

**CONFERENCE ON
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Section I.

Comparative Public Law

Friday, June 27, 2025

Online on Zoom

Moderator:

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

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SCIENTIFIC PAPERS

JUSTIFICATION AND THE NEW RHETORIC: A COMPARATIVE STUDY OF FORST AND PERELMAN IN DEFENSE OF HUMAN RIGHTS

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Master graduate **Raphael Rosalvos BARCELLOS**

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Abstract

In pluralistic societies, the relationship between human rights and national sovereignty are increasingly complex, as it involves a tension between the protection of individual rights and the autonomy of states. While the Universal Declaration of Human Rights establishes universal values and principles, its practical application remains challenging, particularly when it encounters assertions of state sovereignty. This paper aims to establish a dialogue between the justification theories of Chaim Perelman and Rainer Forst, mediated by the thought of Jürgen Habermas. These three influential thinkers, concerned with the problem of legal justification, share, among other commitments, a recognition of the role of practical argumentative reason in addressing conflicts of justice in plural societies. Employing a comparative method, this study examines the key concepts and arguments of each author, drawing primarily on their foundational works on argumentation and justification. The expected contribution of this rapprochement between Perelman and Forst lies in the potential complementarity of their argumentative frameworks, particularly with respect to grounding legal justification in the context of human rights.

RESPONSIBILITY BEYOND GUILT AND OBLIGATION: A DIALOG BETWEEN HANNAH ARENDT AND PAUL RICOEUR

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Abstract

This article proposes a comparative analysis of the concepts of responsibility in the philosophies of Hannah Arendt and Paul Ricoeur. Both thinkers, although with different approaches and focuses, contribute significantly to understanding responsibility beyond its merely traditional legal and moral delimitations, centered on individual guilt and legal obligation. After a brief contextualization based on the philosophy of Immanuel Kant, Emmanuel Lévinas and Hans Jonas, we will present the Arendtian notion of responsibility as a political concept for caring for the world and also the Ricoeurian notion of responsibility as an anthropological capacity for practical wisdom. The aim is to identify the points of convergence and the fundamental divergences in their respective conceptual constructions. It is hoped to demonstrate that, together, Arendt and Ricoeur offer a robust basis for understanding the notion of responsibility in a complex world full of challenges, emphasizing thinking, judging and acting, the community dimension and orientation towards the future, whether as a political imperative of “care for the world” or as a

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fundamental capacity of the “capable man”. In this way, the notion of responsibility is expanded beyond guilt and obligation, situated in complex ethical and political contexts, with relevance for a foundation of human rights.

CIVIL SERVANT LAW: A COMPARISON AND EVALUATION BETWEEN VIETNAM LAW AND CHINA LAW

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Abstract

The civil servant laws of Vietnam and China have many similarities due to the same political system. However, the civil servant law systems of these two countries also have many differences that need to be studied further. The purpose of this study is to explore the similarities and differences in the civil servant law systems of China and Vietnam, and their significance in perfecting the law and enhancing the capacity to build and implement policies and civil servant laws in Vietnam. Qualitative methods were used to study the civil servant law systems of the two countries; compare, contrast, analyze, and evaluate the economic and political conditions of the two countries, and find out the fundamental causes of those similarities and differences. The research results have shown that learning and understanding each other between the two civil servant law systems is necessary in the context of the relationship between the two countries. At the same time, it helps each legal system to supplement and perfect civil servant law in the context of international integration.

COMPARATIVE LEGAL ANALYSIS OF THE INSTITUTE "EXEMPTION FROM CRIMINAL LIABILITY"

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Abstract

The scientific research aims to examine some imperfections in the legal framework of the institute "exemption from criminal liability" both in Bulgarian and other national legislation, through its systematic, doctrinal and comparative legal analysis. For the purposes of the study, the essential differences between the concepts of "decriminalization" and "depenalization" are indicated, as well as between the legal institutions of exemption from criminal liability, exemption from punishment and exclusion (loss) of criminal liability. In this regard, the individual types of legal liability are distinguished by deducing the main characteristics of criminal liability. As a result of the scientific analysis several concrete ideas are proposed for improving the current legal framework of the institute "exemption from criminal liability" in Bulgarian legislation, which could be adopted in other jurisdictions as well.

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REDEFINING LEGAL FAULT AND ADMINISTRATIVE ERROR IN AN INDETERMINATE LEGAL SPACE: A HUMAN-PHILOSOPHICAL AND CRITICAL SOCIAL APPROACH

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Abstract

This article aims to redefine the concepts of "legal fault" and "administrative error" in the context of epistemic uncertainty, environmental crisis, global pandemics, and the increasing power of technology. Rather than viewing fault as a mere technical deviation, the author interprets it as a political–ethical phenomenon closely tied to power, responsibility, and the space of freedom in postmodern law. The article adopts a philosophical methodology rooted in human philosophy and critical social theory, combined with interdisciplinary synthesis across legal philosophy, state theory, public administration, social systems theory, and legal discourse analysis. It further employs a dialectical–transformative method between opposing categories (freedom–necessity, norm–power...) to clarify the nature and limits of legal accountability. The study reveals that legal fault cannot be reduced to an objective violation but must be understood within the tension between systemic structures and individual creativity. Overemphasis on the precautionary principle may suppress innovation, shift responsibility from society to individuals, and turn freedom into risk. Therefore, a flexible, reflective, and interdisciplinary theoretical framework on fault is necessary—one that recognizes the space for freedom, error, and learning as essential to protecting human dignity and advancing legal reform in an age of uncertain knowledge.

MONEY LAUNDERING AS A CRIMINAL PHENOMENON: A CASE STUDY – THE REPUBLIC OF NORTH MACEDONIA

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Abstract

Money laundering is the process of concealing the origins of illegal income derived from unlawful activities, with the intention of integrating it into the legitimate financial system. No country is immune to this criminal phenomenon. In this context, it is also observed in the Republic of North Macedonia (RNM). Considering the negative effects that this criminal phenomenon has on the economy, countries must pay special attention by creating effective mechanisms to prevent and combat it. This paper will elaborate on the concept of money laundering, the methods through which it is carried out, with a particular focus on the Republic of North Macedonia. It will analyze the negative effects of this phenomenon on the country's economy, as well as the legal regulations that sanction this criminal activity. Furthermore, the most recent data from the State Statistical Office of the Republic of North Macedonia, related to this phenomenon, will be presented in a tabular format, reflecting its dynamics and volume

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over a five-year period. In conclusion, based on the analysis of this field, conclusions and recommendations related to the topic of the paper will be provided. Various research methods will be employed in the preparation of this paper, such as analysis, deduction, comparison, statistics, and observation. The significance of this paper lies both in its theoretical and practical aspects. On one hand, it contributes to enriching the literature in this field, while on the other, it provides employees in institutions fighting economic crime with the opportunity to apply this knowledge in their professional practice.

BRIEF STUDY OF CRIMINAL LAW AND ITS APPLICATION IN RELATION TO ITS TEMPORAL SCOPE OF VALIDITY

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Abstract

The theoretical conceptualization of “criminal law” may imply reference to the vast field in which it finds its applicability. Thus, this name refers to both criminal laws proper and procedural criminal laws, as well as those regarding the execution of sentences. In this sense, our analysis has as its precise reference point the criminal laws proper, which regulate the punitive system and which are embodied in provisions of a general nature (the general part) or of a special nature (the special part). The general part includes abstract and general norms, of a mandatory nature, which concern the principles or theoretical-scientific foundations of criminal science and which serve as a basis for orientation and substantiation of the provisions of the special part. The special part, which properly reflects the fundamental feature of punitive law, is made up of a mixed normative-descriptive structure (the criminal type), accompanied by a coercive, mandatory and inevitable legal consequence – the punishment –, or by a measure of a preventive-therapeutic nature – the safety measure.

INDIVIDUALIZATION OF SENTENCES IN COMPARATIVE CRIMINAL LAW: BETWEEN NATIONAL TRADITION AND INTERNATIONAL INFLUENCES

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Abstract

The topic of sentence individualization in comparative criminal law explores how various legal systems define, regulate, and apply the principle of proportionality in criminal sanctions, based on the specifics of the offense and the offender. The study starts from the conceptual premises of judicial individualization, examining the duality between objective legal criteria and the court's subjective assessment in determining the appropriate sentence. A comparison is made between civil law systems (e.g., France, Germany, Romania) and common law systems (e.g., the United States, the United Kingdom), highlighting the differences between codified and case law-based models of individualization. The analysis considers the influence of international standards, particularly the jurisprudence of the European Court of Human Rights and documents issued by the UN and the Council of Europe on fair treatment and the proportionality of sanctions. Recent trends are identified, such as the introduction of sentencing guidelines, the role of probation boards, and the use of interdisciplinary assessments in tailoring sentences, as well as the impact

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of cultural, socio-legal, and political factors on judicial practice. The paper proposes a critical reflection on the necessary balance between judicial discretion, the need for consistency in criminal justice, and the imperative of respecting fundamental rights, with an emphasis on the importance of predictability and transparency in the sentencing process.

COMPARATIVE LAW ANALYSIS OF FUNDAMENTAL CONCEPTS OF CRIMINAL LAW: CRIME AND PUNISHMENT

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Abstract

The study entitled *Comparative Law Analysis of Fundamental Concepts of Criminal Law: Crime and Punishment* proposes a complex approach, in the sense that the specialized works published so far in this field have addressed this issue in a limited manner. Specifically, comparative criminal law studies have focused on comparisons between two states, far from the idea of comparing the concepts of crime and punishment from a systemic perspective. Thus, the idea of harmonizing criminal law is based on comparative law studies, which must consider criminal law in all its forms as found in different legal systems. The objectives of this study are subsumed under the following ideas: identifying and analyzing the forms of crime in different legal systems, respectively in different states; identifying and analyzing the types of punishment existing and applicable in different legal systems, respectively in different countries (with an emphasis on crimes against the person); identifying the links between the different legal systems and categories of crimes, respectively the identified punitive systems. The research methods used are the comparative method, case law analysis, and analysis of legislative texts. The expected results aim to confirm the hypothesis that in legal systems where the main source of law is judicial precedent, the punitive system is oriented towards repression, while in legal systems where the main source of law is the law, the punitive system is oriented more towards prevention than repression.

THE PRINCIPLE OF EQUAL OPPORTUNITIES BETWEEN WOMEN AND MEN IN ELECTORAL MATTERS IN ROMANIAN LAW AND IN COMPARATIVE LAW

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Abstract

The equality of opportunity between women and men is enshrined both in European and international regulations, as well as at constitutional and legal levels in the member states of the European Union. The trend is towards balancing the participation of both genders in public life, each state establishing its own vision not only in the Constitution, but also in the infra-constitutional legislation. The paper analyses the manner in which the regulation of the principle of equal opportunities between women and men in the electoral field has evolved in Romanian law and in comparative law.

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CRIMINAL LIABILITY FOR MERCENARY ACTIVITY IN SOME EUROPEAN STATES

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Abstract

Knowing a continuous transformation, in line with the evolution of conflicts throughout history, mercenary activity represents a major threat to the peace and security of states. In this context, it is necessary that, alongside international legal instruments, each country criminalizes mercenary acts within its own legislation. The purpose of this study is to provide the Romanian legislator, who has long remained passive regarding this extremely important issue, with an overview of the legislation in several European states, in order to observe how these countries have chosen to define mercenary offenses in their national laws. By examining the various legal frameworks, one can identify both the differences and similarities between them, the more concrete or more elaborate forms of criminalization, the harsher or more lenient approaches to punishment, elements that may serve as a starting point for the future and necessary inclusion of such offenses in Romanian legislation.

POLICE ENTRAPMENT: A COMPARATIVE ANALYSIS OF THE JURISPRUDENCE OF THE EUROPEAN COURT OF HUMAN RIGHTS AND GERMAN CRIMINAL LAW

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Abstract

The definition and legal consequences of police entrapment remain unresolved issues in comparative criminal law. The present study seeks to contribute to their clarification by examining two legal systems in dialogue: the jurisprudence of the European Court of Human Rights and German criminal law. The German theoretical framework, marked by its precision and internal coherence, offers valuable interpretative tools for understanding and applying the Court's standards—such as the minimum threshold of seriousness, the balancing of the respective contributions of state agents and the accused at various stages of the criminal activity, and the objective attribution of the offence in cases involving incitement. Conversely, regarding the legal consequences of entrapment, the tumultuous history of the dialogue between the European Court and the German judiciary illustrates the limits of the margin of appreciation that the Court is willing to afford national jurisdictions. The outcome of this dialogue ultimately confirms that there is no lawful pathway for convicting an accused of an offence instigated by the authorities without violating Article 6 of the European Convention on Human Rights.

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ASPECTS OF THE DISCRETIONARY POWER OF THE MAIN ACTORS INVOLVED IN THE PROCEDURE FOR APPOINTING A GOVERNMENT

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Abstract

The appointment of a government is becoming an increasingly strong challenge in democratic, pluralistic states, in which the will expressed by citizens, through the exercise of the right to vote, in the electoral process, is so varied and fragmented. Although, at least apparently, citizens with the right to vote more easily identify the political party to which they should entrust their vote, creating a parliamentary majority that can grant a vote of confidence and support a government requires intense negotiations, bitter compromises, and a continuous struggle for mutual trust between the actors involved in such a process. The stability of a state, its ability to develop economically and, implicitly, socially, culturally, etc., depends on the political stability that only a government supported by a stable parliamentary majority can bring. So far, even though we have faced various political or governmental crises, in Romania we have not been put in the situation of applying constitutional provisions which, due to the impossibility of appointing a government, may lead to the dissolution of Parliament and the organization of early elections. However, the experiences, political struggles, the instruments and procedures used to form a government and maintain it in office, especially those of the recent period, the discretionary power with which parties, party coalitions, political formations, the head of state, have led us to analyze, in a comparative manner, the procedure for appointing the government, configured by the constitution of other states, in order to identify possible options for improving the national procedure, as well as the limits of the discretionary power within which these actors act within this procedure in other states.

POWER WITHOUT RESPONSIBILITY? THE PROBLEM OF CONTROL IN GLOBAL ADMINISTRATIVE LAW

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Abstract

We are going through a period marked by transnational normative decisions, the proliferation of technocratic networks and the emergence of a "stateless legality", which for global administrative law raises the fundamental problem of contemporary legal and political theory: how could power that does not derive from legitimate democratic sovereignty be controlled? The paper examines the problematic relationship between the new type of authority of global regulatory bodies (agencies, informal networks, international organizations) and the deficit of accountability that characterizes their functioning in the absence of a demos, a deliberative forum and a coherent system of global administrative justice. Through a critical analysis of accountability and transparency models in a post-Westphalian context, the paper seeks to find the limits of current mechanisms of judicial, societal or institutional control and formulates the hypothesis of a reconceptualization of administrative legitimacy in transnormative terms. For this purpose, the relevant elements of both the contributions of globalist schools (Kingsbury, Krisch), theories of global and post-national constitutionalism, and the new forms of algorithmic governance, which multiply the opacity of administrative decision-making across state borders, are analyzed. Therefore, the study proposes a conceptual regime of "reflexive responsibility" applicable to global administrative

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actors, inspired by the ethics of responsibility (Jonas), transcivilizational dialogue and functional systems theory. The global administrative law that we observe today, although it started as an extension of the classical one, must now be treated as a separate normative form, in which administrative power is directly proportional to global consequences.

SIMPLIFICATION OF ADMINISTRATIVE PROCEEDINGS RELATED TO PERMITTING AND REPORTING

PhD. student **Adina GUTIU**

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Abstract

The article wishes to analyze the potential impact of the new european tendencies for simplification, with regard to permitting and /or reporting, in connection with administrative acts in the field of environmental protection.