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SECTION II - PRIVATE LAW

Friday, November 14, 2025

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*Lecturer **Cristina Cojocaru**, Faculty of Law, Bucharest University of Economic Studies*

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SCIENTIFIC PAPERS

THE LEGAL FRAMEWORK FOR NON-FUNGIBLE TOKENS UNDER THE EUROPEAN UNION REGULATION ON MARKETS IN CRYPTO-ASSETS

Professor **Romana MATANOVAC VUČKOVIĆ**

Faculty of Law, University of Zagreb, Croatia

Professor **Dubravka AKŠAMOVIĆ**

Faculty of Law, Josip Juraj Strossmayer University of Osijek, Croatia

Associate professor **Lidija ŠIMUNOVIĆ DIKONIĆ**

Faculty of Law, Josip Juraj Strossmayer University of Osijek, Croatia

Abstract

Non-fungible tokens (NFTs) have witnessed a surge in popularity within digital marketplaces. In both commercial and legal practice, the prevailing view is that NFTs constitute a form of crypto-asset recorded on a blockchain as metadata associated with a specific physical or digital object. As NFTs are often linked to copyright-protected works, particularly works of art, it is unsurprising that their defining characteristics are uniqueness and non-fungibility. The growing popularity of NFTs, alongside the broader crypto-asset industry, poses a regulatory challenge within the European Union single market. In response, the European Union has adopted the Markets in Crypto-Assets Regulation (MiCAR), which seeks to harmonise the legal regime governing crypto-assets with a view to enhancing consumer protection and promoting transparency in the crypto-asset market and related activities across the Union. While this paper does not examine the relationship between the rights of NFT holders and those of intellectual property owners in the underlying works, it considers whether MiCAR applies to NFTs. It begins by defining NFTs and analysing the relevant provisions of MiCAR, before offering guidance for regulators and identifying circumstances in which MiCAR will apply. The conclusion assesses the de lege lata position and advances de lege ferenda recommendations.

THE IMPLEMENTATION OF THE THE EU/2019/771 DIRECTIVE IN CYPRIOT PRIVATE LAW: TOWARDS A BROADER METHODOLOGICAL PARADIGM SHIFT?

Assistant professor **Dimitrios DEVETZIS**

Frederick University, Cyprus

Abstract

Directive (EU) 2019/771 recasts consumer sales of movables under a full-harmonisation regime and, for the first time across many Member States, consolidates a legislative separation from immovable-property transactions. This paper offers a comparative evaluation of transposition techniques and early practice, arguing that the Directive marks a civilian re-orientation of private law. Substantively, it layers subjective and objective conformity criteria—now expressly including durability—and imposes a structured remedial ladder (repair/replacement → price reduction → termination) bounded by proportionality and time limits. For goods with digital elements it embeds an updating obligation and interfaces with Directive 2019/770, shifting the focus from single transfer to time-indexed



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performance governance. Commercial guarantees of durability and strengthened recourse rules recalibrate risk along the supply chain. We show how the movables/immovables split enhances legal certainty and functional specialisation, while raising frontier issues (fixtures, installation services, integrated “smart” components). We propose comparative benchmarks—classification tests, durability-centred conformity, calibrated cure, update-lifespan standards, and guarantee design—to assess national implementations and to steer targeted refinements without diluting full harmonisation.

**ASSESSING COPYRIGHTABILITY OF AIGC: AN ANALYSIS
THROUGH THE LENS OF CYBERNETICS**

Ph.D. Candidate **Shiya MA**

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Abstract

The emergence of AI-Generated Content (AIGC) has brought a significant impact on the traditional creation model centered on human authors. Whether artificial intelligence has the status of a creative subject, whether AIGC constitutes a work protected by copyright law, and how to define the standard of originality have become urgent issues to be resolved at this stage. This study, through the brand-new theoretical research perspective of “cybernetics” and using research methods such as literature research, comparative research, and normative analysis, analyzes the copyrightability of AIGC. The conclusion of the study is that although artificial neural networks endow artificial intelligence with a certain degree of autonomy, it is always under human control. Under the framework of “cybernetics,” the copyrightability of AIGC should be based on human control and highlight human subjectivity. AIGC is an intellectual achievement created by humans using intelligent tools and has the special attribute of human-computer collaboration. The recognition of originality needs to adopt a combination of subjective and objective methods. This study provides a new theoretical paradigm for human-computer creation, an operational standard for judicial practice, and a balanced approach for AIGC development and copyright governance.

**LITIGATION PUBLIC RELATIONSHIPS – A LEGAL CHALLENGE
IN THE DIGITAL MEDIA ERA**

Associate professor Dr IUR. **Olga SOVOVA**
Police Academy of the Czech Republic

Abstract

Lawsuits usually harm a person's as well as an entrepreneur's reputation. The public's perception of a legal dispute can significantly impact the trial's outcome, as judges, being part of the public themselves, are not immune to the prevailing narratives and sentiments surrounding a case. Moreover, the judgment itself does not harm the lives or businesses as much as the media coverage, especially in high-profile cases. The digital media era, with its new possibilities for immediate information sharing and creation of new virtual realities, plays a crucial role in shaping public opinion. The paper examines litigation as a powerful tool for influencing public opinion in this digital age. The author notes that litigation is often associated with reputational and financial damage to a person or business entity. The author, leveraging her professional and practical experience from long-



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term cooperation with public media and the digitisation of public space, as well as her attorney's insight into commercial law, examines the issue mentioned above. The author highlights legal regulation, case law, and theory to outline the potential benefits and possibilities for adjusting litigation procedures and principles to meet the needs of businesses in the global information society, stressing the increasing influence of social networks and artificial intelligence.

THE RIGHT TO BE OFFLINE - A CHALLENGE OR AN OBSTACLE FOR THE BUSINESS?

Associate professor Dr IUR. **Olga SOVOVA**
Police Academy of the Czech Republic

Abstract

Since the turn of the 21st century, the rise of technologies and the advent of artificial intelligence have presented new challenges to the public and private spheres. The immense technological capabilities, coupled with the increasing information literacy of the population in the European Union and other countries, have not only expanded but have also undergone significant transformations. The global information society is emerging as an essential advantage in the administration of public affairs and business, enabling the sharing and rationalisation of services. The mentioned technologies also improve service efficiency and accessibility. However, the integration of information technologies is not without risks, including digital exclusion, privacy intrusions, and infringement on the right to informational self-determination. That is why intense pressure to be offline appears. The paper examines the benefits and risks of information technology services, as well as the obligations imposed by public administration on individuals and entities. The paper highlights the tension between digital literacy, the push to adopt and utilise modern technologies, and the growing demand to limit their intrusion into everyday life. In many countries, there are calls to explicitly define the right to be offline in constitutional documents. The paper explores the current legal status of the right to access public and private digital services, as well as the right to their mandatory use, in comparison to the right to be offline. The primary research methods are methods of legal interpretation. The paper is based on an analysis and comparison of literature, as well as a critical examination of doctrinal opinions and jurisprudence regarding the European Union, national legislations, and experiences. The paper concludes with practical examples and legal guidance on how to strike a balance between the right to be online and the right to be offline in daily business operations.

**THE ROLE OF MEDIATION IN RESOLVING COURT DISPUTES IN COMMERCIAL
MATTERS IN POLISH PROCEDURAL LAW**

Associate professor **Michał KRAKOWIAK**
Faculty of Law and Administration, University of Lodz, Poland

Abstract

The subject of this research is the development of mediation in commercial matters, the premises determining this development, the analysis of normative material regarding mediation in Polish civil proceedings and the formulation of proposals for changes in the law so that mediation becomes a common method of resolving disputes between entrepreneurs. The choice of the study topic is most justified at the current time, because due to declining economic parameters, the growing number of entrepreneurial bankruptcies and the growing global amount of overdue payments between entrepreneurs, the driving force of each state is weakening. Due to the subject of the



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study, the historical-legal method, the formal-dogmatic method and the comparative-legal method were used to conduct this research. The research conducted led to the formulation of conclusions that can be used by the legislator to promote mediation as a method of resolving commercial disputes. First, it should be noted that, from a historical perspective, for many years the Polish legislator did not introduce changes to the regulations of the Civil Procedure Code on mediation that could have led to its widespread use in court practice. It is not advisable to maintain the principle of voluntary mediation in Polish judicial practice, as once a judge has referred the parties to mediation, each party has the right to object to mediation within a week of such referral. A party's objection does not require justification. Therefore, it is justified to introduce elements of mandatory mediation, obliging the parties to at least attempt mediation. Attention should also be paid to the issue of the costs of mediation and the entire court proceedings in which the mediation was conducted.

**EVALUATION OF THE STATUS OF DIGITAL ASSETS AS PROPERTY
UNDER TURKISH LAW**

Assistant professor **Ayça ZORLUOĞLU YILMAZ**
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Abstract

Digital assets have found their place in every aspect of life as a result of developing technology. Uncertainty regarding the theoretical basis on which they will be established within the legal order is causing problems in various areas of private law. However, the only certainty is that digital assets have now become subject to law. Therefore, there is a need to develop a legal basis for the legal status of digital assets. There is no uniform agreement on this matter across legal systems. The question of whether traditional legal norms will be sufficient to determine the legal status of digital assets remains. In other words, whether resorting to classical legal rules is sufficient to resolve legal problems arising regarding digital assets, or whether entirely new legal norms must be established, or whether the problem should be solved by introducing new legal structures into existing legal rules, should be examined. To this end, the first section attempts to define the concept of digital assets and identify their types. The second section focuses on the importance of digital assets in private law. The understanding that the legal status of digital assets should be that of property or property-like is gaining ground. In this regard, the fourth chapter focuses on the concept of property in Turkish law, and finally, the fifth chapter examines the status of digital assets in Turkish law.

**SMART CONTRACTS AS CONTRACTS OF ADHESION: THE INCLUSION PROBLEM OF
STANDARD TERMS & CONDITIONS IN SMART CONTRACTS**

Associate professor **Tuğçe ORAL**
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Research assistant **Mustafa Furkan YAVUZ**
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Social Sciences Institute, Ankara University, Turkey

Abstract

Regulations on standard terms & conditions use and their applications to smart contracts are among the problems literature has been dealing with since the so called “blockchain revolution”. A focused analysis on how smart contracts distinguish themselves from traditional contracts, is still necessary in this regard. The code language



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that smart contracts are based upon renders them prone to be invalid in an environment that is still mostly technologically illiterate. This study's main objective is to detect the standards set for standard terms & conditions' inclusion to smart contracts under German, Swiss and Turkish laws. The primary argument of the study is the existence of the necessity to provide a “translation” of the code language into a natural language, for consumer contracts. Still an unrealized potential in consumer transactions realm, the design of smart contracts has to be compliant to the translation condition, if they are to gain vast application which the futurists have aspired to.

**CHALLENGES OF RECONCILIATING PRIVATE AND PROFESSIONAL LIFE IN THE
CONDITIONS OF TECHNOLOGICAL PROGRESS AND AN OPEN LABOR MARKET**

Associate professor **Anton PETRIČEVIĆ**

Faculty of Law, Josip Juraj Strossmayer University of Osijek, Croatia

Abstract

The goal of research in this paper is to harmonize the private and professional lives of employed workers. We work very fast and such a pace of life damages our health and suppresses the primordial values that generations in history have barely fought for. The established eight-hour working day has become just a dream. Today, workers work more, although positive legal regulations have no legal basis for it. The well-known three eights (eight hours of work, eight hours of rest and eight hours of sleep) are not respected. Inspections are not doing their job and workers are not protected. The question arises, how to solve this? Technological development and an open labor market help us. A worker must be flexible, must invest in knowledge and skills in order to achieve decent work, and to balance private and business obligations. In the paper, research was conducted using the online survey method, which proved that workers expect the state to provide equal opportunities for work and life for all workers. The EU provides equal opportunities for economic growth and development to its members, which are the basis for a better and more organized life for workers.

THE LEGAL BASIS FOR CONTRACTUAL LIABILITY

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Researcher **Carmen ION**

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Abstract

The article highlights that the normative basis of pre-contractual liability in Moldovan civil law derives from the synthesis between the general principle of good faith (Art. 10 of the Civil Code) and the special provisions of Art. 1025 of the Civil Code, as well as, by interpretation, of Art. 999 para. This liability is not autonomous in nature, and therefore it cannot be assumed that it lies at the intersection between contractual and tortious liability. The author argues that the concept of liability for breach of contract is not applicable to the situation of unjustified termination of negotiations. Pre-contractual liability is not based on an actual contract, but on the breach of a legal obligation of loyal and good faith conduct (Art. 1025(2) of the Civil Code). Compensation is limited to the damage resulting from the legitimate expectation of the other party, excluding compensation for anticipated profit (Art. 1025 para. 3 of the Civil Code), which reflects the orientation of liability for damage consisting in the loss of the opportunity to



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conclude a contract with third parties. Although the Civil Code does not expressly define “pre-contractual relationship”, doctrinal analysis indicates that pre-contractual liability has the legal nature of tort liability. The adoption of this theory aligns Moldovan law with European trends, where good faith is recognized as a binding legal principle. The French doctrine of *responsabilité précontractuelle* influenced the formation of this institution, and the Moldovan Civil Code, although closer to the German model, adopts the same axiological values: good faith, loyalty, and protection of legitimate expectations.

**THE IMPACT OF EUROPEAN REGULATIONS ON LIFE INSURANCE CONTRACTS:
BENEFICIARY PROTECTION BETWEEN THE SOLVENCY II AND IDD DIRECTIVES**

Assistant professor **Maricica TUDOSE**
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Abstract

Life insurance plays a crucial role in ensuring patrimonial protection and economic security, while also representing a cornerstone of both the European financial market and the legal framework for consumer protection. Over the past decades, European regulation has undergone significant development, particularly through the adoption of Directive 2009/138/EC (Solvency II) and the Insurance Distribution Directive – IDD (2016/97/EU). These instruments pursue, on the one hand, the goal of safeguarding financial stability and insurer solvency, and, on the other hand, of ensuring a high level of transparency and fairness in contractual relations. This article examines the impact of these directives on life insurance contracts, with a special focus on the protection of the beneficiary, as a central third party to the legal relationship. The analysis highlights both the indirect protection mechanisms provided by Solvency II and the transparency and fairness guarantees established by the IDD. Moreover, it identifies synergies and tensions between the two regulatory frameworks, as well as challenges arising from their heterogeneous implementation across Member States. The conclusions emphasize the need for a stronger and more explicit recognition of the legal status of the beneficiary, so that protection is not only ensured through market stability and distribution obligations but also through a direct normative acknowledgment of beneficiary rights in the life insurance contract.

**REGULATION OF SMEs IN EUROPEAN UNION LEGISLATION AND IN NATIONAL
LEGISLATION. TAX REGIME OF SMEs**

Lecturer **Adriana DEAC**
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Abstract

The current social and economic context has had and continues to have the consequence of adopting new normative acts, especially fiscal regulations, which restrict or limit the fiscal facilities granted to traders. The normative act that we are going to analyze is Law no. 346/2004 on SMEs, respectively Recommendation 2003/361/EC on SMEs at the level of the European Union. As part of a research project carried out by the Faculty of Management within the Academy of Economic Studies in Bucharest, this paper aims to analyze the notion of SMEs, the legal regime of SMEs, both at the European Union level and at the national level and, in particular, the applicable fiscal treatment, considering the “famous 1% tax rate” applicable to microenterprises. The paper aims to critically analyze the legislation in the field using various methods of interpretation, especially logical and grammatical, and



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to formulate proposals for lege ferenda aimed at returning to the original meaning and purpose of the analyzed normative act, improving the tax treatment applicable to SMEs and increasing their number.

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GENERAL FEATURES OF THE LIMITED LIABILITY COMPANY

Lecturer **Adriana DEAC**

Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract

In the sphere of professional traders legal entities, limited liability companies represent the type of trader most often encountered in international practice. What are the reasons that make the limited liability company so attractive in the Romanian legislation? What are the essential features of this type of company? This paper aims to provide answers to these questions using various methods of interpreting the legal provisions in force at this time. The study will analyze the main legal characteristics of the limited liability company, namely the low number of members, limited liability and reduced share capital.

**CONCEPTUAL ASPECTS REGARDING ARTIFICIAL INTELLIGENCE, AS WELL AS
CERTAIN CONCERNS FOR ITS LEGAL REGULATION AT THE INTERNATIONAL LEVEL,
IN THE EUROPEAN UNION AND ROMANIA, INCLUDING ITS USE IN JUSTICE**

Assistant professor **Lăcrămioara-Ionela COJOCARIU**

Ecological University of Bucharest, Romania

Abstract

The study begins with the presentation of some theoretical aspects regarding artificial intelligence (AI) and continues with the review of some concerns for its regulation at the international level, the European Union (EU) and in Romania. It also addresses certain applications of AI in resolving disputes and the risks involved in its use in the performance of the act of justice. From the first perspective, the meaning of AI in the current speech of the modern Romanian language is presented. From the second perspective, certain steps at the UN level for the use of AI are presented, including the Strategy on New Technologies (2018) and the Global Resolution on Artificial Intelligence (2024). As regards the European Union (EU), special attention is paid to the Resolution of 20 October 2020 of the European Parliament (EP) on intellectual property rights for the development of technologies related to artificial intelligence and to Regulation (EU) 2024/1689 of the European Parliament and of the Council laying down harmonised rules on artificial intelligence. In Romania, the reactions of decision-makers are modest, the most important step being the National Strategy in the field of artificial intelligence 2024-2027. The doctrine noted that the current copyright is insufficiently adapted in anticipation of creative artificial intelligence. Regarding the application of AI in justice, issues such as the risks of its use in dispute resolution, the robot judge and the digitalization of justice are addressed.



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**ROMANIAN ABDRC’S SETTLEMENT PROCEDURE, BETWEEN LIMITED REDRESS,
FUNDED NEUTRALITY, AND THE ILLUSION OF ZERO COSTS**

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Assistant professor **Liviu Alexandru VIOREL**
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Abstract

The paper maps procedural weaknesses in Romania’s Alternative Dispute Resolution Center in Banking (‘ABDRC’) and, drawing on doctrinal analysis, shows how these vulnerabilities undermine consumer protection in practice. The analysis takes as its baseline the European Union standards set by Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (the „ADR Directive”) and applies both logical and comparative methods (EU law vs. Romanian law; cross-jurisdictional comparisons vs. Romanian law). The study examines ABDRC’s structural limits: a proclaimed gratuity confined to the procedural layer (e.g., persistence of ancillary costs), an appearance of neutrality derived from sectorial funding, restricted remedial competence (no power to determine the existence of unfair terms in banking contracts), admissibility filters, etc. These constraints weaken the effectiveness of consumer protection and reduce the predictability of outcomes; consequently, they (at least partly) account for ADRCB’s low attractiveness among consumers and call for caution in assessing the procedure’s capacity.

**UNDER THE TERMS OF ARTICLE 1683 OF THE CIVIL CODE,
CAN THE SELLER BE A NON-OWNER?**

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University of Bucharest, Romania
Associate professor **Anca Monica ARDELEANU**
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Abstract

According to Article 1683(1) of the Civil Code, "If, at the time of conclusion of the contract for a specific individual asset, that asset is owned by a third party, the contract is valid and the seller is obliged to ensure the transfer of ownership from the owner to the buyer." The text of the law shows that "the sale of another's property" (specifically identified, o.n.) is a valid transaction (in all cases, o.n.). Since, in doctrine, the transfer of ownership through sale has already been established, questions arise such as: can the seller be the owner of the property or not? Under the current legislative conditions, has the sale become (only, o.n.) a contract that creates obligations? The study aims to re-examine the regulation of the transfer of ownership, the sale of another's property, risk bearing, etc. (in accordance with European doctrine and legislation). The paper is structured in four sections: "The transfer of ownership through sale"; "The subject matter of the contract: present and future goods"; "Transfer of ownership: automatic, abstract, and instantaneous"; "Sale of another's property: valid, void, or voidable."



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**FINANCING OF DISPUTES BY THIRD-PARTY TRADERS. THE MECHANISM OF
FINANCIAL PROFITABILITY, BUT ALSO THE PREMISE OF UNFAIR PRACTICES**

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Associate professor **Elise Nicoleta VÂLCU**
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Abstract

The issue of financing a dispute brought before courts of general jurisdiction or before an arbitral tribunal involves the financial support, by a professional funder, of all legal costs arising in connection with that dispute, in exchange for a share of the proceeds obtained by the claimant as the funded party. From the perspective of the professional commercial funder, this procedural mechanism represents a business model with significant financial profitability potential. From the claimant's standpoint, such funding is advantageous primarily because it provides easier access to justice in circumstances where, otherwise, they would be unable to pursue their legal action. The study will focus in particular on the application of this type of funding in cases involving consumer representation actions (collective redress or class actions), but not exclusively. At the same time, third-party litigation funding can also be analyzed as a legal mechanism that carries certain risks, raising concerns about the potential for unfair practices. This latter aspect represents another key point of reflection and analysis in the present article.

THE JUSTIFICATION OF A NEW EUROPEAN REGULATION ON CONTRACT LAW

Assistant professor **Gabriel Florinel ION**
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Abstract

This paper explores the necessity of establishing a unified European framework for regulating AI-driven contracts. As automation and algorithmic decision-making increasingly shape economic and legal transactions, traditional principles of contract law—such as mutual consent, contractual capacity, and legal certainty—are challenged by the emergence of smart systems capable of forming and executing agreements without human oversight. The study identifies regulatory gaps and proposes a European directive on AI contracts, including transparency obligations, standardized digital clauses, and the right to human review. A harmonized EU approach can enhance legal certainty, protect weaker parties, and foster trustworthy innovation in automated contracting.

**CONTINUATION OF THE EMPLOYMENT RELATIONSHIP OF THE TEACHING AND
RESEARCH STAFF IN HIGHER EDUCATION IN ROMANIA AFTER THE FULFILLMENT
OF THE RETIREMENT CONDITIONS**

Lecturer **Lucian GHEORGHE**
Ovidius University of Constanța, Romania

Abstract

Objectives of the study - Law no. 360/2023, provides in art. 46 para. (2) that the persons insured in the public pension system and who meet the conditions for enrollment in the pension may choose between granting the old-age



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pension and continuing the activity, with the annual agreement of the employer, until the age of 70. Therefore, an employee can continue the employment relationship with the employer as long as he wishes to do so, there is the employer's agreement for the continuation of the employment relationship and the employee does not open his right to retirement. If, however, the employee requests and obtains the old-age pension, it is understood that he does not want to continue the activity. The natural consequence of this state of affairs is the legal termination of the employment contract, and it is not possible to continue an existing employment relationship, regardless of whether the pension is in payment or not. In turn, Law no. 199/2023, which is a special normative act on the analyzed field, provides that "teaching and research staff retire at the age of 65. At the request of the teacher, the status of tenured teacher may be maintained until the end of the academic year in which he/she reaches retirement age." The difference in nuance between the two normative acts can be observed, in the sense that while Law no. 360/2023 explicitly provides for the criteria regarding the "fulfillment of the conditions for enrollment in retirement", in other words the cumulative fulfillment of the standard age condition but also of the minimum internship condition, Law no. 199/2023 only stipulates that "teaching and research staff retire at the age of 65". Research methods used – in this documentation we used the analytical method and the synthesis method. Results and implications of the study – Therefore, according to the law on higher education, the priority for the retirement of teaching and research staff is only the criterion of age, not of internship. It is obvious that we are talking about a loophole of the law, because in the situation provided by the higher education law, in relation to the requirements imposed by Law no. 360/2023, we cannot talk about a retirement of teaching and research staff without meeting the criterion of minimum contribution period. This is because, on the one hand, these categories of personnel are also insured in the public pension system (therefore they do not benefit from special pensions) and on the other hand, it is discriminatory in relation to the other categories of personnel referred to in this normative act, namely the teaching/research teaching staff and the auxiliary teaching/research staff, where the minimum internship condition and the standard age condition of 65 years are also provided for retirement. The study concludes with the advancement of a proposal for a law to amend this article.

THE LEGAL REGIME OF COMPETITION IN ALBANIA

Lecturer **Ovidiu-Horia MAICAN**

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Abstract

The proper application of competition regulations serves as one of the foundational elements of Albania's free market system. As a result, these regulations are viewed as an economic constitution. The effective application of competition regulations can be carried out by governmental bodies through administrative actions (public enforcement) or directly by those impacted by violations of competition law via legal proceedings (private enforcement). In Albania's situation, public enforcement has undergone ongoing changes and improvements. Conversely, there have yet to be any instances of private enforcement, despite the opportunities for such actions, particularly in pursuing damages related to decisions made under Albanian Competition Law. Nonetheless, additional focus is required in areas such as the collection of penalties and the adoption of government recommendations, among others. To achieve fully effective implementation of competition regulations, all institutional participants, including the judiciary and businesses, must take part to ensure positive contributions to Albania's economic development.



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THE GOODWILL BETWEEN TRADITION AND DIGITALISATION

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PhD. student **Daniela HAVRICI TOMȘA**
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Abstract

The traditional concept of goodwill, defined as a collection of tangible and intangible assets intended to attract and retain customers, is undergoing a profound transformation under the impact of economic digitalisation. While in the classical view the essential elements were the customer base, the commercial location, the brand, and the right to use the commercial space, the digital environment has led to the emergence of new components, such as domain names, online applications and platforms, databases, algorithms, virtual communities, reputation scores, and rights related to digital currencies and assets. This study examines the most important aspects of goodwill, comparing both traditional and current digital perspectives. Goodwill is not a simple aggregate of assets, but a legal construct capable of generating its own patrimonial value, and yet it is poorly regulated, giving rise to discussions and dilemmas. Given the challenges of the third millennium, when the emergence of new technologies is creating a paradigm shift in the classical conceptual field, we must adapt quickly to the changes that have taken place. In the absence of explicit legislative recognition, digital goodwill is defined by analogy with the classical model.

**CONSIDERATIONS ON THE AUTONOMY OF SOCIETAL WILL BELONGING TO THE
LOCAL SUBSIDIARY IN THE CONTEXT OF IMPLEMENTATION THE DECISIONS ISSUED
BY THE PARENT-COMPANY (LENDING & GUARANTEES AREA)**

PhD. student **Florin-Bogdan CONSTANTINESCU**
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Abstract

As a rule, the multinational companies operate in different countries by their subsidiaries (e.g.: joint-stock companies and/or limited liability companies) located in the respective countries. Also, the main directions deriving from the business strategies/policies decided by the parent-company have to be implemented accordingly by the subsidiaries. The goal of the present paper is to focus on some particular situations deriving from the local approval process (lending and guarantees area) of the holding-company decisions namely if the societal will of the subsidiaries (materialized in the decisions of the general shareholders meetings) (i) is limited and if so to which extent; (ii) remains still autonomous; (iii) displays an adherence act mostly than an internal will and which are the impact and the mitigating actions if needed. The research methods utilized are the logical, the comparative and the historical ones. The results of the study are represented by proposals to amend the law and the envisaged impact may be considered significant for the business community operating in the Romanian banking industry.



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**THE SIGNIFICANCE AND IMPORTANCE OF STATE-OWNED ENTERPRISES IN
EUROPEAN UNION AND OECD MEMBER STATES – THE CASE OF ROMANIA**

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Abstract

In this article, we aim to highlight the special legal regime of state-owned enterprises, including from a Comparative Law perspective, and to establish a starting point for a correct legal, economic, and political approach to state-owned enterprises in Romania. Our study focuses on two main aspects: first, we will analyze the meaning of the concept of state-owned enterprises and their particularities, especially from the perspective of the general legal regime of the companies and the rules of corporate governance, in the context of Romanian, EU, and international legislation; secondly, we will analyze and highlight the role and importance of state-owned enterprises in the world's economies, in the current context and in the trends reflected by the national economies' data, with a focus on revealing the existing aspects and data in this field in the European Union and Romania. This contribution is designed to serve as a starting point for more extensive analysis and may be taken into consideration for public policy decisions regarding public enterprises in Romania.

**SALE WITH A RIGHT OF REDEMPTION – A PIGNORATIVE OPERATION AT THE
INTERSECTION OF FORMAL RIGOR AND ANTI-USURY CONTROL**

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Abstract

This article conducts an in-depth analysis of the legal framework governing the sale with a right of redemption (S.R.R.), exploring the dual nature of the contract and demonstrating that, although formally it is a sale subject to a resolutive condition, its economic substance qualifies it as a disguised pignorative operation intended to guarantee a loan (an efficient pactum commissorium). The S.R.R. manifests itself as a rapid financing instrument (a type of bridge financing), with relevant applicability in various economic fields, from urgent real estate transactions and trade in valuable movable goods (luxury items, equipment) to the financing of capital operations (through the sale and repurchase of shares/participating interests). However, this economic utility is constantly overshadowed by the major risk of usury and the circumvention of forced execution rules. A critical evaluation of the boundary between sale and loan is carried out, highlighting how the disproportion in price and the intent to secure a debt expose the contract to the sanction of absolute nullity due to illicit cause (usury/loan sharking), despite its formal validity. The article includes a detailed comparative analysis with foreign legal systems (Italian, English, German), emphasizing the more stringent solutions for economic control (price ceiling) and judicial requalification (equity mortgage). Finally, de lege ferenda proposals are formulated, aimed at strengthening the institution by introducing material control of the price and increased transparency of publicity (registration in the AEGRM – the Romanian Electronic Archive of Security Notices), thereby transforming the S.R.R. into a more ethical and resilient financing instrument against judicial challenges.



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**LIMITS OF APPLYING THE RIGHT OF PRE-EMPTION. THE SUBTLE DELIMITATION
BETWEEN THE USE OF LEGAL EXCEPTIONS (DATION IN PAYMENT) AND FRAUD
UPON THE LAW THROUGH CONTRACTUAL DISGUISE**

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Abstract

The right of pre-emption is a legal or conventional limitation of the owner's right of disposition, intended to protect legitimate interests (agricultural, cultural, co-ownership, etc.). According to Art. 1730 of the Civil Code, it applies exclusively in the case of a sale. Its scope of application, although clearly defined by law, raises major issues at the intersection with other mechanisms of asset transfer, as well as in the face of fraudulent intentions of the parties. This article aims to establish an essential delimitation between two categories of legal acts that, ostensibly, exclude the right of pre-emption. On one hand, the analysis focuses on justified legal exceptions – acts that are not sales per se (for instance, dation in payment), and therefore cannot be subjected to pre-emption. On the other hand, the phenomenon of fraud upon the law through contractual disguise is studied, where the parties utilize a lawful contract (such as exchange/barter or even dation in payment) to conceal an actual sale-purchase. The article argues that, in cases of fraud upon the law, the judicial requalification of the operation is necessary to neutralize the fraudulent intent and to maintain the effectiveness of the public order rules that underpin the right of pre-emption.

**PRACTICAL CONSIDERATIONS REGARDING THE PUBLISHING OF MUSICAL WORKS
AND THE IMPACT ON THE PUBLISHER'S GOODWILL**

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Abstract

The reconfiguration of the music industry, driven by the evolution of how musical works are used, including the transition from physical unit distribution to digital exploitation, generates a corresponding evolution of the publisher's definition and its core role in the exploitation of these intellectual creations. The strategic positioning of these entities – between the author of the work and the multitude of commercial partners (record labels, digital platforms, broadcasting or television organizations) – is made possible by a complex legal instrument known as the „publishing contract”. This mechanism is situated at a normative intersection of interest from at least three branches of private law: Civil Law, Intellectual Property Law and Commercial Law. Through this study, we propose an analysis of the legal framework of the music publishing contract and the added value that these works bring to the publisher's goodwill, including an analysis of the specific practices within the Romanian music industry – a market in continuous evolution that aspires to the Western model. To achieve this objective, the research is grounded in a concise practical approach, utilizing research methods such as the comparative law method, to document international trends in approaching the legislative framework of the field; the logico-deductive method, as a reasoning instrument; the hermeneutic method of research and the sociological method, to evaluate the social impact of the analyzed regulations.



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**PARTICULARITIES OF THE CONTRACT FOR THE PROVISION OF
TEMPORARY AGENCY WORKERS**

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Abstract

This article proposes a brief presentation of one of the contracts concluded within the framework of work through a temporary employment agency - the contract of provision regarded as a civil contract, regulated by labor law, being concluded between the labor agent who makes available the labor force requested by the other party called the user and through which the role and responsibilities of the two parties involved are clearly defined. The main objective is to highlight the characteristics of this contract, the importance of the written form but also the presentation of the legal clauses but also other optional clauses that can be inserted in the content. The provisions of Romanian legislation, of other states but also the specialized doctrine by reporting to the existing case law will be analyzed. Work through a temporary employment agency plays an essential role in the contemporary economy, offering flexible solutions both for the beneficiaries of the work performed by temporary employees and for employers and employees, thus contributing to a dynamic labor market that responds quickly to economic and social changes.

**A ROMAN SOLUTION TO A TIMELESS FRAUD. FROM FRAUS CREDITORUM TO ACTIO
PAULIANA IN THE ROMANIAN CIVIL CODE OF 2009**

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Abstract

*This paper briefly examines the timeless problem of *fraus creditorum* and the Roman solution to it, which also inspired the provisions of the Romanian Civil Code of 2009 concerning the *actio Pauliana*. The study aims to identify the shapes that a debtor's fraudulent conduct could (and may) take, its effects and the instruments available to the creditor, as well as the conditions that had to be met for its use. Following an overview of the *actio Pauliana*, based on the articles of the Romanian Civil Code, a few the legal scholarship reference points, and a few case-law decisions, the paper concludes with a comparison between the profile of the former and the current *actio Pauliana*, which reveals not only the similarities (and differences) between a Roman legal concept and a current one, but also shows that, more than often, solutions to problems that arise in the present may be inspired by the past.*

UNLIMITED LIABILITY OF THE ASSOCIATE IN THE FRAUD OF CREDITORS

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Abstract

The Companies Law expressly provides for the liability of the associate who abuses the distinct legal personality of the company in his favor or of third parties. Moreover, the limited nature of his liability becomes unlimited if he knows or should have known that the company will no longer be able to fulfill its obligations as a result of his actions. The legal provision stipulates that acts that entail the unlimited liability of the associate are the



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disposal of the company's assets as if they were his own assets or the decrease of the company's assets, a practice calling for the interpretation of the High Court of Cassation and Justice to establish the exemplary nature of the legal norm. The article does not aim to treat the subject exhaustively, but only to bring to the attention such legal provisions, especially to associates who rely on their limited liability in making decisions that negatively affect the company's creditors.

**SOLUTIONS FOR MANAGING THE RELATIONSHIP BETWEEN EMPLOYERS AND
EMPLOYEES IN THE CONTEXT OF ECONOMIC OR FINANCIAL CRISIS SITUATIONS
FROM THE PERSPECTIVE OF EUROPEAN AND NATIONAL LABOUR LEGISLATION**

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Abstract

The significant variability of the economic and financial situation at the national level has required in recent decades a specific approach by employers in relation to their own workforce. Against the specific background of the migration of Romanian workers and a lack of medium and highly qualified workforce, periods of economic growth have led employers to identify solutions to attract specialists, especially by means of higher remuneration than the labour market average and ensuring working conditions that have involved significant expenses. Conversely, periods of economic or financial crisis have led to the need to identify solutions to resize their own human capital, as well as personnel expenses. Even though Romanian labour legislation has implemented the European regulatory framework in the field, especially the directives adopted in the field of social policy and employment, the national framework for regulating labour relations is characterized by a significant degree of rigidity. As such, employers are forced to manage the relationship with workers, regardless of the economic or financial situation, on the same normative bases, which, as a rule, do not take into account the economic realities manifested at a given time. The collision between the two specific vectors of the labour market in situations of economic or financial crisis leads to the need to adapt the way of relating between employers and workers, so that, based on national and European norms applicable to labour relations, a balance between capital and labour is maintained.

THE IMPACT OF NEW TECHNOLOGIES ON EMPLOYMENT RELATIONSHIPS

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Abstract

Digitalisation is accelerating the redefinition of employment relationships, affecting both the organisation of work and the structure of rights and obligations between employer and employee. Automation, artificial intelligence, telework and the platformisation of labour (gig economy) generate new models of work performance, in which algorithms manage recruitment, evaluation and monitoring of employees. We are facing an evolution that raises numerous legal questions concerning the precarisation of certain forms of work, the risk of algorithmic discrimination, excessive digital surveillance, as well as the tension placed on classical principles of labour law, such as subordination, equal treatment and the protection of private life. The article investigates the ways in which new technologies influence employment relationships and examines the need for normative adaptation to ensure a balance between innovation and the protection of workers' fundamental rights. The conclusions highlight that



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technological evolution requires legislative reform aimed at ensuring algorithmic transparency, data protection and the strengthening of legal certainty within digitalised employment relationships.

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THE DYNAMICS OF THE PROFESSIONAL’S CIVIL LIABILITY. THE VARIABLES

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Abstract

The dynamics of professional civil liability for malpractice are constantly adapting to the realities of society, to case law in the field, and to the evolution of standards of diligence. Based on the normative foundation of the obligations incumbent upon professionals, the constants of their liability have been established, but variables that directly influence its scope have also been outlined. The present study aims to provide an integrated approach to the variables that may be relevant, highlighting their role in defining the scope of liability and the practical implications for the legal relationships between professionals and the beneficiaries of their services. The analysis proposed in this article is based on a complex methodological approach, specific to legal research, which combines several techniques and methods of scientific investigation, designed to provide as accurate a picture as possible of the variables that can influence the legal mechanism of professional civil liability. First, the legal-doctrinal method was used, analyzing the main legislative landmarks, followed by a review of national and foreign case law, including the analytical-critical method, which aimed to identify any shortcomings or inconsistencies in the current system, as well as to formulate critical observations and proposals for improving the legislative and jurisprudential framework.

**THE AUTONOMY OF WILL AND THE INTERNATIONAL CHARACTER OF TRADE
CONTRACTS: CAN CONSENT CREATE INTERNATIONALITY?**

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Abstract

The paper examines the relationship between party autonomy and the internationality element in international trade contracts, addressing the central question: can the mere choice of a foreign law transform a purely domestic contract into an international one? The study aims to clarify the legal nature of the internationality element and the moment at which it becomes relevant for the application of conflict-of-laws rules. The research method is doctrinal and comparative, based on the analysis of the Rome Convention (1980), the Rome I Regulation (EC No. 593/2008), Book VII of the Romanian Civil Code, and relevant arbitral practice. The findings demonstrate that the international character of a contract must pre-exist the parties' will and that the principle of party autonomy operates only in the presence of an objective element of foreignness. The implications of the study confirm that consent cannot create internationality but functions within it, defining the legitimate scope of contractual freedom in private international law.



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**THE EXCEPTIONAL EXCLUSION OF THE APPLICABLE LAW IN PRIVATE
INTERNATIONAL LAW. A COMPARATIVE LAW STUDY**

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Abstract

The paper examines the institution of the exceptional exclusion of the applicable law in private international law, as regulated by Article 2.565 of the Romanian Civil Code, within the broader context of European and Swiss comparative developments. The main objective of the study is to identify the rationale, conditions, and limits of this mechanism, which allows the court, in exceptional circumstances, to disregard the law determined by conflict-of-laws rules when the legal relationship has a clearly closer connection with another law. The research method is doctrinal and comparative, focusing on the corresponding provisions of the Swiss Federal Act on Private International Law (Article 15), the Belgian Code of Private International Law, and Regulation (EC) No. 593/2008 (Rome I). The findings show that this institution provides a form of controlled judicial flexibility, designed to prevent formalistic or inequitable outcomes. The implications of the study underline the importance of maintaining a balance between the predictability of conflict-of-laws application and the need for adjustment to the real circumstances of cross-border legal relations.

