

PRO PATRIA LEX

REVISTĂ DE STUDII ȘI CERCETĂRI JURIDICE

Volumul IX, Nr. 1(18)/2011



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ISSN 1584-3556

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I. DREPT PUBLIC

REGIMURI JURIDICE SPECIALE APLICABILE STRĂINILOR ÎN ROMÂNIA

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Abstract :

Le régime juridique applicable aux étrangers est fixé au niveau national, les règlements de chaque Etat. Afin de développer les relations internationales avec les règlements nationaux et internationaux ont été mis en place des régimes juridiques spéciaux applicables à certaines catégories d'étrangers. En Roumanie dispose d'un régime spécial des réfugiés juridiques, diplomatiques et consulaires du personnel et des citoyens de l'UE et les États membres de l'Espace économique européen.

Mots-clés: étranger, son statut juridique, à condition étranger légal, des réfugiés, le personnel diplomatique et consulaire des citoyens de l'UE.

MODIFICAREA ORI STINGEREA OBLIGAȚIILOR FISCALE PRIN AMNISTIE FISCALĂ ȘI LEGALIZAREA CAPITALURILOR

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Abstract:

In Europe, amid the current financial crisis, tax amnesty was seen by some countries as a solution for economic recovery and alternative financing, which is backed by capital legalization. Instead, the International Monetary Found has consistently opposed the taking of such measures, which he categorized as „a sign of desperation”, considering that the alternative to this is to promote transparency and efficiency in tax work.

Keywords: tax amnesty, taxpayers, capital legalization, tax liability.

SISTEMUL UNICAMERAL ESTE SOLUȚIA POTRIVITĂ PENTRU ORGANUL REPREZENTATIV SUPREM ?

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Abstract:

In recent years, both in political and constitutional law practice, you can see a fierce debate on the following dilemma: the existence of a unicameral or bicameral parliament.

Supporters of unicameralism have pleaded for it invoking the speed, fluidity, and fluidity of legislative activity, and the facilitation of parliament-executive relationship, along with lower maintenance and expens costsrequired to operate such a legal system.

On the other hand, disadvantages are mainly about potential risks for democracy and the quality of legislation: a lower and less accurate representation of the electorate's will, a weaker reflection of a broader spectrum of interests and aspirations, the risk of subordination of the Parliament to the party that holds majority or to the Governement, plus the reduction of qulity and consistency of the legislation in favor of speed.

Key words: Tradition, bicameralism, unicameralism, system, parliament

REPERE ALE EVOLUȚIEI ADMINISTRAȚIEI PUBLICE LOCALE ÎN ROMÂNIA

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Abstract:

The local 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 local government was reorganized through a series of laws and measures that have sanctioned new principles of democratic rule of law characteristic.

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

CONCEPTUL DE PUTERE ÎN DOCTRINA JURIDICĂ

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Abstract:

The study is considering new approaches to the legal doctrine and policy definition of power, the most important features of its approaches and the principle of separation of powers, as a doctrinal concept conceptual subjected to intense pressure on the existence and necessity him.

Keywords: power, social relation of power, power characteristics

REGULI GENERALE DE CONDUCERE A OSTILITĂȚILOR ÎN DREPTUL INTERNAȚIONAL UMANITAR

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Abstract:

The globalization and the international integration, including in terms of the new threats and vulnerabilities to the security, compelled the armed forces to carry out tasks of internal public order and, on the other hand, the public order and security forces to perform international missions. When police and army act in the same context, domestic or international, the traditional distinction between the police and the military missions faded in the last decades, so sometimes, both of them perform functions somewhat similar in maintaining national, regional or global public order.

Keywords: *army, police forces, rules, principles, customs*

ROMÂNIA VIITOR PARTENER AL SPAȚIULUI SCHENGEN

*Viorel VELIȘCU*¹

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Abstract:

The current geo-strategic position of Romania, the state must show the utmost responsibility to prevent and combat international crime at national, regional and international levels by identifying and monitoring extensive and complex challenges facing the state as full structures North Atlantic Treaty Organization and European Union State.

Stimulates rapid globalization process, economic and financial circuits spread universal values and societies closer together, providing opportunities for economic and social benefits multiplied all over the world.

Key words: External border, internal border, Schengen, international crime

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 whose reach is desired by the authorities in all countries. But this is impossible to obtain. Therefore, the fight against tax evasion and underground economy should not be directed at eradicating these phenomena, but at reducing 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 the 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, through the legal system, a proper proportion between the degree of enforcement of tax evasion and the degree of attractiveness in the evasionist process is being set, because punitive sanctions without providing the degree of efficiency in their implementation does not produce positive and lasting effects on reducing the phenomenon .

Keywords: tax evasion, underground economy, tax law.

CONDIȚIILE PRIVITOARE LA APĂRARE, ÎN CAZUL LEGITIMEI APĂRĂRI DIN PERSPECTIVA NOULUI COD PENAL

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Abstract:

The self-defense - by concept – involves the existence of a defense against an aggression that must materialize in the the commission of an offense under criminal law. The nature and legal classification of this fact does not matter - it can be for example a homicide, bodily harm, vandalism - and the circumstance whether the fact is actually consumed or remained in the state of an attempt is also irrelevant. It is of no interest whether the person making the attack is the attacked person itself or another person , who came to help , in this situation no relationship whatsoever is required between the one who attacks and the author of the offense committed to repel the attack.

Keywords: self-defense, attack, crime, criminal law, criminal liability.

ANALIZA INFRAȚIUNILOR LA REGIMUL ARMELOR ȘI MUNIȚIILOR PREVĂZUTE ÎN CODUL PENAL

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Abstract:

To be in full compliance with constitutional and international commitments that Romania has assumed, the Criminal Law incriminated acts affecting the life or physical and mental integrity of the person. Improving care activities of these values is achieved by preventing those antisocial facts, prevention that is established by setting up a regim based on circulating and using firearms and more. Daily realities show that there are plenty of situations where, to avoid committing antisocial acts or to punish the criminals, to prevent them from evade the consequences of legal liability or even to counteract their violent actions, police employees must be empowered by law to use the weapon.

Keywords: firearm, use of weapons, ammunition, crime, violence.

**OBSERVAȚII PARȚIAL CRITICE PRIVIND NORMELE CARE REGLEMENTEAZĂ
ÎNVĂȚĂMÂNTUL MILITAR ȘI ÎNVĂȚĂMÂNTUL DE INFORMAȚII,
DE ORDINE PUBLICĂ ȘI DE SECURITATE NAȚIONALĂ**

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Abstract:

In Romania, as in most other countries, there are different branches and fields of education. These branches have their own rules and regulations and the law of national education, Law no.1/2011, recognizes this fact. It is also the case with the military education system, the information education system and the public order and national security education system. The problem, however, is applying the rules and regulations which are specific to these fields in regard to the dispositions of Law no.1/2011. This article addresses this problem and attempts to comment the legal provisions while taking into account that, in some cases, these dispositions are redundant, conflicting and ambiguous.

Keywords: Romania, military education, information education, public order, national security, Law no.1/2011.

RESTRÂNGEREA EXERCITIULUI DREPTURILOR FUNDAMENTALE. INTERPRETĂRI JURIDICE.

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Abstract:

In this article we intend to treat the legal limits of the restriction in fundamental rights and respect of those limits by public authorities.

In a state of law, as Romania, rights and freedoms of citizens are supreme values found in the constitutional provisions. A constitutional mechanism which aims to guarantee these rights can not be otherwise designed but only to provide protection to citizens of that state before any kind of abuse, including that caused by actions of state authorities. The separation of powers principle, introduced in Romanian constitutional law with constitutional review process completed in 2003, has as main purpose to impose all legal norms and provide all necessary safeguards to avoid abuses that violate fundamental rights of citizens, as in the Romanian constitutional doctrine was masterfully set in the phrase, „the power to stop the power „

Keywords: fundamental rights, constitution, democracy, public policy, national security

II. DREPT PRIVAT

REZERVA SUCCESORALĂ ÎN CAZ DE CONCURS AL SOȚULUI SUPRAVIEȚUITOR CU PĂRINȚI ȘI FRAȚI AI DEFUNCTULUI

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Abstract:

Disinheritance of the surviving spouse, privileged ascendants and collaterals, when they come together to the inheritance, imposes the granting of a legitimate part to those protected by the law maker, through the establishment in their favour of a forced heirship (surviving spouse and parents). Regulated by different laws (Civil Code from 1864-which establishes parents' forced heirship and Law nr. 319 from 1944- regarding the forced heirship of the surviving spouse) difficult to corroborate, the problem concerning the extent of the forced heirship in the particular situation herein mentioned, has determined controversy in both, legal practice and specialized literature. Our research follows to present solutions designed to meet the spirit of the provisions stipulated in the aforesaid normative acts.

Keywords: disinheritance, surviving spouse, privileged ascendants, collaterals

ASPECTE DE NATURĂ JURIDICĂ ȘI TEHNICĂ ÎN DOMENIUL INTERMEDIĂRILOR ÎN ASIGURĂRI

(Partea I)

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Abstract:

This article is addressed to those who want to know as many details about insurance, and is a brief overview of the specific terminology of the insurance, entities that deal with this, the features of the activity and the participants, the setting up, organization, functioning and termination of insurance companies and mutual insurance companies, the setting up, organizing and leading of insurance intermediaries, the legal status of insurance companies in financial difficulty, the general rules used in the insurance contract, insurance of goods, people, credits, guarantees and financial risks insurance, liability insurance, medical malpractice insurance, compulsory insurance of houses and vehicles.

Keywords: insurance, reinsurance, insurance broker, insurer, insured

PROCEDURA NEGOCIERII ȘI ÎNCHEIERII CONTRACTULUI INTERNAȚIONAL DE ASIGURARE CASCO

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Abstract:

The contract will mean achieving agreement between the insured and the insurer on the contract terms. In this context, the formulation leads us to believe that a negotiated contractual terms, but if insurance is very limited because we are dealing with a contract of adhesion, although this option should not be excluded. Prior to signing the contract the insured will make a insurance claim and will complete a questionnaire will inform the insurer about the risk to assume.

Keywords: insurance contracting, insurance claim, questionnaire, insurance policy

CONCEDIUL DE ODIHNĂ-ELEMENT ESEȚIAL AL CONTRACTULUI INDIVIDUAL DE MUNCĂ

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Abstract:

In the legal relationship of the two sides work through their manifestation of will, externalized in order to produce legal effects, acquire certain rights and bind.

A right into the essence of the legal work is the employee entitled to annual leave, biological capacity for restoration work.

Keywords: Legal relationship of employment, employee, employer for work, leave, leave allowance.

INSTITUȚII CU ATRIBUȚII ÎN SUPRAVEGHEREA CONCURENȚEI. CONSILIUL CONCURENȚEI

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Abstract:

Undistorted competitive environment is a prerequisite for the existence of a functioning market economy, in which traders have to interact freely, without negative influences of the economic operators are in a dominant position, their associations or the state. Competition law regulations are intended to create such a competitive environment are pursued objectives such as economic growth, promote consumer interests, competitiveness of products and services.

Keywords: competition, consumer, Competition Council, competition law

CONSIDERAȚII ASUPRA FUNCȚIILOR TITLULUI CAMBIAL

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Abstract:

The bill, one of the most important securities, particularly from the point of view of its applications in the field of international trade, is a complex tool.

The analysis of its functions reveals the flexibility and the suppleness of this document and also its many uses, providing an overview of what the bill represent in the contemporary context and its role into the economy.

Keywords: bill, exchange instrument, credit instrument, payment instrument, guarantee.

DIMENSIUNEA SOCIOLOGICĂ A RĂSPUNDERII JURIDICE CIVILE

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Abstract:

The science and practice of law, a central area is material liability. This is because liability law is a guarantee to achieve a factor of its effectiveness. Designed to be a fundamental component of law, liability is, in its concrete manifestations, an amount of specialized forms of liability, subject to separate legal institutions.

Keywords: legal liability, social relations, forms of liability, liability conditions

ASPECTE LEGISLATIVE ÎN DOMENIUL JOCURILOR DE NOROC ON-LINE ÎN MAREA BRITANIE, GIBRALTAR, CEHIA ȘI MALTA

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Abstract:

This study covers the legal regulations in the field of gambling online in U.K., Gibraltar, Czech Republic and Malta. 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.

PARTICULARITĂȚI PRIVIND EXERCITAREA DREPTURILOR ȘI ÎNDATORIRILOR PĂRINTEȘTI

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Abstract:

Regarding the exercise of parental care, the rule is that parental rights and responsibilities are exercised jointly and equally by both parents. Enlightening in this regard is the text of art. Article 98. (1) of the Family. available „to persons and property measures are taken by parents of children, by mutual agreement”.

The exception is the exercise of parental care by a parent. In this sense, art. Article 98. (2) of the Family. provides that: „If one parent is dead, deprived of parental rights, placed under interdiction or, in any circumstance, is unable to manifest the will, the other parent exercises parental rights only”.

Certain features of the exercise of parental care exists in case of divorce, custody of a third party, special protection for children deprived, temporarily or permanently, parental care (Article 42 of the Family., Art.62 of Law no. 272 / 2004).

Keywords: parental care, parent, minor child

*III. ORDINE PUBLICĂ
ȘI
SIGURANȚĂ
NAȚIONALĂ*

PIRATERIA ȘI CONTRAFACEREA ÎN DOMENIUL PROGRAMELOR PENTRU CALCULATOR

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Abstract:

Economic and financial crime that occurs in the field of copyright, is an important component of business crime in our country. In this article, we are trying, through the knowledge acquired in the operative structures 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 Unit within the Romanian Police General Inspectorate and the Romanian copyright Office, when investigating the unlawful acts of copyright for software.

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

PROCEDURA POLIȚIENEASCĂ CIRCUMSCRISĂ DISPARIȚIEI MINORILOR ÎN UNELE STATE EUROPENE

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Cristian Eduard ȘTEFAN²

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Abstract:

The growing phenomenon of missing children is likely to cause concern in social institutions, family and school first, and also at the level of the ones with responsibilities on the line of detection and reintegration of children. In many countries, police has no standard procedure to solve complaints about disappearances of minors. The lack of common procedures in how to deal with these complaints will inevitably lead to differences in how complaints are handled by different regional or local police departments. When a minor disappears, most police units respond immediately in most of the cases.

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

DUALISMUL STRATEGIILOR NAȚIONALE ȘI EUROPENE DE SECURIZARE A FRONTIERELOR ÎN CONTEXT SCHENGEN

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Abstract:

While the European Union is about to take far-reaching decisions on the best way to ensure the security of its external border, there is a strong tendency to take guidance from the United States, the world's undisputed forerunner in employing advanced technology and strict control procedures. Besides highlighting the weaknesses of the current EU approach against the background of the almost accomplished US system, the briefing undertakes to analyse to what extent exclusive transatlantic inspiration is the right way to follow for European policymakers. It also argues that even such advanced models can never be considered "one size fit all"- solutions, transferable to other regions with paying attention to their political, geographic and other specificities – and, above all, one should not overestimate technology as a problem-solver. Besides taking inspiration from outside, the European Union should also consider alternative mechanisms adapted to the domestic situation such as controls carried out inside the territory.

Keywords: Stockholm Programme, Schengen Area, SIS, SINS, Eurosur, SISF.

EXPERTIZELE CRIMINALISTICE REFERITOARE LA FALSIFICAREA UNOR ELEMENTE DE IDENTIFICARE ALE AUTOVEHICULELOR

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Abstract:

The traffic of stolen vehicles has intensified and diversified, often being realized in a network of organized crime with the help of advanced technical devices which allow the falsification of identification elements. The investigation of the offences comprised in this category is difficult, and the criminologists' expertise has the main role in probation.

In this paper such cases are presented in which the expertise was disposed in order to establish: the authenticity of the series hallmarked on the chassis or on other elements of the vehicle; the methods of falsification; the reconstitution of numbers and letters which were initially inscribed; the succession of colors etc. Cases are presented in which the advanced means and methods of falsification were used, including those based on laser, undetected during successive transactions and certain technical inspections.

The competition between proceedings used by the offenders and the new work methods of the experts is emphasized, as is the value of some expertise's conclusions in comparison with other evidences adduced in the cause.

REFERINȚE PRACTICE PRIVIND ACTIVITATEA ORGANELOR JUDICIARE CIRCUMSCRISĂ INTERCEPTĂRILOR ȘI ÎNREGISTRĂRILOR AUDIO SAU VIDEO

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Abstract:

This paper examines the criminal procedure provisions contained by the Criminal Procedure Code or special laws regarding the activity of interception and audio or video recording. There are some provisions in what regards interceptions and audio or video recordings that are not consonant with the European Court of Human Rights. Romania has been condemned in several cases that European Court dealt with. Also, the essay shows that the internal judicial practice complied with the European Court of Human Rights standards.

Keywords: interceptions, recordings, communications, search, offence.

FACTORII IMPLICAȚI ÎN SIGURANȚA TRAFICULUI RUTIER

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Abstract:

Road safety is defined in the literature as being no danger from highways, that sense of calm and confidence that you have road users, to know how safe from danger, requires direct participation in national educational campaign to change opinion and attitude of each individual to their own responsibilities for safety.

Keywords: Police work, traffic safety, social implications, conflicts, law

MIGRAȚIA ILEGALĂ ȘI IMPLICAȚIILE EI ÎN MEDIUL RURAL

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Abstract:

Migration is about both emigrants and immigrants, both security and insecurity. It has an important impact on each dimension of security, especially on psycho-social one. Now, the entire world is confronting not only the problem of emigrants who weaken the human resource of their states of origin, but the issue of immigrants as an insecurity source.

Key words: illegal migration,international police cooperation,international police cooperation organisms.

DIMENSIUNEA VALORICĂ CULTURALĂ A UNEI NAȚIUNI REFLECTATĂ ÎN COMPORTAMENTELE ȘI PRACTICILE ORGANIZAȚIONALE

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Abstract:

Fortunately, the differences in values do not create a barrier for understanding. Value differences can be overcome if people are tolerant towards diversity. The lesson for transcultural management is clear, understanding and acceptance of different values is essential for the success of every institution which has a multicultural environment. It is extremely important to analyse the differences and similarities between cultures although there can be differences within the same culture. A comprehensive description of cultural differences is desirable but impossible to accomplish. In this respect there have been attempts that may constitute a starting point in initiating such research.

Key words: universality, transcultural, organizational culture, primary socialization, rationality, individualism/collectivism, bureaucratic culture