



INTERNATIONAL CONFERENCE:

**“PERSPECTIVES OF BUSINESS LAW
IN THE THIRD MILLENIUM”**

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



ADJURIS
Society of Juridical and Administrative Sciences

SECTION I - PUBLIC LAW

Friday, November 13, 2020

ONLINE ON ZOOM

Keynote speakers:

Lecturer **Radu Ștefan Pătru**, Faculty of Law, Bucharest University of Economic Studies

Lecturer **Ovidiu Maican**, Faculty of Law, Bucharest University of Economic Studies

! Each paper will be presented within 15 minutes

! Fiecare lucrare va fi prezentată în maxim 15 minute

**LEADERSHIP AND DELIBERATIVE DEMOCRACY IN THE CHANGING WORLD: COMPETING OR
RECONCILABLE PARADIGMS?**

Professor Dobrinka CHANKOVA

South-West University, Blagoevgrad, Bulgaria

Associate professor Valentin VASILEV

South-West University, Blagoevgrad, Bulgaria

Abstract

The paper explores the changing role of leadership in a modern organisational context. The objective is to pay attention to the relationship between traditions and dynamically changed realities in contemporary management. The relatively new phenomenon - deliberative democracy practices - and their use in modern governance are under scrutiny. The central thesis of this paper is that efficient leadership and deliberative democracy are not competing, but reconcilable paradigms and could exist in a good symbiosis. Classical research methods, such as comparative analysis of theories and practices, are used in the elaboration of the paper. The systematic approach to seek a holistic vision for the improvement of leadership in a democracy is also used. A small-scale qualitative survey among the random population about the role of leadership, public deliberation and their interaction in a time of intensive social processes adds extra value to the research. The biggest challenge faced by the theory and practice is identified - to instrumentalise the leadership and deliberative practices efficiently so that the decisions taken to be considered rational, legitimate, and protecting fundamental human and other rights of all affected who will feel respected and committed to their implementation.



INTERNATIONAL CONFERENCE:

“PERSPECTIVES OF BUSINESS LAW IN THE THIRD MILLENNIUM”

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



SELECTED CHALLENGES ASSOCIATED WITH THE RELIANCE ON CUSTOMER DUE DILIGENCE MEASURES TO CURB MONEY LAUNDERING IN SOUTH AFRICA

Professor Howard CHITIMIRA

Faculty of Law, North-West University, South Africa

Master of laws (LLM) candidate Sharon MUNEDZI

Faculty of Law, North-West University, South Africa

Abstract

Customer due diligence is a means of ensuring that financial institutions know their customers well through know your customer (KYC) tools and related measures. Notably, customer due diligence measures include identification and verification of customer identity, keeping records of transactions concluded between a customer and the financial institution, ongoing monitoring of customer account activities, reporting unusual and suspicious transactions and risk assessment programmes. Accordingly, financial institutions should ensure that their customers are risk assessed before concluding any transactions with them. The regulation of money laundering is crucial to the economic growth of many countries, including South Africa. However, there are still numerous challenges affecting the banks and other role-players' reliance on customer due diligence measures to combat money laundering in South Africa. The challenges include the failure to meet the identification and verification requirements by some South African citizens, onerous documentation requirements giving rise to other persons being denied access to the formal financial sector and the lack of express provisions to regulate the informal financial sector in South Africa. Given this background, the article discusses the challenges associated with the regulation and implementation of customer due diligence measures to enhance the combating of money laundering in South Africa.

LEGAL AND ORGANIZATIONAL PROBLEMS ON IDENTIFICATION OF PERSONS IN ACTIVITIES OF THE STATE BORDER GUARD SERVICE OF UKRAINE

PhD. student Iryna KUSHNIR

Bohdan Khmelnytskyi National Academy of the State Border Guard Service of Ukraine

Associate professor Olha TSARENKO

Bohdan Khmelnytskyi National Academy of the State Border Guard Service of Ukraine

Associate professor Serhii TSARENKO

Bohdan Khmelnytskyi National Academy of the State Border Guard Service of Ukraine

Abstract

The article deals with the identification of foreigners and stateless persons, problems of legal regulation of relations of the State Border Guard Service of Ukraine on collecting biometric data of persons, types of data subject to collection, processing, storage and administration. The problems existing in the mechanisms of collecting biometric data of foreigners and stateless persons, as well as issues of personal data protection are considered. An attempt was made to suggest changes to laws and regulations in the field of migration and border protection on the basis of empirical data. The goal is to investigate the mechanism of identification of foreigners and stateless persons during border control procedures at border crossing points (checkpoints) and at entry-exit checkpoints, as well as during administrative proceedings and to identify ways to improve the legal regulation of these procedures in the activities of the State Border Guard Service of Ukraine. The methods used in the research were the analysis and comparison of national legislation with the legislation of the European Union Member States and the Council of Europe (including the case law of the European Court of Human Rights) on biometric data. The questionnaire survey method enabled to obtain objective information about the border guards' awareness of personal data. The forecasting method was used to formulate proposals for amendments to the legislation to improve the organization of work processes in the activities of the State Border Guard Service of Ukraine when using IT systems. The research will enable to improve the procedure for collecting biometric data of foreigners and stateless persons by border guards, strengthen the capacity of the State Border Guard Service of Ukraine to combat illegal migration.

THE FREQUENCY OF CRIMINAL ACTS IN THE FIELD OF ECONOMIC CRIME IN THE WORK OF JUDICIAL ORGANS IN SERBIA

Professor Milan POČUČA

Faculty of Law for Commerce and Judiciary
University Business Academy in Novi Sad, Serbia

Associate professor Jelena MATIJAŠEVIĆ

Faculty of Law for Commerce and Judiciary
University Business Academy in Novi Sad, Serbia

Abstract

Economic crime is a kind of crime which is primarily characterized by a diversity of definitions and theoretical interpretations. The paper is methodologically based on a theoretical analysis of the relevant contemporary viewpoints in theory, while the normative method was principally applied in the research part,



INTERNATIONAL CONFERENCE:

**"PERSPECTIVES OF BUSINESS LAW
IN THE THIRD MILLENNIUM"**

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



supplemented with the analytical and deductive methods. In the parts devoted to the results of work of judicial organs based on instituted and completed criminal proceedings for crimes against economy and crimes against official duty, a basic quantitative data analysis will be presented. The primary legislative source consulted in the research part is the Criminal Code. The reference period for which the official data of the Statistical Office of the Republic of Serbia is analysed is the three-year period from 2017 to 2019. The conclusion which followed after the analysis of the frequency of criminal acts in the field of economic crime in the work of judicial organs in Serbia is that an essential aspect of economic stability is an optimum number of incriminations, as well as efficient work, proper coordination, and a timely reaction of all the judicial organs in all phases of criminal proceedings for criminal acts the committing of which violates any aspect of business dealing, economic development, or economic-business relations in the broadest sense.

**REALIZATION OF PRIVATE AND PUBLIC INTEREST IN TAXATION DURING PUBLIC FINANCIAL
ACTIVITY IN UKRAINE**

Associate professor Mariia KARMALITA
University of the State Fiscal Service of Ukraine, Ukraine
Associate professor Anna NECHAI
Head of the Law Department
of the International Science and Technology University
named by Academic Yuriy Bugai, Kyiv, Ukraine
Associate professor Tetiana SHOLKOVA
Department of Financial Law,
Educational and Scientific Institute of Law
University of State Fiscal Service of Ukraine, Irpin, Ukraine
PhD. student Kostiantyn HUBSKYI
Department of Financial Law,
Educational and Scientific Institute of Law
University of State Fiscal Service of Ukraine, Irpin, Ukraine

Abstract

This article analyzes the legal basis for the realization of private and public interest in taxation, ways to establish a balance between private and public interests as a basis for a "tax security" of the state. It is stated that: 1) the peculiarity of Ukrainian legislation is the insufficient balance of private and public interests in taxation; 2) the balance of private and public interests in taxation should be implemented at the level of law; 3) the state has not yet established a climate of trust between the state and taxpayers due to imperfect tax legislation, frequent changes in tax rules, low level of professional training of tax officials, low level of service for taxpayers by the tax authorities and lack of transparency in using the public monetary funds by government bodies. The current correlation and the ratio of private and public interest in the legal literature and in tax legislation is analyzed, recommendations for its improvement are offered. The foreign approaches to the balancing of the private and public interest in the tax legislation has been reviewed. The concept of "tax security of the state" is formulated, the basic requirements to its maintenance are defined, namely: 1) existence of clear transparent procedures of realization of norms of tax laws; 2) existence of a highly professional tax service; 3) existence of established appropriate level of tax culture of the population which allows to increase revenues through voluntary payment of taxes.

THE RIGHT TO DELISTING AND INTERNET SEARCH ENGINES

Associate professor Nina GUMZEJ
Faculty of Law, University of Zagreb, Croatia

Abstract

The paper provides a comprehensive analysis of the jurisprudence of the Court of Justice of the European Union toward interpretation of the right of data subjects to request a delisting (delinking, dereferencing) of their personal data from search results operated by internet search engines. This right, often called the right to be forgotten, entails a rather complex process of weighing up data subjects' rights and freedoms with interests of Internet users and it has as such had considerable impact on relevant operations of search engine operators. As of the first ruling on this specific right to be enforced against search engine operators (C-131/12, Google Spain, Google Inc v AEPD, MC González) in 2014, a number of important issues were left unanswered in relation to practical implementation. This is, for example, as regards the territorial scope of delisting, which issue led to the second case and ruling of this Court in September 2019 (C- 507/17, Google LLC v. CNIL), according to which the EU law does not require search engine operators to apply delisting throughout all of its domains globally, but it does not prohibit such practice either. Thereby the Court left open the possibility for individual Member States to still impose such a duty on operators under certain circumstances. In addition to further clarifications of the right to delisting in its third ruling also delivered in September 2019 (C-136/17, GC, AF, BH and ED v. CNIL), the Court established a particular new requirement of re-organizing search engine results as an important new course of action in certain cases where a delisting request is denied. A further issue that has caught regulatory attention so far is whether search engine operators are allowed to notify, upon delisting (and if so to what extent) relevant owners of the website. The Swedish national data protection authority raised this issue in its 2020 decision against Google, and it is also currently discussed before the European Data Protection Board in order to ensure a consistent approach at EU level. Namely, Google has in 2020 (up to October) been fined by data protection authorities in two EU Member States for failure to implement its delisting duties. It remains to be seen if one or both of those cases will eventually lead toward new preliminary reference procedure(s) before the Court of Justice of the



INTERNATIONAL CONFERENCE:

**“PERSPECTIVES OF BUSINESS LAW
IN THE THIRD MILLENNIUM”**

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



European Union with the aim to further interpret the right to delisting in the context of Article 17 of the General Data Protection Regulation. In any case, the consistent approach on the right to delisting as currently pursued by the European Data Protection Board with its guidelines presupposes a need for tight cooperation toward utmost transparency on relevant regulatory and judicial practice across different EU jurisdictions.

XAT.COM

SUBCONTRACTING

Associated academic member Nelu Dorinel POPA

Faculty of Law, “Dimitrie Cantemir” University of Targu Mures, Romania
Student Cezara POPA

Faculty of International Economic
Relations, Faculty of Law
Bucharest University of Economic Studies, Romania

Abstract

Subcontracting represents the facility granted by law to tenderers to fulfill part of the obligations that are assumed by the public procurement contract or a part of the project, through a third party called “subcontractor”, if the offer will be declared as winner by the contracting authority. In practice, on the one hand, it is noted the tendency of the contracting authorities to meet the subcontractors, which is justified by the desire of the contracting authorities to protect their own interests and which corresponds to a higher degree of transparency; subcontracting is to be recommended to the contracting authorities when the public procurement is carried out on their own establishment or on establishments which they have under surveillance. On the other hand, it is also noted the tendency of the tenderers and subcontractors to circumvent this transparency and to disguise subcontracting in the form of relative simulations of various types, precisely so as not to inform the contracting authorities and so that the tenderers obtain certain benefits. In this respect, some doctrinal opinions, some cases of jurisprudence and comparative law references are relevant. In the light of those mentioned above, we have expressed some proposals de lege ferenda.

**SEVERAL OPINIONS AND CONTROVERSIES IN CONNECTION WITH THE ACTIVE SUBJECT OF THE
MONEY LAUNDERING CRIME IN THE NEW CRIMINAL LAW**

Associate professor Nelu Dorinel POPA

Faculty of Law, “Dimitrie Cantemir” University of Târgu-Mureș, Romania
Student Bianca POPA

Faculty of Law, University of Vienna, Austria

Abstract

The enforcement of the money laundering law sparked controversies in the doctrine and jurisprudence in Romania, especially in matters related to the relation between the active subject of the subsequent crime of money laundering and the active subject of the main offence, from which the goods subject to laundering derive. In one opinion, the possibility that the author of the main offence is to be held criminally liable both for the main offence, as well as for the subsequent crime of laundering the goods coming from criminal offences was highlighted, the crimes coexisting in real competition. In another opinion, it was considered that the person who committed the offence from which the goods subject to laundering originate, could not launder the product of the main crime (in the option of acquisition/ ownership/use) as the active subject of the subsequent crime of money laundering is different from the active subject of the main crime from which the goods in question are derived. On the basis of these controversies, by Decision no. 418/2018, the Constitutional Court upheld the exception of evident unconstitutionality, finding that the acquisition/ownership/use of goods coming from criminal offences committed by the active subject of those offences cannot be dissociated from the main offences, as they cannot be analyzed as separate offences. According to the arguments in the article, contrary to the abovementioned decision, the use of goods coming from the main offence for the subsequent offence of money laundering is not a natural one, belonging within the same unique criminal frame, but one that requires a new subjective attitude and a new crime.

ADMINISTRATION 2.0. HOW MUCH CAN WE DIGITIZE?

Associate professor Cristi IFTENE

Faculty of Law and Administrative Sciences
„Ovidius” University of Constanta, Romania

Abstract

The present study tries to identify the limits of the digitalization of the public administration activity in the conditions in which there is accentuated tendency of transferring in the virtual environment of an important part of it. How much can we transfer and with what consequences? We will take into account both aspects revealed by practice and specialized studies written in this regard.



INTERNATIONAL CONFERENCE:

“PERSPECTIVES OF BUSINESS LAW IN THE THIRD MILLENNIUM”

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



E-EDUCATION. TENDENCIES IN DOCTORAL STUDIES IN THE FIELD OF ADMINISTRATIVE SCIENCE

Associate professor Cristi IFTENE
Faculty of Law and Administrative Sciences
„Ovidius” University of Constanta, Romania

Abstract

The organization of the educational system in recent months has led to substantial changes. The doctoral research, the presentation of the conclusions of the undertaken researches or even the PhD candidate's public presentation are transferred in the online environment. Is it a momentary solution or is a new educational pattern being built? What are the risks of such an approach? What about the limits? These are just some of the questions we aim to reflect on in this study.

THE CELERITY IN THE JURISDICTIONAL PROCEEDINGS TO THE AWARD OF PUBLIC SUPPLY AND PUBLIC WORKS CONTRACTS

Associate professor Andreea Elena TABACU
Faculty of Economics and Law, University of Pitesti, Romania

Abstract

The recent OUG no 114/2020 was adopted in order to ensure a flexible system of the award of public supply and public works contracts, being necessary to avoid the risk of decreasing the use of European and local funds and also the delay of implementing important projects with a large social and economic impact at the national level. The litigations in the field of the award of public supply and public works contracts represent an important cause for the delay in implementing such projects. There for the legislator chose to enforce few changes in order to ensure the jurisdictional proceedings in the respect of the main principles of contradictory and right to defense but also to encourage the use of the modern technologies and the private communications between parties. For the proper application of the law is necessary to find out if such measures are able to achieve the above purpose, also taking into account which are the realities of the systems applying this proceedings.

PANDEMIC AND QUARANTINE - LEGAL DISPUTES BETWEEN COURTS

Associate professor Carmen Adriana DOMOCOS
Faculty of Law, University of Oradea, Romania

Abstract

The determination of the competent court materially and functionally in resolving appeals against the decision to impose the quarantine or isolation measure ordered by the health authorities has generated negative conflicts of jurisdiction since the first days of the law, being unclear in the legal text or the special administrative court has the power, ope legis, to settle these disputes definitively. With the entry into force of Law no. 136/2020 on the institution of measures in the field of public health in situations of epidemiological and biological risk with the defense and the first declines of material functional competence between the civil and administrative and fiscal contentious sections of the courts, followed by the onset of negative conflicts of jurisdiction between these sections, which were also resolved in a non-uniform manner by clean-up appeals. The notified aspects of non-unitary practice, with undesirable consequences on the obligatory speed of this judicial approach, determined the referral of the specialized panel to supreme court for pronouncing an appeal in the interest of law, as well as amending the law by a new subsequent normative act. We appreciate that the legislative solution adopted is not added by critics, for the reasons set out.

PROLEGOMENA FOR A DEFINITION OF STRUCTURAL CONCEPT OF LEGAL LIABILITY

Lecturer Lucian-Sorin STĂNESCU
Faculty of Law and Administrative Sciences,
„Ștefan cel Mare” University of Suceava, Romania

Abstract

In an epistemological horizon still unstable in terms of knowing the meanings and interdisciplinary valences of legal responsibility we will try in this study to formulate a new proposal regarding the level of abstraction of this metatheoretical concept. Our attempt is all the more difficult as professor D.C. Dănișor outlined the limits and conditions of legalizing the concepts, the scientific impasse consisting in the fact that legal doctrine and jurisprudence tend to use illegal concepts in legal argumentation, without ensuring "proper reworking of in order to transfer them from one sphere of knowledge to another." In the following we will try to show the correlations that the idea of legal responsibility maintains with the philosophical foundations of law, with its original values, with its linguistic and ethical meanings, with man as reality and anthropological and sociological subject in permanent relations with the community. social and, especially, with the supreme purpose of law - human dignity, starting from a series of definitions and descriptions that have been imposed in the general theory of law. Finally, in order to overcome the state of research on the level of knowledge of the meanings, functions and epistemic values of legal liability, we will



INTERNATIONAL CONFERENCE:

**“PERSPECTIVES OF BUSINESS LAW
IN THE THIRD MILLENNIUM”**

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



propose a new concept, namely the structural concept of legal liability, which traditionally does not appear in the formulation of scientific statements about it, whereas - as professor Sofia Popescu observed - "these concepts allow a further refinement, in even more abstract concepts, the conceptual system allowing legal solutions for any new situation."

XBT.COM

**CONSTITUTIONAL REVIEW AT THE REFERRAL OF THE PEOPLE'S ADVOCATE. A POWERFUL
INSTRUMENT OF DEMOCRACY THAT NEEDS TO BE STRENGTHENED**

Associate professor Marieta SAFTA

Faculty of Law, „Titu Maiorescu” University of Bucharest, Romania

Abstract

The involvement of the People's Advocate in carrying out the constitutionality control of normative acts, especially by formulating unconstitutionality exceptions raised directly before the Constitutional Court, has recently experienced an interesting dynamic, very visible in the context of the exceptional situation caused by COVID-19 epidemic. This involvement has had a strong social resonance, including in the business environment. Starting from this dynamic and impact, the article explores the attribution of the People's Advocate to refer to the Constitutional Court for the constitutionality control of normative acts and the way in which, over time, he used this powerful instrument of democracy. Based on the conclusions of this analysis, prospects for strengthening the role of the People's Advocate in constitutional review are examined, in the current context in which international bodies such as the European Commission and the Venice Commission increasingly emphasize the role of the People's Advocate in achieving the rule of law and the need for states to ensure the effectiveness of this role.

**INTERFERENCES OF INSOLVENCY AND CRIMINAL PROCEEDINGS, BETWEEN THE HIGH COURT OF JUSTICE AND
CASSATION AND THE CONSTITUTIONAL COURT**

Professor Camelia Florentina STOICA

Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract

This paper considers certain aspects related to the application of the article 493 paragraph (1) letter (a) of the Criminal Procedure Code versus the insolvency procedure of the legal entity under the conditions of a distinction within the article on the interference with the insolvency procedure of the legal entity. The recent decision of the High Court of Cassation and Justice seems to have cleared the issue, but from our point of view the debates may be made from in the doctrine. The article does not aim so solve this issue, but it presents the three opinions on the application of article 493 paragraph 1 letter a of the Criminal Procedure Code. At jurisprudential level it seems that the intervention of the legislator on the interpretation of this article is not excluded. This orientation is based on the argument that the scope of the preventive measure made in the criminal trial is to prevent evading the criminal liability.

**TOWARDS A CLEANER PLANET- THE IMPLEMENTATION OF THE DEPOSIT GUARANTEE SYSTEM IN
ROMANIA**

Associate professor Marta-Claudia CLIZA

Faculty of Law, “Nicolae Titulescu” University of Bucharest, Romania

Lecturer Laura-Cristiana SPĂTARU-NEGURĂ

Faculty of Law, “Nicolae Titulescu” University of Bucharest, Romania

Abstract

This study started from the desire to present to the general public information on waste management, this representing a main goal in the European Union agenda, a series of legislative measures approaching waste in general and packaging waste in particular being adopted in recent years, as will be seen below. Further changes are expected in the management of plastic packaging waste, given that the European Union has agreed to introduce a new own resource based on non-recycled plastic waste amounting to EUR 0.80/kg as of January 1st, 2021, followed by the adoption of the Regulation laying down the multiannual financial framework for the years 2021 to 2027, as well as the Council decision on the system of own resources. We believe that the dissemination of the deposit guarantee system, an important tool for supporting circular economy, could boost domestic reforms in the field of environmental protection and would facilitate waste recycling, in order to improve living standards and to promote social welfare of the EU Member States.



INTERNATIONAL CONFERENCE:

**“PERSPECTIVES OF BUSINESS LAW
IN THE THIRD MILLENNIUM”**

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



FEDERALISM AND NATIONAL MINORITIES

Lecturer Gabriel MICU

National School of Political and Administrative Studies, Romania

Abstract

In many parts of the world, globalisation creates a phenomenon which integrates states into federal-like structures, even if they are not necessarily of the known, classical type, like the European Union, for instance. The international doctrine and practise also credits federal states with a higher potential for economic growth compared to unitary states. Starting from the undeniable fact that the economy and politics are closely linked together, some authors are trying to stretch the benefits of the federal system beyond what it can actually offer and argue that federalism may be the solution to other categories of political issues that the unitary states face. Minority population is one such category. This study aims at showing that the state structure is irrelevant to solving the problems arising from the status of belonging to a national minority. This article is the first part of the study, dedicated to the analysis of the object of regulation, represented by the rights of national minorities.

THE CAPACITY OF THE SHAREHOLDERS TO BE REGARDED AS SUCCESSORS WITHIN CRIMINAL PROCEEDINGS

Lecturer Bogdan BODEA

Faculty of Law, University of Law, Romania

Abstract

The article debates the capacity of the shareholders of a liquidated company to succeed that company in the civil side of the criminal case. Such an aspect is of an utmost importance since settling the civil claim and granting satisfaction to the prejudiced party constitutes one of the goals of the criminal procedure. The article analyses the consequences of terminating the prejudiced legal entity prior to the ruling in a criminal case from both a criminal procedure perspective and a commercial law one and argues that a fair solution can only be obtained if the right party is compensated for the suffered prejudice.

THE IMPACT OF THE COVID-19 PANDEMIC ON THE PERFORMANCE OF NATIONAL CONTRACTS IN THE CONSTRUCTION SECTOR

Associate professor Augustin PURNUS

Technical University of Civil Engineering of Bucharest, Romania

Eng. Bogdan OPREA

AB Resolution, Romania

Professor Constanța-Nicoleta BODEA

Bucharest University of Economic Studies, Romania

Associate professor Mădălina STOIAN

Technical University of Civil Engineering of Bucharest, Romania

Abstract

The COVID-19 pandemic is a global test for all national economies. The impact of the sanitary crisis is also found in the field of constructions, strongly affected by the restrictions imposed by the pandemic. Most works in the field of construction are performed on the basis of contracts, which follow the model of National Contracts, approved by GD1 / 2018. The paper examines the impact of the COVID-19 pandemic on how the various clauses of National Contracts, such as clause 66 (referring to Force Majeure), clause 22 (which mentions the Contractor's obligation to ensure occupational health and safety on site), clause 68 (relating to the risks of the beneficiary), clause 17 (program of works) and others clauses must be applied. The paper presents a series of scenarios for the application of the clauses in the National Contracts to allow the management of the risks created by the health crisis on the execution of the works.

WHAT THE ECONOMIC ANALYSIS OF LAW CAN'T DO - PITFALLS AND PRACTICAL IMPLICATIONS

Assistant professor Monica Florentina POPA

Faculty of Law, University of Bucharest, Romania

Abstract

In the last decades, the influence of the economic approach to law has expanded constantly, sometimes alarmingly so, efficiency and utility considerations steeping deep into the fabric of all aspects pertaining to the creation and application of law. After a brief overview of the economic analysis of law, with references to utilitarianism, the Chicago School and their modern spin-offs, this article will attempt to convey which are the limitations that such an approach inevitably presents and some of its practical consequences in the legal field. The methodological instruments used for this research include, inter alia, the comparative method and case studies of both legislation and jurisprudence. The Covid crisis of 2020 will inevitably augment the importance of the economic



INTERNATIONAL CONFERENCE:

**“PERSPECTIVES OF BUSINESS LAW
IN THE THIRD MILLENNIUM”**

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



factors in devising future public policies and legislation. Therefore, we consider that a realistic debate on the pitfalls of the economic approach to law is necessary and serves not merely theoretical purposes, but practical ones as well.

XBT.COM

FORENSIC INVESTIGATION OF CRIMES AGAINST PROPERTY

Associate professor Petruț CIOBANU
Faculty of Law, University of Bucharest, Romania

Abstract

Frequently, thefts have as material object goods with a considerable economic value, reason for which they are committed on people with a good material situation, usually being businessmen or foreign investors. Robbery is one of the most serious crimes, damaging the heritage and life, implicitly the health of the person, and through serious consequences it has a negative effect on the population. In order to combat the criminal phenomenon, it is useful to determine the areas and environments in which the crimes of theft and robbery are committed with predilection. In addition, the authorities may contact the representatives of the companies that are located and carry out their activity in those areas / environments in order to guide them in order to ensure proper security and the installation of surveillance systems. Crime prevention must be accompanied by a socio-cultural approach to maximize its impact on the entire population.

FORENSIC INVESTIGATION OF CYBERCRIME

Associate professor Petruț CIOBANU
Faculty of Law, University of Bucharest, Romania

Abstract

The evolution of information technology, information systems and has left its mark on all areas of social, economic, civil, military life, and the advantages of information technology are absolutely obvious, it decisively influencing the progress of humanity. Cybercrime includes, in addition to classic criminal acts (fraud, counterfeiting, prostitution, fraud) and acts specific to the cyber domain (software piracy, card theft or forgery of electronic payment instruments, network viruses, electronic terrorism, harassment by e-mail, etc.). Terms such as: "computer related crimes", "cybercrime", "cybercrime", "high-tech crime", "high-tech crime" are used to describe offenses committed through or against computer systems and communications networks, "Cybercrime". Information technology offers special possibilities for breaking the law in any field that uses cyber systems (financial banking, road traffic, air traffic, national security, military, medical, educational, social).

FOREST CONCESSION IN ROMANIA AND BRASIL

Lecturer Cătălina Georgeta DINU
„Transilvania” University of Brasov, Romania

Abstract

The Romanian Forestry Code regulates the principle of conserving the biodiversity of forest ecosystems, by inserting sustainable management measures: the establishment of protected natural areas, ecological reconstruction, regeneration and forest care. The concession contract is not, in itself, a way of sustainable forest management, as is the case in other countries. Thus, the objective of this study is to analyze the legislation specific to the forestry field from the perspective of the concession contract, by identifying regulations that would be an example of good practice. In this sense, we have identified the regulations in Brazil, given the measures that this country has partially managed to implement for the protection of forest lands, as a model that will be followed in the near future, by the Romanian legislator. The comparative method of the legislation of the two countries aims to determine the deficiencies of this law from the perspective of the impact that the conclusion of a forest concession contract may have on the concession property itself, as well as the way in which the public interest is respected. The identification of sustainable management criteria, according to which the exploitation of public or private forest land is assigned, is an essential element to be taken into account in the case of a concession, in order to develop legislative proposals to improve the legal framework by which the principle of conserving the biodiversity of forest ecosystems should be applied.

**CONSTITUTIONAL COURT OF ROMANIA AND OF THE REPUBLIC OF MOLDOVA CASE LAW ABOUT THE
RIGHT OF A PERSON AGGRIEVED BY A PUBLIC AUTHORITY**

Lawyer, PhD. student Cătălin – Radu PAVEL
Bucharest Bar Association, Romania

Abstract

The present article aims to present selective aspects regarding the Constitutional Court of Romania and of the Republic of Moldova case law about the right of a person aggrieved by a public authority. The right of a person aggrieved by a public authority is constitutionally guaranteed in Romania and in the Republic of Moldova. The constitutional guarantee of the right of a person aggrieved by a public authority represents the constitutional legal basis of assuming the responsibility of the public authorities before the citizen, respectively before the injured person in a right or in a legitimate interest, having as consequence his legal protection, the latter, by cancelling the disposition and repairing the damages. The methods used in drawing up this study are: the comparative method,



INTERNATIONAL CONFERENCE:

**“PERSPECTIVES OF BUSINESS LAW
IN THE THIRD MILLENNIUM”**

www.businesslawconference.ro

- TENTH EDITION -

November 13, 2020



the historical method, the logical method, the sociological method and the quantitative method. The results of this research have highlighted selective aspects regarding the Constitutional Court of Romania and of the Republic of Moldova case law about the right of a person aggrieved by a public authority.

XAT.COM

THE PROLIFERATION OF THE ILLEGAL ACCESS TO A COMPUTER SYSTEM

Lecturer Adriana MOȚATU

Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract

As the vast majority of activities took place online, computer-mediated interactions increased. Moreover, new situations arose that required not only a closer connection between people but also a new approach to how to work on the computer. In these conditions, the incidence of computer crimes has increased, such as illegal access to a computer system, violation of privacy, which requires a careful analysis of them, including the relevant cases, which is the subject of this paper.

**RULES OF FORENSIC TACTICS IN CASE OF
INVESTIGATION ON THE SCENE OF TRACE OF GUNS**

Lecturer Nicolae MĂRGĂRIT

„Bioterra” University of Bucharest, Romania

Abstract

On-the-scene research is one of the activities that contributes substantially to the achievement of the purpose of the criminal trial. According to the criminal procedural law, the on-the-scene investigation is an evidentiary procedure that serves to administer or find out some means of evidence. From a forensic point of view, the on-scene investigation represents the procedural and forensic tactics activity whose object is the direct perception of the place where the crime was committed, its discovery, detection, fixation, lifting and examination, aiming to establish the nature and circumstances of the crime. the deed, as well as the data necessary to identify the perpetrator.