

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- IVth edition -

June 14, 2024

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Section III.

International Law

Friday, June 14, 2024

Online on Zoom

Keynote speakers:

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

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

! 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

CYBER DIPLOMACY IN THE V4 COUNTRIES: AN INTERNATIONAL LEGAL PERSPECTIVE

PhD. Federica CRISTANI

*Head of the Centre for International Law,
Institute of International Relations in Prague, Czech Republic*

Abstract

Cyber security concerns have become more prominent in the international and national political agenda. Generally, when we talk about cyber diplomacy, we refer to "a set of diplomatic practices concerned with the broadly defined governance of cyber space". In particular, cyber diplomacy encompasses the so-called cyber capacity-building measures (aimed at reducing cyber threats through the enactment of national cyber security strategies and the establishment of Computer Incident Response Teams) and confidence-building measures (or CBMs, in order to promote cooperation and information-sharing among states) as well as the development of (international) cyber norms. This Chapter focuses on the CBMs that have been developed by the OSCE and their implementation in the EU and, in particular, in the Visegrád countries (or V4). Indeed, the V4 have developed a unique model of sub-regional cooperation in the cyber security sector, thanks to establishment, together with Austria, of the Central European Cyber Security Platform that can work as an example of cooperation in the implementation of CBMs.

COP 28 IN THE LIGHT OF THE RIGHT TO A HEALTHY ENVIRONMENT: DESTRUCTIVE CREATION OR CREATIVE DESTRUCTION?

Associate Professor Marijana MLADENOV

Faculty of Law for Commerce and Judiciary, University Business Academy in Novi Sad, Serbia

Abstract

Climate change poses one of the most significant threats to human survival, demanding an urgent reaction. It seems that, more than ever, we need a global response to this issue. Therefore, it is not surprising that the international community had high expectations from the 28th United Nations Climate Change Conference (COP 28), held in Dubai, United Arab Emirates, from November 30 to December 12,

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2023, with the participation of representatives from over 160 countries. The paper will contribute to the ongoing discussion on whether this conference was a success or failure by analyzing its final outcomes with respect to the protection of the right to a healthy environment in accordance with the universal and regional human rights instruments. The scope of the paper is to clarify whether COP 28 recognized the basic postulates of the concept of the right to a healthy environment, or, in other words, should we consider the COP 28 declaration as a destructive creation or creative destruction?

HUMAN RIGHTS IMPLICATIONS OF THE USE OF FACIAL RECOGNITION TECHNOLOGY FROM THE PERSPECTIVE OF THE EUROPEAN COURT OF HUMAN RIGHTS

Associate Professor Marijana MLADENOV

Faculty of Law for Commerce and Judiciary, University Business Academy in Novi Sad, Serbia

Abstract

Facial recognition technology (FRT) has become an integral part of everyday life, blurring the lines between the real and virtual worlds. Despite the many benefits of this technology for individuals and society, it also poses certain risks in terms of human rights protection, particularly with regard to potential privacy violations. The European Court of Human Rights (ECtHR) delivered its first judgment on the human rights compliance of FRT in the case of *Glukhin v. Russia* on 4 July 2023. Despite the importance of this decision, there is an ongoing debate as to whether the ECtHR has left key questions unanswered. This article analyses the judgment and highlights its importance in the ongoing debate on the human rights approach to FRT. The first part provides an overview of the concept of FRT, including its impact on human rights from the perspective of the Council of Europe's regulatory framework. In the following part, the author will analyse the relevant case law of the European Court of Human Rights. Particular attention will be paid to the case *Glukhin v. Russia*. The aim of this paper is to clarify the main standards of the approach of the European Court of Human Rights regarding the human rights implications of the use of facial recognition systems and to highlight its possible limitations.

INTERNATIONAL LAW: AGAINST ALL ODDS

Associate professor Paulo DE BRITO

Universidade Lusófona, Centro Universitário do Porto, Portugal

Abstract

The current wars lead us to question where does international law stand. Has it lost its normative character? Is it still worth invoking? What about the role of the UN Security Council, the ICJ and the ICC Prosecutor's request for arrest warrants? This essay will try to reflect on those subjects.

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11.00 - 12.00

REFLECTIONS ON THE NEW WILDLIFE CRIME REPORT 2024: THE THREAT POSED BY TRANSNATIONAL ORGANISED CRIME

Senior lecturer Orsolya Johanna SZIEBIG

University of Szeged, Faculty of Law and Political Sciences

Department of International and European Law, Hungary

Senior lecturer Csaba ZSIGMOND

University of Public Service, Faculty of Law Enforcement

Department of Criminal Intelligence, Economic and Cybercrime, Hungary

Abstract

Wildlife crime, a leading cause of biodiversity loss and species extinction, has garnered increasing attention in recent years. The Wildlife Crime Report, a vital resource, serves to underscore the scale and trends of wildlife crime, offering reliable data. As CITES Secretary-General Ivonne Higuero aptly noted, the Wildlife Crime Report is 'uniquely insightful and a potent tool for shaping responses to the devastating impacts of wildlife crime.' While CITES, with its near-universal ratification, stands as a pivotal tool in regulating wildlife trade and combating wildlife crime, the menace of transnational organized crime and corruption presents a formidable challenge. These illicit activities make it difficult for law enforcement agencies and other stakeholders to identify and combat wildlife crime. International law instruments, such as the UNTOC, provide a framework for national legislation, but the lack of effective enforcement necessitates the identification of gaps and the search for comprehensive solutions by the international community. In their forthcoming paper, the authors will delve into the organized crime aspect of wildlife crime, drawing on previous research and the data presented in the recently published Wildlife Crime Report.

REFUGEE "MISHMASCH"

Associate professor Ľudmila ELBERT

Pavol Jozef Šafárik University in Košice, Faculty of Law

Institute of the International Law and European law, Slovakia

Abstract

The term of the refugee is currently used in the broadest sense and in the vague notion in relation to the migration caused by the armed conflicts and climate change. The reason is not just its

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misunderstanding and the confusion between refugee and migrant, but also targeted blurring of distinctions between different groups of people in need of the international protection by different subjects of the international law. The aim of the contribution is to analyse, compare and clarify the differences between the refugee, migrant, asylum seeker, internally displaced person or environmentally displaced person, etc., based on the Refugee Convention (1951), as well as work of relevant international organisations. To fulfil such aim it is necessary to analyse also the reasons of the so called mishmash. Therefore the article will provide the analyse of the practice of the media and states in the process of the acceptance of the „refugee deals“ and also the roots of the migration in order to identify the reasons of the unclear use of the terminology in the field of the refugee protection. The role of the contribution is to provide the clear guidance for the refugee terminology in the need to solve current migration issues.

INTERNATIONAL ORGANIZED CRIME, DEMOCRACY AND SECURITY

Professor Ana CAMPINA

University Fernando Pessoa, FP-IZID, CEPESE, Porto, Portugal

CIGG-USAL, Salamanca, España

Professor Carlos RODRIGUES

University Fernando Pessoa, FP-IZID, CEPESE, Porto, Portugal

CIGG-USAL, Salamanca, España

Abstract

Organized International Crime seriously and irreversibly affects the international context, is a powerful and systematic threat to the security of states, governments, economies, and society, and is one of the greatest challenges to police authorities and criminal investigation, and to judicial action. Transnational organized crime is recognized in the international legal system, particularly by International Organizations such as the United Nations or the Council of Europe, providing for the emerging need and effective intervention to prevent its multidimensional action, under the auspices of effective victim protection, as preventive as possible. However, the “fight” against International Organized Crime is a very serious problem due to the difficulty of prevention or predictability or control and due to the most serious consequences and damage to the lives of States and individuals, due to the violation of Human and Fundamental Rights, as official statistics reveal. Given the multiple origins, ages, and professions of the criminals, acting individually or as part of organizations, organized groups, associations, or networks, on a global/regional/local scale, and which potential and capacity for constant evolution and innovation, with an extremely high degree of sophistication, they manage to outwit and outmaneuver international control and capture systems. There is an urgent need to deconstruct stereotypes that are dangerously proliferating, generating multiple negative reactions, and conditioning the actions of the various players involved in preventing and combating this international crime.

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

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MINIMUM PAY RATE REQUIREMENT IN PUBLIC PROCUREMENT: THE POSSIBLE COLLISION BETWEEN ILO CONVENTION NO. 94 AND EU DIRECTIVES

PhD. student Joanna FLORECKA

Institute of Law Studies, Polish Academy of Sciences, Poland

Abstract

The aim of this paper is to analyse the legal requirements at the EU and international levels for the adoption of a minimum pay requirement in public procurement. For this purpose, the obligations arising from ILO Convention No. 94 are first analysed. Next, the relevant provisions of the procurement directives as well as Directive 96/71 are investigated. Then, the analysis focusses on the case law of the Court of Justice of the European Union (CJEU) to identify the applicable standards and the extent of their modification. Finally, the possible points of collision between EU law and the Convention are discussed. The paper uses a doctrinal legal analysis, examining primary sources, including ILO Convention no. 94, EU directives related to the public procurement as well as posted workers, and CJEU case law. The findings reveal significant discrepancies between the international and EU standards, particularly in the sources and definitions of applicable pay rates.

12.00 - 13.00

MILITARISATION OF CLIMATE CHANGE RISKS AND BENEFITS FOR EUROPEAN SECURITY AND INTERNATIONAL LAW

Professor Emeritus Paul GHILS

Université libre de Bruxelles, Belgium

Associate professor Cristina Elena POPA TACHE

Faculty of Psychology, Behavioral and Legal Sciences

'Andrei Șaguna' University in Constanța, Romania

Abstract

This study notes the emergence of the new concept of the "militarisation of climate change" and analyses the associated risks and benefits for European security and international law. The key role of international relations is brought to the fore both in preventing excessive militarisation that can escalate international tensions and in strict democratic control to prevent abuse of power and ensure transparency of decisions. Global collaboration facilitates joint and coordinated policies to combat trans-boundary climate impacts, stabilising affected regions and making effective use of armed forces in climate

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emergencies. Beginning with the recognition of climate change as a significant threat to global security, the European Union has integrated this issue into its security and defence policy, as evidenced by the adoption of the Strategic Compass in 2022. The document underscores the necessity of developing adapted national strategies to prepare armed forces for the impact of climate change, while also promoting sustainable practices and green technologies within military operations. The securitisation approach to climate change raises alarm bells about the potential excessive militarisation of the issue, with possible negative consequences for human rights and civil liberties. The securitisation of forced migration and the military control of natural resources are examples of measures that could undermine the humanitarian aspects of climate change. This is the argument underpinning our paper, which also examines how these policies align with the norms and principles of international law, emphasising the importance of balancing security measures with humanitarian obligations. This contribution builds on the discussion of how climate change is integrated into the EU's security and defence policy and offers perspectives on how international law can guide and regulate these efforts, ensuring a balanced and humanitarian universal regulation.

THE ROLE OF CIVIL SOCIETY IN CLIMATE CHANGE LITIGATION - BETWEEN NECESSITY AND IMPERATIVE. CASE STUDY ON ENVIRONMENTAL LITIGATION IN ROMANIA

Associate professor Cristina Elena POPA TACHE

Faculty of Psychology, Behavioral and Legal Sciences

'Andrei Șaguna' University in Constanța, Romania

PhD. Lidia-Lenuța BĂLAN

Ministry of Research, Innovation and Digitalization, Romania

Abstract

The role of civil society in climate change litigation has become increasingly significant in recent years, serving as both a necessity and an imperative. In Romania, environmental organisations such as Greenpeace Romania, Ecopolis, Bankwatch Romania, and Agent Green have spearheaded legal actions addressing issues closely linked to climate change, including urban pollution, mineral extraction practices, and illegal deforestation. Despite their efforts, there remains a notable absence of grassroots civil groups actively engaging in climate litigation. This article examines the legal frameworks that empower these organisations, highlighting the limitations of the Romanian Constitution in offering robust environmental protections and arguing for the redefinition of the right to health to encompass public health measures against climate change. Through a detailed analysis of landmark cases such as mining projects and air pollution disputes in the capital and other areas, this study highlights the growing role of NGOs in holding the state accountable. Civil society in general is a driver of environmental justice and climate action, which is why this article seeks to identify and propose the best solutions.

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BREAKING BARRIERS: THE EVOLVING LANDSCAPE OF GENDER EQUALITY AND ANTI-DISCRIMINATION IN SUSTAINABLE DEVELOPMENT

Professor Svitlana KARVATSKA

*Acting Head of the Department of International Law and Comparative Law
Yuriy Fedkovych Chernivtsi National University Ukraine*

Associate professor Ivan TORONCHUK

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Assistant professor Ruslan IVANUIK

*Department of International Law and Comparative Law Studies
Yuriy Fedkovych Chernivtsi National University, Ukraine*

Abstract

This article explores the crucial role of gender equality and anti-discrimination efforts in achieving the Sustainable Development Goals (SDGs), focusing particularly on Goal 5 of the UN's 2030 Agenda. Employing a mixed-methods approach, the study integrates quantitative and qualitative analyses, reviewing strategic documents, statistical data, and case studies. It highlights the significant impact of gender-based violence, economic disparities, and social inequalities on sustainable development. The paper examines key international frameworks, such as the Istanbul Convention and the EU's gender policies, and their implications for Ukraine. It discusses the progress and challenges Ukraine faces in promoting gender equality amidst the ongoing war and its socio-economic impacts. The article concludes with recommendations for enhancing policy implementation, fostering international cooperation, and addressing the socio-economic impacts on gender equality. This comprehensive analysis aims to contribute to the global discourse on achieving gender equality as a cornerstone of sustainable development.

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THE EFFECTIVENESS OF INTERNATIONAL TREATIES FOR THE DISARMAMENT AND NON-PROLIFERATION OF NUCLEAR WEAPONS

PhD. candidate Stefani STOJCHEVSKA

*South East European University (SEEU),
Faculty of Law – Tetovo, North Macedonia*

Professor Bekim NUHIJA

*South East European University (SEEU),
Faculty of Law – Tetovo, North Macedonia*

Abstract

Ever since the dawn of the nuclear age, international law has often been sought by opponents of nuclear weapons in order to attempt to regain a nuclear-free world through bilateral and multilateral treaties concluded between both nuclear-weapons states (NWS) and non-nuclear-weapons states (NNWS). Despite such efforts, however, issues related to nuclear non-proliferation, disarmament and nuclear security matters face continuing challenges as yet, particularly when concerning the international legal fora. Hence, the objective of this research paper concerns to scrutinize the effectiveness of international treaties aimed toward the disarmament and non-proliferation of nuclear weapons. For that matter, this research paper adopts a comparative international approach by providing legal commentaries in regards to such international treaties, namely: (1) the Nuclear Non-Proliferation Treaty (NPT); (2) the Treaty on the Prohibition of Nuclear Weapons (TPNW); (3) the Statute of the International Atomic Energy Agency (IAEA); (4) the Convention on the Physical Protection of Nuclear Materials (CPPNM); (5) the Outer Space Treaty (OST) and the Moon Agreement; and (6) the Seabed Arms Control Treaty. The results obtained from this research paper implicate that the development of international nuclear law is not static, as well as that many nuclear-related issues require further scholarly examination.

13.00 - 14.00

THE INTEGRATION AND PROTECTION OF REFUGEES IN TANZANIA

Senior lecturer Jean Chrysostome KANAMUGIRE

School of Undergraduate Studies, Faculty of Law, North-West University, South Africa

Abstract

The problem of refugees is currently a global phenomenon that needs a global response. Individuals flee their countries of origin due to wars, persecution, violation of human rights and environmental disasters or climate change. Refugees receive protection in their host countries, and they cannot be forcibly repatriated to their countries of origin against their will. Tanzania has enacted laws and created policies

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

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to protect and promote refugee rights on its territory. From its independence, Tanzania has exhibited generosity in receiving refugees from its neighbouring states and southern African countries. Refugees live in specific areas with limited freedom of movement. Tanzania has naturalised some refugees from Rwanda, Somalia and Burundi to provide durable solutions to their plights. However, Tanzania has changed its policies towards refugees and has engaged in forcibly repatriating some refugees from Rwanda and Burundi. Tanzania must re-evaluate its current laws and policies on refugees to ensure that refugees and asylum seeker are adequately protected.

WHEN EU LAW NEEDS TO KEEP UP WITH INTERNATIONAL REALITY. A PERSPECTIVE ON THE FUTURE OF THE TEMPORARY PROTECTION MECHANISM AFTER 4 MARCH 2025

Lecturer Mihaela Adriana OPRESCU

Faculty of European Studies, Babeş-Bolyai University, Romania

Abstract

The Russian Federation's aggression against Ukraine has not only highlighted the problem of the security for the entire European continent and the fragility of the international architecture, but it has also raised new challenges from the perspective of humanitarian law. In the face of military atrocities committed in defiance of international law, the EU could not stand by and watch: it has, therefore, implemented the temporary protection mechanism governed by the provisions of Council Directive 2001/55/EC of 20 July 2001, which remains in force until 4 March 2025. What happens to the situation of displaced persons from Ukraine after that date is still largely unknown. Several solutions can be put forward, ranging from the adoption of secondary legislation to an extensive interpretation of existing instruments, even beyond their letter and spirit, which this study shall explore. Regardless of the solution chosen, one point is undeniable: in the absence of an applicable European law instrument, the legislative diversity between the 27 national systems may not only create the conditions for a fragmented and possibly discriminatory approach to the right of residence for former beneficiaries of temporary protection, depending on the national immigration policy of each Member State, but it may also turn certain Member States into a veritable Eldorado in terms of protection for these categories of persons.

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GOOD ADMINISTRATION IN THE VIEW OF THE INSTITUTIONS OF THE EUROPEAN UNION – THEORETICAL AND PRACTICAL ASPECTS

PhD. student Samuel MIREUȚĂ

Faculty of Administration and Business, University of Bucharest, Romania

Abstract

The right to good administration is provided by the Charter of Fundamental Rights of the European Union. This right presupposes that any person is recognized as having the right to benefit, as regards his problems, from impartial, fair treatment and within a reasonable time from the institutions, bodies, offices and agencies of the Union. The guardian of this right is the European Ombudsman. This concept of good administration is associated with the rule of law, legality, transparency, efficiency, effectiveness, democracy and implies that the institutions of the European Union must comply with certain standards. The author proposes as objectives: (i) Analysis of the right to good administration in the existing documents at the level of the European Union: the Charter of Fundamental Rights, the Maastricht Treaty on the European Union, the Lisbon Treaty on the functioning of the European Union, the European Code of Good Administrative Behaviour; (ii) refer to the specialized literature in the analysis carried out; (iii) to refer to case law. The author uses content analysis as a qualitative research method. The study shows different paradigms regarding the concept of good administration.

RELEVANT ASPECTS OF THE DECISION PRONOUNCED IN THE CASE OF VEREIN KLIMASENIORINNEN SWEIZ AND OTHERS VS SWITZERLAND IN ROMANIAN LAW

PhD. student Adina GUȚIU

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

Abstract

The paper proposes to analyse the potential implications of the decision in Romanian law, especially in connection with the administrative acts in the field of environmental protection.