University of Novi Sad
Faculty of Law Novi Sad

7th International Scientific Conference

LEGAL TRADITION AND NEW LEGAL CHALLENGES

Novi Sad, 23th and 24th October, 2025

Book of Abstracts

Novi Sad, 2025

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Table of Contents

SESSION I.....11

Dr. Enis Omerović
Tarik Isaković
BOUNDARIES OF AUTHORITY AND JURISDICTION: DOES THE UNITED NATIONS SECURITY COUNCIL AFFECT THE INDEPENDENCE OF THE INTERNATIONAL COURT OF JUSTICE IN THE HAGUE?.....12

Dr. Réka Pusztahelyi
REFLECTIONS ON THE NEW PRODUCT LIABILITY DIRECTIVE IN LIGHT OF THE HIGH-RISK AI SYSTEMS AS DEFECTIVE PRODUCTS.....14

Dr. Brano Hadži Stević
THE SIGNIFICANCE OF PRELIMINARY RULINGS OF THE EUROPEAN COURT OF JUSTICE IN THE LIGHT OF DWORKIN'S THEORY.....17

Dr. Dragana Damjanović
THE INVISIBLE HOME: TRACING THE CHILD'S HABITUAL RESIDENCE.....20

Dr. Marina Jovićević
INTERNATIONAL LEGAL STANDARDS ON THE RIGHT TO NATIONALITY AND THE MONTENEGRIN MODEL.....22

Dr. Šejla Imamović
UNIVERSITY STUDENT PROTESTS IN THE ECHR JURISPRUDENCE.....24

Dr. Zsuzsa Szakály
GREENLAND'S PERSPECTIVES: HOW CAN THIS SMALL COMMUNITY MANAGE IN THE ARCTIC SCENE? 26

Dr. Bence Kis Kelemen
CYBER ATTRIBUTION AND INTERNATIONAL LAW.....28

Dr. Habil. Elena Weigel
EUROPEAN ENVIRONMENTAL PROTECTION LEGISLATION – A TRADITION THAT CONTINUES TO TODAY?.....30

Dr. Ksenia Radchenkova
THE "CIVILIZATION-STATE": A TOOL FOR CHINA AND RUSSIA TO DECOLONIZE INTERNATIONAL LEGAL STUDIES?.....33

Dr. Jovana Tošić
THE CJEU'S ROLE IN SAFEGUARDING HUMAN RIGHTS IN CFSP SANCTIONS: BETWEEN JUDICIAL PROTECTION AND POLITICAL DISCRETION.....35

Andrea Labancz
LEGAL TRADITION AND NEW LEGAL CHALLENGES IN THE FINANCIAL SECTOR.....37

Bence András Auer
NEW DIRECTIONS IN ALTERNATIVE DISPUTE RESOLUTION FOR CONSUMERS IN THE EUROPEAN UNION.....40

Reza Abbasi
INTELLIGENCE AS DIPLOMACY: THE STRATEGIC USE OF SECRET SERVICES IN FOREIGN RELATIONS AND INTERNATIONAL LAW.....43

Somayyeh Soltani Bahrehmand
POLITICS OVER PEOPLE: HOW GEOPOLITICS DISTORTS EUROPE'S IMMIGRATION POLICIES.....46

SESSION II.....49

Dr. Habil. DSc. Csongor Herke
Dr. Barbara Katalin Herke-Fábos
THE ROLE OF ARTIFICIAL INTELLIGENCE IN MANAGING COMMUNITY CONFLICTS: CHALLENGES AND OPPORTUNITIES IN THE RESTORATIVECITY MODEL.....50

Dr. Dragana Vilić
Dr. Nataša Vilić
PEACE – A THEORETICAL AND LEGAL-POLITICAL CONCEPT.....53

Dr. Igor Milinković
JUDICIAL RECUSAL AND INAPPROPRIATE COMMUNICATIONS IN THE DIGITAL AGE: SOCIAL MEDIA AND AI APPLICATION CHALLENGES.....55

Dr. Ivana Tucak
MINORITY RIGHTS IN THE 21st CENTURY.....57

Dr. Diana Botău
VIRTUAL, NOT VIRTOUS, REALITY. LEGAL AND REGULATORY CONCERNS REGARDING THE METAVERSE.....60

Dr. Dragana Ćorić
LAW, LANGUAGE AND ARTIFICIAL INTELLIGENCE - CHALLENGES AND BOUNDARIES 62

Dr. Patrícia Dominika Niklai
YOUTH ORGANIZATIONS AND IDEOLOGICAL EDUCATION AFTER THE FIRST WORLD WAR IN HUNGARY.....64

Lilla Andrea Barzó
LEGAL PERSONALITY OF ARTIFICIAL INTELLIGENCE FROM A THEORETICAL AND PRACTICAL PERSPECTIVE.....67

Mohamed Aziz Zaalouni
NEW LEGAL PERSPECTIVE: SMART LAW FOR SMART CITIES.....69

SESSION III 73

Dr. Željko Bartulović
NOVI SAD AND RIJEKA IN THE POLITICS OF HABSBURGS IN 18TH CENTURY.....74

Dr. Kristina Misheva
ASSESSING THE IMPACT OF THE SOLIDARITY TAX ON MACEDONIA'S BUDGET AND TAX LEGISLATION.....75

Dr. Bojana Vasiljević Poljašević
LEGAL FRAMEWORK AND CHALLENGES OF FISCAL FEDERALISM: FISCAL SOVEREIGNTY AND BORROWING LIMITS IN LOCAL SELF-GOVERNMENT UNITS IN BOSNIA AND HERZEGOVINA AND SELECTED EU COUNTRIES.....77

Dr. Wladimiro Gasparri
Francesca Tesi
CRISIS OF CONSTITUTIONAL DEMOCRACY AND TRANSFORMATIONS OF LEGALITY:
BETWEEN EXCEPTION, TECHNOCRACY AND FRAGMENTATION FROM THE RULE OF LAW TO THE GOVERNANCE OF POWER.....80

Jana Marković
Dr. Nenad Radivojević
CRITICAL INFRASTRUCTURE PROTECTION IN THE REPUBLIC OF SERBIA – REGULATORY FRAMEWORK AND IMPLEMENTATION CHALLENGES.....84

Dr. Ratko Radošević
RETURN OF SEIZED OBJECTS AND COMPENSATION FOR DAMAGES AS A SUBJECT MATTER OF AN ADMINISTRATIVE DISPUTE: THE PROBLEM OF LEGAL PROTECTION AGAINST THE COURT DECISION.....87

Domagoj Rožac
PIERCING THE CORPORATE VEIL AND TAX GUARANTEES THROUGH BALANCING LIMITED LIABILITY AND CREDITOR PROTECTION 90

Ivalina Marinova
SURVEY OF CITIZENS' LEVEL OF SATISFACTION REGARDING ACCESS TO PUBLIC INFORMATION.....92

SESSION IV.....95

Dr. Bernadett Solymosi-Szekeres
REPRODUCTIVE LEAVE AS NEW POSSIBILITY FOR THE REGULATION OF WORKING TIME.....96

Dr. Borislav Galić
Boban Vidojević
CONSTITUTIONAL GUARANTEE OF THE RIGHT TO WORK AND ITS PROTECTION IN LABOR LEGISLATION.....98

Dr. Marijana Maksimović
Dr. sc. Ivan Nikolić
CAN DIGITIZATION AND ARTIFICIAL INTELLIGENCE INFLUENCE CHANGES IN LABOR LEGISLATION? 100

Gergő Árvai
LEGAL ASPECTS OF AGRICULTURAL ROBOTS.....103

István Gábor Taskó
LABOUR RELATIONS IN PROFESSIONAL SPORTS.....105

Amira Namouchi
SOCIAL DUMPING OR SOCIAL EUROPE? THE NORMATIVE SHIFTS IN THE CASE OF POSTED-WORKERS IN EU LAW (2000-2024).....107

Asmaa Mekkaoui
THE IMPACTS OF GREEN JOBS ON LABOR MARKET.....108

Boglárka Iklandi
"WHEN FATHERS STAY HOME TOO…"
PARENTAL LEAVE IN ROMANIA AND THE EUROPEAN UNION UNDER DIRECTIVE (EU) 2019/1158.....111

Adél Tóth
HEALTH RISKS OF MOBBING IN THE WORKPLACE.....113

M'Hamed Oucif
TRADITIONAL LABOUR DISPUTE RESOLUTION MECHANISMS AND THEIR IMPACT ON FOREIGN INVESTMENT.....115

Melinda Kocsis
CHALLENGES OF THIRD-COUNTRY NATIONAL WORKERS IN THE EUROPEAN UNION: INSIGHTS FROM THE CASE LAW OF THE COURT OF JUSTICE OF THE EUROPEAN UNION.....117

Stefan Dorin
A CLASH OF LEGAL ORDERS: THE EU'S FREE MOVEMENT TRADITION AND THE CHALLENGE OF NATIONAL JUDICIAL FRAGMENTATION IN ROMANIA.....120

Zalán Olivér Máté
THE EFFECT OF "THE RIGHT TO DISCONNECT" ON THE LABOUR LEGISLATION WITH SPECIAL REGARD TO THE ROLES OF TRADE UNION.....123

SESSION V.....127

Dr. Fenyvesi Csaba
BIGGEST POLICEMAN IS CHANCE
THE ROLE OF INVESTIGATIVE COINCIDENCES IN CRIMINAL CASES.....128

Dr. Snežana Brkić
PROVISION OF ARTICLE 419, PARAGRAPH 1 OF THE CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF SERBIA AND NEW LEGAL CHALLENGES.....129

Dr. Orsolya Horvath
BETWEEN TRADITION AND INNOVATION: THE ROLE OF ANIMALS IN FORENSIC INVESTIGATIONS.....132

Dr. Vanda Božič
FROM CONFLICTS IN FAMILY RELATIONS TO VIOLENCE - CRIMINAL LAW PROTECTION.....134

Dr. István Szijártó
LEGISLATING THE UNWRITTEN FUNDAMENTAL RIGHTS-BASED REFUSAL GROUND IN EU CRIMINAL LAW.....136

Bogdana Maksimović
ALTERNATIVE METHODS OF RESOLVING CRIMINAL CASES AND THEIR CONTRIBUTION TO THE RELIEF OF THE CRIMINAL JUSTICE SYSTEM IN SERBIA 139

Vanessza Fábián
THE POTENTIAL ROLE OF THE FORENSIC NURSE IN HUNGARIAN CRIMINAL PROCEDURE – CRIMINALISTIC AND PROCEDURAL ASPECTS.....142

SESSION VI.....145

Dr. Genc Trnavci
THE CONCEPT, CONTENT, TRADITION, AND SIGNIFICANCE OF THE ACT OF OBLIGATIONS IN BOSNIA AND HERZEGOVINA AND THE PERSPECTIVE OF ITS REFORM.....146

Dr. Marija Ampovska
COMPARATIVE JUDICIAL TREATMENT OF AI-GENERATED WORKS IN COPYRIGHT LAW.....148

Dr. Maša Kulauzov
Dr. Milan Milutin
"LEGAL BASES OF PERSONAL RIGHTS IN PROPERTY"
OF ABGB, INFLUENCE OF ROMAN LAW AND INFLUENCE
ON SERBIAN LAW.....150

Dr. Habil. Ágnes Juhász
SMART CONTRACTS IN MATRIMONIAL PROPERTY LAW.....151

Dr. Krassimir Mitev
ON NOMINATE AND INNOMINATE CONTRACTS.....154

Dr. Katalin Visontai-Szabó
CO-PARENTING IN HUNGARY – NEW TRENDS AND CHALLENGES.....157

Tamara Mladenović
THE EXERCISE OF PARENTAL RESPONSIBILITY AND
THE PROTECTION OF THE CHILD'S RIGHT TO PRIVACY
ON THE INTERNET AND SOCIAL NETWORKS.....160

Tamás Puskás
THE REGULATION AND POSSIBILITY OF DIGITAL
INHERITANCE IN HUNGARY AND THE EU.....162

Iulia – Georgiana Ungureanu
EFFICIENCY-BASED RATIONALES FOR NOTICE OF DEFAULT
AND ANTICIPATED MATURITY IN ROMANIAN CIVIL LAW.....164

Raheleh Soltanibahrehmand
THE BOUNDARIES OF COPYRIGHT IN VISUAL ART:
REPRODUCTION, APPROPRIATION, AND DIGITAL CHALLENGES.....165

The list of reviewers.....166

ПРАВНИ ФАКУЛТЕТ
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1953
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SESSION I

341.123.043:341.645.2
341.981

*Dr. Enis Omerović**
*Tarik Isaković***

BOUNDARIES OF AUTHORITY AND JURISDICTION: DOES THE UNITED NATIONS SECURITY COUNCIL AFFECT THE INDEPENDENCE OF THE INTERNATIONAL COURT OF JUSTICE IN THE HAGUE?

The relationship between the International Court of Justice (ICJ) and the United Nations Security Council (UNSC) has from the outset represented a complex interplay of law and politics within the collective security system established by the UN Charter. Although the Charter formally defines the ICJ as the principal judicial organ of the UN and the UNSC as the primary body responsible for maintaining international peace and security, the practical interconnection between these organs raises numerous questions about the actual autonomy and effectiveness of the ICJ. The normative framework, particularly Article 94(2) of the UN Charter and the provisions of the ICJ Statute, indicates the absence of a formal hierarchy but also highlights an institutional link that often places the Court in a position of de facto dependence regarding the enforcement of its judgments or the implementation of its provisional measures. Historically, the Court held that while the Security Council was addressing an issue under Chapter VII of the Charter, it should refrain from proceeding in parallel. However, in recent practice, the ICJ has increasingly ruled on the legality of the use of force in inter-State relations, thereby significantly expanding its scope of action in the context of global security. This paper explores the theoretical and practical aspects of that relationship, including the veto power of the permanent members (P5), the selective implementation of decisions, and the political pressures that may influence both the perception and

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functioning of the Court. It analyzes key precedents such as the Lockerbie case (Libya v. United States and United Kingdom), where the Court's provisional measures conflicted with Security Council resolutions; the Nicaragua v. United States case, in which the judgment remained unenforced due to political deadlock; and the contemporary dispute Ukraine v. Russian Federation, where the veto and geopolitical paralysis of the UNSC directly affect the implementation of provisional measures and the long-term enforcement of the Court's decisions. Special attention is given to current proposals for UN reform aimed at strengthening the autonomy and effectiveness of the ICJ, ranging from restricting the veto in matters related to the enforcement of judgments, through enhancing mechanisms for monitoring compliance, to reinforcing institutional links between the Court and the UN General Assembly. The paper concludes that, although the ICJ remains formally independent in its work, its functional dependence on the political decisions of the Security Council significantly shapes the scope and actual impact of the World Court in resolving contemporary international disputes.

Keywords: UN Security Council, International Court of Justice, jurisdiction, UN Charter, Statute of the International Court of Justice, international peace and security, use of force, veto power.

347.56:004.8

*Dr. Réka Pusztahelyi**

REFLECTIONS ON THE NEW PRODUCT LIABILITY DIRECTIVE IN LIGHT OF THE HIGH-RISK AI SYSTEMS AS DEFECTIVE PRODUCTS

Among the legislative instruments, two proposals for directives were intended to form the core of the EU liability regime for damages caused by artificial intelligence systems (AIS). The first is the Product Liability Directive [Directive (EU) 2024/2853; PLD], which has been adopted after a fundamental revision of the 40-year-old European product liability system. The second is the proposal on adapting non-contractual civil liability rules to artificial intelligence [Proposal for AI Liability Directive, COM/2022/496 final, AILD], which was withdrawn from the legislative programme this year.

The new product liability rules encompass the entire life cycle of an AIS (components, products, related services), and all the economic operators of the value chain. These new provisions address the issue for damages caused by defective outcomes of AISs, thereby fortifying and expanding the scope of EU rules as a further step in the now unquestionable harmonisation process being started by the 1985 Directive. Meanwhile, the horizontal product safety regulation for AI systems, which is based on a risk-based classification, has also been outlined in 2024 by the AI Act [Regulation (EU) 2024/1689].

Mapping the problematic issues in the intersection of the PLD and AI Act, the first task is to explore the specificities of the PLD notions of product and defect in the context of AISs. Secondly, the definition of significant modification of the product, (here: an AI system) should also be examined. The AI systems generally share the common characteristic of fast evolution and constant development. Therefore, we argue

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for applying the AI Act definition for 'substantial modification' in the conceptual scope of the PLD 'significant modification'. The development risk defence would also be taken into consideration. Thirdly, the notion of damage should also be determined in the application scope of PLD. It is necessary to distinguish between damage legally relevant in the context of PLD and pure economic loss, especially where the AIS does harm to the digital assets of the victim (e.g. a malfunctioning cryptocurrency trading program causes damage). Fourthly, some discrepancy between the roles of (economic) operators can be noticed, due to the different regulatory aims of the AI Act and the PLD.

We can assert that the control over the AI systems lies with the providers, even after they have placed them on the market or put them into service. Recital 13 PLD also underscores it, stipulating that a developer or producer of software, including AI system provider within the meaning of the AI Act should be treated as a manufacturer. Considering the notion of a deployer, we can assume that, in the context of the application regime of PLD, the deployer can be deemed as a distributor, with the condition that the use of an AI system is conducted in the course of commercial activity.

Generally speaking, it is unclear today how the PLD provisions should be appropriately applied to AIS as defective products. The next step is to explore the interaction between the product safety legislative nature of the AI Act and the product liability rules. From the viewpoint of the application of AI Act, additional questions would arise. For instance, does the risk-based classification of AIS result in a more rigorous assessment of product liability for AIS failures? What special consideration is required for general-purpose AI systems, in particular for generative AI models? How can we link the control imposed on the manufacturer by PLD with the requirement to maintain human oversight under the AI Act? What is the relation between maintaining the control by the manufacturer (PLD) and the provider's post-market monitoring obligations (Article 72 AI Act)?

Our paper aims to provide answers to these questions, bearing in mind that the recently published proposal for the Hungarian implementation of the Product Liability Directive does not address these issues.

Keywords: product liability, manufacturer's control, defective product, AI system as product.

341.645.5:340.12

*Dr. Brano Hadži Stević**

THE SIGNIFICANCE OF PRELIMINARY RULINGS OF THE EUROPEAN COURT OF JUSTICE IN THE LIGHT OF DWORKIN'S THEORY

According to Ronald Dworkin, law has an interpretive character and presents a coherent system of rules, principles, and practices that constitute the idea of "law as integrity." The main role in such a system belongs to the judge, who is (or should be), as Dworkin claims, Hercules. The adjudication can be understood as a chain novel, since every judge should interpret positive law and previous case law (existing chapters of the novel) in its best possible light to identify their core principles and fit in concreto decision (new chapter) to them or eventually to "upgrade" existing case law by the decision that even more ensures the realization of the core principles. The continuous interpretation tending to identify core principles of existing law in order to fit decisions with those principles Dworkin describes as constructive interpretation.

Some legal issues are so complex that even judges have different and occasionally contradictory understandings of the meaning of the same legal provision (so-called hard cases). Furthermore, often there are plausible arguments for different meanings of the same provision. This issue is particularly complex regarding EU law application within the member states of the European Union (EU). Taking into account that legal certainty is doubtless one of the most important legal values, the question is how to ensure case law harmonization, i.e., harmonized interpretation of EU law. Within the EU, the crucial role in this regard belongs to the European Court of Justice (ECJ) and, to a minor degree, to the General Court.

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The ECJ has jurisdiction to give preliminary rulings concerning the interpretation of the EU law (on the basis of Article 267 of the Treaty on the Functioning of the European Union – TFEU). When a member state court has doubts regarding the interpretation or validity of the EU law, it can demand the ECJ to give a ruling (discretionary request), while the last-instance court in a member state must bring the matter before the ECJ (mandatory request). The goal of the preliminary rulings is to ensure uniform application of EU law and, consequently, contribute to the reduction of legal uncertainty issues.

Nevertheless, there are disagreements concerning the effect of the preliminary rulings, i.e., their legal bindingness. It is doubtless that the preliminary ruling is legally binding upon the member state court that initiated the procedure. Since that court initiates the procedure and the ECJ provides an answer, it is prima facie a dialogue, especially considering the possibility of providing additional preliminary reference. Although this relation between courts can be understood as a dialogue, it is much more a monologue of the ECJ.

Furthermore, the auditorium of the ECJ's preliminary ruling are all courts of member states since the ECJ provides authoritative interpretation of EU law, i.e., the meaning of specific provision. The institutional role of the ECJ and ratio of preliminary rulings implies the bindingness of those decisions. Hence, the ascribed meaning is not only an advisory opinion but at least de facto interpretative obligation to all member state courts. Those rulings are commands with erga omnes effect, something like precedents. They present the ECJ's contribution to the realization of the principle of coherence or, in Dworkin's terms, preliminary rulings ensure the realization of the idea of EU law as integrity.

Besides the authority of the ECJ, there are more arguments that speak in favor of bindingness. Firstly, preliminary rulings are given in the form of judgment, not opinion, recommendation, etc. Secondly, the ratio of preliminary decisions is to decide on the meaning of EU law in order to ensure uniform application of EU law because different

interpretations of the same provisions in member states will cause legal uncertainty. Thirdly, a higher instance court of a member state can annul a decision that contravenes the ECJ preliminary ruling. Fourthly, the ignoring of the ECJ decisions presents the breach of obligation under the treaties (articles 258-260 of the TFEU). Fifthly, the preliminary rulings influence national legislators in subsequent decision-making processes. Sixthly, member states and EU institutions can intervene in cases before the ECJ (Article 40 of the Statute of the ECJ).

In Dworkin's terms, any judge (novelist) that interprets EU law will be trying to identify main EU principles (previous chapter of a novel) and render a decision (new chapter) that promotes those principles in the best possible light. The ECJ's preliminary rulings are doubtless important ground for understanding the previous chapter of the novel in a specific way, and they are the engine of coherent interpretation. In this way the ECJ ensures constructive interpretation and realization of the idea of EU law as integrity.

Keywords: Dworkin, law as integrity, constructive interpretation, European Court of Justice, preliminary ruling.

347.63
347.171-053.2
341.24

*Dr. Dragana Damjanović**

THE INVISIBLE HOME: TRACING THE CHILD'S HABITUAL RESIDENCE

The concept of the child's habitual residence, as a distinct form of habitual residence, emerged within the framework of the Hague Conference on Private International Law. It has been used as a connecting factor in instruments designed to ensure various forms of child protection. The first among them was the 1902 Convention on Guardianship of Minors. Although originally envisaged as a subsidiary connecting factor, the child's habitual residence was meant to focus on the child's actual residence, rather than its domicile by dependency. Later conventions followed, the most significant being the 1980 Hague Convention on the Civil Aspects of International Child Abduction, whose application most often gives rise to difficulties in determining the child's habitual residence. The application of the Brussels II Regulation has also led to certain controversies. It should be noted that neither the Hague Conventions nor EU regulations have provided a definition of the child's habitual residence. As a result, the task of elaborating this concept has been left primarily to judicial practice, which has produced divergent approaches and significant theoretical debates.

The aim of this paper is to explore the extent to which the elements of the general concept of habitual residence are embedded in the concept of the child's habitual residence. In this context, four basic models developed in case law and legal scholarship are briefly presented: the dependency test, according to which the child follows the residence of the parent with whom it lives; the parental rights test, which empha-

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sizes the intention of the parent entitled to decide on the child's place of residence; the child-centered test, under which the child is treated as an independent subject, separate from parental intentions; and the hybrid test, which seeks to reconcile the child's interests with those of the parents. Special attention is given to the advantages and disadvantages of each model, as well as their application in specific decisions of national and international courts.

The paper particularly analyzes the objective element of habitual residence, traditionally linked to the child's physical presence in a particular environment, as well as the assessment of the duration and stability of such presence. Case law confirms that physical relocation is a conditio sine qua non for acquiring a new habitual residence, especially with regard to older children who already have developed social ties. However, complex situations arise in relation to newborns, where physical presence may be minimal or entirely absent due to circumstances such as coercion or the unlawful retention of the mother in another state. Judgments in cases such as B v. H, A v. A and another, UD v. XB, and OL v. PQ illustrate divergent judicial approaches and raise the question of whether a newborn may acquire habitual residence in a country where it has never been physically present.

Keywords: Habitual residence, child, Hague Convention, parental rights, child-centred approach, physical presence, best interests of the child.

340.134:342.71(497.16)

*Dr. Marina Jovićević**

INTERNATIONAL LEGAL STANDARDS ON THE RIGHT TO NATIONALITY AND THE MONTENEGRIN MODEL

Nationality, as an essential manifestation of state sovereignty and a fundamental human right that enables the exercise of numerous other rights, represents a legal bond between an individual and a state. Although primarily governed by the internal law of individual states, the right to nationality is also protected as a human right by international law. Notably, the right to nationality is guaranteed for all individuals by the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, and the Convention on the Rights of the Child of 1989. Furthermore, numerous other international agreements adopted under the auspices of the United Nations address specific issues related to nationality, including the Convention on the Status of Stateless Persons of 1954, the Convention on the Reduction of the Number of Stateless Persons of 1961, the Convention on the Status of Refugees of 1951, the Convention on the Nationality of Married Women of 1957, as well as the regional European Convention on Nationality of the Council of Europe of 1997. These instruments establish normative standards aimed at minimizing conflicts between different legal systems concerning nationality, and alleviating the problem of statelessness. This paper examines these principles and also analyzes the current Montenegrin legal framework governing nationality, primarily regulated by the Constitution of Montenegro and the Law on Montenegrin Nationality, as well as indirectly by the Law on Foreigners. Given Montenegro's membership in the aforementioned and other pertinent international agreements, established internation-

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al principles have become incorporated into its domestic legal order and hold precedence over national laws. The research aims to determine whether domestic legislation ensures the comprehensive and effective implementation of international and European standards in this realm. All critical aspects of the Montenegrin model, including the methods of acquisition and loss of nationality, the status of foreigners, measures addressing statelessness, and the possibility of holding multiple nationalities, are scrutinized in terms of the consistency between the legal framework, practical application, and international commitments assumed. A comparative legal analysis, especially concerning European Union member states, is also included. The findings indicate the presence of certain deficiencies in the legal regulations, particularly regarding the protection of stateless persons. Special focus is given to the ongoing debate on potential legislative amendments to permit multiple nationalities. Ultimately, the author proposes recommendations for modifying domestic legislation.

Keywords: nationality, international legal framework, Montenegro.

342.7:341.6(4)
351.752.2

*Dr. Šejla Imamović**

UNIVERSITY STUDENT PROTESTS IN THE ECHR JURISPRUDENCE

The recent unprecedented wave of student protests across Europe calls for a reconsideration of the scope and application of the right to protest on university campuses. This contribution examines the right to protest in the European Convention on Human Rights (ECHR or Convention) and the case law of the European Court of Human Rights (ECtHR) with a specific focus on the issues raised by protests and protest encampments on university campuses.

The right to protest is guaranteed under Article 11 of the Convention, which safeguards freedom of assembly and association and is intrinsically linked to freedom of expression. While it is a qualified right, restrictions are permissible when prescribed by law and directed toward a legitimate aim explicitly set out in the provision. Each demonstration must therefore be assessed on its own merits, and any limitation or dispersal of a protest must be both necessary and proportionate in light of the rights to protest and free expression. Importantly, Article 11 protects only the right to peaceful assembly; it does not extend to demonstrations where organizers or participants intend to incite violence or undermine the foundations of a democratic society. The principles of necessity and proportionality require that: (i) any interference respond to a pressing social need, and (ii) such interference remain proportionate to the legitimate aim pursued. In its assessment, the ECtHR evaluates whether the interference was proportionate and whether the reasons advanced by national authorities were relevant and sufficient. In this context, exceptions to freedom of association must be interpreted

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narrowly, with only compelling and convincing justifications able to warrant restrictions.

A defining characteristic of any protest is that it takes place in public and, where possible, 'within sight and sound' of the target audience of the protest. Moreover, the right to peaceful assembly encompasses the right of protesters to choose the time, location and form of their protest. This means that protesting is, in principle, also permitted at publicly accessible areas in government buildings, universities, or enterprises. Since students and staff members are able to influence their educational institution's policies due to the democratic principle upheld by universities, these institutions will have to facilitate the right to protest in a more extensive manner than other owners of private property. However, educational institutions can establish rules of conduct on their property including rules concerning demonstrations on their premises. These rules can be useful for both the university administration and for demonstrators because they offer some clarification on what the limits of the right to protest are at educational institutions. The question is how far educational institutions can go in setting codes of conduct that restrict demonstrations, or, in other words, how far the right to protest extends at universities. There is thus an inherent tension between, on the one hand, the right to protest, and on the other, the property rights of educational institutions. This contribution analyses the case law of the ECtHR in order establish how a balance between these two competing rights can best be achieved.

Keywords: student protests, the right of assembly, the rights to protest, European Court of Human Rights.

327(988)

*Dr. Zsuzsa Szakály**

GREENLAND'S PERSPECTIVES: HOW CAN THIS SMALL COMMUNITY MANAGE IN THE ARCTIC SCENE?

Greenland is the largest island in the world; however, it cannot be categorised as a great power due to the small population and limited economy. This may be attributed to the harsh climatic conditions of the Arctic and the island's remoteness from other populated areas. Nevertheless, significant changes are occurring in the region.

In international relations, one can distinguish between great powers, small powers, and the smallest of the small, the micropowers. These states or territories have limited influence in international decision-making processes due to their size. While opportunities occasionally arise, their possibilities are generally constrained by the decisions of the great powers.

Greenland's possibilities are shaped by its geographic conditions. Being located in the Arctic hinders the development of its economy and trade. However, climate change and the consequences of global warming also present certain advantages for the region: easier access to trade routes and mineral extraction could open new doors for the territory. As permafrost and freshwater reserves decrease, even these otherwise disastrous changes may offer potential benefits for Greenland.

The Arctic region is increasingly attracting the attention of the great powers, as not just the states owning territory try to gain influence. Besides the members of the Arctic Council (Canada, United States of America, Russia, Denmark, Norway, Iceland, Finland and Sweden), other external powers are also seeking to influence the region like China,

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South Korea and the European Union, e.g. being observers of the Arctic Council.

It must be taken into consideration that Greenland is not an independent state. It is part of the Kingdom of Denmark as a territory with special status, as the Act no. 473 of 12 June 2009 defines the state the relations between Greenland and Denmark. This status has evolved since the 1970's, when Greenlandic people started to take active participation in political question regarding to the status of Greenland. The gradual and peaceful progress can be highlighted by the adoption of the Home Rule in 1979 and the Act of Self-Government in 2009. These documents guaranteed a higher level of independence for the territory. Today, the legislative, executive and judicial powers are all independent from Denmark. The next step would be full independence. While Greenland is part of Denmark, the territory enjoys the protection of both Denmark and the European Union. However, if Greenland were to become independent, safeguarding its sovereignty would be a heavier burden, especially given the recent interest of the United States in acquiring the territory.

The possible options for Greenland point toward different paths for the community. How will these conditions affect Greenlandic ambitions? The aim of the presentation is to explore these possibilities.

Keywords: Greenland, Arctic, Denmark, independence, partially independent territory.

341:004.738.5

*Dr. Bence Kis Kelemen**

CYBER ATTRIBUTION AND INTERNATIONAL LAW

In recent years, we have seen an increase in hostile cyber operations from state and non-state actors alike. Since 2000, some notable cyber operations were the cyber attack on Estonia in 2007, the Stuxnet malware used against Iran in 2010, the hacking of the Democratic National Convention in the US in 2016, the SolarWinds hack in 2020 and of course the countless cyber operations connected to the Russo-Ukrainian war since 2022.

International law poses several key questions connected to cyber operations, notably what kind of activities would violate the prohibition on the use of force enshrined in the Charter of the United Nations, what kind of incidents would meet the threshold of coercion, which is a requirement of prohibited intervention as established by the International Court of Justice in the Nicaragua v. United States case, or what kind of operations create international or even non-international armed conflicts. The list can go on.

The most important legal question is, however, attribution. Without attribution, the victim state cannot link a given cyber operation committed against it to a different entity, possibly state, which will significantly limit its lawful response capabilities. Just to mention a couple of examples, if a state was a victim of a cyber armed attack, without proper attribution to a different state, it cannot exercise its lawful right to self-defense. The same is true for international armed conflicts. If a state was a victim of a cyber attack, that crosses the threshold of an armed confrontation, it is in a state of war from an international law perspective. Despite this, without attribution it cannot exercise its

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rights and cannot properly fulfill its obligations stemming from international humanitarian law. Consequently, it is of utmost importance to be able to show that the cyber operation is attributable to a state.

The research question this presentation seeks to answer is twofold. First, it wishes to identify the technical and legal aspects of attribution, second it investigates the evidentiary standards necessary to conclude a successful attribution.

For these purposes, the presentation establishes that technical attribution might happen on three distinct levels: the machine (e.g. IP address, MAC address), the human (the perpetrator of the attack) and the state. All of these can happen individually, however they are strongly linked to each other. A serious obstacle of attribution on the technical level is the uncertainty of whether attribution is physically possible at all. The presentation also establishes, that for attribution to take place different relationships need to be proven between the state and other entities, usually human beings. This is necessary because the state is an abstract entity and therefore cannot operate on its own. This relationship is, however, a question of fact, not law. Meaning that technical attribution needs to reach the necessary evidentiary standard in each attribution relationships e.g. direction or control or exercising governmental authority. Evidentiary standards, however, are contentious issues in international law, meaning that it is unclear exactly what level of certainty is required when states make attribution claims.

The research is based on secondary materials, mostly scholarly writings and manifestations of state practice in the form of national or common positions adopted by states and / or international organizations. The presentation makes it clear that further technical research is necessary to establish whether it is at all possible to reach the necessary level of certainty for attribution and if not, then how international law should be modified by states to better reflect reality.

Keywords: attribution, cyber operations, hacking, evidentiary standards, international law.

34(4):502/504

*Dr. Habil. Elena Weigel**

EUROPEAN ENVIRONMENTAL PROTECTION LEGISLATION – A TRADITION THAT CONTINUES TO TODAY?

How can environmental protection be effectively implemented in law in a long-term and sustainable manner? The EU is attempting to provide a supranational answer. In doing so, it is just as important to look back at European history as it is to consider the current acceptance of European environmental legislation and the predictions inherent in the legislation for the future of legal environmental protection.

Legal tradition. The Treaties of Rome did not provide any common European competences in the field of environmental protection. Environmental legislation was a purely national responsibility. In the 1970s, the first environmental programs were launched and international impetus from UN conferences was taken up. It was not until the 1980s that environmental aspects were also implemented in EU law in the form of directives in order to harmonize the EU internal market. In the 1990s, primary law was enshrined in the treaties, which to this day remains the basis and impetus for secondary European environmental legislation. In the course of the integration process, secondary environmental legislation has developed since the adoption of the Kyoto Protocol, and its scope and intensity of intervention are increasing with the Paris Climate Agreement.

New legal challenges. The Green Deal, international legal obligations arising from the Paris Climate Agreement, among other things, the Fit for 55 program, or the renaturation laws that are already being reversed. The internationalization and abstraction of environmen-

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tal protection law at supranational levels of statehood may be necessary from a scientific point of view in order to achieve optimal success. At the same time, there is a risk of overwhelming individuals with the complexity and abstraction of regulations that they can no longer understand – a democratic problem. The European Union's aspiration to play a pioneering role in environmental protection legislation can be motivating both internally and externally, but at the same time it can provoke rejection and mistrust. For example, when the European Union strives for a desired "Brussels effect" to the advantage of its own internal market on the one hand, and on the other hand accepts environmental damage caused by the mining of precious metals for renewable energy carriers outside the EU territory. At the same time, interventionist regulations that affect EU citizens must be reflected in their fundamental liberal order in order to gain acceptance for restrictions on civil liberties.

An economic approach to environmental protection legislation, such as emissions trading or CBAM, is imperative in democracies with a free market economy, as it simply respects the fact that the economy is an essential part of the state (M. Weber, Economy and Society, 1922). Too great a change in the role of the economy can develop its own momentum during periods of transformation, with unforeseeable consequences for an open society, political stability, and the free constitutional order (K. Polanyi, The Great Transformation [1944], 2024). This requires acceptance of the radical openness of the future (A. Toffler, Future Shock, 1970; R. Slaughter, Futures for the Third Millennium, 1999). The challenge here is not to give up, to take scientific predictions seriously, but at the same time to take appropriate account of one's own ignorance about the exact course of the future.

Future. Lessons can be learned from the legal tradition of European environmental legislation for its current challenges. Possibly with steps that may seem contradictory at first glance. A partial return of legislative powers in environmental law to national or regional levels

could be a step forward for environmental protection. It would take local characteristics into account, relieve the European Union of the pressure of moral superiority, and enable compensation mechanisms for intervention-intensive measures to be enshrined in the constitutions of the member states. In doing so, the achievements of internationalization and Europeanization do not have to be reversed—only legally redesigned in the form of abstract targets, the implementation of which remains with the member states. Perhaps this would give citizens cause for optimism that the various levels of government will find a way to protect the environment that meets with democratic acceptance, is convincing and is effective.

Keywords: Environmental Protection, Multi-Level System, Abstract European Targets, Democratic Acceptance, Empower regional levels.

327(470+510)

*Dr. Ksenia Radchenkova**

THE "CIVILIZATION-STATE": A TOOL FOR CHINA AND RUSSIA TO DECOLONIZE INTERNATIONAL LEGAL STUDIES?

The present geopolitical shift is manifested not only in the domain of real politic, but also extends to the realms of international relations and international legal studies. An increasing number of scholars is advocating for the "decolonization" of international relations and international law. One tool of such decolonization is concept deconstruction.

Majority of the legal concepts are the product of the European legal philosophy. The fields of political science and international law are founded on principles such as sovereignty, property, nation-state and others. However, these very concepts are increasingly perceived as requiring reformulation or deconstruction. As an alternative to the concept of the nation-state, China and Russia often advocate for the notion of the civilization-state–a historically and culturally coherent policy that transcends the nation-state, embodies a unique civilizational identity, and resists Western universalism–in their respective political and legal discourses.

Both countries can claim strong historical roots of civilizationalism as opposed to the doctrine of nation-state. In his book "Russia and Europe" (1869), the Russian scholar Nikolay Danilevsky advanced the argument that history should be interpreted as a series of discrete, rivalrous civilizations. The contemporary civilizational paradigm, a foundational element in the conceptualization of "civilization-state" theory, was inspired by his work. This viewpoint finds considerable support among contemporary Russian neo-Eurasianists, with Aleksandr Dugin, director of the Ivan Ilyin Higher School of Politics at the Russian State

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University for the Humanities, leading the way. Across the ocean, sinologist Lucian W. Pye was the first one to claim in 1990 that "China is not just another nation-state in the family of nations. China is a civilization pretending to be a state". This idea was subsequently elaborated upon by Martin Jacques, who advanced the concept of "civilization-state". A prominent proponent of this conceptualization within China is Zhang Weiwei, a Professor of International Relations at Fudan University.

Both Dugin and Zhang are influential figures in the realm of political philosophy in their countries. They shape the national discourses pertaining to the notions of state, sovereignty, and civilizational values, arguing for the independent development of both China and Russia from the Western values and Eurocentrism in knowledge creation. In this framework, the concept of civilization-state is utilized to describe the different epistemological approach of both Russia and China to international politics and international law. In other words, it questions the classical theory of state and offers a new alternative to it. This theorizing is an ongoing project that goes cross border. Dugin and Zhang meet personally and discuss their philosophies during the academic visits and international forums.

What is the common goal of these philosophers, apart from mere polemics and populism?

Amid shifting geopolitical conditions and China's approach to economic parity with the United States, Russia and China—despite differing political doctrines—converge ideologically around Westphalian external sovereignty, a rejection of Western dominance, shared defense of multipolarity and decolonization of knowledge. Building a united front in the project of emancipation of the theory of state may be one of the trumps that China and Russia can use as a constructive critique of the Western-borne international legal studies on the one hand, and as yet another attraction for the countries of the Global South on the other.

Keywords: civilization-state, legal concepts, Russia, China, decolonizing legal studies, knowledge emancipation.

341.645.5:342.7
327:341.638

*Dr. Jovana Tošić**

THE CJEU'S ROLE IN SAFEGUARDING HUMAN RIGHTS IN CFSP SANCTIONS: BETWEEN JUDICIAL PROTECTION AND POLITICAL DISCRETION

This paper examines the significance of the Court of Justice of the European Union (CJEU) in safeguarding human rights in the context of restrictive measures under the Common Foreign and Security Policy (CFSP). While sanctions are formally presented as preventive and not punitive instruments of foreign policy, their direct impact on individuals and entities frequently raises concerns about fundamental human rights and effective legal protection. Given the increasing number and scope of CFSP sanctions in recent years, the question of how human rights are protected within this framework is particularly pressing and of enduring relevance.

The analysis focuses on the Court's evolving jurisprudence, beginning with Kadi cases, which affirmed the primacy of fundamental rights and judicial review even in the face of United Nations obligations, and continuing with cases such as OMPI, Rosneft, H v Council, and KS and KD v Council. These judgments reveal that although the CJEU is not a human rights court in the strict sense, unlike the European Court of Human Rights in Strasbourg (ECtHR), its decisions in CFSP sanctions cases have tangible implications for the protection of human rights. The Court has required the Council to provide reasons, disclose evidence, and ensure procedural safeguards, thereby gradually constitutionalizing CFSP and embedding the rule of law in this politically sensitive field.

At the same time, the scope of protection remains limited. While the CJEU previously had no jurisdiction over CFSP matters, its current competence - conferred by Articles 24 TEU and 275 TFEU - remains tightly

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circumscribed, with judicial review directed mainly at procedural legality. Substantive engagement with human rights is cautious and mainly indirect. Moreover, the standard of review is inconsistent: in some cases, such as Kadi II, the Court applied strict scrutiny, while in others, like OMPI or Bank Mellat, more deference was shown to political discretion.

This ambivalence underscores the Court's dual role in the CFSP: protecting individual rights while refraining from encroaching upon the Union's foreign policy prerogatives. The result is both an expansion of judicial protection for individuals - transforming them from passive objects of foreign policy into rights-holders under EU law - and a source of legal uncertainty due to fluctuating levels of scrutiny.

Furthermore, while the CJEU has strengthened rights protection from within, it has also resisted certain external legal frameworks. Its insistence on EU constitutional autonomy in the Kadi judgments challenged the binding effect of UN Security Council resolutions, and its Opinion 2/13 on the EU's mandatory accession to the European Convention on Human Rights (ECHR) rejected the prospect of external judicial oversight by the Strasbourg Court. These stances undermine the coherence of human rights protection, raising questions about the overall effectiveness of the EU's human rights framework and the legal certainty available to rights-holders, as they reflect both the Union's political approach to constitutionalizing EU law and the resulting fragmentation of the international legal order.

The paper concludes that the CJEU has played an important role in integrating human rights safeguards into the CFSP framework, though within the constraints of its limited jurisdiction. By doing so, it reinforces EU autonomy and legal order while leaving open the question of whether current standards provide sufficiently consistent and comprehensive protection of fundamental rights in the realm of foreign policy.

Keywords: Court of Justice of the European Union, Common Foreign and Security Policy, sanctions, human rights safeguards.

336:34
366.5

*Andrea Labancz**

LEGAL TRADITION AND NEW LEGAL CHALLENGES IN THE FINANCIAL SECTOR

The development of digital financial services is fundamentally transforming financial markets, while regulation often lags. This phenomenon poses unprecedented challenges for traditional legal frameworks and highlights the deep tensions between established regulatory paradigms and disruptive technological innovation.

Although consumer protection has long been a cornerstone of financial regulation, new business models – such as FinTech platforms, crypto-assets, initial coin offerings (ICOs), decentralized finance (DeFi) or crowdfunding – question the adequacy of legal categories originally designed for conventional, centralized financial actors. Innovative financial solutions rely on decentralization, algorithmic governance and cross-border operations, which not only challenge classical models of state supervision but also reshape assumptions about liability or legal remedies.

The aim of this research is to examine to what extent intense innovation and slow regulatory response lead to regulatory failures, and how the legal tradition may provide a stable basis for consumer protection in the digital financial space. The study starts from the premise that regulatory failure has a dual nature: on the one hand, the absence of norms or delayed implementation can compromise consumer safety; and on the other hand, excessive or inappropriate regulation may hinder innovation and market development. These dilemmas are

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particularly pronounced in the realm of crypto-assets and decentralized systems, where technology often outpaces existing regulatory frameworks. Examples include the European Union's recent legislative efforts, such as the MiCA Regulation or the Crowdfunding Regulation, which aim to enhance legal certainty and protect consumers but also raise numerous practical and doctrinal questions.

It is important to note that the pace of technological development often exceeds the applicability of traditional regulatory results. New provisions struggle to simultaneously ensure flexibility and legal certainty, innovation and consumer safety, and a balance between decentralization and enforceability. This regulatory lag can not only cause consumer harm and systemic risks but also undermine trust in the digital financial ecosystem.

The research argues that in the context of digital financial services, not only the content but also the timing of norms is critical for effective consumer protection. The gap between rapid innovation and slow regulatory response creates an environment where traditional legal tools are often insufficient, while new regulatory models remain underdeveloped. Consequently, it should be considered whether it is sufficient to expand existing consumer protection categories to digital financial services, or the creation of new legal categories is needed. Furthermore, the question 'can the traditional legal approach provide adequate protection against emerging legal challenges' should be answered.

The study positions itself at the intersection of legal tradition and new challenges: on the one hand, it demonstrates that the traditional principles of consumer protection remain relevant and indispensable; and on the other hand, it highlights that the characteristics of digital financial innovations may require a new regulatory paradigm. The research methodology combines doctrinal, historical and comparative approaches, with particular attention to European regulatory trends and practical dilemmas in consumer advocacy.

Overall, the study seeks to answer how, in a rapidly changing technological environment, it is possible to develop new regulatory models that rely on legal tradition while simultaneously ensuring space for innovation and effective consumer protection. Here, regulatory failure is not only a risk but also a warning: if regulation reacts too slowly or inadequately, consumer protection is compromised; if it intervenes too quickly or rigidly, innovation may fail. Finding a balance between these extremes is one of the greatest challenges in digital financial law; and also the meeting point of legal tradition and new legal challenges.

Keywords: consumer protection, digital finance, FinTech, regulatory failure, decentralization, MiCA, DeFi, crowdfunding.

366.5:346.93(061.1EU)

*Bence András Auer**

NEW DIRECTIONS IN ALTERNATIVE DISPUTE RESOLUTION FOR CONSUMERS IN THE EUROPEAN UNION

Expanding consumers possibilities for enforcement has been a defining objective of the European Union's legal policy for decades, one of the central instruments of which is alternative dispute resolution (ADR), and its specific form, online dispute resolution (ODR). The aim of these mechanisms is to provide consumers and businesses with cost-effective, transparent, and fast solutions in disputes, while avoiding the traditional judicial route, thereby strengthening trust in the functioning of the single market. By adopting the ADR Directive (2013/11/EU) and the ODR Regulation (524/2013/EU), the European Union sought to create a uniform framework at Union level for the out-of-court settlement of consumer disputes. One of the most important tools in this context was the establishment of the Online Dispute Resolution platform in 2016, which was intended to serve as a one-stop shop for handling disputes arising from cross-border contracts.

However, the experience of nearly a decade has shown that the system did not live up to expectations. According to the Commission's evaluations, the platform's traffic remained low, consumers did not become sufficiently aware of it, and as a result the number of cases submitted were insignificant. On the traders' side, willingness to cooperate was also lacking, which meant that maintaining the platform imposed disproportionate administrative and financial burdens both on the Union institutions and on businesses. These circumstances justified the repeal of the ODR Regulation and the termination of the Online Dispute Resolution platform, as laid down in Regulation (EU) 2024/3228.

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The aim of this paper is to evaluate the shortcomings of the EU ODR framework and propose a critical assessment of the ADR Directive reforms, arguing for a sustainability-oriented model of consumer dispute resolution.

The proposed amendments to the Directive focus on three main areas: the extension of the material and territorial scope, strengthening consumer information, and the introduction of a duty for traders to respond. According to the proposal, AVR procedures would no longer be limited to disputes arising from contractual obligations, but would also cover, among other things, unfair commercial practices, breaches of pre-contractual information obligations, and breaches of certain fundamental consumer rights, which would expand the range of consumer disputes that can be settled through alternative procedures. However, it remains unclear to what extent the significant extension of the scope of application will affect the AVR procedures in terms of their speed and cost-effectiveness. The extension of the territorial scope would also enable Union consumers to enforce their rights actively against traders from third countries through alternative procedures.

In order to enhance consumer confidence, the new regulation would ensure continuous and clear consumer information on available forums through various channels, such as business websites, general terms and conditions, and invoices issued during purchases. Furthermore, a duty of traders to respond would be introduced. Under the new obligation, traders would generally have to indicate within 15 days whether they accept participation in an ADR procedure. However, the question arises as to whether, - although participation in alternative procedures would still not be mandatory -the introduction of a response obligation could contribute significantly to increasing traders' willingness to cooperate and to strengthening market transparency.

The study also addresses certain sustainability aspects. According to the new regulation, ADR procedures would, as a rule, be available to consumers free of charge or for a nominal fee, the latter to be re-

imbursed by Member States. This measure would reduce the financial obstacles to enforcement of rights, particularly for disadvantaged consumers. The Commission's future plans also include the creation of a new, digital, interactive platform that, with the help of modern technologies – such as artificial intelligence – would facilitate communication between consumers and traders and direct them to the appropriate ADR forums.

Overall, the new directions in consumer alternative dispute resolution serve a dual purpose: on the one hand, restoring consumer trust and strengthening the functioning of the digital market; on the other hand, reducing the workload of the courts and improving access to justice. All this is in line with the European Union's consumer protection strategy and the objectives of sustainable development, in particular efforts aimed at ensuring the rule of law and equal access to justice.

Keywords: consumer protection, alternative dispute resolution, online dispute resolution sustainability, access to justice.

355.40:341.7

*Reza Abbasi**

INTELLIGENCE AS DIPLOMACY: THE STRATEGIC USE OF SECRET SERVICES IN FOREIGN RELATIONS AND INTERNATIONAL LAW

Intelligence gathering has historically been an inseparable element of statecraft. From ancient diplomatic envoys reporting on foreign courts to the sophisticated intelligence agencies of the twentieth century, states have relied on secret services to safeguard national interests. Traditionally, espionage was treated as a political necessity rather than a legal matter, conducted in the shadows of international relations and largely beyond the reach of international law. This historical silence forms part of the legal tradition: while treaties and customary law regulated armed conflict, diplomacy, and trade, intelligence activities were deliberately excluded from formal codification, existing in a grey zone of tacit acceptance.

In today's interconnected world, intelligence increasingly functions as a strategic diplomatic instrument. Agencies act both as covert national security actors and as diplomats shaping negotiations, alliances, and peace-building. Secret services influence negotiations, build or undermine trust between states, and play decisive roles in areas such as arms control verification, counterterrorism cooperation, and crisis management. Intelligence-sharing alliances, such as the "Five Eyes," illustrate how secrecy and diplomacy are intertwined, creating informal yet powerful networks of influence outside traditional diplomatic channels. These developments raise fundamental questions about transparency, accountability, and the legal boundaries of state action in the international arena.

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Emerging technologies further complicate the picture. Cyber-espionage, satellite surveillance, and artificial intelligence have transformed both the scale and methods of intelligence collection. AI-driven analytics allow for massive data processing and predictive capabilities that influence foreign policy decisions. However, these technologies heighten legal tensions: cyber-intrusions may violate sovereignty, mass surveillance challenges the right to privacy, and algorithmic decision-making risks undermining accountability and due process. Collectively, these trends present a major challenge for international law, demanding a reassessment of its ability to govern intelligence activities while balancing sovereignty, legitimacy, and accountability.

This paper examines intelligence as a diplomatic tool and its implications for international law. It explores the historical absence of legal norms governing espionage and analyzes contemporary challenges such as cyber-espionage, mass surveillance, and AI-enhanced intelligence operations. Through comparative legal analysis and case studies of intelligence-sharing alliances, the study highlights tensions between state sovereignty, non-intervention, and accountability under international law. It further evaluates whether traditional legal doctrines remain adequate or whether new international frameworks are required. Ultimately, it argues that the intersection of secrecy and diplomacy demands a rethinking of legal norms to reconcile operational necessity with transparency, legitimacy, and global governance.

Intelligence as diplomacy represents both a continuation of historical practices and a novel challenge for contemporary legal systems. As states increasingly rely on secret services not only for protection but also as active instruments of foreign policy, the absence of clear legal regulation becomes increasingly problematic. The central question is not whether intelligence will remain a part of international relations—it undoubtedly will—but whether international law can evolve to address its dual character as both a secretive and diplomatic practice and effectively respond to the complex challenges posed by modern technologies, alliances, and global interdependence.

Keywords: intelligence diplomacy, espionage, international law, cyber-espionage, AI surveillance, state sovereignty, legal accountability.

327:314.15.045(4)

*Somayyeh Soltani Bahrehmand**

POLITICS OVER PEOPLE: HOW GEOPOLITICS DISTORTS EUROPE'S IMMIGRATION POLICIES

European migration policy has evolved into a complex arena where national interests, diplomatic priorities, and power dynamics increasingly overshadow humanitarian principles and rational governance. What was once framed around the management of mobility, protection of refugees, and integration of newcomers has gradually become subordinated to geopolitical calculations. Rather than designing migration policy on the basis of objective criteria—such as labor market needs, demographic balance, or human security—many European governments now calibrate their decisions according to shifting alliances, foreign policy goals, and regional power competition.

This geopolitical instrumentalization of migration has produced a form of migration politicization, in which decisions about who can enter, stay, or obtain protection are used as tools of diplomacy, deterrence, and negotiation. For instance, cooperation agreements with countries like Turkey, Libya, or Morocco have tied border management and migrant returns to economic aid, security partnerships, or energy deals. In this process, human mobility becomes a bargaining chip in larger geopolitical games, eroding the normative framework that underpins both EU migration policy and international refugee law.

The consequences of this politicization extend beyond international diplomacy to the heart of European societies. First, it distorts the principle of fair and individualized assessment, replacing it with politically motivated selectivity that undermines public trust in the rule of law. Second, it fuels internal divisions within the European Union, as member states adopt divergent approaches to migration according to their national interests and geopolitical orientations. This fragmenta-

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tion weakens the EU's collective capacity to manage migration coherently and humanely. At the same time, the precarity of migrants has deepened. When migration policy becomes contingent on external political relations, migrants find themselves trapped in unstable legal and social conditions. Their access to protection, employment, and basic rights depends less on their individual qualifications or needs and more on the diplomatic status of their home country. Many face indefinite detention, temporary or conditional legal status, and vulnerability to exploitation in informal labor markets. This migrant precarity is further compounded by the externalization of border controls, which pushes migrants into unsafe transit zones or leaves them stranded in third countries with limited legal protection.

Moreover, migration politicization has intensified public anxieties and provided fertile ground for populist narratives that portray migrants as security threats or economic burdens. By linking migration outcomes to geopolitics rather than transparent, needs-based criteria, governments inadvertently legitimize perceptions of arbitrariness and favoritism. This undermines the legitimacy of the system and polarizes public opinion, while also wasting opportunities for social and economic development that a well-managed migration framework could bring. Ultimately, subordinating migration to geopolitical priorities produces a policy landscape that is inconsistent, inequitable, and unsustainable. Europe loses not only its moral credibility as a defender of human rights but also the developmental potential that migration offers. A truly sustainable migration policy must therefore prioritize transparency, fairness, and human dignity over diplomatic expediency. It should be informed by long-term demographic, social, and economic considerations rather than short-term political gains, ensuring that migration becomes a constructive and mutually beneficial component of Europe's future.

Keywords: migration policy; geopolitics; migration politicization; migrant precarity; European Union; human rights; border externalization; integration; international relations.

ПРАВНИ ФАКУЛТЕТ
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SESSION II

177.9:347.965.42]:004.8

*Dr. Habil. DSc. Csongor Herke**
*Dr. Barbara Katalin Herke-Fábos***

THE ROLE OF ARTIFICIAL INTELLIGENCE IN MANAGING COMMUNITY CONFLICTS: CHALLENGES AND OPPORTUNITIES IN THE RESTORATIVE CITY MODEL

Artificial intelligence (AI) is moving from back-office analytics to front-line practice in cities, raising a key question for urban conflict management: how can AI strengthen — rather than distort — the restorative city model? The presentation maps the principal opportunities and risks at the intersection of AI, community dispute handling, and restorative justice, and proposes a governance framework that keeps human relationships, accountability, and repair at the center.

AI can expand prevention, access, and consistency. First, it can improve early detection by converting fragmented signals into actionable insight. Natural-language processing applied to neighborhood feedback, school incident logs, or online complaints can identify patterns of rising tension. Geospatial models can visualize where harm clusters and which services are under pressure. Second, AI can widen access to help. Multilingual chatbots and triage assistants can route residents to appropriate services (mediation, youth outreach, victim support) at any hour. Low-barrier online dispute resolution portals can offer scheduling, translation, and document preparation; and assistive tools can summarize complex case files, surface restorative options, and suggest trauma-informed phrasing for facilitators. Third, AI can support more consistent practice by standardizing intake criteria, flagging disparities in service provision, and tracking follow-through on agreed actions, thereby improving transparency across neighborhoods.

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Without strong safeguards, AI may entrench the very inequities that restorative practice seeks to heal. (a) Biased training data can over-flag marginalized groups. (b) Opaque risk scores can substitute relational listening with numerical labels. (c) "Smart" surveillance can chill participation and undermine voluntary engagement. (d) Automation can erode the core restorative principles of consent, dignity, and inclusion. New risks arise around privacy, proportionality, secondary use, and cybersecurity for sensitive case data. Capacity gaps matter as well: practitioners may lack resources to audit models or contest vendor claims, and community organizations may face digital divides that concentrate power in agencies that already possess analytic capability. Misaligned incentives — such as performance metrics that reward throughput over relationship-building — can push systems toward control rather than care.

To align AI with restorative values, a four-layer model is proposed. (1) Sensing: collect only the minimum, community-consented data needed for prevention, with clear retention limits and purpose binding. (2) Triage: deploy explainable models with bounded objectives, published performance metrics, bias testing, and human-in-the-loop decision points tied to transparent, appealable thresholds. (3) Dialogue support: design tools as assistive, not determinative—preserving facilitator discretion, cultural safety, and plain-language communication; examples include real-time translation, accessibility features, and suggestion systems that the mediator can accept, edit, or ignore. (4) Learning & accountability: embed audit trails, public reporting, community oversight boards, and accessible feedback and redress mechanisms. Require algorithmic impact assessments and periodic external audits; use sunset clauses and re-authorization for higher-risk use cases.

Cities can start with co-designed pilots in low-risk, high-consent settings (e.g., school mediation intake, neighborhood repair projects), then scale through procurement standards that demand documentation on data provenance, model explainability, security hardening, and

interoperability. Capacity building should pair technical training for practitioners with community education so residents can understand, question, and shape the tools that affect them. Evaluation should combine quantitative indicators (repeat harm, time-to-service, participation and completion rates, satisfaction) with qualitative outcomes (perceived fairness, empowerment, and trust) and equity audits (error rates and access across demographic groups). Comparative case studies across districts can test portability and identify contextual conditions for success.

The restorative city promises not merely to resolve incidents, but to strengthen social fabric through inclusive processes of accountability and repair. AI can help realize that promise if governed as public-interest technology: augmenting human relationships, widening access, and making outcomes more consistent — while rejecting use cases that instrumentalize people or covertly expand control. The presentation offers a practical toolkit of design principles, governance guardrails, and evaluation metrics for municipal actors and community partners. By centering co-design, explainability, and human-in-the-loop safeguards, the model translates restorative principles into operational requirements for urban AI, offering a route to scale innovation without abandoning the ethics of care that give the restorative city its legitimacy.

Keywords: restorative city; artificial intelligence; community mediation; algorithmic governance; conflict prevention; urban policy.

172.4:[340.12:327

*Dr. Dragana Vilić**
*Dr. Nataša Vilić***

PEACE – A THEORETICAL AND LEGAL-POLITICAL CONCEPT

The significance of the existence of lasting peace for both individuals and communities is invaluable. The idea of perpetual peace and the striving for peace have been present since antiquity – as an ideal, a utopia. The concept of peace finds its foundations in religion, philosophy, law, sociology and in various peace charters and agreements. In this paper, peace is examined as a theoretical and legal-political concept. The notion of peace does not possess a clear or universally agreed meaning. There are three principal approaches to its definition: the ancient idea of peace as a synonym for stability and balance; the absence of organised collective violence (negative peace); and peace as a synonym for cooperation and integration among individuals and groups (positive peace) (J. Galtung). Peace implies the presence of contact, cooperation, a sense of community and the harmonisation of interests. Frequently, the objectives of establishing peace appear utopian, yet peace is regarded as something fundamentally attainable. A narrow concept of peace, understood merely as the opposite of war or as the avoidance of wars, arms control or disarmament, is not acceptable. Various forms of violence, exploitation and similar phenomena stand as obstacles to achieving peace. Through the operation of different international mechanisms for establishing and regulating relations between sovereign states, by imposing international legal and political rules of conduct, and by introducing new organisational principles in relations among independent states, powerful states are granted special prerogatives which enable them to interfere (forcibly, illegitimate-

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ly) in the governance and regulation of weaker states (in the domains of economy, political relations and security), thereby creating tensions and conflict. Thus, instead of an international legal order that refrains from encroaching upon the freedom of other states (a sphere of stability and equality), in practice we witness attempts by powerful states to consolidate their dominance and direct control over others. In doing so, one of the key provisions of Immanuel Kant's draft of perpetual peace is violated. The operation of the negative forces of globalisation (Zygmunt Bauman), the selective application of law, the subordination of law to politics (with international courts functioning as political constructs), the misuse of the monopoly of physical force in international relations, socio-economic inequalities, the undermining of justice, as well as the rise and distribution of new forms of power, all characterise the international order. The impotence of the international community is evident in its inability to prevent or halt wars, as well as in its limited success in the peaceful resolution of interstate disputes (L. Veljak). No previous arrangement or theoretical conception of order has offered hope of bringing about lasting peace – neither the vision of a loose federation of enlightened nations/a league of peace that would ultimately eliminate violence as a means of resolving international disputes (I. Kant), nor any other cohesive intergovernmental or international form/union that might lead to perpetual peace whilst ensuring the freedom of each state within that union without coercive subjugation (J. Rawls). The realisation of the aspiration to lasting peace in the contemporary world is evidently losing its potential as a feasible utopia.

Keywords: (perpetual) peace, ideal, utopia, law, politics.

347.962.1:004.738.5
004.8

*Dr. Igor Milinković**

JUDICIAL RECUSAL AND INAPPROPRIATE COMMUNICATIONS IN THE DIGITAL AGE: SOCIAL MEDIA AND AI APPLICATION CHALLENGES

Judicial impartiality, understood as the absence of bias or prejudice, constitutes a core value of judicial ethics and has been described in scholarly literature as a defining feature of judicial resolution. It represents a cornerstone of the right to a fair trial, guaranteed under Article 6(1) of the European Convention on Human Rights and embedded in both national constitutions and international judicial ethics instruments. Proponents of the broad application of artificial intelligence (AI) within the legal domain frequently present AI-based systems as tools capable of enhancing impartiality in judicial decision-making. Practice, however, demonstrates that AI-based systems are themselves not immune to various forms of bias. The challenges posed by the development of digital technologies and AI with respect to safeguarding judicial impartiality are numerous and continue to grow in scope and complexity.

This paper focuses on two of the principal safeguards of judicial impartiality: the institution of judicial recusal and the prohibition of inappropriate communications, a broad category that encompasses not only ex parte communication, but also the less frequently addressed yet equally significant risk of influences or facts outside the procedural framework of the trial. Together, these mechanisms ensure that judges base their decisions exclusively on evidence and arguments properly introduced in court, in a process that remains transparent to all parties and open to contestation.

The rapid spread of digital technologies has created new challenges for these safeguards. Social media, in particular, generates new risks of inappropriate communication. Judges' online activity, through posts,

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comments, or "likes", may create an appearance of bias or prejudice, while digital interactions with litigants or lawyers, even as seemingly minor as a Facebook "friend request", may constitute impermissible ex parte communication, as recognized in case-law. Beyond direct communication, social networks expose judges to information, opinions, and narratives that may influence reasoning without the parties' knowledge.

The challenge becomes even greater with the application of AI-based systems in judicial proceedings. AI tools are increasingly used for tasks such as legal research, risk assessment, or even drafting judicial opinions. While such systems promise greater efficiency, their outputs may contain undisclosed inputs, opaque reasoning, or hidden biases. As the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) have cautioned in their recent guidelines, such use may fall within the scope of prohibited inappropriate communications, raising the same concerns as ex parte communication. The EU AI Act (2024) highlight these risks by explicitly classifying judicial applications of AI as "high-risk" and mandating safeguards of transparency, human oversight, and accountability.

This paper argues that judicial impartiality safeguards must be regulated in accordance with the novel challenges posed by the digital age. Social media generates new risks of both perceived and actual bias, while artificial intelligence introduces the possibility of hidden algorithmic influence on judicial reasoning. Legal systems must therefore adapt existing standards of judicial ethics and impartiality to these emerging realities. Following an analysis of relevant international and regional standards, national regulatory frameworks, and illustrative examples from judicial practice, the paper concludes by proposing guidelines for the adequate regulation of these challenges.

Keywords: judicial impartiality, digital technologies, AI, recusal, ex parte communication.

342.724"20"
342.7:341.6(4)

*Dr. Ivana Tucak**

MINORITY RIGHTS IN THE 21st CENTURY

Many European states are characterised by a heterogeneous population rather than a homogeneous one, comprising diverse ethnic, national, racial, and religious groups with distinct interests. A fundamental question arises as to whether this heterogeneity should decisively influence the model of democracy to be adopted within liberal constitutional systems. Contemporary theorists and constitutional scholars increasingly argue that a model of democracy grounded solely in majoritarian rule and premised on national homogeneity, while disregarding ascriptive differences, undermines the values of human dignity, fairness, and ultimately the stability of the state itself.

This understanding of democracy, which does not recognise the identities of those who differ from the dominant culture but instead assumes that universal human rights can sufficiently protect minority communities without the recognition of specific minority rights, has deep roots in the liberal political philosophy of the seventeenth century. Within this framework, rights are attributed exclusively to individuals to safeguard their autonomy, liberty, and equality. Especially in the aftermath of the Second World War, international law prioritised the protection of the civil and political rights of individuals. Yet, the liberal principle of state neutrality often conceals biases favouring the dominant group. At the same time, majoritarian rule routinely results in minorities being outvoted in matters of vital concern to them.

The central question of this paper, therefore, is how minority rights ought to be accommodated within contemporary national legal re-

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gimes. Cultural affiliations remain of profound importance to most individuals, implying that states today cannot—and should not—disregard them. States are called upon to recognise the efforts of minorities to preserve their identity against assimilation into the majority culture. As Will Kymlicka has persuasively argued, the state cannot be neutral in this respect, nor can demands for the protection of minority rights be dismissed as anachronistic.

The first section of this article will engage with the conceptual debate surrounding the definition of "minority," exploring the distinction between national minorities—whether territorially concentrated, in which case they may even form a local majority—or other, newer ethnic groups. This conceptual issue is particularly significant given the absence of a precise definition of "minority" in leading international legal instruments.

The second section will turn to constitutional responses to the challenges of minority protection. Western states with a strong liberal tradition, such as France, regard all inhabitants as citizens and perceive the protection of particular identities through minority rights as a threat to social solidarity and equality, whereby groups appear in opposition to one another. Consequently, such rights are not enshrined in their constitutions. By contrast, in the 1990s, the states of Central and Eastern Europe adopted constitutions that explicitly provided safeguards for minorities, whether in the form of individual rights for members of minorities or in the form of collective rights vested in the group as such. At that historical juncture, the protection of minority rights was one of the defining features of newly adopted constitutions. Nevertheless, then as now, these states faced the pressing question of whether groups, as collective right holders, are reconcilable with the tenets of Western liberal thought.

This part of the paper will also address the issue of group membership and the principle of free self-identification, which, as several authors have noted, is critical to the effectiveness of mechanisms de-

signed to protect minority rights. Particular attention will be devoted to the problem of potential abuse in the form of so-called "free riders," especially in the context of the active and passive electoral rights of members of national minorities.

The final section will examine the jurisprudence of the European Court of Human Rights. While the European Convention on Human Rights is formally grounded in liberal principles of protecting individual liberty and autonomy, the Court has, through teleological interpretation, developed a rich body of case law addressing the protection of minority rights. This section will critically assess the Court's jurisprudence concerning the right to free elections and its case law relating to the general prohibition of discrimination.

Keywords: diversity, identity, heterogeneity, minority, European Court of Human Rights.

316.776.4:004.8]:34

*Dr. Diana Botău**

VIRTUAL, NOT VIRTOUS, REALITY. LEGAL AND REGULATORY CONCERNS REGARDING THE METAVERSE

The metaverse was born in the minds of science-fiction writers, but it came to define the video game industry and today it shapes the real-world strategies of leading companies and international brands. The virtual has already become a new form of reality, fed with real time and real money, by real people. In the past couple of years, several major metaverse summits were organized in Paris, London, New York, Los Angeles, and Dubai. These events brought together innovators and technology experts, but also executives, lawyers, and policymakers. They uncovered the estimated value of immersive experiences and addressed technical and legislative challenges related to the new virtual society.

While the metaverse is not yet fully here, it is described as a new kind of beast, that will revolutionize everything. It already creates real challenges for the law systems and it is likely to disrupt our current understanding of specific areas of law. Will the cybernetic society invite a change in the normative paradigm? If so, how will it be different from the current, traditional one? Lawyers are used with textual representations of the law. How will the dematerialization of reality affect the traditional legal perspectives?

As the metaverse expands, it will face many difficulties and concerns, that have to be addressed before the new technology becomes mainstream. In a world where geographic boundaries break down and territory rights take a new meaning, the new economy will require new thinking. Some potential issues which might arise in the metaverse

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show topics such as virtual identity, privacy and data protection, property and intellectual property, consumer protection for in-metaverse assets, cybersecurity, digital ethics, user interactions and criminal conduct (crypto fraud, violence, hate speech, theft, etc.), competition, taxation, governance, etc. The following are but some brief examples of real problems within the virtual world(s), enough to offer a glimpse into the near future's legal and regulatory challenges and concerns.

There is increasing regulatory attention toward the metaverse. EU, US, and China are but three of the world's economic forces racing for digital sovereignty, by trying to be the first to set the standards for such new technologies. However, despite powerful political declarations to this end, the EU has but a «scaffolding» regulation approach toward the metaverse, the US adopted a «wait and see» attitude, accompanied by fragmented regulations and relying heavily on case law and corporate self-governance, while China shows official nervousness about controlling the metaverse and, whenever possible, tries to extend its national law to issues raised by the metaverse.

Keywords: metaverse, normative system, virtual identity, digital sovereignty.

34:8]:004.8

*Dr. Dragana Ćorić**

LAW, LANGUAGE AND ARTIFICIAL INTELLIGENCE - CHALLENGES AND BOUNDARIES**

The access to all sorts of information at any time and in any place has never been easier than it is today. Everything is online, and always available, to everyone. The artificial intelligence is taking over our thoughts, attitudes, emotions, family and business events; at first as the valua-ble assistant and collaborator; to the point that a day at work or school, or even rare hours of lei-sure, cannot be imagined without the help of AI. It is present in our internet internet browsers, streaming services, applications for communication or shopping. AI knows our personal and bus-sinesspreferences, it even recognizes the words we use more often in the messages we send to others. In a world where information technology develops "at the speed of light" and people rely more and more on mechanical brains and neglect their own thinking and live contacts, where the automation of various processes is constantly encouraged and thus reduces the need for human participation and work in those processes –the law must keep pace with this progress. Or else, the incredible possibilities that modern technology provides can be misused in unex-pected ways and cause more harm than good.

The challenges of information technology development are constant and often unpredict-able. Law must rely on its basic principles and apply them in new circumstances, in different ways than they have ever been applied before. The law become the only boundary that can be set before galloping development of technology and especially artificial intelligence. For example, when Chat GPT totally invents court

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precedents, in order to support the lawsuit that a busy law-yer asked it to write, to save himself some time – Chat GPT just responds to a general request written in its basic code - to create new information using the existing data that the immediate user gave him, as well as other data that other users have stored in its system. Can we then blame Chat GPT for presenting false information? Can it distinguish a lie from the truth, that is, are cer-tain moral norms incorporated into its system? Or does it need help to cope with that? What must we do to prevent such occurrences of the so-called hallucinations or at least reduced them?

Due to the numerous situations, some of mentioned above, which have occurred around the world since the beginning of the release of the Chat GPT tool, a completely new activity has been developed and a completely new group of experts is being created who will serve as a kind of translator for the Chat GPT and other AI products , and turn requests made to them by ordi-nary people into more comprehensible instructions that these tools can understand , while striving to reach the norm of "wise use" of this tool.

In this paper, we deal with the term "prompt", then with "prompt management", as well as with new profession- "AI prompt engineers", as solutions for abovementioned challenges. Ac-cording to the wide used definition, prompt management is the systematic process of creating, storing, versioning, evaluating, and optimizing prompts for large language model (LLM) applica-tions to ensure consistency, reusability, and improved performance, such as Chat GPT and other AI tools(which are basically large language models also). The AI prompt engineers are specifi-cally skilled persons, who are figuring out how machines can better understand us and serve us, by using two languages simultaneously, human language and machine language.

Law is here to help them shape the future, and make specific rules for games they must play with the machines, for the benefit of all of us.

Keywords: law, language, Artificial intelligence, precision, prompt.

Dr. Patrícia Dominika Niklai *

YOUTH ORGANIZATIONS AND IDEOLOGICAL EDUCATION AFTER THE FIRST WORLD WAR IN HUNGARY

'Extreme political parties, especially when they come to power, strive to involve even youth into politics: they implant their political values and social ideals in them because they want to ensure the historical continuity of their party and power and the implementation of their ideas across generations.' – said a Hungarian cultural politician in 1934.

According to the quotation, the subject of the research is the operation of youth organizations related to state propaganda in Hungary during the so-called Horthy era (1920-1944). Among Hungarian youth organizations during this period, the Levente movement was of particular significance. In my research, I primarily examine how state propaganda affected the operation of Levente. Within this, I am particularly interested in the role of the press in this process, how the tasks of the youth organization were presented, and how it was portrayed in the newspapers.

In relation to youth organizations and state propaganda, it is necessary to analyse the government's ideology behind education, its legal policy intentions regarding education, and how these are manifested, i.e. what catchwords are used to describe education. This question was determined by the cultural policy of the time, which depended on the personality of the Minister of Culture. During the Horthy-era there were only two defining ministers of religion and public education: Kuno Klebelsberg between 1922 and 1931, and Bálint Hóman between 1932 and 1942. Their cultural policies were not far from each other as Hóman consciously built on the framework laid down by Klebelsberg. For both, ideology determined what measures they took in the field of youth organizations. Klebelsberg had to rebuild the school network in the infra-

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structural and social chaos after the Treaty of Trianon in 1920, when the country's territorial and population losses caused a huge trauma in the people. Arguing with the intellectual and cultural supremacy despite of the territorial losses could have been seen as a consolation. Klebelsberg's institutional development certainly has to be appreciated but it must be added that establishing cultural supremacy as a cultural policy goal is more debatable, since it proclaimed the cultural superiority of the Hungarian nation over both the surrounding peoples and the minorities living in the country. This ideology strongly affected the education of youth: the keywords for education were religious-moral and revisionist education. In the case of Hóman, the alliance with the 'Third Reich' and the World War provided the framework for his activity. During his ministership, even greater emphasis was placed on national education. Subsequently, so-called national education came to the fore, and from then on, the slogans became patriotic, national education. With the approach of World War II, national defence education also became a priority, in line with national education. These determined the direction of youth education.

Exploring cultural policy is important in this research because it allows us to draw conclusions about the direction of ideological education that appeared in the activities of youth organizations. After the First World War youth had to participate in the work of youth organizations, the most important of which was the Levente. When the youth movement was founded in 1921, it was claimed that youth defence education and physical education are essential for the development of the nation. The legal framework of the Levente was primarily based on Act LIII of 1921 on physical education. According to this, young Hungarian citizens were obliged to enlist from the age of 12 until the start of their actual military service, but at the latest until the age of 23. Through the Levente the involved youths were provided with religious-national education. It was also a way of educating Hungarian youth according to the Military Defence Act of 1939. The aim of the Levente training was

'to prepare the youth in body and soul for the noble tasks of defending the homeland through education based on the traditional Hungarian military virtues.'

The sources used in the research include, in addition to legal regulations, various press articles, propaganda products aimed at influencing the ideology of Hungarian youth, and archival documents relating to the activities of youth organizations.

Keywords: ideological education, youth organizations, Levente-movement, cultural policy, Hungarian interwar period.

34:004.8

*Lilla Andrea Barzó**

LEGAL PERSONALITY OF ARTIFICIAL INTELLIGENCE FROM A THEORETICAL AND PRACTICAL PERSPECTIVE

With the advancement of technology, the law has faced new theoretical and practical challenges. These challenges have created minor and major legal loopholes within the legal system, which are being filled with the help of legal scholars. In my presentation, I will attempt to answer the following legal theoretical – and somewhat practical – questions: Can artificial intelligence (hereinafter: AI) acquire legal personality in the continental legal system? Is there any place or sense in granting legal personality to AI? Due to its extremely rapid development, artificial intelligence can also possess anthropomorphic characteristics and is often compared to humans. Due to its abstract nature, it is usually compared to legal persons in a legal sense. But is it really possible to place these three "categories" side by side in the legal sphere and treat them in a similar way as legal subjects? In my presentation, I will examine various human rights conventions and legal theories to answer these questions.

Human rights conventions highlight that regulations have always placed humans at the center of protection. The legal concept of the human being has been defined by emphasizing the primacy of human dignity. At the same time, however, a latent change is taking place, and the classic human-centered view no longer always dominates. Whereas previously, the prevailing metaphor and interpretive framework was one in which machines (and everything else) were considered subordinate to humans, public consciousness has now been flooded with visions that do not adhere to this and break away from the classic hierarchical relationship.

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Certain legal theories specifically attempt to shed light on who can actually be considered a subject of law. There are basically three theories that can be distinguished. The first is the so-called "Cheshire Cat" theory, whose most defining aspect is that the legislator has the possibility to confer legal personality on anyone or anything, simply because, on the one hand, it is convenient and, on the other hand, because it seems socially and economically appropriate in the given situation. The second is the anthropocentric theory, which takes humans as a physical and spiritual entity as its starting point and, according to this, only human beings can be legal persons. The third and final theory defines the possible scope of legal persons most narrowly. According to this theory, the existence of a biological human being is a necessary but not sufficient condition for legal personality, as certain cognitive abilities must also exist as prerequisites for acquiring legal personality.

Overall, it can be said that, in theory, the law can accept anyone or anything as its subject. At the same time, it must be taken into account that the system of rules that constitutes the law was created by humans to regulate human relations. If humans were to be relegated to a marginal role with the stroke of a pen, the essence and validity of the entire law would be nullified, resulting in legal uncertainty everywhere instead of a law-abiding civic spirit. Granting legal personality to AI is therefore impractical from the perspective of the legal system.

Keywords: legal personality, artificial intelligence, legal system.

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711.45:004.78

*Mohamed Aziz Zaalouni**

NEW LEGAL PERSPECTIVE: SMART LAW FOR SMART CITIES

The development of the law was observed, from the natural law tradition to a diverse international legal system.

Despite the fact that the international legal system, such as the common law country, which leans on the notion of precedent, casebooks, and the development of law on case by-case basis, therefore, who has chosen the civil law system? This is the case in many European countries (e.g., the French civil code).

Similarly, numerous nations have opted for their own legal framework, known as the Muslim law, which is characterized by strong religious components.

The legal tradition history is relevant today, for this reason 'The important practical applications of comparative law are often contrasted with more theoretical aims, such as promoting an improved understanding of one's own legal system or searching for principles common to a number of legal systems.'

The traditional legal system is not out of the map from the challenges facing the world today such as technology and the digital transformation of law.

As a result, a new legal language was developed called a modern legal language, we've been observing this slow change for years, for instance in 1987 Canadian professor Hugh Lawford developed the legal database: Quick-law, which was one of the first modern attempts of applying technology to law. In the intervening years, additional innovations have emerged, including the establishment of legal zoom in 2001.

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The forces of change in the area of digital revolution are well known; Richard Susskind is one of the world's leading experts on legal innovation. He talks about the digital revolution, calling it 'from a craftsman's world to a commodity' and asking, 'Isn't this just a dangerous new bubble?'.

Our lives have changed because of the revolution, namely the legal profession is now operating by business standards, and they have to adapt their services with the new technology.

In this context, Richard Suskind identifies three factors that influence the legal profession.

According to Marc Andreessen in the article called 'Why software is eating the world?, software will have an impact on many corporations over the next ten years. Such the Silicon Valley is home to numerous well-known, leading companies, including Apple, PayPal and e-Bay.

As an example, Amazon – one of the multinational companies – is a software company, regarded as one of the best bookseller and e-commerce in the world.

One of the Amazon primary features, its core capability by selling everything online with numerous advantages services like the logistics and delivery.

The notion of 'Smart cities' serves an excellent case-study of how smart law apply in the emerging high-tech sector.

Smart city contributes significantly to the reduction of CO2; it's an optimal approach to intelligent governance. Among the advantages of a smart city, the decision can be made more quickly and directly based on more up-to-date information.

According to the abovementioned changing, the following research questions can be stated here:

1 Has the role of law changed?
2 In what manner can the law accommodate all of these challenges?
3 May we talk about a smart law for smart cities?

A close examination of the legal texts reveals that the concept of smart law is not mentioned due to the novelty of this concept.

Numerous nations incorporate the elements of smart law into their legislative texts. This is may be implemented to reduce crime rates, develop municipal infrastructure and to develop entirely new city models.

Smart legal contracts and smart regulations are examples of the manifestations of smart law; some authors regard the smart law as a third alternative between rigid 'hard law' and non-binding soft law allowing for flexible adaptation to achieve social and sustainability objectives while considering sector-specific constraints.

4 However, using the data system, is it really safe?

This is when smart laws come into play. To address people's concerns about losing control over their personal information online, for instance, the European Union has adopted a strategy project called 'decode'.

This is a response to people's concerns about a loss of control over their personal information on the internet. The ability to access, control, and use personal data has become a means by which internet companies can drive profits.

Keywords: Smart law, smart cities, digital transformation of law, smart regulations, safety of data system.

ПРАВНИ ФАКУЛТЕТ
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SESSION III

329:94(436)"17"
94(497.5 Rijeka) "17"
94(497.11 Novi Sad) "17"

*Dr. Željko Bartulović**

NOVI SAD AND RIJEKA IN THE POLITICS OF HABSBURGS IN 18TH CENTURY

The author analyzes the charter of Maria Theresa from 1748, which gives Novi Sad the status of a free royal city within the framework of the administrative and economic policy of the Habsburgs since the accession of Charles VIth to the throne in 1711, during the reign of Maria Theresa (1740-1780) and Josip IInd (1780-1790). Novi Sad, along with Sombor (1749) and Subotica (1779), received new administrative status to encourage economic development. The other branch of court policy leads to Rijeka, which becomes a port for trade with Hungary and the area of today's Vojvodina. That's why Emperor Charles issued a manifesto on freedom of navigation in the Adriatic in 1717, declared Rijeka and Trieste free ports by patent in 1719, founded the Imperial Privileged Company in 1719, formed a grain route to the Danube, encouraged merchants and public-private partnership. The Supreme Trade Intendancy established in 1731 develops trade, and the Trade Directory established in 1746 centralizes trade policy. Count Perlasz, the first governor of Banat, sought a connection with Rijeka and in 1759 the Timisoara Company was founded. Rijeka was reincorporated into Croatia in 1776, and Governor Maylath encouraged grain trade from Pannonia. In 1778, Rijeka entered the municipality of Bakar, but in 1779, the empress defined it as a corpus separatum directly annexed to the Hungarian crown. Joseph IInd in 1786 abolished the Severin county and established the Hungarian coast, which includes Rijeka.

Keywords: Novi Sad, Rijeka, free royal city, free port, 18th century, trade, shipping.

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336.226:336.14(497.7)

*Dr. Kristina Misheva**

ASSESSING THE IMPACT OF THE SOLIDARITY TAX ON MACEDONIA'S BUDGET AND TAX LEGISLATION

The Law on the Solidarity Tax in North Macedonia was adopted in 2023 as a one-time fiscal measure in the aftermath of the COVID-19 crisis. This legal initiative was aligned with Council Regulation (EU) 2022/1854 of 6 October 2022, which provided an emergency framework to address high energy prices within the EU. The Macedonian solidarity tax targeted the taxpayers, whose total corporate income in 2022 exceeded MKD 615 million denars (approximately EUR 10 million). The collected taxes were treated as budget revenue, aimed at supporting the state's post-crisis recovery.

According to article 4 of the Soldarity Tax Law, a taxpayer of the solidarity tax is a taxpayer of the income tax in accordance with the Corporate Income Tax Law. The taxpayers were obligated to calculate the tax base according to article 6 and submit tax declarations to the Public Revenue Office no later than 25 September 2023—the date the law both entered into force and was officially published. The law's immediate effect and retroactive scope sparked significant legal debate.

Although rooted in principles of solidarity, fairness, and social responsibility, the implementation of the Law raised serious constitutional and legal concerns, particularly regarding the principle of non-retroactivity. This principle, as a cornerstone of tax law and the broader rule of law, ensures legal certainty and predictability for taxpayers. The Law's retroactive nature violated the legal principle that laws should not take effect before their official enactment, especially in cases where they impose financial obligations. Furthermore, the law challenged foundational legal doctrines such as justice, proportionality, legal predictability, and legal certainty.

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Early this year, the Constitutional Court of North Macedonia annulled the Solidarity Tax Law, ruling, among other reasons, that its retroactive provisions were unconstitutional. This annulment had fiscal, legal, and political consequences, raising questions about the role of solidarity in taxation, the limits of emergency fiscal intervention, and the future of tax policy in transitional economies.

This research aims to critically examine the legal and fiscal implications of the Solidarity Tax Law: Was the tax a justified and necessary measure? How did the retroactivity affect legal principles and public trust? What are the consequences following the Constitutional Court's decision? The research applies the legal method, comparative legal analysis, and draws on official reports and legislative documents.

Keywords: taxes, solidarity tax, legal certainty, state budget.

336.2:352(497.6)

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LEGAL FRAMEWORK AND CHALLENGES OF FISCAL FEDERALISM: FISCAL SOVEREIGNTY AND BORROWING LIMITS IN LOCAL SELF-GOVERNMENT UNITS IN BOSNIA AND HERZEGOVINA AND SELECTED EU COUNTRIES

In recent decades, fiscal federalism has emerged as a key feature in the governance of multi-tiered states, significantly impacting economic development, public sector efficiency, and democratic accountability. It involves the allocation of fiscal authority, spending responsibilities, and borrowing powers among different levels of government. In this context, local self-government units (hereinafter: LSGUs) play a crucial role as the tier of government closest to citizens, responsible for delivering core public services. Their ability to meet rising demands driven by demographic shifts, infrastructure expansion, social welfare needs, and local economic programs depends heavily on their fiscal sovereignty. This encompasses the power to raise own-source revenues and access borrowing, all within a clearly defined, coherent legal framework that establishes the scope, limitations, and supervision of these fiscal activities.

This paper explores the legal framework regulating fiscal sovereignty and borrowing limits at the LSGU level in Bosnia and Herzegovina (hereinafter: BiH), a state characterized by a complex and fragmented post-conflict constitutional structure. Its governance system comprising the Federation of BiH, Republika Srpska, and the independent Unit Brčko District poses major challenges to establishing a stable, functional model of fiscal federalism. The lack of harmonized legal standards, insufficient institutional coordination, and weak fiscal controls have resulted in legal uncertainty, inadequate oversight of borrowing, and growing fiscal risks at the local level.

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Adopting a comparative legal perspective, this study examines fiscal federalism models in three EU member states: Germany, Austria, and Italy. These countries were selected for their distinct legal and institutional approaches to managing fiscal autonomy and responsibility. Germany and Austria represent strong federal systems with established frameworks for intergovernmental coordination and subnational debt control. Italy, a more centralized state undergoing decentralization, offers lessons in managing regional disparities and building legal safeguards around local borrowing.

The central hypothesis of this research is that BiH's underdeveloped and unstable legal framework undermines fiscal sovereignty at the local level and fails to enforce effective borrowing restrictions. This vacuum contributes to unsustainable finances, weak accountability, and increased vulnerability to fiscal shocks. In contrast, the legal models of Germany, Austria, and Italy demonstrate how institutional clarity and strong legal mechanisms can support a balance between local autonomy and macroeconomic stability.

The study pursues four main objectives: (1) to map and assess the constitutional and legal provisions governing local borrowing and fiscal powers in BiH; (2) to compare these with the frameworks in Germany, Austria, and Italy; (3) to evaluate the implementation and practical effectiveness of borrowing controls and fiscal responsibility rules at the local level; and (4) to propose legal reforms that would strengthen fiscal governance, improve transparency, and ensure sustainable public finance at the local level in BiH.

The research methodology integrates comparative legal analysis, normative assessment, and analytical-descriptive approaches. The comparative dimension enables systematic cross-national analysis of legal structures and institutional practices. The normative evaluation measures BiH's legal system against principles of fiscal federalism, constitutionalism, and public finance sustainability. The analytical-descriptive method focuses on the practical enforcement of borrowing limits and fiscal discipline.

Keywords: fiscal federalism, local government borrowing, fiscal sovereignty, legal framework, fiscal sustainability.

342.34
340.131

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*Francesca Tesi***

CRISIS OF CONSTITUTIONAL DEMOCRACY AND TRANSFORMATIONS OF LEGALITY: BETWEEN EXCEPTION, TECHNOCRACY AND FRAGMENTATION. FROM THE RULE OF LAW TO THE GOVERNANCE OF POWER

This paper examines the crisis of constitutional democracy and the rule of law, taking as its starting point the progressive hollowing out of the traditional categories of public law. The analysis retraces the trajectory that has led the constitutional state from a political-legal project built upon the tension between authority and rights to a procedural framework largely emptied of its ordering force. What once appeared as a marginal weakening now reveals its full transformative power: the shift from systematic rationality to adaptive functionality, the assimilation of neoliberal vocabulary into traditional legal categories, the conversion of public law from a science of limits into a technology of power. The erosion of conflictuality, replaced by a neutral language of governance, has enabled a profound transformation in which legality, sovereignty, and representation survive as forms but increasingly lose substance.

The crisis is therefore not an episodic degeneration but the internal outcome of the reconfiguration of the legal order: what was once a constraint becomes a support, what was once a guarantee turns into procedure, what was once conflict is neutralized. Constitutional democracy, originally conceived as a dynamic and inclusive construction, risks being reduced to a mere mechanism of ex post legitimation, in-

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capable of translating collective aspirations into effective legal forms. The crisis affects not only representative institutions but also the very vocation of public law scholarship, increasingly assimilated into the technical-justificatory language of decision-making.

The argument raises a radical question: can public law still be conceived as an ordering knowledge capable of sustaining a project for a more just and equal society, or is it destined to shrink into the mere certification of the systemic compatibilities of the present? The growing vulnerability of constitutional democracy to autocratic drifts does not appear as a contingency, but as the direct consequence of the erosion of legality as an instrument of guarantee and of the reduction of the rule of law to a functional technique of governance.

The analysis identifies the need for a twofold operation: on the one hand, to reconstruct the meaning of public law as a critical knowledge, not flattened onto economic-procedural rationality; on the other, to refound constitutional democracy as a legal and political project capable of renewing its fundamental categories (sovereignty, representation, guarantee, freedom, equality) and of restoring to the legal order a constitutive and regulative function. The task is not merely to defend what remains of traditional forms, but to reactivate the possibility of what can still emerge: a legal order capable of retaining its transformative force even in the midst of crisis, opposing to the administration of the present an inclusive horizon of justice and democratic responsibility.

On the empirical level, the crisis manifests itself along at least three axes: the normalization of emergency government, which repeatedly suspends guarantees without fully reinstating them; the growing technicization of public decision-making, which reduces dissent to a mere variable of statistical noise; and the multilevel fragmentation of legality, which multiplies the centers of normative production and weakens the recognizability of limits. Their common feature is the shift from ex ante oversight to ex post justification, with an evident deficit of democratic accountability.

The routinization of exception (for health, economic, environmental, or security reasons) leads to the expansion of executive administration at the expense of effective parliamentary and judicial scrutiny; the compression of deliberative time favors concentrated decisions, entrusted to streamlined procedures but poor in adversarial exchange, while subsequent proportionality review is reduced to a check of mere internal consistency. This circuit accelerates the transformation of law from an instrument of guarantee into a device of execution, consolidating the asymmetry between decision- making powers and possibilities of contestation.

The digitalization of the public sphere accentuates this phenomenon: the adoption of algorithmic metrics in the management of social benefits, surveillance, resource allocation, and comparative evaluations introduces logics of optimization that do not necessarily coincide with the guarantee of rights. Opacity, reliance on private standards, and the difficulties of explanation and individual contestation generate a new 'justice gap'. The proposed reconstruction insists on the need for traceability of technical rules, intelligibility of outputs, the effective presence of the human element, and the recognition of digital infrastructures as constitutional commons.

The multilevel fragmentation of legality, in turn, results in the proliferation of venues and sources of normative production (supranational, national, administrative, co-regulatory) that overlap without a clear hierarchical criterion. The outcome is a legal order in which the boundaries between legislative, executive, and administrative power become porous, generating uncertainty and asymmetries of protection. The multiplication of decision-making centers increases the risk of normative conflicts, weakens the predictability of rules, and fragments the guarantee of rights, relying more on contingency than on an ordering design. In this scenario, the principle of legality loses its unifying function and risks being reduced to a mere formal label, with the effect of de-responsibilizing public power and further disorienting citizens.

The perspective advanced therefore rests on the re-centering of conflict within open and participatory procedures; the strengthening of justificatory obligations and substantive transparency of decisions, especially when mediated by technologies, so as to make remedies effective (timeliness, accessibility, capacity to affect outcomes); the redefinition of political and administrative responsibility through genuinely operative mechanisms of ex ante and ex post oversight; and, finally, investment in a public culture of the 'limit' as a condition of freedom. The aim is not a nostalgic return to lost forms, but the construction of a legality capable both of constraining and of enabling: a constitutional project that restores meaning to collective action and once again makes visible the promise of democracy.

Keywords: Constitutional Democracy, Legality, Technocracy, Rule of Law, Governance.

351.74/.78+355.1(497.11)

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*Dr. Nenad Radivojević***

CRITICAL INFRASTRUCTURE PROTECTION IN THE REPUBLIC OF SERBIA – REGULATORY FRAMEWORK AND IMPLEMENTATION CHALLENGES

Critical infrastructure is one of the key factors in the stable functioning of a state, as well as in maintaining its national security. Until less than a decade ago, the protection of critical infrastructure in the Republic of Serbia was regulated by strategic, legal and by-law documents that only partially, in some of their segments, regulated the issues of its protection. These were documents such as the National Strategy for Protection and Rescue in Emergency Situations, the Law on Information Security, the Law on Private Security, the Law on Emergency Situations, the Regulation on the Content and Method of Developing Protection and Rescue Plans in Emergency Situations, etc. In this regard, the Republic of Serbia, in accordance with modern security trends and the process of approximation to the European Union, has taken several specific normative and institutional steps to regulate and improve the critical infrastructure protection system. One of these steps is the adoption of the first systemic law regulating the area of critical infrastructure protection, namely the Law on Critical Infrastructure, which was adopted in 2018 (hereinafter: the Law).

The Law regulates issues related to national and European critical infrastructure, including the procedures for its identification and formal designation. The Law also creates the prerequisites for the formation of a protection system, such as the adoption of an operator's security plan for risk management, the appointment of a liaison officer, the

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definition of the competences and responsibilities of relevant institutions and entities, as well as mechanisms for collecting and exchanging information, reporting, supporting the decision-making process, data protection, management and supervision in this area. Of course, the Law also provides for the adoption of accompanying by-laws, which will create the conditions for the implementation of the aforementioned legal provisions. The legal deadline for the adoption of these acts expired on May 21, 2019.

The process of identifying and determining all those infrastructures that will constitute critical infrastructure in the Republic of Serbia, according to the Law, falls within the competence of the line ministries, as well as the Government and the Ministry of the Interior. The Law provides that the criteria for identifying critical infrastructure and the method of reporting will be prescribed by the Government. The Government only adopted the Regulation on the Criteria for Identifying Critical Infrastructure and the Method of Reporting on Critical Infrastructure of the Republic of Serbia in June 2022. The aforementioned Regulation is the only by-law adopted to date in fulfillment of the obligations arising from the Law. The Ministry of Internal Affairs, or rather the competent minister, has not yet adopted two relevant regulations regulating the methodology, method of drafting and content of the operator's security plan for risk management, as well as the method and program for taking a special professional exam for obtaining a license for a liaison officer. This implies that even in the almost seven years since the adoption of the Law, not much has been done. The identification and designation of critical infrastructure by sector has not been carried out (and therefore the critical infrastructure operators have not been designated), a liaison officer has not been designated for each operator (since none have yet received a license), the operators' security plans for risk management have not been adopted, and it is not clear how the implementation of the Law is monitored when all of the above has not been implemented.

Through a critical analysis of the Law, as well as other relevant strategic, legal and by-law documents, the authors will strive to provide the clearest possible picture of the activities of the competent state authorities to date, as well as the challenges they face, which directly affect the state of critical infrastructure protection in the Republic of Serbia. In addition to analyzing the regulatory framework, with the aim of proposing certain de lege ferenda solutions, the authors will also strive to provide a systematic insight into the implementation of other relevant legal and strategic acts that indirectly regulate the area of critical infrastructure protection. This research aims to provide analytical and reasoned answers to several questions:

1. Whether, in what way and to what extent has the Republic of Serbia so far normatively regulated and effectively implemented critical infrastructure protection measures in practice?
2. Whether and to what extent is the Law in line with other relevant regulations that indirectly regulate this area?
3. What consequences have arisen due to the gap between what is normatively regulated and what has been implemented in practice so far?

Keywords: critical infrastructure, critical infrastructure protection, Law on Critical Infrastructure.

347.426.6:35.077.2
347.958

*Dr. Ratko Radošević**

RETURN OF SEIZED OBJECTS AND COMPENSATION FOR DAMAGES AS A SUBJECT MATTER OF AN ADMINISTRATIVE DISPUTE: THE PROBLEM OF LEGAL PROTECTION AGAINST THE COURT DECISION

Underthe Serbian law, a plaintiff in an administrative dispute may claim the return of seized objects and compensation for damages inflicted to him or her by the execution of the contestedadministrative act (or some other individual act that might also be challengedbefore the Administrative court). An administrative act (the question of its legality) is therefore the main subject matter of an administrative dispute. Only in addition to thisprimary question,the Administrative court may also decide on the consequences caused by the administrative act. This claim for the restitution is always the secondary question and it may not be decided separately, but only along with the decision on the main subject matter.

The claim for the restitution may be decided in an administrative dispute under the specific conditions. First, the administrative act itself has to be annulled. Secondly, the determined facts of the case have to provide the Administrative court with the reliable grounds for it. Otherwise, the plaintiff shall be instructed to make his or her claim in the civil procedure, before the competentcourt. The decisionon the restitution claim, if made by the Administrative court, is usually considered to be a specific form of an administrative dispute of full jurisdiction.

The Administrative court's decision cannot be appealed, because its judgements are always final. Against the decision on the restitution claim only a request for the review (by the Supreme court) could be

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regularlyfiled. Although formally classified as an extraordinary legal remedy, the request for the review is always available in disputes of full jurisdiction: it can always be filed, like an ordinary legal remedy, without meeting any other conditions.

At first sight it seems that this way the constitutional right to a legal remedy should also be fulfilled.Administrative court's decisions on the claim for the restitution are certainly the decisions on rights, obligations or lawful interests,prescribed by the Constitution, against whicheveryone shall have the right to an appeal or other legal remedy. Unlike the decisions on the legality of an administrative act, which are essentially of a control nature, the decisions on the claim for the restitution are the decisions of the first instance and require regular legal protection of the parties.

The problem, however, is that these decisions are not made in an administrative dispute of full jurisdiction, as usually considered. The whole distinction between limited and full jurisdiction is related to administrative matters and the different powers of the Administrative court when resolving them. Decisions on the restitution claims are not made in administrative matters – they are made in civil law cases and their legal nature is completely different. The difference between limited and full jurisdiction is not appropriate for deciding civil law cases and simply cannot be applied to them.

This does not mean that decisions on civil law cases in administrative disputes should leave the parties without any legal protection. On the contrary! It just means that this necessary legal protection cannot be derived directly from the administrative disputes of full jurisdiction. The gap in the legal protection could only be filled by analogy: in the context of the request for the review (by the Supreme court), the decisions made in civil law cases should be equalized with the decisions made in administrative disputes of full jurisdiction.

Even this way, unfortunately, the problem is not completely solved. It is still questionable if such legal protection is truly adequate and com-

plete, having in mind the legally prescribed reasons for reviewing the Administrative court's decision. These reasons cover exclusively legal issues, because the request can only be filed due to a violation of the law or a procedural violation which might have affected the decision. All factual issues, on the other hand, remain completely excluded.

The need to ensure adequate and complete legal protection against decisions on the restitution claims is just one more reason for the planned reform of the Serbian administrative judiciary. Among other things, it would include the two-instance procedure and the appeal against the first instance decisions. Until then, the constitutional right to a legal remedy against decisions on the restitution claims remains highly questionable. In the given situation, it seems that it is easier and safer for the Administrative court not to decide on these cases and to leave them to the courts competent for civil procedure. It is not easier, however, for the plaintiff,or more efficient!

Keywords: administrative dispute, return of seized objects and compensation for damages, Administrative court, request for the review of the Court's decision.

347.7:336.2

*Domagoj Rožac**

PIERCING THE CORPORATE VEIL AND TAX GUARANTEES THROUGH BALANCING LIMITED LIABILITY AND CREDITOR PROTECTION

Piercing the corporate veil (PCV) is a fundamental exception to limited liability in corporate law, ensuring that companies and associations remain separate legal entities—thereby protecting shareholders from personal liability—unless the corporate form is abused for illegal purposes such as fraud, tax evasion, or other misconduct that harms creditors or the state.

This paper critically examines the legal framework for PCV in Croatia, focusing on its dual regulation in both general company law (via the Companies Act) and specialized tax law (through the General Tax Act). It explores how abuse of limited liability triggers personal liability for controlling individuals and the conditions under which the veil may be pierced, as evidenced by Croatian case law, which requires concrete proof of misconduct rather than mere non-performance.

A comparative analysis reveals significant differences among jurisdictions. For instance, while the German system employs "Durchgriffshaftung" to impose direct personal liability in cases of asset commingling or undercapitalization, Croatian law maintains a stricter separation between corporate and personal assets. Similarly, in the tax context, the Croatian General Tax Act introduces a mechanism for tax guarantees that holds certain company insiders liable for tax debts when abuse is evident, thereby facilitating faster tax collection. However, this approach risks overextending liability to passive members and generating legal uncertainty.

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The paper employs a multifaceted methodological framework—including legal doctrinal analysis, comparative and case law analysis, empirical research, sociological inquiry, and normative critique—to identify key deficiencies in the current system. Findings indicate that the normative vagueness in the Companies Act and inconsistent judicial interpretations hinder effective creditor protection, while recent amendments to the General Tax Act may have broadened liability in a manner that conflicts with principles of legal certainty and proportionality. Based on these insights, the paper proposes targeted legal reforms.

First, the Companies Act should be amended to incorporate explicit, objective criteria for piercing the corporate veil, such as clear definitions of intentional fraud, gross negligence, and asset stripping. Second, the General Tax Act should be revised to ensure that tax guarantor liability is imposed solely on those actively involved in tax evasion—preferably focusing on company managers—thus better balancing efficient tax collection with the protection of innocent investors.

Finally, enhanced institutional coordination and procedural safeguards, including specialized judicial panels and mandatory judicial review of tax-guarantor decisions, are recommended to ensure a consistent and fair application of the doctrine. Ultimately, this research underscores the need for a balanced approach that preserves the economic benefits of limited liability while preventing its abuse. Reforms that clarify statutory language and strengthen enforcement mechanisms will not only improve creditor protection and tax discipline in Croatia but also align domestic practice with international standards and fundamental rights principles.

Keywords: piercing the corporate veil, tax guarantees, third party liability, creditor protection.

342.727:311.213.3

*Ivalina Marinova**

SURVEY OF CITIZENS' LEVEL OF SATISFACTION REGARDING ACCESS TO PUBLIC INFORMATION

Surveying public opinion on access to public information supports the strengthening of institutions and their efforts to achieve greater transparency and accountability in the fulfillment of their obligations under the Access to Public Information Act (APIA). This paper presents results from a survey of citizens' awareness and satisfaction with access to public information within the meaning of the Access to Public Information Act in the Republic of Bulgaria.

The research instrument is the "Survey to Study the Level of Citizen Satisfaction with Access to Public Information" and contains 12 statements that ask respondents about their prior awareness and experience of issues related to access to public information. A five-point Likert scale was used in the assessment, containing the categories: "I completely agree"; "I agree, but with some reservations"; "I cannot judge"; "I rather disagree" and "I completely disagree".

The results obtained show that the largest number of respondents are aware that the information they are seeking is provided after a decision of the relevant authority and in case of refusal they have the right to appeal the latter before a judicial authority. Respondents indicate that the most preferred method for seeking public information is submitting a written application, while sending an oral inquiry to the relevant authority is the least used method.

Keywords: public information; access to information; citizen satisfaction; awareness; methods for searching for public information.

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SESSION IV

331.3:613.99

*Dr. Bernadett Solymosi-Szekeres**

REPRODUCTIVE LEAVE AS NEW POSSIBILITY FOR THE REGULATION OF WORKING TIME

The regulation of rest periods is crucial for the employer's production, it determines its competitiveness in the international market, furthermore, the introduction of new standards on working time and rest periods is met with a strong reaction from the social partners. However, the legislator must take into account important interests in this for which the guarantee of adequate rest may also support other objectives.

The evolving rights of workers challenge the existing legislative frameworks. The needs on work-life balance, or the protection of the „forgotten" aspects of health mean serious issues for the labour legislation. The protection of workers' reproductive health is an impactful aspect of legislation, and is intrinsically linked, inter alia, to the objective of curbing the declining and ageing societies.

In this regard, the focus of the legislation of working time shall focus deeply on the worker's reproductive health. Consideration should then be given to what reproductive health means and what impact, if any, taking it into account might have on national working time legislation. In this context, the following topics need to be studied: (1) what exactly reproductive health means, (2) whether there is any expectation on the part of the legislator to protect it in terms of employment, and if so, (3) how it has done so so far, based on an examination of global labour law.

To answer these questions, qualitative research methods need to be involved. As these questions are linked to non-legal facts (health, reproductive health) interdisciplinary and comparative research is needed.

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With regard to the first and second research questions, it can be seen that the concept of reproductive health is extremely complex and the latter also sets out a number of obligations for Member States, including in relation to employment policy. The answer to the third research question can be found in national regulations on rest periods. Based on a global labour law analysis, menstrual leave is a regularly chosen method to support the reproductive health of women workers. However, the specific principles behind this in national legislation vary, and the specific content of each regulation also varies. The research will present these in detail, which will, however, stimulate further debate in legal scholarship: what is the truly appropriate regulatory concept for a menstrual or reproductive day off? Is there a need for a labour law or social law background? The research therefore compares the existing concepts, highlighting their known weaknesses. It is important to do this because the Hungarian legislator is also faced with the question of whether to interfere with the Hungarian working time regulations in this way. However, there is also pressure from below: several Hungarian employers have already introduced a menstrual leave. These are not systematic and linked to different categories of rest time, full of gaps in regulation, and therefore it is imperative that the modern, sustainable corporate and national labour law toolbox should address this clearly established regulatory need in a reassuring way.

Keywords: reproductive health, labour law, social law, working time, leave, regulation.

331.101.21
349.2:342.734

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*Boban Vidojević***

CONSTITUTIONAL GUARANTEE OF THE RIGHT TO WORK AND ITS PROTECTION IN LABOR LEGISLATION

The right to work represents one of the fundamental human rights and, as such, occupies a significant place in the constitutional frameworks of countries worldwide, including the Republic of Serbia, where it is explicitly guaranteed. This right does not merely entail the possibility of employment, but also encompasses the right to decent work, protection against exploitation, as well as the right to equal access to the labor market without discrimination on any grounds and other rights.

The subject of this paper is a systematic analysis of the constitutional guarantee of the right to work and its concretization through the labor law legislation of the Republic of Serbia, with the comparative legal practice of EU countries. Furthermore, the paper explores the extent to which the constitutional guarantee of the right to work translates into effective legal protection in practice, with particular regard to the identification of "gaps" in legal provisions or insufficiently regulated aspects that may jeopardize the protection of workers.

The aim of this paper is to demonstrate that the constitutional guarantee of the right to work, although formally present in the legislation, requires continuous and effective implementation through labor law, the practice of inspection authorities, and court decisions, in order to be truly realized in the interest of workers and the wider society, to identify shortcomings in its application, and, based on comparative analysis, to propose potential legislative and institutional reforms that would

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contribute to strengthening the protection of the right to work.

The paper employs legal-analytical methods, including the analysis of constitutional provisions, the application of the comparative method through the examination of constitutional solutions in other European countries, as well as critical analysis of relevant labor law legislation and judicial practice. Additionally, normative analysis is used to identify regulations governing the rights and obligations of workers and employers, as well as existing protection mechanisms in case of violations of the right to work. The research results indicate that the constitutional guarantee of the right to work in the Republic of Serbia has a solid normative foundation, but its operationalization in labor legislation reveals certain deficiencies, particularly regarding the enforcement of laws and the effectiveness of legal protection mechanisms. Comparative analysis with European solutions shows that there are examples of best practices that could be applied into domestic legislation. The paper emphasizes the significance of the constitutional guarantee of the right to work as a fundamental principle, as well as the need for its consistent and effective implementation through labor legislation, in order to ensure full protection of workers and enhance legal certainty in the field of employment relations.

Keywords: constitutionality, right to work, worker protection, rights implementation, judicial protection.

004:331
349.2

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*Dr. sc. Ivan Nikolić***

CAN DIGITIZATION AND ARTIFICIAL INTELLIGENCE INFLUENCE CHANGES IN LABOR LEGISLATION?***

The issue of labor relations is an issue that is dealt with by several fields and scientific disciplines. These are law (normative regulation of labor relations), economics (from the aspect of employment, industrial relations and human resources management), demography (employment of migrants and biological aging of the population), geography (human geography and global work), psychology and sociology (field of work), as well as history (occupational development and employment in accordance with population censuses). In recent times, the field of information and communication technologies (remote work, via platform). Somehow with the Covid 19 pandemic, it became obvious, but also the accelerated implementation of digitization in all aspects of work and life. Digitization and artificial intelligence have influenced the change in the way of communication (direct communication, which goes beyond the borders of a country, even a continent), the way of payment (electronic payment), the way of buying and selling (goods are highlighted on electronic platforms and can be bought in such a way).

But first, let's see what digitalization is and what artificial intelligence is. in the context of labor law and employment relations, digitalization of business involves the application of IT and technical tools

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in companies to improve their business. Therefore, digitalization has contributed to e-business becoming a common practice during the work process. The consequences are the simplification of procedures, acceleration of the decision-making process, but also far greater data collection and storage. It has become a participant in the competitive advantage of companies and contributes to business efficiency. Artificial intelligence, on the other hand, is the application of machines that could replace people. These machines, through programmed processes, imitate human behavior, and try to solve a problem. Artificial intelligence (AI) understood in this way should contribute to machines performing certain tasks that were previously performed by humans. For example, to translate texts from one language to another. To store a large amount of information. This existed to some extent even before the 21st century, with the use of robots in production processes or for military purposes. It must be emphasized that technological changes have led to the extinction of certain professions, but also the creation of new ones. Today, greater importance is attached to digitalization and artificial intelligence than ever before, which has led to people fearing for their jobs and the income they will earn.

It has become obvious that digitalization and artificial intelligence have influenced the paradigm shift at work. Like any change, this change also brings positive and negative implications. Namely, it is positive that it provides the opportunity to find work for individuals outside the borders of their home country. Which means it increases employment opportunities. Then, it increases the competitiveness of companies that manage to find customers or raw materials in other markets. It allows direct communication that reduces the costs of selecting and recruiting employees. However, a multitude of questions have also arisen related to the regulation of employment relationships and the regulation of labor rights. Namely, the question has been raised as to how electronic work is regulated? If the employee and the employer are in different countries, which court is competent to resolve disputes arising from

electronic employment relationships? The issue of personal data and identity protection is also very important. Cyber attacks on certain business websites and illegal downloading of personal data of employees and clients are not infrequent. Is the technological response such that it can lead to the protection of the same? At this stage, the opinion is that the technological response is not adequate. The question of working hours has also been raised. With digitalization, the eight-hour workday has ceased to exist. Communication is ongoing, and responding to emails exceeds the limits of working hours. As a result, a phenomenon has emerged, which is more recent, and that is the phenomenon of "Silent Quitting", which involves performing basic tasks, without additional motivation and creativity. Dissatisfaction with the job, lack of understanding of the team, but also overload due to digital demands can be reasons for changing the rhythm of work. Also, if the dignity of the employee is violated, this can be the cause of dissatisfaction and lack of inventiveness at work. All of this can lead to a change in job.

In Serbia, the rights and obligations of employers and employees are regulated by the Labour Act (Sl. glasnik RS", br. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 - decision US, 113/2017 and 95/2018), as well as a number of other documents related to employment. This law specifically prescribes the right to limited working hours, which has been called into question with digital forms of work. It also contains other provisions such as the right to annual leave, the right to earnings, compensation for overtime work, and the like. In any case, legal theorists and all those who study labor relations must take into account the innovations coming from the labor market and harmonize labor regulations accordingly.

Keywords: digitization, artificial intelligence, labor relations, changes, working hours.

631:004.896
340.134

*Gergő Árvai**

LEGAL ASPECTS OF AGRICULTURAL ROBOTS

The development of technology and robotics is an unstoppable process in the 21st century, raising numerous legislative and law enforcement issues. Robots are already being used in the labor market in several areas, making it almost impossible to imagine the future without the use of robot technology. Agriculture is no exception to this phenomenon, as robots performing agricultural work, known as "agricultural robots," have appeared in several countries in recent years. The scope of application of agricultural robots is expanding thanks to technological developments, so in addition to robots that perform simpler work processes and cooperate with humans (so-called "cobots" or "co-robots"), technologies capable of completely autonomous work are already present in the sector. However, autonomous work raises questions of liability.

The main questions of research concerning the legal aspects of agricultural robots focus, on the one hand, on analyzing the legal classification of robots performing work and, on the other hand, on examining issues primarily related to liability for damages arising in connection with the work performed by robots. An examination of legal literature reveals that the majority scientific opinion, especially in countries with continental European law, is that robots are legal objects, but from a legal theory perspective, the idea of granting them legal personality in the future cannot be ruled out. All these conceptual issues are also the starting point for liability issues related to the work of agricultural robots. If we accept that agricultural robots are legal objects, then a given robot can have an owner, operator, manufacturer, beneficiary,

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etc. under civil law and it can also be the indirect subject of civil law contracts (e.g., sale, rental, leasing, etc.). But in a view of its lack of legal personality, it cannot have an employer, as this would require the robot to be declared an employee and a legal subject, which is conceptually impossible given the assumptions referred to above. Problems of legal interpretation arise when a robot cannot be considered simply a "tool," since it independently—without direct control, supervision, or monitoring—fulfills its primary purpose and function, i.e., performing various tasks related to agriculture and animal husbandry. If, as a result of technological advances, robots not only perform their work independently, but also have their own ideas, thoughts, or even will, this may require a reform of the legal status of robots.

Just as European Union legislation could not remain inactive in the case of artificial intelligence (Regulation 2024/1689 of the European Parliament and of the Council), the spread of robots also requires legislative action, even if only by analogy. The use of robots in agriculture can have numerous positive economic and environmental effects, which may provide solutions to various global problems (e.g., climate change, global population growth, food shortages, etc.).

In summary, the presentation focuses on one small but significant legal segment, namely the issues of liability in relation to the work performed by agricultural robots. Classical legal conceptualization generally has difficulty keeping up with technological developments, yet in addition to the liability issues arising in connection with the work of robots, sectoral regulations affected by robot technology must also strive for consistency.

Keywords: technology development, robotics, agricultural robots, legal object, liability.

349.2:796.071

*István Gábor Taskó**

LABOUR RELATIONS IN PROFESSIONAL SPORTS

Collective bargaining in sports has a history of long periods of labour strife. In most ways it is like other industries' collective bargaining process, which means that management and labour use economic weapons at their disposal to gain leverage at the bargaining table. On the other hand, professional sports leagues and associations have distinct qualities that set them apart from traditional industries and present complex challenges and legal issues regarding the collective bargaining process. One of these traits is the limelight that follows most participants of these sports leagues and which in turn means that a hypothetical labour struggle or work stoppage will play out under the scorching heat of the public spotlight. Another, more significant aspect of collective bargaining in sports is the unique battlefield it provides for the clash of players and management and also for labour and antitrust regulation, where the prevailing side can be influenced by both government policies and the economic situation. The collision between labour law and antitrust law has many roots. One being the difference between the underlying sentiment of the regulations that govern these fields. Labour law and the collective bargaining system encourages solidarity between employees, by eliminating the competition for wages and other terms of employment, and their agreements with employers that benefit both sides and society as well.

On the other hand, antitrust regulation's main purpose is to encourage competition in the market and eliminate behaviours and agreements that could be detrimental to the operation of the market. These qualities are almost identical in all of the traditional industries, but what makes it unique in terms of professional sports is the unique qualities

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of the sides at the bargaining table. On the employers' side are the leagues that are made up of teams that are all separate different entities with different owners, but they negotiate as one because they need uniform terms ranging from competition rules, wages, and scheduling to player transfers, recruitment and terms of employment. This special quality puts their agreement into the scope of antitrust law. In terms of the employees' side, they too possess similarly unique qualities. Firstly, their employers have a monopoly in terms of elite professional sport production in North America, which makes seeking similar employment opportunities difficult. Secondly, they are highly skilled professionals, but their skills are not transferable between other sports or into more traditional industries either. Thirdly, the career length of an athlete is much shorter than traditional career, which when it comes to for example striking, puts a disproportionate percentage of the career earning potential of an athlete into jeopardy and renders them less resilient in the face of a work stoppage.

These are some of the significant factors that influence how the collision between labour law and antitrust law plays out. The last major battle was in the National Football League which led to the Brady v. NFL case and following that the Anthony vs. NBA case. In my presentation I will offer an introduction of the four major sports leagues, namely the NFL, NBA, NHL and MLB, and the unique situations and traits of their personnel, as well as the rules and regulations that cover their operations and the root of the collision between labour and antitrust law, in addition I will reflect on the history and evolution of the collective bargaining systems that these leagues employ and also the establishment of their players unions.

Keywords: labour relations, labour law, antitrust law, collective bargaining, professional sports.

349.2:331.1(061.1EU)

*Amira Namouchi**

SOCIAL DUMPING OR SOCIAL EUROPE? THE NORMATIVE SHIFTS IN THE CASE OF POSTED-WORKERS IN EU LAW (2000-2024)

The ambition of establishing an internal market has not evolved without generating structural tensions within the European Union. These tensions arise not only from the conflict between the economic freedoms of establishment and to provide services and fundamental social rights, but also from the theoretical and regulatory challenges of articulating a coherent European labour law.

This paper critically examines the evolution of the EU's legal framework on the posting of workers over the last two decades, identifying a gradual normative shift from a market-integration approach toward a more socially embedded regulation. Through doctrinal analysis of EU primary and secondary law, alongside key rulings of the Court of Justice of the European Union, the study explores how the legal architecture of posted work has sought, albeit with limitations, to reconcile economic freedoms with labour rights protections, particularly in relation to the principle of equal treatment.

The paper situates key regulatory developments, including the Enforcement Directive 2014/67/EU, the revised Posting of Workers Directive 2018/957/EU, and the establishment of the European Labour Authority in 2019, within broader political contestations and persistent East–West divisions. It concludes that the evolution of EU posting law reflects an incomplete yet meaningful normative transformation: from a neoliberal model of market facilitation toward an emerging, though fragmented, vision of Social Europe.

Keywords: Social dumping, posted workers, free movement, equal treatment, social rights, temporary migration.

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502:331.5
349.6

*Asmaa Mekkaoui**

THE IMPACTS OF GREEN JOBS ON LABOR MARKET

In recent years, humans have interacted with the environment primarily by satisfying their needs through the exploitation of natural resources, this relationship has led to the recognition of the fundamental right to live in a safe and healthy environment, it also brings us to the concept of sustainable development which defined it as meeting the present needs without compromising future generation's ability to meet theirs. For that and with increasing human industry activities, the planet will be more destructed and people are more suffer from illnesses, especially the workers in environment sectors who have a sensitive and difficult missions, which have relation with the life of people so the ancient labor laws aim to protect their simple rights which are inspired from the classical jobs but with the new kind of work, the case will be more complicated in other words they will have a radical transformation on the labor market and how the new legal policies adopt it to be in the same line, since it is two difference type of employments with their own characteristics such as : providing the social protection and social security then employment and income opportunities more than lifting over 1.3 billion people, four out of ten workers in the world, and their families above the poverty line and providing decent job opportunities for 500 million young people entering the labor market over the next 10 years that also means access to modern forms of energy for 1.6 billion people who still do not have any or decent housing, and sanitation for over 1 billion slum dwellers in mega-cities. For this reason, the legal policies must adapt to the emerging concept of green jobs, furthermore, in addition the possibility to continue applying tra-

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ditional labor laws to new legal and environmental challenges while ensuring the protection of sustainable development and safeguarding the future of workers.

In this context, a relevant case is Regulation (EU) No. 1257/2013 on ship recycling, which aims "to prevent, reduce, and eliminate accidents, injuries, and other adverse effects on human health and the environment caused by ship recycling" (Article 1). This regulation addresses both environmental and labor concerns in an integrated manner. According to Article 7, a Ship Recycling Plan must be prepared. This plan must include detailed information on the establishment, maintenance, and monitoring of safe-for-entry and safe-for hot work conditions both of which are crucial to ensuring the safety of workers involved in dismantling ships. Where certain strategic sectors of green jobs can help bridge the existing gaps in traditional labor structures, especially in high risk environmental industries.

Addressing these challenges requires a comprehensive transformation in the way we produce, consume, and work when the most studies suggest that climate policies tend to have positive or at least neutral net employment effects. However, they also predict significant labor market shifts specifically, from jobs with high environmental impact to those with a lower ecological footprint, consequently there is a dual outcome: on one hand, opportunities arise for companies and regions to become leaders in green innovation; on the other hand, adjustment costs will be significant for workers and communities that depend on fossil fuels or for companies that are slow to adapt to the environmental transition. These findings are supported by international expert groups such as the UN Statistical Commission, the London Group on Environmental Accounting, and the Oslo Group on Energy Statistics, which have been instrumental in tracking the socio-economic impacts of green transitions.

The main aim of this research is to highlight the impact of green jobs, which are expected to play a pivotal role in shaping the future econo-

my. As green sectors evolve they are becoming increasingly service-oriented, introducing new dimensions to the labor market and requiring novel policy responses in light of this transformation it becomes essential to develop actionable policy recommendations that can help governments and industries accelerate the expansion of green employment while ensuring its long-term sustainability.

Keywords: Green jobs, sustnaible development, labor law, environmental law, workers, labor market.

331.32: 347.63 (498)
342.7-055.1

*Boglárka Iklandi**

"WHEN FATHERS STAY HOME TOO…" PARENTAL LEAVE IN ROMANIA AND THE EUROPEAN UNION UNDER DIRECTIVE (EU) 2019/1158

This paper examines the impact of Directive (EU) 2019/1158 on work-life balance, with particular emphasis on parental leave and its implementation in Romania. The directive, adopted in 2019, represents a turning point in strengthening gender equality and promoting the reconciliation of professional and private life across the European Union. Its provisions introduced new minimum standards on paternity leave, parental leave, carers' leave and flexible working arrangements, while also guaranteeing protection against dismissal and discrimination for workers who make use of these rights. The author argues that these standards represent not only a legal obligation but also an opportunity to reshape the culture of work and caregiving in Europe. Romania has responded to the directive by enacting substantial reforms. Law No. 283/2022 amended the Labour Code with several important measures, including the introduction of five days of unpaid caregiver leave, ten days of force majeure leave for urgent family matters, and new rules on flexible work schedules. The law obliges employers to justify in writing any refusal to grant flexible working arrangements, signalling a shift toward greater protection of employee rights. Law No. 241/2023 complemented these reforms by introducing the right for parents of children under eleven to work remotely up to four days each month, provided that their position allows it. These provisions, along with Emergency Ordinance No. 117/2022 on paternity leave, which guarantees ten fully paid days (extendable to fifteen with a child-rearing course), illustrate the Romanian legislator's attempt to adapt national law to European expectations.

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Nevertheless, the author notes that the actual use of paternity and parental leave by fathers remains limited, reflecting persistent cultural stereotypes and workplace barriers. A brief comparison with other EU countries highlights the importance of policy design. Spain extended parental leave to nineteen weeks, granting both parents equal and non-transferable rights since 2021. This reform has not only encouraged paternal involvement in childcare but also influenced family planning decisions. In contrast, for example France and Germany continue to maintain discrepancies between maternal and paternal entitlements, reinforcing traditional gender roles. The author considers that these contrasts underline how legal frameworks directly shape family choices and the division of care, and that equal, non-transferable leave entitlements are essential to achieving real gender balance. Despite the progress achieved through these reforms, significant challenges remain in Romania. Limited workplace flexibility, lack of awareness of new rights, and the persistence of cultural norms continue to hinder the full realization of the directive's objectives.

For this reason, the author sees future solutions in additional measures such as the formal introduction of a right to disconnect to counteract digital overwork, stronger incentives for fathers to take parental leave, and broader support for flexible working arrangements. In conclusion, by combining legislative analysis with a comparative perspective, the author argues that the EU's role in driving reforms is crucial and sees in this process a path toward the creation of a labor market where equity, sustainability, and well-being are not abstract principles but everyday realities. Romania's experience demonstrates both the potential and the limits of legal reform, and its trajectory highlights how European standards can serve as a catalyst for cultural as well as legal change.

Keywords: parental leave, work-life balance, gender equality, Romania, EU Directive 2019/1158.

364.63-057.16
331.44

*Adél Tóth**

HEALTH RISKS OF MOBBING IN THE WORKPLACE

The second most frequently visited place after our home is our workplace. In fact, we can say that we spend more than half of our lives working. Therefore, it is inevitable that we should cooperate with other employees in performing the tasks of a given employer. In order to do this effectively, it is essential/crucial to create a suitable working environment. However, in practice, this is not a simple case. Group collaboration can lead to numerous conflicts. The title of the research topic refers to workplace psychologial terror, also known as mobbing. It is a phenomenon that includes cases where, based on malice or antipathy, the perpetrator - or the mobber - is able to use any measures necessary to get rid of a person whom they dislike based on their own subjective beliefs.

The aim of mobbing may be to lower the self-esteem of employees. This contributes to destabilising the mental balance of the employee and creating a toxic workplace atmosphere. Currently, the research topic is considered to be multifaceted, as most employees do not even realize that they have become victims of psychological terror in the workplace. Or they recognize it but do not dare to stand up for themselves. The reason for that is because they fear for their jobs and prefer to tolerate malicious comments. In addition to all, the biggest problem is that they are completely unaware of this phenomenon. This is not surprising, since there are very few international regulations that specifically focus on mobbing or protection against it. However, this issue needs to be addressed and regulated, as constant humiliation can cause serious damage to mental health.

The health of employees is seriously deteriorating, both physically

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and mentally. Statistics confirm that the number of people suffering from anxiety disorders and depression in our country is growing year by year. Despite the seriousness of the situation, this phenomenon still does not receive sufficient attention. However, on March 14, 2023, the Luxembourg Chamber of Deputies (Chambre des députés) passed a long-awaited regulation that aims to add a new chapter to the Luxembourg Labor Code on protection against psychological harassment in the workplace (the so-called "Law"). The Law shortens the previous definition laid down by legislation, which includes any behavior that, through its repetition or regularity, violates a person's dignity or mental and physical integrity. The legislator has included here acts of a repetitive nature whose purpose or consequence is to undermine working conditions and which are likely to violate the rights and dignity of the employee, change their physical or mental health, or jeopardize their professional future.

In my presentation, I will therefore focus primarily on the mental consequences of mobbing. I will highlight the psychosocial risk factors arising from mobbing, which, in my opinion, serve as a much more deterrent example in combating mobbing. My research was based in particular on the provisions of the Luxembourg framework law on measures against mobbing, which is likely to have a positive impact on the legislation of other countries in the future.

Keywords: mobbing, psychosocial risks, stress, psychological terror, toxic workplaces.

331.109
341.63:330.322

*M'Hamed Oucif**

TRADITIONAL LABOUR DISPUTE RESOLUTION MECHANISMS AND THEIR IMPACT ON FOREIGN INVESTMENT

Traditional labour dispute resolution methods reflect a country's legal heritage and its commitment to social justice. They play an important role in protecting workers and maintaining industrial peace. At the same time, these systems can create challenges in a global economic context. Procedures are often slow, may lack specialization for international or complex commercial disputes, and decisions can be difficult to enforce. This can make foreign investors cautious, as they need reliable, fair, and efficient ways to handle potential conflicts.

Investors pay close attention to a country's labour framework because disputes with workers can directly affect the stability, predictability, and profitability of their business. Slow or unclear dispute resolution, restrictive labour regulations, and high legal uncertainty increase operational risks, cause potential financial losses, and complicate workforce management. Investors may fear long legal battles, unexpected costs, or disruptions to their operations, which can discourage investment.

Investors generally prefer systems that are transparent, efficient, and aligned with international standards. In some countries, uncertainty around international arbitration, or restrictions on its use in labour and commercial disputes, can add further challenges. Relying solely on local courts in such cases may reduce investor confidence. Continued dependence on traditional dispute resolution methods, even when rooted in legal tradition, can therefore be a barrier to creating an attractive business environment.

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By contrast, many countries, particularly in Europe, have updated their labour dispute systems to meet modern economic needs. Flexible methods like mediation and arbitration have been introduced to make the process faster, more reliable, and compatible with international standards. These reforms not only protect workers' rights but also make the business environment more predictable and investor-friendly.

The main aim of this research is to demonstrate how traditional labour dispute resolution mechanisms impact foreign investment and to explore how updating these mechanisms can enhance efficiency, predictability, and investor confidence. In this paper, we will analyze the challenges posed by traditional methods, the risks they create for investors, and the benefits of modern, flexible approaches that align with international standards. The analysis will highlight how countries can combine respect for legal tradition with practical reforms that enhance transparency, reliability, and fairness.

Updating traditional labour dispute mechanisms to combine legal tradition with modern, internationally recognized practices can enhance efficiency, clarity, and investor confidence. A balanced approach that safeguards workers while meeting the needs of a global economy is essential for creating a stable and welcoming investment climate.

Keywords: foreign investments , labour dispute resolution , international arbitration , traditional mechanisms, business environment.

331.556.4(061.1EU)
341.645.2

*Melinda Kocsis**

CHALLENGES OF THIRD-COUNTRY NATIONAL WORKERS IN THE EUROPEAN UNION: INSIGHTS FROM THE CASE LAW OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

Third-country nationals (TCNs) represent an increasingly vital part of the European Union's (EU) labour market, addressing persistent labour and skills shortages in sectors such as agriculture, construction, healthcare, transport, and tourism. Their role not only supports economic growth but also advances the EU's broader objectives of sustainable labour markets and decent work, defined by fair remuneration, safe working conditions, and equal opportunities. Historically, reliance on workers from economically less developed Member States began to wane in the late twentieth century due to demographic shifts, rising wages, and improved working conditions, creating space for greater reliance on TCNs. More recently, their participation has expanded to include posted work, reflecting the deepening integration of European and global labour markets.

Despite these contributions, TCNs face persistent vulnerabilities: difficulties in obtaining formal employment contracts, precarious working conditions, discrimination, health and safety risks, limited access to union representation, and barriers to social integration and justice. Divergent national approaches to migration and labour policy, combined with inconsistent implementation and enforcement of EU directives, create legal fragmentation and uncertainty regarding their status. Addressing these challenges requires not only legal harmonisation but also multidimensional strategies involving EU institutions, Member States, employers, trade unions, NGOs, and civil society actors.

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The legal framework governing TCNs is shaped both by EU legislation and by the interpretive role of the Court of Justice of the European Union (CJEU). Through its case law, the CJEU has played a decisive role in defining the scope of rights afforded to TCNs, particularly concerning equal treatment, employment rights, residence, social benefits, and family reunification. Several landmark rulings have clarified that the EU concept of a "worker" extends to all individuals engaged in remunerated activity (Case C-313/04), thereby including TCNs in the protective scope of EU labour law. The CJEU has also affirmed that lawfully resident and employed TCNs must be granted equal access to social security benefits as nationals (Case C-192/05), while stressing the centrality of employment status in determining entitlement to assistance (Case C-333/13). Moreover, in rulings such as Case C-43/95 and Case C-257/03, the CJEU reinforced the principle of non-discrimination and extended residence and employment rights to family members of TCNs, recognising the fundamental importance of family life. Similarly, judgments such as Case C-68/89 and Case C-528/13 confirmed the right of family reunification and the necessity of protecting TCN carers of EU citizens, while Case C-67/14 emphasised equal access to social benefits for lawfully employed TCNs.

Taken together, this evolving jurisprudence has been instrumental in advancing the legal status of TCN workers in the EU. The CJEU has consistently reinforced the principle of equal treatment, ensuring that TCNs lawfully employed in Member States are entitled to comparable protections as EU citizens regarding wages, working conditions, and participation in social security systems. By progressively recognising their employment and family rights, the Court has safeguarded TCNs against discrimination and exploitation. As migration pressures and labour market shortages persist, CJEU case law remains central to shaping a coherent framework that upholds fundamental rights while supporting the resilience of the EU labour market.

Keywords: Third-Country Nationals, migration, European Union, Employment of Third-Country National Workers, Court of Justice of the European Union.

341.24:349.2
331.556.4(498)

*Stefan Dorin**

A CLASH OF LEGAL ORDERS: THE EU'S FREE MOVEMENT TRADITION AND THE CHALLENGE OF NATIONAL JUDICIAL FRAGMENTATION IN ROMANIA

The free movement of services, a foundational pillar of the European Union's internal market, is intrinsically linked to the mobility of its workforce. Central to this dynamic is the posted worker—an employee sent by their employer to temporarily carry out a service in another Member State. This phenomenon embodies a core tension within the EU's legal and political project, pitting the "legal tradition" of promoting economic freedoms against the pressing "new legal challenge" of safeguarding workers' rights, preventing social dumping, and ensuring fair competition. The exploitation of regulatory and wage differentials between Member States has long been a source of concern, threatening to create a "race to the bottom" that undermines national social models and creates precarious conditions for a vulnerable category of workers.

In response to this challenge, the EU has developed a sophisticated and evolving legal framework. This legislative journey began with Directive 96/71/EC, which established a "hard core" of minimum protections in the host state, representing an initial attempt to balance market liberalisation with social safeguards. However, a series of controversial rulings by the Court of Justice of the European Union (CJEU), notably in the Laval and Viking cases, exposed the framework's limitations and revealed a judicial prioritisation of economic freedoms over collective social rights, intensifying the debate and providing the political impetus for reform. Consequently, the EU bolstered its arsenal with the En-

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forcement Directive (2014/67/EU) to improve monitoring and compliance, and culminated in a significant paradigm shift with the revised Directive (EU) 2018/957. This revision moved beyond "minimum rates of pay" to champion the principle of "remuneration," aiming to deliver on the promise of "equal pay for equal work in the same place."

While this de jure evolution at the EU level marks a significant advancement, the practical effectiveness of these protections is ultimately contingent on their transposition and application within the national legal systems of the Member States. This article provides a critical analysis of this implementation gap through the lens of Romania—a particularly insightful case study due to its dual role as both a major country of origin for posted workers, especially in the construction and transport sectors, and an emerging host country. Adopting a doctrinal legal methodology, this paper examines Romania's transposition legislation and undertakes a comprehensive review of its national jurisprudence to assess how the EU framework functions in practice.

The analysis reveals a highly fragmented, non-uniform, and often unpredictable judicial landscape where the protection of posted workers is contingent on the specific legal arena—fiscal, administrative, or labor—in which their rights are contested. Key findings demonstrate that: (1) a substantial portion of litigation is fiscal in nature, dominated by disputes over the tax authorities' reclassification of per diem allowances as taxable salary, a practice that was only partially and procedurally curtailed by a legislative amnesty rather than a coherent judicial doctrine; (2) there is significant definitional ambiguity, particularly in distinguishing between posting, delegation, and the status of "mobile worker" for international road transport drivers, leading to inconsistent legal treatment; (3) administrative enforcement by the Labour Inspectorate is often tempered by judicial review, with courts frequently reducing financial penalties to warnings based on proportionality, potentially weakening their deterrent effect; and (4) most critically, a profound jurisdictional uncertainty exists, with conflicting court decisions

on whether Romanian courts have competence to hear workers' salary claims, creating a formidable barrier to accessing justice.

Ultimately, this article argues that the Romanian experience serves as a powerful microcosm of the broader EU challenge. It illustrates that even a mature EU legal framework can be undermined by a lack of judicial and administrative coherence at the national level. The promise of fair remuneration and effective protection for posted workers is not fully realised until the friction between domestic fiscal, labor, and administrative law is resolved, and until clear, accessible, and predictable avenues for legal remedy are guaranteed.

Keywords: Directive 2022/2041, European Union, Minimum Wage, Labor Law, Social Policy, Social Justice, Economic Cohesion, Workers' Protection.

331:004
331.105.44

*Zalán Olivér Máté**

THE EFFECT OF "THE RIGHT TO DISCONNECT" ON THE LABOUR LEGISLATION WITH SPECIAL REGARD TO THE ROLES OF TRADE UNION

In the European Union, trade unions are regularly involved as social partners in the European Commission's consultations, including those concerning telework and the right to disconnect. Nowadays however, the Trade Unions lose the numbers of their members, which trend effects on the employees's rights and well-being. My presentation will describe the legislative regulations and the Trade Unions roles regarding the right to disconnect in the EU. In January 2021, the European Parliament adopted a report calling on the Commission to prepare a legislative proposal on the right to disconnect; however, the Commission has so far only launched consultations and has not proposed a binding directive yet.

This newborn right escalated from the effects of the internet and digitalisation on the labour market. As the name of the right shows, the essential meaning is to protect the employees from any negative consequences if they choose to ignore e-mails, calls or messages from their boss in their free time. The need of reassurance the boundaries between work and free time is understandable, because the new work nature has given another dimension and opportunities to the burn out trend. Due to the opportunities offered by the digitized communication, employees feel constantly available (telepressure), which can lead to digital fatigue and anxiety. These factors not only affect the individual well-being negatively, but can also lead to workplace conflicts, as increased stress reduces cooperation between employees and increases tension.

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Digitalization therefore has a significant impact on workplace stressors and conflicts, which poses a challenge for both employees and employers. The EU Working Time Directive (2003/88/EC) and the Work-Life Balance Directive have already provided partial protection, but the European Parliament has underlined that these frameworks are insufficient and has called for a specific directive on the right to disconnect. In many countries, collective agreements or the involvement of employees' representatives is mandatory or strongly recommended in the development of disconnect rules (France, Italy, Belgium, Spain, Luxemburg). In Hungary this topic hasn't got specific rules yet either, so in the end of the presentation, it tries to show an opportunity, how could the Legislator rule that work- life balance problem in my country.

Keywords: disconnect, digitalisation, European law, labour law, trade union, collective law.

ПРАВНИ ФАКУЛТЕТ
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ПРАВНИ ФАКУЛТЕТ
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SESSION V

351.74: 343.102

*Dr. Fenyvesi Csaba**

BIGGEST POLICEMAN IS CHANCE
THE ROLE OF INVESTIGATIVE COINCIDENCES IN CRIMINAL CASES

This study examines the role of coincidence in criminal investigations, captured by the adage „the greatest policeman is chance". Using a football metaphor of goalposts and bouncing balls, the paper highlights how chance interacts with professional skill and perseverance in law enforcement. Three main categories of investigative coincidences are identified: (A) the perpetrator's own mistakes („banana-peel" errors), (B) external, unrelated events that nonetheless break an investigative deadlock, and (C) brilliant detective insights or intuitions. Each category is illustrated with real Hungarian and international criminal cases, ranging from homicides and robberies to drug trafficking and organized crime. The study also explores cases where investigations failed despite intensive efforts, underscoring the limits of both luck and professional work. The lessons emphasize that while coincidence can decisively influence outcomes, success in criminal investigations ultimately depends on persistence, attention to detail, and the systematic use of forensic records and electronic data. The paper concludes that no case is ever truly closed: the chance discovery, combined with investigative rigor, can reopen cold cases even decades later.

Keywords: investigative coincidence, forensic investigation, banana-peel errors, detective intuition, cold cases, electronic data, criminal records.

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343.1(497.11)

*Dr. Snežana Brkić**

PROVISION OF ARTICLE 419, PARAGRAPH 1 OF THE CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF SERBIA AND NEW LEGAL CHALLENGES

This paper focuses on the provision of Article 419, Paragraph 1 of the Criminal Procedure Code of the Republic of Serbia (CPC RS), with the aim of shedding light on all important theoretical issues that may arise in this context. This primarily entails a normative and logical analysis of its content; identifying its ratio legis; determining its legal nature; understanding its actual scope, (non-)binding character, and possible sanctions for non-compliance; examining its relationship with other legal provisions and procedural principles; determining the extent to which deviations from it are present, permissible, and desirable; as well as evaluating its significance in the evolution of criminal procedural law. This research perspective will also lead us to insights regarding the relationship between the traditional and the new (or potentially new) within the context of this legal issue.

Although Article 419, Paragraph 1 of the CPC does not constitute a legal principle but rather an ordinary legal rule, it forms the backbone of the structural segment of the principle of immediacy, which connects evidentiary actions and adjudicative actions within the same stage of proceedings — the main trial. The said provision requires that the factual basis of a judgment be founded solely on evidence presented during the main trial. Argumentum a contrario, this means that the verdict cannot be based on sources of information originating from the pre-investigation or investigation phase, statements made by parties outside the main trial, and similar, if such sources were not subject to

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discussion at the main trial. Likewise, it excludes the possibility of basing a judgment on evidentiary actions undertaken in other judicial or administrative proceedings.

The analyzed provision only implies that the evidence must be present in the case files and introduced during the main trial, but it says nothing about the quality or manner of presenting such evidence. The imperative for the direct presentation of evidence at the main trial falls under the modal segment of the principle of immediacy, which is only implicitly included in the (implied but not explicitly proclaimed) opposite of what is regulated by Articles 403–406 of the CPC, which provide exhaustively listed exceptions. Therefore, Articles 403–406 CPC do not contradict Article 419, Paragraph 1 CPC, because they do not deviate from the legislature's primary intention "to lay all the cards on the table." These two groups of provisions differ in content, scope, relation, and modality. Article 419, Paragraph 1 CPC expresses a generally binding rule of mandatory character, while Articles 403–406 CPC represent specific permissive rules of an exceptional nature. Article 419, Paragraph 1 CPC prescribes the court's conduct at the moment of rendering a judgment (the duty to base the factual foundation of the judgment only on evidence presented at the main trial), while Articles 403–406 CPC allow certain conduct during the evidentiary procedure (the possibility of indirect evidence presentation at the main trial under certain conditions). Therefore, the scope of Article 419, Paragraph 1 CPC is narrower than the scope of the principle of immediacy. The provision in question supports the principle of immediacy in its structural segment but simultaneously allows for deviations from its modal segment, in accordance with Articles 403–406 CPC.

Article 419, Paragraph 1 CPC reaffirms the importance of the main trial as the core of the entire criminal procedure, reserved not only for rendering the judgment but also for creating its factual foundation through evidentiary actions. The environment of the main trial, given other dominant procedural principles, is particularly suited for perform-

ing these functions and thereby achieving the direct goal of the criminal procedure. However, it should be borne in mind that this provision belongs to the regulation of the general criminal procedure and therefore does not bind the legislature when designing special forms of criminal procedure, which were introduced in line with the idea of enhanced procedural differentiation to reduce the burden on the criminal justice system. The most drastic deviation from Article 419, Paragraph 1 CPC is found in sentencing hearings (Articles 512–518 CPC), where the main trial phase is entirely absent. The plea agreement procedure (Articles 313–326 CPC) may also rely on evidence presented before the main trial, since a plea agreement between the parties is possible as early as the issuance of the order to conduct an investigation. Furthermore, it is necessary to point out the unacceptable practice of using a judgment resulting from a plea agreement as evidence in another criminal proceeding against a different defendant.

Keywords: judgment, main trial, evidence, principle of immediacy.

343.132:343.982.6
343.983

*Dr. Orsolya Horvath**

BETWEEN TRADITION AND INNOVATION: THE ROLE OF ANIMALS IN FORENSIC INVESTIGATIONS

For centuries, animals have played a role in human societies as guardians, companions, and working partners. In the field of law enforcement, their contribution has traditionally been associated with search and rescue, detection of narcotics, or tracking suspects. However, recent decades have witnessed the emergence of forensic odorology and bionics, where animals - primarily dogs, but increasingly other species such as bees - are employed as living detectors of complex substances. This paper examines the intersection of legal tradition and new challenges in the context of animal-based forensic techniques.

First, it provides an overview of the historical use of animals in policing and the evidentiary weight attributed to their findings. Second, it highlights the growing scientific basis of odor detection, including controlled experiments, standardization attempts, and integration with technological devices. Third, it explores innovative approaches in bionics and biomimicry, where animals' sensory capacities inspire or complement technological solutions. Finally, the study addresses the legal challenges: reliability of evidence, admissibility in criminal proceedings, and the tension between human rights guarantees and the practical effectiveness of such methods.

By analyzing comparative legal frameworks and case law, the paper demonstrates how forensic odorology and animal-based detection bridge the gap between traditional investigative practices and cutting-edge forensic science. It argues that while the evidentiary use of ani-

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mals remains controversial, it cannot be ignored in modern criminal justice systems. The research ultimately proposes that future legal development should balance scientific validation, procedural safeguards, and innovation in order to integrate these unconventional yet increasingly relevant tools into the rule of law.

Keywords: forensic odorology, bionics, animal detection, criminal procedure, admissibility of evidence, legal tradition.

343.55

*Dr. Vanda Božič**

FROM CONFLICTS IN FAMILY RELATIONS TO VIOLENCE - CRIMINAL LAW PROTECTION

We encounter conflicts in family relationships, more or less, almost on a daily basis. Mostly, these are conflicts of lesser intensity, which are resolved by agreement and peacefully, so we do not notice them or give them importance in our daily life. However, the problem arises when frequent conflicts, as well as conflicts of medium and higher intensity, escalate into larger conflicts which, in the vast majority of cases, lead to violence as aggressive domination over the weaker. In this conflict, the weaker party becomes the victim, and the stronger party becomes the aggressor. The authors of the paper point out the various causes of violent behavior in family relationships and the different types of violence that can lead to different consequences for the victim: serious health impairment, serious physical injuries, and even death. Until the 1960s and 1970s, domestic violence was not discussed outside the family home, it was shameful to talk about it publicly, it was simply a taboo topic. It was only with the confronting of the problems of child abuse and the beginning of women's emancipation that domestic violence slowly and quietly began to be discussed. At the beginning of the third millennium, by harmonizing national criminal legislation with international legal standards and EU law, the legislator of the Republic of Serbia introduced criminal protection against domestic violence into its criminal legislation. In order to prevent and suppress domestic violence, respecting international legal norms and acts on the protection of basic human rights, the Government of the Republic of Serbia adopted in 2011 the National Strategy for the Pre-

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vention and Suppression of Violence against Women in Family and Partner Relationships. Five years later, in 2016, the legislator passed the Law on Prevention of Domestic Violence. The latest Strategy for Preventing and Combating Gender-Based Violence against Women and Domestic Violence was adopted for the period from 2021 to 2025. The paper contains an analysis of international legal standards and national norms regulating the criminal protection of domestic violence, implemented in the lex generalis (Criminal Code) and lex specialis (Law on the Prevention of Domestic Violence). The paper analyzes the case law regarding the committed criminal acts of domestic violence from the aspect of reported and prosecuted criminal acts and convictions, as well as from the aspect of victims of domestic violence. In accordance with the results of the research and analysis, the concluding remarks provide de lege ferenda proposals for improving the national legislative framework in order to prevent and combat domestic violence and protect victims from domestic violence.

Keywords: conflicts, domestic violence, causes, abusers, victims, international standards, EU law, criminal protection.

342.7:341.4
341.645.5

*Dr. István Szijártó**

LEGISLATING THE UNWRITTEN FUNDAMENTAL RIGHTS-BASED REFUSAL GROUND IN EU CRIMINAL LAW

The article provides a comprehensive analysis of the development, interpretation, and legislative potential of the fundamental rights-based refusal ground (FRRG) in the context of the European Union's judicial cooperation in criminal matters. This cooperation, based on the principle of mutual recognition, has significantly improved efficiency in executing judicial decisions, such as the European Arrest Warrant (EAW). However, the system's automaticity raised serious concerns regarding the protection of fundamental rights, especially in situations where individuals could face inhuman or degrading treatment, or unfair trials upon surrender.

Initially, the Court of Justice of the European Union (CJEU) strongly upheld the principle of mutual trust among Member States. The principle essentially requires all Member State to presume that other Member States respect fundamental rights when applying EU law due to their obligations under the European Convention on Human Rights. Cases such as C-399/11 Melloni, C-396/11 Radu, and C-303/05 Advocaten voor de Wereld reflect this strict stance. However, in Opinion 2/13 of the Court and earlier in joined cases C-411/10 & C-493/10 N.S. and M.E., the CJEU acknowledged that mutual trust could be rebutted in exceptional circumstances. This marked a shift in the CJEU's approach towards the relationship between the efficiency of cooperation and the protection of fundamental rights, allowing refusal of judicial decisions subject to the principle of mutual recognition in the process of criminal cooperation in

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cases involving systemic deficiencies that could lead to violations of fundamental rights of the person concerned by that judicial decision.

The turning point in criminal matters was the judgment delivered in joined cases C-404/15 & C-659/15 PPU Aranyosi and Căldăraru, where the Court recognized that surrender could be refused if poor prison conditions in the issuing state risked violation of the Article 4 of the Charter of Fundamental Rights of the European Union (prohibition of inhuman treatment). This case established the two-step Aranyosi test: (1) identify systemic or generalized deficiencies; (2) assess the specific risk to the individual.

Since then, the FRRG's scope has expanded. The Court has applied it to additional rights:

- Case C-216/18 PPU LM: the right to a fair trial threatened by judicial reforms undermining independence in Poland;
- Case C-699/21 E.D.L.: risk to health and life expectancy due to illness;
- Case C-852/19 Gavanozov II: denial of the right to an effective remedy;
- Case C-261/22 GN: violations of private and family life, including the best interests of the child.

The article analyses ten preliminary ruling procedures to map this evolution, highlighting the Court's incremental "stone-by-stone" approach. It also examines challenges to the Aranyosi test and specifically calls to eliminate one of its phases or reverse them. While the Court generally upheld its structure, in E.D.L., it allowed starting from individual risk, and in Gavanozov II, it allowed refusal without the second phase, where systemic deficiencies affected everyone.

Procedural rules and uncertainties surrounding the FRRG are also discussed. These include:

- The types of acceptable information (e.g. ECtHR rulings, UN reports);
- Obligations for dialogue between issuing and executing authorities;
- The reissuance of judicial decisions after refusal;
- Unresolved questions about who must initiate the test and the allocation of burden of proof.

Building on this, the author proposes legislating the FRRG into EU secondary law. This proposal would include:

- A clear list of fundamental rights relevant to criminal proceedings (e.g. human dignity, fair trial, effective remedy, child rights);
- Conditions for refusal based on whether the violation affects the essence of a right;
- A flexible application of the Aranyosi test, allowing for reversed or one-phase use in exceptional cases;
- Clarified procedural duties and a balanced burden of proof.

The proposal strikes a balance between judicial efficiency and rights protection, preserving automatic recognition while enabling targeted refusals in serious rights-threatening situations. Though some issues remain unresolved (e.g. the definition of the essence of a right or what qualifies as sufficient guarantees), the proposed legislative model offers a pragmatic and legally grounded framework for codifying the FRRG, aligning with both Court practice and scholarly recommendations. This approach aims to provide a structured, transparent, and rights-conscious mechanism for refusing cooperation under EU law, strengthening mutual trust by ensuring that it is not blind, but conditional on respect for shared fundamental values.

Keywords: Fundamental rights-based refusal ground, Aranyosi test, Principle of mutual trust, EAW, CJEU case law.

343.1

*Bogdana Maksimović**

ALTERNATIVE METHODS OF RESOLVING CRIMINAL CASES AND THEIR CONTRIBUTION TO THE RELIEF OF THE CRIMINAL JUSTICE SYSTEM IN SERBIA

Alternative methods of resolving criminal cases represent one of the most significant instruments of contemporary criminal procedural law, as they simultaneously enable the alleviation of the judicial system, acceleration of proceedings, and achievement of a higher degree of fairness in relation to the defendant, though not necessarily to the injured party. In domestic legislation, two mechanisms stand out in particular – the conditional deferral of criminal prosecution and the plea agreement – which have different origins but share a common purpose: ensuring efficiency and humanization of the criminal procedure.

The institution of conditional deferral of criminal prosecution emerged as an expression of the tendency to resolve certain minor criminal offenses without conducting a formal court trial, while involving the suspect in assuming responsibility and remedying the consequences of the criminal offence. The essence of this institute lies in the fact that the public prosecutor may defer prosecution if the suspect voluntarily accepts one or more obligations prescribed by law, such as compensation of damage, payment of a monetary amount for humanitarian purposes, community service, treatment for addiction, or psychosocial therapy. Upon fulfillment of these obligations, the criminal complaint is dismissed, which means that no criminal proceedings will be conducted, no sanction will be imposed, and the suspect will not be recorded in the criminal register. In this way, multiple effects are

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achieved: the judiciary is relieved from excessive caseloads, the injured party often receives satisfaction if the obligation imposed on the suspect concerns restitution to the injured party, and the suspect gains an opportunity for resocialization and avoidance of the stigma of a criminal conviction. However, it is important to note, their impact on the position of the injured party remains limited. In the case of conditional deferral of criminal prosecution, the injured party may benefit through restitution or other compensatory obligations imposed on the suspect, yet their participation in the process is minimal.

The second significant institute is the plea agreement, the essence of this institute lies in the possibility for the defendant to admit the commission of a criminal offense in exchange for a more lenient sanction or more favorable legal treatment. In this way, the procedure is significantly shortened, costs are reduced, and the courts are relieved, while the parties obtain greater procedural certainty. Although it is essentially a contractual arrangement initiated by either the prosecutor or the defense, the role of the court is to control the legality and voluntariness of the agreement, taking into account the rights of the defendant. The legislator insisted on the mandatory presence of defense counsel during the conclusion of the plea agreement to ensure that the defendant is fully aware of the legal consequences of pleading guilty. Similarly as in plea agreements, the injured party's interests are only indirectly protected, since the procedure primarily focuses on efficiency and the agreement between the prosecution and the defense.

An empirical analysis of the prosecutorial practice of the Basic Public Prosecutor's Office in Novi Sad in the period from 2014 to 2023 revealed clear trends in the application of the two key alternative institutes – the conditional deferral of criminal prosecution (principle of opportunity) and the plea agreements. In the ten-year period in question, a total of 49,578 criminal complaints were filed, of which 14,694 cases were resolved through the conditional deferral and 2,652 through the plea agreements, in total resulting in an overall reduction of judicial workload by 34.99 %.

The analysis shows that the conditional deferral was applied much more frequently (29.64 % of total criminal complaints) compared to the plea agreements (5.35 %). However, after 2015, when their peak of both institutes application was reached (48.25 % of total complaints), a continuous decline has been observed, so that in the last two years their share has fallen to only around 19 %. In parallel with the decrease in the number of criminal complaints (from 6,309 in 2014 to 4,226 in 2022), the application of these institutes decreased even more drastically, which indicates the existence of additional factors – legislative changes, judicial practice, criminal policy approaches, and the level of trust of the parties in these mechanisms. This also opens a number of questions, such as whether the plea agreement is a solution only for simpler criminal cases, while the judiciary remains burdened with more complex criminal proceedings, or whether it is necessary to further strengthen the position of the injured party in the stages of deciding on conditional deferral or concluding a plea agreement.

Keywords: conditional deferral of criminal prosecution, plea agreement, opportunity principle, criminal procedure, alternative methods.

343.1:340.6(439)

*Vanessza Fábián**

THE POTENTIAL ROLE OF THE FORENSIC NURSE IN HUNGARIAN CRIMINAL PROCEDURE – CRIMINALISTIC AND PROCEDURAL ASPECTS

This study examines the potential role of the forensic nurse within the Hungarian criminal justice system. While this professional is well established in international practice—particularly in the United States and other common law jurisdictions—Hungary has not yet recognized the forensic nurse as an institutionalized actor in criminal proceedings. Forensic nurses combine expertise in healthcare, forensic medicine, and criminal procedure, and play a crucial role in documenting injuries, preserving evidence, and supporting victims. Their early involvement ensures the protection of material remains that are often lost during initial medical treatment. After presenting the historical development and international practice of forensic nursing, this paper analyzes the possible integration of this role into Hungarian law, with particular regard to the Criminal Procedure Code (CPC). The study highlights the forensic nurse's potential procedural status as an expert or assistant and formulates de lege ferenda proposals, including the creation of a legal definition, the specification of competencies, the introduction of postgraduate training programs, and the launch of pilot projects. Institutionalizing the role of the forensic nurse would enhance victim protection, improve the evidentiary process, and strengthen cooperation between healthcare and justice systems.

Keywords: forensic nurse, criminal procedure, victim protection, evidence collection, criminalistics.

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SESSION VI

347.4/.5(497.6)
340.137(497.6:061.1EU)

*Dr. Genc Trnavci**

THE CONCEPT, CONTENT, TRADITION, AND SIGNIFICANCE OF THE ACT OF OBLIGATIONS IN BOSNIA AND HERZEGOVINA AND THE PERSPECTIVE OF ITS REFORM

The Act of Obligations is a cornerstone of the legal systems in Bosnia and Herzegovina (BiH), serving as the primary source for a distinct legal branch and a subject of academic study. As the most crucial codification of the law of obligations, it governs the relationships between parties, particularly where one party (the creditor) can demand actions or omissions from another (the debtor). These legal relationships are fundamental to private law in civil law systems, especially those rooted in the Romano-Germanic tradition. Many of its core principles and institutions trace back to classical Roman law, a testament to the enduring relevance of legal frameworks that regulate the exchange of goods and services in a market-based economy.

Unlike Anglo-American law, which separates these functions into contract law, tort law, and equity, the Act of Obligations consolidates them. Over time, it has evolved into a central component of civil law, alongside property and inheritance law, demonstrating remarkable adaptability across diverse legal systems, including those that developed under socialist regimes. Its core institutions have persisted despite ideological shifts, proving their functional indispensability.

The law of obligations is not static. Significant socioeconomic changes have introduced new contractual forms and modified existing ones. Notable developments include the rise of strict liability, the decline of legal formalism, and the increased use of instruments like negotiable

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instruments and standard-form contracts. These changes highlight the need for the law to evolve to meet the demands of modern legal and economic life.

In BiH, the reform of the Act of Obligations has become critical. The current legal framework, largely based on outdated norms from the former Yugoslav period, needs to be modernized to align with a rapidly changing market economy and the country's European Union (EU) integration aspirations. Reform is essential to improve legal predictability, efficiency, and alignment with EU standards.

The primary driver for this reform is EU integration. As BiH seeks EU membership, harmonizing national laws with EU legislation is paramount. The Act of Obligations must align with EU norms concerning consumer protection, contract law, and commercial law to facilitate smoother cross-border trade and investment. The rise of digital contracts and e-commerce further underscores the need for reform to enhance legal certainty for businesses and consumers. Currently, there are significant gaps, particularly in areas like unfair contract terms, product liability, and data protection. A successful reform would strengthen consumer safeguards while balancing the interests of businesses.

Keywords: creditors and debtors, EU integration, economic modernization, consumer protection, digital contracts, e-commerce, harmonization.

347.78:004.8

*Dr. Marija Ampovska**

COMPARATIVE JUDICIAL TREATMENT OF AI-GENERATED WORKS IN COPYRIGHT LAW

The rapid integration of artificial intelligence (AI) into creative processes is challenging established copyright norms, compelling courts to assess whether outputs produced with minimal or no human input can be protected under existing legal frameworks. While much scholarship addresses the legislative reforms that may be needed, judicial practice already offers valuable insight into how the law is adapting in real time. This presentation surveys selected case law from the United States, the United Kingdom, the European Union, Australia, and China, highlighting how different legal traditions define authorship, measure originality, and interpret the scope of protection in the context of AI involvement.

While the discussion references relevant legal doctrines, such as the human authorship requirement and the originality standard, these serve only as background to better understand judicial reasoning. The presentation highlights recurring themes in the cases, including the evidentiary challenges of proving human creative contribution, the treatment of human–machine collaborations, and the strict application of anthropocentric definitions of authorship.

Through comparative analysis, the presentation demonstrates that while human creative agency remains central to copyright protection, some judicial decisions are beginning to recognize hybrid authorship scenarios where human contributions interact closely with algorithmic processes. The discussion concludes that, in the absence of targeted legislative reform, courts are incrementally shaping the contours of

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copyright in the generative AI era.This comparative case law perspective reveals both the adaptability and the limits of current legal frameworks in responding to technological change.

Keywords: artificial intelligence, AI-generated content, copyright law, authorship, originality, comparative case law.

347(436+497.11)(094.5)
347.44

*Dr. Maša Kulauzov**
*Dr. Milan Milutin***

"Legal Bases of Personal Rights in Property" of ABGB, Influence of Roman law and Influence on Serbian Law

Abstract: In this part of the General Civil Code, the Austrian legislator regulates several issues: the legal bases for the emergence of an obligation, the conditions for promising a reward as well as the conditions for its revocation, to whom the promised reward belongs and according to what criteria, what constitutes an offer, what it can consist of, how it creates a contractual relationship, what the conditions for accepting an offerare, until when it is valid, in what ways the will can be expressed, when contracts are unilaterally and when bilaterally binding. What is the influence of Roman law on the content of these provisions, how have they changed over time, and finally, whether and how have they influenced the regulation of the above issues in Serbian law, both in the Serbian Civil Code and in the Law on Contract and Torts, are some of the questions that are the object of this paper.

Keywords: General Civil Code of Austria, Serbian Civil Code, Serbian Lawon Contract and Torts, legal basis, obligation, offer, will.

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347.44:004]:347.62

*Dr. Habil. Ágnes Juhász**

SMART CONTRACTS IN MATRIMONIAL PROPERTY LAW

Smart contracts are undoubtedly one of the most notablenew phenomenawithin the domain of private law, garnering considerable attention from the academic community. This increased interest is likely attributable to the fact that smart contracts embody a technological innovation with the capacity to fundamentally transform not only the conclusion of contract, but its entire temporal course, from fulfilment to possible enforcement.

The advent of automated execution facilitated by blockchain technology introduces novel dimensions concerning the stability, predictability, and risk distribution within contractual relationships. Concurrently, this paradigm shift gives rise to a plethora of dogmatic and practical interrogations pertaining to legal liability, validity, and the potential for legal remedies.

A significant challenge in the legal evaluation of smart contracts arises from the fact that, despite their designation as 'contracts', these instruments do not always align with the conceptual elements of a traditional private law contract. The fundamental component of a contract in the classical sense is the mutual consent of the contractual parties which forms the basis of the obligation. In contrast, a smart contract is often merely a program code that automatically executes certain operations when specific conditions are met. This prompts the question of the extent to which programmed logic can accurately express the will of the parties involved, and the methods by which such disputes can be resolved.

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Another pertinent issue is the relationship between the legal system and technology. The decentralised and frequently anonymous nature of blockchain technology poses significant challenges in identifying the contracting parties, establishing legal jurisdiction, and enforcing sanctions in the event of a breach of contract. The traditional judicial enforcement mechanisms are not easily reconcilable with a system in which the contract is automatically executed, without human intervention. Consequently, there is an increasing necessity for the integration of technological and legal standards, as well as the development of regulatory frameworks that are capable of addressing the particularities of this dual nature of legal relationships.

A substantial corpus of scholarly literature has emerged, examining the defining characteristics and core functionalities of smart contracts. Concurrently, a plethora of empirical and theoretical studies have been undertaken to explore the practical applications and potential integration of these digital instruments within various sectors of the economy. It is evident that smart contracts, owing to their technological foundations – most notably the deployment of blockchain technology – possess the inherent capacity to respond to a diverse range of societal and economic needs articulated by members of the community. Their adoption has been steadily increasing, reflecting a broader trend towards automation, transparency, and decentralisation in contractual relations.

Initially, the application of smart contracts was predominantly confined to the facilitation of elementary sales transactions; however, their scope has since undergone significant expansion, encompassing a wide range of commercial agreements, including those pertaining to international trade, transportation, and logistics. The integration of smart contracts into the banking and financial sectors further illustrates this technological evolution. Financial institutions, for instance, have initiated experimentation with smart contracts to automate the preliminary credit assessment of contracting parties, thereby enhanc-

ing efficiency and reducing the risk of human error. Furthermore, the integration of smart contracts within the insurance sector signifies a significant milestone in their evolution, with automated claims processing, real-time event verification, and conditional pay-outs based on verified data inputs illustrating the potential for transformation of conventional insurance operations.

The present study seeks to explore the potential application of smart contracts within the area of matrimonial property law, with particular emphasis on their capacity to facilitate and structure property relations between spouses. In pursuing this objective, the research aims to assess whether and to what extent the technological features of smart contracts, such as automation, transparency, and immutability, can contribute to greater legal certainty and efficiency in the management of marital assets.

To address this research question, the study first examines the theoretical and technological foundations of smart contracts, providing a conceptual framework for their potential legal adaptation. Subsequently, an overview will be presented of the areas in which smart contracts have already been implemented. The existing practices and emerging trends will be highlighted. In conclusion, the analysis will proceed to an evaluation of the advantages and disadvantages associated with the application of smart contracts. This will be undertaken with particular attention to the legal, ethical and practical challenges that may arise in the context of matrimonial property relations.

Keywords: smart contract, digitalisation, blockchaintechnology, kill-switch clause, matrimonial property law, matrimonial property contracts.

347.440

*Dr. Krassimir Mitev**

ON NOMINATE AND INNOMINATE CONTRACTS

The division of contracts into named/nominate/ and unnamed/innominate/ is typical feature of the continental legal tradition. Its origin is well known. Roman contract law was not based on the principles of autonomy of will and freedom of contract. Its contractual system was closed – contracts are numerus clausus. Informal consent was sufficient to create an obligation only in so called consensual contracts, as long as it has precisely defined content so that it can be qualified as a sale, lease, partnership or mandate. Agreements that were not listed in the praetorian edict were called innominate. Some of them, which create reciprocal obligations, gained legal force only upon performance by one party. The idea that any agreement could have binding effect appeared in the Middle Ages. Glossators generally viewed agreements as binding, preserving the concept of the "naked pact" only as an exception. Canon law played a vital role in expanding the contractual framework, treating broken promises as sinful. Natural law school further reinforced this shift, emphasizing good faith and honesty as foundations of justice, emphasizing that promises must be honored regardless of the form they are given. Over time, this evolution led to the replacement of the closed Roman system with the modern principle of pactasuntservanda.

Today's law of contract is based on the principles of autonomy of will and freedom of contract. The parties may enter into any kind of agreement and determine its content without being limited by any preset types. Contracts for which the legislation does not provide specific legal framework are still marked as unnamed. The concept, though

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rooted in Roman law, is filled with new meaning. While Roman unnamed contracts were exceptions to a rigid system, today they reflect the principle of freedom of contract.

The concept of an unnamed contract may perform purely descriptive function. Then, its value would be primarily didactic: highlighting that certain agreements, though lacking specific statutory regulation, nonetheless possess full legal validity. This explanation avoids addressing the applicable legal rules. Alternatively, the concept may be understood as a classificatory tool, implying a distinct contractual category with its own legal regime. While this may appear paradoxical - since unnamed contracts, by definition, lack a specific framework - it could signal that such agreements are governed exclusively by the general part of contract law, without recourse to the tailored provisions applicable to named contracts.

As far as both named and unnamed agreements are equally enforceable, the question of what kind of contract is concluded, should be of secondary importance. Yet, contemporary legislation of civil law countries continues to allocate substantial attention to the regulation of specific nominate contracts with detailed provisions governing their formation, content, and termination (socalled special part of the law of obligations). Despite the principle of consensualism, which affirms that any serious agreement can produce legal consequences, jurists in continental legal systems often seek to associate agreements with established contractual types.

Several factors contribute to this trend of (re)typification of contracts. Tradition exerts influence. The existence of a well-established catalogue of typical contracts - each supported by detailed statutory regulation, extensive case law, and doctrinal analysis - creates a gravitational pull. Judges would usually prefer to anchor their decisions on legislative provisions, even if they are merely directory rules. Secondly, the rules of the special part of the law of obligations are not simply derogations from the norms of the general part.While the latter primarily

regulates the essential dimensions of contracts - such as their formation and principal legal effects - the special part is directed toward the substantive content of contractual obligations. Some of the rules of the special part are of more general character, which could justify their application outside the scope of the specific nominate contract.

Keywords: contract, civil law system, freedom of contracts, types of contracts, typical and atypical contracts.

347.63(439)

*Dr. Katalin Visontai-Szabó**

CO-PARENTING IN HUNGARY – NEW TRENDS AND CHALLENGES

The issue of custody and co-parenting has gained increasing attention in Hungary over the past decade, both in legal discourse and in professional practice. The growing number of divorces and separations, combined with shifting social attitudes toward family life and gender roles, has made the question of whether custody should be awarded solely to one parent or shared between both a pressing matter. Against this background, the presentation aims to provide a comprehensive overview of the current Hungarian legal framework, to assess how it functions in practice, and to highlight emerging challenges and trends.

First, the presentation will outline the relevant provisions of Hungarian family law governing custody and parental responsibility. Special emphasis will be placed on the distinction between sole and joint custody, the statutory requirements for shared parental responsibility, and the criteria used by courts when deciding on the child's residence and contact arrangements. Although the law formally allows for shared custody, its application remains limited, and in practice courts often favour awarding custody to one parent while granting contact rights to the other. The reasons behind this tendency—ranging from concerns over parental conflict to the difficulties of coordinating between different households—will be explored in detail.

Second, the talk will turn to the practical challenges that arise in cases where shared custody is ordered or agreed upon by the parents. Implementing co-parenting in real life requires a high degree of cooperation, communication, and flexibility, which not all separated couples are able

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to achieve. The presentation will discuss common difficulties encountered by families, such as disagreements over schooling, healthcare decisions, extracurricular activities, and the child's residence schedule. These conflicts can undermine the stability that custody arrangements are meant to provide, and they often lead to repeated litigation or mediation efforts.

At the same time, certain positive developments can be observed in Hungarian practice. There is a growing recognition of the importance of both parents' active involvement in a child's upbringing, and professionals—including judges, mediators, and child protection experts—are increasingly aware of the potential benefits of shared custody where conditions allow. The presentation will highlight recent examples where courts have successfully implemented shared custody models, as well as cases illustrating the difficulties of maintaining such arrangements in high-conflict situations.

Finally, the lecture will place Hungarian developments in a broader European and international context. Comparative insights from other jurisdictions suggest that shared custody can be an effective model when supported by clear legal rules, adequate institutional resources, and cultural acceptance of joint parenting. However, the Hungarian legal system and professional practice still face significant challenges in this respect, including the need for clearer legislative guidance, better support for mediation and counselling services, and more systematic training for legal and child welfare professionals.

By combining a doctrinal legal analysis with practical insights from case law and professional experiences, the presentation seeks to provide a nuanced understanding of the current situation in Hungary. It will identify both the opportunities and the limitations of shared custody as a viable alternative to sole custody, while also reflecting on the broader social changes that influence parental roles and expectations. Ultimately, the aim is not only to describe the state of the law and practice but also to encourage further debate on how custody ar-

rangements can best serve the interests of children and families in a changing society.

Keywords:co-parenting, custody, shared custody, Hungarian family law, legal and practical challenges.

342.7-053.2:004.738.5
347.61/.64

*Tamara Mladenović**

THE EXERCISE OF PARENTAL RESPONSIBILITY AND THE PROTECTION OF THE CHILD'S RIGHT TO PRIVACY ON THE INTERNET AND SOCIAL NETWORKS

The protection of the child's right to privacy in the modern digital environment assumes an entirely new dimension. The development of technologies that occurred at the beginning of the twenty-first century has expanded the boundaries of the physical world into a boundless cyberspace. The rapid growth in the use of the Internet and social networks has profoundly transformed the very concept of privacy. Photos, videos, and other personal information are publicly shared via social networks with a significantly wider circle of people than was once the case. This practice particularly affects children, who in the online environment, from the status of subjects, granted by the adoption of the UN Convention on the Rights of the Child in the late 1980s, are once again reduced to objects of parental actions in online sphere. The phenomenon of so-called sharenting – excessive publication of children's photos on social networks by parents – is becoming increasingly prevalent. In such instances, parents often disregard their duty to act as legal representatives of the child in his/hers best interests, perceiving themselves instead as the "owners" of their child's data. Therefore, the child's right to privacy extends beyond the protection of physical and psychological integrity in the modern era to include control over their digital identity and information that is permanently stored in virtual space.

Although direct access to the Internet is often legally prohibited for the youngest and most vulnerable groups of people, they are increas-

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ingly present in digital environments indirectly - through their parents. Decisions regarding the publication of child's personal data generally rest exclusively with the parents, while the child's opinion is often disregarded, either due to parental negligence or because of the child's age. Sharing children's personal data on social networks raises questions about the limits of parental responsibility and the obligation to act in the best interests of the child. Legal complications are particularly evident in situations where parents disagree on whether a child's images should be shared online. In this regard, the Supreme Court of Cassation of Serbia, in its judgment Rev 14012/2022, held that the publication of a child's photographs by one parent, against the will of the other, is contrary to the principle of the best interests of the child. Given that this issue is not explicitly regulated by the legislation of the Republic of Serbia, lower courts have taken different positions on the above-mentioned case. Nevertheless, the Supreme Court of Cassation emphasized that, where the parent exercising sole parental responsibility opposes such publication, the act of the non-custodial parent constitutes a question of representation of the child by his or her legal guardian. At the same time, in this way, in the conflict between the rights of the child and the interests of the parents, the child's right to privacy was given priority.

Taking into account the age and maturity of the child, in certain cases the child's opinion will play a significant role in decisions concerning his/her privacy. The right of the child to be heard, as one of the guiding principles of the Convention on the Rights of the Child, serves as an essential mechanism in balancing parental responsibility with the protection of the child's privacy. Upon reaching the so-called "digital majority", the child is considered sufficiently mature to exercise meaningful influence over the development of his or her own digital identity.

Keywords: the right of the child to privacy, parental responsibility, social networks, digital identity, the best interests of the child.

347.65/.68:004

*Tamás Puskás**

THE REGULATION AND POSSIBILITY OF DIGITAL INHERITANCE IN HUNGARY AND THE EU

Through digitalization nowadays every aspect of life is transmitted into severalseries of numbers. In the 21st century personal data, and more broadly data in general became a commodity, thus its protection is essential for a developed society. Huge amount of transactions are made online, and the number of people who store some of there assets in the digital world grows every day. Without efficient clause of one's last will and testament those assets could lost forever, without being accessed by the heirs. Digital assets include a broad range of items, for instance social media profiles, digital photos, cryptocurrency wallets, and online subscriptions. These assets often hold both economic and sentimental value, which presents a pressing need for a legal framework addressing their management after the owner's death. The concept of digital inheritance or "digital afterlife" raises questions about ownership, privacy, and the transfer of rights that traditional inheritance laws may not fully encompass.

As one of the first goals we have to define the (personal) data to establish its legal characteristics, and how it could interact with the more traditional regulations of the legal system. Whether several discussions are going now whether digital assets are classified as mere contractual rights, intellectual property, or property rights under the law. There are certain advantages and disadvantages of all approaches, but clear legal dogmatics is needed, because this classification directly influences if and how these assets can be inherited.

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Some jurisdictions differentiate between personal data and digital property, granting heirs access rights to some, but not all, types of digital content. Existing legal frameworks like the EU General Data Protection Regulation (GDPR) often complicate matters by restricting third-party access to personal data, including heirs. Moreover, contractual terms of service agreements between users and digital service providers frequently stipulate limitations on post-mortem data access, which can conflict with inheritance claims. The applicability of GDPR to the personal data of the deceased also varies in member states thus complicating the regime.

The study underlines the necessity of legislative reform in this field. Clear legal provisions would provide certainty for heirs, digital service providers, and legal professionals. For instance, specifying which digital assets are inheritable, how consent should be managed during the asset owner's lifetime, and defining statutory rights and obligations could improve digital estate planning.

The objective of the study is to portray whether there is a legal framework of digital inheritance, and if not, then what could be the benefits of it. The study offers to give and overlook of mainly the Hungarian legislation supplemented with the legal documents of the European Union. The presentation also reviews the relevant legal literature and judicial cases, to give a wide understanding of the topic.

In conclusion, while digital inheritance remains a developing area of law, its importance cannot be overstated in the digital age. The research indicates that creating a harmonized legal framework that addresses the unique characteristics of digital assets is essential to protect the rights of data owners and their heirs.

Keywords: digital inheritance, digital assets, GDPR, Hungary and EU legislation.

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EFFICIENCY-BASED RATIONALES FOR NOTICE OF DEFAULT AND ANTICIPATED MATURITY IN ROMANIAN CIVIL LAW

This study examines the efficiency-based rationales underlying notice of default and anticipated maturity in Romanian civil law, with particular focus on Articles 1417, 1418, 1522, and 1523 of the Civil Code. The analysis highlights the dual function of the debtor's default: preserving contractual equilibrium through a rebuttable presumption of tolerance, while safeguarding creditor interests by enabling access to remedies. Notice of default operates as an economically efficient mechanism, balancing favor contractus with the creditor's right to damages, while default by operation of law accelerates access to remedies through absolute presumptions that exclude tolerance of delay. A central inquiry concerns the interplay between forfeiture of the benefit of term and the debtor's default: whether anticipated maturity may be triggered by default situations, and conversely, whether forfeiture may automatically imply default.

Keywords: notice of default, anticipated maturity, debtor's default, creditor's remedies.

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347.78

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THE BOUNDARIES OF COPYRIGHT IN VISUAL ART: REPRODUCTION, APPROPRIATION, AND DIGITAL CHALLENGES

In the evolving landscape of visual art, the intersection of copyright law and artistic expression has become increasingly complex. This paper explores the boundaries of copyright protection in visual art, focusing on key issues such as reproduction rights, appropriation art, and the challenges posed by digital technologies. Through case studies and legal analysis, the study examines how courts and legal frameworks have addressed disputes involving artistic borrowing, parody, and transformative use. The research also considers the implications of NFTs (non-fungible tokens) and AI-generated artworks on traditional notions of authorship and ownership. Ultimately, this paper aims to highlight the tension between protecting original creators and encouraging creative freedom in contemporary visual culture.

Keywords: copyright, visual art, reproduction rights, appropriation art, digital challenges.

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