

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- III^d edition -

June 23, 2023

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Section II. Comparative Private Law

Friday, June 23, 2023

Online on Zoom

Keynote speakers:

Lecturer **Cristina COJOCARU**, Faculty of Law, Bucharest University of Economic Studies

Lecturer **Ovidiu MAICAN**, 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

10.00 - 11.00

CORRELATION BETWEEN CLASSICAL ROMAN LAW AND ENGLISH COMMON LAW: COMPARATIVE HISTORICAL ANALYSIS

Doctor Irina N. SHARKOVA

Kyiv National Economic University named after Vadym Hetman, Ukraine

Professor Volodymyr A. MANDRAGELIA

*Bila Tserkva Institute of Continuous Professional Education of State Institution of Higher Education,
University of Educational Management, National Academy of Educational Sciences of Ukraine*

Doctor Oleksandr O. GAYDULIN

*„Academician F. H. Burchak” Scientific Research Institute of Private Law and Entrepreneurship,
National Academy of Law Sciences of Ukraine*

Abstract

The term ‘correlation’ can be interpreted in a wider meaning than the presence of a frequency of connection between two colligial indicators. This semantic content as "a relation existing between phenomena" is present in the discourse of liberal arts, in contrast to parametric statistics. The purpose of the study is to verify the existence of a correlation between basic conceptual ideas in Ancient Roman law and English common law and to evaluate the scope and manifestations of this issue. The research problem is complicated by the fact that the overwhelming majority of modern historians traditionally contrast the legal systems of continental European countries with Anglo-American law. And there very few famous scientists who consistently reaffirm the opposite position and consider that the common legal tradition in Europe exists. The article shows three groups of key evidence of Ancient Roman Law influences on the English Common Law. The historical arguments explain the fantastic ability of English law to export to other countries. In world history, this property was only one legal culture, namely Old Roman. These abilities to transfer and reception are defined as the most significant parallels between the legal traditions that are investigated.

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ILLEGAL CONTRACT AS A GENERAL CLAUSE - EUROPEAN TRENDS AND NEW HUNGARIAN JUDICIAL PRACTICE

Associate professor Ádám AUER

National University of Public Service, Hungary

Abstract

The invalidity of a contract is a sanction of civil law. In a dispute, the purpose of the law, its effect and its application must be applied together to the contract in conflict with the law. The means of doing so are judicial interpretation and the application of the general clause. An illegal contract may cover several areas: contracts contrary to public policy, a rule of law, morality or fundamental principles. In such a complex legal environment, an important question is which rule is breached and which results in the invalidity of the contract. The relationship between civil law and other rules is of particular importance in the context of the use of AI, where there are a number of technical obligations for the contracting party or administrative rules governing the use of AI. In the digital environment, many sectoral rules impose prohibitions, many norms define specific requirements as well. The study examines the new paradigm of the Hungarian Civil Code of illegal contracts and focuses the judicial practice of the general clause of illegality.

LIABILITY IN THE AGE OF ARTIFICIAL INTELLIGENCE - WHAT'S NEXT?

Professor Cristina SEIA

Centro de Estudos Jurídicos Económicos e Ambientais,

Universidade Lusíada Porto, Portugal

Abstract

A new era of technical progress, development of the digital world and artificial intelligence poses new challenges for security and liability. Social acceptance of these new technologies depends on ensuring a high level of safety and implementing a European legal liability regime that provides users with legal certainty about the risks they run, enhances damage prevention and provides victims with effective redress mechanisms in case of damage. The characteristics of Artificial Intelligence, such as autonomy, connectivity and openness, complexity, opacity of the decision-making process and data dependence, by conditioning the predictability of the use of AI systems and devices, make it difficult to assess the risks involved in such use, which affects the adoption of and trust in this new technology. The aim of this paper is to address a proposal for a legal regime on liability for damage caused by artificial intelligence, starting from the proposed acts under discussion in the European Union and ending with some suggestions to be incorporated, at the Portuguese level, into an ideal legal regime for liability for damage caused by artificial intelligence systems.

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COMPARATIVE ANALYSIS OF THE INSTITUTE OF CONFISCATION WITH SPECIAL EMPHASIS ON THE REPUBLIC OF NORTH MACEDONIA

Mr. sc. Genti RECHI

Mother Teresa University in Skopje, North Macedonia

Abstract

The purpose of this study is to make an overview of the legal framework that regulates the institute of confiscation in the countries of the Western Balkans such as Serbia, Albania and Slovenia, with special emphasis on North Macedonia. By examining the similarities and the differences, this research aims to provide insights into the effectiveness and potential areas for improvement of the confiscation of proceeds crime. The study reveals that countries such as Albania, Serbia and Slovenia have clearer and more concrete legislation regarding the confiscation, as the confiscation procedure is regulated by special laws. The legal solutions regarding confiscation in North Macedonia are outdated and as a result the implementation of the confiscation measure is minimal. This study employs comparative research methods combined with legal analysis. The results obtained from the work can be used by policymakers to improve the legislation regarding confiscation.

11.00 - 12.00

PIERCING THE CORPORATE VEIL: LACK OF LEGISLATION, PROPOSALS TO CHANGE AN EXISTING LAW, LEGISLATION

PhD. student Roxana Alexandra KIPEL-ISTUDOR

Faculty of Law, University of Craiova, Romania

Abstract

This article aims to compare the jurisdiction of piercing the corporate veil in South America. We'll analyze the lack of legislation and the regulation of this important theory. We'll examine whether it's easier for the court to apply the basic principles of law to pierce the corporate veil or it's better to regulate a norm which has to contain specific conditions or situations in order to be able to pierce.

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INHERITANCE RIGHTS OF THE SURVIVING SPOUSE. STUDY OF COMPARATIVE LAW

Lecturer Cristina Ramona DUȚĂ

Faculty of Law, „Ovidius” University of Constanța, Romania

Abstract

With a legal situation that placed the surviving husband towards the end of the list of those called to his *de cuius* inheritance - only the state was found after him in the order of successors, the regulation of his succession rights betrayed, over time, a non-privileged position. Under the empire of the Civil Codes, the one from 1864 and then the one from 2009, the surviving spouse acquires a well-deserved place among the successors, coming into the contest alongside each class of heirs. The paper aims to analyze the succession rights of the surviving spouse in the different succession systems, the one of Romano-Germanic tradition in the family of which our succession right is a part, the common-law system present in Great Britain and the mixed one of the province of Quebec.

ANALYSIS OF FRAUD RISK REGARDING THE REAL BENEFICIARY IN RELATION TO INTERNATIONAL SANCTIONS

Professor Florin TUDOR

*Faculty of Law and Administrative Sciences, "Lower Danube" University in Galati
Cross-Border Institute for International Studies and Criminal Justice, Romania*

Abstract

The restrictive measures instituted by a number of international organizations and actors aim, first of all, at diminishing the military capabilities of the aggressors, by freezing some financial assets, putting some public or private entities, and officials on the sanctions blacklists, banning some import operations and export of dual-use items and other categories of goods prohibited by trade policy measures. Complying with these embargoes requires the use of risk analyses capable of neutralizing any attempt by aggressors to circumvent sanctions by using other destinations and international markets. The analysis of international transactions regarding the identification of the real beneficiary represents the most important challenge for the control authorities at border crossing points, and international cooperation regarding the exchange of information must represent a priority in the coming period. The present study analyzes the complex issue of sanctions imposed by the EU in the context of aggression in Ukraine and the mechanisms of using risk analysis to reduce the risk of fraud and violation of international embargoes.

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PROTECTION OF MINORITY SHAREHOLDERS IN THE CONTEXT OF THE ROLE OF SHAREHOLDERS IN CORPORATE GOVERNANCE

PhD. student Mihaela-Naziana BUCĂ (GÎDEI)

Doctoral School of Law, University of Craiova, Romania

Abstract

This article analyzes the role of shareholders in corporate governance. Corporate governance is one of the means that protect the minority shareholders. The protection of minority shareholders is relevant in the context of the role of shareholders in corporate governance. Corporate governance issues have generally revolved around shareholders rights on the one hand and the notion of controlling shareholders on the other, sometimes having the power to operate the business without interference from minority shareholders. It is necessary to find a balance between the need of minority shareholders to monitor the power of management and the need of those in control to operate the business efficiently. Throughout the history of the corporation, several rules have been identified regarding the system of voting rights in the General Assembly of Shareholders and not only. Thus, we mention some of these rules, namely: shareholders pooling agreement, voting trust, cumulative voting.

12.00 - 13.00

PRINCIPLE OF AVAILABILITY VS. ACTIVE ROLE OF THE COURT. BRIEF PRACTICAL CONSIDERATIONS

Assistant professor Cătălin LUNGĂNAȘU

Faculty of Law, West University of Timișoara

Judge, Timiș Court, Romania

Abstract

The principle of availability outlines a specificity of civil proceedings that may seem to contradict the active role that the court must play in order to resolve the case fairly. The simultaneous application of these two defining rules for civil procedure in relation to the rights of defence and to a fair trial generates certain practical problems that we point out in this study, given that the court is bound to respect the limits of the judgment vested in it, but at the same time must resolve the dispute according to the applicable rules of law in order to deliver a legal and well-founded decision.

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A MEASURE TO MAKE WORK MORE FLEXIBLE: REDUCING THE WORKING WEEK TO 4 DAYS

Associate professor Ana VIDAT

*Faculty of Law, Bucharest University of Economic Studies,
Lawyer, member of the Bucharest Bar Association, Romania*

Abstract

The need to achieve a work-life balance and the option for employers to motivate and increase the productivity of employees are the justification for necessary legislative amendments in the future. EU Directive 2019/1158 on work-life balance defines in art. 3 para. 1 (f) the concept of "flexible working arrangements" which refers to "the possibility for workers to adapt their working hours – including through the use of telework, flexible working arrangements or reduced working time schemes". EU Directive 2019/1152 on the transparency and predictability of working conditions in the European Union specifies – in art. 1 (1) – that it aims to improve working conditions by promoting more transparent and predictable forms of work, while ensuring the adaptability of the labour market.