

PRO PATRIA LEX

REVISTĂ DE STUDII ȘI CERCETĂRI JURIDICE

Volumul VIII, Nr. 2(17)/2010



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ISSN 1584-3556

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I. DREPT PUBLIC

REGIMUL JURIDIC AL FONDURILOR DE PRE-ADERARE ALE UNIUNII EUROPENE

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Abstract:

European Union decided to provide annual financial support candidate countries in Central and Eastern Europe through three instruments:

- PHARE program (Council Regulation 3906/89);*
- ISPA (Council Regulation 1267/99);*
- SAPARD (Council Regulation 1268/99).*

That regulate these programs have been amended by Commission Regulation (EC) no. 2257/2004 of 20 December 2004 amending Regulations (EEC) no. 3906/89, (EC) no. 1267/1999, (EC) no. 1268/1999 and (EC) no. 2666/2000, in order to take into account Croatia's candidate status.

Assistance provided by each of these instruments is coordinated in accordance with Council Regulation 1266/99. Assistance is given in general created the association agreements signed with the beneficiary countries, taking into account the objectives of the Accession Partnership.

Keywords: financial assistance, funding of pre-accession PHARE, ISPA;SAPARD

EVOLUȚIA SANȚIONĂRII INFRAȚIUNILOR ÎN CODUL FISCAL

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Abstract:

Generic legal object is the crime of tax code governing the normal social relationships and financial obligations of taxpayers and state tax on tax and other statutory contributions arise from transactions with excisable products. These social relations appear in the creation and implementation of state resources to perform its function. Material object exists for most offenses of Tax Code, consisting of excise goods are manufactured, purchased, used, delivered, sold or labeled in contravention of the laws.

Keywords: tax code, penal code, offenses, liability, penalty.

PRINCIPALELE MOMENTE ALE EVOLUȚIEI ADMINISTRAȚIEI PUBLICHE CENTRALE ROMÂNEȘTI

Gabriel MOINESCU¹

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Abstract:

Central government of Romania has evolved in the different regimes and reported to key historical moments. The main point was the December 1989 revolution that changed the whole ideology and thus the entire structure of the administrative system.

After the revolution, the central government in Romania was reorganized through a series of laws and measures that have sanctioned new principles of democratic rule of law characteristic.

Keywords: central government, regimes, historical moments, ideology, administrative system, structure

ANALIZA MECANISMELOR ȘI TEHNICILOR DE FRAUDARE FISCALĂ

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Abstract:

The emergence and development of underground economy is driven by both individual choices of citizens and the policy decisions of public authorities. As a result, the causes of proliferation of this phenomenon can be identified as being represented generally by excessive taxation, inappropriate regulations faced by some activities, trade barriers, inappropriate / ineffective institutional regulations and limiting of the action of economic agents involved in the formal economy, use of forced work in a too flexible context of labor laws and shortcomings of these laws, failure of governmental measures in various areas, economic crises, etc..

Keywords: tax regulations, tax fraud techniques, migration, economic crises.

TRANSPORTUL PESTE FRONTIERĂ A DEȘEURILOR PERICULOASE

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Abstract:

Government Emergency Ordinance No.78/2000 on waste defines waste as „any substance, preparation or any object in the categories established by specific legislation on waste, which the holder throws, intends or is required to-1 throw „,

The 1989 Basel Convention on transboundary movement of hazardous waste transportation and disposal of the waste specified in Article 2 that (in general, nn) means „substances or objects that are removed or to be removed or should be disposed of in accordance with national legislation „,

Difficulties arise in defining toxic or hazardous waste. Environmental law by „hazardous waste” means „toxic waste, flammable, explosive, infectious, corrosive, radioactive or similar to, placed or maintained in the environment can damage it, plants, animals or man.”

Hazardous waste only from human activities and environment once introduced or maintained it have an adverse impact on people, plants and animals and material goods.

Basel Convention provides the categories of hazardous waste to be controlled if international transport, such as the chemical, from hospitals, pharmaceutical production, waste oil, etc. explosive in nature.

Keywords: hazardous waste, border, illicit

PROBLEMA DREPTURILOR OMULUI ÎN CONTEXTUL REFORMEI O.N.U.

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Abstract:

In a world of inter-connected threats and opportunities, it is in each country's self-interest that all of these challenges are addressed effectively. Hence, the cause of larger freedom can only be advanced by broad, deep and sustained global cooperation among States. The world needs strong and capable States, effective partnerships with civil society and the private sector, and agile and effective regional and global intergovernmental institutions to mobilize and coordinate collective action. The United Nations must be reshaped in ways not previously imagined, and with a boldness and speed not previously shown.

Keywords: Globalisation, United Nations, Human rights, UN Reform.

PARTICULARITĂȚI ALE EXECUȚIEI CHELTUIELILOR BUGETULUI GENERAL AL UNIUNII EUROPENE

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Abstract:

European Union is a construction in motion an international context characterized, in turn, by a strong dynamics. European Union operation, as an independent organization, is based on its financial framework, appropriate activities implementation in good conditions related to achieve the objectives set out in treaties. EU spending is determined and limited by the Community Treaties, structure, dynamics and their procedure many changes undergone over time due to changes in the basic treaties and the development of the enlargement process.

Keywords: budget, budget execution, expenditure commitment, liquidation expenses, authorizing.

LEGITIMITATEA UTILIZĂRII FORȚEI ARMATE ÎN RELAȚIILE INTERNAȚIONALE ALE ÎNCEPUTULUI MILENIULUI AL TREILEA

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Abstract:

In organized societies the use of force is generally disapproved of but it is admitted that the prevention and the stopping of illegal violence is possible only by using state coercion against offenders so that the law is to punish infringements; somewhat similar although with significant differences is the problem in the international system of states where, according to supranational governance developments there was also the "just war" system, which allowed the state to use force in promoting the survival interests of the community, so that today the fundamental principle of non-resort to force by establishing monopoly of the Security Council as the authority to global governance, the international use of force is to be applied.

Keywords: legitimacy, legality, force, war

FORMAREA ATAȘAMENTULUI POLITIC ȘI CONCEPTUL DE PARTID POLITIC ÎN DOCTRINA JURIDICĂ

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Abstract:

This paper examines the social mechanisms that determine the development of political commitment in a modern society, enjoying the freedom of expression and association. The study aims to analyze the characteristic features of theories that explain the formation of political commitment and the emergence of democratic societies.

Keywords: political commitment, political party, types of parties, party system, political party size

RĂSPUNDEREA INTERNAȚIONALĂ A STATELOR

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Abstract:

In international law, the institution of state responsibility, has a fundamental trait, a sanctioning character, being a response to the infringement of the rules of international law. International responsibility is not independent of international obligations, but to complement them, even though sometimes, states are responsible for unlawful acts that are not - liability(strict liability).

Increasingly, it is stated in the doctrine of international law that international responsibility is only exceptionally a criminal sanction and this type of cover regards only natural persons, because "it has sole conscious and that's why there can be no fault and no guilt, no crimina lresponsibility for a community.

Keywords: international law, states responsibility, damage, injured states.

INCIDENȚA PREVEDERILOR LEGII NR.202/2010 („MICA REFORMĂ”) ȘI ALE NOULUI COD DE PROCEDURĂ PENALĂ (LEGEA NR.135/2010) ASUPRA GRADELOR DE JURISDICȚIE ÎN MATERIE PENALĂ

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Abstract:

The actual Romanian Code of Criminal Procedure governs, as a general rule, the triple level of jurisdiction in criminal matters, dedicating two ordinary means of attack: the appeal and the recourse; consequently to the legislative changes of the present Code of Criminal Procedure (through Law no.202/2010), only the cases that are first trialed in a court can still undergo both ordinary means of attack.

Also, Law no.135/2010 regarding the new Code of Criminal Procedure brings changes with regard to ordinary means of attack, and, implicitly, with regard to the levels of jurisdiction. Thus, in the matter of means of attack the new code stipulates the ordinary means of attack of appeal, fully devolutive. Regarding the recourse, this will become an extraordinary means of attack (under the name of recourse in cassation), exercised only in exceptional cases and only for reasons of illegality.

Keywords: “the small reform”; ordinary means of attack; criminal case; legislative changes; the new Code of Criminal Procedure.

REFERINȚE DE DREPT COMPARAT PRIVIND RĂSPUNDEREA PENALĂ A MINORILOR

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Abstract:

The minor, unlike the grown up, has not and can not be assumed to have the same ability to assess his own actions. It must be taken into account all aspects that accompany the age stages of a person until she reaches the complete, mature development considered to be attained at the age of majority. Also adolescence is considered to be a critical period in which it has been ascertained an enhancement of adverse events because it is a period marked by social, physical and psychological transformations, changes that can be often very brutalm, the emotions from this period being shown with a great dynamism. For these reasons, the system of penalties for minors who have committed a crime should not be hard, and the alternative sanctions available to courts must be as various as possible.

Keywords: minor (under age), law, criminal liability, juvenile delinquency.

LEGITIMA APĂRARE PREZUMATĂ

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Abstract:

This article analyses the way assumption of self defense is being regulated in Romanian Criminal Code as an expression of the Romania legislator interest in protecting some aspects of persons private life such as the domicile. It contains some critical reflections about the necessity of this regulation from the theoretical point of view and also the judicial practice point of view wich are not the same. For this reason, we consider that an intercession from our legislator is necessary in order to be more specific on his intentions.

Keywords: self defense, assumption, crime, domicile.

UNELE CONSIDERAȚII PRIVIND INFRAȚIUNILE DE GENOCID LA SFÂRȘITUL SECOLULUI XX

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Abstract:

The genocide is one of the most serious criminal offences incriminated by the domestic law of each state and also by international law. It consists in the destruction or persecution of human groups conceived as national, ethnic, racial or religious entities. Genocide is a denial of the existence of entire human groups, in the same way as homicide is a denial of right to life of an individual human being. It is part of the category of crimes against humanity in general and not only against determined individuals, even if ultimately they are primarily victims.

Keywords: genocide, atrocities, hostages, terrorism, discrimination, violence.

II. DREPT PRIVAT

DREPTUL DE DISPOZIȚIE - EXPRESIE A LIBERTĂȚII VOINȚEI JURIDICE (II)

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Abstract:

The disposal represents an expression of the individual power ,determined by the connection that is created between the patrimony and its owner. By virtue of this power, the subject of law is free to participate in the civil circulation in the limits established by the substantive laws.

Therefore, the freedom to exercise the disposal does not constitute itself in a freedom in general, but in one that is conditioned and determined by social life, on one hand, and by the provisions stipulated in law, on the other hand.

Keywords: patrimony, the substantive laws, exercise the disposal, the civil circulation

ELEMENTE ESENȚIALE PRIVIND CONCURENȚA NELOIALĂ LA NIVEL COMUNITAR

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Abstract:

A key feature of Community law, as decided by the European Court of Justice is its supremacy. The competition is an area where the Community has "exclusive jurisdiction". Therefore, competition, Member States may legislate only to the extent that transpose or apply Community law or in areas not regulated at Community level.

Keywords: European Community, Competition Council, competition law, European Court of Justice

CONSIDERAȚII DE DREPT COMUN DETERMINATE DE CLASIFICAREA TITLURILOR DE VALOARE DUPĂ CRITERIUL CIRCULAȚIEI LOR

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Abstract:

Into the legal literature and especially in the economic literature we can identify several criteria for classification and analysis of the general category represented by securities.

From the perspective of law, meaning civil law, these classifications allow multiple analyses, as we have decided to show in this study.

Keywords: title note, share warrant, title nominative, security

PĂRȚILE CONTRACTANTE ÎN CONTRACTUL INTERNAȚIONAL DE ASIGURARE CASCO

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Abstract:

CASCO insurance contract occurs between two parties: the insurer and insured. Usually the insured is the person dealing with the insurer. It is possible that the insured not to enter into direct contract with the insurer may authorize another person to represent him in this operation legal. He is assured by the fact that the agent enter into contracts on behalf of the principal and therefore will produce direct effects on him. Or, sometimes, insurance contract is through a business management and then reverse the property owner to accept the position of insured, if satisfied that the operation was useful.

Keywords: CASCO insurance, insurer, insured, insurance contract

PREVEDERI LEGALE ÎN DOMENIUL JOCURILOR DE NOROC DIN AUSTRIA, ITALIA ȘI ESTONIA

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Abstract:

This study covers the legal regulations in the field of gambling in Austria, Italy and Estonia. For a uniform regulation at EU level, it is important to know, which are features of organization and operation of gambling in the Member States and which differences between legal systems operating in this field are. A new aspect presented in the article is the latest regulations in the gambling online, an industry that took a major leap globally through significant amounts of money that are handled well and the need for sweeping regulatory gaming taking place over the Internet.

Keywords: gambling, casino, online games, lottery, gambling wrongdoing.

CONTRACTUL DE TRANSPORT FLUVIAL GUVERNAT DE CONVENȚIA DE LA BUDAPESTA. OBLIGAȚIILE CĂRĂUȘULUI ÎN CURSUL DEPLASĂRII MĂRFII, ÎN CONDIȚIILE INIȚIAL CONVENITE

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Abstract:

Most of the times the moving of the shipment takes place in accordance with the clauses found within the document generated at the starting point. There are also exceptions, when the delivery agent is facing special situations, which change the initial conditions of the transportation contract. So, it is possible for the sender, in accordance with a special right recognized by the current regulations, to change on its own the destination of the shipment. Also, no few are the situations in which the delivery person, due to some accidental events, it is obliged to take special measure in order to protect the interests of both parties. The normal regime, of common rights undertakes corresponding adjustments.

As in any transportation contract, the main task of any delivery agent is to deliver the goods in safe conditions, without delay, and in the same state as before departure. He must also take conservation measures as imposed, mainly in critical situations which may arise during the delivery. The delivery agent is not allowed to load or tranship the merchandise, as a whole or partially on another vehicle without the accordance of the sender, with the exception of some obstacles and in the case the delivery agent cannot receive in due time instructions from the sender or if the usages allow this thing. Also, it is forbidden to transport the merchandise on the deck or in open spaces without the senders consent (art.3 par.4 Budapest Convention).

Keywords: Budapest Convention , shipment, transportation contract, delivery agent

RĂSPUNDEREA JURIDICĂ ÎN DOMENIUL REPREZENTĂRII

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Abstract:

During the he execution of the warrant, the agent has two obligations: the obligation to fulfill its mandate and the one to be accountable. The trustee is obliged to know the limits of his empowerment and if exceeded he is responsible for his actions against third parties, in that of being held to guarantee the validity of the acts, unless he gave others the opportunity to ascertain the extent of empowerment. Regarding the responsibility of the servant to the third parties, it may be tort and contract. Legal nature of company directors' liability is controversial in the juridical literature. We conclude that the civil liability of administrator varies according to circumstances, distinguished three forms of liability: ordinary (normal) responsibility to society and to associates, an exceptional responsibility to third parties and an aggravated one in case of company's bankruptcy. Delegated employee will respond according to the rules established by the Labor Code.

Keywords: liability, warrant, companies, delegated

*III. ORDINE PUBLICĂ
ȘI SIGURANȚĂ
NAȚIONALĂ*

ASPECTE TEHNICE ȘI PROCEDURALE PRIVIND INSTRUMENTAREA INFRAȚIUNILOR DIN DOMENIUL DREPTULUI DE AUTOR ȘI A DREPTURILOR CONEXE.

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Abstract:

Economic and financial crime occurs in the field of copyright and related rights and is an important component of business crime in our country. In this article, we try, through the knowledge acquired in the operative field to combat piracy and counterfeiting, to bring to you the most important technical and procedural issues that must be known by colleagues from the Fraud Investigation Department of the Romanian Police Inspectorate and the Romanian Copyright Office, when investigating the unlawful acts of copyright and related rights.

Keywords: piracy, copyright, related rights, intellectual property, pirate goods.

UNELE REFERINȚE PRIVIND DISPARIȚIA MINORILOR ÎN DREPTUL EUROPEAN

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Abstract:

Opening the european borders and facilitating the transport favor the international trips and, accordingly, the exponential growth of all issues arising from this. Once the case of a missing minor gains an international dimension it becomes complex. The disappearance of a minor is always an ordeal for his family. This unfortunate event generates, whatever the minor's age, a strong fear to his parents, who are aware of the risks to which the child is exposed to the streets. The separate judicial systems, especially in the European Union, the linguistic and cultural barriers make it harder for the magistrates, for the police officers and for other associations involved in the cases of missing minor.

Keywords: missing minor, kidnapping, alarming disappearance, criminal police, crime.

CONSIDERAȚII GENERALE PRIVIND CONCEPTUL DE CRIMINALITATE INTERNAȚIONALĂ, PREVENIRE ȘI COMBATERE

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Abstract:

The growth of the international delinquency and the fact that this affects all the world states, imposed the international police cooperation in order to prevent and combat this phenomenon which, in present represents a scourge which manifests in various forms such as terrorism, drug trafficking, trafficking in persons, organised crime, money laundering and even settlement of account between criminal groups or mob executions, scourge which creates a general psychosis of civic insecurity and terror.

Keywords: international delinquency, international crime, cooperation organisms.

NATIONAL SECURITY AND THE PHYSICAL SURVEILLANCE OF PRIVATE LIFE IN ROMANIA

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Abstract:

The activity developed by the intelligence services in order to secure the national security involves the usage of particular covered devices meant to intercept and record images and any other kind of signal which may contain the data needed. Considering that the usage of such technology inflicts some damage to the right to a private life, in this study we made a short presentation concerning the link between the national security and the right to private life from the perspective of the warranty that the Romanian Law system supplies in the cases that involve the restriction of this right by the psychical surveillance realised by the Romanian intelligence services.

Keywords: surveillance, national security, investigation techniques, fundamental liberties, informative activity

MĂSURI DE NATURĂ LEGISLATIVĂ ORIENTATE ÎN DIRECȚIA COMBATERII EVAZIUNII FISCALE ȘI A ECONOMIEI SUBTERANE

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Abstract:

Fighting tax evasion and underground economy as a whole, is a goal for the authorities in all countries. But this is impossible to achieve. Therefore, the fight against tax evasion and underground economy should not be directed at eradicating these phenomena, but to reduce them to an extent acceptable to society at a time. It is clear that success is assured through prevention, because it is much easier and better to prevent than to fight.

An element whose contribution to preventing and combating tax evasion and underground economy is particularly important is financial and tax legislation. It should be reviewed, corrections must be developed to eliminate legislative ambiguity that leaves room for interpretation, interpretation that can be exploited by evaders. Also, the legal system, setting a proper proportion between the degree of enforcement of tax evasion and raising the punitive sanctions without providing the degree of efficiency in implementation.

Keywords: tax evasion, underground economy, tax law.

REGLEMENTAREA CONCEPTULUI DE CRIMINALITATE ORGANIZATĂ ÎN LEGISLAȚIILE UNOR STATE EUROPENE

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Abstract:

Organised crime is a complex social problem whose ways of manifestation, consequences and ways of solving interests both institutionalized factors and public opinion, becoming a very serious and dangerous phenomenon that has distinctive and destabilizing consequences on the structure of the democratic state institutions, and a devastating impact that endangers their own national security . Due to its forms of manifestation, trends and dimensions, organized crime is a serious threat, and the world's countries have taken action against this scourge, developing strategies and elaborating measures to reduce the phenomenon.

Keywords: crime, criminal organization, violence, judicial authorities, criminality.

OPINIA PUBLICĂ ROMÂNEASCĂ FAȚĂ DE FENOMENUL CORUPȚIEI LA FRONTIERELE ROMÂNIEI

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Abstract:

In this paper we will try to emphasize the fact that although the citizens have the tendency to exaggerate things, it is clear that corruption is a serious barrier for a legitimate development of the business environment. Even if businessmen choose the illegal way to develop this field, things change fast both ways, for bribery: give and demand the dimension of bribery escalades the official salary of tax inspectors or customs officials. There fore a measure to fight corruption much as salary increase without strenghtening the legislative framework want be effective.

Key words: human resources, social image, organizational framework, institutional causes for corruption, politic groups, external audit, underground economy, corruption pyramid.