

# PRO PATRIA LEX

REVISTĂ DE STUDII ȘI CERCETĂRI JURIDICE

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*I. DREPT PUBLIC*

## DECENTRALIZATION IN MULTIETHNIC STATES

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**Abstract:**

*Decentralization is of itself a relative rather than absolute concept, which can be understood only “against either different normative models or different practical starting points”. In Central and Eastern Europe it has proved more difficult to solve conflicts in a peaceful way. During the Communist period, ethnic tensions were suppressed and they broke out all the more violently when the authorities lost the capacity to control the situation by force. The process of decentralization in Romania has been a process with a stop-and-go cycle, not a gradual policy improvement process. Decentralization often advanced more due to international pressures than driven by the convictions of local politicians or voluntary decisions of the central government.*

**Keywords:** decentralization, deconcentration, multiethnic states, reform.

# DREPTUL LA VIAȚĂ ȘI LA INTEGRITATEA PERSOANEI ÎN CONCEPȚIA ȘI PRACTICA EUROPEANĂ

Cătălina NĂSTASE<sup>1</sup>

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**Abstract:**

*The right to life protects against human beings bodily harm to the integrity of the other person, being so essentially prohibiting a person kills . Also the right to life is an expression that describes all the rights that are assigned to living beings in general and men in particular.*

*Infringements of the right to life can see actions that end of life, death, conceived in a general sense: the death penalty, voluntary interruption of pregnancy, euthanasia, eugenics and suicide. Most common understandings of the right to life are the legal instruments available that define and defend life.*

**Keywords:** right to life and integrity of persons, European Union Charter of Fundamental Rights, legal protection of human rights, law of compared.



# ORGANIZAȚIA NAȚIUNILOR UNITE – ÎN FAȚA SFIDĂRILOR ÎNCEPUTULUI DE SECOL ȘI DE MILENIU

**Oana Mihaela VIȘAN**<sup>1</sup>  
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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

# STATUTUL COMBATANȚILOR ÎN DREPTUL INTERNAȚIONAL UMANITAR

**David UNGUREANU**<sup>1</sup>

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**Abstract:**

*In the terminology of the international humanitarian law, combatants are those persons authorized to commit hostile acts under international protection. In other words, combatants can not be held responsible for acts committed in time of war, provided that their actions comply with the laws and customs of war.*

**Keywords:** soldiers, spies, mercenaries, war criminal

# FUNDAMENTELE BICAMERALISMULUI ÎN STATELE UNITARE ȘI BICAMERALISMUL ROMÂNESC – EVOLUȚII ȘI DEZVOLTĂRI

Cătălin ANDRUȘ<sup>1</sup>

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## Abstract:

*If justification of bicameralism in federal states or complex is easy, in the unitary states, funding has increased complexity on the one hand because nuances of the constitutional model, on the other hand because of the double report of the citizens with national parliament and European Parliament.*

*Through this study we want to analyze which are the main foundations of bicameralism in european area and if these still can provide a perspective for national parliaments.*

*Arguments on the foundation of bicameralism in european constitutional systems or their inconsistency and even absence can be models and solutions in the current debate on romanian constitutional reform including the structure of Romanian Parliament.*

**Keywords:** Bicameralism, constitutional reform, parliamentary structure ;

## ANALIZA INFRAȚIUNILOR LA REGIMUL ACTIVITĂȚILOR CE CONSTITUIE MONOPOL DE STAT

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**Abstract:**

*There are certain commercial activities, stipulated by the law, for which free access on the market is a danger, both for the commercial activity and for the consumers' health. this is the reason why the state comes and limits the access for commercial activities carried out in certain fields. In this article we discuss, from a criminal point of view, the activities involving producing and trading of weapons, ammunition and explosives, drugs, precious metals and stones, alcohol and the activities developed by economic entities involved in gambling.*

**Keywords:** economic-financial crime, crimes related to the legal regime of weapons, illegal gambling, counterfeit drugs

## ACȚIUNEA DIPLOMATICĂ EXERCITATĂ DE ORGANELE INTERNE ALE STATULUI

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**Abstract:**

*Institutional structures that represent state interests in international relations and diplomacy are set out by the constitutions of states, and there is no international standard to indicate as such.*

*International practice is relatively uniform in the sense that these activities are carried out by the President, the government through its chief, Foreign Ministry and Parliament.*

*May exercise powers abroad, the Ministry of Foreign Affairs (which is the body specialized in international relations) and other ministries - trade, tourism, defense, health, culture, transport, etc.*

*Structure and internal forms of state for external relations are established in relation to state interests, that internationally agreed standards.*

**Keywords:** diplomatic action, immunities, representation, foreign policy.

# PARTICULARITĂȚILE INFRAȚIUNILOR LA REGIMUL ARMELOR ȘI MUNIȚIILOR PREVĂZUTE ÎN LEGEA SPECIALĂ

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**Abstract:**

*Romania's integration into the European Union highlighted the need to harmonize national legislation in the field of circulation and use of lethal and nonlethal weapons in the entire space community and also an efficient collaboration between institutions in each state that are authorized to record, monitor and control the possession and circulation of weapons and ammunition, so as to be in control of the criminal phenomenon which can be accomplished using high-risk instruments. The country's accession to the Schengen area has produced important changes that refer to the obligations of the romanians who possess lethal weapons.*

**Keywords:** lethal weapon, danger, use of weapon, ammunition, offense.

## LEGITIMA APĂRARE – CAUZĂ JUSTIFICATIVĂ

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**Abstract:**

*Introducing cases supporting our criminal legislation provides a more comprehensive perspective of the essence of the crime. This is not only a crime punished by the criminal law, presenting a social danger and committed with guilt, but also must not contradict with the law as a whole, thus there should not exist a permissive cause, dictated by the superior legal order, because, in the hypothesis that a justifying cause would operate, the act would become unlawful, and its other essential features would lose significance. The new Penal Code, even if in its list of essential features of the offense did not mention the anti-judiciary, it was implicitly recognized by regulating the justificative causes and their effects on the existence of crime.*

**Keywords:** self-defense, guilt, social threat, crime, criminal liability.

# SCURTĂ ANALIZĂ A REPREZENTĂRII NAȚIUNII ROMÂNE ÎN REGLEMENTĂRILE CONSTITUȚIEI

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## Abstract:

*Any modern community, the state organization is defined by its constitutional limits. Constitution, as the set of rules, is the place through which the „game” policy, where the main „players” are political institutions. After the Revolution of 1991, replacing bases on democratic principles was restored, a phenomenon that is founded on the legal constitution of 1991. National sovereignty is recognized by it, because it is a force for democracy. Applying this principle is made practical by the constitution and functioning of Parliament. Reviving the democratic ideas of totalitarianism failure demonstrated the viability and strength of Parliament.*

**Keywords:** National representation, political pluralism, separation, balance, cooperation

*Motto: „... prerogativele nu sunt sentimente,  
a face ceea ce trebuie si cum trebuie nu înseamnă  
întotdeauna a face ce-ți place ...”*

H. de Balzac



## *II. DREPT PRIVAT*

## CONSIDERAȚII DESPRE PROTECȚIA DREPTULUI LA RESPECTUL VIEȚII PRIVATE ȘI DE FAMILIE

**Laura MACAROVSKI**<sup>1</sup>  
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**Abstract:**

*Theme Article refers to the right to private life, family life and the inviolability of the home, correspondence and telephone, as enshrined in international treaties and the Romanian Civil Code.*

**Keywords:** Privacy, Family life, Inviolability, Professional home.

# EVOLUȚIA CONCEPTELOR DE DREPT COMUN ASUPRA TEORIILOR IZVORULUI OBLIGAȚIEI CAMBIALE ÎN PERIOADA GERMANĂ

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## **Abstract:**

*The theories of obligation emitted into the field of bills of exchange source contain four main periods (Italian period, French period, German period and Italian – Romanian period) and this material has proposed to analyze the German period because of its extent, complexity and effects.*

*The obvious concerns of specialists have generated the emergence and the reasoning of four main theories main (contractual theory, personification theory, theory of joint and unilateral theory) about the source of the obligation under bills of exchange in a causal nexus intrinsic and extrinsic, contextualized, of course on the specific social -economic periods of germination.*

*It reveals the outline of a new perspective about the legal nature of the bill itself, the prospect of a double source for this obligations, under the parameters of rule and exception.*

**Keywords:** bill, contract theory, personification theory, theory of joint and unilateral theory.

# ASPECTE DE NATURĂ JURIDICĂ ȘI TEHNICĂ ÎN DOMENIUL INTERMEDIĂRILOR ÎN ASIGURĂRI

(Partea II)

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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

# OBLIGAȚIILE TRANSPORTATORULUI LA PUNCTUL INIȚIAL AL DEPLASĂRII MĂRFURILOR. PARTICULARITĂȚI ÎN TRANSPORTURILE MARITIME ȘI FLUVIALE

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**Abstract:**

*The study aims to analyze requirements for inland waterway to the first point of the movement of goods. The most important obligations at this stage of the contract of carriage are: obligations of the means of transport, take delivery of goods, loading and stowage.*

**Keywords:** duty, carrier, river, ship, cargo

## INSTRUMENTE TEORETICE ȘI PRACTICE DE CLASIFICARE A ABATERILOR DISCIPLINARE

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**Abstract:**

*In this study we submitted to the classification of disciplinary offenses in relation to the following theoretical and practical tools: Labour Code, collective contacts, internal regulations, legal practice. Thus, we identified the following classification criteria: the nature of the penalty content, form of guilt and character of the misconduct. Much of the study is devoted to the last criteria, according to which disciplinary offenses fall into serious misconduct and repeated violations, during which we highlighted the key role of collective agreements and judicial practice to disciplinary labor law, in general, but especially to considered problematic.*

**Keywords:** disciplinary offences, Labour Code, collective agreements, internal regulations, legal practice, classification criteria, serious misconduct, repeated misconduct.

## PRIVIRE GENERALĂ ASUPRA NOȚIUNII DE RĂSPUNDERE JURIDICĂ

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**Abstract:**

*Conceived as a fundamental component of the law system, liability is an amount of specialized forms of liability, provided by various legal texts, and because its formes are significantly different – civil liability, criminal liabiliby, administrative liability, disciplinary liability, etc. - it's difficult to construct a definition that includes all their common characteristics. It can be distinguished several forms of legal liability, according to some factors considered independent and interfered, such as affected social values, type of the violated legal rule, the seriousness degree ot the offender guilt.*

**Keywords:** liability, social responsibility, social values, offense, violation.

## PLAGIATUL, PIRATERIA ȘI CONTRAFACEREA ÎN DOMENIUL OPERELOR SCRISE.

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### **Abstract:**

*The reaction of the society to copyright is retained compared to the reaction to classical crimes. Plagiarism, counterfeiting and piracy are illegal activities carried out in the context of economic, business and financial area through means and methods that do not resort to physical force and violence, so this type of crime is not known and when acknowledged is treated with indifference. This article is a warning for all the readers to know that these issues can seriously damage copyright owners.*

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



## RISCUL CONTRACTULUI ÎN REGLEMENTAREA NOULUI COD CIVIL

**Mara IOAN**<sup>1</sup>

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**Abstract:**

*The idea of risk must be analysed in triple sense: the risk of property destruction, the risk of fortuitous impossibility to performance the obligation and the risk of fortuitous inability to perform the contract. The new Civil Code led by new legislative to a uniform approach regarding the risk of contract non-fortuitous. So, into the contracts regarding the translativ property was dropped the rule of "res domino risk" and now the new rules provides that the risk is assumed by the debtor of the obligation to give, obligation that is impossible to be executed.*

**Keywords:** risk, chance, good approximation, defaults, non-contract

## PRIVIRE ASUPRA CONTRACTULUI DE UCENICIE LA LOCUL DE MUNCĂ

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**Abstract:**

*In this paper we wish to highlight changes in the field of apprenticeship contract, following to the entry into force of Law nr.287/2009 – Civil Code and to the republishing of Labour Code and of Law no.279/2005.*

**Keywords:** apprenticeship, employment contract

*III. ORDINE PUBLICĂ  
ȘI SIGURANȚĂ  
NAȚIONALĂ*

# THE COMPETITIVE ADVANTAGES AND CRIMINAL BEHAVIOUR OF THE MULTINATIONAL CORPORATIONS

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**Abstract:**

*The corporate fraud could be beheld as a result of a multitude of factors which collaborate over the personality of corporate fraudster. The approach of them is very important to enhance the administrative and judicial authorities' capacities to fight against the corporate fraud. For this goal, the analysis will be set on the demographic, socio-cultural and political factors.*

**Keywords:** corporatist criminality, socio-cultural factors, corporatist fraudster, Globalization, White collars crime.

## COMPETENȚELE ORGANELOR JUDICIARE CIRCUMSCRISE EXECUTĂRII PROCEDURII EXTRĂDĂRII

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**Abstract:**

*Extradition is that procedure wherewith a sovereign agrees to hand over to another state a person within its territory and who is impleaded or arraigned for an offence or he is wanted for executing a penalty in the requesting state. Extradition is a bilateral act that intervene between two states: one is that where the offender harboured and whereto a request for extradition is addressed and the other one which is interested in punishing the offender and sends an extradition request for that purpose.*

**Keywords:** passive extradition, active extradition, requesting state, extraditable person, international pursuance.

## COMPETENȚELE POLIȚIEI ROMÂNNE PE LINIA PREVENIRII ȘI COMBATERII DISPARIȚIEI MINORILOR

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**Abstract:**

*The disappearance of a minor in alarming conditions impose, by necessity, the existence of fast, professional and effective police actions, in partnership with civil society and all agencies available to contribute to the prevention of some true human drama, by saving the child's life or health. In most counties, specialized police structures are considering the implementation of different projects and development of specific measures which would allow the children ,who are likely to become victims, to be .identified, fostered and advised. In order for these projects to be carried out , it has to be taken into consideration the necessity of immediate involvement of local authorities and specialized structures of the state.*

**Keywords:** organized crime, minors trafficking, investigation, sexual abuse, prevention, rebutment.

## CONTRAVENȚIA, DE LA „A” LA „Z”

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**Abstract:**

*Much has been written and will write about all sorts of acts that constitute offenses, but not, to sit several times about what is the offense in general. Moreover, there are errors of interpretation of law or interpretation without good faith, which ultimately alters the act of justice, which with the exercise autorității reprecusiuni state.*

**Keywords:** Contravention, police work, social implications, conflicts, law

## SCURTE CONSIDERAȚII PRIVIND TEORII ALE AGRESIVITĂȚII

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**Abstract:**

*Human violence represents one of the recurrent themes of contemporary societies. Preoccupation towards violent manifestations, dilemmas regarding the growth of criminality and its causes and the strategies of preventing and combating these phenomena represent reflection subjects for opinion leaders, politicians, journalists, researchers from various domains of social sciences and in particular for specialists in education.*

*Defining violence proved to be an extremely difficult task. This explains the complexity of this phenomenon, along with its great diversity of its manifestation forms. The difficulty occurred also because of the casual association and sometimes by mistaking violence with aggressivity.*

**Keywords:** violence, aggressiveness, criminality, social sciences