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- II^nd edition -

June 24, 2022

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International Law

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Associate scientific researcher **Cristina Elena Popa Tache**, *Institute of Legal Research of the Romanian Academy*

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SCIENTIFIC PAPERS

THE EUROPEAN PROBLEM REGARDING THE ACCEPTANCE, INTEGRATION AND PREVENTION OF CRIME TOWARDS MIGRANTS AND REFUGEES

Professor Ana CAMPINA
Universidade Fernando Pessoa, Portugal
Professor Carlos RODRIGUES
Universidade Fernando Pessoa, Portugal

Abstract

The Migration in a global perspective is contemporary of the Human life, with the most different motivations, in each time and place, within the specific legal frameworks depending on the State law and the International Law. Consequently, in the human global mobility there are different positions and possibilities to these human beings by political, social, economic, and cultural powers. The continuous research is an academic and scientific need, being focus on the global migration and refugees, considering the international legal meaning. There are Regions and States where the Migrants and Refugees are welcome, accepted, and integrated, not only by the legal point of view but the governs behaviors, public policies, social reception, economic and financial support/investment, but in contrast, there are completely opposite positions generating serious problems since the denial to the abandon of millions of human beings. Since the Arab Spring, the reality for millions of Refugees is dramatic by the violation of the Human Rights, the International Law, and States Fundamental Rights. The Opinion Public Opinion is vulnerable to the manipulated information in different States, so it has provoked the discrimination, rejection, and violence against Migrants and Refugees. However, it´s basic to understand the serious context as there are international movements, involving International organized crime acting with Migrants and Refugees – human trafficking, smuggling, exploitations, violence, and all kind of violations. The International Security – legal, protection and criminal (re)action, police authorities – between States and International Organizations have developed different reactions. This is a serious and difficult problem needing a permanent effective work of all structures to protect millions of Human beings. The European Union, working together the international community, as well as with the most different movements – public and/or private – need to develop a concerted and strategic work receiving and integrating the Refugees, which measures must cover and protect all in Europe, regardless their origin.

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ACCELERATED ARBITRATION: AN EXPEDITED METHOD OF RESOLVING DISPUTES

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Abstract

When we speak of international commercial arbitration, we refer to arbitration that has as its object the resolution of commercial disputes on an international scale, between individuals or legal entities, whether these are companies or even States. In the vast majority of situations, we are dealing with commercial relationships of the most diverse nature, including international purchase and sale contracts, large-scale contracts, and license agreements in the field of intellectual property, among others. The advantages of international arbitration lie in its effectiveness when confronted with state justice, due to the neutrality of the arbitration forum, the precise knowledge of the arbitrators, the greater flexibility of the arbitration process, confidentiality, among others. However, it turned out that, in reality, there are problems. Over the last few years, the players have expressed some concerns, especially about the costs and the extension of procedural deadlines, which has made arbitration less appealing and increasingly equated with the justice of state courts. It should be noted that medium-sized companies are the most affected, because either they do not have the possibility of accessing this form of justice, not knowing it, or because they consider it to be very costly in view of the procedural costs it entails. To address some of the problems, the Expedited Arbitration Rules came into force on September 19, 2021. The figure of accelerated arbitration comes, therefore, to present itself as an optimized and simplified process, showing shorter deadlines so that disputes can be resolved quickly and economically. Given the novelty and importance of the subject, we intend to reflect on this new arbitration modality and its consecration by the most prestigious arbitration institutions, e.g. international Chamber of Commerce; American Arbitration Association; Arbitration Institute of the Stockholm Chamber of Commerce; Swiss Arbitration Association (ASA).
Keywords: accelerated; arbitration; commercial; disputes; procedural celerity.

ISO 9001, COMPLIANCE WITH LOCAL LAWS AND THE POSSIBILITY OF DEVELOPING BUSINESS RELATIONS BETWEEN KOSOVO AND EU

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Abstract

Kosovo is a small country located in the Western Balkans which faces difficulties of various natures that all countries in this region face. One of the problems facing Kosovo is economic development and high unemployment. A report by the Statistical Office of Kosovo shows that the unemployment rate in the first quarter of 2021 is 25.8%, while from this percentage over 54% of unemployment is among young people. It has also been observed that there is an imbalance between the labor market and the skilled workforce. Kosovo young people have potential and especially in recent years there is an advanced level in information

technology and customer service. So, Kosovo has a potential to provide advanced services in the field of information technology and customer support services for various companies in Western Europe. This is due to the fact that the youth of Kosovo have very good knowledge of skills in the field of information technology (ICT) and knowledge of foreign languages. With this in mind, many companies have been established which provide services to companies around the world but with special emphasis on the EU as well as companies which provide customer support services known as BPO (Business Process Outsourcing) companies. However, international clients to cooperate with Kosovar companies have some requirements in relation to the processes organized in Kosovar companies in order to ensure that the services they receive from these companies have a quality if not the same as those of EU countries, at a level which is acceptable to EU companies. This paper will present the requirements which derive from the ISO 9001 standard and how this certification affects the possibility of increasing cooperation with companies in the EU.

INDEPENDENT AND NON-CORRUPTIVE JUDICIARY GUARANTEE OF KOSOVO EU INTEGRATION

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Abstract

The justice system is one of the main pillars of any democratic society, in this regard, of Kosovar society. Ensuring the independence, impartiality, transparency and increasing the efficiency of the judiciary are postulates that express the trust of citizens in the judiciary. In order for this trust of the citizens to exist in the judiciary, the judiciary professionals must be able, with professionalism, dedication, effectiveness at work, and in accordance with the Code of Ethics, to meet one of the criteria for the integration of Kosovo into the Union. European. One of the principles in the justice system is the principle of the right to be tried by an independent and impartial court, which provides a double guarantee for the individual, this right guaranteed, on the one hand by the Universal Declaration of of Human Rights, the European Convention on Human Rights, as well as other documents and Recommendations of the Councilof Europe, and on the other hand, for the power in which the judiciary fulfills the obligations provided by the Constitution and laws. In this regard, Kosovo has made reforms of the judicial system, but from the current judicial practice, it can not be said that the judiciary with its work, in cases of corruption, adjudicates in accordance with the requirements of the European Union. The main objective in preventing and combating corruption in the judicial system in Kosovo is its reform and vetting at all levels of the judicial system, considering the fact that in Kosovo there is a sufficient legal framework designed precisely to ensure, among other things, justice for perpetrators of corruption offenses. A non-corrupt justice, among other things, will create conditions for Kosovo's integration into the European Union.

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COMPARATIVE PLANETOLOGY AS A FOUNDATION FOR ASSOCIATING SPACE LAW WITH SOLAR GEOENGINEERING GOVERNANCE: STRATOSPHERIC AEROSOL INJECTION AND VARIATIONS OF SULFUR DIOXIDE IN VENUS'S ATMOSPHERE

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Abstract

Mankind often seeks solutions to climate change and environmental crises, but rarely considers the feasibility of outer space to overcome such critical issues. Among many solar geoengineering approaches is stratospheric aerosol injection (SAI) whose concept suggests artificial control of the global temperature by spreading tones of sulfur dioxide into Earth's stratosphere. Given that the classic 'technology control dilemma' represents the central problem of solar geoengineering governance, however, this paper adopts a Venus-Earth comparative planetology method by addressing volcanology and atmospheric circulation aspects. An international regulatory framework engaging space law in solar geoengineering governance is consequently presented, which classifies two separate legislations: (1) research-based legislation (comparative planetology and Earth science) and (2) non-research-based legislation (national and international governance, ethical issues, economic factors, military utilization). Further highlighting climate change issues, SAI manifests the Anthropocene and regards Earth's stratosphere as an "inner environment", while comparative planetology manifests the Anthropocosmos and regards space as an "outer environment". This polymorphous consideration of atmospheric and space elements identifies a new approach of climate change techniques. Human relations that concern both environments should examine how social scientists would regard these separate boundaries or perceive them as a mergence between the two major epochs.

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SECURITY TREATMENT DURING THE STUDY OF CRIMINAL CASES IN THE COUNTRY OF THE WESTERN BALKANS CASE KOSOVO

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Abstract

It is considered that each State has sovereign control over their territories through the executive legislative powers and very significantly the judiciary. However, in weak states, especially those after conflicts such as the war in the Western Balkans, in this case the sovereignty of the state is questioned by some security challenges from internal actors in each state separately and as organized crime as a whole. The insecurities caused in weak states are brought about by factors and causes such as Corruption, organized crime, refugee flows, mass migration, terrorism and regional instability as a result of socio-economic and ideological political challenges. The main purpose of this paper will be to argue how and to what extent the legal persons who are subject to the procedure during the handling of criminal cases and the review of security in the region are challenged. In this context the concept of weak state should be given priority in assessing the difficult security situation in the Balkans, especially the parties and entities in criminal proceedings.

INTERNATIONAL LAW IN THE FACE OF NATIONALISM

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Abstract

The principal aim of the present essay is to explore the relationship between international law and nationalism, whilst arguing that both concepts cannot be viewed as two separate and self-contained realities, but should rather be considered in light of their mutual interaction. The external actions of a nation are reflected internally. Similarly, its internal actions have external repercussions. In this work, such consequences are examined in a nation-state with an authoritarian structure as opposed to those found in a democratic nation-state. Additionally, the concept of nationalism is studied in its variant forms in both these contexts, leading to the premise that an aggressive and expansionist nation-state is unlikely to be guided by a constitution that places a high value on democracy and freedom. A nation which does not respect the liberties of its own nationals will undoubtedly disrespect other States and their nationals, and vice-versa. This begs the question: should international law be irresponsive and neutral in these cases?

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CONFLICT OF INTEREST IN THE ACTIVITIES OF JUDGES IN UKRAINE AND THE EUROPEAN UNION: A COMPARATIVE LEGAL STUDY

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Abstract

The article examines certain problems of legal regulation of preventing conflicts of interest in the activities of judges in Ukraine, ways to resolve it, and foreign experience of individual EU countries in this area. The methodology of scientific work is based on a system of methods of general scientific and special legal methods of cognition. The analysis of the concept of "conflict of interest" in the scientific literature, national and international legal documents, in the legislation of individual EU countries was carried out. The definition of "conflict of interest in the activities of judges" is proposed. It is argued that the public interest in the activities of judges is the public interest in ensuring that persons working in the judicial system exercise their powers and make decisions impartially, objectively and fairly. Attention is focused on the peculiarities of the application of the system of voluntary disclosure and registration by judges of a list of private interests regarding a conflict of interest. The principles, signs, types and features of the presence or absence of a conflict of interest in the activities of judges are revealed, their content is specified. The procedure for disclosing information about a conflict of interest in the activities of judges is indicated. Two ways of resolving a conflict of interest in the activities of judges are established, their problematic issues are disclosed. The types of responsibility of judges in cases of violation of legislation on conflict of interest are determined. Separate directions for improving the legal regulation of preventing and resolving conflicts of interest in the activities of judges are proposed, taking into account the positive experience of legal regulation of individual EU countries in this area.

ANALYSIS OF THE RIGHT TO BASIC EDUCATION IN SOUTH AFRICA

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Abstract

The right to basic education refers to the learning needs appropriate to the experience and age of the learners. It contains primary and secondary educations where learners perform educational activities to achieve learning outcomes. The Constitution provides the right to basic education and states that everyone has the right to basic education as well as adult basic education. Every child must access basic education so that he or she can develop his or her talents, mental and physical abilities. The right to basic education is measured on the four important principles, namely availability, accessibility, acceptability,

and adaptability. The right to basic education still experiences some challenges, such as lack of sufficient schools, classrooms, transport of learners, properly trained teachers, delivery of teaching and assessment materials in an environment that is conducive to learning. The choice of language of instruction is also still a challenge in exercising the right to basic education. There is a quest to include children with different disabilities in the learning activities for basic education. The room for improvement in necessary in the education sector to ensure that the right to basic education is adequately available to all learners in South Africa.

COOPERATION OF CENTRAL AUTHORITIES IN CASES OF INTERNATIONAL PARENTAL ABDUCTION

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Abstract

The present thesis includes a study over the civil judicial cooperation and seeing to fill up the lacunas in the judicial system of cooperation with regards to child abduction cases. The most important result of any such engaging activity of writing a thesis on this topic would be the fact that it sums up different perspectives and challenges the ways of thinking about what are the problematic issues and the important role of the judicial collaboration when a decision has to be taken concerning the return or not of the abducted child. Although, it is difficult to estimate the number of the children missing in family kidnappings in EU, because there is no European database on child abduction; it is considered that International child abduction cases annually are estimated in the EU at 1,800 cases annually. The electronic database developed by the Permanent Bureau (PB) for the collection of information relating to return and access applications under the HCCH 1980 Child Abduction Convention, Incastat records the child abduction cases, but not all signatory states of Hague Convention have adhered to it and it is considered "not to be user friendly". While the problematic of family law falls, at first sight, into the exclusivity of national legislation, the EU law protects the children's rights through primary and secondary law in diverse areas such as: parental abduction cases, that are strongly related to the EU framework of the free movement of citizens, and EU judicial cooperation, that is related to the justice system. Moreover, this thesis addresses the following matters: 1. Under EU Regulations, all Member States are invited to take part in enhanced judicial cooperation, nonetheless, not all Member States are embracing same judicial cooperation rules and principles. Per consequence, there are parallel or complementary proceedings in each Member State Court, which reveals a deficient cooperation. 2. In fact, the EU judicial cooperation and the interpretative activity of ECJ regarding the judicial cooperation in child abduction cases comes with the uncertainties and in the practice, it is not easy to apply the rules, which opens the door to injustice for minors, to breaches to their rights and best interest. Therefore, we esteem necessary to bring to legitimacy the wrong and to improve the justice for minors through an enhanced judicial cooperation at all levels. In the first part, the chapter focuses on the definitions of the all legal terminologies involved in the mechanism of judicial cooperation: child abduction, judicial cooperation and central authority. Regarding the Central Authority definition: some of

the legislation is referencing to administrative authorities as Courts. Therefore, we have considered important to understand the differences in the roles of Court and Central Authority. More precisely, the term Courts includes the meaning of Central Authority in the Maintenance Regulation at Art. 2.2: "[f]or the purposes of [the] Regulation, the term "court" shall include administrative authorities of the Member States with competence in matters relating to maintenance obligations […]" (see for further details Article 2(2)). These administrative authorities are listed in Annex X of the Regulation." Regarding the judicial cooperation concept, it is important to emphasize on the differences between criminal and civil judicial cooperation, and these will be developed in this thesis, chapter 1. The following chapter will introduce the EU principles in civil judicial cooperation: Mutual Trust and Loyal Cooperation. Moreover, the next chapter deepens the analyses of the Central Authorities role and tasks according to EU legislation and national legislation. How is this operating in each member States and what are the most important differences concerning the modus operandi of the Central Authorities whose activity shape the judicial cooperation? The final remarks on some factual observations regarding the differences of their role and tasks at EU level will only reveal the inequalities of Central Authorities structure. The disparities here indicate that the disparities in the Central Authorities' role may lead to unclearness, uncertainty and un-cooperation, but, by revealing them, it may unblock the understanding to what the improvements at national level and at EU level are. Furthermore, it is only logical to continue with an important examination on the mechanism per se of the civil judicial cooperation and the legislation applicable to this at the EU level. The legislative milestone for this is the Brussels II a Regulation and the central issues of it will be tackled with a view to the novelties of the Brussels II ter Regulation, that will be active starting August 2022. Nevertheless, despite the decades of practice, the practitioners tackle the still existing gaps in terms of judicial cooperation in child abduction cases. For instance, the legislation regarding the role of any Central Authority, unfortunately, stops with the Court's decision on the case, ignoring what happens to the child after a decision was been made or ensuring that the return conditions are respected. This will only deprive the child from benefiting from their best interests. The last chapters deal with ECJ case analyses and the most recent cases at Hague that reveal the judicial cooperation prominence. The Conclusions reflect upon the opportunity to change the mandate for Central Authorities by aligning some technical amendments with EU principles. On one side, there are practitioners that consider this idea unbeneficial because of the lack of expertise in the Central Authority. On the other side, the idea is considered to be beneficial for the Central Authorities' activity which will streamline operations and gain efficiency and time. The most important benefits would be that the rate of child abduction cases would decrease and children would avoid suffering long lasting traumatic consequences. The full legislative framework is presented at the end of the thesis.

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AN ARBITRATION DILEMMA: PARTY-APPOINTED EXPERTS VS TRIBUNAL - APPOINTED EXPERTS. A COMPARATIVE STUDY

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Abstract

Arbitration, as an alternate method of solving disputes, is greatly reliant on its capacity to offer an efficient procedure, in terms of costs involved and time consumed to reach a decision on parties' disputes. Taking of evidence in a cost and time effective manner is, therefore, a vital issue, one that the parties and the arbitral tribunal consider with the utmost care; it is the screen that reflects the image that the parties are trying to credit as being the truth. Expert witnesses are often called upon to present a professional view on technical or economic aspects that cannot be decided by the arbitral tribunal without proper expert information. The object of this study is to offer a comparative analysis of the choices that the parties and the arbitral tribunal have to make in taking expert evidence as well as the implications of these choices.

INSURANCE FRAUD - A GLOBAL PROBLEM

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Abstract

Fraud is closely monitored by insurance companies as well as by state bodies set up to enforce the law and take measures to prevent antisocial acts. If in other countries the fight against insurance fraud is regulated by specific laws, in Romania there are still incipient phases because people are not aware of the size of the phenomenon and the consequences. As regards the way in which insurance fraud is regulated, it differs depending on the need to introduce regulations in this area. We found the existence of uneven criminal provisions and sanctions, which differ from country to country. The purpose of this article is to compare the laws in the field of combating insurance fraud.

THE RIGHT TO SILENCE

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Abstract

The right not to incriminate yourself is not expressly enshrined in the European Convention on Human Rights. This right also includes other names, such as the right to silence, which is a component of

the general privilege against self-incrimination. Although the right to silence protects the suspect/ defendant from a verbal expression of his / her guilt, the privilege against self-incrimination is more extensive, as it covers the use of other means of proof that can be obtained from the suspect/defendant by coercion, as well as the provision of data or incriminating information to the judiciary. The purpose of this study is to analyze the right to silence from the perspective of national and international law in relation to the provisions of Romanian law, international regulations, as well as the jurisprudence of the European Court of Human Rights.

LEGAL NATURE OF THE DEPRIVATION MEASURE ORDERED DURING THE PROCEDURE FOR THE EXECUTION OF THE EUROPEAN ARREST WARRANT

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Abstract

In the framework of the procedure for the execution of the European arrest warrant, as a form of international judicial cooperation in criminal matters, it is necessary to take preventive measures of deprivation of liberty against the person requested by the issuing State. In order not to infringe the right to liberty and security of the requested person, deprivation of liberty through these measures must be carried out in strict compliance with the legal requirements set out in both international documents and domestic legislation of the Member States of the European Union. Compliance with the law can be ensured, however, only by developing clear, predictable legal rules that, as far as possible, do not give rise to different interpretations in judicial practice. From this perspective, starting from the finding of the non-unitary interpretation and application of some provisions of the Romanian special law on international judicial cooperation in criminal matters (Law no. 302/2004, republished), this study addresses the issue of the legal nature of custodial measures ordered prior to the resolution of the request for the execution of a European arrest warrant, respectively prior to the surrender based on a European arrest warrant, ending with a concrete proposal of law ferenda on completing these provisions in order to ensure a unification of judicial practice in the field.

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THE PRINCIPLE OF LEGALITY AND THE RETROACTIVE APPLICATION OF THE MORE FAVOURABLE CRIMINAL LAW AS GUARANTEES OF THE PROTECTION OF HUMAN RIGHTS WORLDWIDE AT THE STATE LEVEL

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Abstract

This research aims to carry out a study on the evolution of the principle of legality in the international context, starting from the initial meaning of nullum crimen sine lege and arriving at its approach as a genuine human right. The research is carried out as a result of the analysis of conventions, pacts, books and jurisprudence of international bodies. Theories regarding the application of this principle by international tribunals will be identified, as well as the exceptional situations that led to its violation. This study also aims to address the issue of retroactive application of more favourable criminal law at European level. In this respect, it will be examined whether or not its application contravenes the provisions of the European Convention on Human Rights.

PUBLIC-PRIVATE PARTNERSHIP ESSENTIAL TOOL FOR GREEN DEAL

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Abstract

This paper aims to highlight an incursion and an analysis in the legislative package of Green Deal measures from the perspective of preventing and combating climate change and environmental degradation in order to meet zero greenhouse gas emissions targets by 2050 and sustainable economic growth. The analysis is made from the perspective of reconfiguration and economic transformation to ensure a lasting and lasting coexistence for present and future generations, but without affecting the environment, human health and the planet, with a focus on innovation and digitalization and having as main tool investments. through the prism of public-private partnerships. An essential tool for climate and environmental investments. The paper also considered the fundamental role of young people by involving them in actions to promote public-private partnerships with a role in educating them to prevent and combat climate change and environmental protection.

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PRELIMINARY RULINGS BY THE COURT OF JUSTICE OF THE EUROPEAN UNION AND JUDGMENTS OF THE HIGH COURT OF CASSATION AND JUSTICE. COMPARATIVE STUDY ON ADMISSIBILITY CONDITIONS

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Abstract

The study intends to discover resemblances and differences between the judicial institutions of preliminary decisions in EU law and decisions on unlocking matters of law delivered by the Romanian SCJ, both in civil and criminal fields. Our interest is to clarify the deep significance of these resemblances and differences from the perspective of law systems and the jurisprudence of the ECJ and SCJ. In the third place, we intend to evaluate the utility of these mechanisms of interpreting law and unifying practice from a general perspective, hoping that a system can become a source of inspiration for the other system. The research is descriptive, explanatory and comparative, being accompanied by relevant doctrine and jurisprudence.

DECISIONS REJECTING REQUESTS FOR REFERRAL TO THE COURT OF JUSTICE OF THE EUROPEAN UNION BY REFERENCES FOR PRELIMINARY RULINGS, FROM THE PERSPECTIVE OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

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Abstract

References for preliminary rulings, one of the most important instruments for implementing EU law, were a legal institution analyzed only from the perspective of the EU legal order. A recent ruling of the European Court of Human Rights regarding Romania has changed this traditional perspective and positioned national court decisions on the rejection of requests for references for preliminary rulings, in the context of the right to a fair trial governed by art. 6(1) of the Convention. Although the European Convention on Human Rights does not guarantee the right to have a case referred for a preliminary ruling to the CJEU, it makes it compulsory for domestic courts to give reasons for the decisions refusing to refer questions. National courts whose judgments can no longer be challenged under national law have the obligation to give reasons for their refusal in the light of the CILFIT criteria. From the perspective of the European Convention on Human Rights, court decisions rejecting requests for references for preliminary rulings must be motivated in accordance with the standards of the fundamental right to a fair trial. The most striking practical effect of the ECtHR judgment discussed in this article will be the obligation to analyze concretely and to motivate the conditions for the existence of "acte clair". The purpose of this

article is to emphasize the obligation of courts to state the reasons for their decisions rejecting requests for referral to the CJEU, in the light of both EU law and the European Convention on Human Rights. The research conducted is descriptive, explanatory and comparative, in the context of relevant case law and doctrine.

SITUATION OF PALESTINE – AN INTRICATE CHALLENGE FOR INTERNATIONAL CRIMINAL COURT

Associate professor Alina GENTIMIR
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Abstract

Today's world is characterized by several cases of controversial statehood and disputed sovereignty, and the criteria that international law provides in this respect are not always conclusive. Whereas the Rome Statute is a legal instrument designed to combat the worst international crimes, its references to statehood and the UN raise the risk of importing political conflicts into the courtroom. Moreover, once the International Criminal Court takes a stance on such issues as required, two sets of provisions in the Rome Statute point the court in opposite directions. On one hand, it makes sense for the International Criminal Court to consider an entity with contested status as a state for the purposes of carrying out procedures and administering justice. On the other hand, International Criminal Court jurisdiction is based on the principle of complementarity expressed in article 1 and other provisions of the Rome Statute: that is, if the alleged crimes are sufficiently prosecuted at national (or similar) level, the International Criminal Court does not act. And it is precisely this power to prosecute that, pursuant to the Oslo Accords, the Palestinian Authority lacks with regard to most matters under scrutiny here, with the exception of alleged war crimes committed by Hamas and other Palestinian groups. In other words, the International Criminal Court was set up with universal aspirations, yet it was not given universal jurisdiction, and its functioning therefore hinges on its membership (unless a situation is referred to the court by the UN Security Council, as happened with Libya and Darfur). Currently, just two of the Security Council's five permanent members are also party to the Rome Statute, and states have often rejected international probes into their doings. For instance, Russia and the Philippines terminated their involvement with the International Criminal Court following preliminary investigations concerning their officials. The International Criminal Court is well aware of this global political context: "Is the issue at hand political and as such non-justiciable?" The judges answered no to that question, and their attempt to disentangle the legal and the political can be seen as a brave effort in the judicial role they are requested to play. Yet they are also likely to encounter major difficulties that hollow out their effort. Whether or not one believes the International Criminal Court should be entrusted with the goal of preventing the worst international crimes, it is crucial to acknowledge that the allegations brought before the court are often made in the context of intricate political disputes that the pursuit of international criminal justice cannot address by itself.

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IURA NOVIT CURIA VERSUS *IURA NOVIT ARBITER* IN INTERNATIONAL ARBITRATION

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Abstract

The paper analyzes the distinction between the two presumptions. At first glance, it seems that the application of both the Iura Novit Curia and the Iura Novit Arbiter principles in international arbitration is redundant. After all, what are the Arbitrator and the Arbitral Tribunal if not a private judge and, respectively, a private Court? However, the distinction between the two concepts becomes extremely important in certain stages of the arbitration, especially when it comes to purely procedural matters. As such, there is a difference between the arbitral process that takes place in front of the Arbitral Tribunal and incidental or additional procedures that take place in front of State Courts (including after the arbitral award has been rendered, e.g. an annulment procedure or at the stage of recognition or enforcement of a foreign arbitral award). In conclusion, the use of both expressions in parallel is justified. Iura Novit Curia corresponding strictly to the role of State Courts pertaining to arbitration, at all stages, while Iura Novit Arbiter pertaining to the role of the Arbitral Tribunal per se – although, in this case, th e expression is more a misnomer, the presumption being limited by the choice of the parties as an expression of party autonomy, a main characteristic of arbitration as an alternative dispute resolution method.

POLITICAL AND LEGAL SOLUTIONS FOR THE IDENTITY CLAIMS OF GAGAUZ AND BULGARIAN ETHNIC GROUPS IN THE REPUBLIC OF MOLDOVA

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Abstract

In the present paper we aim to analyze the specific situations of several minorities groups Republic of Moldova has developed an ample legal framework for the protection of minority rights. The political and legal measures concerning the protection of minorities targeted to assign certain special forms and conditions of autonomy by establishing special statutes adopted by organic laws. There are put to the issue the interpretations of territorial and non-territorial autonomy as policies for the minorities' protection. The study argues that any model of autonomy, whether territorial or non-territorial, is viable when it can provide three desiderata: the protection of ethnic identity, impact on human development and the maintenance of the national unity of the state. The choice of territorial or non-territorial autonomy must

be weighed depending on the moral force of identity claims. The political and legal measures adopted by the Republic of Moldova by rendering territorial autonomy to Gagauz ethnicity disregard the basic criteria for assessing the claims of ethnic minorities, largely ignoring the normative political theory in the analysis of decisions that target the management of ethnic diversity. We suggest that for the Republic of Moldova a model of non-territorial autonomy will respond more effectively to identity manifestations, provided that they are assumed as "local management" in the ethno-cultural sphere, based on the principle of local autonomy and decentralization.

STATE CONCERNS ABOUT HUMAN RIGHTS IN THE DIGITAL ERA

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Abstract

This article explores the theoretical and practical challenges that the online context poses to the protection of human rights, in particular the protection of freedom of expression and privacy in the digital environment, including the implications of Big Data, and the establishment of jurisdiction on the World Wide Web. Is or is not sufficiently prepared and specific to international human rights law to enable governments and private online companies to understand their obligations regarding the protection of human rights online? How should national governments respond to concerns about issues such as: freedom of expression in times of conflict; media in times of health crises; defamation; gender and Media; hate speech; information disorder; media and refugees or Media Regulatory Authorities? For the realization of this article we used a prospective method and identification of some particularities that promote the coherence of the hypotheses through quantitative and qualitative evaluation.

DIGITAL BOOM - CURRENT ISSUES IN THE RELATIONSHIP BETWEEN INTERNATIONAL INVESTMENT, STATES AND HUMAN RIGHTS

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Abstract

International investment in services using public communications networks or the Internet as a means of delivery is undergoing a stage of analysis and reform to better match the positive and constructive balance between respect for human rights and national security requirements. and communications (ICT) have developed rapidly on the same wave of digitalization. States invest and/or receive investment in ICT to support their growth and development goals. The investment treaties govern these investment relations and the international impact is strategic, structural and substantial. The specific regulations are undergoing an extensive review at national level, an example being given by investment actors of a certain

nationality who, through investment activities, come to own and/or control technologies that have far-reaching public policy implications, including economic progress, national security or human development. Investments in the intellectual property and digital assets of the ICT sector and the rights and obligations of international investment law actors in this context are discussed. Therefore, the regulation in the Treaties aims to include sectors or sub-sectors in which market access commitments are made subject to specified terms, limitations and conditions. For the elaboration of this article I used. In order to write this article, I used a fundamental research method (directed for the purpose of knowledge) regarding the research part through which I identify the relevant issues, with prospective ramifications and the identification of some particularities.