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“CHALLENGES OF BUSINESS LAW
IN THE THIRD MILLENNIUM”

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SECTION II - PRIVATE LAW

Friday, November 25, 2022

ONLINE ON ZOOM

Keynote speakers:

Associate professor **Ioana Nely Militaru**, Faculty of Law, Bucharest University of Economic Studies

Lecturer **Cristina Cojocaru**, 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

**LEGAL PROFESSIONALS' EFFECTIVENESS AS ANTI-MONEY LAUNDERING
“GATEKEEPERS”**

Associate professor **Todor KOLAROV**
New Bulgarian University, Bulgaria

Abstract

The article strives to contribute to the discussion on the topic of the role of Designated Non-Financial Businesses and Professions (DNFBPs) in preventing criminal funds from entering the financial system. Based on empirical data harvested from a target group of lawyers and notaries from three European Union (EU) member states (MS), namely Bulgaria, Italy and Spain, it applies the inductive method to draw conclusions on the strengths of this “gatekeeper” group in detecting money laundering (ML) “red flags” and identifying the ultimate beneficial owner. The conclusion from this empirical analysis is that lawyers and notaries are reasonably effective in detecting ML “red flags”, while encountering difficulties when it comes to more complex ML schemes. They face challenges in the identification of ultimate beneficial owners. The originality and value of this paper lies in its assessment of effective application of legal professionals’ “gatekeeper” responsibilities. It argues that legal profession has the responsibility to improve further its AML capabilities. At the same time, in setting the direction for improvement of the AML



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regime, the legislator also has a role to play in addressing some of the challenges, yet avoiding overwhelming the legal profession with red tape.

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**DIGITAL IDENTITY AS THE ELEMENT OF CONCEPT OF A SERVICE-ORIENTED STATE
(E-GOVERNANCE)**

Associate professor **Vira TOKAREVA**

National University "Odesa Law Academy", Ukraine

Abstract

The aim of this paper is to consider the digital identity as a key element of the service-oriented state (e-governance). In the first section the background of developing the service-oriented state in the EU and Ukraine are revealed. It has been established that with the spread of Covid-19, Ukrainian government declared on course towards of paperless public services. Due to the full-scale escalation of conflict between the Russian Federation and Ukraine on February 24, 2022, Ukrainian government accelerated the processes of transforming public administrative services into e-services. Digital identity is supposed to be one of the elements of the service-oriented state alongside with the platform of remote identification (biometric authentication), the digital currency and security payments, and the marketplace platform. In the second section the category of digital identity and other closely related categories are revealed. It is suggested that categories of the digital identity and the electron person or electronic entity should be distinguished. The analysis of scientists' opinions on the definition of digital identity and related categories was conducted. On the basis of the conducted research, the priority ways of reform were determined and proposals were developed to improve the legislation in Ukraine.

COMMERCIAL ARBITRATION IN ALGERIAN LAW

Lecturer **Mejd Aures BENLALA**

University of Batna 1, Algeria

Abstract

This paper attempts to examine commercial arbitration legislation in Algerian law in light of the UNCITRAL arbitration rules. This is crucial and pertinent to the business activity in Algeria, particularly with regards to potential disputes related to the increasing presence of foreign companies and investors (foreign direct investment). This paper concludes that Algeria's existing legal framework and commercial arbitration rules can be described as adequate, nevertheless there are some loopholes and flaws that need to be addressed accordingly.

The concept of public policy in the case of annulment of arbitral awards

PhD. student **Sofia COZAC**

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Abstract

The present article focuses on drawing up the definition of "public policy" in respect of claims for annulment of arbitral awards. Public policy in this case is defined by certain nuances, which have been further developed by national and international case law. The purpose of the analysis is to provide a comprehensive presentation of this concept, through a comparative analysis, both in relation with the concept of public policy as outlined by the Civil Code, as well as in relation with the national and international doctrine and case law.



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DUE DILIGENCE REPORT AND ITS ROLE IN TRANSACTIONS

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Student **Elena SÂRGHI**

Faculty of Law, „Alexandru-Ioan Cuza” University of Iasi, Romania

Abstract

This article aims to present the main guidelines of the concept of due diligence, a review of the legal history of a business, from several points of view, such as concluded contracts, human resources and working conditions offered, existing disputes, financing methods, etc., before of the acquisition of that business, knowingly, by offering specialized recommendations. In this sense, we will approach this topic by analyzing the way of drafting and the content that the report must have, researching the normative framework, commenting on some relevant jurisprudential benchmarks, through which to concretize the role that this approach has in transitions, but and offering some doctrinal interpretations, through which the literature looked at due diligence from various perspectives, sustaining, inter alia, arguments in favor and against this operation, so that, at the end of the paper, we can conclude whether this examination is necessary or not in present.

THE LEGAL PERSON. PATRIMONIAL FEATURES

Lawyer **Andi Gabriel GROSARU**

Bucharest Bar Association, Romania

PROTECTION OF PERSONS WITH INTELLECTUAL AND PSYCHOSOCIAL DISABILITIES THROUGH LEGAL COUNSELING AND SPECIAL GUARDIANSHIP. THE CONDITIONS FOR ESTABLISHING THESE MEASURES

Lecturer **Ramona DUMINICĂ**

Faculty of Economic Sciences and Law, University of Pitești, Romania

Abstract

By Law no 140/2022 regarding some protection measures for persons with intellectual and psychosocial disabilities and the modification and completion of some normative acts, the Romanian legislator responded to the need for regulation in the field of protection of persons, bringing the provisions of civil legislation into agreement with the Decision no 601/2020 of the Constitutional Court of Romania. Through this Decision, the Constitutional Court declared unconstitutional art 164 of the Civil Code which stated the institution of placing under prohibition the mentally retarded or mentally alienated natural person. The Court showed in its reasoning that this institution was not accompanied by sufficient guarantees to ensure respect for fundamental human rights and freedoms, as they are enshrined in the Romanian Constitution and interpreted by reference to international treaties, in this case the Convention on the Rights of people with disabilities. Starting from the actuality and particular practical relevance of the newly created mechanism for the protection of individuals with intellectual and psychosocial disabilities, this article proposes an overview of the new measures, emphasizing in particular the distinction between the types of measures that make up the new protection system and analysis of the conditions under which they can be disposed. The study is not intended to be an exhaustive one but aims to identify the general lines in the matter, at the same time raising the question of whether the new provisions really constitute real legislative progress in the matter of civil legislation applicable to individuals.



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**COMPARATIVE VIEW ON HIDDEN VICES AND VICES OF CONSENT (ERROR, FRAUD) IN
THE HYPOTHESIS OF THE SALES CONTRACT**

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Lecturer **Laurențiu DRAGU**

Police Academy “Alexandru Ioan Cuza”, Romania

PhD. student **Denise MARTALOG**

Bucharest University of Economic Studies, Romania

Abstract

The study that we will undertake is going to capture a comparative analysis of the aspects related to the vices of consent (error and fraud) and hidden vices. In practice, in the case of a sales contract, the same situation can be classified both in the category of hidden vices and in the category of consensual vices (error or fraud). So, the problem that arises in such cases is: can the buyer opt either for the liability action for hidden vices, or for the nullity in action for error or fraud, or is he obliged to promote only one of them? Specifically, the research aims to highlight the possibility that a circumstance can be qualified simultaneously as both a hidden vice and a vice of consent, also providing clarifications for the practical solution of this situation.

**CHALLENGES IN APPROACHING THE CONTEMPORARY CONCEPT OF LEGAL
SECURITY DETERMINED BY THE IMPERATIVITY OF RESPECTING FUNDAMENTAL
RIGHTS IN THE CONTEXT OF COMPLEX CRISES**

Lecturer **AIDA DIANA D. DUMITRESCU**

Police Academy „Alexandru Ioan Cuza”, Romania

Abstract

The complexity of present challenges require a quick and appropriate adaptation of the security concept on all levels and in this context this study is revealed as a necessity and it is capable to provide essential information for developing complex security strategies, under the need of respecting fundamental rights and freedoms. The vulnerabilities, threats and risks identified on legal security, belong in fact to the security itself and have to be analyzed, anticipated and mitigated as much as it is possible. Highlighting the characters of the domain (complexity, dynamics and interdisciplinarity) the material present the evolution of „legal security” on the practice of the European Court of Human Rights and put into discussion the risks and vulnerabilities of legal security (excessive standardization, inconsistent of practice and legislation) including their concrete consequences in the business field.

**COMPLIANCE AND CONFORMITY IN MARITIME LABOUR LAW- THE MARITIME
LABOR CONVENTION**

Assistant professor **Oana ADĂSCĂLIȚEI**

Maritime University of Constanta, Romania

Abstract

The Maritime Labour Convention (MLC 2006) contains all updated maritime labour standards and provides effective procedures to ensure their implementation by the Member States, as well as a mechanism for monitoring compliance. As an element not found in any of the International Labour Organization's (ILO) conventions, its provisions introduce a certification system for social and working conditions on merchant ships. The Maritime Labour Convention of 2006 establishes three distinct levels of regulatory authority in the maritime industry: flag state, port state, and maritime labour supply states. The system established to ensure compliance with the provisions of the Convention consists of inspections, reports, monitoring measures, and legal proceedings in accordance with the applicable legislation. The verification of conformity concerns only compliance



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with the working and living conditions on board ships. In the event that the fundamental rights of seafarers as provided for in Article III of the Convention are violated, the only way to remedy this is to resort to national enforcement mechanisms or supervisory procedures established under the ILO Constitution. In this article, we intend to present the actual procedures that ensure the implementation of maritime labour standards by the Member States. The article is based on ILO sources and EU legislative provisions and is accompanied by a doctrinal analysis.

**IRREGULARITIES IN THE GRANTING OF PREFERENTIAL CUSTOMS ORIGIN FOUND
DURING THE A POSTERIORI CONTROL**

Professor **Florin TUDOR**

Faculty of Law and Administrative Sciences,
"Dunărea de Jos" University of Galați, Romania

Abstract

The negotiation of multilateral trade agreements has been a priority for the EU, even if the mechanism for revising them, in the context of waves of accession of new member states, has become far from an easy mission for the Commission and the Council. The common commercial policy responds to the needs of companies in the European Economic Area that request the granting of preferential tariff treatment for a series of products originating from third states whose traders have often violated the provisions of agreements/conventions regarding the facilitation of the exchange of goods. This research, having as its method, mainly, the comparison of some legal systems, their institutions, and norms, proposes to identify the methods by which the administrative authorities can identify irregularity and customs fraud when goods cross the customs border of the EU and eliminate the risk of their release for free circulation and their entry into the civil circuit.

**MINORITY PROTECTION - INTERFERENCES IN BUSINESS LAW FROM THE
PERSPECTIVE OF THE RIGHTS OF MINORITY SHAREHOLDERS**

PhD. student **Mihaela-Naziana BUCĂ (GÎDEI)**

Doctoral School of the Faculty of Law, University of Craiova, Romania

Abstract

This article analyzes the rights of minority shareholders from the perspective of the existence of minority protection. The objectives pursued through this article can be summed up in the idea of protecting minority shareholders. Being a controversial subject both at the level of doctrine and judicial practice, we will try to find the best solutions and look at the rights of minority shareholders as a weapon that shareholders have at hand in order to effectively protect them. In the realization of this work, we will use various materials, from monographs, theses to solutions given by the courts regarding this issue. We will refer to both Romanian and European legislation. We will try to classify the rights that minority shareholders can have into two more categories by referring to the idea of freedom and protection of minority shareholders. Thus, we will have autonomy rights: the right to dividends, the right to transfer shares, the right to due part of the liquidation of the company and participation rights: the right to participate in the General Meeting, the right to request the convening of the General Meeting, the right to vote, the right to information.



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REFLECTIONS ON THE LEGAL REGIME OF THE INTERNAL REGULATION, WITH A SPECIAL LOOK AT LAW NO. 283/2022 FOR THE AMENDMENT AND COMPLETION OF LAW NO. 53/2003 – LABOR CODE, AS WELL AS GOVERNMENT EMERGENCY ORDINANCE NO. 57/2019 REGARDING THE ADMINISTRATIVE CODE

Lecturer **Radu Ștefan PĂTRU**

Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract

The Internal Regulation represents a specific internal source of Labor law and a particularly important document within each company. The Internal Regulation is an institution that has recently experienced an impressive dynamic, both from the point of view of the regulation by law and its application, considering the pandemic situation but also the economic situation in which work has been reoriented in many cases towards telework or home work. In this context, through this study, the main directions of evolution of the Internal Regulation will be analyzed, taking into account the provisions of Law no. 283/2022 for the amendment and completion of Law no. 53/2003 – Labor Code, as well as Government Emergency Ordinance no. 57/2019 regarding the Administrative Code.

RISK ASSESMENT FOR POWER PURCHASE AGREEMENTS AS A TOOL FOR PROMOTING GREEN ENERGY

Professor **Adrian TANTAU**

Bucharest University of Economic Studies, Romania

PhD. student **Elena NICULESCU**

Bucharest University of Economic Studies, Romania

Abstract

In a world where the climate neutrality commitments is increasing and the states are starting to take serious measures regarding the achievement of a zero carbon economy and the stopping of pollution, renewable power purchase agreements can be a very suitable solution for reaching these targets. Although we can see an improvement of the demand of these contracts, the energy market has some gaps, especially from a legislative point of view. The goal of this research is to identify and analyse the risks that may occur in the performance of the PPAs as a tool for promoting green energy. For this research there are used the comparative analysis and survey based on questionnaires completed by different categories such as producers, financial and energy experts, industrial and small consumers. The article reduces the gap regarding the understanding of the associated risks of the PPA, on one side, and on the other side it tries to find the most suitable way in which these could be divided between the parties in the contract. The results suggest that although there have been made some changes in the legal framework regarding these type of contracts, there is still place for improvement, the lack of confidence in the law being the main factor that leads to the hesitation to enter in such contractual relations non-legislation or insufficient legislation of the PPA representing one of the risks most often assumed by the parties. The implications of the study are at the theoretical level: approaching a little-studied topic in the context of the development of some legal frameworks in order to promote green energy, clarification of some theoretical aspects regarding the assumption of contractual risks.



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**CONSIDERATIONS ON THE PROTECTION OF TELEWORKERS, IN LIGHT OF THE
CURRENT EUROPEAN REGULATIONS. ELEMENTS OF COMPARATIVE LAW**

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Lecturer **Mihaela MARICA**

Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract

The proliferation of the teleworking phenomenon entails a number of aspects, such as the organization of working time or the work safety and health of teleworkers, which are not fully covered by the current legislation. This puts teleworkers at an increased risk of being treated less favorably than regular workers and implicitly calls for additional protective measures for teleworkers. Consequently, the present paper offers an overview of the main legislative documents adopted by the European Union, which concern teleworkers directly or indirectly, in order to ascertain the extent to which the current legislative standards meet the specific needs of the teleworkers. Also relevant for this aim is the comparative law analysis which demonstrates how some states of the European Union have increased their efforts to amend their legal systems, in order to eliminate the discriminatory practices detrimental to teleworkers and to enhance the protection they enjoy. The study presents the different legislative perspectives of Germany, France, Spain, Italy.

**ABUSIVE CLAUSES AND CHALLENGE TO ENFORCEMENT PROCEEDINGS IN THE
VIEW OF THE COURT OF JUSTICE OF THE EUROPEAN UNION**

Assistant professor **Cătălin LUNGĂNAȘU**
Faculty of Law, West University of Timisoara
Judge, Timiș Court, Romania

Abstract

The present study aims to present the peculiarities of invoking unfair terms in the conditions in which the contract becomes an enforceable title and the consumer acquires the status of a foreclosed debtor. In such a circumstance, different institutions of substantive and procedural law both become incidents, without, however, being a full timing. Moreover, certain inconsistencies are felt throughout the legal context in the light of the case-law of the Court of Justice of the European Union and the principle of the priority application of European law. As a result, without exhausting the subject, the present research analyzes the specifics of the incidental sanction in the case of finding the unfairness of the contract terms both depending on the evolution of the national legislation specific to the challenge to enforcement and through references to the recent judgments of the CJEU.

**MORATORY DAMAGES AND COMPENSATORY DAMAGES IN THE CONTEXT OF THE
RETURN OF FORECLOSURE**

PhD. student **Liviu Alexandru NARLĂ**
Bucharest University of Economic Studies, Romania

Abstract

The disposition of the return of the forced execution by the court, following the abolition of the enforcement title or the forced execution itself, leads to the creation of a new paradigm, in which the creditor of the forced execution, whose patrimony has increased, becomes the debtor of the obligation of restitution, to the debtor of the forced execution, and which in turn becomes the creditor of the restitution obligation. The natural consequence of the solution of admitting the return of enforced execution requires the restoration of the previous situation, which will be done in the register of the general provisions provided for in art. 1635-1649 of the Civil Code. The effective method of restoring the previous situation converges on the analysis of different civil law principles, with similar valences but different effects, especially the principle of *restitutio in integrum* and the principle of full repair of the damage, in the perimeter of good faith and bad faith of the debtor of the restitution obligation. In the context of the civil circuit, situations may arise, in which the main method of restitution of benefits, in kind, is no longer



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possible, so new practical difficulties arise in restoring the previous situation, in this framework, the incidence will be analyzed for interest - moratory damages and compensatory damages.

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LEGAL RESTRICTIONS ON THE SALE OF FOREST LAND IN ROMANIA. COMPARATIVE ANALYSIS WITH FRENCH LAW

PhD. student **Gabriela TEODORU**
Bucharest University Economic Studies, Romania

Abstract

At European level, there is a general tendency of forestry policies to extend and strengthen the individual rights of land owners. Member States, especially those in Central and Eastern Europe, retain some legislative levers, especially regarding the sale of forest land, forest management, exclusion and withdrawal rights. All these measures that some Member States apply with regard to privately owned forests are aimed at avoiding the accentuated fragmentation of forest lands and the excessive exploitation of forests, in order to ensure sustainable development. The right of pre-emption represents one of the measures that Romania keeps in order to be able to achieve these objectives, having a regulation comparable to other Member States, which considered that a control is still required in terms of forest land sales. In France, changes to the Forestry Code in 2012 introduced a right of preemption in favor of the state or nearest neighbors, whereas previously, the owner was free to decide to whom to sell the forest land. The French legislation regarding the right of pre-emption is closest to the Romanian one in this matter. Considering that there is no common EU forestry policy, it is appropriate that in the next period legal professionals analyze all the difficulties that will appear in the application process of different national and regional jurisdictions, as well as the practical way in which their application is likely to lead to achieving the objectives assumed by the legislator. Surely, sooner or later, the Member States will have to agree on a common policy in forestry matters, and the research undertaken during this period will be used for the correct evaluation of the normative framework to be adopted at the Union level.

CRITICAL ANALYSIS OF THE LAW NO. 151/2015 REGARDING THE PERSONAL INSOLVENCY PROCEEDINGS

Lecturer **Adriana DEAC**
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Abstract

The paper aims to offer an objective, even critical analysis of Law no. 151/2015 regarding the insolvency of natural persons. This regulation, entered into force on 01.01.2018, "celebrates" 5 years of application, which is why I approached this topic with the intention of a general analysis of the provisions of the Insolvency Law for natural persons and to offer my own conclusions regarding this topic. I will analyze, in the first part of the paper, the general provision regarding the notion of insolvency, the conditions imposed by law for the initiation of this procedure, as well as the options that law 151/2015 makes available to the insolvent debtor depending on his legal situation. In the second part of the paper, I will analyze a series of debatable aspects that the law refers to, and I will assess the usefulness and opportunity of their regulation. The conclusions will try to offer some legislative proposals that will make this law more well-known and approachable for natural debtors in a state of insolvency. In carrying out the scientific approach, I will use different methods of interpretation, starting from the grammatical one and reaching the method of quantitative and comparative analysis.



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**INCURSION IN THE STUDY OF NEW PROTECTION MEASURES OF PEOPLE
WITH INTELLECTUAL OR PSYCHOSOCIAL DISABILITIES**

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Associate professor **Valeria GHEORGHIU**
Police Academy „Alexandru Ioan Cuza”, Romania

Abstract

In Romania, people with intellectual or psychosocial disabilities did not have the right to marry, divorce, be parents, adopt children and could not access a bank loan. According to the law, many of these people have been banned by the courts. The current legislative reform in the field emphasizes the degree of autonomy of the protected person, respect for specific needs, will and wishes. Currently, we are witnessing a new, modern legislative approach, in accordance with the needs felt at the social level, as well as in the practice of the courts, in harmony with the international and constitutional requirements in the matter.

**ADHERENCE TO THE PRINCIPLE OF PROACTIVITY TO ENSURE A HEALTHY
COMPETITIVE ENVIRONMENT**

Lecturer **Manuela NIȚĂ**
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Valahia University of Târgoviște, Romania

Abstract

The frequency of the infringement of competition rules by committing anti-competitive practices, led the competition authorities, both national and European, to identify both measures to prevent possible anti-competitive practices and measures to identify and sanction such serious deviations from normal conduct, healthy in business. In the field of competition we find a rich legislative package, but practice has shown that beyond normativity, in order to be effective, a proactive attitude of companies is also needed, and in this study we proposed to realise a depth analysis regarding this issue. The principle of proactivity in the matter of competition is neither promoted nor respected enough, as is natural, so that companies in their actions refrain from any action/inaction that could endanger the competitive market. In our research, we want to show the concrete ways in which this principle is respected, who is competent for its application and what are the effects on the competitive environment. We will also show what is the role of the competent authority and its degree of involvement in this issue, identifying possible solutions that could be implemented to give added value to this principle.

**THE NOTARY PUBLIC - AN IMPORTANT PAWN IN THE DEVELOPMENT OF THE
ENTREPRENEURIAL ENVIRONMENT IN-DEPTH ANALYSIS OF REAL ESTATE**

Assistant professor **Nicoleta-Raina GEAMALINGA**
Faculty of Psychology, Behavioral and Legal Sciences
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Abstract

At the beginning of the third millennium, the business environment is undergoing unprecedented developments, largely due to the many events facing humanity - the COVID-19 pandemic, war, the rapid transition to renewable energy, economic globalisation and the emergence of multinationals - thus accelerating digitisation. Digitisation in the business environment involves the use of tools and technologies that make work more efficient, create new business 'patterns', but at the same time requires an appropriate legislative framework. The legal "industry" is faced with the challenge of finding legislative solutions to bridge the gap between the entrenched realities of the entrepreneurial environment and the digital future of business. And this extremely difficult task falls to a large extent to legal practitioners, among whom an important position is occupied by the notary public, especially in the field of real estate. Real estate is inextricably linked to the notary public. The notary public must be able to act as a temporal portal between the established practice of real estate transactions and digital real estate transactions. At



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the same time, the notary public must rethink the methods of application of the various institutions of civil law in order to guarantee the safety and security of each party involved.

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CONTRACTUAL RISKS IN ROBOTIC PROCESS AUTOMATION (RPA) PROJECTS

PhD. student **Iulia Daniela POSTOLEA**

Bucharest University of Economic Studies, Romania

Professor **Constanța-Nicoleta BODEA**

Bucharest University of Economic Studies, Romania

Abstract

In a time of paradigm changes redefining the meaning of "work" concept and the way work is carried out, the processes automation became not only widespread but also necessary and efficient. These changes are supported by the usage of the software robots. The Robotic Process Automation (RPA) projects implement process automation solutions that might be used for different processes that involve repetitive tasks and indispensable, even if they do not have a significant added value per se. The initiation of this type of projects must take into consideration not only the benefits that might be achieved, but also the potential financial losses, due to contractual imperfections or/and the defective results of robots' performance. In this paper, the authors identify the contractual typologies applicable to RPA projects and evaluate the contractual elements that have the potential to cause financial losses as well as proposals for mitigating the identified risks. We consider that the paper covers a gap identified in the literature.

CONSIDERATIONS ON THE COMPANY AND TRADEMARK WITHIN A TRADE FOUND

Lecturer **Cristina COJOCARU**

Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract

The identification attributes of a company are part of its goodwill and are mandatory for registration and the conduct of business. Sometimes it seems that these elements lend their characteristics, but their use must be done within the limits established by the legal provisions. The recent decision of the High Court of Cassation and Justice no. 104 of January 25, 2022 brings to the fore the company and the brand as indispensable elements of the commercial activity, as well as the condition of using the company with the brand function. Without intending to treat the subject exhaustively, the article highlights among the most important aspects of the identification attributes from the perspective of the laws concerning companies.

CONSIDERATIONS REGARDING THE CONDITIONS FOR RETAINING TENURE FOR TEACHERS WHO HAVE TO RETIRE AND FOR REINSTATEMENT OR CONTINUATION OF EMPLOYMENT FOR THOSE RETIRED

Associate professor **Ana ȘTEFĂNESCU**

"Dunărea de Jos" University Galați, Romania

Abstract

This study presents the conditions for maintaining the tenure of teachers who have to retire and for the reinstatement or continuation of employment of retired teachers, as they emerge from the analysis, not simple and necessarily in its entirety, of the provisions of S. 289 of Law no. 1/2011 on national education, of which only those of paragraphs (1), (3), (6) and (7) are still applicable. Especially in the light of the new form of paragraph (7) introduced by item 37 of Article I of Government Emergency Ordinance no. 117/2013 due to the fact that, as noted in its explanatory memorandum, by Constitutional Court Decision no. 397/2013, the previous form of this paragraph was declared unconstitutional. The analysis of this decision is conclusive from the perspective of the teleological method of interpretation, which together with the logical, historical, systematic and grammatical method helps us in our legal research to provide solutions; each university had/has to transpose



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the provisions which are difficult to interpret into a methodology approved by the university senate, providing for the other legal and procedural conditions. The study is also important from the perspective of the new draft of the higher education law which seems to omit the criticisms and conclusions of the Constitutional Court referred to above.

**THE DUTY OF DILIGENCE OF THE MANAGEMENT BODIES OF THE COMPANIES IN THE
CONTEXT OF THE FUTURE LEGAL REGULATIONS REGARDING THE STANDARDS OF NON-
FINANCIAL REPORTING**

PhD. student **Vicentiu RAMNICEANU**
Faculty of Law, University of Bucharest, Romania

Abstract

For most listed companies in Romania, non-financial reporting is a compliance requirement, as they have not integrated the financial strategy with the non-financial one. Few companies consider reporting as an opportunity to present their sustainable development strategy and long-term development impact, respectively an implementation plan for this strategy. Among the non-financial aspects included in the risk management process, companies listed on the capital market mention: climate and environment, employee issues, corporate governance and the related field of anti-corruption activities, followed by social issues and those related to human rights and security cybernetics. At the same time, non-financial aspects are not yet reflected in the management's remuneration policy, and if these factors are present, they mainly relate to employee issues and corporate-type management. Regardless of the activity sector, non-financial reporting will be subject to strictly defined regulations and standards. Each company will need to define and report its strategy, key risks and evolution on ESG performance indicators. Currently Directive 2014/95/EU regarding the presentation of non-financial information and information on diversity by certain companies and large groups (Non-Financial Reporting Directive, NFRD) transposed by Order of the Minister of Public Finance no. 1938/2016 regarding the modification and completion of some accounting regulations and the Order of the Minister of Public Finance no. 3456/2018 on the amendment and completion of some accounting regulations leaves room for flexibility in the implementation of its provisions, as it does not require the use of a non-financial reporting standard or framework, nor does it have detailed reporting requirements, such as a minimum of imposed key performance indicators – KPI or indicators by activity sectors. The new Directive proposal (Corporate Sustainability Reporting Directive – CSRD) includes audit requirements, as well as the development of a standard with indicators. Other provisions include digitization of reporting as well as materiality analysis reporting. Between the duty of diligence of the management bodies regarding the management of risks that may affect the activity and financial results of a company and the standard of diligent conduct which requires the establishment of ESG performance indicators and their transparent reporting, there is a significant difference in approach and orientation of the corporate strategy.

**FREEDOM OF EXPRESSION - ASPECTS OF JUDICIAL PRACTICE REGARDING
EXPRESSION IN A POLITICAL CONTEXT AND IN RELATION TO THE RIGHT OF
POLITICAL PEOPLE TO DIGNITY AND HONOR**

Assistant professor **Alexandru Cristian ROȘU**
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Abstract

Freedom of expression has long been not only a philosophical concept, but also one of the most important rights enjoyed by the individual in relation to his peers and the state to which he belonged. The loss, restrictions and limitations of this right have always been the object of analysis not only for the specialists who had to protect and defend this right, but also for the ordinary, simple man who felt any limitation brought to his status and freedom.



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TRAVEL AGENCY CONTRACT IN THE FIELD OF HORECA IN THE EUROPEAN UNION

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Abstract

The paper begins, as is natural, with a brief reference to the term "HORECA", in order to specify the contracts used in this field. The chapters that follow these preliminary clarifications, concern the following: 1) The hotel service contract, from the perspective of the contractual relationship between the hotelier, the consumer tourist and the travel agency, and last but not least the disputes that may result from non-fulfillment of contractual obligations, 2) The contract of agency concluded between the hotel and the travel agency, in the national and European Union legislative context, 3) The content of the agency contract, respectively its clauses.

