THE INTERNATIONAL CONFERENCE "EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP"

In Memoriam Prof. Eugen CHELARU

Pitesti – May 26, 2023 - 15th edition

UNIVERSITY OF PITEŞTI

LAW AND PUBLIC ADMINISTRATION DEPARTMENT – FACULTY OF ECONOMIC SCIENCES AND LAW

- CENTER OF LEGAL AND ADMINISTRATIVE STUDIES - ROMANIA

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THE CONFERENCE PROGRAMME and THE SYNTHESIS OF THE WORKS

THE INTERNATIONAL CONFERENCE "EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP" - In Memoriam Prof. Eugen CHELARU
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In collaboration with

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Association "LABOR LAW AND SOCIAL SECURITY" - ROMANIA
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THE CONFERENCE PROGRAMME

Friday, May 26, 2023

Faculty of Economic Sciences and Law,
Targu din Vale, no. 1, Pitesti
Rectorate Central Building - Festivities Hall

9^{00} - 9^{30}	**Guests Reception** (1st floor)
9^{30}- 10^{00}	**Festive Opening – Rector's address and welcome messages on behalf of the local administration representatives**
10^{00}- 12^{00}	**Plenary Session**
12^{00}- 14^{00}	**Book Launch Professor Emeritus Ph.D. Alexandru ATHANASIU – Contractul de muncă și perioada de probă *(Employment contract and trial period)***
	Lunch Break and Musical Moments
	Book Presentation
	Professor Ph.D. Habil. Eugen CHELARU
	and Lawyer Marius CHELARU – Drept civil. Persoanele, 6th Edition *(Civil Law. Persons)*

$14^{00} – 16^{00}$ **Plenary Session**

$16^{00} – 18^{30}$ **Works in sections (1st floor)**

19^{30} **Festive Dinner** Yaky Restaurant, Republicii Avenue, Pitești

SATURDAY, MAY 27, 2023

09^{30} -19^{00} **Cultural programme**

Friday, 26 May 2023

OPENING OF THE CONFERENCE
Greetings from the Moderators. Spechees *In Memoriam* Prof. Univ. Dr. Hab. Eugen Chelaru

PLENARY SESSION
Festivities Hall
10^{00}- 12^{00}

Moderators:
Professor Ph.D. hab. Jakub STELINA (University of Gdansk, Poland)
Associate Professor Ph.D. Carmen NENU (University of Pitești)

- ***Constitution and Civil Law: Some Considerations on the German Approach,* Professor Ph.D. Dr. Dr. h.c. mult. Rainer ARNOLD, University of Regensburg, Germany**

The constitution is the basic order of a state, it establishes an institutional system and determines values for the state and society. It is the supreme legal norm in the state and enjoys priority over all other state acts. The values it determines apply to the entire legal system. From this it follows already in principle that not only the state, but also the society must orient itself at these values. Not only the vertical relationship between public authority and the individual is bound to these values, but also the private individuals in their horizontal relationship with each other. These values of the constitution, in particular the fundamental rights, must

therefore also apply to the legal sphere of private law. The effect of the constitution, which contains these values in its written text or, in part, also in unwritten form, is applied to private-law relations either directly or, as is generally the case in Germany, indirectly.

Early on, in the famous Lüth case (vol. 7, 189), the German Federal Constitutional Court (FCC) detached the understanding of fundamental rights from their traditional defensive character against state intervention and characterized them as objective values. This allowed an extension of the fundamental rights obligation into private law and into all other parts of the legal order. This laid the foundation for the triumphant advance of fundamental rights and, beyond that, of the constitution for the entire area of German law. Since this functional extension of fundamental rights was a creation of jurisprudence, it was not assumed that the Constitution had a direct influence on civil law, but only an indirect impact on private law, mediated by civil legislation. In the text of the Basic Law, only in one place, in Article 9, paragraph 3, the case of direct influence of the fundamental right of freedom of coalition (a subset of the freedom of association related to trade unions and entrepreneur federations) on civil law contracts was established. The exceptional nature of this provision has never been questioned in the case law of the FCC. Other courts, however, have also tended to hold that some fundamental rights have a direct effect on civil law relationships.

Indirect third-party effect (more clearly: private-law effect; third-party effect means effect between private individuals, "third parties", i.e. persons, outside the vertical relationship between the state and individuals) has emerged as a concept in Germany. The constitution, and especially fundamental rights, have an effect on civil law statutes, which must be interpreted in the light of the constitution in general and in the specific case of application. Especially the general clauses of civil law, e.g. good faith, immorality, etc., are essentially shaped by the constitution. With regard to the legal consequences, however, the civil laws are relevant. The legislator must take due account of the constitution and fundamental rights when drafting civil laws, and the practitioner of the law (in particular the judge) must take due account of the constitution and fundamental rights when interpreting a specific case. This also requires a balancing between the constitutionally guaranteed freedom of contract, Art. 2.1 Basic Law (BL), and the other relevant fundamental rights.

Important in this context is the so-called duty of the state, especially the legislator, to protect the values embodied in fundamental rights. This doctrine, consolidated in case law, has significance both in the drafting of civil laws and in their interpretation.

Recent tendencies show an expansion of the civil law effect of fundamental rights and the constitution, when in particular private autonomy is increasingly restricted by fundamental rights in services that are important for society, such as the principle of equality in the case of a ban on visiting a soccer stadium by the (private law) owner. These modern tendencies are particularly highlighted in the article.

Consideration is also given to the question of how these issues are influenced by EU law and the law of the ECHR.

- ***Restrictions on concluding fixed-time employment contracts, as existing in Polish labour law - an improper transposition of Directive 99/70/EC?*, Professor Ph.D. H.C. Jakub STELINA, University of Gdansk, Poland**

The author analyses the implementation of the provisions of a European Union directive concerning fixed-term employment contracts (Directive 99/70) into Polish labour law. The Polish legislator has introduced all the three mechanisms for limiting term employment provided for in this directive. However, the way it has done so leads to weakening, not strengthening, the workers' protection. This is due to the fact that the mechanism of "justified reasons" conditioning the conclusion of fixed-term contracts has been treated as a criterion for excluding other protective measures; such as solution, according to the author, undermines the very nature of Directive 99/70.

- ***Labor law. The challenges of contemporaneity. A possible decalogue*, Professor Ph.D. Alexandru ATHANASIU, University of Buharest, Romania**

In essence, the central idea of my contribution focuses on the ontic aspects of the Romanian, European and international regulations regarding the labor report today. Privileging work, the "genetic emblem" of the

human being, Labor Law is looking for new territories to activate its mechanisms, in order to organize social dialogue, to promote the rules for the protection of the worker's dignity, to affirm some inalienable values, such as: equal treatment, safety and security at work, social inclusion, the participation of all individuals in the community's progress effort and the fair sharing of the results of society's development. At the same time, it is also about the new areas of legislation, taking into account the impact of new technologies, bringing technical progress, competitiveness and economic sustainability and challenging, on the other hand, necessary appropriate reactions in relation to the role of workers in a society that it is gradually replaced by artificial intelligence tools. A labor law that must be fully permeable to technical innovation, by "formatting" the legal norm in accordance with the demands of technology, without "damaging" the core of humanity that its rules with a protective function are obliged to preserve.

- ***Some considerations regarding the new law of social dialogue,*** **Professor Ph.D. Marioara ȚICHINDELEAN, «'Lucian Blaga » University, Sibiu, Romania**

The theoretical approach aims to highlight the progress and/or regression of the new regulations in the field of social dialogue. The state, as an important social partner of the social dialogue, intervened with new regulations to remove the gaps of the previous regulation and to substantiate the dialogue between the social partners from the perspective of the profound changes that have occurred in the labor relationship due to information and communication technology, globalization, the development of new types of individual employment contracts, the need to ensure the employee's social protection, etc.

- ***The culture of bargaining and the latest legal regulations in Romania,*** **Professor Ph.D. Magda VOLONCIU, Titu Maiorescu University, Bucharest, Romania**

In the field of collective bargaining, Romania has gone through successive stages, both in terms of the forms of conducting collective negotiations, and in terms of the intensity of such bargaining. The new Law no. 367/2022, tried to create a legal framework to facilitate the relationship

between the social partners on one hand and on the other hand to determine a development of negotiations at every level, so that more and more the culture of dialogue will be able to replace the conflict. Has this been achieved ? Equally, the amending regulations of the Labor Code aimed at a transparency of labor relations and a balancing of the worker's personal and professional interests. Such regulations, however, also have an effect on the dialogue, the negotiation at the individual level. Will these new legal provisions succeed in creating good practice in the field of individual dialogue in employment relationships ?

- ***Holiday vouchers – theoretical and practical aspects,*** **Professor Ph.D. Luminița DIMA, University of Bucharest, Romania**

Holiday vouchers are considered a benefit granted by employers to employees and represent in many situations a component of the salary package that can attract new employees or retain existing employees. By granting holiday vouchers in addition to other salary rights, the employee's income increases, but the measure is also likely to satisfy the interests of employers, who are stimulated to grant such benefits due to the specific tax regime thereof. However, it is necessary to know and understand the conditions for granting holiday vouchers, the limits established by the applicable legislation, as well as the risks that may occur in the event of non-compliance with them, so that the potential benefit considered does not turn against the employers by attracting their legal liability. The analysis of the granting conditions is topical not only from the perspective of the numerous questions and problems that have arisen in the practice of employers who are looking for increasingly varied solutions to motivate employees, but also in the context of the new regulations incident to this matter following the adoption of the new Social Dialogue Law no. 367/2022.

- ***New developments and old debates related to the protection of employment in the event of transfer of undertakings,*** **Lecturer Ph.D. Ana VLĂSCEANU, Vice-Rector University of Bucharest, Romania**

The aim of this study is to perform an analysis of recent CJEU case-law developments regarding protection of employment in the event of transfer of undertakings, business or parts thereof. Particularly, the paper focuses on evolutions pertaining to the *ratione materiae* and *ratione personae* scope of relevant regulations, as well as the possibility to split employment agreements in the event of a transfer of undertaking to multiple assignees.

- ***The correlation between the provisions of Law no. 140/ 2022 and art. 45 of the Civil Code,*** **Professor Ph.D. Sevastian CERCEL, Faculty of Law, University of Craiova, "C. S. Nicolaescu-Plopșor" Institute for Research in Social Sciences and Humanities, Professor Ph.D. Ștefan SCURTU,."C. S. Nicolaescu-Plopșor" Institute for Research in Social Sciences and Humanities.**

The Romanian Civil Code regulates in art. 45, with a suggestive marginal name - "Fraud committed by the incapacitated person"-, contained in Book I "On persons", title II - "The natural person", chapter I - "Civil capacity of the natural person", section 2 - "Capacity of exercise ", the situation in which the person "lacking capacity to exercise rights and obligations" or with "limited capacity of exercise", who seeks to conclude a civil legal act, states that he is capable or, worse, commits a fraud to persuade that he has full legal capacity.

Law no. 140/ 2022 reshaped the protective measures under Romanian law that people with intellectual and psychosocial disabilities can benefit from, emphasizing the person's autonomy and the respect for his will, preferences and needs. The regulation with implications on the civil capacity of persons of age was adopted after the Constitutional Court Decision no. 601 of 16 July 2020 declared the provisions of art. 164 of the Civil Code on the placing under interdiction as unconstitutional, essentially because they do not provide for gradual measures of protection for the person affected by mental disorders. "Special guardianship" and "judicial counselling" are the new protection measures with an effect on the capacity

of exercise, since the assistance for the conclusion of legal acts does not affect the civil capacity of the person.

Unlike the previous regulation, the current measures for the protection of persons with disabilities, which affect the exercise capacity of the protected person, allow a system of protection with "variable geometry". Through the judgment ordering the placement under judicial counselling or special guardianship, the court can establish, depending on the degree of autonomy of the protected persons and their specific needs, the categories of legal acts for which approval or representation is required. In this context, the provisions of art. 45 of the Civil Code will be interpreted and applied accordingly to identify the persons aimed at by the "appropriate civil sanction" in question.

- ***A look into the future: how prepared are we for the NIS2 Directive?*** **Lawyer Marius CHELARU, Bucharest Bar, Romania**

The European Union General Data Protection Regulation had a huge impact on companies worldwide and on how companies and other processors use data. A new compliance standard that will have at least just as big of on impact is on the way, as the European Union NIS 2 Directive is set to be transposed into national legislation no later than October 2024. The aim of this directive is to establish a high common level of cybersecurity across the Union. This paper is aimed at analyzing the current status of cybersecurity law and what to expect from the NIS 2 Directive.

12^{00}-14^{00}

Books Launch

Lunch Break and Musical Moments

PLENARY SESSION
Festivities Hall
14^{00}- 16^{00}

Moderators:
Professor Ph.D. hab. Mariusz ZAŁUCKI (AFM Kraków University, Poland)
Associate Professor Ph.D. Andreea TABACU (University of Pitesti, Romania)

- ***Turn of an Era*, Professor Ph.D. DDr.h.c., M.C.L. Heribert Franz KOECK, Universität *Johannes Kepler* Linz, Austria**

The present war in Europe caused by Russian aggression against Ukraine in early 2022 has turned out to become a fight between a totalitarian system with disregard of human rights and its sympathizers world-wide and a pluralistic system based on democracy and the respect for, comprising the protection of, human rights. Wladimir Putin has declared the latter system to be outdated and demands a new world order in which Russia should have a decisive say.

Since presently Russia is not ready to reverse its course and ambitions, no just peace for Ukraine is feasible. If the aggressor does not step down, the conflict might lead to a Third World War.

Under these circumstances, not a few people would be ready to surrender to the unjust aggressor in order to preserve their naked lives. This, however, runs counter to the truth that the reason of life must not be sacrificed for a life without reason. Moreover, such a sacrifice cannot be imposed by the one upon the other; therefore, the (only!) justification of a state's existence is the preservation of the common good, including peace

and freedom, according to the idea of individual or collective self-defense. If the state fails to live up to this obligation, everyone has the right to resistance, even in its active form. Resistance is justified even against decisions adopted by a democratically legitimized majority, because democracy is not an end in itself; it is but a tool for establishing and protecting the common good. If the tool turns useless, it has to be substituted by other more expedient means.

Presently, it is not possible to predict the outcome of this epochal struggle with any certainty. We can only pray to God that the worst scenario will not materialize.

- ***The developing problems of digital wealth on the grounds of Eugen Chelaru's concept of personality rights*, Professor Ph.D. hab. Mariusz ZAŁUCKI, AFM Kraków University, Justice at the Supreme Court of Poland, Poland**

Issues related to the presence of the individual in the digital world appear to elude traditional legal concepts, especially in the area of civil law. However, the transformation from the analogue world to the digital world, for many products and services, has become a reality. We leave behind a 'digital footprint', which often has an economic value, becoming a component of our wealth. Digital wealth is, however, a sphere that raises some questions. An example from the digital world, which is present in virtually every household, is, for example, the email service, which has changed the way we correspond with the world. Given that e-mail often serves an individual's economic interest, there are increasing claims about the property nature of this type of our on-line presence (the good). There are, in fact, many other examples of various digital goods which serve an economical interest. Taking the property nature of such goods as a starting point, one wonders whether it is possible to trade involving these goods, both inter vivos and mortis causa. Mechanisms known from civil law, in some aspects, interfere with free and unlimited circulation of these goods. Indeed, since e-mail serves the purpose of communication, it must be related to, among other things, the privacy of the author of the e-mail content and his communication partner, or the secrecy of correspondence. However, the potential conflict of values between property rights and

personality rights, for the further development of private law, should find an appropriate solution. Such a possible solution is worth considering in the light of Professor Eugen Chelaru's concept of personality rights, who recognised the broad context in which legal constructions for the protection of these rights operate and the consequences of it. This will be the subject of the presentation, which will locate the benefits of new technologies in the traditional legal thought of which Prof. Chelaru was an author. In turn, the purpose of the presentation is to point out existing uncertainties and to seek further possible developments in the law within this field.

- ***The margin of appreciation of the member states in matters of free movement-limited by the system of protection of fundamental rights?*, Lecturer Ph.D. Mihaela Adriana OPRESCU, Vice-Dean Faculty of European Studies, Babeș-Bolyai University, Romania**

One of the aims of the European legislator regarding Directive 2004/38 concerning the right to free movement and residence on the territory of the Member States for citizens of the Union and their family members was, in essence, to correct the fragmented approach to the aforementioned right, starting from the normative diversity specific to the 27 member states. It cannot go unnoticed that the Directive contains provisions that grant a certain margin for appreciation for the member states, which, through the interpretation of the Luxembourg court, can in specific situations be confined within the boundaries of the European system for the protection of fundamental rights.

Equally, the evolution of CJEU jurisprudence illustrates that EU law operates, in terms of free movement, with two types of family circles: an extremely narrow one (composed of spouse, partner, descendants, ascendants) who automatically enjoys the right to free movement and another extended one, built around relationships of economic, emotional or physical dependence between members, and which do not enjoy such a right.

- ***Causes of migratory movements and objectives of immigration policies: reflections for a fairer and more inclusive management of human mobility,*** **Professor Ph.D. Laura MIRAUT MARTIN, Director of Department Philosophy of Law, University of Las Palmas de Gran Canaria, Spain**

The mass displacement of people takes on a particular significance today as a phenomenon linked to globalisation. Economic inequalities between different countries, armed conflicts, natural disasters, etc., explain to a large extent the tendency of individuals to settle in a place far from their family and emotional environment in search of a future that offers greater possibilities for life development. We can thus identify different causes (both external and internal) that are conducive to current migratory movements.

Receiving societies normally view the migratory phenomenon with a certain amount of mistrust, trying to respond to it in a way that does not negatively affect their interests or modify the initial situation too much. Immigration policies often move between attention to the interests of the host society, which it is understood may be violated, and the preservation of the conscience of individuals in the face of the need to provide a humanitarian response to the situation of helplessness experienced by immigrants. On this point, an alternative to the current paternalistic model is needed, which tends to value the free development of the immigrant's personality, respecting their cultural identity, and applying the principle of the universality of human rights to the fullest extent.

- ***The proposal to reform the judicial framework of the European Union by transferring preliminary rulings in specific areas to the General Court. Some considerations,*** **Associate Professor Ph.D. Constanța MĂTUȘESCU, Dean Faculty of Law and Administrative Sciences, Valahia University of Târgoviște, Romania**

In response to the increased number of requests for preliminary rulings in recent years, affecting the handling times of these cases, in December 2022 the Court of Justice of the European Union formulated, pursuant to Article 281 of the Treaty on the Functioning of the European

Union, a request to the European Parliament and the Council to reform the Statute of the Court and transfer preliminary references to the General Court within certain areas. The proposal, on which the Commission expressed its favorable opinion in March 2023, concretizes a possibility that has existed since the Treaty of Nice (ex Article 225 TEC, currently Article 256 TFEU), but which has not been used until now, the actions for preliminary rulings remained within the exclusive jurisdiction of the Court of Justice. The paper seeks to highlight the main elements of the new reform proposal, placing them in the wider context of the various procedural arrangements adopted in recent years and the changes made in 2015 to the Statute of the Court of Justice, trying to determine, at the same time, possible implications for the relationship between EU jurisdiction and national courts.

- ***Violence against women within the framework of the European Union. Present and future of European Directive,*** **The Honorary Consul of Romania in the Canary Islands, Lawyer, Ph.D. Candidate Alina Elena RÂMARU, University of Las Palmas de Gran Canaria, Spain**

Untill now, the European Union doesn't have a common legislative framework on gender and domestic violence, despite the fact that 50 European women die each week as a result of this problem, that the pandemic and the internet have led to a proliferation of VAWS, and the legislative efforts and economic resources used to a lesser or greater extent by the member states. On March 8, 2022, the European Commission sent to the European Parliament and the Council the Proposal for a Directive on combating violence against women and domestic violence. The present article intends to analyse this proposal, starting from the need and opportunity of a joint effort, the European and international context with reference to the process of ratification by the EU of the Istanbul Convention, the legal basis that allows the intervention of EU, the content and the scope of the new directive. This should help understand the assumptions and challenges of the first common framework of the EU on this matter and the modifications that the text could undergo during the legislative process, to reach a more ambitious regulation within the limits of subsidiarity and proportionality specifics to the European construction.

- ***The Ombudsman and Ombudsman for children in the system for protecting the freedoms and rights of individuals in Poland*, Associate Professor Ph.D. Habil. Rafał CZACHOR, Andrzej Frycz Modrzewski Krakow Academy, Poland**

There are various bodies making up the system for protecting the rights of an individual in a democratic state. An example is the ombudsman. In Central and Eastern Europe ombudsmen were appointed during the late socialist era or during the period of democratic transformations. An example is Poland, where the first ombudswoman was appointed in 1987. Since 2006 Poland has had another institution with a similar, though more targeted profile – the Ombudsman for Children. The aim of this short study is to carry out a brief analysis of these two institutions.

- ***Drugs hidden under the eyes of the law*, Ph.D. Habil. Ion IFRIM, CS II, Institute of Legal Research "Acad.Andrei Radulescu" of the Romanian Academy, Romania**

In this communication, we will not scold young drug addicts, because they are victims, and doctors will work to cure them, not beat the patient for asking why he got sick. At present, young people who have been affected by drug addiction are not seen as sick people, but as anti-social elements, instead of victims. Thus, drug addiction is still seen as a particular or individual case, as an insignificant accident, as a side loss in the war of life, even though it is not just a tragedy in the life of a single individual, but a national tragedy of the Romanian people, a tragedy of millions of young Romanians, touched by the unhealable disease called drugs, and predestines them to inevitable death in physical and moral suffering and takes them out of the useful fluid of social life, and parents to mourn for a lifetime mourning their children who have been misled. These are the reasons why I am writing this scientific communication because I foresee the inevitable end of young drug addicts waiting their turn... Our only hope is that this communication will not be seen as a threat, but as a call to life, so that young people will understand the danger posed by drugs, which, once in, even experimentally, in their bodies, cannot be taken out, because of the deception that ultimately leads to death, and there is no such thing as a trial death.

PAPERS IN SECTIONS

SECTION 1
16^{00}

Moderators:
Associate Professor Ph.D. Elise VÂLCU (University of Pitesti, Romania)
Associate Professor Ph.D. Constanta MĂTUȘESCU (Valahia University of Targoviste, Romania)
Lecturer Ph.D. Adriana PANȚOIU (University of Pitesti, Romania)
Lecturer Ph.D. Andra PURAN (University of Pitesti, Romania)

- **LOBBYING IN THE POLISH LEGAL SYSTEM**

Professor Ph.D. Beata STĘPIEŃ-ZAŁUCKA (University of Rzeszów, Poland)

Abstract dictionary of the Polish language, defines lobbying as exerting influence on state authorities in the interests of certain political, economic or social groups. With its genesis, this phenomenon, which has its origins in ancient times, it was already then that individual social groups sought to exert the greatest possible influence on legislative decisions, not shying away from lawlessness. However, conceptually, lobbying originated in the United Kingdom, where the word is used to describe activities undertaken in a place - a lobby. At the same time, the most developed is restively lobbying in the United States or the European Parliament. In

Poland, lobbying was regulated by law in the Act of July 7, 2005 on lobbying activities in the lawmaking process.

Thus, since then, lobbying has been a legally regulated institution. Since then, however, the number of lobbyists in parliament has been declining, and this is to such a state that, if the current trend continues, lobbyists in the parliament of the Republic of Poland will disappear altogether in the coming years. This state of affairs forces one to ask whether it is the case that lobbyists in Poland have ceased their activities, or whether it is the case that their activities have taken a less transparent form. While the first of the above-mentioned situations is not dangerous - probably because its occurrence borders on the miraculous - the second situation raises many concerns, primarily because of the possible dangers associated with the activities of lobbies. Against this background, the reason for the successive decrease in the number of lobbyists in relation to the scope of their activities in Poland will be examined. The above findings will be examined on the basis of theoretical-legal and dogmatic-legal methods.

- **STATE POWER AND HUMAN RIGHTS IN A DEMOCRATIC SOCIETY**

Lecturer Ph.D. Marius ANDREESCU, Lecturer Ph.D. Andra PURAN, Lecturer Ph.D. Ramona DUMINICĂ (Faculty of Economic Sciences and Law, University of Pitești, Romania)

The coding is not only the expression of the political will of the law maker, it firstly is a complex juridical technique for the choosing and systematization of the normative content necessary and adequate to certain social, political, economic, institutional realities. Since Constitution is a law, yet it nevertheless distinguishes itself from the law, the problem is to establish which juridical norms it contains. The solving of this problem needs to consider the specific of the fundamental law and also of the requirements of the coding theory. The determining with all scientific stringency of the normative content of the Constitution is indispensible both for the removal of any inaccuracy in delimiting the differences from the law, for the stability and predictability of the fundamental law and last, but not the least, for the reality and effectiveness of its supremacy.

In our study we realize an analysis based on compared criterions of the techniques and exigencies for the choosing and systematization of the constitutional norms with reference to their specific, to the practice of other states and within a historical context. The analysis is aiming to the actual proposals for the revising of the Constitution.

- **HUMAN RIGHTS AND THE PANDEMICS. EXPERIENCES AND FAILURES**

Ph.D., scientific researcher III, Versavia BRUTARU (Institute of Juridical Researches "Acad. Andrei Rădulescu", Romanian Academy, Bucharest, Romania)

In principle, in exceptional circumstances, social or natural, which threaten the normal existence of society, the state may resort to derogatory measures concerning most of human rights, that is their exceptional limitations, much more severe than those acceptable in a period of normalcy. However, the derogating measures must have a single purpose, namely to resolve the crisis situation and return to normalcy, so they must respond to an overriding social need, must be strictly proportionate, the limitation must be duly substantiated and the application must be non-discriminatory.

- **CASE C-872/19P *VENEZUELA V. COUNCIL*-A PANDORA'S BOX OPENED BY THE LUXEMBOURG COURT.**

Lecturer Ph.D., Vice-Dean Mihaela Adriana OPRESCU (Babeș-Bolyai University, Faculty of European Studies, Cluj, Romania)

The provisions of art. 263 TFEU enshrines a judicial procedure in which the annulment of an act adopted by an institution, organ or body of the European Union can be requested before the Court of Justice of the European Union. Starting from the decision handed down by the CJEU in Case C-872/19P Venezuela v. Council, this study focuses on the active procedural legitimization of a third State in bringing such an action, in the

context in which the principle which the Union is based on, among other things, on the value of the rule of law also reverberates on the common foreign and security policy (CFSP). It remains to be seen whether the decision handed down in this case is likely to make vulnerable the entire architecture of the common foreign policy at the EU level.

- **GENESIS OF THE EUROPEAN MONETARY UNION**

Legal Adviser Mariana-Alina ȘTEFĂNOAIA (Association "College of Legal Advisors" Suceava, "Orde of Legal Advisors from Romania" Federation, Romania)

In order to carry out the activities of the European communities, and therefore to achieve the objectives provided by the treaties, they have needed determined financial resources since their establishment. The situation is currently valid within the European Union. These resources must cover the expenses necessary from an administrative point of view, identifying the funds necessary for the functioning of community institutions and bodies, especially the funds necessary to support the so-called operational expenses, which correspond to the realization of the policies provided by the treaties.

- **PRIORITY APPLICATION OF EUROPEAN LAW IN THE FIELD OF PUBLIC PROCUREMENT**

Lecturer Ph.D. Dan-Mihail DOGARU (University of Craiova, Faculty of Law, Romania)

The illegal direct award of public procurement contracts was the basis for the issuance of Directive 2007/66/EC, Directive amending Council Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of appeals in the matter of awarding contracts. This Directive was transposed into domestic law through the adoption of Law 101/2016 on the remedies and appeals in the matter of awarding public procurement contracts, sectoral contracts and works concession and

service concession contracts, as well as for the organization and operation to the National Council for the Resolution of Appeals.

The provision of short prescription and lapse periods for invoking in court the absolute nullity of public procurement contracts is likely to violate - in some situations - the right to defense regulated by art. 6 ECHR, context in which the removal from application of the domestic law in force, law adopted precisely as a result of the European directive mentioned above, must be discussed.

- **RESERVE OBLIGATION OF MAGISTRATES - INTERNAL AND INTERNATIONAL REGULATIONS**

Lecturer Ph.D. Viorica POPESCU (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

Modern society calls for greater transparency in the functioning of public bodies, including the judiciary. Society's expectations regarding judges and prosecutors, from the perspective of their manifestations and actions, determined the adoption of regulations that involve responsibilities and norms of conduct in relation to this evolution.

In this context, one of the most important obligations of a magistrate is that of reserve, this having the role of creating a balance between the prestige and independence of the judiciary, on the one hand, and the conduct of the magistrates, on the other. Judges and prosecutors must have a behavior appropriate to the profession, in the exercise of the function and outside it, both by reference to the internal standard of the dignity of the profession, and by the external one, of public trust in the act of justice.

This article aims to make a brief analysis of the content of the reserve obligation of magistrates, an obligation that expresses a practical synthesis of the general principles of the deontology of the profession (independence, impartiality, integrity) and involves moderation and restraint in professional, social and private life, through reference to the domestic and international regulations adopted in the field.

- **REFLECTING THE PRINCIPLES OF JUDICIAL INDEPENDENCE AND IMPARTIALITY IN DOCTRINE AND JURISPRUDENCE**

Lecturer Ph.D. Florina MITROFAN (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

The present study analyzes the concept of judicial independence as an essential principle of the judicial organization as well as the means of guaranteeing it, as reflected in the doctrine, highlighting the particularities of jurisprudence.

The findings of the constitutional court with reference to the essential components of the principle of judicial independence are also significant, components that involve the existence of numerous aspects that will be highlighted in the following.

- **REFLECTIONS ON THE PRINCIPLES OF JURIDICAL RESPONSIBILITY OF THE STATE IN INTERNAL RIGHT**

Associate Professor Ph.D. Elena MORARU (Technical University of Moldova, Republic of Moldova)

The principles of juridical responsibility of the state must be investigated in accordance with the principles of juridical responsibility and those of the right. The principles of juridical responsibility develop and materialize the principles of the right. In their turn, the principles of the right represent the foundation of forming of the principles of juridical responsibility. The principles are being characterized by a determined subjectivity as those one are conditioned by the character of social relations on which is founded the system of determined right.

- **CONFLICT OF INTEREST IN PUBLIC ADMINISTRATION**

Associate Professor Ph. D./ Ph.D. Student, Dean Miruna TUDORAȘCU (University "1 Decembrie 1918" Of Alba Iulia/ The National University of Political Studies and Public Administration, Romania)

This material aims to clarify the concept of conflict of interest, the relevant legal aspects, the professional categories to which it is addressed, all of which are analyzed in the first part, entitled The Institution of Conflict of Interest. The second part, entitled Conflict of Interest in the European Union, then provides a summary assessment of this institution at European Union level. Relevant for highlighting the theoretical aspects of the subject is the identification of case studies and their analysis, which is carried out during the third part, entitled Relevant case law on the subject. Case studies - Jud. Alba, and finally some conclusions and proposals are outlined.

- **DEMOCRACY IN EUROPE-HISTORY AND EVOLUTION OF A CONCEPT**

Lecturer Ph.D. Alina-Gabriela MARINESCU (University of Pitești, Romania)

In the last decade of the 20th century, Giovanni Sartori suggested the idea that democracy is a symbol for most states on the world map. But, perhaps more than a symbolic value, democracy is today an institutional reality in more than half of the states that make up the United Nations. In Europe, however, a state cannot be a member of the Council of Europe if it does not meet the requirements imposed by democratic institutions and human rights are not respected. Democracy has been and has remained a factor that, throughout the ages, has conditioned and therefore accompanied social progress. So, democracy has developed and develops only to the extent that the relationship between the leaders and the governed tilts in favor of the latter, when the governed impose on the leaders through various ways and means - respect for the fundamental rights of the individual and nations.

- **FUNDAMENTAL PRINCIPLES OF INTERNATIONAL LAW IN TIME OF WAR**

Lecturer Ph.D. Andra PURAN, Lecturer Ph.D. Lavinia OLAH (Faculty of Economic Sciences and Law, University of Pitești, Romania)

International society can only be viewed and analyzed through the relationships between the subjects of public international law and it existence cannot be conceived without norms. The existence of any international entity as a social entity presupposes a series of obligations exercised throughout his life cycle, materialized in a series of norms, which compose a system of rules as a condition for the existence of society's life, a mechanism that requires good management of human relations and removes the imminent danger of chaos.

At the base of this system of rules are the fundamental principles that govern general international law as a whole, being intended to defend the most important values of international society and humanity.

In the context of a war of aggression that destabilized international society, in the era of international relations based on cooperation and diplomacy, we do not hesitate to ask whether these fundamental principles are still respected or not.

SECTION 2
16^{00}

MODERATORS:
Lecturer Ph.D. Daniela IANCU (University of Pitesti, Romania)
Lecturer Ph.D. Marius VĂCĂRELU (National School of Political and Administrative Studies, Bucharest, Romania)
Lecturer Ph.D. Sorina IONESCU (University of Pitesti, Romania)
Lecturer Ph.D. Carmina TOLBARU (University of Pitesti, Romania)

- **OBSTACLES TO THE RECOGNITION OF FOREIGN JUDGMENTS IN POLISH CIVIL PROCEEDINGS**

Professor Ph.D. Habil. Tomasz SZANCIŁO (European University of Law and Administration in Warsaw, Poland)

Judgments of foreign courts rendered in civil matters are subject to recognition in Poland by operation of law, unless there are specific obstacles. These are listed in the Polish Code of Civil Procedurę. A court which decides on the recognition of a foreign court judgement doesn't, in principle, examine the substantive validity of the judgement, as this isn't the subject of these proceedings and, moreover, the merits of the claim can't be decided twice. If one of the obstacles is present, the court dismisses the application for recognition of the foreign courfs decision, which makes such a decision ineffective on the territory of Poland. The catalogue of obstacles thus determines the selection of judgments of foreign courts. The model adopted in Polish procedural law for the recognition of such judgments is transparent and deals with violations of fundamental procedural issues and basie principles of the Polish legał order.

- **TAKING OF EVIDENCE BY INTERNATIONAL ROGATORY COMMISSION BETWEEN THE COURTS OF THE MEMBER STATES OF THE EUROPEAN UNION - REGULATION NO. 1783/2020**

Associate Professor Ph.D. Andreea TABACU (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

The new Regulation (EU) no. 1783/2020 resumes the rule from the previous regulation, which provides for direct communication between the courts involved in order to obtain evidence but shows that requests and communications are transmitted through a decentralized, secure and reliable IT system, with due respect for rights and freedoms fundamentals.

Priority is given to the use of international rogatory commissions by accessing the online environment, without denying the possibility of direct taking of evidence, by the participation of the magistrates of the requesting court in the taking of evidence on the territory of the requested European state, but the use of communication technology, such as videoconference or teleconference, is encouraged, precisely to ensure the speed and efficiency of the taking of the evidence.

- **BUDGETARY EQUILIBRIUM AND PUBLIC NEEDS: WHERE IS THE CORRECT BALANCE?**

Lecturer Ph.D. Marius VĂCĂRELU (National School of Political and Administrative Studies, Bucharest, Romania)

The budget balance today is mostly just a principle of the science of financial law and a provision of the legal norms, unrelated to practice. However, it is necessary to keep in mind that public debts press on the current life of every person, reducing the development capacities of each country for a long period of time. For this reason, it is necessary to emphasize the relationship between public needs and budget balance, because this decade brings other challenges to this relationship.

- **BRIEF CONSIDERATIONS ON THE INTERPRETATION OF THE CRIMINAL LAW**

Lecturer Ph.D. Cătălin BUCUR (Faculty of Economic Sciences and Law, University of Pitești, Romania)

The interpretation of the criminal law is that logical-rational operation to clarify the content of a criminal law, to find out and explain the real meaning of the law, according to the will of the legislator who adopted it.

In the process of theoretical and practical knowledge of the legal provisions, the interpretation of the criminal law is necessary, no matter how clearly it is formulated, for a better legal framing of the facts by the perfect incorporation of the factual situation in the legal framework fixed by the criminal legal norms.

- **PRIVILEGE AGAINST SELF-INCRIMINATION IN THE DIGITAL AGE?**

Professor Ph.D. Lali PAPIASHVILI (Iv. Javakhishvili Tbilisi State University, Faculty of Law, Georgia)

The Presumption of Innocence Directive [Directive (EU) 2016/343)] provides for an explicit basis in EU law for the Privilege against self-incrimination (while neither ECHR nor the Charter of Fundamental Rights of the European Union [CFR] expressly provide for the Privilege), however several basic uncertainties still remain. Despite the fact that the EU Member States incorporate the Privilege into national legislation, there is still much less agreement between the States when it comes to determining the scope of the Privilege and the possibilities to restrict its application.

As the defendant is exempt from the duty to assist the prosecution in obtaining his/her incriminatory evidence and thus from the burden to prove his/her guilt, what is the scope of the Privilege imply and where does

it end? Is a defendant entitled to withhold incriminatory evidence from the prosecution that was gathered by himself/herself or evidence, contained in his/her mobiles and computers and existence of which was, and could remain unknown to the prosecution should the defence failed to obtain it? Should different approaches applied based on the type/method of the decryption (biometric decryption, facial recognition, thumb print reading, etc.)? Does decryption orders fall within the acceptable exceptions from the privilege?

- **THE MAGISTRATE – CRIMINAL PROCEDURAL SUBJECT AND THE CONSEQUENCES FOR HIS PROFESSION**

Associate Professor Ph.D. Camelia MORĂREANU (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

Going through a criminal procedure is a traumatic experience that produces different consequences among the most severe. Not only on a personal level, a series of psychological changes occur, but also on a family level, situations arise where not all family members provide the necessary support to the person involved in a criminal trial, blaming or marginalizing the person concerned. Along with these, in the socio-professional level, in which the individual carries out his activity, there appear a series of "sanctions" from the community, but with an increased degree of severity it seems to be the impossibility of exercising the profession. The considerations expressed are generally valid for any person who is the subject of criminal proceedings, but the magistrate's capacity of the person in question brings a series of particularities because it leaves its mark on the entire professional career of a magistrate. These particularities will be dealt with in the material that follows, depending on the procedural phase completed and the coercive measures applied in the criminal process launched against a magistrate.

- **THE COMPETENCES OF THE EUROPEAN PUBLIC PROSECUTOR'S OFFICE VERSUS THE COMPETENCES OF THE NATIONAL PROSECUTOR'S OFFICES**

Lecturer PhD Gabriela ZOANĂ (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

The European Public Prosecutor's Office has the competence to investigate, prosecute and bring to judgment crimes that harm the financial interests of the Union provided for in Directive (EU) 2017/137. Not all EU member countries have joined the EPPO, out of 27 EU member countries, only 22 participate in the EPPO. National prosecutors' offices, although they benefit from international judicial cooperation, have resources and powers that are limited to national borders.

- **SIMPLIFYING CRIMINAL PROCEEDINGS: A LOCAL INTEREST OR A EUROPEAN IMPERATIVE?**

Lawyer, Ph.D. Delia MAGHERESCU (Gorj Bar Association, Romania)

The issue of simplifying criminal proceedings has been arisen in the Romanian legislation a long time ago and is the result of several factors involved in the justice system in criminal matters. They were primarily determined by the principle of due process, on the one hand, and its particular feature structured around the aim of solving the criminal cases in reasonable time, on the other hand. The current paper focuses on the current issues of criminal proceedings after a considerable period of time which has passed from the new Code of criminal procedure of Romania entered into force. The legal expectations are currently in the lawyers' attention in order for them to outline the main achievements gained in the field of respecting the participants' procedural rights while simplifying the criminal proceedings is required. The paper is based on the conceptual research approach combined with the jurisprudence references in criminal matters provided in those criminal cases in which the ordinary procedure is not stated. Only a few questions have been asked in the beginning of the study, one of them being related to the issue if simplifying criminal proceedings is the result of the local interest or the European imperative.

The result of the study has concluded that the criminal proceedings is at the moment more accustomed with the idea of delivering judicial decisions by using the principle of due process in a more comprehensive environment featured by the appropriate simplification of criminal proceedings in accordance with the rules of the Code of criminal procedure. As a general remark, it should be emphasized that both above-stated circumstances are pertinent issues which cover the topic involved.

- **SOME OBSERVATIONS ON THE CAUSES OF DIFFERENTIATION OF PUNISHMENT**

Lecturer Ph.D. Mihai ȘTEFĂNOAIA ("Stefan cel Mare" University from Suceava, Faculty of Law and Administrative Sciences, Romania)

Fiscal policy is one of the tools by which the state can influence economic development. At the same time, the level of public services depends on the quality of the fiscal system, and, in close correlation with them, the degree of satisfaction of the taxpayers.

The amounts resulting from the collection of taxes due for the income obtained by individuals are, at European level, the second most important source of public revenue, after the amounts collected as VAT. Therefore, states pay more attention to how these revenues are taxed. At national level, the return to the progressive taxation system, which would replace the single quota system, has been discussed.

For these reasons, this article aims to present some of the most important aspects of personal income taxation.

- **ANTI-CORRUPTION POLICY AT EU LEVEL**

Lecturer Ph.D. Sorina IONESCU (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

At EU level a series of measures are going to be implemented during the next period of time in what the anti-corruption policy within the Member States is concerned.

These measures contained in the recent proposals are considered by the EU institutions a milestone in the fight against corruption at national and EU level.

We intend to analyze in the present paper the importance of this EU policy and also the impact that the recent proposals are going to have within the EU institutions and especially at national level.

- **HUMAN TRAFFICKING CONSIDERATIONS. EXPLOITATION THROUGH LABOUR AT THE EUROPEAN UNION LEVEL**

Lecturer Ph.D. Carmina TOLBARU (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

Trafficking in human beings is one of the most serious forms of crime, which flagrantly violates human rights, having different forms of manifestation, such as sexual exploitation, forced labour or services, slavery, servitude, removal of vital organs etc. At the level of the European Union, this complex phenomenon is approached from the perspective of cross-border organized crime, implying close cooperation between all member states. It is considered a modern form of slavery, which does not take into account gender or age, labour exploitation being the predominant form of exploitation for the purpose of obtaining material advantages. Thus, human trafficking for labour exploitation is on the rise across Europe, affecting women, men and children alike. Greater attention should be paid to children from vulnerable groups, such as street children, children belonging to ethnic minorities or children in state foster care, who have a high index of victimization. Efforts are currently underway to strengthen action against human trafficking for the purpose of labour exploitation.

SECTION 3
16^{00}

Moderators:
Associate Professor Ph.D. Andreea DRĂGHICI (Faculty of Economic Sciencies and Law, University of Pitesti, Romania)
Lecturer Ph.D. Manuela NIȚĂ (Faculty of Law and Administrative Sciences; Valahia University of Târgoviște, Law Department, Romania)
Lecturer Ph.D. Ramona DUMINICĂ (Faculty of Economic Sciencies and Law, University of Pitesti, Romania)
Lecturer Ph.D. Viorica POPESCU (Faculty of Economic Sciencies and Law, University of Pitesti, Romania)

- **THE OBLIGATIONS TO INFORM AND CONSULT THE UNION/EMPLOYEE REPRESENTATIVES IN THE COLLECTIVE DISMISSAL PROCEDURE**

Associate Professor Ph.D., Lawyer Mădălina-Ani IORDACHE (University of Bucharest/SCA Ciulei Iordache Morozov, Romania)

At the European level, Directive 95/39 was adopted on the approximation of the legislation of the member states regarding collective redundancies, this being implemented in the national legislation within the provisions of art. 68-75 of the Labour Code.

The collective dismissal procedure considers the fulfilment by the employer of two main obligations, in relation to the union or employee representatives:

- *The obligation to consult;*
- *The obligation to inform.*

These two obligations represent the application of the general principle of good faith which is the basis of the legal employment relationship.

- **COOPERATION BETWEEN THE EUROPEAN UNION AND GEORGIA IN THE ASPECT OF LABOR MIGRATION**

Associate Professor Ph.D. Irina BENIA, Assistant Professor Ph.D. Tamara SAJAIA (Tbilisi Humanitarian Teaching University, Georgia)

Report deals with the problems of labor migration that developed in Georgia after the collapse of the Soviet Union and Continues to this day. The main reason for the intensification of migration processes is the complex socio-economic problems that have arisen among the population of the country. Migration processes affect not only the problems of labor outflow and return to the homeland, but also such an important issue as the gender ratio within migration. Women, like men, are forced to leave their families and look for work in other countries. Based on this, migration processes and their management have become one of the important directions of Georgia's policy. In recent years, the country has seen significant changes in the regulation of migration processes. The Georgian government has developed legislation, policies and institutional arrangements. Despite the work done, there are still open questions on providing legal ways for Georgian workers to access employment in the Member States of the European Union.

- **THE ACTIVITY OF THE DIGITAL NOMAD IN ROMANIA BETWEEN SOCIAL REALITY AND LEGAL REGULATION**

Associate Professor Ph.D., Vice-Dean Carmen NENU, Lecturer Ph.D., Director of Legal and Public Administrative Department Daniela IANCU (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

The digital nomad is a new actor, who carry out telework activity in Romania, for his own benefit or for an employer whose headquarters are outside the country's borders.

Being a new way of providing the activity, it was necessary to regulate the legal situation of the digital nomads, both from the point of view of social security and tax legislation.

Digital nomads earn income from the performance of professional activities and have distinct tax regime for the first 183 days spent in Romania. An analysis of the way in which the Romanian legislator understood to adapt the legislation to respond to the challenges of the work of digital nomads, is necessary in order to be able to identify the measures to increase the protection degree of these workers.

- **THE RIGHT TO DISCONNECT, FUNDAMENTAL RIGHT OF THE EMPLOYEE**

Lawyer Livia-Florentina PASCU (Arges Bar, Romania)

The digital age has created the possibility for many employees to perform work anytime and anywhere, which gives them both advantages and disadvantages.

One of the disadvantages of working remotely is that the employee is always connected, which can have a negative impact on their fundamental rights.

The right to disconnect implies the employee's right not to perform activities or to engage in communications through digital tools outside of work hours.

By regulating the right to disconnect, a balance between professional and private life is ensured, the employee is protected from possible repercussions from the employer for disconnection.

- **A NEW PROPOSAL FOR AN EU DIRECTIVE AND A NEW CHALLENGE TO HARMONISE INSOLVENCY LAW RULES. CREATING A SPECIAL INSOLVENCY REGIME FOR SMES - A "KEY" ITEM ON THE EU AND UNCITRAL AGENDA**

Professor Ph.D. Habil. Ionel DIDEA (Faculty of Economic Sciences and Law, University of Pitesti, Romania), Legal Adviser Ph.D. Diana-Maria ILIE (University of Pitești, Romania)

Recent years have been marked by successive and partly interlinked shocks, creating an unprecedented economic and geopolitical context. The Covid-19 pandemic as well as the war in Ukraine have "shaken" the global economy, generated socio-economic risks and vulnerabilities and disrupted global value chains, painting a challenging "picture" as economic growth slows from almost 6% in 2021 to ca. 4% in 2022. The economic consequences, global inflation, as well as green and digital transitions further increase the need to identify effective tools to enable rapid business reorganisation and above all to stimulate global economic renewal. Recent insolvency statistics confirm the challenges companies face in trying to survive in a changing economic landscape.

With this research we aim to outline new trends and visions in insolvency, especially as the field of insolvency seems to be "thirsty" for reform, enjoying an accelerated dynamism in internationalisation, harmonisation and unification. Moreover, on 7 December 2022, the European Commission proposed a new Directive on the harmonisation of certain aspects of insolvency law, creating a new "safety net" of coherent measures capable of mitigating the socio-economic consequences at the crossroads of contemporary crises, while representing another important step in the process of harmonising the rules governing insolvency proceedings. We will focus on one of the key dimensions of this directive, namely the creation of a special legal insolvency regime for SMEs, a dimension already outlined at international level by UNCITRAL.

Essentially, the central objective of our research is to raise awareness of the need to respond concretely to the insolvency needs of SMEs, in a context where the pressure on them stems from the gradual withdrawal of policy support related to COVID, rising energy costs and interest rates, together with restructuring needs induced by the green and digital transition. The SME sector is crucial for macroeconomic stability and inclusive growth. In order to flatten the insolvency curve, it is essential that in the future SMEs can benefit from a simplified insolvency regime, not just pre-insolvency, in particular a simplified judicial reorganisation procedure. In fact, it is an urgent and absolutely necessary measure, promoted internationally by UNCITRAL since 2019, recently adopted by the USA (2020) and Colombia, and now also by the EU, to be implemented through a hard-law instrument.

In this context, cross-border restructuring and insolvency must be reassessed in relation to European and international initiatives in this field, where Romania could become a point of reference on the map of the European Union, by becoming aware that differences in the regulation of the insolvency regime are a deterrent to cross-border expansion and investment.

- **THE EFFECTS OF THE RESIGNATION OF THE ADMINISTRATOR'S MANDATE AND THE REPRESENTATION OF THE LEGAL ENTITY IN THE CONTEXT OF DECISION HCCJ RIL NO. 24/2017**

Assistant Professor Ph.D. Răzvan SCAFEȘ (University of Craiova, Law Faculty, Romania)

The provisions of the common law establish the fact that the representation of the legal entity is done through its administrative bodies, resulting in the administrators being the bearers of the social will in legal relations with third parties, respectively those through which the legal capacity of the legal person is manifested. An analysis of the atypical situations arising in the functioning of legal entities is therefore required, in relation to the apparent lack of representation given by the expiration of the mandate of the administrators or their possible relinquishment of the

mandate. The High Court of Cassation and Justice's decision no. 24/2017 pronounced in RIL procedure, regulates a unique hypothesis regarding the administrator of the joint-stock company whose mandate has expired, without there being an act appointing a new administrator and an express acceptance from him, as long as the termination of the position has not been published in accordance with the law. However, other situations can be identified in practice that involve discussions regarding holding the quality of representative of the legal entity.

- **HOTEL LIABILITY INSURANCE POLICY IN THE HORECA DOMAIN AND METHODS OF ALTERNATIVE DISPUTE RESOLUTION (ADR) HEREIN**

Affiliate and Ph.D. student Laura-Ramona NAE (Doctoral School of Law within the Academy of Economic Studies from Bucharest, Romania)

The ever-changing demands of consumer-tourist customers in the hospitality industry, the development of technological means that improve their experience as well as the hotel operation method, the context of the Covid-19 pandemic situation, are among the factors that have changed the entire risk landscape of the hotel business for hospitality companies from within HoReCa field.

The impact of the financial risks faced by companies in the HoReCa field following Covid-19, has determined that hotel service providers reconsider their way of contractually allocating risks and covering financial losses. This provides, including the interpretation of clauses related to pandemic situations that have led to an increase in the number of disputes.

Therefore, this article also refers to extrajudicial methods of dispute resolution (ADR) in the field of HoReCa insurance, used in Romania and at the level of the European Union.

- **THE MINOR'S DOMICILE**

Assistant Professor Ph.D. Oana-Nicoleta RETEA (Faculty of Law, University of Craiova, Romania)

According to the legal provisions, the domicile is where the person lives permanently, so in the hypothesis where a person has more than one permanent residence, the domicile is where the person has both permanent and main residence. Thus, the domicile as an identifying attribute of the person indicates its location in space. The rule is that the domicile of the minor who has not acquired full legal capacity under the conditions provided by law is with his parents or with the one of the parents with whom he lives permanently. As a result, the domicile as an identification attribute is important from a procedural point of view, in order to determine the court where the action will be registered, respectively the place where the procedural documents will be communicated. In this sens we are going to analyse the jurisprudence thoroughly emphasising the problems appeared.

- **MIGRATION AND FAMILY LIFE: THE INTERPLAY BETWEEN COUNCIL OF EUROPE AND EU LEGAL DOCTRINE**

Head of the International Law and International Relations Program Giorgi CHACHKHIANI (Business and Technology University, Georgian Young Reformers' Association, Tbilisi State University, Georgia)

Migration and family life has become critical issue in contemporary Europe. The Council of Europe and the EU have taken different approaches to the issue. Also, in international practice, there is still no universal definition of the family, moreover, the issue of the interplay between family unity and family reunification in the European space is particularly interesting, since in one case it is about an upcoming separation (expulsion) and in the second case it is about an already existing separation (denial of entry). The article reviews both the legal framework of the Council of Europe and the European Union, as well as case law of ECtHR and CJEU and derives practical conclusions of the interplay.

SECTION 4
16^{00}

Moderators:
Lecturer Ph.D. Mihaela Adriana OPRESCU (ViceDean Faculty of European Studies, Babeș-Bolyai University, Cluj-Napoca, Romania)
Lecturer Ph.D. Amelia GHEOCULESCU (Faculty of Economic Sciencies and Law, University of Pitesti, Romania)
Lecturer Ph.D. Lavinia OLAH (Faculty of Economic Sciencies and Law, University of Pitesti, Romania)
Lecturer Ph.D. Andrei SOARE (Faculty of Economic Sciencies and Law, University of Pitesti, Romania)

- **PRACTICE OF INTERNATIONAL ORGANIZATIONS IN ASSET TRACING AND RECOVERY.**

Professor Ph.D. Lia CHIGLASHVILI (Deputy Rector of Tbilisi Humanitarian Teaching University, Georgia), Master of Law Kristine TSIREKIDZE (Tbilisi Humanitarian Teaching University, Georgia)

Globalization has facilitated the movement of assets across different regions of the world, with each jurisdiction enforcing local laws and regulations. An important factor hindering the development of asset recovery policy is the excess of corruption. Accordingly, in today's environment, criminals use sophisticated financial means to hide the location and source of misappropriated assets. As a result, identification is difficult because assets are located in multiple jurisdictions, and moreover,

it is problematic to adopt favorable laws in these jurisdictions for recovery and enforcement of claims.

In this thesis, we will discuss the challenges facing asset recovery, evaluate the technical, political and economic perspectives in the practice developed on that field and see how different countries have been able to overcome the problem and what international organizations are doing or can do to achieve more sustainable standards of asset tracing and recovery.

- **INNOVATIVE REGULATIONS IN THE FIELD OF BILL OF EXCHANGE, A PAYMENT INSTRUMENT APPLICABLE TO COMMERCIAL OBLIGATORY RELATIONSHIPS**

Associate Professor Ph.D. Elise Nicoleta VÂLCU (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

Bill of exchange represent one of the oldest payment instruments relevant to domestic and international commercial activities, which, with some functional modifications, is still used today for settling a legal relationship arising from a commercial contract.

Regarding international regulations in this field, it should be noted that during the 1930 Geneva Diplomatic Conference, specialists appreciated that the adoption of the Uniform Law on Bills of Exchange and Promissory Notes - Geneva 1930, represented a milestone in unifying the rules on credit instruments in commercial relationships.

Romania regulated the Law no. 58 on Bills of Exchange and Promissory Notes in 1934, a legal act that complied with the conventional legal requirements established under the Geneva Convention of 1930. The Romanian legislator made modifications to the previous regulation through Government Ordinance no. 11 of 1993 on Bills of Exchange, Promissory Notes, and Checks, approved and modified by Law no. 83 of 1994, changes imposed by the evolution of commercial relationships.

On June 14, 2022, Law no. 180/2022 was adopted for amending and supplementing Law no. 58/1934 on bills of exchange and promissory notes, changes required by the exigencies observed in the use of credit instruments in commercial exchanges.

- **THE OPPORTUNITY TO SWITCH TO THE EURO DIGITAL CURRENCY**

Lecturer Ph.D. Adriana PANȚOIU (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

It is becoming more and more obvious every day that we are participating in the beginning of the era of digital currencies. They currently appear to come in three forms: stablecoins, cryptocurrencies, and central bank digital currencies. This is the context in which the European Central Bank, in collaboration with the central banks of the euro area, has launched a study which aims to investigate whether a "digital euro would provide an anchor of stability for our money in the digital age". The investigation phase started in October 2021 and is still ongoing. It is expected to last approximately two years, ending in October 2023. A parallel research is ongoing. Private banks are also concerned about this issue. All these studies must emphasize whether a central bank digital euro is a viable and optimal solution to an unserved market need for which there is no other more efficient solution.

- **ASSESSMENTS ON ANTI-COMPETITIVE BEHAVIORS THROUGH "NO-POACH" PRACTICES. CONSEQUENCES**

Lecturer Ph.D. Manuela NIȚĂ (Faculty of Law and Administrative Sciences, "Valahia" University of Targoviste, Romania**)**

The concern of the national and European authorities to identify and sanction any action of a party that by illicit means affects competition, has led to the outline of relatively new operations, with a worrying frequency that concern illicit agreements, with a direct effect on the labor market. Thus, in the present study, we turn our attention to "no-poach" practices, analyzing the main ways of realizing these illicit deals and the effects they produce on the relevant market, both from the perspective of the participants in the deal (employers), the employees, as well as the economic environment. We will also consider for a comparative analysis the relevant

cases from other states and the solutions adopted in this regard by the competent authorities.

- **THE PROTECTION MANDATE**

Ph.D. Izabela BRATILOVEANU (University of Craiova, Romania)

In order to comply with the Decision of the Constitutional Court no. 601/2020, it was adopted Law no. 140/2022 on some protection measures for persons with intellectual and psychosocial disabilities and amending and supplementing some normative acts. According to article 26 of the Law, most of its provisions entered into force 90 days from the date of publication in the Official Gazette, i.e. on August 18, 2022, except for the provisions of article 20 paragraph (6) thesis III and of article 23, which entered into force 3 days after publication. The protection mandate that we will analyze in this study is given by a person with full exercise capacity for the situation in which he would no longer be able to take care of his person or manage his assets. The protection mandate can also be given by the adult who benefits from judicial advice, with the consent of the legal guardian and with the authorization of the guardianship court.

- **HUMAN RIGHTS – PURPOSE OR FINAL FOR LAW NO. 165/2013?**

Lecturer Ph.D. Andrei SOARE (Faculty of Economic Sciences and Law, University of Pitesti, Romania)

The relationship between Law no. 165/2013 and certain jurisprudential benchmarks of the European Court of Human Rights in cases decided against Romania becomes important to study especially through the prism of the legal consequences on current events, consequences that can be generated by the indirect "interaction" between the two.

- **SUPERFICIES AS A MEANS TO EXPLOIT LAND IN THE PRIVATE DOMAIN OF THE STATE OR OF ADMINISTRATIVE-TERRITORIAL UNITS**

Lawyer, Ph.D. Student Raluca CHELARU (Faculty of Law, University of Bucharest, Romania)

Often, local public authorities call for the establishment of superficies in favor of investors interested in building on the lands that are privately owned by administrative-territorial units. While such a possibility is not expressly forbidden by the legislation, the Administrative Code seems to limit the ways of exercising the right of private property of the State/administrative-territorial units. Thus, the most appropriate institution would seem to be that of the concession, which involves following the same arduous procedure as in the case of the public domain of the State. Doctrinal and jurisprudential opinions are divided, but recent decisions of the Constitutional Court, but also of the European Court of Justice of Human Rights are a reference in the field and must be taken into account in practice.

- **THE RELATIVE AND PERSONAL CHARACTER OF THE OBLIGATION**

Lecturer Ph.D. Dumitru VĂDUVA **(**Faculty of Economic Sciences and Law, University of Pitești, Romania)

Obligations represent one of the pillars of civil law, along with persons, family and goods.

Debt rights are, like real rights, subjective rights and therefore they are opposable erga omnes, a prerogative that consists in the right of the owner to protect his right in relation to any person. Their object and mode of exercise give them a specific regime, not the opposition, as claimed by some of the authors.

It is true that the effectiveness of this opposition and therefore of the protection of the two categories of rights is fundamentally different. However, this effectiveness is dictated by the possibility of publicity of these

species of law. Only to the extent that the formalities provided by the law for the publicity of real rights are fulfilled, they are erga omnes opposable, for example, to movable goods, by their nature this requirement is fulfilled by exercising its possession in a public way. On the other hand, for real real estate rights, the lack of legal publicity formalities lacks the respective right of opposition. From here we deduce that opposability is not a specific element of real rights, because it is attached only by fulfilling the requirements of publicity.

By their nature, debt rights cannot be exercised through a public possession and this makes them lack an opposability close to that of real rights. Instead, there are some debt rights for which forms of advertising are organized: the National Registry of Real Estate Advertising is the legal advertising system for real estate mortgages, but also for trusts, secured claims, and mortgage bonds. For claims that benefit from a publicity system, the erga omnes opposition has the same effectiveness as that of real rights.

It is thus even better understood that the erga omnes opposability is specific to subjective rights as a characteristic necessary for their erga omnes protection, protection exercised through the actions attached to subjective rights: the claim action, the confessional action, the negation action, etc., as well as the prerogatives of prosecution and preferably, these being specific especially to accessory real rights, as opposed to an action for damages for the violation of a right of claim by a third party.

What differentiates the real right from the claim right is therefore not the erga omnes opposability but the object and the manner of their exercise. The first one is exercised directly by the holder on the physical asset object of the right (in rem), while the right of claim is exercised against a person, the value expected by the creditor is acquired indirectly through the activity of the debtor's person (ad rem personam). Hence the difference between the regime of the two categories of subjective rights: the first having as its object an asset over which the creditor directly exercises your prerogatives, on the other hand, in the case of the debt right, its exercise can only be carried out through the debtor, hence the relative and personal character of this right, opposed to the real and direct right of real.

The opposability of a right is therefore not synonymous with the relative nature of the right to claim.

- **THE CONTRACT AND CONVENTION**

Lecturer Ph.D. Dumitru VĂDUVA, Lecturer Ph.D. Amelia GHEOCULESCU (Faculty of Economic Sciences and Law, University of Pitești, Romania)

The contract is the most important type of legal act, the latter being the closest type of all types of legal manifestations with the aim of creating legal effects.

The new Civil Code expressly regulates the unilateral legal act and the contract as species of the legal act. Apart from these, the new Civil Code also refers to other types of legal acts creating legal effects, conventions and plurilateral contracts, without however regulating their own legal regime, but organizing some of the types of legal operations that it defines as conventions. Leaving aside the latter, which the legislator of the mentioned normative act only mentions in one context, that of nullities, the notion of convention is used in several times either when he wants to reveal any kind of agreement of wills generating legal effects (art. 557 paragraph 1 Civil Code), or when organizing certain types of legal operations, such as the transfer or modification of some of the legal relationships. It is thus understood that the new Civil Code preserves the distinction inherited from Roman law between convention and contract, in which the former was the proximate type of legal agreements born through agreements of will, having as its object any other legal operation apart from the birth of obligations, effect what would be proper to the contract, the latter being the most important type of convention.

Such a conclusion is however contradicted by the definition given by the new Civil Code of the contract which includes the operations of birth, modification and extinguishment of legal relations. However, this definition does not make any reference to the transfer of real rights, nor to the birth of legal entities.

- **THE NEGATIVE EFFECTS OF TRANSPORT ON THE ENVIRONMENT AND MEASURES AGAINST THEM**

Lecturer Ph.D. Amelia GHEOCULESCU, Associate Professor Ph.D. Andreea DRĂGHICI (Faculty of Economic Sciences and Law, University of Pitești, Romania)

The increase in the frequency of transport, in addition to the positive effects in the market economy, brings with it negative effects on the environment and implicitly on human life. The general objective of the states of the European Union, as well as of the other states, is to limit the polluting impact of the means of transport, imposing a series of measures in this sense by adopting some normative acts.

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