

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- II^d edition -

June 24, 2022

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Section I.

Comparative Public Law

Friday, June 24, 2022

Online on Zoom

Keynote speakers:

Associate professor PhD. habil. **Cătălin-Silviu Săraru**, Faculty of Law, Bucharest University of Economic Studies

! Each paper will be presented within 15 minutes
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SCIENTIFIC PAPERS

COMPETITION BETWEEN CRIMINAL AND ADMINISTRATIVE PENAL RESPONSIBILITY - QUESTIONS AND SOLUTIONS

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Abstract

This article aims to present the essence of the principle of Ne bis in idem from a doctrinal point of view, while at the same time emphasizing the more important practical issues in its application. The study also includes a synthesized comparative analysis of the case-law of the Court of Justice, the ECtHR and some national courts. In the comparative analysis these questions are considered in particular - what are the criteria for assessing whether an administrative proceeding is defined as criminal and what are the most common hypotheses of competition between criminal and administrative penal responsibility against the same person for the same act. As a result of the research, some controversial questions were answered regarding the applicable legal responsibility in the case of concurring facts.

FORENSIC EXAMINATION IN CASES ON THE PROTECTION OF HUMAN RIGHTS IN THE SPHERE OF HEALTHCARE IN UKRAINE: LEGAL ISSUES

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Abstract

The article analyzes the features of the appointment and conduct of forensic examinations carried out in the process of protecting human rights in the healthcare sector. In this work, a system of general scientific and special methods was used to achieve the goal of the study. The content of such categories as "medical care", "forensic examination", "expert", "medical error", "defect in the provision of medical care" is disclosed, their place in the general classification of offenses in medical activity is indicated, types of legal liability for professional offenses in the healthcare sector. The tasks, object and stages of conducting forensic examinations carried out in the process of protecting human rights in the field of healthcare have been established, problematic legal issues related to these examinations have been identified, and directions for their solution have been proposed. The stages of conducting forensic examinations carried out in the process of protecting human rights in the healthcare sector are identified, namely: (1) preparatory; (2) organizational; (3) main; (4) the final. It is concluded that the forensic examination carried out in the process of protecting human rights in the healthcare sector is an effective procedural technique for proving professional offenses of medical workers.

PUBLIC REGISTER OF CHILD SEXUAL ABUSERS AND PEDOPHILES AS A PREVENTIVE MEASURE – COMPARATIVE AND NATIONAL OVERVIEW

Assistant professor Vedije RATKOCERI

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Abstract

Child sexual abuse is one of the most severe and extreme forms of child abuse. Child sexual abuse leaves long-term consequences in children, causes severe physical and psychological harm as well as affects the development and the future of the child. Today, in the contemporary world, one of the effective forms for the prevention of pedophilia is considered the registration of persons convicted of criminal offenses of pedophilia in a special register. The main purpose of registering these perpetrators is the possibility for the general public to have access to this data in order to know these persons (pedophiles) and to be able to prevent the possible actions of these persons. The Republic of North Macedonia has taken such a step, in accordance with these trends, where in 2012 the online portal for perpetrators of criminal offenses of child sexual abuse was launched. This paper aims to address the experience of the RMV in this regard and discusses the data collected from the National register for pedophiles.

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OPENING STATEMENTS IN CRIMINAL PROCEDURE

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Abstract

Before proceeding to the presentation of concrete evidence, according to the CPL, opening statements must be presented. The trial begins with the opening statements. The plaintiff speaks first, then the defence counsel or the defendant. However, the defendant shall have the right not to give an opening statement. The earlier procedural provisions stipulated that the main trial begins with the reading of accusation. The provision of the CPL which is now in force provides for opening statements and stipulates that the main trial begins with the holding of opening statements. According to the principle of officiality, the charge expresses the function of prosecution - *nemo iudex sine actore*. Since the legislator relates the initiation of the main trial with the opening statements, and since the public prosecutor gives the opening statement first, it is implied that in that case he reads the bill of indictment. Something like that indirectly results in the case where after the plaintiff's opening statement, the presiding judge shall ask the defendant if he or she understands the accusation. In the opening statements, the parties may present which are the decisive facts they intend to prove, they may speak about the evidence that will be presented and establish the legal issues that are going to be subject of deliberation. In this regard, the parties in the opening statements can refer to admissible evidence, the law in force and can use tables, diagrams, transcripts of tapes allowed by the court, summaries and comparisons of evidence if they are based on admissible evidence, as well as enlargement of their specimens to demonstrate or present to the court as an illustration. In the opening statements, presentation of facts regarding any prior convictions of the defendant shall not be permitted as part of the statements nor shall the parties not be allowed to comment on the allegations and proposed evidence by the other party.

PUBLIC ADMINISTRATION IN A EUROPEAN CONTEXT. CASE STUDY: POSSIBILITIES FOR COMPLETING THE PROBATIONARY PERIOD - NATIONAL PRACTICE VERSUS THE PRACTICE OF THE EUROPEAN UNION CIVIL SERVICE TRIBUNAL

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Abstract

As social policy and its objectives set out in Article 151 of the Treaty on the Functioning of the European Union are outlined, both the Union and the Member States must be held accountable for

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respecting "fundamental social rights such as those set out in the European Social Charter signed in Turin in October 1961 and in the Community Charter of the Fundamental Social Rights of Workers adopted in 1989". In the light of these aims, we are concerned with an analysis aimed at a legal and fair promotion and harmonization of the procedure for filling public administration posts, with a focus on the protection of social rights and the harmonization of good practices developed under conditions of honest social protection. combating exclusion and discrimination of any kind. It is therefore necessary on a theoretical level to make it clear that the Union and all its States Parties are implementing practices aimed at promoting the harmonization of social systems. Specifically, however, we find that the procedures applied neglect the approximation of issued administrative acts and any common methodology, as long as at national level is not regulated or applied a report setting out the conclusions of the verification of the employee's professional skills at the end of the probationary period. We propose in this article an analysis based on the modalities of the termination of probation, so that it is no longer the concern of the courts to terminate employment contracts concluded during probation only by written notice, without notice and without any reasoning, because the court cannot verify the existence or not of the professional aptitude in the absence of rendering some arguments of the employer aiming at the fulfillment or not in reasonable terms of the assigned attributions, certain difficulties in the service relationship or the degree of accommodation with the administrative and hierarchical system.

LEGAL REGULATION OF THE PRINCIPLES TOTALIZATION AND VERIFICATION OF VOTING RESULTS

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Abstract

The objectives of the study: to research the electoral process; to establish the stages of this complex system; to highlight its essential characteristics; to determine the category of principles of the final stage of the electoral process; to elucidate the essence of the possible principles of aggregating and verifying the results of voting; present and substantiate the content of each of these principles. The research methods used were analysis and synthesis, abstraction and generalization, classification and concretization, affirmation and denial, deduction and induction, etc. The results of the paper: we determined, characterized and demonstrated the following principles of totalization and verification of voting results: the principle of the integrity of the procedure counting of votes; the principle of accurate recording of election results; the principle of the integrity of the procedure for centralizing election results; the principle of parallel counting of votes; the principle of truthfully calculating the results of electronic voting; the principle of correctly announcing election results; the principle of timely publication of official results; the principle of verifying the election results; the principle of confirmation of election results; the conditions for implementing the electoral principles. The basis for this order and classification of the principles of totalization and

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verification of voting results was the content and sequence of sub-stages of the final stage of the elections. In this order, we have presented and substantiated the content of each of these principles.

OFFICIAL RELATIONSHIP TOOLS IN PUBLIC ACTIVITY - REPORTED DISPARITIES IN THE LINE OF GOOD ADMINISTRATIVE CONDUCT

Associate professor Camelia Daciana STOIAN

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Abstract

The present research aims at taking the example of the provisions of the European Code of Good Administrative Behavior at the level of public administration of the member countries. In fact, the activities performed by civil servants or contract staff in the regime of public power, more precisely in the segment of enforcement of the law, in the provision of public services, have the same legal regime viewed through the angle of interest of the citizen of the same Member State. with the citizen of the Union, or of any legal person. Any communication at official level has as its central point certain principles and limits imposed for reasons of private interest and definitely public interest. However, employees of the national public administration, viewed individually in conjunction with their duties, have not procedurally implemented the principles set out in the practice of the Court of Justice of the European Union regarding "limits" and do not have a methodology to follow in identifying a balance between the degree of transparency of their work in relation to the demands of the citizens. At the same time, the way of decently expressing the attitude justified impartially in the legal and efficient solution of the requests from the daily activity with the public, has not implemented the standards of a good administrative conduct meant to guarantee at the same time the efficiency of the activity and the quality of the public service. The implications of this study aim to outline the essence of the obligation to adopt a Code of Good Administrative Behavior at the level of each Member State, based on the citizen's right to good administration, the jurisprudence of national and European courts and the practical explanation of convergent coordinating lines. proportionality or the absolute absence of abuse of power and honesty.

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HORECA TOURISM RIGHTS IN NATIONAL AND EUROPEAN UNION LAW- COMPARATIVE ASPECTS

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Abstract

In the tourism sector, especially in the HoReCa industry, the protection of the rights of customers-tourists consuming hotel services and products, is of particular importance. safety (including food). In the legislative context, mainly at the level of the European Union and at national level, a number of measures are accepted and implemented with the help of various legal instruments, in order to protect the rights of consumers, including alternative dispute resolution methods.

NEW EVOLUTIONS OF MILITARY JUSTICE

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Abstract

In the last years, military justice systems have been a problem for several reforms in some European states. The push for modernisation processes stems from the reality that military justice in some states wants to increase its truthful trial guarantees inside their legal framework. Recently, the existence of many ordinary military tribunals has been put at stake. Many critics reflect on consideration on military justice is being known as into query due to the alleged non-impartiality of military courts and global law developments. Some military courts no longer exist on their own, military judicial competences have been embedded into or transferred to civilian courts. A few standing army courts have been abolished, while others nevertheless exist, albeit their roles and obligations for the duration of peacetimes are very modest. Some states permit the introduction of ad hoc tribunals to face specific conditions such as the case of a war, and this is provided for by way of their respective constitutions. Military justice and civil justice are regarded two separate systems.