică a ieșirii României la Marea Neagră

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Abstract

Romania's proximity to the Black Sea has always been, since the Middle Ages to the early XXI century, a very important issue both commercially and strategically.
In the Middle Ages, access to the Black Sea was restricted and controlled by the Ottoman Empire. Subsequently, following successive Russo-Turkish wars, the interest to have an increasingly extended Pontic facade has been shown by other countries that are riparian neighbors with Romania, the Tsarist Empire and Bulgaria, but after it has gained its independence from the Ottoman Empire. Romania's relations with Russia and Bulgaria concerning Romania's proximity to the Black Sea were complex, often bearing the mark of divergent political interests.
Recently, the reentering of Crimea in composition of the Russian Federation by referendum is a major historical event that can lead to particularly important political consequences, economic and international law. The article evaluates these consequences.

Keywords: Romania's access to the Black Sea, Russian Federation, Romania, Bulgaria, Crimea

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***Comments*:**

The new Iranian deal: a long-term comprehensive agreement?

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Abstract

The Iranian nuclear file has been in the attention of the international community since 2003, when the first discoveries regarding a secret Iranian nuclear programme were made public. Since then, the European Union, in the first phase, and the P5+1 group (comprising US, UK, France, China and Russia plus Germany), in the second phase, have tried constantly to reach a comprehensive and long-term arrangement with the authorities in Tehran, while at the same time applying multilateral and unilateral sanctions. The last in a long road of agreements has been signed in January 2016 by Iran and the P5+1 group, and it leads to the lifting of the crippling economic sanctions imposed on Iran by the international community. While the members of the P5+1 group prefer to stress that the deal will prevent Iran from obtaining a nuclear weapon, on the other side Iran underlines that it has the right to a peaceful nuclear programme for energy purposes. In these circumstances, it remains to be seen whether this is the long-term comprehensive arrangement that the entire international community was waiting for and how easy its implementation shall prove.

Keywords: Iran, nuclear programme, sanctions, EU, United Nations

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***Comments*:**

Îmbătrânirea demografică și căminele pentru seniori – o relație neimplicită în spațiul românesc

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Abstract

The paper aims to identify the existence of a correspondence between demographic aging and senior retirement homes in Romania. The first part of the article is an overview of several theoretical aspects of age typology and ways of protecting and integrating the elderly in Europe. Starting from the hypothesis that senior retirement homes are society's traditional answer to the needs of the over-65 age segment, the second part of the paper highlights the general tendency of demographic aging in Romania, the significant regional differentiation of the phenomenon, as well as the distribution of the senior retirement homes. The comparison between the two directions of analysis revealed the fact that there is no direct correspondence between them, the observation coming to support the conclusion that in terms of solutions for demographic aging, there is a characteristic dynamics for each region, most probably due to a number of factors, from cultural to economic and political.

Keywords: retirement home, senior, protection, regional

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***Comments*:**

Tax evasion in the UE through offshore financial centers

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Abstract

The contemporary economic crisis exposes the businessmen wish to avoid state laws by not paying taxes, and their orientation to the off-shore zone, towards territories where there is a tax legislation, which, usually, limits the access to information about the financial operation implemented in this zone. Transactions running in these zones are suspicious and are considered fraudulent.

This material analyzes the occurrence, development and the benefits of fiscal paradise, the main factors for choosing them, the forms and the dimensions of tax evasion in the world and in Romania, but also ways to avoid tax evasion through national and international actions.

Keywords: legal evasion, illegal evasion, fiscal paradise, illicit transfer of money

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***Comments*:**

Financial leasing in romania – integration in the european normality

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Abstract

The economic importance of leasing derives from the fact that it provides capital which is used for investment purposes. This, in turn, means a healthy economy, generates employment and promotes innovation.
Considering the majority of the financial leasing companies in Romania are members of the major European financial groups, an analysis of the evolution of national leasing market can be realised only by considering the economic growth signs that Europe may provide them. If the credit institutions are already required to apply IFRS, the Order No. 27/2011 for the approval of the accounting Regulations in accordance with the European directives seems to prepare also the non-banking financial institutions for this step.
This paper presents an analysis of the national financial leasing market in the period between 2010 and 2014, reporting to the European market, including a case study on the method of accounting financial leasing by the lessor, a non-banking financial institution, according to the European standards.

Keywords: directives, leaseurope, financial, market, leasing transactions

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***Comments*:**

Using COSO model for an eficient internal audit

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Abstract

The management and administration of an enterprise, regardless of its subject of activity and purpose, is nowadays a more and more complex matter. Valuing differences of performance depends on the nature of the enterprise and system management tools used to handle the legacy of the organization and the operation of internal control.
In recent decades, the entities managers have become increasingly concerned with the organization and operation of internal control by looking for practical solutions.
When we talk about management of internal controls and risk management we turn our attention to the US best practice models as they managed to develop a model for legislative and procedural framework in this regard. The laws in this area has emerged as a need to regain public confidence in the stock market after the great scandals of bankruptcies in America in the early 2000s.
Also in America was developed and Risk Management Firm COSO model, methodology framework issued by the Treadway Commission.

Keywords: COSO model, internal control, risk management, monitoring.

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***Comments*:**

„Construcția comunitară și extinderea spre estul Europei". Studiu de caz: „Profilul migrantului român"

Vendelin Francisc Glazer

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Abstract

Migration, in the terms of a Europe that evolves towards an absolute admittance that resulted following the extension of the European Union represents an essential aspect for Europe and implicitly for Romania due to the profound movements that modify the geopolitical structure of the old continent.

In the actual conditions of globalization, migration cannot be seen as an isolated phenomenon anymore, the global fingerprint of this phenomenon becomes more and more visible. Taking this aspect in view one can anticipate that the dynamics and the level of migration in Romania will not depend exclusively on factors of internal nature such as the state policy in the field, the evolution of economy and society in general after adherence and one will have to take into account also the external factors.

In more peremptory terms, the migration phenomenon from the perspective of the adherence at the European Union can be explained and appreciated only if the regional migratory phenomena at the level of the European Union are taken in view and joined with what happens globally because no aspect can be treated isolated anymore in the context of globalization, everything requires ample and interdisciplinary treatments.

Keywords: migration, globalization, adherence, exodus.

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***Comments*:**

Belarusians: The prevalence of heterodoxy and cultural hybridization. Legislative perspectives

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Abstract

The Republic of Belarus is an odd case of cultural hybridization that coexists with a highly rigid political regime that has always favored conservative ideals and a strong pro-Russia sentiment. The current Belarusian legislation is deeply flawed and presents a high disregard towards protecting the rights and liberties of individual and groups that possess a minority status. Minsk praises the heterodoxy of the current legislation, often regarding it as being a core element of the Belarusian social fabric. The Belarusian government favors maintaining a hallow statist national identity, which lacks any substance whatsoever, in the detriment of an ethnic-based identity. The current paper attempts to analyze those segments of the Belarusian legislation which directly, or indirectly, regulate identity-connected issues. Questioning the legitimacy of a nation's identity can be difficult, and highly dangerous, as it usually reopens chapters of history that some are still not comfortable with. The idea of a mono-ethnic Belarusian nation may sound appealing to a great majority of citizens, but even so, Russian would still be preferred over Belarusian as the colloquial language. The general state of Belarusian identity has puzzled many social scholars, some of which were quick to "diagnose" Belarusians as suffering from a hallow identity syndrome, while others have applauded it as a solution for maintaining stability in a country that is prone to major security threats from its neighbors. Belarus' biggest challenge at the moment is that of reclaiming its ancestral cultural heritage while keeping a balanced relation with its economic and strategic allies from the region. The re-Belarusificaion of the country seems to be nothing more than an idealistic thought, taking in to consideration the fact that for many ethnic Belarusians the image of a Russian-speaking Belarusian national state doesn't seem scandalous, being rather labeled as a comfortable compromise.

Keywords: Russian-speaking, dualism, re-Belarusification, mono-ethnic, crisis

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***Comments*:**

Russian as discontent's lingua franca. The interwar Romania and contemporary Ukraine cases compared

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Abstract

The "state-nation" aims not only to integrate ethnic minorities residing on its territory, but to assimilate them. As self-proclaimed state-nation, interwar Romania has neglected several minorities' rights and the right to mother tongue education in particular. In the eastern part of Romania, namely in Bessarabia, such policy fueled many hostile attitudes in local minorities milieu. Eventually they gave birth to a mutual set of political objectives negotiated and communicated in Russian. Thus the Russian tongue became lingua franca for the most of ill-treated local ethnic minorities. Today Ukraine seams to replicate Romania's interwar policy in ethnic minorities affaires. That is why, according to the author of the present paper, contemporary Ukraine confronts as well with a resilient political and even military resistance within its territory. By way of denying the right to mother tongue education for ethnic minorities, Ukraine impelled to action its own ill-treated local ethnic minorities, whose voices are channeled by the Russian tongue and culture.

Keywords: interwar Romania, Ukraine, minorities' rights, education, Russian.

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***Comments*:**

Rolul serviciile vamale privind combaterea criminalității transfrontaliere

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Rezumat

Protecția frontierelor externe ale UE constituie un subiect de o importanță tot mai mare. Tratatul de la Lisabona stabilește, printre obiectivele Uniunii Europene, atingerea unui înalt nivel de protecție și securizare a frontierelor externe. Corpusul legislativ al UE în domeniu a stabilit mai multe ținte și obiective separate care trebuie îndeplinite până în 2020 și care reflectă politica JAI a UE. Întărirea controalelor la frontieră şi diminuarea fraudei vamale face parte dintre aceste obiective cheie. Fiind singurul serviciu care deține o imagine completă asupra fluxurilor comerciale care traversează granița externă a UE, autoritățile vamale pot avea o contribuție majoră în domeniul respectiv. Cu toate acestea, rolul autorităților vamale derivă din diverse reglementări care nu sunt concepute în mod special pentru domeniul vamal și a căror punere în aplicare necesită, prin urmare, o cooperare strânsă cu autoritățile naționale ale statelor vecine non UE. Prezentele propuneri sunt concepute să îmbunătățească metodele de cooperare și să dezvolte bune practici administrative pentru controlul la frontieră.

Cuvinte cheie: protecție, securizare, frontieră, fraudă, bune practici, criminalitate

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***Comments*:**

Administrative capacity – essencial factor for the legitimacy of decentralization

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Abstract

Administrative capacity is a **essencial** factor in ensuring the legitimacy of decentralization. However, this factor must be sufficiently significant for both the central government and the territorial structures. The existence of administrative capacity at central level is needed to provide support and guidance in the decentralization of service delivery units; at the territorial structures level - for the organization and management of services in terms of efficiency and effectiveness so, as to result in personal well-being. The study analyzes the methodological aspects of development of the reform project initiated in Romania in 2013, their implications on the success of the action, the actors involved in this process - the Advisory Council for Regionalization (CONREG) and the Technical Inter-ministry Committee for Regionalization-Decentralization (TICRD) advanced and value the administrative capacity.

Keywords: administrative capacity, legitimization, decentralization.

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***Comments*:**

The transit of Cretan wine and the economy of Moldavia, cca 1550-1620

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Abstract

This paper aims at measuring the impact the transit of Cretan wine had upon the economy of Moldavian principality roughly between 1550 and 1620. Based on some previous trafficking estimates of the author, its efforts concentrates on two directions. First, it will be evaluate the princely revenues out of custom taxation; then the incomes of private transporters will. The obtain values can be used in the end to establish just how fruitful this commodity flow had been for local economy in terms of providing the cash flow need it to balance its foreign payments.

Keywords:*Wine trade, sixteenth century, Moldavia, incomes, balance of payments*

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***Comments*:**

Conservative Canadian Christians and their role in national political affairs

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Abstract
The Canadian political agenda is traditionally viewed internationally as a remarkable example of how moderate libertarian political views can draft innovative political agendas; and even further, the very substance of the national identity. Christianity, regardless if it is under the form of Protestantism or Catholicism, has greatly shaped Canada's political landscape over the course of the last few decades, often being strongly opinionated in regard to important social issues. Canada's greatest geopolitical challenge takes the form of historic national unity issue that derives from a number of sources that are linked to the different ethnic, racial and linguistic groups that Canadians identify with. Seen from the exterior, Canada seem to be in a struggle is that of balancing that of creating an all-inclusive national identity that could neutralize the tensions between English and French-speaking nationals. Quite few tend to actually add to this equation those political groups, some of which adhere to Christian values, that lean towards conservative ideologies and the potential tensions that can spark between them and the liberal majority. This paper intends to analyze the influences that conservative Christian Canadian groups pose on the drafting of legislative initiatives, and more generally, their presence on Canada's national political arena.

Keywords: doctrine, party, godlessness, norms, morals

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***Comments*:**