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Section II. Comparative Public Law

Friday, June 26, 2026

Online on Zoom

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- University of Hertfordshire, United Kingdom (ARWU 2025: 801–900)
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- University of Szeged, Hungary (ARWU 2025: 401–500)
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Associate professor **Radu Ștefan Pătru**, Faculty of Law, Bucharest University of Economic Studies

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SCIENTIFIC PAPERS

MINIMUM AGE OF CRIMINAL RESPONSIBILITY AND PENAL RESPONSES TO CHILDREN IN CONFLICT WITH THE LAW: A COMPARATIVE STUDY OF SELECTED EUROPEAN JUVENILE JUSTICE SYSTEMS

Associate professor **Blerta AHMEDI**

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Abstract

The paper examines the minimum age of criminal responsibility for children in conflict with the law and the implementation of custodial and non-custodial measures through a comparative analysis of selected European juvenile justice systems. The study aims to analyze the relationship between the age of criminal responsibility and punitive or alternative responses towards children in conflict with the law. The research is based on comparative legal analysis, analysis of international and national juvenile justice legislation, and relevant scientific literature concerning custodial and non-custodial measures. The juvenile justice systems of North Macedonia, Albania, Norway and the Netherlands are analyzed in relation to their compliance with international juvenile justice standards, particularly the principle of deprivation of liberty as a measure of last resort. The findings show that the minimum age of criminal responsibility is not the decisive factor in determining the intensity of the criminal response. More important is the orientation of justice systems toward the implementation of restorative and rehabilitative measures that protect the best interests of the child and limit the use of deprivation of liberty. The findings may serve as a useful basis for evaluating juvenile justice reforms aimed at strengthening restorative approaches and reducing the reliance on custodial measures.

THE HISTORICAL MAKING AND CURRENT CHALLENGES OF THE STATUS OF FOREIGNERS IN TUNISIA

PhD. candidate **Amira NAMOUCHI**

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Abstract

This paper evaluates the legal framework related to foreigners in Tunisia, leading to conclusions on integration challenges and systemic hardships. It employs a legal history approach to trace the evolution of Tunisian law, examining the various legal systems that have shaped its current structure. The study explores the influence of Roman law, Islamic law, considered as immaterial sources of modern Tunisian legislation, besides the influence of the colonial era in which codification of Tunisian law occurred. By analyzing these historical layers, the research contextualizes current laws regulating citizenship, entry, and the stay of foreigners. Tunisia's legislative approach reflects a cautious stance toward foreigners, particularly in matters of citizenship and immigration. Following independence, the state prioritized laws emphasizing the jus sanguinis principle while imposing significant restrictions on naturalization and marriage-based citizenship. These measures raise critical concerns regarding the protection against statelessness and gender inequality. Recent amendments, such as those introduced in 2004,

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- VIth edition -

June 26, 2026

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illustrate restrictive trends shaped by cooperation with the EU to address irregular migration. However, many labor migration laws remain rooted in the colonial era, rendering them outdated and ill-equipped to address modern challenges. The research reveals that irregularity in labor migration often arises from rigid recruitment requirements, which lead to issues such as inadequate worker protections after dismissal and limited access to social security for migrants, especially those in irregular situations. By combining historical analysis with an examination of contemporary legislation, this paper highlights the need for a comprehensive and adaptive legal framework that addresses these enduring gaps and aligns with human rights norms.

RETHINKING LEGAL FAMILIES IN A GLOBALIZED WORLD

PhD. candidate **Wael HAMDI**

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Abstract

This study examines prominent legal traditions to explore how jurisdictions structure their legal frameworks and how these classifications evolve under contemporary pressures. By analyzing legal families as popularized by scholars such as René David, Konrad Zweigert and Hein Kötz, the research traces the historical development of legal taxonomy from Mittermaier and Glasson to modern critiques by Glenn, Gordley and Husa. The objective is to assess the validity of traditional legal family classifications in light of legal pluralism, hybridity and globalization. The research employs comparative legal methodology, doctrinal analysis and some case studies of hybrid jurisdictions. The study investigates the collapse of rigid classifications through legal pluralism, legal transplants and alternative patterns of law, with particular attention to mixed legal systems as a distinctive legal family across several continents. The results show that rigid legal families have largely collapsed, with mixed and hybrid systems emerging as central models. The implications suggest that legal education, judicial training, and harmonization efforts must move beyond static categories toward more fluid, context-sensitive frameworks. Although the study identifies trends toward convergence, it acknowledges the enduring uniqueness of each legal tradition, emphasizing the dynamic and increasingly hybrid nature of contemporary legal systems.

DIGITAL PUBLIC INFRASTRUCTURE AND RESPONSIBLE STATE CAPACITY: COMPARATIVE PUBLIC-LAW LESSONS FOR VIETNAM'S DIGITAL TRANSITION

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Lecturer **Thi Bich Nga TRAN**

Banking University of Ho Chi Minh City, Ho Chi Minh City, Vietnam

Abstract

Digital public infrastructure (DPI) has become a constitutional problem of administration rather than a merely technical project. This article examines how digital identity, population databases, electronic authentication, data-exchange layers and AI-supported decision tools transform state capacity in Vietnam. Using doctrinal legal analysis, comparative public law and institutional public-governance theory, it compares India, Estonia and the European Union as three regulatory models: scale-oriented infrastructure, interoperability with auditability, and

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- VIth edition -

June 26, 2026

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rights-based digital constitutionalism. The article argues that Vietnam's reform frontier is no longer the digitisation of individual procedures, but the legal constitutionalisation of data-driven administration. Vietnam's recent legislation on electronic transactions, identity, data, personal data protection and artificial intelligence creates an important foundation; however, it must be completed by clearer rules on lawful data linkage, algorithmic due process, independent audit, public registers of high-risk automated systems, vendor accountability and inclusive fallback channels. The proposed model of responsible digital state capacity connects administrative effectiveness with legality, proportionality, accountability and human dignity.

PARTICIPATORY DEMOCRACY IN THE DIGITAL STATE: COMPARATIVE ADMINISTRATIVE LAW PERSPECTIVES FROM THE EUROPEAN UNION, TAIWAN AND VIETNAM

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Lecturer **Thị Bích Nga TRAN**

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Abstract

Digital transformation is reshaping the traditional relationship between citizens and public authorities, creating new opportunities and challenges for participatory democracy in contemporary administrative governance. This article examines how digital technologies are transforming mechanisms of public participation in administrative decision-making and explores the legal conditions necessary to ensure meaningful democratic engagement in the digital state. Through a comparative administrative law analysis of the European Union, Taiwan and Vietnam, the study evaluates emerging models of online consultation, collaborative policymaking and digital civic participation. The article argues that the legitimacy of digital participation depends not merely on technological accessibility but on the existence of legal safeguards ensuring transparency, accountability, inclusiveness and procedural fairness. It concludes by proposing a rights-based framework for strengthening participatory democracy within Vietnam's ongoing administrative and digital governance reforms.

RIGHTS-BASED DIGITAL LOCAL GOVERNANCE AFTER VIET NAM'S TWO-TIER LOCAL GOVERNMENT REFORM: A COMPARATIVE LEGAL AND PUBLIC-POLICY APPROACH

Associate professor **Van Nam ONG**

Ho Chi Minh University of Banking, Vietnam

Lecturer **Tran Hung HO**

Ho Chi Minh University of Banking, Vietnam

Lecturer **Thị Bích Nga TRAN**

Ho Chi Minh University of Banking, Vietnam

Abstract

The 2025 constitutional and statutory reform of Viet Nam's local government has transformed the

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- VIth edition -

June 26, 2026

www.comparativelawconference.eu

architecture of subnational governance by moving toward a two-tier structure and by assigning renewed significance to the commune-level interface between state authority, public services and citizens. This article examines that reform not as a merely organisational adjustment, but as a normative opportunity to reconstruct local public administration around human rights, digital inclusion, accountable data governance and policy responsiveness. The article combines legal doctrine, comparative law and public-policy analysis. It argues that digital transformation in local government can strengthen the protection of rights only where it is embedded in legally enforceable safeguards: clear allocation of competence, procedural due process in automated and online administrative services, personal-data protection, auditability of public-sector data access, and accessible remedies for citizens affected by digital exclusion or administrative error. Drawing comparatively on the OECD Digital Government Policy Framework, the United Nations E-Government Survey 2024, the European Union's single digital gateway and digital-identity framework, and Estonia's experience in data exchange and auditability, the article proposes a rights-based model for Viet Nam's two-tier local government. The proposed model contains five pillars: digital-by-law local competences; one-stop and once-only public services; human-rights impact assessment for digital administrative procedures; local data governance boards; and legally guaranteed hybrid access for vulnerable groups. The central contribution is to shift the debate from administrative efficiency to constitutional quality: digital local government should be measured not only by processing speed and platform integration, but by its capacity to preserve dignity, equality, accountability and effective access to public services.

HUMAN RIGHTS IMPACT ASSESSMENT OF AI IN PUBLIC ADMINISTRATION: VIETNAM'S 2025 AI LAW IN COMPARATIVE PERSPECTIVE WITH THE EU AI ACT

Associate professor **Van Nam ONG**

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Lecturer **Thị Bích Nga TRAN**

Ho Chi Minh University of Banking, Vietnam

Abstract

The use of artificial intelligence in public administration raises a question that is at once legal, philosophical and managerial: how can the administrative state use algorithmic systems without surrendering legality, reasoning and human responsibility? This article examines Vietnam's Law on Artificial Intelligence No. 134/2025/QH15 and Decree No. 142/2026/NĐ-CP in comparative perspective with Article 27 of the EU Artificial Intelligence Act on fundamental rights impact assessment. It argues that Vietnam has moved beyond a purely ethical model of AI governance toward a legally structured model of public-sector accountability. Yet the Vietnamese framework will remain vulnerable to formalism unless impact assessment is linked to the right to reasons, contestability, meaningful human oversight, independent audit and post-deployment monitoring. The article develops the concept of algorithmic administrative legality as a normative framework for aligning AI deployment with the rule of law, human dignity, equality and good administration. Methodologically, the article combines doctrinal analysis, comparative public law and public-management design. Its contribution is threefold: it maps Vietnam's emerging public-sector AI regime for an international audience; it compares that regime with the EU model of fundamental rights impact assessment; and it proposes a practical human-rights impact assessment protocol for Vietnamese public bodies.

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- VIth edition -

June 26, 2026

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GOVERNING THE ECONOMY BY LAW IN VIET NAM'S DIGITAL MARKET ECONOMY: A COMPARATIVE REGULATORY-GOVERNANCE APPROACH

Associate professor **Van Nam ONG**

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Lecturer **Tran Hung HO**

Ho Chi Minh University of Banking, Vietnam

Lecturer **Thị Bích Nga TRAN**

Ho Chi Minh University of Banking, Vietnam

Abstract

This article examines state management of the economy by law in Viet Nam under the combined pressures of market deepening, private-sector development and digital transformation. Its central claim is that economic management by law should not be reduced to the multiplication of administrative rules. Properly understood, it is a constitutional and regulatory method through which public power is authorised, limited, reasoned, proportionate and reviewable. The article uses doctrinal legal analysis, comparative regulatory theory and public-policy reasoning. It compares Viet Nam's legal-institutional framework with selected international standards on regulatory quality, impact assessment, agile regulation and digital governance. It argues that a modern socialist-oriented market economy requires a shift from permission-based administrative steering to an economic legality cycle: legal mandate, evidence-based rule-making, proportional intervention, transparent implementation, data accountability and effective remedies. The article proposes reforms in law-making, business regulation, digital public administration and regulatory impact assessment so that state economic management can better protect property rights, freedom of enterprise, fair competition, social justice and human dignity.

THE KNOCK-ON EFFECTS OF THE EUROPEAN COURT OF HUMAN RIGHTS ON ASYLUM TRANSFERS: A COMPARATIVE ANALYSIS OF REFORMS IN BELGIUM, GREECE AND THIRD MEMBER STATES. THE CAUSE LAW: M.S.S V BELGIUM AND GREECE

PhD. student **Andra Bianca IACOB**

Simion Barnuțiu Faculty of Law, „Lucian Blaga” University of Sibiu, Romania

Abstract

This paper examines how the jurisprudence of the European Court of Human Rights influences the legislative systems of the member states. The central element is the observation that the comparative analysis serves as a "domino" effect triggered by the historic judgment in M.S.S v Belgium and Greece, which indirectly modified the Dublin II system and caused changes in perceptions and domestic legislation. The comparative study examines how judicial decisions have restructured protection systems in major transit states, such as Greece, and how host states have halted transfer to high-risk states, including Belgium and United Kingdom. The paper identifies a shift from the automatic, blind presumption of trust between states under Dublin II to trust based on evidence and guarantees. This harmonizes the protection procedure and redefines the boundary between state sovereignty and the protection of rights in matters of migration and asylum.

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- VIth edition -

June 26, 2026

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KINGMAKERS OR KINGBREAKERS?: CONSTITUTIONAL COURTS BETWEEN THE "IMPERIAL REPUBLIC" AND THE "ORIGINAL DEMOCRACY" (PRESIDENTIALISM, SEMI-PRESIDENTIALISM, AND THE DYNAMICS OF THE LEGITIMACY OF POWER)

PhD. student **Andrei IACUBA**

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Abstract

In the analysis of the manner in which constitutional courts expand their jurisdiction via praetorian means, the motives and limits of this process emerge as determining elements. On a different occasion, we posited that the instances wherein this process becomes most pronounced are situations of profound crisis (hybrid warfare, pandemic, acute political crisis, the rise of political extremism, social polarization, etc.), the overarching rationale of constitutional courts for acting outside their own constitutional framework — thereby redefining it in the process — being the survival of the constitutional order they are called upon to defend and enforce. In the present research, we shall analyze whether constitutional courts are the sole entities proceeding in such a manner and what their reaction is when another entity within the constitutional space attempts to evolve in a similar fashion, through the lens of the most probable "suspect" for this process of power aggrandizement — the Executive. Leaving aside the system of the parliamentary republic, which is less relevant to the object of the current analysis, we shall employ as reference systems two models formally situated at the opposite poles of presidential power — the American model and the mitigated semi-presidentialism prescribed by the Constitution of Romania — and we shall evaluate whether the formal differences are reflected in an equally pronounced practical and concrete distinction between the two systems. We will briefly examine the manner in which the power of American presidents has evolved towards the "imperial presidency" spoken of today, notably through the use of the executive order institution, viewed through the lens of a case study that may be considered the apex of this process (Barbara v. Trump) and the manner in which the US Supreme Court has responded to this process of consolidating presidentialism. We will subsequently address the question of whether this process is unidirectional, whether it is invariably directed towards limiting the excesses of a branch of state power, or whether, on the contrary, it can also function in a positive sense, consolidating the role and power of such an institution, by analyzing the ambiguities of the Romanian "original democracy". Ultimately, drawing upon the two models, we shall examine one of the essential characteristics that bestows upon constitutional courts the power to be "kingmakers" or, conversely, "kingbreakers" within the constitutional equation.

COLONIAL LAW BETWEEN DOMINATION AND LEGAL LEGACY: FROM IMPERIAL EXPANSION TO POST-COLONIAL DEPENDENCIES

Lecturer **Bogdan Cristian TRANDAFIRESCU**

"Ovidius" University of Constanța, Romania

Abstract

A paradox lies hidden in colonial law: the same instrument that subjugated indigenous legal orders also supplied the foundations on which post-colonial states would be obliged to build. Domination and legacy are usually presented as two successive moments; this study treats them as a single legal condition, examined through the colonial models of Britain, France, Portugal, the Netherlands, Belgium, Germany, and Italy. In the colonies, legal

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- VIth edition -

June 26, 2026

www.comparativelawconference.eu

transplantation was not the neutral borrowing described by classical comparative theory. It was an asymmetric exercise of power, and the mechanisms through which that power operated (legal dualism, the repugnancy clause, the regimes of indigénat and indigenato, the subordination of local legal knowledge to Western categories) have not remained in the past. Their effects continue to organize today's legal orders. Political independence did not bring legal independence. Post-colonial states have remained caught in a normative dependence that survives in inherited codes, resurfaces in the reasoning of jurists trained in the colonizer's categories, and assumes new forms of legal neocolonialism. The study pays particular attention to the Portuguese model, underrepresented in the literature, and to the legislative evidence (codes, statutes, constitutions) of how colonial law survived independence and shaped post-colonial systems from within.

COLONIAL LAW'S ROLE IN THE FORMATION AND CONSOLIDATION OF CONTEMPORARY LEGAL FAMILIES

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Abstract

The paper examines the role of colonial law in shaping the contemporary map of legal families, tracing, through a comparative-historical method, how two European traditions came to structure legal orders across every continent. The starting point is the distinction between legal system, legal family, and legal tradition. The central thesis begins from one observation: colonial law did not create the Romano-Germanic family, nor did it create the common law, for both had already taken shape in Europe before the imperial expansion; colonization changed their scale, however, turning two continental traditions into global families. Diffusion followed distinct paths: the continental model exported the text, the code that could be applied by distant administrations, while the English model exported the method, formed around courts, procedure, and precedent. The colonial transplant left behind, in place of copies of metropolitan law, mixed and hybrid systems, in which European law was superimposed hierarchically upon customs and religious norms fixed by the administration. The persistence of codes, institutions, and legal language explains why today's map still preserves the contours of former empires. Belonging to a family concerns form, however, rather than the quality of the law: the legal family proves to be a historical dominant, and comparative law cannot read its own classifications outside their colonial genesis.

DIGITALIZATION AND INTEGRATION OF ARTIFICIAL INTELLIGENCE (AI) IN THE PUBLIC SECTOR - BETWEEN OPERATIONAL EFFICIENCY AND SOVEREIGNTY IMPERATIVE

Associate professor **Gabriel MANU**
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Abstract

The digitization and use of algorithms in public administration are the result of technological progress and the civilization's transition from an industrial society to a high-tech society. While the interference between public action and the use of new technologies was initially reflected in the digitization of the dialogue between the

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- International Conference -

- VIth edition -

June 26, 2026

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administration and citizens and in the redefinition of how citizens could be integrated into the administrative decision-making process, the integration of artificial intelligence (AI) and, more notably, generative AI (GAI) into the activity of public administration creates a space for profound transformation, with prospects to rebuild the doctrine of public action and significantly improve its results. Maintaining public control over the use of digital technologies in public administration is becoming a matter of democracy and sovereignty, a necessity that has given rise to the innovative concept of digital sovereignty, with its particular form of sovereign artificial intelligence, referring to the capacity of a nation, region or organization to develop, implement and govern its own digital/artificial intelligence systems.

WHEN CITIZENS WIN BUT STILL LOSE: EFFECTIVE JUDICIAL PROTECTION AFTER THE ANNULMENT OF ADMINISTRATIVE NORMATIVE ACTS IN COMPARATIVE ADMINISTRATIVE LAW

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Abstract

Judicial annulment of administrative normative acts represents one of the most important guarantees of legality in administrative law. However, the effectiveness of judicial review cannot be assessed only by the formal removal of an illegal act from the legal order. The comparative study demonstrates that the legal consequences of the annulment of an administrative normative act and the remedies available to affected persons vary significantly in different legal systems, raising important questions regarding the effectiveness of judicial protection. This paper examines the relationship between the annulment of administrative normative acts and the concrete protection granted to citizens who have already suffered the consequences of administrative illegality. The study aims to determine whether annulment, as a judicial remedy, is capable of fully restoring the legal position of affected persons or whether additional mechanisms of restitution, compensation and enforcement are necessary. The research uses a comparative legal methodology, combining the analysis of legislative frameworks with an analysis of relevant case law from Romania, France and Germany. Particular attention is paid to the practical effects of annulment decisions, the protection of legitimate expectations, legal certainty and the principle of effective judicial protection, as developed in European case law. The paper argues that the effectiveness of administrative justice should be assessed not only by the power of courts to invalidate illegal normative acts, but also by the capacity of legal systems to provide prompt and effective compensation to citizens affected by administrative illegality.

THE CONCEPT OF „PUBLIC CORPORATION” IN FOUR LATIN LEGAL SYSTEMS: ROMANIAN, FRENCH, SPANISH AND ITALIAN

Associate professor **Cristian CLIPA**
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Abstract

The notion of the „public corporation” is in circulation in virtually all contemporary legal systems, whether European, North or South American, Asian, or African. Despite that, the Latin legal systems of Europe – as is the

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- International Conference -

- VIth edition -

June 26, 2026

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case with the Romanian, the French, the Spanish, and the Italian systems – have each developed a theory of the public corporation which, to a considerable extent, employs a shared or at the very least closely cognate, vocabulary, set of principles and body of governing rules. Nearly all of these reference points are apt to lend specificity and even originality to the manner in which, at the discursive level of administrative law in the four legal systems, the theory of the public corporation is articulated, as compared to the manner in which the German, English, and North American legal systems, for their part, undertake the same exercise. Accordingly, the proposed study does no more than capture what is distinctive and, ultimately, common in the theories developed by and within the four European legal systems of Romance origin with respect to the generic category of the „public corporation“, a notion that has become the subject of a theme in which the administrative law of the four countries takes an equal or at least comparable interest.

THE CONVERGENCE OF CONTINENTAL CRIMINAL LAW AND COMMON LAW SYSTEMS IN THE CONTEXT OF LEGAL GLOBALIZATION

Lecturer Aurel Octavian PASAT

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Abstract

This study examines the interaction between continental law (civil law) and Anglo-Saxon (common law) focusing on their historical foundations and the main structural differences regarding the sources of law, the role of the judge and criminal procedure. It argues that legal globalization and the internationalization of criminal law have led to increasing functional convergence, reflected in the growing role of case law in civil law systems and codification trends in common law jurisdictions. A comparative analysis of Romania, the United States, France, and the United Kingdom shows both procedural convergence and persistent institutional and cultural differences. The study concludes that convergence is progressive but partial, as each legal system retains its distinct identity shaped by its historical and cultural background.

THE DEVELOPMENTAL STATE IN THE EMERGING CONSTITUTIONAL SYSTEM OF ASIA

Professor Bogdan Nicolae ȚONEA

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Abstract

To understand the concept of the developmental state, it is first necessary to conduct a more detailed analysis of the state models that have functioned over time in societies currently based on the separation and balance of powers. This is because the legal relationships formed between state powers must serve as the fundamental criterion for analyzing modern constitutional systems. Globalization has entered the popular lexicon as a phenomenon where

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- International Conference -

- VIth edition -

June 26, 2026

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flows of goods, services, investments, finance, and technology cross borders to create a single world market dominated by the law of one price. However, the novelty, magnitude, and nature of shifts in the world economy are insufficient to support the idea of a transnational market where locational and institutional constraints no longer matter. This article aims to provide a concise overview of the evolving role of the state in contemporary society, alongside a brief presentation of the concept of globalization. Consequently, through the lens of these concepts, it defines the operational framework of the developmental state model that emerged in Asia, with a particular focus on South Korea.

THE WELFARE STATE – THE NORDIC CONSTITUTIONAL MODEL

Professor **Bogdan Nicolae ȚONEA**

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Abstract

To understand the concept of the welfare state, a more detailed analysis of democracy — which is based on the separation and balance of powers — is first required. This is because the legal relationships between state powers constitute the foundational criterion for analyzing democratic constitutional systems. The separation of powers protects citizens from state abuses and enables a better understanding of how the governance process unfolds. This research aims to provide a concise overview of the principle of the separation and balance of powers. Through the lens of these concepts, it then defines the functioning of constitutional democracy in the Nordic countries, with a particular focus on constitutional monarchies. This model relies on an unwritten social contract of absolute trust between the citizen and state authorities. The philosophy of the constitutional model specific to Northern European countries is that of the "Parent-State," where social security is paramount. In recent crises, this model has demonstrated remarkable resilience through voluntary compliance.

THE EVOLUTION OF CRIMINAL LAW: THE CRIME OF MATCH-FIXING IN A COMPARATIVE ANALYSIS

Lecturer **Andra IFTIMIEI**

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Abstract

On June 11, 2026, a bill was submitted to the Romanian Chamber of Deputies with the aim of criminalizing, for the first time, the manipulation of sports competitions. Although still only a draft bill, the proposed offense is of major interest for the evolution of criminal law, particularly given that Romania is among the few European countries that have not yet included such a provision in their Criminal Code, even though our country signed the Convention on the Manipulation of Sports Competitions, known as the “Macolin Convention,” as early as 2024. In this context, we propose a comparative analysis of the crime of match-fixing in sports to highlight the constituent elements of this offense and to conduct a critical analysis of the legislative proposal. To ensure an objective and effective analysis, we will consider both civil law and common law jurisdictions, so that proposals for future legislation are based on a thoroughly documented analytical framework. The research methods used include a review of the literature, the

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- VIth edition -

June 26, 2026

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comparative method, and an analysis of case law.

CORRUPTION CRIMES IN COMPARATIVE CRIMINAL LAW

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Abstract

Corruption represents one of the most significant threats to the rule of law, good governance, and economic and social development. This paper examines corruption offenses from the perspective of comparative criminal law, highlighting the main similarities and differences among various legal systems. The study focuses on offenses such as active and passive bribery, trading in influence, and abuse of office, with particular reference to the legal frameworks of Romania, France, and the United States. It also analyzes the institutional mechanisms and legal instruments used to prevent and combat corruption, as well as the role of international cooperation in this field. The comparative analysis demonstrates that, although the regulation and punishment of corruption offenses vary across jurisdictions, all legal systems pursue the common objective of protecting the integrity of public administration and strengthening public trust in state institutions. Furthermore, the paper emphasizes the importance of international conventions and legislative harmonization in enhancing the effectiveness of anti-corruption efforts. The findings suggest that the success of anti-corruption policies depends not only on the existence of an adequate legal framework but also on the consistent, impartial, and effective enforcement of criminal law.

SOME ASPECTS OF THE HUNGARY JUDICIAL SYSTEM

Lecturer Ovidiu–Horia MAICAN

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Abstract

In Hungary and Poland, judges and courts have faced political influence, strategies of institutional slowdown, and staff dismissals as the governing parties have tried to take control of the judiciary. To gain a clearer insight into these autocratic influences within the legal system, we utilize the idea of the dual state, which suggests that authoritarian shifts do not fully infiltrate institutions in a single sweep. Instead, two governance principles are at odds within the same structure. The normative state adheres to laws and resists the politicization of judicial actions, while the prerogative state employs an authoritarian mindset and manipulates laws to fulfill political agendas. The notion of the dual state in the judiciary aids in examining the breaches of the rule of law, which instead of safeguarding political interests through judicial means, end up politicizing the judiciary. Although the normative aspect of the judiciary is nearly nonexistent in Hungary and survives primarily due to the EU's support, Poland's current administration has initiated the process of dismantling the prerogative state of the judiciary, a complicated endeavor that may require more time than is anticipated. The erosion of an independent judiciary has been fundamental to the systematic breaches of the rule of law in Hungary since 2010 and in Poland from 2015 to 2023. While the autocratic trend under Orbán in Hungary appears relentless over the last fourteen years, Poland's shift in government in December 2023 has interrupted the progression of autocratization. However, it has not succeeded in

CONFERENCE ON COMPARATIVE AND INTERNATIONAL LAW

- International Conference -

- VIth edition -

June 26, 2026

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abolishing the dual state within the judiciary.

THE IDENTITY OF FACTS WHICH ARE SUBJECT OF TWO CRIMINAL PROCEEDINGS IN REFERENCE TO THE APPLICABILITY OF NE BIS IN IDEM PRINCIPLE IN CRIMINAL PROCEEDINGS NATIONALLY AND INTERNATIONALLY

Associate professor **Andreea Elena MATIC**
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Abstract

In the present paper, we aim to analyze theoretical and jurisprudential aspects regarding the identity of facts that are the subject of two (or more) criminal proceedings and the establishment of violation of the ne bis in idem principle, both in domestic and in international law. To achieve this purpose, in the first part of the paper we will present the domestic legal regulation within the Romanian criminal procedural law and the legal regulation of this principle internationally and at the level of the European Union. Then, in the second part of the paper we will present the elements and conditions that must be met in order to be able to identify a violation of the ne bis in idem principle, and in the last part of the paper we will analyze the meaning and acceptance of the notion of identity of facts, identity which constitutes one of the essential elements whose existence is necessary for the national and/or international courts to find a possible violation of this fundamental principle of criminal procedural law. Finally, we will refer to how the identity of material facts, their legal qualification and legal classification are established, with the presentation of relevant jurisprudential elements.

REGULATORY MODELS FOR ARTIFICIAL INTELLIGENCE IN EDUCATION IN EUROPEAN UNION COUNTRIES

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Abstract

In the context in which artificial intelligence (AI) is permeating education services, it becomes necessary to establish regulatory frameworks for the ethical use of AI, limiting negative effects and maximizing benefits of using AI for students and teachers. The purpose of this comparative study is to investigate how the EU countries regulate the use of AI in education. The objectives of the study are: evaluating the normative and methodological framework applicable to the use of AI in education, identifying and analyzing the rights and obligations of students and teachers related to the use of AI, identifying and analyzing elements of convergence and divergence of regulatory frameworks of EU states. The study sample consist of five EU countries (Greece, Estonia, Czech, Denmark and Romania). The research methodology includes a qualitative content analysis of the laws, strategies, methodological guides developed by member states and the european regulatory framework. This is complemented by a comparative evaluation grid. The results highlight different concerns of the member states regarding the regulation of AI in education, but also convergence elements relating to the importance of GDPR. The conclusions contribute to substantiating the regulatory framework in Romania based on good practices taken from the member states.

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HIERARCHY, AUTHORITY AND SOCIAL ROLES. STRUCTURES OF THE SOCIAL WORLD REFLECTED IN ROMANIAN AND CONTINENTAL CRIMINAL LAW

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Abstract

*This study is a continuation of the paper ‘Hierarchy, authority and social roles. Structures of the Social World Reflected in Romanian and Continental Civil Law’, in which we sought to highlight that hierarchy, authority and social roles constitute fundamental structures of the social world, intersubjectively established and reflected in various institutions of Romanian and continental private law. In this study, we aim to shift the analysis to the sphere of criminal law in order to examine whether, and in what forms, these structures are incorporated into criminal law, whether as social values protected by the rules of criminalisation, or as ontological realities which criminal law presupposes as such and utilises through its own institutions, such as the qualified subject of the offence, **factual error**, jurisdiction determined by a person’s status, the system of supplementary penalties, or offences through which certain relationships of authority are protected or restricted. Drawing on the contributions of Alfred Schutz, H.L.A. Hart, Peter Cane, Scott Hershovitz, Gerhard Lenski, Anita Naschitz and Vintilă Dongoroz, this study proposes an onto-phenomenological interpretation of criminal law as a means of recognising, protecting and limiting certain structures of the social world that are pre-established and embedded in collective experience, which the law encounters as structures already present in the world it is called upon to order in accordance with its own principles and normative purposes.*

CIRCULAR PROCUREMENT: PUBLIC PROCUREMENT AS A STRATEGIC LEVER FOR ADVANCING THE CIRCULAR ECONOMY IN THE EU. TRANSITION FROM SOFT LAW TO LEGAL OBLIGATION – A COMPARATIVE STUDY OF FRANCE, ROMANIA AND BULGARIA

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Abstract

Public procurement represents a key lever for influencing public policies that promote the circular economy given the significant financial volumes involved in public authorities’ purchasing activities estimated at approximately €616 billion annually. In this context some EU Member States have moved beyond EU soft law recommendations and principles by adopting binding legal obligations that set mandatory percentage targets for the procurement of products containing recycled materials. France introduced such obligations through legislation starting in 2020, Romania established a comparable legal framework in 2025, while Bulgaria also has adopted several mandatory percentage targets. The study provides a comparative analysis of the legal frameworks in France, Romania, and Bulgaria, highlighting how each country has transitioned from EU soft law guidance to specific national legal obligations and assessing the implications of these approaches for the implementation of circular economy principles through public procurement.

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ARTIFICIAL INTELLIGENCE AND THE PRINCIPLE OF DECISION-MAKING TRANSPARENCY: FROM OPAQUE ALGORITHMS TO EXPLAINABLE JUSTICE IN EUROPEAN AND ROMANIAN LAW

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Abstract

This research analyzes the legal challenges generated by the use of artificial intelligence systems in public and private decision-making processes, focusing on the principle of transparency. The working hypothesis argues that algorithmic opacity undermines fundamental rights and requires a reconceptualization of the principle of decisional transparency. The methodology combines doctrinal analysis, comparative study of European and national regulations, and examination of relevant jurisprudence. Results highlight tensions between technological innovation and rule of law requirements, proposing legislative and institutional solutions to ensure explainable justice. The study has major theoretical implications for administrative law theory and practical implications for developing a coherent normative framework for AI.

THE DISSOLUTION OF PARLIAMENT—A NECESSARY CONSTITUTIONAL MECHANISM IN A DEMOCRATIC STATE, REFLECTED IN SPECIFIC CONSTITUTIONAL PROVISIONS

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Abstract

One of the main powers recognised today as belonging to parliaments is the authority to pass a vote of confidence in, or to withdraw confidence from, the government; parliaments, in their capacity as representative public authorities at the national level, are thus involved in the process of appointment of the government and in the premature termination of its term of office. Essentially, therefore, under the aforementioned procedures, parliaments may bring about their own early dissolution if they fail to grant or, as the case may be, continue to grant a vote of confidence to a government, either by dissolving themselves automatically or as a result of a decision by another authority, such as the head of state. The dissolution of a parliament is, therefore, generally due to the inability to form a government, with constitutional lawmakers establishing various constitutional conditions that must be met for such a premature termination of the legislature's term. The inability to form a government is caused by a serious political and/or governmental crisis that makes it impossible to form a parliamentary majority in multiparty systems. Identifying constitutional solutions established in other countries and analyzing them using methods such as logical, comparative, and systematic analysis will provide us with insight into Romania's constitutional provisions, as well as possible solutions for adapting them to current realities.

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THE SIGNIFICANCE AND EFFECTS OF MITIGATING AND AGGRAVATING CIRCUMSTANCES IN INDIVIDUALIZING PUNISHMENTS

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Abstract

The analysis of the mitigating circumstances and the aggravating circumstances results in the penning of the royal norms that the legislator wanted to devote exclusively to these institutions, which through their effects have a major impact in the individualization of punishments. From their simple definition, their significance resides in the extensive process of establishing guilt, social danger and the circumstances in which the crime was committed. Except for the legal mitigating circumstances, which operate by law, we note that the judicial mitigating circumstances are left to the discretion of the magistrates, who will take into account, depending on the specifics of each case, the defendant's attitude, both during the commission of the act and his subsequent behavior. As such, the retention of judicial circumstances is optional for the courts. At the same time, the requirements established by the legislator to be met in order for the perpetrator to benefit from these circumstances are also analyzed, in the context in which causes of non-imputability may intervene.