THE INTERNATIONAL CONFERENCE

EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP

7th edition

Pitesti, 23 th - 24 th May 2014

THE CONFERENCE PROGRAMME
and
THE SYNTHESIS OF THE WORKS

THE INTERNATIONAL CONFERENCE
"EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP"
Pitesti, 23 - 24 May 2014

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THE INTERNATIONAL CONFERENCE
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Pitesti, 23 - 24 May 2014

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THE INTERNATIONAL CONFERENCE
"EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP"
Pitesti, 23 - 24 May 2014

INVITATION

Dear Madame / Sir
…….

We have the great pleasure to invite you to participate at the "**EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP**", which will take place at the University of Pitești, 23th – 24th May, 2014.

Hoping that your participation will be confirmed, we assure you of our sincere consideration.

THE INTERNATIONAL CONFERENCE
"EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP"
Pitesti, 23 - 24 May 2014

THE CONFERENCE PROGRAMME

Friday, 23th May 2014

Faculty of Law and Administrative Sciences, B^{dul} Republicii, nr. 71

$9^{00} – 9^{30}$ – **Guests Reception** (Ground floor)
9^{30}- 10^{00} – **Festive Opening – Rector's address and welcome messages on behalf of the local administration representatives** (Room C1)
10^{00}- 11^{40} – **Plenary Session** (Room C1)
11^{40} - 12^{00}- – **Coffee Break** (Ground floor)
12^{00} – 13^{30} – **The ceremony of awarding the Doctor Honoris Causa title to Professor Ph.D. dr. h. c. Rainer ARNOLD, University of Regensburg, Germany** (Room C1)
$13^{30} – 15^{00}$ – **Lunch Break**
$15^{00} – 16^{45}$ – **Plenary Session** (Room C1)
16^{45} - 17^{00}- – **Coffee Break** (Ground floor)
$17^{00} – 18^{00}$ – **Plenary Session** (Room C1)
18^{00} - 18^{10}- – **Coffee Break** (Ground floor)
$18^{10} – 19^{30}$ – **Works in sections**
20^{00} – **Festive Dinner**

Saturday, 24th May 2014

Faculty of Law and Administrative Sciences, B-dul Republicii, nr. 71

9^{30}-10^{45} – **Works in sections**

10^{45} - 11^{00}- – **Coffee Break** (ground floor)

11^{00} – 12^{00} – **Works in sections**

12^{00}-12^{30} – **Closing of the Conference** (Room C1)

12^{30} – 14^{00} – **Lunch Break**

14^{00} – 19^{00} – **Cultural programme**

THE INTERNATIONAL CONFERENCE
"EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP"
Pitesti, 23 - 24 May 2014

Friday, 23th May 2014

Faculty of Law and Administrative Sciences, B^{dul} Republicii, nr. 71

Festive Opening
Rector's address and welcome messages on behalf of the local administration representatives

9^{30}- 10^{00} (Room C1)

Plenary Session

10^{00}- 11^{40} (Room C1)

Moderators:
Prof.dr.dr.h.c.mult. Heribert Franz KOECK (University *Johannes Kepler* of Linz Austria)
Professor Ph.D. Eugen CHELARU (University of PItesti, Romania)

- ***The Incorporation of EU Law into State Law - a consideration from an Austrian perspective after the adoption of the Treaty of Lisbon*, Prof.dr.dr.h.c.mult. Herbert SCHAMBECK, honorifical president of Federal Council of Austrian Republic, member of the Pontifical Academy of Social Sciences, University *Johannes Kepler* of Linz, Austria**

Even after the adoption of the Lisbon Treaty, the issue of incorporation of EU law into the law of the Member States remains an important issue. Adequate incorporation and application of EU law by the respective legislative, administrative and judicial organs are a precondition for the good functioning of the EU legal system. In this context, various principles of EU law converge, especially the principle of the rule of law and the principle of subsidiarity. To live up to these principles is a challenge for EU institutions as well as for Member States.

- ***Migration and Integration in Europe (with special regard to the Austrian case),*** **Prof.dr.dr.h.c.mult. Heribert Franz KOECK, *Johannes Kepler* University of Linz, Austria**

The Issues of Migration and Integration in Europe has to be considered in a global perspective. The interests of migrants and of the host countries must be mutually balanced. So far, no over-all solution has been found, lacking a functioning international economic order that primarily serves people and considers capital as a means and not as an end, on the one hand, and a common approach to human rights that is based on the unreserved recognition of human dignity for all publuc and private action.

- ***Contemporary meaning of the Sovereignty in Poland,*** **Prof. Dr. hab. Dr. h.c. multi Bogusław BANASZAK, PWSZ Legnica, Poland**

To characterize the essence of the principle of sovereignty of the nation we referred in our article to Polish constitutions from the period between World War One and Two as well as to the achievement of the Polish legal thought from the present period. Also, in our study we intend to analyze the delegation to an international organization or international institution the competence of organs of State authority in relation to certain matters

as limitation of Sovereignty. To this end we have analyzed the procedure of passing the statute granting consent for ratification of an international agreement limiting the execution of sovereignty.

- ***The constitutional character of the Court of Justice of the European Justice, Spanish Constitutional court and Constitutional Court of Romania***, **Professor Ph.D. Cristina Hermida DEL LLANO, University *Rey Juan Carlos*, Faculty of Juridical and Sociale Sciences, Spain**

The Court of Justice of the European Union has recently gained an unexpected new constitutional character. We analyse and consider the similarities and differences between the Court of Justice of the European Union, the Spanish Constitutional Court and Constitutional Court of Romania, focusing on the judicial architecture currently present in the European Union sphere.

- ***EUROJUST – a unional institutional framework in the area of european criminal judicial cooperation***, **Senior Lecturer Ph.D. Elise Nicoleta VALCU, Rector of the University of Pitesti Professor Ph.D. Ionel-Claudiu DIDEA, Professor PhD Anton-Florin BOTA-MOISIN, University of Piteşti, Romania**

The creation of a freedom, security and justice area, as a goal, declared and assumed by the European Union, can only be achieved in the context of perfecting the judicial cooperation between Member States.

Within the E.U were created specialized structures, both for the prevention and combat of the cross-border criminality, as well as for the identification, capture and criminal liability of the perpetrators who eluded justice, namely Eurojust, created by the Council Decision No 2002/187/JHA of 27 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime; the European Judicial Network (for criminal matters) established by the

Joint Action 98/428/JHA of 29 June 1998, in order to ease the judicial cooperation between Member States, fulfilling the Recommendation No 21 of the Action Plan for Combating Organized Crime, adopted by the Council in 1997, Europol; Liaison Magistrates, institutional mechanism for judicial cooperation in criminal matters established by the Joint Action 96/277/JHA of 22 April 1996 adopted by the Council based on the formed Art k3 of the Treaty on the European Union; European Public Prosecutor Office.

The European Council Decision 2002/187/JHA of 28 February 2002 established Eurojust, a union structure designed to ease the coordination of criminal investigations and prosecutions performed by the competent judicial authorities of the Member States, when they are facing serious forms of organized and cross-border criminality.

Coffee Break

11^{40} - 12^{00}

The ceremony of awarding the Doctor Honoris Causa title to Professor Ph.D.dr. h.c. Rainer ARNOLD, University of Regensburg, Germany

$12^{00} – 13^{30}$

Lunch Break

$13^{30} – 15^{00}$

THE INTERNATIONAL CONFERENCE
"EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP"
Pitesti, 23 - 24 May 2014

Plenary Session

15^{00}- 16^{45} (Room C1)

Moderators:
Professor Ph.D. Rainer ARNOLD (University of Regensburg, Germany)
Professor Ph.D. Cristina Hermida DEL LLANO (University Rey Juan Carlos, Spain)

- ***The Anthropocentric Approach of Modern European Constitutionalism and the Development of Personality Rights*, Professor Ph.D. Rainer ARNOLD, University of Regensburg, Germany**

Dignity, autonomy and freedom of the human being are the value basis of modern European constitutionalism. The individual has to be in the center of law and political concern. The finality of public power, exercised by the State or by supranational organizations, is to serve the individual, directly or indirectly, to protect and to promote her/his physical, spiritual, intellectual and social existence.

The development of human rights and fundamental freedoms are based on this idea. Substantive and functional efficiency of the individual's protection is crucial for the Constitution as a basic legal order of State and society.

Human dignity is closely linked to personal autonomy with its main expression in the recognition of personality rights. Progress in science and technology may endanger individual personality. Constitutions often provide general or specific rights for an adequate protection in this respect. However, constitutional texts to a great

extent cannot keep pace with the rapidly upcoming dangers, a general phenomenon which requires the prompt reaction of the constitutional interpreters to make available new dimensions of protection.

The Constitution is based on the idea to protect efficiently the individual against whatever emerging danger both by written or unwritten safeguards. Fundamental rights in a constitutional order never can have gaps. The finality of protection is comprehensive, substantially and even functionally complete. If the safeguard in form of fundamental rights is not expressed in the text of the Constitution it has to be found by way of interpretation.

The Constitution is a living instrument with an imperative and an adaptive character. Its protective function adapts to the upcoming challenges and extends to what is necessary for the individual. This adaptation is not a process of constitutional change, it is the realization of what the Constitution prescribes, explicitly or implicitly, even by the interpretative enlargement of the written norms, in order to implement the basic finality of protection which is the essential function of the Constitution.

2. Personality rights are the dynamic heart of fundamental rights. They are particularly close to the individual and interconnected with human dignity. They are barriers against the manifold threats of potential intrusions into the individual's privacy.

There are the types of the general personality right and the spectrum of specific personality rights mainly developed by constitutional jurisprudence. It corresponds to the anthropocentric approach of the constitutional order that these rights flow from an ebullient jurisdictional source. The interpretation dynamism in this field seems to be a common phenomenon in many European countries and demonstrates, to a certain extent, the growing importance of individuality in law.

However, this process is not only constitution-related but also, even in more original dimension, a product of civil law. It is obvious that personality rights have by their nature a dual dimension, both an instrument of defense against public power

intervention and a safeguard against undue private impact. Legislation has to find an adequate protection system in both respects. This is what nowadays results from the constitutional obligation of the legislator to protect the individual against not only public but also private interference with her/his genuine rights as a person

3. If we try to categorize personality rights in constitutional law we may distinguish between the protection of (a) the individuality, the person as such, and of (b) the instruments serving the safeguard of the individuality.

a) The person's individuality is related to her/his identity in various respects:

physical identity (life, health, physical and genetic integrity, physical appearance), intellectual identity (thoughts, expressions, creation of art), psychic - emotional identity (conscience, religion, ethnic traditions), sexual identity, social identity (name, reputation), and historical identity (knowledge of origin and ancestry).

Various situations shall be taken into account:

- *to keep the indicated individuality aspects intact (no interference by public power or private action without the individual's consent)*
- *to freely develop or change the individuality aspects (without being hindered by public or private interference)*
- *to freely communicate with others by using individuality aspects (active dimension), to exclude others to use the individuality aspects without consent or to falsify individuality aspects in the process of communication (negative dimension).*

b) The instruments for the safeguard of individuality can be spatial (inviolability of domicile) or instrumental in a narrow sense (means of communications).

It shall also be distinguished between individuality aspects which are per se protected by personality rights (direct individuality aspects) and those which are only protected in this way if they are related to the private or intimate sphere (indirect individuality aspects). The first group is related directly to the individuality characteristics (e.g.

genetic integrity). The second group refers to per se neutral actions or omissions (expressions, communications, behaviors, etc.) which take place within the domicile, the family, with exclusion of the public, in the quality of secrecy (diaries) or confidential communications, etc.
Personality rights can be restricted for legitimate aims of public interest except those which are direct reflections of human dignity. It seems adequate to fully protect without any restriction the innermost sphere of private life conduct (in accordance to the distinction made by the confirmed jurisprudence of the German Federal Constitutional Court). If restrictions of personality rights are admitted, the strict application of the principle of proportionality is indispensable.

The tendency to protect personality rights is widespread in European constitutionalism and recognized also by civil law. The national guarantees are reinforced by international and supranational safeguards such as the European Convention of Human Rights as well as the EU Fundamental Rights Charter. It is significant for the field of personality rights that constitutional interpretation has widely enlarged the protection spectrum. This goes alongside with the anthropocentric orientation of present time constitutionalism in Europe.

- ***Means of protecting the rights of creditors***, **Professor Ph.D Sevastian CERCEL, Dean of Juridical and Sociale Sciences Faculty, Professor Ph.D. Ştefan SCURTU, University of Craiova, Romania**

Under "Means of protecting the rights of creditors", the Civil Code regulates the measures that creditors may use for the preservation of their rights. The means of protecting the rights of creditors are grouped by the legislature into three categories: preventive measures, protective measures and the Paulian action. As preventive measures, the legislature enumerates, for illustrative purposes: preserving proofs, meeting formal requirements related to

publicity and information on the debtor's account, exercising the indirect action on behalf of the debtor and taking protective measures (art. 1558 of the Civil Code). The protective measures enumerated by the Civil Code are distress upon property and seizure of property (art. 1559 of the Civil Code), but they are regulated by the Code of Civil Procedure. The indirect action (included by the legislature in the category of preventive measures), as well as the Paulian action are distinctly regulated.

Unlike the former Civil Code which regulated preventive measures from the perspective of the creditor's patrimony, the new Civil Code starts from the premise that the creditor's rights make the object of prevention.

As for transition law, art. 116 of Law 71/2011 for the enforcement of Law no. 287/2009 on the Civil Code specifies that the provisions of the Civil Code concerning the means of protecting the rights of creditors are also applicable to creditors whose claims appeared before its coming into force, i.e. 1 October 2011, if they are due after this date.

- *Non-Union Collective Employee Representation in Poland – Failed Hopes?* **Professor Ph.D. Jakub STELINA, University of Gdańsk (Poland)**

1. *The most important feature of collective employee representation in Poland at present time is the de-unionisation. While in 1990 as many as about 8 million people were trade union members (over 30% of the employed), according to current estimates the number is about 1.5 to 2 million (ca. 15%). The ratio would be even less (about 7%), if the number was referred to the general number of the working people, regardless of the legal basis of their employment. The reasons for the situation are not quite clear. The most often quoted one is the changes related*

to the establishment of the market economy system, i.e. the abandoning of the central planning and gradual elimination of state-owned enterprises. The privatization of the latter, started in 1990, has led to a far-going transformation of the economy. To the above mentioned issues massive unemployment should be added, as well as the widespread application of flexible forms of employment, which makes those working much more dependent on the employment establishments.

2. *This is why, in the system of collective representation of the employees, ever greater role is now being played by all kinds of non-union representation, filling the gap created by the weakening trade union movement. Initially, they took on non-institutionalized forms (staff delegates elected ad hoc to deal with a specific issue). Institutional representations (works councils) started emerging with time.*
3. *The now observed growth of importance of the institutional forms of union representation is a result of, first of all, the ever stronger de-unionisation. As it has already been mentioned, it is very difficult to precisely indicate the reasons for the phenomenon. I would go, however, so far as to say that the weakening of the trade union movement results also from the development of the non-union representations. Sometimes the employees – having the possibility to form the work's council - drop the idea of establishment of a trade union organisation at all.*
4. *It should be added that only a very small number of employees have actually decided to establish the work's council. Starting in 2006, when the law providing for works councils came into force, the bodies were formed at as few*

as about 10% of the employers. After the initial term of office of the councils the ratio dropped down dramatically, however, and the operation of the bodies was prolonged, for a further period, only at about 2% of the employers. At present the idea of works councils has completely failed. And while the reasons for the situation are many, the shortcomings of the law not being excluded, it seems that the key reason is simply the employees' lack of interest in the form of representation, and sometimes also the employers' unwillingness to support it.

5. *Can thus any high hopes be set on the institution being, in fact, dead? A much better solution seems to lie in supporting the most traditional forms on representation, based on the trade union principles.*

- ***The configuration and the content of legal security in the state of law*, Prof. dr. hab. Dumitru BALTAG, Free International University of Moldova (U.L.I.M.), Republic of Moldova**

In this text, the author tells us the problems of the juridical security of the persons in the state of law.

The configurations and the content of the juridical security contains the following components: the non-retroactivity of the law, the accesibility and the predictability of the norm of the law and the unitary interpretation of law.

All these principles are materialised in contents of differend scientifical studies where the accent is placed in the jurisprudence, national doctrine and the international doctrine.

- ***Psychological aspects of criminal investigation***, **Professor Ph.D. Mihail GHEORGHIȚĂ, State University of Moldova, Republic of Moldova**

Prosecution is a complicated process that aims to restore a criminal event which has already occurred in the past, and the prosecution is done according to the evidence gathered by the investigating officer in the present. The most important element, determinant, of the psychological structure of the investigating officer's activity consists of collecting and studying various facts on which he will completely restore the past event, the correlations of different persons involved in the related event, as well as the personality of the subject that has committed the offense

Particularly, during the prosecution is determined the criminal feature of the produced offence.

- ***Culture, national heritage which generates economic performances*, Senior Lecturer Ph.D. Tudor PENDIUC, The Mayor of City Hall Piteşti, Romania**

In the ample process of globalization, one of the domains which will maintain our national character is culture.

This is precisely why in the Adherence Treaty to the European Union signed by Romania, there isn't a chapter regarding culture. To support culture is a necessity, an obligation for Romania and for all administrative-territorial entities, not a whim.

Development and economic performances cannot be done without well trained staff with a cultural view.

This present work is a plea to support culture, a domain which generates economic performances.

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Plenary Session

17^{00}- 18^{00} (Room C1)

Moderators:
Prof. Dr. hab.Dr. h.c. multi Bogusław BANASZAK (PWSZ Legnica, Poland)
Senior Lecturer Ph.D. Livia MOCANU (*Valahia* University of Târgovişte, Romania)

- ***Legal status of national minorities in a modern democratic state – the Polish Act on National and Ethnic Minorities (Presentation in German),*** **Professor Ph.D. Agnieszka MALICKA, Ph.D. Marta KLIMAS, University of Wroclaw, Poland**

Until 1989, before the transformation of the political and legal system took place, Poland was considered to be an ethnically homogenous country. Hence, national and ethnic minorities officially did not exist. Only the first democratically elected Prime Minister, Tadeusz Mazowiecki, acknowledged and emphasized in his speech delivered at Sejm, that Poland is a home country for many national and ethnic minorities. Moreover, he further stressed the need to take minority issues into consideration and the necessity to guarantee the rights of discussed minorities in the domestic legislation. The legal status of national and ethnic minorities is regulated in the Polish legal system in International Treaties of which Poland is part, the Constitution of the Republic of Poland (directly in Article 35), the Act on National and Ethnic Minorities and other provisions of general statutory law, not designed specifically to deal with minority issues as well as in relevant executory provisions. The most relevant legal act concerning minority issues is the Act on National and

Ethnic Minorities. In Article 2 of the Act on National and Ethnic Minorities it has been directly indicated, which groups shall be considered national or ethnic minorities in accordance with Polish law, thus 9 national and 4 ethnic minorities have been recognized.

- ***Considerations on the conclusion of the insurance contract,*** **Senior Lecturer Ph.D. Livia MOCANU, Dean of Juridical and Administrative Sciences Faculty,** ***Valahia*** **University of Târgovişte, Romania**

The main way of practicing the insurance commerce is the insurance policy, at the conclusion of which emerge the legal relations between the insurer and the insured. Given the specificity of the insurances domain, the process regarding the conclusion of the insurance contract is often complex, the parties having long talks until the will agreement is accomplished. If it is also added the technical character of this mechanism, it is obvious that, for the good knowledge of the legal regime of the insurance contract, it is important an analysis regarding its conclusion.

- ***The right to a fair trial and the bringing of legal actions by the joint owners,*** **Professor Ph.D. Eugen CHELARU, Dean of Juridical and Administrative Sciences Faculty, University of Pitesti, Romania**

The right to a fair trial, which involves the right of access to a tribunal , is one of the rights that are guaranteed by the European Convention of human rights and also by the Romanian Constitution. However, it is possible to get to its infringement, not necessarily because of an abusive conduct of the state's authorities, but because of an excessive theoretization of the juridical institutions which omit their finality. This is how it went to the obstruction of the access to a tribunal for the joint owners whose rights were infringed by the third persons, in the situations when not all of them wanted to resort to justice. Considering the vindicative action as a petitory action which

can be introduced whether by the exclusive owner of the good or by all the owners together, the action taken by one of the joint owners was rejected as inadmissible by the Romanian courts. This intransigent attitude was temperated after the European Court of Human Rights blamed Romania for breaking up the right to a fair trial in this type of situations and it was abandonned as a consequence of the new civil Code's coming into force.

- ***Romanian identity, major factor between Republic of Moldova and Romania,*** **Senior Lecturer Ph.D. Maria ORLOV, Institute of Administrative Sciences, Republic of Moldova**, **Lecturer Ph.D. Maria URECHE, University "1 Decembrie 1918" Alba Iulia**

The affirmation and development of the Romanian identity, ethnic, linguistic, cultural and religious services in the Republic of Moldova, as a major goal, considering not only the historical considerations that we the ideological, cultural and historical value, but also the European Community national in which we exist.

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PAPERS IN SECTIONS

Private Section
18^{10}-19^{30} (Room Amphiteatre C1)

Moderators:
Senior Lecturer Ph.D. Ilioara GENOIU (*Valahia* University of Târgovişte, Romania)
Senior Lecturer Ph.D. Andreea TABACU (University of Pitesti, Romania)
Lecturer Ph.D. Andreea DRĂGHICI (University of Pitesti, Romania)

Secretary:
Assistant Ph.D. Ramona DUMINICĂ (University of Pitesti, Romania)

- **THE PLEDGE IN THE NEW CIVIL CODE. A FEW REMARKS**

Professor Ph.D Silvia CRISTEA (Academy of Economic Studies, Romania)

In the civil law, for the topic of civil pledge, the provisions of he provisions of art. 1685 – 1696 regarding the pawn, abrogated by the New Civil Code, used to be applied. Art. 478 – 489 in the Commercial Code regarding the commercial pledge, abrogated when Title VI of the Law no 99/1999 regarding the legal regime of security interests entered into force, were also general provisions. This normative act did not expressly abrogated art. 1685 - 1696 in the 1864 Civil Code, but, according to art. 1 in the Law 99/1999, these articles were applicable only to the extent to which they did not violate the Law of guarantees (99/1999), regarding the civil pledge with dispossession.

When the new Civil Code entered into force, we had a regulation regarding the pledge with dispossession (included in the 1864 Civil Code) and another regulation, regarding the pledge without dispossession , included in the Law 99/1999 regarding the legal regime of security

interests; both were abrogated on 1 October 2011, according to art. 230 letters a and u in the Law no 71/2011 for the enforcement of the Law no 287/2009 regarding the Civil Code.

- **A FEW REFLECTIONS ON THE CAPACITY RELATED TO WILL**

Senior Lecturer Ph.D. Ilioara GENOIU, Lecturer Ph.D. Olivian MASTACAN ("Valahia" University of Târgovişte, Romania)

The 1864 Civil Code, particularly in terms of its provisions 800 and 802, overlapped two different legal institutions, namely will and legacy, ignoring the fact that will represents a totality, whereas legacy only one of the latter's provisions. Consequently, the Civil Code currently abrogated was establishing unitary rules on the necessary capacity for leaving a will, irrespective of its content. Thus, according to the provisions of articles 806-812 of the 1864 Civil Code, will represented a disposition act and the testator needed to have full capacity of exercise. During the long time when this Civil Code was in force, specialized literature pointed out that a will could also contain, apart from legacies (those testamentary provisions related to patrimony or hereditary assets) or even in their absence, some other last will provisions. Yet, the new Civil Code, through its provisions (such as articles 986-988 or 1034-1035) makes the long-awaited distinction between legacy and will. Consequently, some assessments should be done particularly in terms of the capacity which the testator must have, in accordance with the type of provisions that his last will act will contain. These are the main aspects which the current work aims to analyse.

- **SHORT HISTORY OF THE TEACHING PROFESSION IN ROMANIA**

Senior Lecturer Ph.D. Andreea RÎPEANU (Ecologic University of Bucuresti, Romania)

The evolution of policy and law school over time. Education, school education constituted and we, as elsewhere, an object of research and appreciation. Numerous pens, school people and great scholars were carefully bent on such a topic with implications for the development of

society of all time. In the broadest sense of the word, education is a phenomenon that includes the company's genesis, evolving into the most closely related to it. Therefore, we can say that various forms, learning occurs with human society, the opportunities and aspirations that can not be broken.

- **THE FORM OF THE TENANCY AGREEMENT**

Senior Lecturer Ph.D. Andreea TABACU, Assist. Ph.D. Ramona DUMINICĂ (University of Pitesti, Romania)

The tenancy agreement is one of the most important contract forms, because it is often used in the legal practice for its reliability in guaranteeing the right of those unable to acquire a certain object to use it.

The form of the contract is likewise important so that the parties know the advantages of certain forms, for example the quality of executive title or the sanctions which could be imposed in case the contract form has been disregarded.

The parties also have a vested interest in ways of substantiating the contract in keeping with the rules of the New Code of Civil Procedure.

- **DISCUSSIONS REGARDING THE REGLEMENTATION OF UNDUE PAYMENT IN THE CURRENT CIVIL CODE**

Senior Lecturer Ph.D. Sache NECULAESCU, Liviu-Cosmin VASILESCU (*Vahahia* University of Targoviste, Romania)

Inspired by the Civil Code of Quebec regulations, new regulatory provisions reserved by the current code for undue payment, promote several solutions that are worth being discussed from a perspective slightly different from the current analyses on this source of civil obligations. We intend to examine them from a critical perspective and to make several proposals.

- **DONATIONS TO POLITICAL PARTIES**

Assist. Ph.D. Viorica POPESCU (University of Piteşti, Romania)

The donation is not only one of the most important contracts governed by the Civil Code, it is also an important source of support to the political parties. This paper aims to examine the conditions in which a natural or legal person may do an act of liberality to political parties in Romania according to Law. 334/2006 on the financing of political parties.

THE INTERNATIONAL CONFERENCE
"EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP"
Pitesti, 23 - 24 May 2014

Public Section

18^{10}-19^{30} (Room Departament of Law and Public Administration)

Moderators:
Senior Lecturer Ph.D. Dan ȚOP (*Valahia* University of Târgoviște, Romania)
Senior Lecturer Ph.D. Elise VALCU (University of Pitesti, Romania)
Lecturer Ph.D. Carmen NENU (University of Pitesti, Romania)

Secretary:
Assistant Ph.D. Andra PURAN (University of Pitesti, Romania)

- **FUNCTIONS OF THE POLISH LAND REGISTER SYSTEM – A CRITICAL COMPARATIVE ANALYSIS**

Professor Ph.D. Arkadiusz WUDARSKI (Viadrina European University of Frankfurt, Germany)

Land registers perform many important functions in legal transactions. Most significantly, they protect parties to legal transactions as well as create, establish priority of and inform about real estate property rights. The above functions are present in all legal systems that are familiar with the institution of land registry. This does not mean, however, that all the systems understand and implement those functions in a similar manner. Studies indicate system imperfections and inconsistencies, reveal existing threats to the security of legal transactions, and show a conflict between land registry functions or rules and other rights, e.g. protection of privacy, right of information or protection of personal data in the context of constitutional principles. The paper focuses on the Polish system of land registry but the problems discussed are of universal nature and impede the process of harmonisation of private law in Europe. The study is part of a larger research project titled "Functions of Land Registers in Comparative

Perspective" supported by the National Centre of Science in Cracow, Poland.

- Professor Ph.D Andrzej SZMYT (University of Gdansk, Poland) - title to be announced later

- Professor Ph.D. Yuriy BOSHYTSKYY (Kyiv University of Law, Ukraine) - title to be announced later

- **ISSUES ON EU MEDIATION AND ADVOCACY**

Senior Lecturer Ph.D. Bianca DABU (University of Pitesti, Romania)

The EU Mediation Directive 2008/52/EC laid down obligations on EU Member States regarding mediation in civil and commercial matters. 'Mediation'means a structured process, whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator.

Mediation should not be regarded as a poorer alternative to judicial proceedings in the sense that compliance with agreements resulting from mediation would depend on the good will of the parties. In order to encourage the parties to use mediation, Member States should ensure that their rules on limitation and prescription periods do not prevent the parties from going to court or to arbitration if their mediation attempt fails.

The EU Mediation Directive 2008/52/EC settles the cross-border disputes, the quality of mediation, recourse to mediation, enforceability of agreements resulting from mediation, confidentiality. Grounded on the provisions of the EU Directive the comments focus on some ethical issues and dilemmas surrounding mediation and effective advocacy in mediation as well as the fields of application of the mediation, including linguistic mediation.

- **TAX HAVENS AND OFF-SHORE COMPANIES**

Associate Professor Ph.D. George-Dorel POPA (*Ovidius* University from Constanta, Romania)

Phenomenon of tax havens emerged in the context of relations between states with different tax systems in an attempt to mitigate the effects of stifling taxes and excessive controls performed by state institutions. Subsequently these areas have become very attractive for money laundering process of the crimes proceeds. The term refers to tax haven countries where are situated offshore trusts are and the level of taxes is very low. Areas where are such companies are numerous - commerce, industry, services, investment, real estate, tourism, marine transport. Thus, "tax havens" (the phrase comes from the American term) involve a territory in which the taxation is very low. Tax havens offer total freedom of foreign exchange and banking and commercial secrecy is assured at a very high level.

- **THEORETICAL AND PRACTICAL ANALYSIS OF GUILT AS AN ESSENTIAL CONDITION OR ELEMENT OF THE CIVIL LEGAL LIABILITY**

Senior Lecturer Ph.D. Viorica URSU (Technical University of Moldova, Republic of Moldova)

The issue of civil guilt acquires currently a special importance and at the same time it has the chance of some progressive settlements accommodated to the dedicated solutions in the major legal systems. In the specialty literature of the country and abroad it was spoken and it is spoken about a difficulty of the guilt, by a withdrawal of the civil subjective liability, by a lessening of the social value of the guilt, as its tool to measure the antisocial behavior. Some authors from the field, on the other side, emphasize the high morality of the civil law that suppresses the guilt under various forms, making it the essential condition of the legal liability. The purpose of the present article is to highlight the peculiarities of the guilt as a condition or essential element of civil legal liability, to establish the role, the place and the possible end for this notion.

- **THE STAFF OF THE EUROPEAN PUBLIC POSITIONS**

Lecturer Ph.D. Dumitru VADUVA (University of Pitesti, Romania)

The European public position represents an administration of the mission to serve the institutions stated by the Union's Treaties. Although these missions have evolved in time with the major steps of the European construction, it is still possible to separate a few that are part of the essential prerogatives: creating legislation, applying it and controlling its application, management positions. They all have been part of the attributions of the European public position; their importance in the administration has had a tendency to increase in the past few years.

The European public position exists for more than half a century and has known in all this time deep transformations that were strengthened in the past ten years. These evolutions regarded both the statute of the public position, as well as the configuration of the institutions that it serves in order to achieve the quantitative and qualitative composition of the personnel animated by the concern to serve an ideal of peace and prosperity of the Union and its partners.

European civil servants are agents subjected to the statute and integrated in one of the European Union's institutions as civil servants or temporary agents.

Beside the European public positions subjected to the statute above mentioned, there are also other positions subjected to the other statutes: agents of the European Bank of Investments, national detached experts, European MP's assistants etc.

THE INTERNATIONAL CONFERENCE
"EUROPEAN UNION'S HISTORY, CULTURE AND CITIZENSHIP"
Pitesti, 23 - 24 May 2014

Saturday, 24th May 2014

Faculty of Law and Administrative Sciences, Bdul Republicii, nr. 71

Private Section

9^{30}-10^{45} (Room: Amphiteatre C1)

Moderators:
Profesor Ph.D. Ionel DIDEA (University of Pitesti, Romania)
Lecturer Ph.D. Manuela NITA (*Valahia* University of Târgovişte, Romania)
Lecturer Ph.D. Lavinia OLAH (University of Pitesti, Romania)

Secretary:
Assistant Ph.D. Amelia SINGH (University of Pitesti, Romania)

- **THEORETICAL ASPECTS REGARDING THE INTERNSHIP CONTRACT AS ADDENDUM TO THE INDIVIDUAL LABOR CONTRACT**

Senior Lecturer Ph.D. Dan ȚOP, Lecturer PhD Lavinia SAVU („Valahia" University of Târgovişte, Romania)

A major change to the Labour Code by the Law nr.40/2011 was considered that of the introduction of graduates of higher education institutions of the probation period. The provisions of art. 31 para. 6 of the Labour Code, according to which , the manner of internship shall be regulated by special law, found their realization by Law. 335/2013 on the internship for university graduates who completes the summary of the Labour Code provisions on the matter, stating that a contract internship is required, once the individual employment contract Such a contract can not be regarded as an addendum to the individual employment contract or a

clause as it is the probation (article 31 of the Labour Code) or as a training clause of the individual employment contract (art. 20 para 2 point a. of the Labour Code), but it is a stand-alone contract of a civil nature, named with enhancement character to individual employment contract.

- **TITLE OF THE PRESENTATION CONSIDERATIONS REGARDING THE ADMINISTRATION OF THE SIMPLE COMPANY IN THE REGLEMANTATION OF THE NEW CIVIL CODE**

Lecturer Ph.D. Dragos DRAGHIE (*Dunarea de Jos* University of Galati, Romania)

Law no. 287/2009 on the Civil Code has brought significant amendments regarding the companies' condition in general, causing changes in commercial law.
If initial the Civil Code started doubtful enough regarding the companies, apparently regulating two categories of companies (companies in the Civil Code and trading companies), by art. 77 of Law no. 76/2012 for the implementation of the Code of Civil Procedure remedied these gaps, replacing in all normative acts contents the collocation " trading company / trading companies" with " company / companies regulated by Law no. 31/1990".

However remained the simple company as successor of former civil company to take over the obligation to make available for the subjects a form of unincorporated association but which borrows the traits of companies regulated by Law no. 31/1990 in terms of their administration.

- **THE FORM *AD VALIDITATEM* ATTRIBUTE EXCLUSIVE OF THE LEGISLATOR IN THE 2009 CIVIL CODE**

Lecturer Ph.D. Nora DRAGHIE (*Dunarea de Jos* University of Galati, Romania)

The form ad validitatem can be considered one of the limits of freedom of contract. Although the will is an essential factor of the contract and, on the basis of freedom of contract, consistently stated that the parties are free not to enter into contracts, to enter into desired contracts, both named and

unnamed, with wanted contractual partner as well as to introduce all sorts of clauses, even not provided for by law, for the type of contract concluded, with only one condition to not prejudice the mandatory regulations or aspects related to public order or morals, the legislator does not allow parties to raise, through their freely expressed will, the form of a certain legal act, which according to law is not solemn, to the state of prerequisite for the valid conclusion of the respective act.

- **MEANS OF ADMINISTRATING THE CHILD'S GOODS WITHIN FATHERHOOD**

Lecturer Ph.D. Cornelia MUNTEAN (*Lucian Blaga* University of Sibiu, Romania)

Parents have the duty and the right to care for the goods of their under age children. This refers to an extremely personal responsibility and subsequently, a non-transferable one, either onerously or free, which does not exclude the possibility to appoint third parties to carry out certain activities related to the administration, provided they are carried out under their guidance and coordination.

Fatherhood regarding the child's goods or their patrimonial side refers to their patrimony, and it concerns the relations of civil law, meaning: administration of the minor's goods; legal representation of the minor younger than 14 in civil legal acts; approvement of civil legal acts of the minor younger than 14.

The two components of the patrimonial side, the administration of the child's goods or the approvement of the minor's civil legal acts, have the legal basis in Art. 501 of the Civil Code. Our intercession is dedicated strictly to the administration of the child's goods, i.e. simple administration by concurrent administration (individual initiative of the father or the mother), common administration (common action of the father and the mother), administration under judicial control; the control and the limits of fatherhood in administrating the child's goods.

- **LEGAL CONSCIENCE - IDEOLOGICAL PREMISES FOR DEVELOPING THE LAW**

Asisst. Ph.D. Ramona DUMINICĂ, Lecturer Ph.D. Andreea DRAGHICI, Lecturer Ph.D. Lavinia OLAH (University of Pitesti, Romania)

In developing the law, if the lawmaker fails to ground the normative solution properly in reality and ignores the real circumstances, but merely seeks to impose his own realities that do not meet the requirements of society and the collective conscience, the cases of inapplicable legal standard will become increasingly more common. Based on this finding, this article discusses the role of the legal conscience in lawmaking.

- **THE EFFECTS OF INVOKING PUBLIC POLICY IN INTERNATIONAL PRIVATE ROMANIAN LAW UNDER THE NEW CIVIL CODE AND THE NEW CODE OF CIVIL PROCEDURE**

Assist. Ph.D. Ramona DUMINICĂ, Senior Lecturer Ph.D. Andreea TABACU (University of Piteşti, Romania)

Public policy in Romanian international private law is made up of all the fundamental principles of law of the Romanian state, applicable in legal relations with foreign element. At the procedural level, it manifests itself through the public policy exception of private international law. This exception constitutes the court procedure used by the court to remove the effects of foreign laws from applying in a normal legal relation in private international law, if they contravene the law of the forum state and the fundamental principles on which it is based.

- **THE ANALYSIS OF THEIR OWN MOTION AND THE MODIFICATION OF UNFAIR TERMS BY THE COURT IN THE CREDIT AGREEMENT.**

Ph.D. Cristina GAVRILĂ (Raiffeisen Bank of Bucuresti, Romania)

The court is required only to exclude the application of an unfair contractual term in order that the contract must continue in existence without any amendment and only if the continuity of the contract is legally possible.

It cannot be imposed a certain price of the contract without taking into consideration individual negotiation between parties, the right of property and without the respect of the rules of law and with infringement of national and community jurisprudence.

The court must to do a distinct and detailed assessment to the contractual terms, from case to case by referring to all the circumstances of the individual .

- **THE STATUTE OF THE BANKING MEDIATOR WITHIN THE CONTEMPORARY LEGISLATIVE FRAMEWORK**

Assist. Ph.D. Adriana- Ioana PIRVU, Lecturer Ph.D. Iulia BOGHIRNEA (University of Piteşti, Romania)

Mediation is an already disputed legal concept in the specialised literature. However, we cannot say that the problems raised by the accomplishment of mediation have been completely clarified.

A controversial aspect is, in our opinion, the statute of banking mediators. By treating this issue from two different perspectives, the perspective of a practician and of a theoretician, we want to emphasize the problems raised by the exercise of this profession, starting from the present regulation in the field.

This study also deals with the banking mediator's relationship with the credit institutions, respectively, to what extent the nature of this relationship can affect the fairness specific to the profession of a mediator.

Public Section

9^{30}-10^{45} (Room: C2)

Moderators:
Senior Lecturer Ph.D. Ion RISTEA (University of Pitesti, Romania)
Lecturer Ph.D. Doina POPESCU- LJUNGHOLM (University of Pitesti, Romania)
Lecturer Ph.D. Olivian MASTACAN (*Valahia* University of Târgovişte, Romania)

Secretary:
Assistant Ph.D. Adriana PIRVU (University of Pitesti, Romania)

- **THE EFFECTIVENESS OF PUBLIC SERVICES IN CONTINENTAL PORTUGAL – THE PAC CASE**

Professor Ph.D. Maria de Fátima VERDELHO -FONTOURA**,** (Polytechnic Institute of Bragança, Portugal) Professor Ph.D. Paula-Odete FERNANDES (Polytechnic Institute of Bragança, Portugal) & NECE (Universidade da Beira Interior, Portugal) & UNIAG, Management Applied Research Unit (UNIAG), Portugal

The Agency for Administrative Modernisation, IP is integrated in indirect Administration and aims to operationalize initiatives to modernize and boost the participation and involvement of different stakeholders, whether internally or in their relationship with citizens, aimed the simplification and innovation in achieving the change Public Administration.

The Citizen Service Points (PAC) are multiservice with personalized service, installed in Local Municipalities, as extensions of Citizen Shops, which equip the regions of greatest interiority of a multichannel network ensuring greater proximity with the requirements and due diligence for Public Administration..

In this respect, with the assumption the paradigm change in the delivery of public services, the objective of this study was based on measuring citizen satisfaction regarding the services provided in the PAC. To this end, descriptive univariate and bivariate analysis was performed for the treatment of data collected and in order to meet the main goal of the present research. All inference analysis was carried to determine if the differences and/or relationships found between the features in the sample are extrapolated to the population, considering a significance level of 5%. For this purpose, the object of study focused on Citizen, a sample of 306 users, that go to the 54 PAC distributed by Portugal.

According to the results achieved, it can be said that citizens are very satisfied with the efficacy of the PAC. Also showed that the variables related to Accessibility, Products and Services and Involvement and Participation of the citizen have the greatest weight when we trying to measure global satisfaction of the citizen while PAC users.

- **THE MONISTIC CHARACTER OF THE EUROPEAN UNION LAW**

Ph.D. Associate Researcher Emilian CIONGARU (Institute of Legal Research, "Acad. Andrei Radulescu" of the Romanian Academy, Bucharest, Romania)

In the contemporary law, there is an increasingly distinct influence of the international law over the internal law, without the two theories to have fully validated each other. However, there is not a consistent practice of the States to this effect, the precedence of one or of the other of the two legal systems being assessed for each individual situation, in the grounds of the provisions of the national Constitutions and of the Vienna Convention. The European law laid down the theory of monism and imposes the compliance thereof by all Members States, because monism arises from the very nature of the Communities because the legal system of the European Union can only function based on monism, the only one compatible with the idea of integration. The legal system of the European Union operates based on the principle of the application thereof in the internal legal order of the Member States as adopted, without its transposition or transformation thereof in the internal law being necessary.

- **THE EUROPEAN AGENCIES AND ORGANIZED CRIME**

Associate Professor Ph.D. George-Dorel POPA, *Ovidius* University from Constanta (Romania)

Establishment of the European Union marked the beginning of a new era in which European countries have identified the need to move forward together. Economic, political, social, technical, financial and military common interest brought together the majority of the European countries. Evolution of these countries in the last decades is more than visible. Working and living together means a lot of advantages for the people of European Union. The freedom and free movement of the European citizens is a fact and brought plenty of benefits to Member States. Unfortunately, the erasure of the internal borders brought some serious problems. Among them, the most serious one is the internationalization of the crime. To prevent and to fight against organized crime is one of the top priorities of EU. To carry out an efficient fight against trans-border organized crime, EU established important agencies, specialized in this area – EUROPOL (office for police cooperation), FRONTEX (office for management of external border of EU) or EUROJUST (office for judicial cooperation).

- **THE INTERMEDIARY PLURALITY OF OFFENCES IN THE NEW CRIMINAL CODE**

Senior Lecturer Ph.D. Ion RISTEA (University of Pitesti, Prosecutor in the Prosecutor's Office attached to Pitesti Court of Appeal, Romania)

The author, as a doctrinaire and a practitioner in the area of the criminal law, analyzes in the present study the third form of the plurality of offences, namely the intermediary plurality. After defining the concept of intermediary plurality as stated by the New Criminal Code, the author emphasizes the differences between the intermediary plurality and the basic forms of the plurality of offences, namely the concurrence of offences and relapse. Also, the author expresses certain reservations about this notion, considering the principle of tertium non datur.

- **PRINCIPLE OF LOCAL AUTONOMY**

Lecturer Ph.D Doina POPESCU- LJUNGHOLM (University of Pitesti, Romania)

Human is a social being, interffering in a multitude of social relations with their fellows, some of these relations, more precisely the one who make the subject of a regulation through legal rules becoming legal reports.

Any state which is a public power organized on a limited teritory and acknowledged by the other states, has the role not only to represent the population of its teritory but also to solve different interests for every people or for a group of people. To accomplish this role, the teritory and people are distributed on different criteria: geographic, religious, cultural, etc.

This areas – smaller or bigger- are administrative-territorial units- which throughout history had known different names: county, district, region, city, villlage, etc.

Nowadays, the Constitution states in art.3 paragraph 3 that „the territory is administratively organized into villages, towns and counties.

With this administrative-territorial units, the state created public authorities to represent and to act to accomplish its interests as well as people interest.

- **LIBERTY OF KNOWING, OBLIGATION OF KNOWLEDGE**

Ph.D. Lecturer Mihaela STANCIULESCU (University of Pitesti, Romania)

The topic of the present paper is the connection between the right to be informed – the liberty of knowing – and the obligation of being acquainted to the responsibilities which accompany the right of freedom of speech. The right to be informed is a citizen's freedom, as well as an obligation for the authorities. The public interest information covers a wide range of topics, from the data and elements regarding the activities of the authorities and public institutions to every aspect of the community or society, in general, which may interest the citizens. By using the information of public interest which the citizen has the right to know, he can figure out a

critical opinion about the authorities, who make the decisions for their benefit, an adequate image of the society he lives in or a motivation for his involving in the matters of public interest.

There is confusion between the right to be informed and the freedom of speech which represents a trick and affects the perception of right and responsibility.

- **LEGAL TABOOS VS. ECONOMIC CHANGES OF 21st CENTURY**

Lecturer Ph.D. Marius VACARELU (National School Of Political And Administrative Studies Bucharest, Romania)

Every century brings its time on humans and - of course - on their relations with other persons and goods. In this paradigm, legal system had been influenced by any new invention, and private law was the most active on this. The legal system of 21st century is changed by the internet actions: higher speed of information brings fundamental changes on economy and private sphere.

For sure, legal system answer to the internet changes, because business are now much easy to be done.

There is a question: public law is influenced or not about these economic development? If the positive answer is, we must separate these changes in two parts: some normal and usual changes, when law just follow technological development and some controversial, about some legal taboos.

Our text will try to open this page - controversial changes of law, because some ideas must be put into discussions today, to not be surprised tomorrow by the necessity of changes enforced by the modern technologies.

- **WHERE LAWS RANK IN THE NORMATIVE HIERARCHY - CONVENTIONALITY AND CONSTITUTIONALITY**

Assist. PhD. Post-doctoral researcher Ramona DUMINICA (University of Pitesti, Romania)

Traditionally, in our legal system based on a Constitution that many see as rigid, the law ranks at the top of the normative hierarchy, right

behind the Constitution. Therefore, it has an infra-constitutional rank, which enforces the distinction between the supremacy of the Constitution and the supremacy of law. The latter is emphasized not by its relation to the Constitution but with all other normative acts. Beyond its infra-constitutional ranking, the law is also shaped by international treaties, ever-expanding European Union law and other such aspects which will be analysed in this paper.

Public Section

9^{30}-10^{45} (Room: Departament of Law and Public Administration)

Moderators:
Professor Ph.D Florin- Anton BOTA - MOISIN (University of Pitesti, Romania)
Lecturer Ph.D. Daniela IANCU (University of Pitesti, Romania)
Lecturer Ph.D. Mihai GRIGORE (*Valahia* University of Târgovişte, Romania)

Secretary:
Lecturer Ph.D. Sorina BARBU-SERBAN (University of Pitesti, Romania)

- **CONSTITUTIONAL IMMUNITIES IN THE REPUBLIC OF MOLDOVA AND OTHER COUNTRIES**

Ph.D.Andon ALA (Free International University of Moldova, Republic of Moldova)

The concept of privileges and their system, tendencies of their classification as well as international experience in this sphere represents an actual problem which has many question marks. The criteria of attributing a certain type of legal privilege to the constitutional law seem especially difficult as all social relations are more or less effected by the regulations of constitutional law. This fact is conditioned by special feature of constitutional and legal regulation of social relations which, as it is stated in special literature, lies in the fact that the constitutional law regulates social relations directly and to the full extent in some spheres of society life and it is only fundamental in other spheres i.e. it predetermines the content of other relations in these spheres. We consider it necessary to analyze all constitutional privileges provided for in both national and foreign laws, their similarities and differences and possibility of introducing or withdrawing some constitutional privileges from the higher state law.

- **BRIEF ANALYSIS OF THE ADMINISTRATIVE DOCUMENTATION**

Lecturer Ph.D. Cătălin BUCUR (University of Pitesti, Romania)

The performance of the public administration's tasks entails an efficient documentation, well organized, more precisely an ensemble of data, documents and information indispensable to the efficient use of the public administration.

- **EUROPE 2020- YOUTH EMPLOYMENT**

Lecturer Ph.D. Sorina SERBAN-BARBU (University of Pitesti, Romania)

The paper aims to underline the importance of traineeships over the past decades within the European Union. This policy has become an important entry point into the labour market for young people. March 10, 2014 marks the day when the European Commission welcomed the adoption by the EU's Council of Minister of a Quality Framework on Traineeships to enable trainees to acquire high-quality work experience under safe and fair conditions, and to increase their chances of finding a good quality job. In the present paper will be analyzed the EU objectives in the field of youth employment for the next period and their importance for the EU policies and also for the Member States.

- **THE COMPETENCE OF ROMANIAN COURT IN CASES INVOLVING FOREIGN ELEMENT**

Assist. Ph.D. Amelia SINGH, Senior Lecturer Ph.D. Andreea TABACU (University of Pitesti, Romania)

The basic principles of jurisdiction have been imposed by the European Community through binding rules, the New Code of Civil Procedure correlate with the Community regulations. The general rules on territorial jurisdiction shows that it is competent the court from the country of

domicile of the defendant, but the legislature provide access to justice for certain applications to the Romanian court and courts of other states ; is also provided the preferential jurisdiction of the Romanian courts.

- **THEORETICAL AND PRACTICAL ASPECTS OF THE CRIMINAL SANCTIONING SYSTEM OF THE REPUBLIC OF MOLDOVA**

Ph.D. Canditate Ina BOSTAN (U.L.I.M., Republic of Moldova)

The criminal policy of the Republic of Moldova and the punishment system, the tendencies regarding the criminality and the sanction, the applications of the detention alternatives, as well as the international experience in the domain of criminal policies represent the basic topic of the criminal reform that the Republic of Moldova follows. Essentially, the criminal sanctions are considered to be the coercive consequences that the criminal law binds with the precepts of criminal law violations. The Penal Settlement is inconceivable outside criminal sanctions, that are regulated within one of the three fundamental institutions of criminal law, along with crime and criminal liability. Within the criminal constraint mechanism the sanction appears as an inevitable consequence of criminal liability and the criminal liability as a necessary consequence of the offense. The primary purpose of all criminal sanctions is to defend the society against criminals and to prevent the committment of new crimes, as by those who apply, as well as by the others

- **GENERAL ASPECTS REGARDING THE DISCIPLINARY LIABILITY OF CIVIL SERVANTS IN SPAIN**

Assist. PhD. Post-doctoral researcher Andra PURAN (University of Pitesti, Romania)

This paper proposes an analysis of disciplinary liability of civil servants in Spain, European Union's member state, to sense any similarities with our national legislation in this domain.

Disciplinary liability of civil servants or public employees, as Spanish law calls them, is governed by their status, as same as the Romanian civil

servants, and by the Civil Service Laws which complement this status. Law no. 7/2007, General Status of public employees, regulates the ground of this form of juridical liability but also the disciplinary sanctions that can be disposed, not giving a detailed regulation to the disciplinary procedure nor to the act terminating this procedure.

- **HISTORICAL AND SOCIAL EVOLUTION STATISTICAL FOREIGN POPULATION RESIDENT IN BELGIUM IN THE TWENTIETH CENTURY**

Ph.D. Candidate Cristina-Maria PESCARU (University of Craiova, Romania)

In the second part of the twentieth century, Belgium became permanent immigration ground. Thirty glorious and famous arrangements for migrant workers in Belgium, the phenomenon has gradually evolved into forms of family reunification and asylum Belgian population knowing the impact and growing influence of intra-European mobility. To understand and identify the challenges of integrating immigrants into Belgian society, it is important to quantify migration, objectives being to delineate the contours and track major trends facing Belgium in terms of this phenomenon in the years to come. This analysis presents the most synthetic reality behind the numbers.

- **THE TIMELINESS OF THE THEORY OF FORMS WITHOUT SUBSTANCE. LEGAL TRANSPLANT AND EUROPEAN LAW –THEORETICAL PERSPECTIVES**

Ph.D. Candidate Razvan-Cosmin ROGHINĂ (University of Bucharest, Romania)

The European law was born and developed mainly through vertically legal transplant, from top to bottom: from the supranational legal order to national legal systems. The unification / harmonization of the european law is aimed to be objectified through formal legal construction. The latter meets the praxis limits projected by the national legal identities, by the legitimate national legal culture preservation reflex or national legal pride. The convergence of the written law encounters the divergence of the law in

action, determined by the culture /political and legal capacity of each national legal system. Therefore, successful legal transplant of the european law should not be resumed to the field of legal positivism, but extended to the dimension of law understood through culture or as culture.

Rediscovering and (re)contextualising the Romanian theory of forms without substance, from the nineteenth century, to the curent problematics of the European law integration, unification and harmonization, we can discover a surprising timeliness conceptual background. In this paper we propose to explore and highlight this heritage of ideas.

Private Section

11^{00}-12^{00} (Room: Amphiteatre C1)

Moderators:
Lecturer Ph.D. Carmina ALECA (University of Pitesti, Romania)
Lecturer Ph.D. Ioana POPA (*Valahia* University of Târgovişte, Romania)
Lecturer Ph.D. Dumitru VADUVA (University of Pitesti, Romania)

Secretary:
Lecturer Ph.D. Catalin BUCUR (University of Pitesti, Romania)

- **INTERNAL REGULATIONS – A LEGAL INSTRUMENT BY WHICH THE EMPLOYER EXERCISES AUTHORITY OVER THE EXECUTION OF THE LABOR CONTRACT**

Lecturer Ph.D. Carmen NENU (University of Pitesti, Romania)

The legal work relationship is characterized by a relationship of subordination of employees to the employer, relationship which arises from the position of authority of the employer. One of the prerogatives of the employers, arising precisely from their authority, is to determine the organization and functioning of the unit, the rules of conduct within it, the rights and obligations of employees. Among unilateral legal acts of the employers, by which their authoritative position is materialized, the internal regulations emerge as an important legal tool that benefits from special regulation in the Labour Code and that has a crucial role in securing labour discipline in an organization.

- **ANALYSIS OF THE SIMILARITIES AND DIFFERENCES BETWEEN THE INDIVIDUAL EMPLOYMENT CONTRACT AND THE COLLECTIVE AGREEMENT**

Lecturer Ph.D. Carmen NENU (University of Pitesti, Romania)

The legal workrelationship has its source in the individual employment contract, but a compulsory elementof its content is represented by the clauses of the applicable collective agreement at unit level. Therefore, the analysis of the relationship between the individual employment contract and the collective agreement, as well as of their role and importance as sourcesof labour rights is a necessity for a better coordination of the two legal instruments. The aim is to identify overlaps and adapt legislationto current needs of the social partners

- **BRIEF ANALYSIS OF REGULATIONS REGARDING WORK BY TEMPORARY EMPLOYMENT AGENT**

Assist. Ph.D. Andra PURAN, Lecturer Ph.D. Daniela IANCU (University of Piteşti, Romania)

The work by temporary employment agency represent an important form of employment in most of the European Union membre states.That's why, at the level of central institutions of European Union, stated the need "to reach a fair balance between the protection of temporary workers and strengthen the positive role that temporary agency work can play on the European labor market. "

Although relatively new inserted in romanian legislation, by Law 53/2003 (Labor Code), the work by temporary employment agency has been the subject of some mismatches between the intern legislation and the union law (European Parliament and Council Directive 2008/104/CE), taking into account that Romania was preparing for the integration into European Union.

- **BRIEF CONSIDERATIONS REGARDING THE CONDITIONS OF CONTRACTUAL IMPREVISION**

Ph.D. Candidate Ioana-Nicoleta GHEBERTA (West University of Timisoara, Romania)

The Romanian lawmaker chose to end any dispute in relation to the admissibility of the theory of contractual imprevision in the domestic law, such institution being regulated in Article 1271 of the New Civil Code. The adoption of this text reveals the alignment of the internal law to the opinions existing at an international level, since the current regulation has the same content as Article 6.111 of the Principles of European Contract Law. This study aims at analyzing the conditions involved by this legal mechanism, stressing the notions of "imprevision", "excessively onerous obligation" and "contractual balance", all of them being defining elements in the initiation of the imprevision's effects whose content shall be accurately delimited by jurisprudence.

- **THE NATURE OF INTELLECTUAL PROPERTY RIGHTS**

Assist. Ph.D., Post-doctoral Researcher Candidate Alin SPERIUSI (West University of Timisoara, Romania)

The author cannot have a natural right over his/her intellectual creation because the intellectual creation, by its nature, cannot be appropriated by a person. This impossibility of appropriating a piece of work is not just a consequence of its intangibility, but it derives also from the relation intellectual creations versus society, universal patrimony, knowledge. The intellectual creation is not susceptible, by its nature, of being legally protected, just like the tangible assets. But more than that, by its nature, an intellectual creation, whether copyrights, trademarks or patents is circulating freely from one individual to another, enriching the know-how and contributing to the social progress and humanity development. This feature does not characterize the other intangible assets. By their nature, they do not have the vocation of contributing to society development. Intangible assets contribute to the development of the society to the same extent as the tangible assets, contributing to social welfare by encouraging private property and the relations between individuals. Any

intellectual creation has the vocation of entering into the public domain, being protected under certain conditions stipulated by law only in order to encourage the creative activity necessary for society development by remunerating the authors. Thomas Jefferson highlights that the rights over an invention do not relate to the natural law because the stable property itself over the tangible assets, which goes beyond the mere occupation, is typical to the laws of an organized society, therefore inventions cannot belong, by their nature, to the scope of the property right, as long as by their nature, they circulate freely, unlimitedly, from one individual to another, as long as they are not disclosed by its author. Intellectual property rights are not and they must not be permanent; in reality, they need to be very well limited and they must not last one more day than necessary in order to encourage creativity. For these reasons, I believe that the rights in the field of intellectual property are the exception; the rule states that all intellectual creations have the vocation of accessing the public domain.The juridical protection title of an intellectual creation is awarded the moment when the creation meets certain conditions of novelty, utility and concerning the existence of an author.

Legal norms do not bring the intellectual creations into the civil circuit as assets subsisted by a series of rights, but in reality, it simply acknowledges the moral and patrimony rights concerning the intellectual creations. One way or another, all conceptions related to the nature of the intellectual property rights are trying to answer to some particular characteristics of the rights in the field of intellectual property, respectively the co-existence of moral rights and of patrimony rights, as well as the limited duration of the patrimony rights. In reality, the limited duration of the patrimony rights is of any interest. However, it should be approached differently. The limited duration of the patrimony rights in the field of intellectual property does not represent an emblematic aspect thereto, but merely a natural consequence of the reason for which such rights have been acknowledged in the normative system. More precisely, the nature of the patrimony rights in the field of intellectual property must not be established based on a secondary effect of their regulation reasoning, but eventually, based on a deep analysis of the reasons causing their acknowledgement normatively, regardless the effects caused by such acknowledgement. Intellectual creations exist way before the acknowledgement of any right in relation with them, prior to the juridical protection, benefiting from social and cultural acknowledgement and protection, to the extent that the authors

were respected, and the plagiarists were blamed by the community. For reasons related to endorsing the creative activity required for society development, the authors were admitted certain rights in order to reward them. The reason for endorsing the creative activity with the purpose of developing the society must never be lost of sight, because a piece of work, by its nature, tends to be accessible to all community members contributing to community development. Such accessibility trend of an intellectual creation is not a consequence of its intangibility, but it rather deals with its intrinsic nature towards enriching the universal cultural patrimony. In order to encourage the creative activity, the society allowed the authors a series of patrimony rights so they could be remunerated for their creative effort. The natural trend of the intellectual creations of being passed to the others, thus contributing to the enlargement of the universal cultural patrimony, is involved in the very creative activity of the author. More precisely, the authors create for the result of their work, of their creative effort to reach to the entire community they are part of. For these reasons, one could claim that, in the case of intellectual property, one of theessential elements of the property animo sibi habendi is missing, since nobody is creating an intellectual work for himself, but it is created in order to be included in the universal patrimony. The intellectual creation route, from the moment when created and until when included in the public domain, proves once more that it is incorrect to talk about temporary property, even when we would allow that the work is acknowledged as intangible asset. In case it would be allowed that the work is legally acknowledged to be an intangible asset, upon the expiry of the protection period, it disappears, `evaporates' into the public domain, and it is no longer susceptible of being included in the scope of any patrimonial right. The very existence of the public domain is proving the fact that the law does not acknowledge the intellectual creation to be an intangible asset. The moment when the intellectual creation enters the public domain, it is definitely res nullius.

There is a characteristic differentiating the exclusive use in the field of intellectual property from use(usus) as attribute of the property right, respectively from the prerogative of use inherent to the property right. For the creations of the mind, their use is `non-rival' (according to James Boyle), respectively nonexclusive, in the meaning that one use does not exclude a concomitant use of the same object. More "uses" of the same land area exclude one another; by contrast, an MP3 _le or an image could be used by several persons, the use by one person not interfering with the

use of the same intellectual creation by another person . The argument according to which this rule would be applicable to all intangible assets is not valid, the best example being the goodwill, several `uses' of the goodwill being excluded. In reality, patrimony rights in the field of intellectual property are rights of claim correlative to a propter rem obligation of the owner of the material support (electronic support respectively) of the intellectual creation. Besides, in an article regarding the juridical nature of the author and inventor's rights, published in the anniversary book dedicated to Roubier, Remo Franceschelli makes such an observation, namely the specificity of the intellectual property right resides in the fact that the owner of the material support of the work cannot reproduce it, and considering the patrimony rights in the field of intellectual property as real rights, respectively property rights does not explain the reason why the author of the intellectual creation can, even after selling such a material support of the intellectual creation, prevent the buyer from reproducing it, respectively to do whatever the owner of a material asset could do drawing the conclusion that this is the specific object of the intellectual property (such negative, non facere obligation), which does not exist in the absence of the special legislation in the field of intellectual property, not the possibility to use the intellectual creation which its author has, based on the common right.

- **CRITERIA FOR DETERMINING OF ABUSIVE CLAUSES IN THE BUSINESS-TO-BUSINESS AND BUSINESS-TO-CONSUMER CONTRACTS**

Masterand student Gratiela-Alexandra HUTANU (University of Pitesti, Romania)

Orientation legislature to limit some contractual liberalism by imposing certain contracts (standard or adhesion and so-called forced contracts) require certain welfare measures to law recipients.

The work analyzes criteria for determining the abusive character of clauses inserted both in business-to-consumer, as well as in the business-to-business contracts, sanctioned by applicable internal and European laws.

This analysis shall constitute an argument for the necessity to respect contractual balance at the time of conclusion of the contract.

Public Section

11^{00}-12^{00} (Room: C2)

Moderators
Lecturer Ph.D. Marius ANDREESCU (University of Pitesti, Romania)
Lecturer Ph.D. Iulia BOGHIRNEA (University of Pitesti, Romania)
Lecturer Ph.D. Lavinia VLĂDILĂ (*Valahia* University of Târgovişte, Romania)

Secretary
Assistant Ph.D. Viorica POPESCU (University of Pitesti, Romania)

- **CULTURAL CRISIS IN THE ROMANIAN CULTURAL**

Senior lecturer Ph.D. Maria PESCARU (University of Pitesti, Romania)

The study was conducted on a sample of the culture managers 99, the cultural institutions: educational institutions, theaters, museums, homes cultural, cultural centers, cultural associations, libraries, cinemas, philharmonic, representativenessis shown in the table below. Questions the questionnaire were open and had multiple answer questions closed followed by open questions multiple choice. The sample was chosen so that we have suppliers in different lines of business and a variety representation of cultural institutions. This study was conducted as Following the documentation of the work performed in sociology and philosophy , with concern for the functions , the role of cultural institutions , but and the current crisis in culture, both in terms cultural values, norms, respect for traditions, and the point Economically, the involvement of decision makers.

- **LEGAL CHALLENGES OF ACTIONS FOR ANTITRUST DAMAGES**

Ph.D. Judge Diana UNGUREANU (Trainer, National Institute of Magistracy, Lecturer, Christian University *Dimitrie Cantemir,* Bucharest, Romania)

In addition to public enforcement, the direct effect of Articles 101 and 102 of the Treaty means that these provisions create rights and obligations for individuals, which can be enforced by the national courts of the Member States. This is referred to as the private enforcement of the EU competition rules.

The recent Proposal for a Directive of the European Parliament and of the Council on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union seeks to ensure the effective enforcement of the EU competition rules by optimising the interaction between the public and private enforcement of competition law and ensuring that victims of infringements of the EU competition rules can obtain full compensation for the harm they suffered.

- **THE CONTRADICTIONS OF THE JUSTICE. THE METAPHYSICAL PRINCIPLES OF LAW**

Lecturer Ph.D. Marius ANDREESCU (University of Piteşti, Judge Court of Appeal Piteşti, Romania)

This essay represents an attempt to highlight, from a philosophical perspective, the most significant contradictions that can affect the justice throughout a period of social crisis. The object of our analysis consists of the contradictions between: the law and justice; the justice and society and the act to fulfill the justice and what we have just called "the fall in exteriority" of justice. Within this context we refer to some aspects that characterize the person and personality of the judge. This essay is a pleading to refer to the principles, in the work for the law's creation and applying. Starting with the difference between "given" and 'constructed"

we propose the distinction between the "metaphysical principles" outside the law, which by their contents have philosophical significances, and the "constructed principles" elaborated inside the law. We emphasize the obligation of the law maker, but also of the expert to refer to the principles in the work of legislation, interpretation and applying of the law. Arguments are brought for the updating, in certain limits, the justice – naturalistic concepts in the law.

- **THEORETICAL AND JURISPRUDENTIAL ASPECTS CONCERNING THE CONSTITUTIONALITY OF THE COURT APPEAL ON POINTS OF LAW**

Lecturer Ph.D. Marius ANDREESCU (University of Piteşti, Judge Court of Appeal Piteşti, Romania)

The institution of the appeal on points of law has the role to ensure a unitary law interpretation and enforcing by the law courts. The legal nature of this procedure is determined not only by the civil and criminal normative dispositions that regulate it. In this study we bring arguments according to which this institution is of a constitutional nature, because according to the Constitution, the High Court of Cassation and Justice has the attribution to ensure the unitary interpretation of the law by the law courts. Thus are analyzed the constitutional nature consequences of this institution, the limits of compulsoriness of law interpretations given by the Supreme Court through the decisions ruled on this procedure, and also the relationship between the decisions of the Constitutional Court, respectively the decisions of the High Court of Cassation and Justice given for resolving the appeals on points of law. The recent jurisprudence of the Constitutional Court reveals new aspects regarding the possibility to verify the constitutionality of the decisions given in this matter.

- **ASPECTS REGARDING THE END OF MANDATE FOR THE LOCAL ELECTED PERSONS**

Lecturer Ph.D. Mihai Cristian APOSTOLACHE (Universitatea "Petrol-Gaze" din Ploieşti, Romania)

The mandate of the local elected persons is of four years and can be prolonged in the conditions of the law, but it can also end before term, in this case being able to mention the ending by law of the mandate of the local elected persons or end of the mandate as a follow-through of the result of a local referendum. In what regards the law, by the status of local elected persons we refer to the mayor, the vice-mayor, the president of the local council, the vice-president of the local council, the local and county councilors.

Public Section

11^{00}-12^{00}

(Room: Departament of Law and Public Administration)

Moderators
Senior Lecturer Ph.D. Maria ORLOV (Republic of Moldova)
Senior Lecturer Ph.D. George-Dorel POPA („Ovidius"University of Constanta, Romania)
Lecturer Ph.D. Andrei SOARE (University of Pitesti, Romania)

Secretary
Assistant Ph.D. Emilian BULEA (*Valahia* University of Târgovişte, Romania)

- **CONCEPTUAL ISSUES REGARDING CRIME AND PUNISHMENT IN MUSLIM CRIMINAL LAW**

Associate Professor Ph.D. Oxana ROTARI (ULIM, Republic of Moldova)

The existence of any society is impossible without full security system values on which it is based, or whatever the way of organizing the society cannot be conceived without compliance by its members values such as life, health freedom, inviolability of territorial etc. In this context, a basic tool of qualification antisocial acts that system is the well thought of legal norms, and in particular that of the criminal rules. Just remember that, criminal law, as a branch of law that represents totally legal rules adopted by the legislative body that regulates relations defense of social values by prohibiting offenses as socially dangerous acts, and by establishing criminal penalties to be applied to individuals they have committed.

- **STUDY UPON SOME PARTICULARITIES OF SECURITIES USED INTO DOMESTIC AND EUROPEAN TRANSACTIONS**

Lecturer Ph.D. Aida-Diana DUMITRESCU (Institution Academia de Poliție „Alex. Ioan Cuza", Romania)

A study of the the particularities of securities used into both intern and european transactions is necessary and actual, in view of the increasing of the active role of these documents and the specific problems caused by multidisciplinary subject. The relevance of this study is both theoretical and practical.

In this context, the use of the electronic format of the document must be analyzed and made safe in order to maintain his advantage against the inherent risk.

- **CRIMINALIZATION OF ACTS TO THE ENVIRONMENTAL PROTECTION UNDER THE NEW CRIMINAL CODE**

Lecturer PhD.Gheorghe-Iulian IONIȚĂ, Romanian-American University of Bucharest, Researcher Associate, Institute of Juridical Research „Acad. Andrei Rădulescu" of the Romanian Academy)

The author presents the changes made to the implementation of the new Criminal Code in the field of the environmental offenses, highlighting controversial issues which were solved and those that still require attention from the legislature as it may cause some problems of interpretation and application.

- **DIGNITY, A MULTIFACED NOTION**

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

In legal literature, it was admitted that the concept of dignity does not contain any elements or criteria for defining objective and the enigmatic

character opposes it to be fixed in a form determined and to manifest in a single representation. This material is important in the proposed objective, namely to review the distinctions that the foreign legal doctrine proposes in order to provide a useful understanding of this multifaceted concept that is at the center of numerous controversies

- **JUDICIAL EXPERTISE UNDER THE LAWS OF REPUBLIC OF MOLDOVA**

Ph.D. Candidate Ruslan RUSSU (Free International University of Moldova, Republic of Moldova)

Under the Laws of Republic of Moldova forensic science (hereinafter judicial expertise) makes subject of regulation of several normative acts such as Law on judicial expertise, procedural laws, technical –scientific statemens and other regulations as well as internatioanl treaties that Republic of Moldova is a party to. Foresic science itself is govermed by principle of legality, independence, objectivity and plenitude of investigational procedures.

Closing of the Conference

12^{00}-12^{30}

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