



BOOK OF ABSTRACTS

**International Scientific Conference
„Law, Legality, Justice and Jurisprudence
- Modern Aspects and New Challenges”
Faculty of Law, Split**

Split, 16 May 2025

Faculty of Law, University of Split

INTERNATIONAL SCIENTIFIC CONFERENCE

**“LAW, LEGALITY, JUSTICE AND JURISPRUDENCE –
MODERN ASPECTS AND NEW CHALLENGES“**

BOOK OF ABSTRACTS

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Željka Primorac, Ranka Jeknić

Split, 16 May 2025

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Print

TEHNIČAR KOPIRNI CENTAR d.o.o.

CIP - Katalogizacija u publikaciji

SVEUČILIŠNA KNJIŽNICA U SPLITU

UDK 34(062)(048)

INTERNATIONAL Scientific Conference "Law, Legality, Justice and Jurisprudence Modern Aspects and New Challenges" (2025; Split)

Book of abstracts / International Scientific Conference "Law, Legality, Justice and Jurisprudence - Modern Aspects and New Challenges"; editors Željka Primorac, Ranka Jeknić. - Split : Faculty of Law, University of Split, 2025.

ISBN 978-953-8116-49-0

1. Primorac, Željka 2. Jeknić, Ranka

I. Pravo -- Zbornici II. Pravo – Knjiga sažetaka

200120047

INTERNATIONAL SCIENTIFIC CONFERENCE “LAW, LEGALITY, JUSTICE AND JURISPRUDENCE – MODERN ASPECTS AND NEW CHALLENGES”

Faculty of Law, University of Split

May 16, 2025

REGISTRATION AT CONFERENCE DESK (08:15 – 08:45)

OPENING CEREMONY

**Welcome Addresses – Conference Room Vijećnica
08:45 – 09:00**

Ratko Brnabić, PhD., Associate Professor - Dean of the Faculty of Law, University of Split

**Željka Primorac, PhD., Full Professor – Vice Dean for Science and Postgraduate Studies,
President of the Organising Committee**

**Ranka Jeknić, PhD., Assistant Professor - Vice Dean for Quality Assurance and
Inter-Institutional Cooperation, Co-President of the Organising Committee**

KEYNOTE SPEECH.

(chair: Ratko Brnabić, PhD., Associate Professor)

09:00 - 09:30

Hendrik Bosshammer

**OECD, Economist/Project Manager, South East Europe Division, Global Relations and
Cooperation Directorate**

“Policy Reforms for Integrity in Croatia”

Plenary Session I. – Hall No. 9.

(chair: Ivana Radić, PhD., Assistant Professor)

09:40 – 09:55 Matko Pajčić; Zvonimir Tomičić; Antonio Katavić: Possibilities and Pitfalls of
Using Intelligence Data as Evidence in Croatian Criminal Proceedings

09:55 – 10:10 Marija Đuzel: Europeization and Modernization of Croatian Criminal
Procedure Law – Recent Changes and Perspectives

10:10 - 10:25 Ivana Radić: Treatment of children as witnesses in criminal proceedings

10:25 – 10:40 Nina Mladinić: The New Directive (EU) 2024/1203 on the Protection of the
Environment by Criminal Law and Corporate Criminal Liability

10:40 – 10:55 Nevena Aljinović; Maja Pilić: The legal nature of precautionary measures and the consequences of their non-compliance in the context of protecting victims of violent crime and the rights of the defendant

10:55 – 11:15 Discussion

11:15 – 11:30 Coffee Break

Plenary Session II. – Hall No. 9.
(chair: Dinka Šago, PhD., Full Professor)

11:30 – 11:45 Dinka Šago; Katarina Knol Radoja: Some new aspects in extending the competencies of Latin-type notaries in the legislation of the Republic of Croatia – a new contribution to the modernisation of the judiciary

11:45 – 12:00 Anna Piszcz: EU approach to collective agreements on working conditions: Can digital platform workers and other solo self-employed persons receive protection from competition rules?

12:00 – 12:15 Trpimir Perkušić; Šime Jozipović; Sanja Čović Jurčević: Employees' rights in bankruptcy proceedings – a comparative analysis of the Croatian and German legal system

12:15 – 12:30 Kateřina Hrabánková "Pure-pre pack" - the current trend in insolvency proceedings

12:30 – 12:45 Regina Hučková: Online dispute resolution through the prism of European regulation

12:45 – 13:00 Ivan Tironi: Judgments made without the free will of judges and by mentally ill and unauthorized judges (existent or non-existent?)

13:00 – 13:15 Discussion

13:15 – 14:15 LUNCH

Plenary Session III. – Hall No. 9.
(chair: Ranka Jeknić, PhD., Associate Professor)

14:30 – 14:45 Josip Berdica; Ranka Jeknić: Students with disabilities in the context of Croatian higher education – some questions, findings and problems

14:45 – 15:00 Antonija Petričušić; Andreja Fileš-Ružić: The strategies and measures that target ethnically education and a participation gap in education among Roma in Croatia

15:00 – 15:15 Vilma Pezelj; Željko Radić; Marija Štambuk Šunjić: Some Legal Aspects of Women's Status Under the 1305 Statue of Brač: Reflections on its 720th Anniversary

15:15 – 15:30 Wladyslaw Peksa: The remains of old, historical legal systems in modern times - living fossils or an example of the stability of legal institutions. The case of the Croatian legal system, the law of the Polish Sepes (Spisz) and Arva (Orawa) and the Spanish "derechos forales"

15:30 – 15:45 Željko Radić: Agrarian contracts in Dalmatian medieval law

15:45 – 16:00 Anna Ceglarska; Iwona Barwicka-Tylek: Restoring the Prudent Part of Jurisprudence: Aristotel vs. Hobbes

16:00 – 16:15 Discussion

16:15 – 16:30 Coffee Break

Plenary Session IV. – Conference Room Mala Vijećnica
(chair: Luka Pribisalić, PhD., Assistant Professor)

09:40 – 09:55 Zoran Šinković; Luka Pribisalić; Renata Perić: Advance Tax Rulings in the Tax Law of the Republic of Croatia

09:55 – 10:10 Karin Cakoci; Filip Baláži: Customs Reform - another step towards centralization of customs?

10:10 - 10:25 Ladislav Hrabčák; Marin Jurašek: Customs Control in the E-Commerce Era

10:25 – 10:40 Magdalena Malecka: Go Digital or Die? Digitalization of Taxes in EU and in Poland

10:40 – 10:55 Mariusz Fras: Group Insurance – Value for Money? Comparative and EU Law Reflections

10:55 – 11:15 Discussion

11:15 – 11:30 Coffee Break

Plenary Session V. – Conference Room Mala Vijećnica
(chair: Ratko Brnabić, PhD., Associate Professor)

11:40 – 11:55 Katarzyna Cymbranowicz; Anna Ceglarska: Modern economy and ancient thought – possible answers for modern challenges?

11:55 – 12:10 Michal Sokol; Dušan Rostaš: Sale of Crypto-Assets as an Alternative Form of Financing of Business Companies

12:10 – 12:25 Simona Rudohradská: Self-preferencing practices of online platforms

12:25 – 12:40 Ana Đanić Čeko; Polonca Kovač; Adrián Fábián: Novelties in the Legal Regulation of Appeal in Administrative Disputes – Croatian, Slovenian and Hungarian Experiences

12:40 – 12:55 Bosiljka Britvić Vetma: Some Features of an Administrative Act

12:55 – 13:10 Discussion

13:15 – 14:15 LUNCH

Plenary Session VI. – Conference Room Mala Vijećnica

(chair: Blanka Čop, PhD., Senior Assistant)

14:30 – 14:45 Dario Čepo: The Role of the State Electoral Commission in Safeguarding Democratic Legitimacy in Croatia: The Source of Public (Mis)Trust

14:45 – 15:00 Gabriela Dobrovičová; Lukáš Tomaš: Enhanced Powers of the Constitutional Court of the Slovak Republic Natural and Legal Persons' Access to Justice

15:00 – 15:15 Davor Muhvić; Mira Lulić: Australia-Tuvalu “Falepili Union” Treaty: International Law Implications for the Statehood of Tuvalu

15:15 – 15:30 Alice Pisapia: The role of associations in litigation before the EU Courts for the protection of general interests

15:30 – 15:45 Discussion

15:45 – 16:00 Coffee Break

Plenary Session VII. – Conference Room Mala Vijećnica

(chair: Ratko Brnabić, PhD., Associate Professor)

16:00 - 16:15 Florin Cornel Duniter; Georgeta Valeria Sabau: New Legislative Landmarkers in the Matter of Corporate Governance

16:15 - 16:30 Miodrag Simović; Jelena Kuprešanin: Social Justice and Challenges of Modern Societies: The Impact of International Organizations

16:30 - 16:45 Zorica Vukašinović Radojičić: Responsibility and Public Integrity of Public Officials in Modern Public Administration

16:45 - 17:00 Mateja Tomašević: The Role of the Congress of Local and Regional Authorities of the Council of Europe in Strengthening National Law

17:00 – 17:15 Thi Anh Nguyet Truong: Legal Challenges of Investment Competitiveness in light of Balancing the Foreign Investors' Rights and Host State's Sustainable Developments

17:15 – 17:30 Michael Krakowiak: Digital transformation as a means to efficient civil justice in Polish law

17:30 – 17:45 Discussion

Plenary Session VIII. – Conference Room Vijećnica
(chair: Ines Medić, PhD., Full Professor)

14:30 – 14:45 Ines Medić: Recognition of a personal name acquired abroad, between national and European expectations

14:45 – 15:00 Dorota Francisciová: Parental Child Abduction in the EU

15:00 - 15:15 Lilla Garayova: The Family Reconstructed: Balancing Adult Autonomy and Children's Rights in Modern Family Law

15:15 – 15:30 Marcin Kielbasa: Protected by Article 56 TFEU's Dome? Navigating the Borders of Intra-EU Posting of Third-Country Nationals

15:30 – 15:45 Discussion

15:45 – 16:00 Coffee Break

Plenary Session IX. – Conference Room Vijećnica
(chair: Željka Primorac, PhD., Full Professor)

16:00 – 16:15 Roxana Silvia Truta: The Challenges of Applying Legal Solutions in Judicial Practice. Between Theory and Practice

16:15 – 16:30 Žaklina Harašić: Legal argumentation in court decisions

16:30 – 16:45 Magdalena Habdas, Jan Konowalczyk: Reconciling black letter law with judicial practice: environmental fairness in resolving neighbour disputes caused by aircraft noise

16:45 – 17:00 Jana Pezlar Selecká; Regina Hučková: Liability for Damage Caused by Artificial Intelligence in Commercial Relationships

17:00 – 17:15 Karmen Lutman: Greenwashing in Tourism: Legal Challenges and Consumer Protection Against Unfair Commercial Practices

17:15 – 17:30 Discussion

17:30 – 17:45 Coffee Break

Plenary Session X. – Conference Room Vijećnica
(chair: Ratko Brnabić, PhD., Associate Professor)

17:45 – 18:00 Krzysztof Bodzenta: The Anthropocentric Paradigm of Artificial Intelligence Regulation in European Union Law

18:00 – 18:15 Ratko Brnabić; Miho Baće: Artificial Intelligence in Company Law: More Than Software?

18:15 – 18:30 Martin Friedrich: Slovak private and public law in digital services – a tentative romance

18:30 – 18:45 Cristian Dumitru Mihes: How Big data and AI changed Fiscal (Forensic) Investigation

18:45 – 19:00 Discussion

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POSSIBILITIES AND PITFALLS OF USING INTELLIGENCE DATA AS EVIDENCE IN CROATIAN CRIMINAL PROCEEDINGS

ABSTRACT

In today's world, the reactive approach of law enforcement agencies often cannot fully respond to the challenges posed by certain forms of crime, especially (but not exclusively) those that are narratively committed in a covert manner and that can not be investigated and prosecuted using conventional criminal methods. Therefore, there is a need for increasingly proactive approaches by law enforcement agencies when solving conceptually complex crimes. Sometimes there may also be a need to use intelligence information, and in this sense, the information and evidence collected by security intelligence agencies in their covert work in the performance of their duties are often extremely valuable. This paper will primarily use comparative and teleological methods to investigate possible legal prerequisites for the lawful use of evidence collected by security intelligence agencies in their work, as well as possible restrictions on the use of such evidence in criminal prosecution. Special attention will be given to the fairness of the use of such evidence in criminal proceedings, as well as possible violations of the right to protection of private and family life, all in accordance with the fundamental postulates of the rule of law. If necessary, de lege ferenda proposals will be presented for possible future changes to the normative framework for the Republic of Croatia.

Keywords: intelligence service, intelligence data, criminal procedure, evidence admissibility

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EUROPEIZATION AND MODERNIZATION OF CROATIAN CRIMINAL PROCEDURE LAW – RECENT CHANGES AND PERSPECTIVES

ABSTRACT

Although the reformed Criminal Procedure Act of 2008 broke with the over a century-old tradition of the mixed type of criminal procedure and opened a new chapter, it was evident even before the law entered into force that it would not remain unchanged for long. Moreover, the main legislative tool in the fight against corruption very quickly failed the constitutionality test. Harmonization with the Constitution of the Republic of Croatia and the ECHR as well as the adaptation to essential changes in the structure of the procedure, new procedural forms, tasks and roles of subjects of criminal proceedings required new amendments to the law. In parallel with constitutionalization, criminal proceedings have been changing their outline in the last decade under the strong influence of requests for harmonization with EU law, that is, with procedural directives that aim to strengthen the rights of the defendant and the position of the victim. Recently, however, demands for acceleration and modernization of the procedure by adopting new technologies in the procedure have been emphasized. Thus, the 2022 Amendment introduced e-communication, mandatory audio recording of trial, and expanded the possibilities of using audio-video links. The entry into force of the provisions on audio recording of trial has been postponed to 1 May 2025, which means that the criminal justice system, and courts in particular, is facing a new period of adaptation to technology that should facilitate and speed up the procedure, but the question of the actual and material possibilities of implementation, is still hanging in the air. With the last amendment, from 2024, the legislator aimed to further strengthen the legal position of victims, especially victims of violence against women and domestic violence, and to properly harmonize provisions of the CPA with the EU Directive on strengthening the presumption of innocence. However, the amendments to the criminal substantive and procedural legislation that sanction violations of the principle of non-publicity of pre-trial procedure have resonated most strongly in the public and have acquired political connotations. Namely, unauthorized disclosure of the contents of investigative and evidentiary actions conducted during pre-trial procedure is envisaged as a criminal offense. The paper will analyse the mentioned recent trends of changes in the criminal

procedure legislation through the prism of the request for the establishment of a modern judiciary harmonized with the EU law and try to identify shortcomings and potential difficulties of applying the new legislative solutions in practice.

Key words: constitutionalization, criminal procedure, europeization, modernization

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TREATMENT OF CHILDREN AS WITNESS IN CRIMINAL PROCEEDINGS

ABSTRACT

One of the most common ways of establishing facts in criminal proceedings is through the testimony of various persons, which includes witnesses. Modern criminal procedural legislation has developed a series of measures aimed at preventing secondary victimization of particularly sensitive witnesses, including children. The procedure for interrogation of children as witnesses differs significantly from the general rules. In the procedure of interrogation of a child, in addition to judicial bodies, experts from other fields are also involved, such as psychologists, psychiatrists or pedagogues, who have a dual role. On one hand, they must provide assistance, protection and support to a child in a vulnerable position, but on the other hand, they are also assisting a judge during interrogation and helping in assessing the credibility of the child's testimony. The rights of the children as witnesses in some cases can be in collision with the right to a fair trial in accordance with the art. 6. ECHR, because in many cases when children are witnesses the right to confrontation can be limited in order to ensure the protection of vulnerable witnesses. The aim of the paper is to analyze the position of children as vulnerable witnesses in criminal proceeding in Croatia's current legislation with the reflection on judicial practice and what is the current state of establishing standardized procedure for interrogation of children as witnesses during criminal proceeding.

Key words: children, witnesses, criminal procedure, interrogation of witnesses

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THE NEW DIRECTIVE (EU) 2024/1203 ON THE PROTECTION OF THE ENVIRONMENT BY CRIMINAL LAW AND CORPORATE CRIMINAL LIABILITY

ABSTRACT

Many international documents of the United Nations, the European Union and the Council of Europe protect the environment as a supreme good, but the main framework for criminal environmental protection for all countries of the European Union is Directive (EU) 2024/1203 of 11 April 2024 on the protection of the environment through criminal law and replacing Directives 2008/99/EC and 2009/123/EC. The European Union has recognized that administrative and civil sanctions and measures do not provide adequate results in deterring serious environmental damage and that the importance of criminal law in environmental protection is increasing. Legal entities are frequent polluters of the environment and, due to global technological development leading to the commission of environmental offences in which the “real perpetrator” is a legal entity, not an individual, the greatest risks to the environment originate precisely from the activities of legal entities. Therefore, almost all legal systems, from common law to continental, prescribe their criminal liability for environmental crime. For twenty years, the Republic of Croatia has had a special Law on Criminal Liability of Legal Entities, according to which they can be held liable for all criminal offences prescribed by the Criminal Code, including criminal offences against the environment. The new revised Directive requires countries the law of which provides for the criminal liability of legal entities to prescribe effective, dissuasive, and proportionate types and levels of criminal sanctions. Since environmental crime has become a highly profitable activity for organized criminal groups in recent decades, corporations have also become involved, especially those that only act as a front for what in reality is a criminal organization. Data showing that this is a lucrative criminal activity with a low degree of risk led the EU to legislatively improve the mechanisms for the prosecution of corporate environmental crime. Member States are required to adopt laws and other regulations necessary to comply with this Directive by 21 May 2026. This paper focuses on the presentation of requirements arising from the provisions of the Directive and their application to legal entities on the example of Croatian criminal legislation. This particularly concerns the issue of new environmental crimes, the quantitative or qualitative threshold required for

conduct to constitute a criminal offence, the forms of guilt, aiding, abetting and attempting, aggravating and mitigating circumstances, sanctions and other measures and the instruments for prosecuting organised and cross-border environmental crime prescribed by the Directive.

Keywords: *environmental protection, criminal law, corporate criminal liability, EU directive, environmental crimes*

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THE LEGAL NATURE OF PRECAUTIONARY MEASURES AND THE CONSEQUENCES OF NON-COMPLIANCE IN THE CONTEXT OF PROTECTING VICTIMS OF VIOLENT CRIME AND THE RIGHTS OF THE ACCUSED

ABSTRACT

Precautionary measures, as an alternative to pre-trial detention, correlate with the same substantive legal assumptions and aim to achieve the purpose of pre-trial detention without applying this most severe measure of deprivation of liberty, and are manifested by restrictions on certain content of the law to prevent specific dangers to the course of criminal proceedings. Although they are conditioned by the existence of pre-trial detention reasons from Art. 123 of the Criminal Procedure Code, their duration exceeds the duration of pre-trial detention, given that the legislator postulated their independent existence after the expiry of the pre-trial detention periods if the circumstances justifying the imposition of pre-trial detention still exist, which imposes the independence of this criminal procedure institute. Recent amendments to the Criminal Procedure Code (OG 36/24) did not affect the alternative character and catalog of precautionary measures. Still, concerning specific categories of victims, as a novelty, mandatory consideration of "the results of the individual assessment of the needs of the victim and the victims' closely related person and the needs of the victim's protection" was incorporated when deciding to impose a precautionary measure as a milder form of criminal law repression against the defendant instead of pre-trial detention. In this paper, the authors, using the normative and teleological method, analyze existing legal solutions regarding the content and duration of precautionary measures before and during criminal proceedings, as well as the possibility of their imposition and duration after a (non-)final court verdict, with an emphasis on specific cases of victim protection through the application of precautionary measures, either as a substitute for pre-trial detention or by applying independent precautionary measures, especially when criminal proceedings last for a more extended period of time.

Also, in the context of the level of violation of precautionary measures, various legal consequences are analyzed, which are reflected not only in the replacement of the imposed precautionary measure with a procedural instrument, pre-trial detention, but also in the conduct of new criminal proceedings for the (new) criminal offense of failure to enforce a court decision under Art. 311, paragraph 3 of the Criminal Code/11, which can potentially articulate the constitutional principle of equality of citizens before the law due to different sanctions for non-compliance with substantively the same measures, well as the principle of fairness in the context of trial within a reasonable time when the "responsibility" for the expiration of the maximum terms of pre-trial detention is "shifted" to the defendant, while, essentially, the responsibility for trial within a reasonable time lies with the court.

Keywords: *precautionary measures, pre-trial detention, criminal proceedings, enforceability of judgment, protection of victims' rights*

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SOME NEW ASPECTS IN EXTENDING THE COMPETENCIES OF LATIN-TYPE NOTARIES IN THE LEGISLATION OF THE REPUBLIC OF CROATIA

ABSTRACT

In recent years, we have witnessed the trend of extending the competences of Latin-type notaries in certain European jurisdictions, including in the Republic of Croatia. The dual nature of the notary service and the expertise of notaries are elements that make this service particularly suitable for entrusting powers in non-contentious proceedings. In this paper, the authors give an overview of some procedures in which a notary public acts as a court commissioner. The Act on non-contentious proceedings expanded the range of non-contentious proceedings in which notaries participate as court commissioners. It is about the non-contentious procedure of consensual arranging of abuttal, dissolution by mutual consent of the joint ownership and the procedure of declaring a missing person dead and proving death. From November 2022, amendments of Land Registers Act made it possible to entrust the work of establishing or renewing the land register to notaries public as court commissioners. Since 2023 Croatian Obligatory Relations Act also provides for the establishment of a Register of lifelong maintenance contract and contract for maintenance until death, which should be established and managed by the Croatian Chamber of Notaries. In some legislation Family Act has given notaries the power to proceed divorces where spouses are in agreement and there are no minor children involved. In this paper we will include short analysis and discussion of notarial divorce from a Croatian perspective, because they still do not have that competence in our legislation. Therefore, the aim of this paper is to try to answer the question of what are the advantages and what are the disadvantages of the powers of notaries in certain procedures. The aim is to analyse and discuss the competence of the Latin-type notaries in the field of civil law.

Keywords: notary public, court commissioner, disburden the courts, non-contentious procedure

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**EU APPROACH TO COLLECTIVE AGREEMENTS ON WORKING
CONDITIONS: CAN DIGITAL PLATFORM WORKERS AND OTHER
SELF-EMPLOYED PERSONS RECEIVE PROTECTION FROM
COMPETITION RULES?**

ABSTRACT

The research problem is about the application of a prohibition of anti-competitive agreements (Article 101 of the Treaty on the Functioning of the European Union, hereafter TFEU) to collective agreements on working conditions of solo self-employed persons (SSEPs). The SSEPs' working conditions include matters such as remuneration, rewards and bonuses, working time and working patterns, holiday, leave, physical spaces where work takes place, health and safety, insurance and social security, and conditions under which SSEPs are entitled to cease providing their services or under which the counterparty is entitled to cease using their services. The presentation compiles concisely landmark judgments of the Court of Justice to show the development of the interpretation of Art. 101 TFEU in the context of collective agreements. It also asks why SSEPs should not be treated as undertakings, and offers some soft-law 'safe harbours', both the exemption of collective agreements of SSEPs comparable to workers, and SSEPs' collective agreements that will not be intervened against by the European Commission.

Keywords: 1) EU soft-law, 2) competition rules, 3) collective agreements, 4) working conditions, 5) solo self-employed persons

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EMPLOYEES' RIGHTS IN BANKRUPTCY PROCEEDINGS – A COMPARATIVE ANALYSIS OF THE CROATIAN AND GERMAN LEGAL SYSTEM

ABSTRACT

Bankruptcy proceedings are a complex legal procedure aimed primarily at satisfying the claims of the insolvent debtor's creditors. In the course of these proceedings, the employees of the insolvent employer often become one of the most vulnerable groups, as their jobs are at risk and their claims for work performed may be jeopardised. The protection of employees' rights during insolvency proceedings is one of the core issues of insolvency law and belongs to a category of creditors who enjoy special legal protection during insolvency proceedings.

In the Croatian legal system, the protection of employee rights in the event of employer insolvency is primarily regulated by the Labour Act, the Act on the Protection of Employee Claims in the Event of Employer Insolvency and the Bankruptcy Act. This legal framework ensures the realisation and protection of certain employee rights as well as special legal protection through the Insurance Agency for Employee Claims. However, the practical application of these provisions is associated with numerous challenges and shortcomings, which often lead to inadequate protection for employees. In the German legal system, this issue is primarily governed by the Insolvency Code (Insolvenzordnung – InsO) and various other laws. Specific aspects of employee legal protection in insolvency proceedings are regulated in the German Social Security Code III (Sozialgesetzbuch III), the German Commercial Code (Handelsgesetzbuch – HGB), the German Civil Code (Bürgerliches Gesetzbuch – BGB), the Works Constitution Act (Betriebsverfassungsgesetz – BetrVG) and the Protection

against Dismissal Act (Kündigungsschutzgesetz – KSchG). In addition, the protection of employees is guaranteed by the application of insolvency money (Insolvenzgeld), a mechanism by which the state takes over the payment of outstanding wages to employees during insolvency proceedings. The aim of this article is to analyse and compare the legal protection of employees' rights in bankruptcy proceedings in Croatia and Germany and to offer suggestions for improvements to Croatian legislation. The comparative analysis of these two legal systems will show the advantages and disadvantages of the existing solutions and identify elements that could contribute to a more effective protection of employees' rights in bankruptcy proceedings in Croatia.

Keywords: *Employer's insolvency, employment relationship, protection of employees' rights, employees' claims*

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“PURE-PRE PACK” – THE CURRENT TREND IN INSOLVENCY PROCEEDINGS

ABSTRACT

The paper focuses on the monetisation of the debtor's business through pre-pack procedures, which represent the current European trend in insolvency proceedings first introduced by the Proposal for a Directive of the European Parliament and of the Council harmonising certain aspects of insolvency law in 2022. The aim of the introduction of pre-pack procedures by the Directive is to sell the debtor's business (or part of it) as a going concern. This presupposes greater efficiency and a higher yield from the realisation of the debtor's assets and thus a higher satisfaction with the claims of insolvency creditors. The first part of this paper is an introduction to the spirit of the pre-pack procedures and a justification for the streamlining of insolvency proceedings through their introduction into practice. The second part of the paper is devoted to a more detailed analysis of the early monetization of a debtor's business in the liquidation phase based on the most advantageous offer for the purchase of assets selected by the controller ("pure pre-pack"). The third and final part is an analysis of the legal regulation of pre-pack procedures in selected Member States of the European Union, where pre-pack procedures are currently used to monetise the debtor's assets. By scientifically examining foreign legislation, we will provide an insight into the shaping of the legal regulation of pre-pack procedures in the Proposal for a Directive of the European Parliament and of the Council harmonising certain aspects of insolvency law by selected Member States, highlighting possible application problems of this method of monetization, while making a subjective assessment and drawing de lege ferenda proposals.

Keywords: *pure pre-pack, asset monetisation, insolvency proceedings*

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ONLINE DISPUTE RESOLUTION THROUGH THE PRISM OF EUROPEAN REGULATION

ABSTRACT

The current dynamic development of digital technologies and online platforms brings new challenges in the area of dispute resolution between users and platforms. This article focuses on online dispute resolution through the prism of European regulation, with a particular focus on the directives and regulations shaping the legal environment for digital services. It presents the evolution of legal frameworks such as the European Digital Services Act (DSA), which emphasises transparency and accountability of platform operators in content moderation and dispute resolution. It further discusses the benefits and challenges of implementing Online Dispute Resolution (ODR) mechanisms, which allow for efficient and fair resolution of conflicts without the need to be present in court. The article analyses not only the legal instruments but also the technological innovations that support this process, and takes into account the need to protect fundamental rights such as freedom of expression and privacy. It concludes by discussing the possible implications of European regulation for improving the efficiency of dispute resolution and strengthening trust in digital platforms.

Keywords: *alternative dispute resolution, digital technologies, DSA*

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**JUDGMENTS MADE WITHOUT THE FREE WILL OF JUDGES AND
BY MENTALLY ILL AND UNAUTHORIZED JUDGES
(EXISTENT OR NON-EXISTENT?)**

ABSTRACT

The purpose and goal of civil proceedings is to deliver correct and lawful judgments that decide on the main subject of the dispute, i.e., the validity of the claim. Various objective and subjective reasons can lead to incorrect and unlawful judgments. Such decisions can cause numerous harmful consequences for both the parties involved and society as a whole. The quality of judgments largely depends on the individual judge, who should be competent, honest, and reasonable. In exceptional cases, the correctness and legality of the proceedings, and thus the judgments, may come into question if, due to various influences, the judge no longer has free will during the trial. Furthermore, it is clear that a judge, like other people, may have certain psychological issues or be mentally ill, which can certainly affect their judgment and ability to make valid decisions. Additionally, there are theoretically possible, and in practice there have been cases where decisions are made by judges who, for various reasons, should not have judged the specific case (for example, due to exclusion of judge or because they were not appointed as judges by the competent state body). Although these cases are not common in practice, it does not mean they do not exist. Therefore, it is necessary to point them out and consider how parties can achieve legal protection against judgments made under these circumstances. This is especially important because the issue in question is not the focus of legal doctrine and the professional public. In this sense, it is first necessary to determine the legal nature of decisions made, for example, by a mentally ill judge, a judge under physical coercion, or a judge appointed by occupying authorities. The question arises whether such judgments are merely avoidable or non-existent. Depending on the answer, different legal remedies are available to parties to challenge such decisions, ensuring they do not produce legal effects.

Keywords: *voidable judgment, non-existent judgment, judge's mental illness, lack of free will, unauthorized judge*

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**STUDENTS WITH DISABILITIES IN THE CONTEXT OF CROATIAN
HIGHER EDUCATION – SOME QUESTIONS, FINDINGS AND
PROBLEMS**

ABSTRACT

In the context of current debates on the right to education as a fundamental human right, the importance and benefits of education for individuals and for society as a whole, on equality, fairness and social justice, etc., particular attention is directed towards analysing the issue of persons with disabilities in the context of the higher education system. The topic is also updated with the current debates on the promotion and strengthening of “inclusive education”, the social dimension of the “Bologna Process”, achieving the “sustainable development goals” and implementing the contemporary “human rights model” approach to disability. Based on a review and analysis of the scientific literature, as well as the legal framework and documents, and by using a hermeneutic approach, as well as analysis and comparison of available secondary data on students with disabilities in Croatia (with a focus on the University of J. J. Strossmayer in Osijek and the University of Split), the aim of this paper is to present, analyse and highlight some questions, problems and obstacles related to the position of students with disabilities in Croatian higher education. In this context, the discrepancy between the existing legal framework and its application in practise is emphasised, as well as the need to respect the human rights of persons with disabilities and ensure them equal opportunities and access to higher education in order to build a more inclusive higher education system, achieve the Bologna goals and the sustainable development goals and build a more just, equal and inclusive society.

Keywords: *students with disabilities; higher education; human rights; inclusion; Croatian society*

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THE STRATEGIES AND MEASURES THAT TARGET ETHNICALLY SEGREGATED EDUCATION AND PARTICIPATION GAP IN EDUCATION AMONG ROMA IN CROATIA

ABSTRACT

This paper examines the strategies and measures outlined in both the European Union (EU) and Croatian integration frameworks to address the early childhood education participation gap in early childhood education among Roma populations. Such participation gap in EU Member States is elaborated in the 2020 EU strategic framework for Roma equality, inclusion, and participation. The strategic framework sets ambitious targets for 2030 aimed at reducing socio-economic disparities and promoting meaningful inclusion. Among these targets are significant reductions in the participation gap in early childhood education and the elimination of segregated schooling. In alignment with the EU strategic framework, the Croatian National Plan for Roma Inclusion 2021-2027 continues the nation's longstanding commitment to Roma inclusion, initiated with the National Roma Program back in 2003. The Croatian National Plan for Roma Inclusion aims to enhance the socio-economic status of Roma communities through targeted measures in education, employment, social care, and anti-discrimination efforts. Notably, it emphasizes increasing early childhood education participation rates and reducing primary school segregation among Roma children. Roma education as a whole is still far from being equal with the general population. Less than a third of children are involved in pre-school education, and the prescribed duration of pre-school programs (250-550 hours per year) in the year prior to starting primary school does not guarantee mitigation of the impacts of social and material deprivation to which children are exposed. Furthermore, the involvement of primary school children in special programs, particularly of children who participate in such programs due to insufficient knowledge of the Croatian language and the lack of early integration, further narrows the space for their socialization in peer groups. The problem of ethnically segregated classes, in which one fifth of Roma children in the Republic of Croatia and almost half of children in Međimurje

County are educated, needs special attention in the coming period in order to fully achieve the goal of inclusive education. Also, in order to prevent primary school leaving, as a prerequisite for later stages of education, adequate, gender-sensitive preventive measures must be taken at key time intervals when school leaving most often occurs (i.e. from the age of 15 when the legal obligation of compulsory education ends).

Keywords: *access to education for persons belonging to national minorities; Roma; segregated primary schools; early integration*

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SOME LEGAL ASPECTS OF WOMEN'S STATUS UNDER THE 1305 STATUTE OF BRAČ: REFLECTIONS ON ITS 720TH ANNIVERSARY

ABSTRACT

This paper analyses the issues of the legal status of women in the mediaeval Statute of Brač from 1305 in comparison with the other Dalmatian statutes. It examines to what extent the provisions of statutory law correspond to the general tendencies, as well as their possible peculiarities in status, family, property, criminal and procedural law. By analysing notarial acts and archival material, the extent to which the statutory provisions were applied in everyday life is examined. It is known that the Dalmatian statutes are an example of the synthesis of different legal cultures. The provisions of the Statute of Brač shows the mutual permeation of two fundamental legal cultures: Slavic and Roman, as well as the influences of the canonical and Venetian legal systems.

Keywords: *the Statute of Brač, 14th century, Dalmatian statutory law, legal status of women*

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**THE REMAINS OF OLD, HISTORICAL LEGAL SYSTEMS IN
MODERN TIMES – LIVING FOSSILS OR AN EXAMPLE OF THE
STABILITY OF LEGAL INSTITUTIONS. THE CASE OF THE
CROATIAN LEGAL SYSTEM, THE LAW OF THE POLISH SEPES
(SPISZ) AND ARVA (ORAWA) AND THE SPANISH „DERECHOS
FORALES“**

ABSTRACT

The remains of old, historical legal systems in modern times - living fossils or an example of the stability of legal institutions. The case of the Croatian legal system, the law of the Polish Sepes (Spisz) and Arva (Orawa) and the Spanish "derechos forales". In the 19th and 20th century, most countries in continental Europe experienced a wave of modernization of legal systems, including the codification of entire areas of law. This was also facilitated by the creation of new states and the creation of new state borders. However, there are examples of territories and areas where entire ancient legal systems have been preserved. They often based on customary sources or normative monuments dating back to the Middle Ages. The paper discusses three famous examples of such legal systems, taking the perspective of legal history and considering what these examples have in common. These are examples of: 1. Croatian civil law, where, in the opinion of the late Professor Marko Petrak, the classical principles and monuments of Roman law adopted (Klassische Rezeption) in the 16th century were essentially preserved. 2. former Hungarian law, which was preserved until 1946 in the area of Spisz and Orava in the Second Polish Republic. 3. The Spanish "derechos forales", which are still in force in some autonomous communities.

Keywords: *European legal history, comparative legal history, private law history, history of ideas*

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AGRARIAN CONTRACTS IN DALMATIAN MEDIEVAL LAW

ABSTRACT

*The medieval legal systems knew different ways of regulating relationships between the owner and the cultivator of the land, since the two functions were the most often separated. For agrarian medieval contracts it can be said that they rely to a lesser extent on ancient (i. e. roman) models, and to a much greater extent on specific local social, economic as well as environmental conditions. Likewise, they are much more a creation of legal practice than of legislative (statutory) work or doctrinal reflection. That is why notarial documents are the most generous source for studying medieval agrarian contracts. In this paper the author deals with typical agricultural contracts in the practice of Dalmatian medieval cities (Dubrovnik, Korčula, Split, Trogir and Zadar), according to the notarial interpretation of these contracts in the first place and only then taking into account formulations of their communal statutes. As special features of these contracts, the author underlines their long duration and preference for hybrid forms (mixing law of obligations and property law, or lease and partnership etc.). Special attention is devoted to the group of contracts representing a variety of agricultural contracts. These are contracts that contain a clause *ad meliorandum*. This clause obligates the cultivator to produce a certain improvement on the land in question, after which he acquires certain ownership rights. These include two types of contracts: the first named the contracts *ad pastinandum*, i. e. the contract on the planting of permanent plantations on which he will acquire the right of ownership. The second type is the contract on the division of land (*colonia partionaria*), where the cultivator acquires a certain part of the land in question (usually half).*

Keywords: *lease, share-cropping, contracts *ad meliorandum*, *ad pastinandum*, *colonia partionaria**

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RESTORING THE PRUDENT PART OF JURISPRUDENCE: ARISTOTLE VS. HOBBS

ABSTRACT

The article examines contemporary trends in jurisprudence, particularly the growing interest in the role of phronesis-prudence. Modern legal thought increasingly acknowledges the need for “practical wisdom” (phronesis) in legal practice, challenging the Hobbesian view that lawyers should be mere executors of sovereign will. Through a historical perspective and a critical comparative analysis of Aristotle’s and Hobbes’ theories, we argue that the Aristotelian concept of phronesis – integrating ethical and political dimensions into legal reasoning – offers a model for addressing the increasing complexity of legal and moral ambiguities in democratic societies. While Hobbes dismissed prudence as a politically hazardous form of subjective reasoning, Aristotle viewed it as a necessary supplement to legal techne, enabling legal practitioners to navigate the relationship between law, justice, and societal expectations. Furthermore, phronesis provides a valuable philosophical foundation for anchoring contemporary legal propositions. Reviving Aristotelian prudence into contemporary legal discourse encourages lawyers to engage more actively in social life, rather than hiding behind their techne or serving merely as the “mouth of the law”, yet, it does not grant them additional power over others. Instead, it encourages lawyers to cultivate “human” competencies that promote informed judgment and political responsibility and enhances legal practitioners’ ability to mediate between legal norms and social justice concerns. Ultimately, this Aristotelian perspective offers a dynamic response to the growing ethical uncertainties of modern pluralistic societies, ensuring that law remains not only a technical craft but also an integral part of civic life.

Keywords: Phronesis, jurisprudence, Aristotle, Hobbes, judgment

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BINDING OPINIONS IN THE TAX LAW OF THE REPUBLIC OF CROATIA

ABSTRACT

Binding opinions are part of modern tax systems that aim to protect taxpayers' rights and achieve the predictability of tax authorities' actions. Binding opinions are fundamental in providing business certainty regarding the tax treatment of particular transactions. Binding opinions are particularly useful when: a) the law is unclear and there is more than one possible interpretation, b) new legislation applies to the transaction, c) the transaction is novel, sensitive, or controversial, d) significant issues arise or may have a wide impact and e) the arrangement is a complex financing transaction. The tax authority in the Republic of Croatia is authorized to provide, upon written request from the taxpayer, a binding opinion on the tax treatment of future and intended transactions, i.e. business events and activities of the taxpayer. The very legal nature of the binding opinion is questionable. Therefore, in this paper, the authors will provide answers to complex legal questions: a) is a binding opinion an administrative (tax) act or not an administrative (tax) act? b) is the adopted binding opinion effective erga omnes or only inter partes? and c) does the adopted binding opinion have a unilateral or bilateral binding legal effect? The authors will also analyze the legal issue (responsibility) for the adoption of an illegal binding opinion by the competent tax authority, which the taxpayer acted on because he acted in good faith.

Keywords: *binding opinions, good faith, tax authority, taxpayer, tax law*

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CUSTOMS REFORM – ANOTHER STEP TOWARDS CENTRALIZATION OF CUSTOMS?

ABSTRACT

In May 2023, the European Commission published a proposal for EU customs reform. In terms of its content, it is expected to be the most far-reaching customs reform since 1968. The proposed reform brings a number of innovations, the essence of which lies in the further convergence of the customs authorities of the individual EU Member States. Among other things, the published proposal also aims to create a new institution - the 'EU Customs Authority'. Of particular interest are the functions and powers of the newly created body. The published proposal shows that the EU Customs Authority should, among other things, have the power to order customs controls. These would then have to be carried out by the customs authorities of the Member States concerned. This suggests that the published reform could be a significant step towards the institutional and functional centralization of EU customs. For this reason, the present paper will be devoted to an analysis of the impact of the proposed customs reform on the relationship of the newly emerging EU Customs Authority with the authorities of the Member States, with a focus on exploring the potential emergence of a vertical institutional and functional hierarchy. The aim of the analysis will be to identify the specific centralizing elements of the proposed customs reform in the context of, or in contrast to, the very purpose of the creation and existence of the EU Customs Union, the foundations of which were laid down in the Treaty establishing the European Economic Community.

Keywords: Customs reform, Customs union, centralization

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CUSTOMS CONTROL IN THE E-COMMERCE ERA

ABSTRACT

The form of consumer habits and the business activities that reflect them have changed fundamentally in the last decade. Two factors in particular have been and continue to be the catalysts for this gradual change, namely the move away from the perception of national borders as barriers and the shift away from shopping in bricks-and-mortar stores to the online space. Therefore, it is not surprising that goods from outside the European Union are very popular. However, the customs and legal dimension of these transactions must also be taken into account. The growth of e-commerce has also fundamentally influenced the form of traditional customs institutes, which undoubtedly include customs control. Today's digital phenomena and artificial intelligence are also externalities that can affect customs control as we perceive it today. The aim of this article is to evaluate the institute of customs control, its nature and importance in the era of e-commerce, identify legal-application problems while simultaneously pointing out other trends in the given area. The analysis, synthesis, comparison and historical method have been used in the treatment of the above-mentioned issues.

Keywords: *customs control, customs union, e-commerce*

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GO DIGITAL OR DIE? DIGITIZATION OF TAXES IN EU AND IN POLAND

ABSTRACT

To describe the transformation of law in the 21st century, three terms are commonly used: digitization, digitalization and electronization. The article does not definitively determine which of these terms is most appropriate; rather it posits that discussions of these concepts should consider both the extent of computer system implementation and the volume of processes conducted via the Internet (i.e. online). The third element is growing use of artificial intelligence. The objective of the article is to briefly illustrate how electronization was initiated and how it has evolved. The article outlines the legal foundations of the electronization of tax proceedings within the framework of European Union law, followed by an examination of Polish law. The European Union has issued a series of documents and undertaken many initiatives aimed at digital development, cybersecurity, artificial intelligence development and the creation of a single digital market. Of course, due to Poland's membership in the EU, Polish legislation should largely implement EU law. The main identified risks were highlighted in the article regarding the processes described. The methods applied include description and critical analysis of Polish and EU legal sources, drawing on selected literature. It should be emphasized that, due to space constraints and the complexity of the subject matter, the article does not claim to be comprehensive. Nevertheless, it undoubtedly provides arguments supporting the relevance of the maxim “go digital or die” in the current economic context of the e-economy.

Keywords: digitization, digitalisation, electronisation, tax law, artificial intelligence

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GROUP INSURANCE - VALUE FOR MONEY? COMPARATIVE AND EU LAW REFLECTIONS

ABSTRACT

The intensive development of group insurance should encourage an in-depth reflection on the legal nature of solutions, in which the insurance protection scheme goes beyond the classic formula of individual insurance. Group insurance contracts differ from individual insurance contracts. Both in the IDD Directive and in many Member States there are no legal regulations that, taking into account the specificity of group insurance, would supply a legal framework adapted to the needs of the market and would counteract the threats that result from the particular structure of persons involved in group insurance (insurance company - policyholder /group organizer/ - the insured party). As a result, the level of the protection of persons insured as a group does not keep up with the dynamic changes in legal structures utilized to offer insurance protection. In the paper, legal regulations of group insurance, both at the EU and Member State levels, will be analyzed in the context of law and economics, the information obligation, and the pursuit of claims under the group insurance contract. Achieving the goal of protecting the weaker party of group insurance is only possible if pursuing claims is effective from an economic point of view, i.e. it leads to a reduction in social costs. Next, various legal solutions will be presented that properly or improperly implement the basic principles of law and economics. Another issue that will be analyzed is the legal nature of the group insurance contract. The paper will attempt to answer the question whether one or more contracts are concluded in the context of group insurance. According to a historically older concept, known as the unitary one, the existence of only one contract that binds the insurer and the organizer of the group (the policyholder) is sufficient to provide protection. The second view (the "éclatée" concept), supported by the vast majority of contemporary author, is based on the assumption that, in addition to the contract binding the insurer and the group organizer, there are as many separate insurance contracts as there are insured persons. For the purposes of this paper, this view will be called the concept of the "dispersed" insurance relationship. The regulations of the PEICL model law will be discussed, which precisely define the concept of a group organizer and distinguish accessory group insurance and elective group insurance. The model law in the field of group insurance also influences the jurisprudence of the

CJEU, who relies on the legal constructions indicated therein for broader analyses. Important French, German and Polish cases regarding the information obligation in group insurance, in particular in the context of bank assurance, will also be considered. In this respect, the Author will refer to soft law and guidelines issued by the supervisory authorities of individual Member States. Particularly noteworthy are judgments of the CJEU issued in recent years, which raise important issues in the on the interpretation of the IDD Directive regarding group insurance. The first such judgment is the case C-96/14 - regarding the assessment of the unfair nature of contractual terms in group insurance. The next in case C-208/21 - concerns life insurance contracts related to an investment fund sold as group insurance, called unit-linked. Other discussed judgments include: joined cases C-143/20 and C-213/20 - which concerns the obligation to provide information before taking out group insurance and unfair commercial practices in group insurance; judgment in case C-633/20 - where in a revolutionary approach the activity of insurance intermediation and insurance distribution was defined, equating the insurance distributor with the group organizer; judgment in case C-263/22 -, which specifies what the information obligation is and in relationship to whom in group insurance.

Keywords: *group insurance, duty to inform, duty of information, group organizer, insurance on someone behalf*

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MODERN ECONOMY AND ANCIENT THOUGHT – POSSIBLE ANSWERS FOR MODERN CHALLENGES?

ABSTRACT

The Knowledge-Based Economy, which emphasizes the importance of knowledge as a valuable resource, is one of the most popular terms used in modern economics. Therefore, in our paper, we want to analyse the origins and evolution of this concept, while also addressing the challenges and opportunities that lie ahead. Economic theories tend to focus on the notion of "improvement" in our lives, yet, given the diversity of individual preferences, it is difficult to grasp the full meaning of this "improvement", and, as novel theories emerge, we need to answer the question: which of these ideas could and should be regarded as valuable knowledge, and so used to shape our future. To address this challenge, we propose shifting the focus from contemporary concepts and refer to the ancient Greek thought, that forms the basis of our intellectual heritage. Referring to philosophers but also poets and dramatists, we would like to argue that what the contemporary world needs is a skill encompassing the ability to discuss and evaluate the probable yet not certain outcomes. That skill, described already by ancients, enabled the critical approach both to data and knowledge gained and so – effective shaping of the realm of praxis. We believe that we can still benefit from ancient concepts, that referred both to universal values, like justice or stability and individual needs.

Keywords: knowledge-based economy, Greek philosophy, practical knowledge

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SALE OF CRYPTO-ASSETS AS AN ALTERNATIVE FORM OF FINANCING OF BUSINESS COMPANIES

ABSTRACT

The transformation of the economy into a digital economy is a highly topical issue, bringing new challenges such as the need for legal regulation of digital assets. Among the most prominent digital assets are crypto-assets, which are currently regulated at the EU level by the MiCA regulation. In the presented article, the authors explore the issue of issuing crypto-assets as a source of alternative financing for business companies. Crypto-assets, such as cryptocurrencies or tokens issued through Initial Coin Offerings (ICO) or Security Token Offerings (STO), provide businesses with innovative options for raising capital, independent of traditional financial institutions. The introductory part of the article provides a general definition of traditional and alternative sources of capital acquisition for business companies, along with the related legal regulations. In the subsequent section, the authors focus in more detail on defining crypto-assets and their specific classification. Special attention is given to crypto-assets (cryptotokens) that are not subject to legal regulation. In this context, the article seeks to answer whether, under the current regulatory framework, a business company can offer crypto-assets freely, that is, outside the regulatory scope of the MiCA regulation or other legal provisions. Finally, the authors also address the process of Initial Coin Offerings and its safer alternative, Security Token Offerings. Their aim is to highlight the advantages, disadvantages, and other associated risks linked to this form of capital acquisition.

Keywords: *crypto-assets, cryptotokens, alternative forms of financing, initial coin offerings, security token offerings*

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SELPREFERENCING PRACTICES OF ONLINE PLATFORMS

ABSTRACT

The present paper deals with the so-called self-referential practices of online platforms, which can be perceived negatively from a competition law perspective. As the previous decision-making practice of national competition authorities and the European Commission shows, anti-competitive self-referential practices of online platforms have been sanctioned by standard competition law instruments. The currently applicable Digital Markets Act, which defines new obligations for online platforms that are in the position of gatekeepers, will in our opinion have a significant impact on the decision-making practice of the competent competition authorities. The aim of the paper is to compare the assessment of self-referential practices by standard competition law institutions and the assessment of these practices under the Digital Markets Act. In this contribution we intend to test the scientific hypothesis that the Digital Markets Act targets undesirable self-preferencing practices more effectively and will assist in eliminating those that are detrimental to the well-functioning of digital markets.

Keywords: competition law, Digital Markets Act, online platforms, selfpreferencing practices, abuse of dominant position

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**NOVELTIES IN THE LEGAL REGULATION OF APPEAL IN
ADMINISTRATIVE DISPUTES - CROATIAN, SLOVENIAN AND
HUNGARIAN EXPERIENCES**

ABSTRACT

*As a key legal means of reviewing legality and one of the most widespread instruments of legal protection of citizens, an appeal against decisions of courts and other bodies stands out. Within the framework of administrative-judicial control in Croatia, the legal regulation of appeals did not exist as part of the system of legal remedies for a long time. The legal regulation of appeals in administrative disputes as a regular legal remedy in Croatia appears in certain time periods (1922-1939, 1952-1977) during the historical review of the development of administrative disputes. It was precisely the lack of legal regulation of regular legal remedies against judgments of the Administrative Court of the Republic of Croatia (1991-2010) that was one of the reasons for the necessary interventions in the regulation of administrative-judicial proceedings and one of the key assumptions for harmonizing Croatian legislation with the *acquis communautaire*. Therefore, the idea of the need to introduce the possibility of challenging first-instance court decisions by appeal arose, which was achieved by the adoption of the Administrative Disputes Act in 2010. Therefore, the paper, by applying the historical-legal method, briefly refers only to the periods in which the possibility of appeal existed. Furthermore, by using the comparative method, it also briefly points out certain selected comparative-legal solutions in Slovenia and Hungary. The purpose of the paper is to analyse the current legal regulation of the institute of appeal and the appeal procedure*

according to the Administrative Disputes Act from 2024 and to highlight the innovations introduced. An overview of statistical data on appeal cases in the observed period before the High Administrative Court of the Republic of Croatia will be provided. In the paper, we will try to answer the basic questions posed by the current legal regulation.

Keywords: *appeal, administrative dispute, legal protection, organization of administrative justice*

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SOME FEATURES OF AN ADMINISTRATIVE ACT

ABSTRACT

The purpose of this paper is to analyze some features of an administrative act. We have chosen to use the term "administrative act", and not some other term, in order to preserve the connection of the term in question exclusively to unilateral (individual) administrative acts. In relation to Croatian administrative law, individual elements of an administrative act are analyzed. Then, the understanding of the administrative act in the legal systems of individual European countries and the common elements of the administrative act in Europe are discussed. Finally, the different jurisdictions are analysed, as some acts are sometimes covered by a specific approach to litigation.

Keywords: *administrative law, administrative act, judicial control*

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THE ROLE OF THE STATE ELECTORAL COMMISSION IN SAFEGUARDING DEMOCRATIC LEGITIMACY IN CROATIA: THE SOURCE OF PUBLIC (MIS)TRUST

ABSTRACT

Independent institutions, alongside the legislative bodies (such as parliaments and congresses), are critical to upholding the democratic character of political systems. This paper focuses on the role of Croatia's State Electoral Commission (SEC), arguably one of the most vital institutions, alongside the Constitutional Court, in maintaining the democratic legitimacy of the electoral process. Yet, the SEC has not been a topic of almost any research. The SEC's importance lies in its status as an independent body, which, de jure, should remain free from the influence of ruling majorities, executive power, or any external actors. This independence is ensured through the appointment of non-partisan members—experts selected based on professional competence rather than political loyalty. Furthermore, the inclusion of Supreme Court judges as ex officio members reinforces this impartiality. According to Croatian law, all members of the SEC must hold law degrees, reflecting the legal expertise required for their roles. The SEC's significance is also evident in its core tasks, which include voter education, overseeing election integrity, and proposing legislative improvements related to the electoral process. This study addresses the following research question: how do the structure, role, and activities of the SEC influence public trust (or distrust) in Croatia's electoral processes and this in democracy as well? To answer this, we analyze current and previous legal frameworks, highlight key amendments and their justifications, and assess the effectiveness of these changes in achieving legislatively defined goals. By examining the SEC's institutional framework and performance, this paper seeks to contribute to broader discussions about the impact of independent electoral institutions on democratic trust and legitimacy.

Key words: *State Electoral Commission, electoral administration, independent institutions, democratic backsliding, watchdog bodies*

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ENHANCED POWERS OF THE CONSTITUTIONAL COURT OF THE SLOVAK REPUBLIC AND NATURAL AND LEGAL PERSONS' ACCESS TO JUSTICE

ABSTRACT

The purpose of the article is to provide an insight into the expansion of the powers of the Constitutional Court of the Slovak Republic by the possibility of a natural person or legal person to submit, together with a constitutional complaint, a proposal for the Senate of the Constitutional Court of the Slovak Republic to submit to the plenary a proposal to initiate proceedings on the conformity of legal regulations that a generally binding legal regulation, its part, or its individual provision, which concerns the submitted constitutional complaint, contradicts a generally binding legal regulation of higher legal force. This power brings an expansion of the powers of the Slovak Constitutional Court in proceedings on an individual constitutional complaint. Although there are generally mostly critical voices calling for the spectrum of powers of the Constitutional Court, which is already disproportionately burdened with competence, not to be further increased, it can be assumed that the outlined change will contribute to expanding access to justice for natural persons and legal persons. The change in question will create a certain procedural corridor that will allow complainants to challenge legal regulations that concern their individual cases and that they simultaneously believe contradict hierarchically higher legal regulations.

Keywords: *Constitution, Constitutional Court, constitutional complaint, legal compliance proceedings*

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AUSTRALIA-TUVALU “FALEPILI UNION” TREATY: IMPLICATIONS FOR INTERNATIONAL LAW

ABSTRACT

On 28 August 2024, the so-called "Falepili Union" Treaty between Australia and Tuvalu, signed by the two state parties on 9 November 2023, has entered into force. This treaty is significant in that it is the first international legally binding agreement related to the problem of small Pacific island states facing the loss of territory and other existential problems due to the climate change-induced sea level rise. The "Falepili Union" Treaty regulates climate cooperation between the two state parties, enabling human mobility with dignity for citizens of Tuvalu to Australia and cooperation between two states in security matters. The paper considers several important implications of this Treaty for international law, of which two stand out. First, the impact of this Treaty on international law on statehood is analyzed. With its provision on preserving the sovereignty and statehood of Tuvalu, this Treaty marks the possible beginning of a change in state practice regarding possessing territory as one of the necessary elements of statehood and, related to that, changing of the relevant norm of general customary international law. Second, the paper analyses the influence of the Treaty's so-called "human mobility pathway" of Tuvaluans to Australia on the development of a new category of people in international law forced to move from their homes/states which is already in progress. This new category should take into account the specific circumstances of climate migration that would give them adequate rights and protection in the host states.

Keywords: *“Falepili Union” Treaty, international law, climate change, statehood, migration*

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THE ROLE OF ASSOCIATIONS IN LITIGATION BEFORE THE EU COURTS FOR THE PROTECTION OF GENERAL INTERESTS

ABSTRACT

This contribution aims to analyze the fundamental right of access to justice in environmental matters, when the object of supranational litigation is a general interests defended by associations that represent supra-individual rights. The environment, a common heritage, has historically been the subject of dedicated European legislation to establish a common general framework of obligations for public authorities. However, the topic will be analyzed as a first sector that can be replicate and expanded in other field, as for example the one of digital rights in the EU. In the environmental sector, the question of access to justice it is particularly relevant considering that the interest to be protected is evidently not an individual interest, but rather a general and collective interest. While recognizing the potentially crucial role attributable to mechanisms for the protection of collective interests, the EU procedural system has not stimulated the involvement of third parties in litigation through class action mechanisms, however the proposed contribution aims to investigate the issue of the role of associations with particular reference to the role recognized to them in the procedural field by European jurisprudence to formulate hypotheses regarding the development of the EU judicial protection system. In conclusion, the considerations developed for the environmental field will be analyzed for their application in other sector of the EU policies.

Keywords: *European Law, Access to Justice, Fundamental rights, General interest, Active legitimation*

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**NEW LEGISLATIVE LANDMARKERS IN THE MATTER OF
CORPORATE GOVERNANCE**

ABSTRACT

In the context of the reform undertaken for the accession to the Organization for Economic Cooperation and Development (OECD), the new legislative package in the matter of corporate governance of public enterprises was recently adopted. The legislative package contains a number of key provisions aimed at strengthening the mechanism of good management of state-owned companies, by ensuring that any public enterprise aims to achieve profitability. Another novelty concerns the establishment of the Agency for Monitoring and Evaluation of the Performance of Public Enterprises, an institution organized and subordinate to the General Secretariat of the Government of Romania, financed by the state budget, with a fundamental role in the monitoring and coordination of public enterprises, alongside the guardianship authorities. The article aims to bring to the fore the legislative novelties in the matter, with an emphasis on the transition to the new representative legislative amendments, with the operationalization of AMEPIP.

Keywords: corporate governance; legislative changes; state companies

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**SOCIAL JUSTICE AND CHALLENGES OF MODERN SOCIETIES:
THE IMPACT OF INTERNATIONAL ORGANIZATIONS**

ABSTRACT

The challenges that modern society faces create or change the direction of its development with direct implications for the entire population. Social justice, as a synonym for equality of resources and opportunities for all people, is often the topic of various discussions and the starting point for the development of strategic documents. Each country, individually, is characterized by a specific and inherent level of development and (in)stability, conditioned by social, economic and political factors. The degree of success in this sense is difficult to measure, but it must be monitored. The idea of social justice is the basis of national development programs, as well as dialogue and cooperation between countries at the regional and international levels. The role of international organizations in advocating for social justice is crucial. Their approach, resources and influence around the world can significantly influence policies, raising awareness and promoting social justice in general. Examples of the work of international organizations can be viewed from different perspectives. From the aspect of promoting social justice, United Nations organizations, as well as many others, play an important role in establishing international frameworks and providing concrete support to the governmental and non-governmental sectors. The concept of social justice pervades Agenda 2030 and the goals of sustainable development, respecting the principle of universality, inclusion and improvement of social, economic and environmental aspects on a global level. The protection of human rights is the basis and prerequisite for reducing inequality, poverty and health protection. The following period brings new challenges in the field of achieving and striving for social justice, as well as the values that are summarized in it.

Keywords: *social justice, challenges, international organizations, sustainable development, human rights*

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RESPONSIBILITY AND PUBLIC INTEGRITY OF PUBLIC OFFICIALS' IN MODERN PUBLIC ADMINISTRATION

ABSTRACT

Given that the concept of public administration includes functions that ensure the performance of tasks of public interest, public officials have responsibility for the lawful and efficient performance of public duties. Effective implementation of responsibility principle shall underpin professional, transparent and impartial public administration operation. New European Union administrative principles are highlighting issues ranging from rule of law, integrity, responsibility, fight against corruption, human rights and public administration reform in general. The purpose of the paper is to elaborate both theoretical concept of responsibility and public integrity and its practical application, with respect to Serbian strategic, institutional and legal administrative framework. Responsibility has been viewed as a comprehensive concept in political, legal, and social sense that refers to both institutional and individual responsibility. Legal status of public officials and the scope of public authorities they perform determine type of responsibility. While the functionaries can be seen mainly as subject of political responsibility, civil servants only follow the rules of legal responsibility - disciplinary, criminal, material, etc. The paper will also elaborate essential elements of public integrity concept - adhering to the rules for combating conflict of interest in order to prevent negative effects, such as corruption in public sector. In the Introduction author emphasizes the importance of responsibility and public integrity from the perspective of national administrative concepts and actual reform trends and European Union public administration principles. The first part refers to the analysis of conceptual issues of responsibility and public integrity. The second part reveals essential elements of these principles, from the perspective of national administrative systems and European standards. The third part contains analysis of strategic, legal and institutional framework in Serbia, regarding practical application of responsibility and public integrity. The paper result with the analysis and comparison of divergent tendencies in the processes of reform of public administration. Dominant methods of scientific research are dogmatic, comparative, content analysis, statistical analysis.

Keywords: *Public administration, Public interest, Responsibility, Public Integrity, European administrative principles*

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THE ROLE OF THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE COUNCIL OF EUROPE IN STRENGTHENING NATIONAL LAW

ABSTRACT

The need for lower territorial forms of government appeared in the early fifties of the last century when the Conference of Local Authorities was founded within the Council of Europe. However, in the seventies, with the emergence of increasing regionalization, there was a need and advocacy for greater democracy of local and regional dimensions. Great recognition of local and regional democracy came in 1985 when the European Charter of Local Self-Government was adopted, while in the early nineties, the Congress of Local and Regional Authorities of the Council of Europe was established, which replaced the previous Conference of Local Authorities. Since then, the democratic aspect of the division of power into local and regional levels has been advocated increasingly in Europe. Throughout the history of the countries that signed the European Charter, how membership in Congress contributes to local and regional self-government development can be seen. Since then, the Congress has established several instruments to preserve and promote democracy at lower levels of government. To consolidate territorial democracy, and to ensure the uniform application of local and regional democracies, the Congress strengthened cooperation with member states. It established three committees that evaluate national legal frameworks, exchange good practices, and guide local and regional democracies of signatory states. At the same time, the Congress ensures the protection and respect of fundamental political and civil rights and freedoms. Delegating numerous authorities to lower territorial units means bringing the government closer to citizens. All the mentioned factors and instruments show that regional democracy is impossible without regional autonomy, and that the European Charter of Local Self-Government serves as a source of legal obligations for countries that decide to establish or reform their local and regional authorities, as well as a guideline and guiding thought for States Parties who already act according to it. By comparing different local democracies with the same key principles; such as division into municipalities, cities and counties, we can see how the proper functioning of local democracies is ensured, which represents one of the foundations for peace and stability

within the Council of Europe. All these factors contribute to one of the key fundamental values of the European Union, which is strengthening national law.

Keywords: *democracy, Congress of Local and Regional Authorities, European Charter of Local Self-Government*

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LEGAL CHALLENGES OF INVESTMENT COMPETITIVENESS IN LIGHT OF BALANCING THE FOREIGN INVESTORS' RIGHTS AND HOST STATE'S SUSTAINABLE DEVELOPMENTS

ABSTRACT

Foreign investment is regarded as a stimulating force for the economy of the host state. The today's globalized world make almost all international business as global competition. The promotion of investment and the competitiveness of foreign enterprises can trigger a conflict between investor protection and the sustainable development goals of the host state. The sustainable development goals have impacts on the foreign investment in two aspects: (i) the host state's regulatory policies; and (ii) the investor obligations in mitigating the negative impacts on the investment. Furthermore, the operation of foreign corporations significantly influence the regulatory policies of host states. Although the sustainable development objectives have been incorporated into the recent international investment treaties, legal challenges emerge when trying to balance the rights of foreign investors with the sustainable development objectives of the host state, which have not been fully explored. To maintain and enhance competitiveness for foreign investment in a sustainable manner, the provisions on sustainable development in international investment agreements and host state's regulatory policy will be particularly important. These laws and policies provide a level playing field for investors in align with sustainable development goals, which are analyzed in this paper. This paper identifies the legal challenges and examines their impacts on strengthening the investment competitiveness, taking into account both the rights of foreign investors and the host state's commitment to sustainable development.

Keywords: *Investment competitiveness, foreign investors' rights, sustainable development, regulatory policy*

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DIGITAL TRANSFORMATION AS A MEANS TO EFFICIENT CIVIL JUSTICE IN POLISH LAW

ABSTRACT

The pursuit of increasing the efficiency of the justice system is an important activity of national legislators. It should be emphasized that the COVID-19 pandemic has accelerated the digitalization of Polish civil procedure. After the start of the pandemic, the provisions on the use of IT systems were introduced into a legal act separate from the Code of Civil Procedure of November 17, 1964. Considering that the indicated act is of a temporary nature, the Polish legislator finally decided to transfer to the Code of Civil Procedure the procedural solutions using IT systems that functioned effectively during the pandemic. First of all, it is necessary to refer to the regulation contained in article 131[1a] of the Code of Civil Procedure, which introduced mandatory serving of judicial writs (e.g. notification of a hearing, judgment, justification of the judgment) for attorneys (legal representatives) solely by placing them in an electronic system called "the court information portal". The indicated court documents are no longer sent in printed form, by traditional post office. It should be emphasized that before the COVID-19 pandemic, the indicated portals were already operating in courts, but they were used only to obtain information about procedural actions taken in a civil case by the court. Another important regulation was introduced in article 151 of the Code of Civil Procedure. The provision allows for the possibility of conducting a virtual hearing using a videoconferencing system supported by the "Jitsi" software. The court may order a virtual hearing ex officio or at the request of the person who is to participate in it. It is important that the person participating in the virtual hearing (the parties, attorneys, witnesses, experts) may be anywhere, outside the court building, e.g. at home, in an office, in a law firm). The article 151 of the Code of Civil Procedure directly indicates that the conditions at the place of stay of a person participating in a virtual hearing must be in line with the dignity of the court and cannot constitute an obstacle to carrying out procedural activities with their participation. It should be emphasized that judges and secretaries who prepare the minutes of the virtual hearing are always present in the courtroom in the court building. In court practice, hybrid hearings are conducted, which consist in the fact that some people participate in the hearing via the IT system, while others come to the court building.

Keywords: *civil proceedings, digitalization of justice, electronic serving of judicial writs, court information portal, virtual hearing*

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RECOGNITION OF A PERSONAL NAME ACQUIRED ABROAD, BETWEEN NATIONAL AND EUROPEAN EXPECTATIONS

ABSTRACT

In the intertwined world in which we live today question of personal identity becomes more important than ever. One of the emergent aspects of personal identity is the personal name. In legal transactions, the name is one of the fundamental „keys“ to the identification of an individual and an indicator of the connection between the individual and their family and/or society. Therefore, the expectation that someone's personal name will be recognized in other States, especially in the State of their nationality, is not surprising. However, it is not always the case. Recognition of a personal name depends on private international law rules of the requested State which, often, are not perfect. Sometimes may even lead to the non-recognition of a name of their own nationals. Croatian law is one of them. Despite being enacted in 2017 with the intention to grasp all of the European values, in some cases it seems to restrict the use of rights and freedoms granted to the individuals in other Member States. Such is the case with personal names. This article aims to establish whether it is acceptable and how (if needed) it can be mended.

Keywords: personal name, recognition, European law, Croatian PIL Act

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PARENTAL CHILD ABDUCTION IN THE EU

ABSTRACT

Parental child abduction happens when one parent takes a child to another country without the other parent's permission, usually during custody disputes. This issue remains a serious challenge in the European Union (EU) because it involves different legal systems that must work together, often leading to delays and inconsistent rulings. This paper explores the legal and practical difficulties of handling the cases of child abduction, focusing on existing legal frameworks, and the protection of children's rights. The EU relies on key legal tools, such as the Hague Convention on the Civil Aspects of International Child Abduction (Hague Convention, 1980) and the Brussels IIb Regulation (2019/1111), to resolve international abduction cases. These laws are designed to ensure that children are returned quickly to their country of habitual residence while protecting their rights. However, differences in how courts interpret terms the best interests of the child and grave risk of harm can cause delays and legal uncertainty, making enforcement difficult. A clear example of these challenges is the Mansour v. Slovakia case, where Slovak authorities failed to enforce the return of a child taken from Ireland. The European Court of Human Rights (ECtHR) ruled that Slovakia's delays violated the father's rights, showing how slow legal processes can unfairly decide custody disputes. To provide a broader perspective, this paper compares Slovakia's child abduction statistics with chosen EU countries and explains key terms such as child abduction, child maintenance, best interest of child to clarify their impact on international family law cases.

Keywords: Child Abduction, Hague Convention, Best Interest of Child, Regulations, Case of Slovakia

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THE FAMILY RECONSTRUCTED: BALANCING ADULT AUTONOMY AND CHILDREN'S RIGHTS IN MODERN FAMILY LAW

ABSTRACT

This study critically examines the evolution of family law and its transformation in response to contemporary societal shifts. Once anchored in principles that prioritized stability, intergenerational continuity, and the protection of children, modern family law increasingly emphasizes adult autonomy, equality, and personal fulfillment. Legal reforms such as the liberalization of divorce, the recognition of diverse family forms, and the rise of assisted reproductive technologies have redefined marriage and filiation, often prioritizing individual rights over relational responsibilities. The growing trend of "adult-centrism" in family law challenges the ability of legal systems to fulfill their protective role. This paper calls for a recalibration of legal doctrines to balance adult rights with those of children. This analysis contributes to the ongoing dialogue on how family law can navigate the intersection of legal pluralism, technological advancement, and cultural change without compromising its foundational commitment to protect the most vulnerable—our children.

Keywords: family law, children's rights, adult autonomy, best interests of the child, marriage, divorce, parentage, UN Convention on the Rights of the Child, legal recognition of family structures, reproductive rights, child commodification

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PROTECTED BY ARTICLE 56 TFEU'S DOME? NAVIGATING THE BORDERS OF INTRA-EU POSTING OF THIRD-COUNTRY NATIONALS

ABSTRACT

This contribution addresses the intra-EU posting of third-country national (TCN) workers who are lawfully residing and employed in a 'sending' Member State of the EU/EEA. It is essential to note that unlike other forms of intra-EU labour mobility, posted workers do not move within the EU in their own capacity, as they are not entitled to any direct right to free movement there. By virtue of this legal mechanism, TCN workers may be posted by posting entrepreneurs within the EU/EEA, despite such workers' inability to personally exercise the right to free movement of workers, which is reserved for Union / EEA citizens. Nonetheless, they benefit from the rights conferred by the Posting of Workers Directives and the Regulations on social security coordination. Moreover, the contribution demonstrates clearly that (TCN)posted workers do not intend to enter the labour market of the host Member States. It also shows that the concept of 'habitual employment' cannot be, so to say 'absolutised'. While analysing the CJEU's recent judgment in C-540/22, I come to the conclusion that the Court ruled (wrongly, in my opinion) against the explicit use of "derived right" of third-country national posted workers, as it turned to the institution of the free movement of workers (persons) instead of the one belonging to free movement of services. One could say that it nevertheless 'inadvertently' upheld such a right in case of postings for a period of under 90 days and such workers should be protected by Art. 56 TFEU's title "dome".

Keywords: Posting of workers, posted workers, third-country nationals, Court of Justice of the EU, 'derived right' of residence

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THE CHALLENGES OF APPLYING LEGAL SOLUTIONS IN JUDICIAL PRACTICE. BETWEEN THEORY AND REALITY

ABSTRACT

The application of legal solutions in judicial practice involves numerous challenges, generated by the differences between legal theory and the realities in the judicial system. This article examines the main difficulties encountered in the process of applying legal norms, such as various interpretations of legislation, the lack of unitary jurisprudence, as well as the increasing complexity of cases, and, on the background of socio-economic and technological changes. At the same time, internal factors, such as the subjectivity of magistrates and the large volume of files, as well as external influences, including social and political pressures, are analyzed. The article also discusses the negative effects of poor enforcement of legal solutions, such as a decrease in trust in the justice system, and, creating inadequate precedents and negative impacts on stakeholders and society as a whole. To overcome these obstacles, practical solutions are proposed, including simplification and clarification of legislation, continuous training of magistrates, unification of judicial practice and the use of advanced technologies in support of decision-making. With this approach, the article emphasises the need for harmony between the principles of legality, fairness and adaptability, so that legal solutions are applied in a fair, coherent and equitable way in practice.

Keywords: legal solutions, differences, unitary jurisprudence, legal norms, source of law. Jel Code: K10

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LEGAL ARGUMENTATION IN THEORY AND IN COURT DECISIONS

ABSTRACT

Argumentation - as presenting claims for and against in a disputed situation, is possible for every human activity - everyday speech, philosophy, morality, law, politics, etc. We are interested in argumentation in law, and in the prototype of legal activity - judicial activity. First, we present the development of the theory of legal argumentation (which sometimes occurs in the aspect of rhetoric or dialectics), and then the demand for its application in empirical research, which would show the number, types and manner of use of arguments by judges. Here we give only some of the most significant representatives of legal argumentation. The originators of the theory of argumentation can be considered the sophists - Protagoras, Georgija, Prodicus, Hippias (5th century BC). After that, we should mention the creator of logic - Aristotle, Hermagoras from Temno (2nd century CE) and Hermogenes from Tarsus (2nd century CE). Representatives of Roman legal logic are Cicero (born 106 BC) and Quintilian (born around 35 BC). Then there is Gian Batista Vico (1688-1744). During the 17th and 18th centuries, the axiomatic-deductive model of legal argumentation emerged, and in the 19th century, the growing pluralism of evaluation became increasingly clear. In the 20th century, the most important representatives were Viehweg, Toulmin, Perelman, Habermas, Alexy, Aarnio, Peczenik, MacCormick, Habermas, Kravietz, Soeteman, Tammelo, Makao, Shütz, etc. We believe that empirical research should satisfy certain assumptions, and we highlight some here. First, one should determine the use of which arguments should be examined. Today, there are two influential lists – those of Giovanni Tarello and Chaim Perelman. Since Tarell's list contains arguments that are specifically legal and have a long tradition, we believe that this list should be used as a starting point. Second, the use of arguments in complete decisions should be investigated. We emphasize this because publications in which decisions are published often state the legal position, with minimal or no factual background. And without the factual background, we cannot fully understand the argumentation. Third, the argumentation in decisions of courts of all levels should be investigated, and not, as is done in publications, which cite only the argumentation of higher courts. Higher courts act on legal remedies and address only the issues that are stated in the legal remedies.

Keywords: *argument, argumentation, Tarell's list of arguments, complete court decisions, multi-level decisions*

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**RECONCILING BLACK LETTER LAW WITH JUDICIAL PRACTICE:
ENVIRONMENTAL FAIRNESS IN RESOLVING NEIGHBOUR
DISPUTES CAUSED BY AIRCRAFT NOISE**

ABSTRACT

The aim of the paper is to consider environmental justice in a conflict situation caused by incompatible uses of neighbouring land. The study focuses on a large and strong entity, namely the airport, whose commercial operations generate noise externalities, and on numerous and institutionally weaker entities, namely the residents, who utilize their landed estates. We illustrate the neighbour conflict with the case study of Katowice - Pyrzowice (KTW). We analyse and assess the boundaries of the required protection of property in the light of environmental justice. To this end, the legal concept of immissions (non-trespassory invasions, nuisance) is supplemented by the economic category of externalities. We concentrate on the legislative regulation of the conflict and analyse its theoretical foundations as well as its actual implementation. We show how the improper distribution of compensation claims or unfair procedures as well as the failure to acknowledge the residents' views prevent resolving or at least curtailing the neighbour conflict. In the above context, we study restorative justice by analysing and evaluating unique, empirical data on the entirety of residents' compensation claims and settlements filed in the KTW case. After describing black letter law we identify and analyse a systemic error in its implementation by the Polish judiciary. We analyze the ineffectiveness of the law in force, shown by an increase in social costs and a decrease in social welfare. In conclusion, we propose coordinating the criteria of efficiency and (environmental) fairness. Employing these criteria when devising and implementing regulation is necessary to guarantee that the interests of all stakeholders in the conflict are taken into account. This is also indispensable to ensure that courts decide on the object and scope of compensation according to black letter law and not only in the context of economic efficiency and the market. Our analyses should allow to indicate principles of devising and

implementing legislative interventions in housing markets operating in the vicinity of public infrastructure. They should additionally facilitate the proper application of the law. Our conclusions will also show how basic private law concepts, such as property, compensatory liability and the notion of loss, cannot be distorted when planning and implementing a legislative attempt to resolve a particular neighbour conflict involving public infrastructure operations.

Keywords: *immissions, property, compensation, airport, intervention*

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LIABILITY FOR DAMAGE CAUSED BY ARTIFICIAL INTELLIGENCE IN COMMERCIAL RELATIONSHIPS

ABSTRACT

This paper examines the legal framework for liability arising from artificial intelligence (AI) systems in commercial relationships within the Slovak Republic and the European Union. It analyzes the adequacy of current regulations in addressing the unique challenges posed by AI implementation in business contexts. The study hypothesizes that existing legal frameworks lack the necessary flexibility and specificity to effectively cover all aspects of AI-induced damage liability. The research compares the objective liability approach in the Slovak Commercial Code with the proposed EU Directive on AI Liability, which introduces a rebuttable presumption of causality. Through critical evaluation, the paper identifies potential legislative gaps and their implications for legal certainty and stakeholder protection. The study proposes solutions to address these gaps, including the creation of specific AI liability provisions within the Commercial Code. These recommendations aim to balance legal certainty and protection for injured parties with support for AI innovation. The paper contributes to the ongoing discourse on AI-related legal challenges in commercial relationships and provides a foundation for future legislative developments in this rapidly evolving field.

Keywords: artificial intelligence, liability, commercial law, EU Directive, legal framework

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GREENWASHING IN TOURISM: LEGAL CHALLENGES AND CONSUMER PROTECTION AGAINST UNFAIR COMMERCIAL PRACTICES

ABSTRACT

While tourism sector had been strongly hit by the COVID-19 pandemic, it has already commenced recovering and is entering a new era bringing about changes, challenges, and the emergence of new travel trends. Silent tourism, slow tourism, regenerative tourism, staycation, transformative travel, experience tourism, community-based tourism, back-of-house tours, shoulder season travel, are only a few of them that will carve out the main features of tourism industry in the future. Since most of these trends are strongly related to sustainable tourism, travel and hospitality, tourists as consumers are particularly exposed to greenwashing and other controversial practices. In this regard, the EU Green Transition Directive and the Proposal for a Green Claims Directive have already triggered the process of re-thinking the concept of sustainability in the field of tourism, since some of the international standards serving as a tool to evaluate the sustainability of tourist destinations and service providers are already criticized for being outdated (e.g. the Criteria issued by the Global Sustainable Tourism Council). This paper aims to analyse the emerging trends in tourist behaviour whereas it focuses on unfair commercial practices related to greenwashing and other potentially disputed practices. Furthermore, it takes a closer look at the sustainable tourism labels that are gaining an increasing role in attracting tourists. In this regard, it is argued that the EU Green Transition Directive and the Proposal for a Green Claims Directive lack a clear guidance as to the criteria for assessing tourist destinations and tourist service providers as “green”, “sustainable” etc. While generic environmental claims such as “green”, “eco-friendly”, “climate friendly” etc. are generally forbidden according to the EU Green Transition Directive unless they fulfil the requirement of a “recognised excellent environmental performance relevant to the claim” which is rather strict, such claims are - on the other hand - subject to a rather vague criteria if they are included on a sustainability label. While travaux préparatoires remain silent on this issue, it is questionable whether such distinction is adequate. This is all the more so if sustainability standards to which a particular certification scheme refer, turn out to be outdated and may finally mislead consumers. This has inter

alia turned out to be problematic in the ongoing process of modernisation of the “Slovenia Green” ecolabel issued to tourist destinations and tourist service providers by the Slovenian Tourist Board. In this regard, the paper finally addresses the difficulties related to sustainability or environmental labels that might emerge when applying the EU Green Transition Directive and the Green Claims Directive in practice.

Keywords: *unfair commercial practices, consumer protection, greenwashing, EU law*

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THE ANTHROPOCENTRIC PARADIGM OF ARTIFICIAL INTELLIGENCE REGULATION IN EUROPEAN UNION LAW

ABSTRACT

This article examines the specific characteristics of the European Union's regulatory framework for artificial intelligence (AI), which stands out among global strategies due to its human-centric approach. It first focuses on conceptualizing the notion of “artificial intelligence”. Subsequently, it identifies the sources of risk and potential threats associated with AI applications that justify the need for its regulation. The next section analyzes the fundamental principles of the EU regulatory model, which is based on a balanced approach and the promotion of trustworthy AI. Furthermore, the article explores the key legal mechanism introduced under the AI Act to safeguard values and fundamental rights deemed particularly significant by the EU legislator. Finally, the article presents concluding remarks on the European Union’s approach to AI regulation.

Keywords: Artificial Intelligence, AI Act, European Union, Public Regulation of AI, European approach to AI

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ARTIFICIAL INTELLIGENCE IN COMPANY LAW: MORE THAN SOFTWARE?

ABSTRACT

We are witnessing the growing application of Artificial Intelligence (AI) across all areas of human activity. The field of Company Law is no exception, as commercial companies, in the course of their operations, require sufficient amounts of accurate information in order to make sound decisions. In this context, the issue of business decision making arises at multiple levels — ranging from routine operational decisions to fundamental entrepreneurial choices that may have long-term and significant effects on the company's survival and development. In the European Union, the long-anticipated AI Act has entered into force. It addresses certain legal questions associated with the use of AI technologies. This paper explores the technological background of AI and considers the legal implications of situations where a company's management delegates decision-making authority to an algorithm. Any automation of decision-making processes not subject to human oversight and control must be approached with great caution. In the use of AI, the management must always act with due care. This obligation remains in force regardless of the growing trend toward so-called Algorithmic Management. This paper provides an overview of the current regulatory framework and analyzes the EU AI Act, including the issue of legal classification of AI systems. The Act regulates which areas of human activity may be subject to restrictions or prohibitions on the use of AI, a question directly relevant to the field of Company Law. Finally, the paper offers concrete recommendations for legally acceptable use of AI in corporate practice.

Keywords: Artificial intelligence (AI), Liability of directors, EU AI Act, Entrepreneurial decision, Legal liability

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SLOVAK PRIVATE AND PUBLIC LAW IN DIGITAL SERVICES – A TENTATIVE ROMANCE

ABSTRACT

This paper analyzes the distinctions between private and public law in the context of digital services and the use of electronic signatures, with a focus on Slovakia's approach under the eIDAS regulation. Despite eIDAS regulation, Slovakia has adopted a differentiative approach to digital services in public and private law. On one hand there is robust regulation of e-governmental services standing against a lightly regulated requirements in private law. While this differentiation is appropriate, it raises two significant challenges. First, both the e-government legislation and the Civil Code deviate from eIDAS standards in their treatment of electronic signatures. Second, these frameworks presuppose a clear separation between public and private law, which is paradoxical given their mutual reliance on state-mandated e-IDs and certificates. This creates confusion regarding which type of electronic signature or seal should be used for specific electronic services. The COVID-19 pandemic accelerated the need for digital solutions, prompting the government to extend e-government services to certain private law matters. This pilot initiative proved successful and led to the expansion of private law matters run on e-government services. However, these private law cases are invariably tied to public law services within the framework of “life situation” scenarios. For instance, founders can electronically conclude a shareholder agreement via e-government services as part of the process of registering a limited liability company. Notwithstanding that, there are no e-government services available for managing shareholder meetings or amending founding documents once the company is registered. As another example every citizen and legal resident has an official electronic mailbox. However, this electronic mailbox can be used only for communication with public and municipal bodies. On the other hand, certain business, such as banks or mobile networks operators, are granted access to the electronic Register of Natural Persons maintained by the Ministry of the Interior for customer verification and updates. The boundary of private law matters under e-government, the extent to which businesses can leverage these services, and the rules governing their use remain ambiguous. The aim of this paper is to analyze the deficiencies in the legal regulation of electronic signatures in both private and public law matters, as well as the ambiguity surrounding the extent to which

private matters are permitted on e-government services, which continue to pose significant challenges to Slovakia's digital public and private services.

Keywords: *electronic signatures, e-government services, Slovakia*

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HOW BIG DATA AND AI CHANGED FISCAL (FORENSIC) INVESTIGATION

ABSTRACT

The paper will try to address the challenges of using AI in Forensic investigation, targeting fiscal crimes. The present state of facts is characterized by the constant and intensive digitalization of accounting and financial report activities of the taxpayers. In this respect we will argue that there are certain issues concerning the utilization of AI in accounting and the financial reporting of taxpayers and, at the same time, certain aspects that will affect the fiscal forensic investigation in the case of tax (financial) crimes. Furthermore, we will try to point out the connection between these particularities. In the end we will include a view of the Romanian experience in this field and a few remarks as proposal for future solutions.

Keywords: Tax crimes, AI, Forensic Investigation

CIP - Katalogizacija u publikaciji
SVEUČILIŠNA KNJIŽNICA U SPLITU
UDK 34(062)(048)

INTERNATIONAL Scientific Conference "Law, Legality, Justice and
Jurisprudence Modern Aspects and New Challenges" (2025; Split)
Book of abstracts / International Scientific Conference "Law, Legality,
Justice and Jurisprudence - Modern Aspects and New Challenges";
editors Željka Primorac, Ranka Jeknić. - Split : Faculty of Law, University of Split, 2025.

ISBN 978-953-8116-49-0
1. Primorac, Željka 2. Jeknić, Ranka
I. Pravo -- Zbornici II. Pravo -- Knjiga sažetaka
200120047