

# **CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW**

*- International Conference -*

*- II<sup>d</sup> edition -*

**June 24, 2022**

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## **Section II.**

### **Comparative Private Law**

**Friday, June 24, 2022**

**Online on Zoom**

#### **Keynote speakers:**

Lecturer **Radu Pătru**, Faculty of Law, Bucharest University of Economic Studies

**! Each paper will be presented within 15 minutes**

**! Fiecare lucrare va fi prezentată în maxim 15 minute**

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## **SCIENTIFIC PAPERS**

### **SINO-EUROPEAN CUSTOMS PROTECTION OF INTELLECTUAL PROPERTY RIGHTS: FROM UPMOST NECESSITY TO CONCRETE MEASURES**

**PhD. student Rémi FOUQUE**

*Faculty of Law and Political Science of Aix-Marseille University, France*

#### **Abstract**

*This study's objectives are to enlighten the joint collaboration, legal similarities and similar goals in Sino-European customs actions while fighting counterfeiting and protecting IP rights. This article will present, in a abridged fashion, the reasons that justify the utmost necessity for both the People's Republic of China and the European Union to carry out customs protection of IP rights, and its concrete measures taken in order to set it right. This study has been undertaken as a abridged detail of my forthcoming Ph.D thesis, which showcase the legal similarities of customs actions in fighting counterfeit goods trade, focusing on and comparing the legislations of France, the European Union and the People's Republic of China. Even though China has been labelled as the top global source of counterfeit products, the Chinese government and customs, deeply impacted by the scourge themselves, carried on actions to fight it and prevent it by passing adequate laws: this is the demonstration of this article.*

### **GOOSE-STEPPING? THE CONCEPT OF THE HUNGARIAN PUBLIC ADMINISTRATION CONTRACT FROM A PRIVATE LAW POINT OF VIEW**

**Professor Tekla PAPP**

*University of Public Service of Budapest, Hungary*

#### **Abstract**

*The author addresses questions raised in the professional literature of public law (e.g.: the applicability of the Hungarian Civil Code to public law contracts), alongside the contradictions (e.g.: there isn't a unified set of denotations and categories) and problems included therein, and the one-sidedness thereof (the disregarding of the respective works of private law). We analyze the selected material by concisely explaining the relation between public law and private law in Hungary. The author pays special attention to the Hungarian public law definitions as well as the contract-types with their characteristics, and finally, conclusions are drawn, and compatible perspectives are proposed.*

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## **CIVIL DISPUTES BETWEEN LANDLORD-TENANT IN MEDIATION**

**M.A.Sc. Fatime DËRMAKU**

*Faculty of Law, University of Prishtina, Kosovo*

### **Abstract**

Mediation is a dispute resolution mechanism between the parties on a dispute, which is characterized by: flexibility, time and monetary efficiency, confidentiality, as well as other elements that make it a suitable method for resolving disputes. The objective of this paper is to present the settlement of landlord-tenants disputes through mediation, as it is well known that the rent-lease relationship is a very widespread problem, in modern times. This paper was conducted as a literature review, through the following methods: descriptive, comparative, and analytical methods. Disputes between tenants and landlords cause a burden on the judicial system, reduced quality of life between the parties to the dispute and economic damage to both parties. Mediation, as an alternative process of dispute resolution has resulted to be an appropriate process for resolving landlord-tenant disputes due to time and monetary efficiency, maintaining positive relations between the parties and preventing individual and social economic damage.

## **RELATIVITY IN THE FREE USE OF COPYRIGHT OBJECTS UNDER THE THREE-STEP TEST**

**Associate professor Manol STANIN**

*South-West University „Neofit Rilski”, Bulgaria*

### **Abstract**

The free use of works by third parties is placed in normative dependence on three conditions which together form a legal basis for the free use of copyright objects without the consent of the author and payment of remuneration. This process is accompanied by the specifics of each case, given the relation author-object of artistic intellectual property, expressing his creative individuality and hence the needs that determine his legitimate interests in the work he created - the object of intellectual property. The admissibility of free use is also relevant to other dynamic quantities that characterize the matter subject to legal regulation. Maintaining a fair balance between the rights and interests of copyright holders and users of protected objects depends on compliance with the new electronic environment, as well as the proper and unhindered functioning of the internal market in the field of copyright and related rights. Legal relevance is given to another dynamic relation with elements of technological development and its consequences associated with the existence of new forms of use of copyright objects. The systemic conditionality of the above-mentioned factors predetermines the application of a systematic method of scientific research to find acceptable and effective solutions in the legal framework of the free use of works. These are circumstances that together form the preconditions for arguing relativity in the free use of works.

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## **SOME CONSIDERATIONS REGARDING APPEAL EFFECTS IN JORDANIAN LEGISLATION**

**Associate professor Corina PETICĂ ROMAN**

*Faculty of Law, "Lucian Blaga" University of Sibiu, Romania*

### **Abstract**

*In the civil tradition, the right of appeal has a primary importance, as a fundamental safeguard of justice. The function of the Court of Appeal is to provide an appellate hearing of right, from any judicial decision of courts of first instance. On this occasion the entire record is brought before the superior Court for consideration and review, both the facts and the law. In Jordan, Courts of Appeal hear all cases of appeal from judgements of the Court of First Instance and all cases of appeal from the Magistrate's Court, which are not heard by Courts of First Instance. A three judge panel considers all matters raised in the Court of Appeal.*

## **EVOLUTION OF TRADE CONTRACT LAW IN THE MODERN AND CONTEMPORARY PERIOD**

**Associate professor Alexandru CUZNETOV**

*State University of Moldova, Republic of Moldova*

### **Abstract**

*The discovery of America in the sixteenth century had great effects on the development of commercial activity as well as the regulations of commercial contracts in particular. Traders took full advantage of the gold and riches discovered and organized themselves into very powerful companies both economically and politically. A new period opens in the development of trade and the organization of political and economic power in nation states, with particularly significant consequences on the political, economic and legal level. The state power that was interested in trade, a source of wealth to ensure the legal certainty of trade regulated the establishment of fairs, on the basis of royal privileges granted, and tribunals composed of merchant judges elected to settle disputes between merchants. Being a primary study, the purpose of this study lies in the scientific and theoretical analysis of commercial contract law which has a rich historical evolution, significantly influencing trade relations (entrepreneurial).*

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## **ALTERNATIVE DISPUTE RESOLUTION IN CONSTRUCTION CONTRACTS**

**PhD. student Andrada Laura TARMIGAN**

*Doctoral School of Law, Bucharest University of Economic Studies, Romania*

### **Abstract**

Construction and special infrastructure projects are prone to disputes due to the complexity of contractual relationships, the use of standard contracts and the multiple parties involved. The most common are disputes related to site conditions, project and documentation errors, refusal of authorities to issue documents, breaches of contractual obligations leading to delays, causes of interruption of works, issuance of guarantees, partial/final payment requests, quality of works. For this reason, Alternative Dispute Resolution (ADR) is an ongoing topic of interest, as it avoids lengthy and costly litigation and it leads to the successful continuation of contractual relationships. Using the comparative method, we will analyze the national and international doctrine, in order to deal uniformly with all alternative methods of dispute resolution that could be used successfully in the field of construction. Some types of ADR, such as the Dispute Adjudication Board, are specific to the construction industry. However, there are also types of ADR, or various combinations thereof, which are not known or have not been adapted to the field of construction, so that they can represent an useful tool for the parties. Therefore, firstly we will analyze the Dispute Adjudication Boards (the legal regime of the DB), the procedure in front of the DB; the characteristics of the decision etc. Next, we will analyze, using the comparative method, the other types of ADR that can be used in the field of constructions: expert determination; process simulation ("mini-trial"), mediation; negotiation; conciliation, dispute review board; mediation-arbitration (MED-ARB); early neutral evaluation.

## **THE ROLE OF CASE LAW IN INTERNATIONAL ARBITRATION**

**PhD. student Ingrid MULLER**

*Doctoral School of Law, Bucharest University of Economic Studies, Romania*

### **Abstract**

Given the characteristics of arbitration as an alternative dispute resolution method — among those most relevant to the present paper being the confidentiality of the procedure and, to a smaller extent, party autonomy — do previous cases have a legitimate role in deciding a dispute? And if so, do they play an important part in the economy of the decision? Do previous awards have only a persuasive authority or do some Arbitral Tribunal are compelled to follow the reasoning of (certain) previous arbitral awards? The answer is not clear-cut. Some Arbitral Tribunals seem to give weight to the wide adoption of a certain award. Other, seem to be influenced by their own legal background in giving more or less weight to previous cases (e.g. civil law vs. common law approaches to case law are different). And there's also the matter of the type of arbitration. If it's an investment matter there a lot are more awards publicly available than in commercial matters. So should this matter? The objective of this present paper is not necessarily to

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give a definite answer, but more to raise awareness on the issue for it to be properly addressed and considered by the parties to arbitration beforehand.

## **BRIEF CONSIDERATIONS ON THE INTERNATIONAL DIMENSION OF AMENDING AN INDIVIDUAL EMPLOYMENT CONTRACT**

**Associate professor Ana VIDAT**

*Faculty of Law, Bucharest University of Economic Studies, Romania*

### **Abstract**

The aim of the paper is to analyse how the legal institution of the modification of the individual employment contract is regulated in (comparative) international law – so as to facilitate labour mobility and remove restrictions based on nationality or other specifically national reasons. The desire to highlight the features of amending an individual employment contract was motivated by the fact that labour mobility – with migration as the main outcome – has a particular impact on the development of the labour market. In order to achieve the objective of analysing various legal systems from a comparative perspective – with a view to identifying the specific features – it should be pointed out that adapting a work activity to technological or economic change may require changes to the individual employment contract under which that activity is carried out, given the inherent dynamism of employment relationships.