

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- IVth edition -

June 14, 2024

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Section I.

Comparative Public Law

Friday, June 14, 2024

Online on Zoom

Keynote speaker:

Associate professor PhD. habil. **Cătălin-Silviu Săraru**, 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

**PARTIES TO PROCEEDINGS IN CASES OF ISSUING DECISIONS ON
ENVIRONMENTAL DETERMINANTS**

Assistant professor Przemysław ZDYB

Faculty of Law and Administration of the University of Szczecin, Poland

Abstract

The aim of this study is to present rules on establishing the catalogue of parties to proceedings in cases for issuing decisions on environmental determinants. The analysis, based on investigation of the law in force and examination of the law in the historical angle, shows that entities that to whom an authority refuses to grant the status of a party in proceedings for issuing an environmental decision find it difficult to evidence their legal interest in these proceedings due to no access to relevant documents and case files.

**CONSTITUTIONAL COURT DECISIONS AS A NETWORK OF PRECEDENTS? A
NETWORK THEORY-BASED ANALYSIS OF THE JURISPRUDENCE OF THE
CONSTITUTIONAL COURT OF HUNGARY**

Associate professor Ádám AUER

University of Public Service Ludovika, Budapest, Hungary

PhD. Gábor NÉMETH

Eötvös University, Budapest, Hungary

Assistant professor Endre ORBÁN

University of Public Service Ludovika, Budapest, Hungary

Senior research fellow Péter POLLNER

Semmelweis University, Budapest, Hungary

Abstract

Citation networks reveal the flow of knowledge among documents and the interaction between topics. Under undisturbed conditions eg., in case of scientific publications, the information flux results from free association and from searching for contextual references. In such systems, the branching of topics over time leads to a wide horizon of knowledge. As the widening progresses, it becomes harder and harder to

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ensure the consistency and to avoid contradictions. Here, we present a case study and a model for a citation network, between the legal decisions of the Constitutional Court of Hungary, where an external effect introduces a bottleneck in the network topology of information passing. We show, that the effect of the bottleneck is only temporary, and after a transition, the knowledge flow revives. On the other hand, we show that referring to earlier knowledge becomes indirect after the bottleneck.

COMPARATIVE LAW IN LEGAL EDUCATION: AN INTERDISCIPLINARY PERSPECTIVE

Lecturer Paulina WILSON

Queen's University Belfast, United Kingdom

Abstract

This paper considers the role of comparative law in legal education from the interdisciplinary perspective of law and language. While legal education is traditionally monojural, modern law practice is globalised and demands a broader legal skillset and comparative perspectives in order to navigate legal systems and regulatory frameworks in an informed, effective manner. This is particularly salient where legal systems, structures or rules fundamentally differ between jurisdictions, resulting in conceptual incommensurability and thus impacting on legal communication and practice. Considering that this issue is not expressly addressed in legal education, an interdisciplinary approach to teaching legal methods and skills is proposed, aiming to develop students' interjurisdictional competence and ability to understand and convey intended meaning across legal cultures. In doing so, the approach takes a holistic view of the operation of the law with the inextricable link between the law and language at its centre, drawing on comparative law and translation methodologies. The paper concludes by suggesting that the law curriculum would be considerably enhanced by inclusion of comparative and linguistic perspectives, with a view to equipping graduates with interdisciplinary tools for effective legal communication and practice across jurisdictions.

ALBANIAN ELECTORAL SYSTEM: HISTORICAL, POLITICAL AND LEGISLATIVE PERSPECTIVES

PhD. candidate Bledar ALTERZIU

University of Veliko Turnovo "St. Cyril and St. Methodius", Bulgaria

Lecturer Gentian KOCI

„Aleksandër Moisiu” University of Durrës, Albania

Abstract

This paper presents a comprehensive analysis of the Albanian electoral system, exploring its historical development, political dynamics, and legislative framework. It traces the evolution of electoral practices in Albania from the early 20th century to the present, examining key reforms and their impacts

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on the political landscape. The study delves into the current legislative structure governing elections, highlighting its strengths and challenges. The aim is to provide insights into the effectiveness of the Albanian electoral system in ensuring democratic governance and political stability. The history of elections and electoral processes in Albania is intertwined with the broader history of the Albanian state, marked by fragility and complexity. Unlike many European countries, Albania did not experience an economic revolution or the development of strong political elites and referential political models. The foundations of the Albanian electoral system were laid in the early 20th century, following the country's declaration of independence in 1912. Early electoral practices were influenced by the Ottoman legacy and the turbulent political environment of the Balkans. Albania's electoral processes have been closely linked to its political regimes, transitioning from a monarchy (1920-1939) to a communist system (1946-1991), and since 1992, to a democratic system. A significant moment in this evolution was the 1997 referendum which sought to change the form of government from a parliamentary republic to a constitutional monarchy. With international support, Albania has developed a multi-party system since the early 1990s, dominated by the Socialist Party (PS) and the Democratic Party (PD). Smaller parties initially played a role but have seen diminished influence due to frequent legal changes, including the 2008 constitutional amendments agreed upon by the two main parties. These amendments strengthened the bipolar party power structure, minimizing the role of smaller parties in democratic life. Electoral reforms in Albania have aimed to address issues such as voter registration, ballot integrity, and the representation of minorities and women. Current discussions focus on the voting rights of Albanians abroad and partial changes to the electoral system, such as opening party lists. The existing electoral system is based on proportional regional representation with closed party lists, divided into 12 regions and multiple electoral zones. Ensuring electoral integrity remains a critical challenge in Albania, with recurring issues like vote buying, voter intimidation, and manipulation of electoral rolls. Strengthening the legal framework and enhancing the capacity of electoral institutions are essential steps toward improving electoral integrity. The polarized political environment poses risks to electoral stability, making consensus-building on electoral reforms and fostering a culture of political cooperation crucial for maintaining a stable and democratic electoral system.

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11.00 - 12.00

THE INFLUENCE OF FOREIGN ISLAMIC ORGANIZATIONS ON ISLAMIC RADICALISM IN THE COUNTRIES OF THE WESTERN BALKANS

Professor Kolë KRASNIQI

University of Peja, Kosovo

Professor Azem HAJDARI

University of Peja, Kosovo

Abstract

The ethnic, religious, and strategic influences and interests of the great powers had always intersected in the territory of the Western Balkans. This political and religious turmoil as well as the impacts of geostrategic interests had a major impact on the region so that different cultures, churches, and beliefs, which competed and sometimes also conflicted with each other, had been developing over the course of the last centuries. Irrespectively of the religious and ethnic diversity, the peoples in the Western Balkans customarily endeavored to extend tolerance and understanding to members of other ethnic and religious communities. Unfortunately, ethnic as well as religious tolerance have increasingly come under attack since the breakdown of the Yugoslav state and particularly, since the outbreak of civil war in Bosnia-Herzegovina in 1992, though. This development extended to almost all the countries of the entire Western Balkans. Especially during the civil war in Bosnia-Herzegovina, some organizations financing terrorism invested hundreds of millions of dollars in order to propagate a radical religious ideology and to create incentives for hatred and different conflicts motivated by religion in all the countries of the Western Balkans populated by Muslims. Endeavors by certain Russian circles to fuel Islamist radicalization, radicalism, and extremism in the countries of the Western Balkans have likewise been observed during recent years.

CLIMATE LITIGATION AND JUDICIAL ACTIVISM: COMPARING THE EUROPEAN COURT OF HUMAN RIGHTS AND THE SUPREME COURT OF INDIA

Professor Marieta SAFTA

Faculty of Law, „Titu Maiorescu” University, Romania

PhD. Sonu AGARWAL

Faculty of Law, Manipal University Jaipur, India

Abstract

Our research delves into the urgent global issue of climate change and its profound implications on human rights and justice, by examining how two different regions, Europe and India,

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handle climate litigation and judicial activism. We focus on the European Court of Human Rights (ECtHR) and the Supreme Court of India, both pivotal in the climate change dialogue due to their increasing engagement with environmental cases. The paper begins by outlining the legal frameworks in the European human rights system and the Indian constitutional setup that support environmental litigation. We explore significant cases, illustrating how these courts' interpretations have influenced environmental law and policy. Our analysis scrutinizes the extent of judicial activism in these courts, investigating how they balance respecting legislative decisions with taking proactive steps to uphold environmental rights. Moreover, we assess the impact of these judgments on national climate policies and their wider implications for global environmental governance. By comparing these influential courts, our study sheds light on the judiciary's evolving role in addressing climate change and suggests how judicial decisions could potentially instigate major policy reforms. This comparative approach not only deepens our understanding of environmental jurisprudence but also provides valuable insights for other countries facing legal challenges related to climate change and to stimulate debates for a universal approach to climate change and human rights.

THE CRIME OF LEAVING A PERSON IN DIFFICULTY WITHOUT HELP. COMPARATIVE LAW STUDY

Lecturer Aurel Octavian PASAT

Transfrontier Faculty, „Dunarea de Jos” University of Galati, Romania

Abstract

In criminal law, the crime of "leaving a person in distress without assistance" refers to the act of abandoning or failing to provide assistance to a person in immediate and imminent danger of losing his life or suffering bodily harm serious. It is important to see how this crime is treated in the legislation of Romania, France and Italy in order to understand the similarities and differences. The study reflects the differences resulting from various cultural and legal approaches, highlighting how each country perceives the moral and legal responsibility of individuals in emergency situations.

THE LEGAL REGIME OF COMPETITION IN SWITZERLAND

Lecturer Ovidiu-Horia MAICAN

Faculty of Law, Bucharest University of Economic Studies, Romania

Abstract

Competition policy plays a key role in promoting consumer welfare and market opening. Lack of competition is one of the main reasons for the high prices of many products and services in the Swiss market. Traditionally, Swiss competition policy has been relatively mild and unobtrusive, leaving a relatively uncompetitive internal market unchallenged. The impact of competition policy on economic

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development has therefore been neutral at best. However, as the slow pace of growth becomes an issue, a stronger competitive approach has been identified as a key factor in improving growth prospects. The 2003 Cartel Law Reform strengthened Swiss competition law, in particular by introducing direct sanctions for the most serious violations and a leniency programme, bringing it closer to that of the European Union and many other OECD countries. The Competition Commission has been given considerable new powers to combat private restrictions on competition. Following the agreement between Switzerland and the EU on cooperation and exchange of information between their competition authorities, which entered into force on 1 December 2014. Switzerland continued bilateral talks with Germany on cooperation between the respective competition authorities. Germany is Switzerland's most important trading partner. On November 1, 2022, Switzerland and Germany signed a cooperation agreement between their competition authorities. After the Swiss Federal Assembly approved the agreement, it entered into force on September 1, 2023. The agreement, like the agreement between Switzerland and the EU, allows competition authorities to apply competition law more effectively in cross-border cases and is drafted similarly to the agreement between Switzerland and the EU.

12.00 - 13.00

DEEPPFAKE – DEFAMING A PERSON'S IMAGE WITH THE HELP OF ARTIFICIAL INTELLIGENCE

Lecturer Maria Gabriela ZOANĂ

*National University of Science and Technology POLITEHNICA,
Pitesti University Center, Faculty of Economic Sciences and Law, Romania*

Abstract

The study aims to address the use of deepfake technology from the point of view of criminal implications, respectively of criminal liability, the damages caused to injured persons, but also of insufficient legislation. Considering a non-specific national legislation, we will compare the draft law (PL-x no. 471/2023) with the legislation of other states regarding deepfake technology. The European Parliament adopted on 13.03.2024 the Regulation on artificial intelligence, the first harmonized European legislative proposal in the field of artificial intelligence, a regulation that also refers to deepfake, stating among other things that artificial or manipulated images and audio and video content of the deepfake type must be clearly labeled as such. Deepfake is any falsified image, audio or video content made with the help of artificial intelligence that can make it appear that a person said or did things, which in reality were not said or done by that person. In the synthesis of the above, the results and implications of the study will facilitate the adoption of a coherent national legislation in the matter.

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A PROPOSED GENEALOGY OF THE THEORY OF SOCIAL ROLES AS THE BASIS OF LEGAL RESPONSIBILITY AND LIABILITY IN THE WORK OF H.L.A. HART

Lecturer Lucian-Sorin STĂNESCU

Faculty of Law and Administrative Sciences, "Ștefan cel Mare" University of Suceava, Romania

Abstract

At the confluence of several social sciences, such as sociology, anthropology and psychology, and at the intersection of human intrapsychic life and its social life, the category of "social roles" is the subject of analysis in all these sciences and is used to explain many correlative concepts that are meant to explain people's attitudes and actions in society, as well as the creation of social structures and society itself. The English philosopher H.L.A. Hart is responsible for the penetration of this multi-purpose category into the world of law, and he gave it the status of the basis of legal responsibility and liability. So far, Australian Professor Peter Cane's exegesis has explained H.L.A. Hart's theory of social roles as the basis of legal responsibility and liability through the authority relations implied by these roles. The present study proposes a new interpretation of this concept, which could have revolutionary implications for the general theory of liability and legal responsibility, if validated, through Talcott Parsons' sociological concept, by following the rigid structure of legal responsibility. The methodology of the study involves comparing Peter Cane's theory with the interpretation of social role theory as a basis for legal responsibility and liability through Talcott Parsons' sociological conception.

THE INFLUENCE OF H.L.A. HART'S CONCEPTION OF SOCIAL ROLES ON THE GENERAL THEORY OF RESPONSIBILITY AND LEGAL LIABILITY AND ITS REFLECTION IN (ROMANIAN) POSITIVE LAW

Lecturer Lucian-Sorin STĂNESCU

Faculty of Law and Administrative Sciences, "Ștefan cel Mare" University of Suceava, Romania

Abstract

Social roles would have remained a concept of social science props, if the analysis of the typology of (Romanian) criminal law sanctions did not allow a parallel between them and the punishments provided for certain legal "figures", which could reflect the reception and response of the law to such social entities. The realization of this parallel would not have been possible without reviewing the works of general legal theory and comparative law through which the concept of the English philosopher H.L.A. HART, who has the merit of having proposed the concept of social role as the basis or cause of liability and, in particular, of legal liability, has penetrated the Romanian legal doctrine. In the following, we set out to verify the validity of H.L.A. Hart's theory of "social roles" as a basis for legal responsibility and liability in Romanian positive law, associating to this sociological category the legal concept of "natural person".

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**THE RIGHT OF LITIGANT PARTIES TO INFORMATION REGARDING REASONS,
DEFENSES AND CLAIMS IN THE EXERCISE OF THE PRINCIPLE OF ADVERSARIALITY
IN THE CIVIL PROCESS. THE PERSPECTIVE OF FRENCH LAW**

PhD. Liviu-Alexandru VIOREL

Lawyer in Bucharest Bar Association, Romania

Abstract

This article aims to identify the concrete content of three rights deriving from the principle of adversariality in the civil litigation, i.e. the right to know, the right to information and the right to understand and, consequently, to establish a logical correlation between them. Next, the article aims to establish the concrete content of the right to know together with the requirements that the right to information must meet, with the analysis of the temporality of this right. We used as methodological pillars the bibliographic research, the comparative method using French doctrine and regulation, the inductive method to highlight the existence of the triplet right to know - right to information - right to understanding within the construction of the principle of adversariality and to extract the conditions associated with the right to information. The article tends to highlight the need to be aware of the importance of the right to information regarding reasons, defenses and claims in the civil process, often disregarded in practice. It warns the participants in the civil process, be they parties or the Court, that the basis of the right to an effective adversarial litigation is necessarily the right to information and that its requirements must be met.

13.00 - 14.00

SHAREHOLDER ACTIVISM AND CORPORATE GOVERNANCE

Lecturer Helga Kristin Biering AUDUNSDOTTIR

Reykjavik University, Iceland