

PRO PATRIA LEX

REVISTĂ DE STUDII ȘI CERCETĂRI JURIDICE

Volumul XIII, Nr. 2(25)/2014

Revistă indexată PROQUEST, SSRN, EBSCO și INDEX COPERNICUS



PRO PATRIA LEX
Revistă de studii și cercetări juridice
Volumul XIII, Nr. 2(25)/2014

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ISSN 1584-3556

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I. DREPT PUBLIC

ROLUL INSTITUȚIEI „AVOCATUL POPORULUI” PRIVIND GARANTAREA DREPTURILOR FUNDAMENTALE ALE OMULUI

Nicoleta DIACONU¹

Abstract:

Protection and guarantee of rights fundamental human rights is a priority objective of international and national legislation. Because fundamental human rights can be exercised in practice, it is necessary a set of guarantees and mechanisms of national character, providing efficiency of these rights. While there separation of powers, the problem of security to each of the authorities holding state functions. In the center of judicial safeguards guaranteeing protection of human rights and the institution "Ombudsman", which helps maintain the security functions performed on human rights.

Keywords: human rights; Ombudsman; principles; guaranteeing human rights.

CETĂȚENIA UNIUNII EUROPENE - TEMĂ DE REFLECȚIE

Ion DIACONU¹

Abstract:

According to the EU treaties, the 500 million citizens of EU Member States are also citizens of the Union. The relationship between the two people has occasioned much debate and reflection, some optimistic, others were skeptical, some from the terms of the Treaties, others on more boldly into the future.

Keywords: *European citizenship; European Court of Justice; European treaties.*

DEREGLAREA SISTEMULUI CLIMATIC PLANETAR

Ștefan ȚARCĂ¹

Abstract:

General conclusion detached and affirmed is firm: climate change causes serious risk. Everywhere in the world and of each sector of the existence and activity of the part, but there is scope for effective intervention to cope with a powerful climate heats and in its effects.

Keywords: *global warming, climate risk, climate change*

DEMOCRAȚIA - CEA MAI BUNĂ FORMĂ DE GUVERNĂMÂNT?

Bogdan ȚONEA¹

Abstract:

This study discusses the link between fundamental freedoms and democracy, as a form of government. The real power of democracies consist in respect for individual freedom and also in the free acces to the political power for every citizen. The author focuses on the relevant characteristics of the democratic state, which made from human rights and rule of law basic principles of their existence.

Keywords: *human rights, freedom, democracy, democratic gouverment, political power*

CONSIDERAȚII PRIVIND NOUA DIPLOMAȚIE - DIPLOMAȚIA REALIZATĂ PRIN ORGANIZAȚII INTERNAȚIONALE

Tudor TĂNĂSESCU¹

Abstract:

New diplomacy is generic name of multilateral diplomacy, of that achieved by international governmental or parliamentary diplomacy, in the case of organizations with international parliamentary profile. Institutional components of the new diplomacy are a delegation member of a state at an international meeting or at a session of an organ of an international organization, as well as permanent representation (mission) of a member state in addition to an international organization. New diplomacy also ranks among new mechanism and current methods of determining and continuing the relations among states.

Keywords: *new diplomacy, multilateral diplomacy, international organizations diplomacy, the right of active and passive legation*

RETRAGEREA DIN UNIUNEA EUROPEANĂ

Laura MAIEREAN¹

Abstract:

Continuous development of the European Union, marked by considerable expansion of "borders" of his ever-increasing level of economic and political integration, undeniable contribution to maintaining peace and stability on the European continent, coupled with the creation of Economic and Monetary Union (EMU), giving place a higher level of economic integration led long ignored one aspect, moreover, unlikely until recently: withdrawal from the EU and EMU.

Keywords: *European Union, development, economic and political integration, competition*

SUCESIUNEA STATELOR LA DATORIILE ȘI ARHIVA DE STAT A URSS

Viorel VELIȘCU¹

Abstract:

The term "state debt" 1983 Vienna Convention on Succession of States in respect of goods, archives and state debts' any financial obligation of a predecessor State to another State, an international organization or any other subject of law international born under international law".

Towards the end of its existence USSR gathered a significant debt, \$ 67.9 billion. Foreign creditors have been particularly concerned about the fate of their money. So with every possible occasion they remembered about debt. The situation was clarified after the Russian Federation took over the task unilateral foreign economic activity throughout the union, after confirming it through bilateral agreements, by the end of 1992.

Keywords: state debt, archive, sequence, Russian Federation

REGLEMENTAREA RECURGERII LA FORȚA ARMATĂ ÎN DREPTUL INTERNAȚIONAL UMANITAR¹

David UNGUREANU²

Abstract:

The law finds its full validity and applicability in times of crisis or extreme stress because at such times the temptation to justify the use of certain means, which we normally condemn, is at the highest rates. The International humanitarian law has been adopted and assimilated in order to limit the violence inherent in any armed conflict. It does not prohibit war, it implies it and attempts as much as possible to limit its disastrous consequences.

Keywords: international humanitarian law, doctrine, military conflicts, war

CLAUZA MARTENS ȘI ÎNCĂLCAREA LEGILOR UMANITĂȚII LA FINALUL PRIMULUI RĂZBOI MONDIAL

Lavinia Andreea BEJAN⁴³

Abstract:

In the two Hague Conventions of 1899 and 1907 respecting the Laws and Customs of War on Land an innovative provision emerged, stipulating, in its final form, that, in cases not covered by the adopted regulations, the inhabitants and belligerents remain under the protection and the rule of the principles of the laws of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience. In this context, the paper aims at inquiring the manner in which this clause and its associated concepts were taken into consideration in the years of WWI (and especially at its end), mainly by identifying the main positions adopted by states regarding the newly appeared concept of laws of humanity in international law.

Keywords: international law, the Martens clause, the laws and customs of war, the laws of humanity, crimes against humanity

EVOLUȚIA CONCEPTULUI DE RESPONSABILITATE SOCIALĂ ÎN PLAN EUROPEAN ȘI INTERNAȚIONAL

Irina Loredana VOICU (STĂNCULESCU)¹

Abstract:

The concept of social responsibility has become known since 1970, although various aspects related concepts were integrated into the scope of organizations and governments since the nineteenth century. Since the beginning social responsibility was focused mainly on the business sector at international level, the term corporate social responsibility (CSR) is better known than social responsibility. At EU level social responsibility is understood as a concept through which a company voluntarily integrates concerns about the social and environmental issues in business operations and in their interaction with our stakeholders.

Keywords: *social responsibility, development, European Union, national strategy*

CORUPȚIA - FACTOR GENERATOR AL CRIMEI ORGANIZATE

Gina NEGRUȚ¹

Abstract:

Organized Crime originates in the associations, cartels and criminal gangs, and screen companies, aimed at committing offences, exploiting weaknesses with the purpose of getting gains and profits, influence and power through legal and illegal means, all of which can be achieved through violence, organized traffic, extortion, corruption, manipulation, frauds and money laundering.

Keywords: *crimes of corruption, transnational crime, organized criminal group, seizure of real estate, confiscation*

II. DREPTPRIVAT

CONSIDERAȚII PRIVIND DOMENIUL DE APLICARE AL REZOLUȚIUNII

Mara IOAN¹

Abstract:

If, before entering into force of the current Civil Code was obvious that the rescission/revocation of the contract was a specific effect of culpable non mutual contracts, currently opinions are not uniform, ranging from one extreme to another, respectively from its application to any contracts to strictly limit the scope of reciprocal agreements.

Keywords: *termination, unilateral contract, mutually binding contract*

ASPECTE REFERITOARE LA CAPACITATEA SUCCESORALĂ A CELUI CONCEPT DAR NENĂSCUT DIN PERSPECTIVA PROCREĂRII ASISTATE MEDICAL

Diana Anca ARTENE¹

Abstract:

Medically assisted human reproduction becomes more and more a reality in the Romanian society. This new way of obtaining the attribute of a legal subject has major implications on the current social-legal relationships and therefore, the legal concepts which are impacted by or fall under this topic should be identified. Among such legal concepts, the lineage, the obtaining of the legal capacity - to undertake and fulfilled obligations as well as to acquire and exercise rights by mere event of birth - and of the capacity (entitlement) to inherit such child should be mentioned. In Romania, the legislation is not comprehensive and rather ambiguous, even after the entering into force of the Order no. 765 of 27 may 2011 of the Ministry of Health and of the new Civil code.

Key words: *Medically assisted human reproduction, capacity to inherit, embryo, post-mortem reproduction*

CONSIDERAȚII PRIVIND CARACTERELE JURIDICE ALE IPOTECII

Ioana PANȚU¹

Abstract:

The right mortgage is a real right accessory, a guarantee covering a movable or immovable property of the debtor or other person, who gives up without dispossession and the mortgagee the right to demand and preference right over that good.

Key words: mortgage, characters mortgages, warranty

O PERSPECTIVĂ COMPARATIVĂ ASUPRA CONDIȚIILOR DE FORMĂ ALE CONTRACTULUI DE DONAȚIE ÎN DREPTUL FRANCEZ ȘI ROMÂNESC

Codrin CODREA¹

Abstract:

This article intends to accomplish an analysis of the reasons behind the form conditions of the donation contract, by looking both at the French and Romanian law, and also some clarifications of the new aspects in the field introduced by the new Romanian Civil Code. The form conditions of the donation have their origin in the Roman law, and their justifications were also adopted by the ancient French law, where certain formalities were required only ad probationem. The principle of the donation's solemnity was introduced for the first time in French law by the 1731 L'ordonnance sur les donations of Henri-François d'Aguesseau, which was a source of inspiration for the later Napoleon Code, which provided the principle in article 931. Following the French model, the solemnity of the donation was stipulated in article 813 of the 1865 Romanian Civil Code, since it was considered that the authentic form has a protective role against the consequences of the donation on the wealth of the disposer and his family.

Keywords: donation, solemnity, Roman Law, French Law, form conditions

CRIZA FINANCIARĂ ȘI INSOLVENȚA UNITĂȚILOR ADMINISTRATIV-TERITORIALE

Vasile IANCU¹

Abstract:

In the introduction, the structure of the revenues for the local budgets is described and also the ways of founding the local public activities. Following that, the article describes the components, competencies and the consequences of the local financial autonomy and the local budgetary principles. The last part shows the state of financial crisis and the state of financial insolvency of the heritage of the administrative-territorial units.

Keywords: financial crisis, financial insolvency – both signify the financial difficulties caused by the shortage of cash during certain periods of time, administrative-territorial units

PIAȚĂ RELEVANTĂ

Ștefan MIHĂILĂ¹

Abstract:

The market and the processes taking place in the market will end with the end of humanity, simply because both our predecessors and us, contemporaries are concerned about a big problem, targeting the future market and market processes. Although it would seem that the theme, which we proposed a topic for research would be sufficiently studied, not just such things. Because a problem can not be considered solved as long as there are contradictions, so long as there are lawyers, lawyers, economists.

Keywords: customers, free market, competition Law

SITUAȚII SPECIFICE DE ANGAJARE A RĂSPUNDERII MEMBRILOR ORGANELOR DE CONDUCERE ÎN CAZ DE INSOLVENȚĂ A OPERATORILOR ECONOMICI

Valeria GHEORGHIU¹

Abstract:

Any economic entity meets during the course of his business and profitable periods, and periods where profit is zero. The worst situation is when the insolvency seems the only remaining solution at hand.

Keywords: *Insolvency, debtor, subject to insolvency proceedings, illegal, responsibility, members of the management body.*

**STUDIU ASUPRA UNOR SOLUȚII PRONUȚATE ÎN RECURSURI ÎN INTERESUL LEGII
DE CĂTRE ÎNALTA CURTE DE CASAȚIE ȘI JUSTIȚIE CU PRIVIRE LA DISPOZIȚIILE
LEGII NR. 58/1934 ASUPRA CAMBIEI ȘI BILETULUI LA ORDIN ȘI LEGII NR. 59/1934
ASUPRA CECULUI, CU MODIFICĂRILE ȘI COMPLETĂRILE ULTERIOARE**

Aida Diana D. DUMITRESCU¹

Abstract:

The High Court of Cassation and Justice was grasped successively into settlement of interest of the law in relation to the provisions of Law no. 58/1934 on bills of exchange and promissory notes and Law .no 59/1934 on checks, as amended and supplemented. So, by this judgments the Supreme Court contributes to the explication and unitary applying of the legislative framework for securities.

Keywords: *The High Court of Cassation and Justice, bill of exchange, promissory note, check.*

GARANȚIILE REALE ÎN CONTRACTUL DE TRANSPORT DE MARFĂ

Ion IORGA¹
Laurențiu DRAGU²

Abstract:

The real warranties which protect the carrier against the insolvency of debtors transportation cost are the right of retention and the carrier's privilege, as well as the conventional mortgage of movable property and the pledge, as regulated by the Civil Code provisions, which reshaped the legal status of the real warranty for movable property, thus ensuring a consistent and coherent framework in the field.

Keywords: *freight transportation agreements, carrier, real warranties, right of retention, privilege*

CÂTEVA ASPECTE PRIVIND SPECIFICUL ȘI TRĂSĂTURILE ACTIVITĂȚII DE AVOCAT SALARIZAT ÎN INTERIORUL PROFESIEI

*Barbu VLAD¹
Dorel Cosmin MARINESCU²*

Abstract:

Professions, by definition, carry out an independent work, which exceeds the scope of labor law because these professions based on their intellectual effort, an effort that prevails in relation to the material used, the product developed or physical work done. Salaries within the profession is a means of exercising the profession of lawyer that a lawyer devotes its activity to practice a form which he is subordinate in relation to determining the actual conditions of work. Wage agreement contract n is not an employment contract and therefore not subject to labor law and lawyer this type of lawyer is subordinated employer (usually professional society), but making, his case will be reduced in relation to subordinate employee-employer labor law.

Keywords: *lawyer, salary, subordination, profession*

ASPECTE PRIVIND ÎNCHEIEREA CONTRACTULUI INDIVIDUAL DE MUNCĂ ÎN UNELE STATE MEMBRE ALE UNIUNII EUROPENE

*Cătălin Daniel VASILE¹
Ana Maria BĂBEANU MĂCĂRESCU²*

Abstract:

This article is analyzing the general conditions for the recruitment and hiring employees in France and analyzing general notions concerning the conclusion of the individual labor contract in Belgium. Also, Italian law is that individual labor contract agreement whereby the employee is obliged to provide work, physical or intellectual, under the direction and supervision of the employer who undertakes to pay him a salary. Next we considered some aspects of the employment contract in the Netherlands and the United Kingdom.

Keywords: *contract, jobs, recruitment, employment, pay, employee*

VINOVĂȚIA – CONDIȚIE GENERALĂ A RĂSPUNDERII PENTRU PREJUDICIILE CAUZATE ÎN EXERCITAREA RAPORTURILOR JURIDICE DE MUNCĂ*

Ștefania-Alina DUMITRACHE¹

Abstract:

The study is dedicated to guilt as mental attitude of the perpetrator's illegal acts causing injury, which under article 253 paragraph 1 and 254 paragraph 1 of the Labor Code is prerequisite for liability for damages caused in the exercise of legal labor relations. The central idea is that whenever there are no special rules in labor law, we apply the rules established for contractual liability and further whenever contractual liability in civil law does not know regulations, there will be applicable those relating to tort liability. This is why we have analyzed guilt and non-liability causes as a result of eliminating the subjective element not only in terms of labor law regulations, but also those of the Civil Code.

Keywords: *liability, damages, guilt, unforeseeable circumstances, force majeure, victim's act, the act of third party.*

CONSIDERAȚII PRIVIND RESTRÂNGERILE CAPACITĂȚII PERSOANEI CARE SE ÎNCADREAZĂ ÎN MUNCĂ

Ana Maria BĂBEANU-MĂCĂRESCU¹

Abstract:

Human existence in society could never be conceived as separate jobs. However, there are situations where the legal capacity of person supports constraints and restrictive expressly regulated by law in order to protect the person or defense of general interests of society. Not presumed incompatibilities can not be deduced by analogy and can not be extended, they are expressly and strictly regulated by law, with exceptional character. When we speak of incompatibility must understand inadmissible employment of a particular post or functions or the provision of a particular activity.

Keywords: work; incompatibilities; age; protection of young people and women; public property or private; exercising of function

SITUAȚII SPECIALE PRIVIND PROTECȚIA MATERNITĂȚII DIN PERSPECTIVA JURISPRUDENȚEI CJUE

Cătălina-Adriana IVĂNUȘ *

Abstract:

Pregnant workers, workers who have recently given birth or who are breastfeeding must be considered a specific risk group so measures must be taken. Workers who have recently given birth or workers who are breastfeeding should not treat women on the labour market unfavourably nor work to the detriment of directives concerning equal treatment for men and women. Unfavourable treatment of a woman related to pregnancy or maternity constitutes direct discrimination on grounds of sex. EU Directives do not contain express provisions on the rights of women who use assisted reproductive procedures, either in vitro fertilization or surrogacy. In these cases the Court of Justice of the European Union would have to rule on the application of EU law.

Keywords: *maternity, pregnancy, non-discrimination, labour relations*

ASPECTE GENERALE PRIVIND PUNEREA ÎN APLICARE A LEGISLAȚIEI ANTITRUST

Vlad-Teodor FLOREA¹

Abstract:

In a continuously transforming European society in which trade plays a crucial role, it is necessary to impose certain requirements related to the competition rules and, naturally, to the implementation of these rules. In the present study, the author first presents, the mechanisms instituted by the treaties and legal institutions relevant from the point of view of antitrust phenomenon. The approach brings to the attention of readers the most important acts of the secondary law of the European Union that aim at the implementation of competition law rules. Furthermore, the author's analysis of Regulation No. 1/2003 (implementation of Articles 101 and 102 of the Treaty) achieve important aspects related to jurisdiction and prescription.

Key words: competition law, antitrust, enforcement, Regulation no. 1/2003, competence, prescription.

*III. ORDINE PUBLICĂ
ȘI
SIGURANȚĂ NAȚIONALĂ*

**MIC STUDIU DE DREPT COMPARAT ÎN DOMENIUL JOCURILOR DE NOROC
- PARTEA II -**

Marius PANTEA1

Abstract:

This year The European Casinos Association (ECA) presented the first activity report of the industry it represents, which contains data and information of general interest for the MS of the EU. In this article we analyze the relevant data in the report complemented by some personal opinions of the author. Taking into consideration the large amount of information we will analyze the regulations and statistics for each MS which allow the organization of gambling in several parts.

Keywords: *gambling, regulatory authorities, casino, on-line gambling, social measures, entertainment industry*

NOUA FAȚĂ A TERORISMULUI

Marius DIACONU¹

Abstract:

This paper aims to propose a new vision of terrorism, an overview of modern terrorist and counter measures.

Keywords: *terrorist psychological profile, violence, terrorism, urban terrorism, data base.*

MODELE DE ORGANIZARE ALE SISTEMELOR COMPLEXE DE ÎNALTĂ FIABILITATE

Florentina LINCĂ¹

Abstract:

Recent trends in risk-based decision making are reviewed in relation to novel developments in comparative risk analysis, strategic risk analysis, weight of evidence frameworks, and participative decision making. Delivery of these innovations must take account of organisational capabilities in risk management and the institutional culture that implements decision on risk. We stress the importance of managing risk knowledge within organisations, and emphasise the use of core criteria for effective risk-based decisions by reference to decision process, implementation and the security of strategic added value.

Keywords: *high reliability organization; organizational quality; complex systems; disaster resistance; resilience; objective tree*

ASPECTE REFERITOARE LA DEZVOLTAREA DURABILĂ: PROCES ECONOMIC, SOCIAL ȘI POLITIC COMPLEX

Ana-Maria MORARU1

Abstract:

A current concern of the modern societies is the environment, but the environment must be integrated to the economic development, because the need to achieve a balance between conservation and economic development is not an utopia, is achievable by optimizing long-term net benefits for the population, but without significant degradation of natural resources, which supports the view that environmental protection efforts can create economic growth².

Keywords: *the meanings of the concept "sustainable development", the pillars of sustainable development, the relationship between environment and economy, the decoupling thesis, the complementarity thesis, the antinomy thesis, the qualitative dimension thesis.*

METODELE ȘI TEHNICILE SPECIALE DE INVESTIGARE A TRAFICULUI DE DROGURI

Laurențiu GIUREA¹

Abstract:

Special investigation techniques are numerous, varied and evolving, are secret and can restrict certain rights and freedoms of individuals.

These techniques are audio-video recordings, surveillance of communications and electronic transmissions, use and protection of witnesses and providing immunity to them, controlled deliveries.

Illicit drug trafficking investigation require extensive use of the most modern technical methods in forensic and especially the use of modern means of investigation.

Keywords: *audio-video recordings, surveillance, controlled deliveries, undercover investigator.*