

DNY PRÁVA  
– 2012 –  
DAYS OF LAW

Masarykova univerzita  
Brno, 2012



## CONTENTS

---

---

<b>Anti-discrimination Act Three Years After</b>	<b>33</b>
<b>Ján Čipkár</b>	
Globalization, equality and the prohibition of discrimination . . . . .	34
<b>Zdeňka Gregorová</b>	
Contracts of Work and Equal Position of Employees . . .	35
<b>Gabriela Halřřová</b>	
Unequal position (diskrimination) of self-employed persons – the choice of the amount of family benefit . . . . .	36
<b>Martin Hapla</b>	
The Prohibition of Discrimination as a Component of the Right to Equal Access to Public Office . . . . .	37
<b>Lukáš Horňák</b>	
The equal treatment in the area of remuneration for work done compared with the Polish legislation . . . . .	38
Aging of the Labour Market versus No Discrimination Based on Age . . . . .	39
<b>Jana Komendová</b>	
Who Is Protected against Discrimination in Labour Relations? . . . . .	40
<b>Jan Petr Kosinka</b>	
Application of the Anti-discrimination Act for a public offer of privately owned apartments . . . . .	41
<b>Ilna Kostadinovová</b>	
The prohibition of age, gender or sexual orientation discrimination in labour law and social insurance law relations	42
<b>Petr Krátký</b>	
Justice as the fundament of the state and selected problems of so call anti-discrimination legislation . . . . .	43
<b>Jana Kvasnicová</b>	
Prohibition of Discrimination in the Czech Consumer Law	44
<b>Zuzana Magurová</b>	
Gender equality in Slovak anti-discrimination legislation	45

---

---

<b>Aibeniz Mamedova</b>	
The Institute of Social partnership is one of the tools of the contractual regulation of labor relations . . . . .	46
<b>Patrik Matyášek</b>	
Selected Issues of Indirect Discrimination on Grounds of Disability . . . . .	47
<b>Petra Melotíková</b>	
Legal Education and the Discrimination – Short Comparison of the USA and the Czech republic . . . . .	48
<b>Josef Montag</b>	
An Analysis of Gender Gap Using Sexual Orientation . . . . .	49
<b>Lucie Obrovská</b>	
The Public Defender of Rights activities as „equality body“ in the area of equal treatment: three years after . . . . .	50
<b>Jan Pinz</b>	
The meaning of axiom of equality and justice in the conception of discrimination and anti-discrimination . . . . .	51
<b>Harald Scheu</b>	
The prohibition of discrimination and the protection of minorities . . . . .	52
<b>Tereza Skarková</b>	
Positive Action Measures in International and European Context and Their Impact on the Czech Republic . . . . .	53
<b>Martin Sobotka</b>	
Case study – Discrimination In Recruitment . . . . .	54
<b>Jaroslav Stránský</b>	
Discrimination and Unequal Treatment Regarding Care of Employees . . . . .	55
<b>Jiří Šamánek</b>	
Reasonable accomodation for persons with disabilities . . . . .	56
<b>Eva Šimečková</b>	
Breaks for Breastfeeding – claim of both women and men? . . . . .	57
<b>Martin Šmíd</b>	
Contracts for work performed outside employment and the principle of equal treatment . . . . .	58

---

<b>Martin Turčan</b>	
Several thoughts on different treatment . . . . .	59
<b>Nadežda Vaculíková</b>	
Jurisprudential aspects of discrimination . . . . .	60
<b>Zdeňka Vaňková</b>	
Sexual orientation versus discrimination . . . . .	61
<b>Miloš Večeřa</b>	
Tolerance and the principle of equality as a prerequisite of non-discrimination . . . . .	62
<b>Jan Wintř</b>	
Interpretation of the Principle of Equality and Risks for the Separation of Power . . . . .	63
<b>Hana Zemanová Šimonová</b>	
The Judicial Means of Protection against Discrimination in Employment Relations . . . . .	64

---

---

<b>"Bermuda Triangle" of the Commercial Law II</b>	<b>65</b>
<b>Josef Bejček</b>	
Quod licet rei publicae, non licet bovi . . . . .	66
<b>Lukáš Cisko</b>	
Legal nature of the institute quality goods in the light of liability for defective performance . . . . .	67
<b>Kristián Csach</b>	
Bermuda triangle of commercial law making . . . . .	68
<b>Lenka Doubravová</b>	
Silence in contractual obligation . . . . .	69
<b>Monika Gazdová</b>	
Wrongful trading . . . . .	70
<b>Bohumil Havel</b>	
Busines mishap . . . . .	71
<b>Ondřej Hruďa</b>	
Conditions for comperative advertising . . . . .	72
<b>Ján Husár</b>	
Obligation to Contract . . . . .	73
<b>Michal Juhás</b>	
Trade negotiations in relation to changes of the value added tax act . . . . .	74
<b>Josef Kotásek</b>	
Contra proferentem crossing the frontiers of immanency . . . . .	75
<b>Jaromír Kožiak</b>	
A few heretical remarks on shareholder's duty to provide his contribution into share capital of a public limited company . . . . .	76
<b>Konstantín Lavrushin</b>	
Black Swans and Changes of Circumstances in the New Civil Code . . . . .	77
<b>Ivo Macek</b>	
Concessions by current and future legislation . . . . .	78
<b>Kamil Nejezchleb – Zuzana Tonarová</b>	
Více ekonomický přístup v soutěžním právu a jeho reálné promítání do soudní praxe . . . . .	79

---

<b>Alica Obertová</b>	
Lease of Non-Residential Premises – Selected Issues . . .	80
<b>Dana Ondřejová</b>	
Selected Vindictory Institutes in Contractual Law according to the New Civil Codes or New Deadly Stream in Bermuda Triangle? . . . . .	81
<b>Jana Petrželová</b>	
Pre-contractual liability . . . . .	82
<b>Alena Pokorná</b>	
Principle of Persistence of the Trade Name in the Czech and German Law . . . . .	83
<b>Radek Ruban</b>	
Několik teoretických postřehů k přijaté rekodifikační osnově	84
<b>Josef Šilhán</b>	
Competitive Relationship between Intention of the Legislator and the Wording of the Law? . . . . .	85
<b>Zuzana Tonarová – Kamil Nejezchleb</b>	
More economic approach in competition law and its factual reflection in court practice . . . . .	86
<b>Paweł Zdanikowski</b>	
European company law as an instrument for gender equality? Comments on the qualifications of the company board members and EU legislation policy. . . . .	87

---



---

<b>Biological and Social Parentage versus Legal Parentage</b>	<b>89</b>
<b>Stanislav Bruncko</b>	
Where is hidden in the law biological or social parent? . . . . .	90
<b>Martin Hamřík</b>	
The new normal? . . . . .	91
<b>Daniel Hanuš – Senta Radvanová</b>	
Commercialization of parenthood . . . . .	92
<b>Michaela Janočková</b>	
Rights of custody pursuant to Haag Child Abduction Convention from the view of current court practice and de lege ferenda . . . . .	93
<b>Martin Kornel – Ondřej Šmíd</b>	
Missed Opportunities in New Civil Code in Relation to Parentage . . . . .	94
<b>Anna Kováčová</b>	
The Role of parents connection with the divorce . . . . .	95
<b>Zdeňka Králíčková</b>	
The Rights of Putative Father . . . . .	96
<b>Gabriela Kubíčková</b>	
Current issues of determining paternity . . . . .	97
<b>Petronela Luprichová</b>	
The DNA Test and Determination of the Parenthood . . . . .	98
<b>Bronislava Pavelková</b>	
Changes proposed to adoption rules in Slovakia . . . . .	99
<b>Lukáš Prudil</b>	
Rights of family members in medical care . . . . .	100
<b>Daniel Hanuš – Senta Radvanová</b>	
Commercialization of parenthood . . . . .	101
<b>Senta Radvanová</b>	
Who needs the family? . . . . .	102
<b>Monika Schön</b>	
The Limitation of Period for Denying of Legal Paternity . . . . .	103
<b>Kateřina Smolíková</b>	
Disinterest in new Civil Code . . . . .	104
<b>Ondřej Šmíd</b>	
bude doplněn . . . . .	105

---

**Anna Hořínová**

Current and future perspectives of surrogate motherhood  
in the Czech Republic . . . . . 106

---

<b>Comprehensive Reform of Private Law</b>	<b>107</b>
THE UNPREDICTABILITY IN THE NEW ROMANIAN CURRENT CIVIL CODE REGULATION . . . . .	108
<b>SEVASTIAN CERCEL</b>	
Respect owed to the deceased human being: Aspects of its regulation in the New Romanian Civil Code . . . . .	110
<b>Ján Círák</b>	
An Attempt at New Perspective on the Concept of Per- sonal Rights . . . . .	111
<b>David Dvořák</b>	
Several considerations on conclusion of contracts follow- ing the tender procedure according to the public con- tracts act . . . . .	112
<b>HANY ELMANAILY</b>	
The Corporate social responsibility in supporting educa- tion, scientific research and training . . . . .	113
<b>Miloslav Hrdlička</b>	
Distance electronic contract – selected aspects . . . . .	117
<b>Jakub Juřena</b>	
Selected Issues of Impacts of the New Civil Code in the Sphere of the Insolvency Law . . . . .	118
<b>Alexandra Kotřecová</b>	
The story about stray paragraphs or as the procedural rule meets the substantive rule . . . . .	119
<b>Pavel Koukal</b>	
Object of Civil Law Relations in the new Civil Code . .	120
<b>Ingrid Kovářová Kochová</b>	
bude upřesněn . . . . .	121
<b>Silvia Lattová</b>	
Protection of the notes and coins in the virtual reality .	122
<b>Martin Lebeda</b>	
Relative ineffectiveness . . . . .	123
<b>JUDr. Jakub Löwy</b>	
The story about stray paragraphs or as the procedural rule meets the substantive rule . . . . .	124

---

**Jan Mauric**

Joint property of the spouses – yesterday, today and tomorrow . . . . . 125

**Martina Mušálková**

How Clear is the "Clear Intent of the Legislator or the Meaning of the Law"? Reflections on Interpretative Legal Norm. . . . . 126

**Tereza Novotná**

Difficulties of Judicial Interpretation and Application of the new Civil Code . . . . . 127

**Edmond Gabriel Olteanu**

The extra-patrimonial rights of the person from the perspective of the new Romanian Civil Code . . . . . 128

**Marián Rozbora**

Category of reasonableness in new civil code . . . . . 130

**Jiří Slováček**

Transfer of ownership by a non-owner in the New Czech Civil Code . . . . . 131

**Jozef Štefanko**

Protection of a surety's subrogation right in comparative perspective . . . . . 132

**Vlastimil Vitoul**

Trust Fund and its Position in the Czech Legal Environment 133

---

<b>Criminal and Procedural Alternatives in Individual and Collective Criminal Law</b>	<b>135</b>
<b>Pavel Biriukov</b>	
Criminal liability of legal persons in Italy . . . . .	136
<b>Lucie Boledovičová</b>	
Electronic monitoring as a means to reduce prison population . . . . .	137
<b>Szilvia Dobrocsi</b>	
Procedural issues regarding the criminal liability of legal persons in Hungary . . . . .	138
<b>Libor Dušek</b>	
The impacts of the fast-track procedure on crime and criminal procedure . . . . .	139
<b>Markéta Filipová</b>	
Plea bargaining as a new special form of criminal procedure	140
<b>Karol Hrádela</b>	
The law on criminal liability of legal persons and and affair of Mr. Rath. . . . .	141
<b>Miriám Hrušková</b>	
Educational measures as a category sui generis system of alternative penalties applicable to juvenile criminal . . .	142
<b>Michal Hvozda</b>	
Application Problems in the Fast-Track Procedure . . .	143
<b>Lenka Jamborová</b>	
Perspectives of the Future Using of Criminal Warrant as the Traditional Procedural Alternative . . . . .	144
<b>Věra Kalvodová</b>	
Conditional Release – an Alternative to Serving Prison Sentence . . . . .	145
<b>Jana Klesniaková</b>	
Chosen procedural alternatives in criminal law from the point of view of compensatory damages . . . . .	146
<b>Nurgul Konarbayeva</b>	
Criminological anthropology during the dynamic integration of scientific knowledge (Based on the records in the Republic of Kazakhstan and the Russian Federation). .	147

---

---

<b>Alena Kristková</b>	
New Concepts Inspired by Common Law in the Czech Criminal Procedure . . . . .	151
<b>Andrey Kudryavtsev</b>	
Theoretical and practical problems of introduction of crim- inal liability of legal entities in Russia . . . . .	152
<b>Jana Kursová</b>	
Plea bargaining in Czech criminal law and its problematic moments . . . . .	155
<b>Jozef Medelský</b>	
Suspended sentence of imprisonment with probation patrol	156
<b>RUXANDRA RADUCANU</b>	
New regulations on the sanctions applicable to minors in the new Romanian Criminal Code . . . . .	157
<b>Tomáš Sobek</b>	
Punishment as Subjective Experience . . . . .	158
<b>Dominika Strigáčová</b>	
Family group conferences as an alternative to criminal procedure . . . . .	159
<b>Filip Ščerba</b>	
Procedural Alternatives and their Influence on Using of Alternative Punishments . . . . .	160
<b>Kateřina Štrejtová</b>	
The Agreement on Guilt and Punishment and Medical Personnel Crime . . . . .	161
<b>Gulnur Yensebayeva – Gulnur Tuleubayeva</b>	
MONEY LAUNDERING AS A FORM OF TRANSNA- TIONAL ORGANIZED CRIME . . . . .	162
<b>Gulnur Tuleubayeva – Gulnur Yensebayeva</b>	
SOME FORMS OF TRANSNATIONAL ORGANIZED CRIME . . . . .	163
<b>Ladislav Vlachovič</b>	
Agreement between the prosecutor and defence . . . . .	164
<b>Gulnur Yensebayeva – Gulnur Tuleubayeva</b>	
MONEY LAUNDERING AS A FORM OF TRANSNA- TIONAL ORGANIZED CRIME . . . . .	165

---

---

<b>Gulnur Tuleubayeva – Gulnur Yensebayeva</b>	
SOME FORMS OF TRANSNATIONAL ORGANIZED CRIME . . . . .	166
<b>Jan Zûbek</b>	
A criminal order issued regardless of ascertained facts of a case . . . . .	167

---

---

<b>Current (Legislative and Application) Questions of Administrative punishment</b>	<b>169</b>
<b>Jozef Bandžak</b>	
Criminal administrative proceedings of legal person . . .	170
<b>Róbert Bardáč</b>	
Administrative punishment in recent decision-making of the Council for Broadcasting and Retransmission . . . .	171
<b>Helena Bartáková</b>	
The Concept of a Single Economic Unit and Liability for the Infringement of Competition Law . . . . .	172
<b>Lenka Bursíková</b>	
Administrative Punishment after Zolotukhin vs. Russia Decision . . . . .	173
<b>Anamaria Cristina Cercel</b>	
Considerations on the administrative punishments in the Romanian legal system . . . . .	174
<b>Lenka Čiháková</b>	
Disciplinary measures against prisoners . . . . .	175
<b>Zdeněk Fiala</b>	
A few remarks on the administrative offences procedure initiated on proposal . . . . .	176
<b>Kateřina Frumarová</b>	
Reform Possibilities of Decisions made in Block Proceeding	177
<b>David Hejč</b>	
Administrative delicts and requirement of legal regulation form of duties within the example of local traffic regulation	178
<b>Matej Horvat</b>	
A Fine for Inactivity of the Public Administration . . .	179
<b>Gábor Hulkó</b>	
Financial Sanction (Penalty), as a Tool of State Supervision over Territorial Self-governments According to Current Hungarian Legislation . . . . .	180
<b>Petra Humlíčková</b>	
Entities of administrative punishment in environmental law . . . . .	181

---



---

<b>Jana Jurníková</b>	
bude doplněno . . . . .	182
<b>Ivo Keisler</b>	
(Non)sufficiency of the range of sanctions of the disciplinary proceeding on the universities? . . . . .	183
<b>Petr Kolman</b>	
Legal Aspects of Detention of an Offender . . . . .	184
<b>Soňa Košičiarová</b>	
Administrative offences proceeding as a special kind of administrative proceeding in the proposal of the new Slovak Administrative Code Procedural . . . . .	185
<b>Veronika Kozlová</b>	
Authority of social-legal protection of children and instruments of influence on parents. . . . .	186
<b>Jakub Král</b>	
Legitimate Expectations in the Process of Sanction Imposing . . . . .	187
<b>Ivo Krýsa</b>	
The selected aspects of state inspection and administrative punishment in the case "Methanol" . . . . .	188
<b>Marek Kubíček</b>	
Some considerations about administrative punishment in road transport . . . . .	189
<b>Lucia Madleňáková</b>	
Is unlawfully collected sanction unjust enrichment of administrative body? . . . . .	190
<b>Michal Maslen</b>	
The principle of lawfulness and the Slovak legal regulation of administrative punishment. . . . .	191
<b>Pavel Mates</b>	
The outline of the law on offences . . . . .	192
<b>Miloš Matula</b>	
Competences of municipalities in the field of administrative penal law . . . . .	193

---

**Martina Navrátilová**

Material aspect of other administrative offenses prosecuted by territorial financial authorities . . . . . 194

**Vladimír Novotný**

Forfeiture and retention of goods in the protection of industrial property . . . . . 195

**Lukáš Potěšil**

The case law and administrative punishment . . . . . 196

**Marián Ševčík**

Competence of local government in imposing sanctions for violations of legal obligations. . . . . 197

**Jiří Venclíček**

Punitive powers of municipalities . . . . . 198

---

---

<b>European Union Law after Lisbon. European Union and International Law</b>	<b>199</b>
<b>Radoslav Benko</b>	
Extending the scope of application of the EU Charter of Fundamental rights on the background of the Court of Justice case law on the European citizenship . . . . .	200
<b>Radim Charvát</b>	
Agreement on the Unified Patent Court and its Statute as an Atypical Source of EU Law . . . . .	201
<b>Martin Janků</b>	
New rules on Comitology . . . . .	202
<b>Filip Křepelka</b>	
Bilateral treaties inside the European Union addressing issues touched by its competences – case of tax treaties	203
<b>Tamas Lattmann</b>	
European Union and nationality, citizenship and human rights – settlement of old or the opening of new disputes?	204
<b>Zuzana Melcrová</b>	
Legitimacy and Democratic Deficit in the European Union after the Lisbon Treaty . . . . .	206
<b>David Muller</b>	
European Union and foreign investment law . . . . .	207
<b>Lucie Nechvátalová</b>	
Protection of human rights of alleged international terrorists by the ECHR and the CJEU in a comparative view . . . . .	208
<b>Irena Nesterova – Arija Meikalisa</b>	
The Right to Information about the Right to Silence as EU Procedural Guarantee in Criminal Proceedings and its Impact on National Legal Systems . . . . .	209
<b>Zdeněk Nový</b>	
The State Immunity through the lens of the CJEU . . .	211
<b>Elena Podkopaeva</b>	
Principles of municipal service in the Russian Federation and in the European Union . . . . .	212

---

**Ľudmila Pošiváková**

The relationship between US and EU as members of WTO 213

**Michaela Rapčanová**

The common Security and Defence Policy after The Lisbon Treaty . . . . . 214

**Zuzana Štefanková**

Social Policy after Lisbon and Charter of Fundamental Rights of the EU . . . . . 215

**Vladimír Týč**

New Role of International Treaties in EU Law . . . . . 216

**Zuzana Žáková**International dimensions of EU competition Law . . . . . 217

---

---

	<b>219</b>
<b>Téglási András</b>	
The protection of arable land in the Basic Law of Hungary with respect to the expiring moratorium of land acquisition in 2014 . . . . .	220
<b>Helena Doležalová</b>	
Protective Zone of Grid Equipment : Selected Issues . . . . .	222
<b>Martina Franková</b>	
Uncertainties about landowner (land ownership in dispute)	223
<b>Marie Poláčková – Jakub Hanák</b>	
Planting fast-growing trees . . . . .	224
<b>Ivana Průchová – Tomáš Kocourek</b>	
Danger to road traffic originating from forest estates – a study of liability for damage . . . . .	225
<b>Michaela Konečná</b>	
Ownership of Land in the Specially Protected Areas . . . . .	226
<b>František Lipták</b>	
Alternative dispute resolution of property disputes . . . . .	227
<b>Hana Müllerová</b>	
Land Societies as an Alternative Way to Protect Soil, Flora and Fauna? . . . . .	228
Land as Object of Legal Relationships in Perspective of New Civil Code . . . . .	229
<b>Marie Poláčková – Jakub Hanák</b>	
Planting fast-growing trees . . . . .	230
<b>Klára Prokopová</b>	
The Estate as a Cultural Monument . . . . .	231
<b>Filip Schwarzenstein</b>	
The Issue of Cadastre of Real Estates and Land as an Object of Rights in Contractual Relationships . . . . .	232
<b>András Téglási</b>	
The protection of arable land in the Basic Law of Hungary with respect to the expiring moratorium of land acquisition in 2014 . . . . .	233

---

**Petr Vaculík – Jana Tkáčiková**

Competence issues in the area of qualitative soil protection 235

**Petr Vaculík – Jana Tkáčiková**

Competence issues in the area of qualitative soil protection 236

**Ondřej Vícha**Non-reserved mineral deposits as part of the land: selected issues . . . . . 237

---

<b>Law and cyber security</b>	<b>239</b>
<b>Matěj Myška</b>	
Cybersecurity in Austria – Status quo analysis . . . . .	240

---

---

<b>Public financial activity – legal and economic aspects</b>	<b>241</b>
<b>Karel Alexa</b>	
Several remarks concerning the judgment of the Constitutional Court of the Czech Republic No. I. ÚS 3244/09	242
<b>Radim Boháč</b>	
The term charge in the legal order of the Czech Republic	243
<b>Karel Brychta</b>	
-	244
<b>Karolína Červená</b>	
Tax policy versus economic efficiency during the period crisis events	245
<b>Mária Duračínská</b>	
Draft Council Directive on the Common Consolidates Tax Base compared with the procedures of determining the tax base in the Slovak Republic.	247
<b>Maciej Etel</b>	
Selected legal problems of local government units economic (entrepreneurial) activity in Poland	248
<b>Eva Indruchová</b>	
A comparison of selected national Euro Adoption Acts	249
<b>David Jeroušek</b>	
The Act on tax authorities – Basis of Financial System of The State	250
<b>David Jopek</b>	
The limits of regulation and supervision of insurance	251
<b>János Kálmán</b>	
The three-legged chair of financial stability – Reform processes in the European Union, especially to the concept of European Bankunion	252
<b>Alena Kopfová – Eva Tomášková</b>	
State regulation and its evaluation	254
<b>Dr Krzysztof Teszner</b>	
title will be announced soon	255
<b>Stanislav Kouba</b>	
Fiscal drags – legal and economic issues	256

---



---

<b>Jana Kranecová</b>	
Fiscal federalism and local charges . . . . .	257
<b>Pavlaína Kubešová</b>	
Pension funds – legal and economic issues . . . . .	258
<b>Libor Kyncl</b>	
Legal Aspects of Expenditures Reduction in Public Budgets	259
<b>Hana Marková</b>	
The potential of the constitutionalisation of budget law as part of financial law . . . . .	260
<b>Pavel Matoušek</b>	
Customs administration and control . . . . .	261
<b>Dovile Mingelaite</b>	
Legal regulation of municipal budgets' revenue in Lithuania	262
<b>Petr Mrkývka</b>	
Public Financial Activity and the Object of Legal Regu- lation . . . . .	263
<b>Kristýna Müllerová</b>	
The influence of financial activity of the state of self- governing status of municipalities . . . . .	264
<b>Lenka Němcová</b>	
Inspection of territorial self-governing units . . . . .	265
<b>Janusz Orłowski</b>	
Economic burden of tax incurred as prerequisite to de- termination of overpayment . . . . .	266
<b>Zdenka Papoušková</b>	
Subjects of the financial Activity . . . . .	267
<b>Maxim Prokoshin</b>	
The Development of the institution of tax liability in the Russian Federation. . . . .	268
<b>Peter Smuk</b>	
The Fiscal Council in the Hungarian Constitutional System	270
<b>Klára Prokopová – Dagmar Strejčková</b>	
Selected aspects of the Monument care funding . . . . .	271
<b>Tařána řpírková</b>	
The importance of local charges as municipalitie's revenues	272

---

**Dana Šramková**

Legal and Economic Aspects of the Regulation Methodology of Non-fiscal Part of the Financial Law . . . . . 273

**Eva Šulcová**

Budget of the European Union and questions on its financing . . . . . 274

**Ivan Vágner**

Modern top leadership versus modern operational leadership . . . . . 275

**Karolina Zapolska**

Economic development and investments in the Natura 2000 areas – on the example of Poland. . . . . 276

---

---

<b>Revolution and Law</b>	<b>277</b>
<b>Stanislav Balík</b>	
The Cadiz Constitution of 1812 . . . . .	278
<b>Radek Černoč</b>	
Birth of Principate – a Hidden Revolution . . . . .	279
<b>Katarína Fedorová</b>	
Modifications of the Russian judicial system after the first revolution . . . . .	280
<b>Miroslav Frýdek</b>	
Revolution in religious thinking of Romans . . . . .	281
<b>Petra Havlíčková</b>	
Kosice government programand"LittleRetributionDecree" . . . . .	282
<b>Ondřej Horák</b>	
„The root of the national administration, confiscation and allocation is in the revolution.“ „Beneš“ or Beneš-Decrees? Dual View of Confiscatory Decrees as an Expression of Continuity and Discontinuity. . . . .	283
<b>Monika Horáková</b>	
The German minority in ČSR after Black Friday . . . . .	284
<b>Jan Chudoba</b>	
Revolutionary Legislation in Soviet Russia: November 1917 to July 1918 . . . . .	285
<b>Markéta Klusoňová</b>	
Revolution and legal regulation of theater . . . . .	286
<b>David Kohout</b>	
Aspects of the so called revolutionary justice in the trials of the Nazi criminals after WW II . . . . .	287
<b>Petr Osina</b>	
Sovereignty and continuity in command theory of law . . . . .	288
<b>Karel Schelle</b>	
The National and Democratical Revolution in 1918 and the Reception of the Legal Order . . . . .	289
<b>Miroslav Frýdek- Ivana Stará</b>	
will be added later . . . . .	290

---

**Jan Šejdl**

Some aspects of the development of servitudes in Roman law . . . . . 291

**Michal Škerle**

The revolution devours its own children – the political trial with a group of Oskar Valasek et al. . . . . 292

**Jan Šmíd**

Revolutionary law and legitimacy . . . . . 293

**Jaromír Tauchen**

The most significant changes in the legal order after the establishment of the Protectorate of Bohemia and Moravia 294

**MARIUS VACARELU**

Politics and its constitutional wishes: Romanian case of presidential abeyance . . . . . 295

**Ladislav Vojáček**

Some Post-war Measures Rooted in the Period of the First Czechoslovak Republic . . . . . 296

---

---

<b>Unfication vs. regionalization vs. national codification of private international law</b>	<b>297</b>
Labyrinth of the Regionalization or Paradise of the Europeization? . . . . .	298
<b>Petr Dobiáš</b>	
The Legal Regulation of the Insurance in the new Civil Code in Comparison with the Principles of European Insurance Contract Law . . . . .	299
<b>Klára Drličková</b>	
New Trends in Application of Unified Substantive Law before Arbitrators . . . . .	300
<b>Hana Funková</b>	
Insurance Contract – from Directives to Regulation . . .	301
<b>Slavomír Halla</b>	
Protection of consumers by choice of law limitations – is the unification of conflicts of law provision sufficient? . .	302
Labyrinth of the Regionalization or Paradise of the Europeization? . . . . .	304
<b>Miluše Hrnčířiková</b>	
The Notion of Writing and Its Importance in a Global World . . . . .	305
<b>Lucia Kováčová</b>	
Lex loci delicti in defamation cases . . . . .	306
<b>Jaroslav Králíček</b>	
The Principle of Territoriality of Intellectual Property Rights in Relations with an International Element – Is It Time to Let It Go? . . . . .	307
<b>Tereza Kyselovská</b>	
Electronization as a „new“phenomenon and its influence on private international law . . . . .	308
<b>LEGAL RELATIONS INVOLVING FOREIGN ELEMENTS IN THE REGULATION OF THE NEW ROMANIAN CIVIL CODE . . . . .</b>	<b>309</b>

---

**David Sehnálek – Roman Říčka**

Methods of Regulation of International Private Law . . . 310

**Simona Trávníčková**

International element in international private law . . . . 311

---

<b>20 years after dissolution of Czechoslovakia – uniting and dividing aspects</b>	<b>313</b>
<b>Zuzana Antošová</b>	
Legislative process in the Czech Republic and Slovak Republic – mutual comparison . . . . .	314
<b>Boris Balog</b>	
The Competences and Election the President of the Slovak Republic – step back, step forward, step back . . . .	315
<b>Jana Fecířáková</b>	
Elections to the legislative bodies of the Czech Republic and the Slovak Republic – what unites us, what divides us	316
<b>Ľudmila Gajdošíková</b>	
TWENTY YEARS AFTER THE DISSOLUTION OF THE CZECHOSLOVAK FEDERATION: UNITING AND DIVIDING ASPECTS IN THE AREA OF SOCIAL RIGHTS, FIRST OF ALL IN THE SOCIAL SECURITY . . . . .	317
<b>Michal Greguška</b>	
Czechoslovakian federalism in the european context . . .	318
<b>Michal Hájek</b>	
Freedom of the Media in Czech and Slovak Republic . .	319
<b>Peter Horváth</b>	
Execution of presidential powers in Czech and Slovak republic . . . . .	320
<b>Pavol Juhás</b>	
Elections of presidents of Czech and Slovak republic . .	321
<b>Miroslav Knob</b>	
Dissolution of Federation as a Specific Aspect of EU Law Application. („Slovak Pensions“ in CCC Case Law) . . .	322
<b>Milan Kočan</b>	
The European union and together again . . . . .	323
<b>David Kolumber</b>	
Break-up of Czechoslovakia and Yugoslavia in comparative perspective . . . . .	324
<b>Zdeněk Koudelka</b>	
A Revive of a Legal Act in Bohemia, Moravia and Silesia and in Slovakia . . . . .	325

---

<b>Klaudia Marczyová</b>	
Citizenship of the Slovak Republic . . . . .	326
<b>Ondřej Moravec</b>	
Constitutional rights protection – common challenges . .	327
<b>Lucia Nedzbalová</b>	
The development of the constitutional complaint in the Czech republic and the Slovak republic . . . . .	328
<b>Martin Skaloš</b>	
The state succession after the dismembration of the Czech and Slovak Federative Republic . . . . .	329
<b>Marián Ševčík</b>	
The difference of the constitutional development after the year 1992 in relation to the separation of executive power between the President of the Slovak Republic and the judiciary. . . . .	330
<b>Richard Brix – Martin Švikruha</b>	
Elections of representatives of local and regional self- government in Czech and Slovak republic . . . . .	331
<b>Marek Vrbinčík</b>	
Models of public administration reforms in Czech and Slovak republic . . . . .	332
<b>Rostislav Vrzal</b>	
Public service television and extinction of the czechoslo- vak federation . . . . .	333
<b>David Zahumenský</b>	
How are we dealing with unlawful sterilizations of (mainly) Roma women . . . . .	334
<b>Jiří Zeman</b>	
Eight years in the EU – issues and priorities of the mem- bership of the Czech Republic and Slovak Republic, es- pecially from newspaper point of view . . . . .	335

---



**337**

PAFIFISCAL CHARGES AS A NEW INSTRUMENTS  
OF PUBLIC FINANCIAL ACTIVITY IN RUSSIA . . . 338



Section  
Anti-discrimination Act Three  
Years After

## GLOBALIZATION, EQUALITY AND THE PROHIBITION OF DISCRIMINATION

JÁN ČIPKÁR

*jan.cipkar@upjs.sk*

Univerzita P. J. Šafárika v Košiciach, Právnická fakulta

**Key words:** globalization, equality, discrimination

The constitutional imperative of equality and the prohibition of discrimination are the principal elements of modern legal systems. However, globalization processes bring about many problems, solutions to which are connected to the increasing complexity of the transition from the modern world (nation state) to a postmodern world (one ruled by multinational institutions). Will we find the theoretical and practical alternative options for economic and social development of countries or regions, for overcoming cultural differences and animosities between cultures, or will the globalized world increasingly pose a threat to the nation state and its democratic institutions, undermining the traditional political, economic and social relations, and increase tensions in the problematic dynamic between free market and democracy? What actual place do the anti-discrimination laws have in the context of these processes?

---

## CONTRACTS OF WORK AND EQUAL POSITION OF EMPLOYEES

ZDEŇKA GREGOROVÁ

The author will deal with the position of the employees, whose employment is based on contracts of work, from the point of view the principle of equal treatment and prohibition of discrimination in labour law and social security law.

---

UNEQUAL POSITION (DISKRIMINATION) OF  
SELF-EMPLOYED PERSONS – THE CHOICE  
OF THE AMOUNT OF FAMILY BENEFIT

GABRIELA HALÍŘOVÁ

*gabriela.halirova@upol.cz*

Univerzita Palackého v Olomouci, Právnická fakulta

**Key words:** diskriminace, self-employed persons, family benefit, maternity benefit, right to a benefit

bude doplněna

---

# THE PROHIBITION OF DISCRIMINATION AS A COMPONENT OF THE RIGHT TO EQUAL ACCESS TO PUBLIC OFFICE

MARTIN HAPLA

*257193@mail.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Discrimination; human rights; right to equal access to public office; public office.

This contribution to the conference is focused on the right to equal access to public office and its relation to discrimination. The author asks questions as “What is object of this right?” “To what extent can we understand the prohibition of discrimination as its ground?” or “Is really optimal the way that is the right enacted in the contemporary Czech law?” The author also analyzes actual judicature of Czech courts on this topic. In conclusion the author tries to evaluate contemporary trends and outline potential future development in this field.

---

# THE EQUAL TREATMENT IN THE AREA OF REMUNERATION FOR WORK DONE COMPARED WITH THE POLISH LEGISLATION

LUKÁŠ HORŇÁK

*210132@mail.muni.cz*

Právnická fakulta Masarykova univerzita

**Key words:** remuneration for work done, the equal treatment, the principle of equitable remuneration

Remuneration for work done may be considered as one of the most basic principles of labour law. Unequal approach can notably cause considerable harm to the rights of employees. The aim of this contribution is to clarify the application of the principle of equal treatment of remuneration for work done in respect to the Czech and Polish legislation. The author of the contribution focuses on the application of the principle of equitable remuneration for work done, which he considers to be of fundamental importance. The closing part of the contribution outlines the Polish legislation of equal treatment in the area of remuneration for work done.

---



## AGING OF THE LABOUR MARKET VERSUS NO DISCRIMINATION BASED ON AGE

**Key words:** age discrimination at work, aging of the population, employment law, Czech and EU legislation

This paper gives a view on the application of the no age discrimination at work principle with regards to demographic development and the aging of the population, and thereby also the labour force. A breakdown of the possible approaches to this fact will be provided, ranging from the protection and preference of such persons through to their being pushed aside under employment law. Light will be shed on relating Czech and EU legislation from the *de lege lata* point of view and *de lege ferenda* perspectives.

---

## WHO IS PROTECTED AGAINST DISCRIMINATION IN LABOUR RELATIONS?

JANA KOMENDOVÁ

*jana.komendova@law.muni.cz*

Právnická fakulta Masarykovy univerzity v Brně

**Key words:** Equal treatment; prohibition of discrimination; dependant activity; labour relations; employee; employer; forms of discrimination; legal means of protection against discrimination.

The paper is dedicated to the scope of application of provisions adopted with the objective of protection against discrimination in legal relations arising from performance of dependant work. With this respect, the author thinks about the scope of application of the Antidiscrimination Act and quite a strict approach to protection against discrimination within the meaning of the Labour Code providing this protection in particular to employees. Possible application of provision protecting against discrimination to other persons including employers is subjected to detailed examination.

---

# APPLICATION OF THE ANTI-DISCRIMINATION ACT FOR A PUBLIC OFFER OF PRIVATELY OWNED APARTMENTS

JAN PETR KOSINKA

*petrkosinka@seznam.cz*

Právnická fakulta MU Veveří 70, Brno 60200

**Key words:** housing market, discriminatory reason, legitimate aim, right to privacy

The Anti-discrimination Act (the ADZ) among other things prohibits a different treatment based on the enumerated criteria (race, ethnicity, nationality, sex, sexual orientation, age, disability, religion, belief or worldview) in – inter alia – the providing of goods and services when they are offered publicly. This prohibition applies to, inter alia, offers of privately owned housing. Although § 6 of ADZ provides an exception that allows different treatment based on a sex criterion in the area, if this difference in treatment is justified by a legitimate aim and means, this exception does not apply to other prohibited discriminatory criteria. In this paper I intend to focus on an interpretation, practical examples and an international background of this issue.

---

## THE PROHIBITION OF AGE, GENDER OR SEXUAL ORIENTATION DISCRIMINATION IN LABOUR LAW AND SOCIAL INSURANCE LAW RELATIONS

ILONA KOSTADINOVOVÁ

Antidiscrimination act from the year 2009 in the Czech Republic solves only definitions but there are no concrete measures to defend against discrimination. There are process tools against discrimination in other law acts. I would like to analyse Czech labour law and social insurance law from the point of view of the prohibition of age, gender or sexual orientation discrimination.

---

# JUSTICE AS THE FUNDAMENT OF THE STATE AND SELECTED PROBLEMS OF SO CALL ANTI-DISCRIMINATION LEGISLATION

PETR KRÁTKÝ  
*p.kratky@email.cz*  
IUDICIUM PRIVATUM, o.s.

**Key words:** Spravedlnost, antidiskriminační zákonodárství, racionalita, přiměřenost

Historical development of the Idea of Justice as fundamental objective and point of the State and Law. The ideological sources of contemporary anti-discrimination legislation. Some states anti-discrimination provisions rationality, adequacy and common beneficially question.

---

## PROHIBITION OF DISCRIMINATION IN THE CZECH CONSUMER LAW

JANA KVASNICOVÁ

Discrimination in the area of providing and supplying of goods and services is prohibited by both private and public law. However, the section 6 of the Consumer Protection Law on discrimination of consumers contains an administrative offence prohibiting the discrimination of consumers without even defining the meaning of the word "discrimination". In this contribution I would like to find out the possible meanings of the term "discrimination" in the said law.

---

## GENDER EQUALITY IN SLOVAK ANTI-DISCRIMINATION LEGISLATION

ZUZANA MAGUROVÁ

*usapmagu@savba.sk*

Ústav štátu a práva Slovenská akadémia vied

The paper deals with the issue of gender equality in Slovak legislation with reference to the differences in comparison with the Czech anti-discrimination legislation. Briefly describes the concept of sex, gender and discrimination. The main focus is on the legislation concerning sexual harassment, temporary special measures, burden of proof, good manners, and adequate financial satisfaction.

---

THE INSTITUTE OF SOCIAL PARTNERSHIP  
IS ONE OF THE TOOLS OF THE  
CONTRACTUAL REGULATION OF LABOR  
RELATIONS

AIBENIZ MAMEDOVA

*aibeniz.baku@mail.ru*

L.N. Gumilyev Eurasian National University

**Key words:** Social partnership; employee; employer; collective bargaining; trade unions; industrial relations.

The Institute of Social partnership is one of the tools of the contractual regulation of labor relations in the Republic of Kazakhstan. In this regard the legislation on social partnership is briefly analyzed and ways to improve it are considered. Both problems of a general nature relating to the regulation of social and labor relations through the social partnership and problems of maintenance and protection of labor rights of workers in certain sectors of the economy are identified.

---



SELECTED ISSUES OF INDIRECT  
DISCRIMINATION ON GROUNDS OF  
DISABILITY

PATRIK MATYÁŠEK

Among the selected questions of indirect discrimination on grounds of disability there will be addressed published and unpublished empiric issues of the ECHR case No. 42575/11 – Šohaj vs. Czech Republic.

---

## LEGAL EDUCATION AND THE DISCRIMINATION – SHORT COMPARISON OF THE USA AND THE CZECH REPUBLIC

PETRA MELOTÍKOVÁ

This paper deals with the issue of legal education in the area of discrimination. The authors opinion is mainly based on the experience of the study visit at Columbia Law School in New York. The issue of discrimination in the U.S. is introduced to students through clinical subjects. In the Czech Republic, such an approach is still rare. The author also addresses the question whether to incorporate discrimination problems in education of compulsory courses at law schools in the country.

---

## AN ANALYSIS OF GENDER GAP USING SEXUAL ORIENTATION

JOSEF MONTAG

An estimate of the effect of gender on wages obtained from a population sample is biased if there are differences in productivity correlated with gender and wages that can not controlled for. Since gender cannot be manipulated experimentally, there are two other natural ways to go about this issue: one can try to get richer data, or try to work with a randomly selected subpopulation with less acute problem of differences in unobserved characteristics. I pursue this side-stepping strategy and argue that gays and lesbians are such an interesting subpopulation. The estimated raw gender gap in hourly earnings among coupled gays and lesbians from 2008 American Community Survey is 11.3 log points (s.e. 0.036), which is about one third of the gap among heterosexual couples, and is similar to the gap among singles. Estimates of the gay-lesbian gender-earnings gap are insensitive to controls for human capital characteristics or occupations and industries. Most of the gap, however, evaporates when geographic location is controlled for. The point estimate is zero in some specifications (s.e. 0.032). Geography has no effect on the gap among singles, while children explain about one half of it.

---

THE PUBLIC DEFENDER OF RIGHTS  
ACTIVITIES AS „EQUALITY BODY“ IN THE  
AREA OF EQUAL TREATMENT: THREE  
YEARS AFTER

LUCIE OBROVSKÁ

*obrovskalucie@seznam.cz*

Kancelář veřejného ochránce práv

**Key words:** ban of discrimination, equal treatment, Public Defender of Rights

The contribution focuses on the most important activities of the Public Defender of Rights in the area of equal treatment and the ban of discrimination. The contribution describes especially the methodical assistance of The Public Defender to victims of discrimination, as well as the publishing of the opinions and recommendations. It describes the research activities also.

---

THE MEANING OF AXIOM OF EQUALITY  
AND JUSTICE IN THE CONCEPTION OF  
DISCRIMINATION AND  
ANTI-DISCRIMINATION

JAN PINZ

*jan.pinz@centrum.cz*

Právnická fakulta University Karlovy v Praze

**Key words:** Conception of discrimination and anti-discrimination, conditions of nondiscrimination, axiom of equality and justice.

The definition of concept of discrimination and anti-discrimination. The meaning and the function of axiom of equality and justice. The condition of nondiscrimination-the equality before the law, the equality of opportunity and the equality of considerations. The axiom of nondiscrimination and human rights.

---

# THE PROHIBITION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES

HARALD SCHEU

The study deals with the impact of antidiscrimination legislation in the context of European and international minority protection.

---

POSITIVE ACTION MEASURES IN  
INTERNATIONAL AND EUROPEAN  
CONTEXT AND THEIR IMPACT ON THE  
CZECH REPUBLIC

TEREZA SKARKOVÁ  
*t.skarkova@seznam.cz*

Právnická fakulta Univerzity Palackého v Olomouci

The positive action measures and (in)appropriateness of their use present a topic which has become more and more discussed even in the Czech Republic. The article focuses on the concept of positive action in international and European legal documents, primarily from the following fundamental twofold view – positive action as an exception to the general principle of equal treatment versus positive action as a permanent fulfillment of the principle of substantive equality. However, attention will also be paid to recent developments in this field, especially concerning the European Commission draft directive imposing gender quotas among non-executive directors of companies.

---

## CASE STUDY – DISCRIMINATION IN RECRUITMENT

MARTIN SOBOTKA  
*msobotka@centrum.cz*  
Masarykova univerzita

**Key words:** Discrimination; discriminatory practices of recruitment; labour law;

The author of the article is engaged in legal aspects of discrimination in recruitment. With the concrete judicial case he inscribes the possible discriminatory practices of the employer, and the chances of the unsuccessful expectant in the position of the plaintiff. The case, from before the anti-discriminatory act has been adopted, is compared with the contemporary legislation.

---



## DISCRIMINATION AND UNEQUAL TREATMENT REGARDING CARE OF EMPLOYEES

JAROSLAV STRÁNSKÝ

*jaroslav.stransky@law.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Equal Treatment; Discrimination; Direct Discrimination; Indirect Discrimination; Justifiable Different Treatment; Care of Employees; Employee Benefits

The employer is obliged to safeguard equal treatment and non-discrimination for his employees as regards access to employment, remuneration, working conditions, training and opportunities for career advancement. One of the specific areas in which it is necessary to address the issue of equal treatment is the care of employees. A different treatment is quite commonly identified within employers' system of vocational development and improvement of qualification. To a certain extent it is a very natural consequence of the employees' establishment of care of employees. In some cases, however, hidden or open inequalities may result out of these differences. My contribution deals with identifying where a different treatment within the care of employees may be considered justifiable and where not.

---

## REASONABLE ACCOMODATION FOR PERSONS WITH DISABILITIES

JIRÍ ŠAMÁNEK

*jirisamanek@gmail.com*

Kancelář veřejného ochránce práv

**Key words:** reasonable accomodation, persons with disabilities, indirect discrimination, European Union law

This paper focuses on the issues associated with the obligation to provide reasonable accommodation for persons with disabilities. For example, one of the problems with (only vaguely defined) obligation is, that it applies also to the area of services in the Anti-discrimination Act. Interpretational difficulties may be connected with this fact for example.

---

## BREAKS FOR BREASTFEEDING – CLAIM OF BOTH WOMEN AND MEN?

EVA ŠIMEČKOVÁ

Breaks for breastfeeding are regulated by Act No. 262/2006 Coll., Labour Code, as a right of a woman. Does also a man have the right to such a break with regard to the EU Directive and the CJEU judgment C 104/09?

---

# CONTRACTS FOR WORK PERFORMED OUTSIDE EMPLOYMENT AND THE PRINCIPLE OF EQUAL TREATMENT

MARTIN ŠMÍD

The paper deals with labour contracts performed outside employment (agreement on performance of work, agreement on work), from the perspective conformity of these institutes with the principle of equal treatment in labour law.

---

## SEVERAL THOUGHTS ON DIFFERENT TREATMENT

MARTIN TURČAN

*martin.turcan@flaw.uniba.sk*

Univerzita Komenského v Bratislave Právnická fakulta

**Key words:** diskriminácia, rozdielne zaobchádzanie, proporcionalita

In this paper author deals with several questions of "legitimate discrimination" under antidiscrimination acts of Czech and Slovak Republic.

---

## JURISPRUDENTIAL ASPECTS OF DISCRIMINATION

NADEŽDA VACULÍKOVÁ

*nadezda.vaculikova@flaw.uniba.sk*

Univerzita Komenského, Právnická fakulta

**Key words:** discrimination, Antidiscrimination Act, equality, inequality, law, Constitutional Court of the Slovak Republic, education to human rights, multiculturalism

This paper deals with fundamental theoretical bases and deliberations on concept of equality / inequality in rights and concept of discrimination. Author states bases, goals and philosophy of antidiscrimination policy, ban of discrimination in the legal system of the Slovak republic, measures on protection against discriminational conduct (education to human rights in struggle against discrimination) and equality and ban of discrimination in judicature of courts.

---

# SEXUAL ORIENTATION VERSUS DISCRIMINATION

ZDEŇKA VAŇKOVÁ

Sexual orientation versus discrimination

---

TOLERANCE AND THE PRINCIPLE OF  
EQUALITY AS A PREREQUISITE OF  
NON-DISCRIMINATION

MILOŠ VEČEŘA

Concepts of tolerance and equality, especially equality of social, lay the foundations of non-discriminatory environment.

---



## INTERPRETATION OF THE PRINCIPLE OF EQUALITY AND RISKS FOR THE SEPARATION OF POWER

JAN WINTR

In recent years, there are more and more cases before the Constitutional Court and the European Court of Human Rights, in which the main role is played by violation of the prohibition of discrimination. In some cases, however, the interpretation of the discrimination is so extensive that the court no longer pushes the legislature of one of its main tasks – as a representative body of the people to make a fundamental decisions. The distinction between different cases or situations is an inevitable part of any rulemaking.

---

## THE JUDICIAL MEANS OF PROTECTION AGAINST DISCRIMINATION IN EMPLOYMENT RELATIONS

HANA ZEMANOVÁ ŠIMONOVÁ

The Labour Code does not regulate the means of protection against discrimination and refers to the Anti-Discrimination Act, under which is it possible by a court to require the abstention of the discrimination, the elimination of the consequences of discrimination and reasonable compensation and in certain cases compensation for non-material loss. Whereas the applicability of the Anti-Discrimination Act is limited to specified discriminatory grounds, the contribution will also discuss options for approach of employees under the Civil Code and defining the differences between filing a claim under Anti-Discrimination Act on the one hand and under the Civil Code on the other hand.

---

Section  
"Bermuda Triangle" of the  
Commercial Law II

## QUOD LICET REI PUBLICAE, NON LICET BOVI

JOSEF BEJČEK

The contribution deals with a problem whether the regulator (the state as such) and its bodies should be subject to the rules set by it or whether they should be rather excluded. Normative and individual provisions of the state are apt to endanger (distort, exclude) the competition in a substantial way. On the other hand, any legal sanctions imposed to those infringers are inefficient unless transferred into the personal liability of individual decision makers. Political solution of the issue shifts the problem into an extrajudicial level. The regulator as an infringer of the rules set to the others seems to be at least dubious. Considerations from the view of competition policy and about whether and how to find a compromise.

---

# LEGAL NATURE OF THE INSTITUTE QUALITY GOODS IN THE LIGHT OF LIABILITY FOR DEFECTIVE PERFORMANCE

LUKÁŠ CÍSKO

*cisko.lukas@gmail.com*

UPJŠ – Právnická fakulta, Katedra obchodného práva a  
hospodárskeho práva Kováčska 26, 040 75 Košice

**Key words:** quality of goods, warranty for the quality of goods, defective goods, warranty time

Author in the contribution analyzes legal nature of the quality of goods, which is one of the essential requirements of the presumed proper delivery the goods under the purchase agreement on trading. The quality of the goods can research with regard of public regulation quality of goods, such as sanitary or medical requirements (see the recent scandal in the Czech republic with methanol). From the legal-comparative perspective shows the differences and commonalities of legal adjustments selected states, in concreto of German law, of French law and of American law in the context of international trade law and analyzes the effects of the recodification with regard to the europeanization of obligations.

---

## BERMUDA TRIANGLE OF COMMERCIAL LAW MAKING

KRISTIÁN CSACH

The contribution addresses recent changes in Slovak commercial law, including the new Act on unfair practices in commercial relations (abuse of buyer power) and the transposition of the directive on combating late payment in commercial transactions from the perspective of general norms and open textures in commercial law.

---

## SILENCE IN CONTRACTUAL OBLIGATION

LENKA DOUBRAVOVÁ

*lenkadou@seznam.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** silence; obligation; contract; acceptance.

The aim of a present paper is to underline role of silence in contractual law and to analyse possibility whether acceptance of an offer can be implied from silence. In the spirit of section topic the problem will be studied from different points of view.

---

## WRONGFUL TRADING

MONIKA GAZDOVÁ

*monika.gazdova@gmail.com*

katedra obchodního práva Prf MU, prezenční doktorand

New Business Corporations Act includes “wrongful trading rule”. It is one of the incentive schemes, which should contribute to higher quality of the corporate governance and the creditor protection. The paper is focused not only on analysis of the new concept, but it also addresses some closely related issues, which can not be considered in isolation (in connection with the rule of reversed burden of proof and the new rules on corporate groups). The author tries to critically assess the new legal rules and outline advantages and disadvantages of the same in respect of the corporate governance.

---



## BUSINES MISHAP

BOHUMIL HAVEL

New concept of business is opening many questions. Is the business enterprise? Is the business mass thing? And what is it family business? Nevertheless is new concept logic and focus to free will a and responsibility of the entrepreneur.

---

## CONDITIONS FOR COMPERATIVE ADVERTISING

ONDŘEJ HRUDA

In my paper I will address the issue of admisibility of comperative advertising.

---

## OBLIGATION TO CONTRACT

JÁN HUSÁR

*jan.husar@upjs.sk*

Univerzita Pavla Jozefa Šafárika v Košiciach, Právnická fakulta

Obligation to contract

---

## TRADE NEGOTIATIONS IN RELATION TO CHANGES OF THE VALUE ADDED TAX ACT

MICHAL JUHÁS

*el.juhas@gmail.com*

Katedra Obchodného práva a Hospodárskeho práva Právnická fakulta,  
Univerzita Pavla Jozefa Šafárika v Košiciach

**Key words:** trade, tax, negotiation

The article discusses the issues in trade negotiations to amendments in the value added tax act in the Slovak Republic. It reacts to applied amendments to the framework agreements and implementations of new agreements in practice, which aim to solve legal tax liability and other specifics.

---

## CONTRA PROFERENTEM CROSSING THE FRONTIERS OF IMMANENCY

JOSEF KOTÁSEK

The phrase “contra proferentem” is used to refer to a standard in contract law which states that if a concept in a contract appears to be ambiguous and vague, it should be interpreted against the interests of the person who suggested the relevant concept to be included. The article deals with the current issues concerned with application of “contra proferentem”-rule in European and Czech law, especially with the immanent limits of this interpretation rule.

---

A FEW HERETICAL REMARKS ON  
SHAREHOLDER'S DUTY TO PROVIDE HIS  
CONTRIBUTION INTO SHARE CAPITAL OF A  
PUBLIC LIMITED COMPANY

JAROMÍR KOŽIAK  
*jkoziak@seznam.cz*  
Právnická fakulta MU

**Key words:** Public limited company, Share capital, Commercial law.  
Commercial Code

This paper is focused on shareholder's duty to provide payment of part of share capital of a Public limited company before its incorporation into Commercial register according to Commercial Code and on the unforeseen consequences of various novelizations of Commercial Code.

---

## BLACK SWANS AND CHANGES OF CIRCUMSTANCES IN THE NEW CIVIL CODE

KONSTANTIN LAVRUSHIN  
*konstantin@mail.muni.cz*

**Key words:** Changes of Circumstances, Black Swans

We live in Extreme-town, but we try to think like in the Average-town!  
– This truth was expressed by Nassim Nicholas Taleb, the author of The Black Swan. This idea, elaborated into the theory of black swan, may be crucial to understanding the institute of changes in circumstances. In the present paper I try to deal with the issue of highly improbable events and conception of institute of changes in circumstances provided in the new Civil Code.

---

## CONCESSIONS BY CURRENT AND FUTURE LEGISLATION

IVO MACEK

*macek.ivo@seznam.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** concession contract, competition law, new civil code, new direction on concession

Concession

---



---

# VÍCE EKONOMICKÝ PŘÍSTUP V SOUTĚŽNÍM PRÁVU A JEHO REÁLNÉ PROMÍTÁNÍ DO SOUDNÍ PRAXE

KAMIL NEJEZCHLEB – ZUZANA TONAROVÁ

*73160@mail.muni.cz – zuzana.tonarova@gmail.cz*

Úřad pro ochranu hospodářské soutěže – Nejvyšší správní soud

**Key words:** Více ekonomický přístup, soukromoprávní vymáhání soutěžního práva, důkazní prostředek, detekce, Evropská komise, zneužití dominantního postavení, margin squeeze, test stejně efektivního soutěžitele, cenově-nákladové testy.

Tento příspěvek se zabývá aktuálním vývojem použití tzv. „více ekonomického přístupu“ v souvislosti s ochranou hospodářské soutěže. V první části se obecně zaměřuje zejména na rozsah, možnosti a hlavní směry rozvoje použití ekonomických analýz v soutěžním právu a shrnuje dosavadní případy používání více ekonomického přístupu českým soutěžním úřadem a vnímání více ekonomického přístupu českými soudy. Druhá část se věnuje konkrétnímu příkladu použití ekonomické analýzy při posuzování zneužití dominantního postavení ve formě „margin squeeze“, a to v rozhodnutí Evropské komise ve věci Španělské Telefónicy, jež bylo nedávno potvrzeno Tribunálem. Příspěvek nastíní také předchozí vývoj posuzování margin squeeze v evropské rozhodovací praxi a zmíní ekonomické hodnocení zkoumané praxe v soutěžní praxi USA. Na závěr budou vyvozena obecnější doporučení pro aplikaci „ekonomičtějšího přístupu“ v soutěžním právu, případně upozorněno na nedostatky aktuálního stavu.

---

## LEASE OF NON-RESIDENTIAL PREMISES – SELECTED ISSUES

ALICA OBERTOVÁ  
*alica.obertova@centrum.cz*  
Právnická fakulta MU

**Key words:** lease, non-residential premises, new Commercial Code, length of the lease, registration in the Land Register, overtaking the customers' base, termination, *rebus sic stantibus*

The contribution is focused on the lease of the non-residential premises, as it will be regulated by the new Civil Code. It deals with the selected provisions, mainly those, which set out the changes to the current legal regulation. The contribution analyzes these issues mainly in regard to their practical consequences and it refers to the essential points, which should be taken into consideration by the lessor or the lessee.

---

SELECTED VINDICATORY INSTITUTES IN  
CONTRACTUAL LAW ACCORDING TO THE  
NEW CIVIL CODES OR NEW DEADLY  
STREAM IN BERMUDA TRIANGLE?

DANA ONDREJOVÁ

*dana.ondrejova@seznam.cz*

Právnická fakulta, katedra obchodního práva

The contribution deals with the selected vindicatory institutes in the contractual law according to the new civil codes especially with the contractual penalty, interest of default, advance, payoff and their relationship.

---

## PRE-CONTRACTUAL LIABILITY

JANA PETRŽELOVÁ

*jana.petrzelova@akbartlova.cz*

Advokátní kancelář Bartlová, Brno

**Key words:** Pre-contractual liability, preliminary agreement, culpa in contrahendo, the new Civil Code, general preventive obligation, contract negotiations

There are many Czech businessmen, who still lives in in deceptive belief that the future contractual parties can act completely freely before conclusion of the contract. They believe that the only the final contract arises the legal rights and obligations between the parties, which can be later successfully enforced in court. One of the reasons of is view may be the fact that pre-contractual liability is not currently regulated by the Commercial Code and even by Civil Code. According to the judgments of the Czech Supreme Court the parties can only rely on general preventive obligation regulated by the Civil Code. The new Czech Civil Code expressly regulates the institute of pre-contractual liability. The authors drew inspiration in the adaptation of the European Code of Contracts. The amount of damages resulting from the absence of an agreement will be also regulated.

---

# PRINCIPLE OF PERSISTANCE OF THE TRADE NAME IN THE CZECH AND GERMAN LAW

ALENA POKORNÁ  
*134531@mail.muni.cz*

Katedra obchodního práva Právnická fakulta Masarykovy univerzity

**Key words:** trade name, principle of persistence of the trade name, continuity of the trade name, transfer of the trade name, succession of the trade name, changes of the trade name

According to the principle of persistence, the trade name created in accordance with law can be retained although circumstances relevant to its creation changed. Such change of circumstances can be for example transfer or succession of the trade name and other facts. The aim of this paper is to compare some of these rules in the Czech and German law. Attention is also paid to the legislation in the new Civil Code.

---

## NĚKOLIK TEORETICKÝCH POSTŘEHŮ K PŘIJATÉ REKODIFIKAČNÍ OSNOVĚ

RADEK RUBAN

*251464@mail.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** vůle právnické osoby, fikční teorie, valná hromada, hlasování per rollam, přijatá rekodifikační osnova českého soukromého práva

V první polovině letošního roku se trojice zákonů tvořících páteř delší dobu připravované rekodifikace soukromoprávní oblasti stala součástí platného právního řádu. Přijaté materiály do značné míry mění současné pojetí právnických osob, resp. způsob projevu a tvorby vůle těchto uměle vytvořených entit. Cílem této stati je analýza přijatých koncepčních změn v této oblasti a hlubší zamyšlení nad jejich reálnými dopady.

---

## COMPETITIVE RELATIONSHIP BETWEEN INTENTION OF THE LEGISLATOR AND THE WORDING OF THE LAW?

JOSEF ŠILHÁN

*josef.silhan@law.muni.cz*

Právnická fakulta MU, Katedra obchodního práva

The contribution deals with the contradiction between the legislative intent expressed in the explanatory memorandum and the final wording of a certain Act, which is inconsistent with the pursued objective.

---

## MORE ECONOMIC APPROACH IN COMPETITION LAW AND ITS FACTUAL REFLECTION IN COURT PRACTICE

ZUZANA TONAROVÁ – KAMIL NEJEZCHLEB

*tonarova@mail.muni.cz – kamil.nejezchleb@compet.cz*

Masarykova univerzita, Právnická fakulta – Masarykova univerzita,  
Právnická fakulta

**Key words:** “More economic approach”, private enforcement of competition law, evidence, detection, European Commission, abuse of dominant position, margin squeeze, the test of the same efficient competitor, price-cost tests.

This article deals with the current development of use of the “more economic approach” in connection with the protection of competition. The first part is focused on extend, possibilities and main development directions of use of economic analysis in competition law. The existing cases in which the economic approach has been applied by the Czech competition authority are described. Moreover, the article mentions the way the economic approach is perceived by Czech courts. The second part deals with the particular case of the application of economic analysis in the assessment of abuse of dominant position in the form of “margin squeeze”, namely in the European Commission decision in Spanish Telefónica case recently affirmed by the General Court. Furthermore, the article outlines the development of margin squeeze assessment in the European practice and mentions current US economic approach to this issue. In the end, the general recommendations for the application of the “more economic approach” in competition law are inferred and the negative aspects of current state are highlighted.

---



EUROPEAN COMPANY LAW AS AN  
INSTRUMENT FOR GENDER EQUALITY?  
COMMENTS ON THE QUALIFICATIONS OF  
THE COMPANY BOARD MEMBERS AND EU  
LEGISLATION POLICY.

PAWEŁ ZDANIKOWSKI  
*zdanik@kul.pl*

The John Paul II Catholic University of Lublin

**Key words:** gender equality – the qualifications of the company board members

The Document of the European Commission of 5 April 2011 "Green Paper on corporate governance" besides a number of recommendations with regard to corporate governance, also poses a question about introduction of regulations supposed to provide greater percentage of women in membership of the decision-making bodies of stock market companies. A similar initiative was also undertaken by the European Parliament, which, on 6 July 2011, passed a resolution demanding from Member States that by 2015 30% and by 2020 – 40% of places in decision-making bodies of companies were reserved for women.

These documents are included to the category of soft law however, a regulation including the above recommendations was accepted in 2003 by Norway, while France and Spain are awaiting its effective date – respectively in 2017 and 2015 Thus, it is a current problem.

In corporations, it is a principle that partners do not run any company's matters, nor do they represent it. However, they bear the economic risk of the company's functioning so they should have free influence on selection of people who, on their behalf, will perform these competences. Active voting rights to bodies of corporations is an instrument of execution of the right to affect management and supervision over the

---

company. Introduction of the gender criterion with respect to selection of members would excessively interfere in this right. Such regulation at the level of domestic law would damage the autonomy of shareholders' will which is, after all, the foundation of private law, without justification the need to protect public interest. Standardization of this issue at the community level would be even more groundless. It would be in conflict with the principle of proportionality and subsidiarity of the European Union law. So far there is no evidence that provision of gender equality in bodies of companies is justified by an important public interest as also Member States are not able to independently and effectively solve this problem on their own.

---

Section  
Biological and Social  
Parentage versus Legal  
Parentage

## WHERE IS HIDDEN IN THE LAW BIOLOGICAL OR SOCIAL PARENT?

STANISLAV BRUNCKO

Contribution deals with the status of biological and social parents. It examines whether his position is somehow regulated in the Family Act or other laws. It concludes that biological or social parenthood is a social fact without explicit legal regulation. Contribution expects it is necessary to take this social fact into account the matters relating to the minor child. Especially when it is necessary to take into account the best interests of the child. Biological or social parents may emerge just from a specific child's best interests a strong position and from that result considerable rights.

---

## THE NEW NORMAL?

MARTIN HAMŘIK

*martinhamrik@gmail.com*

Univerzita P.J. Šafárika v Košiciach, Právnická fakulta

**Key words:** Europeanization, family law, parenthood

A family as the phenomenon is the subject of researches not only in many scientific disciplines, but also of many societal debates. This paper is focused primarily on the legal perception of the family as a notion, its interpretation, and its legislative formulation. Nowadays, we are witnesses of development and numerous changes that this institute had surmounted, thus creating some sort of the new normal, but most of them are not reflected by the law. This creates many family ties not approved or protected by the law. Current situation is not only widening a gap between biological, social and legal parenthood, but also amongst other family relationships and following rights or obligations. The main aim of the article is to describe the most fundamental, currently arising, problems, as well as to deal with the question of the Europeanization of the family law, its necessity, or the actual tendencies and directions in the researched area.

---

## COMMERCIALIZATION OF PARENTHOOD

DANIEL HANUŠ – SENTA RADVANOVÁ

*danielhanus@post.cz*

Právnická fakulta, Univerzita Karlova v Praze, student 5. ročníku

**Key words:** commercialization, parent, parenthood, child, surrogate motherhood

This paper deals with the commercial aspects of parenthood in the context of domestic social and legal environment. It summarizes available information on the this social reality and reflects its existence with regard to the individual needs of man (surrogate motherhood, providing semen for assisted reproduction commercially).

---

# RIGHTS OF CUSTODY PURSUANT TO HAAG CHILD ABDUCTION CONVENTION FROM THE VIEW OF CURRENT COURT PRACTICE AND DE LEGE FERENDA

MICHAELA JANOČKOVÁ  
*hrubamich@gmail.com*

Úřad pro mezinárodněprávní ochranu dětí Právnická fakulta

**Key words:** rights of custody, convention on the Civil Aspects of International Child Abduction

The article is focused on the „rights of custody“ in the meaning of the Convention on the Civil Aspects of International Child Abduction. This term is one of the basic points of the convention, which determines persons who have standing to seek return of the child wrongfully removed or retained out of the country of his/her habitual residence. Firstly, the attention would be paid to the term of „rights of custody“ itself, it will be autonomously interpreted without regards to the Czech law. Following part will be focused on determination of the group of persons who are holders of rights of custody pursuant to applicable Czech law and under which circumstances. Next text will be addressed to the future legal provisions applicable to this issue. Throughout the text, author will mainly refer to inhomogenous approach in interpretation of the key provisions (mainly of the Family Code) and will highlight the practise of the courts. As a frequent result in the Czech Republic, one of parents is deprived of his/ her parental rights, when this parent is excluded of the decision making authority and is not allowed to participate on decision in which country his/her child would live.

---

## MISSED OPPORTUNITIES IN NEW CIVIL CODE IN RELATION TO PARENTAGE

MARTIN KORNEL – ONDŘEJ ŠMÍD

*mkornel@seznam.cz – ondrasmid@seznam.cz*

Masarykova univerzita, Právnická fakulta – Palackého univerzita,  
Právnická fakulta

**Key words:** paternity, determination of parenthod,

The new Civil Code brings some changes of the legal rules governing the parentage compared to the previous ones. The contribution focuses on changes which did not occur but should occur from the authors point of view.

---



## THE ROLE OF PARENTS CONNECTION WITH THE DIVORCE

ANNA KOVÁČOVÁ

The article deals with the social role of parents in the case of divorce. The author analyzes the Child Custody, where can happens, that the parental role is performed by the person different from the legal parent. The article also deals with the alternative forms of Child Custody – a common parental care and alternate care. Finally, the article, in all cases of the child custody, positively evaluates the agreement between the parents, which may be achieved, in some cases, only with the help of a mediator.

---

## THE RIGHTS OF PUTATIVE FATHER

ZDEŇKA KRÁLÍČKOVÁ  
*zdenka.kralickova@law.muni.cz*  
MU, Právnická fakulta

**Key words:** rights – putative – father – case law – ECHR – Supreme court – new Civil Code

The contribution is focused on the rights of the putative father, mainly in the light of the case law of the European Court of Human Rights, the Supreme court and the new Civil Code.

---

## CURRENT ISSUES OF DETERMINING PATERNITY

GABRIELA KUBÍČKOVÁ

The author in this paper analyzes the current issues related to the determination of paternity in the legal system of the Slovak Republic and in the context of the recodification of the Civil Code.

---

## THE DNA TEST AND DETERMINATION OF THE PARENTHOOD

PETRONELA LUPRICHOVÁ

*p.luprichova@gmail.com*

Univerzita Komenského v Bratislave Právnická fakulta

**Key words:** Determining of the parenthood, Denial of the parenthood, DNA testing

The Author in this article analyzes the rules determining parentage in the Slovak legal system and also deals with DNA testing and its use in the determining of the parenthood and in the denial of parenthood.

---

## CHANGES PROPOSED TO ADOPTION RULES IN SLOVAKIA

BRONISLAVA PAVELKOVÁ

The new family law legislation in SR calculates of course with the Institute of adoption, which is the Slovak legal system already well known. The traditional rules are essentially unchanged. Adoption is still understood only as the way to take somebody a foreign minor child for their own. However to some extent, has been strengthened the protection of the interests of child's biological family, particularly more precise legislation issues of parental consent with adoption. But there are much more news..

---

## RIGHTS OF FAMILY MEMBERS IN MEDICAL CARE

LUKÁŠ PRUDIL

Presentation is aimed on the rights of family members in medical care in the light of new legislation.

---

## COMMERCIALIZATION OF PARENTHOOD

DANIEL HANUŠ – SENTA RADVANOVÁ

*radvanov@prf.cuni.cz*

Univerzita Karlova v Praze, Právnická fakulta

**Key words:** commercialization, parent, parenthood, child, surrogate motherhood

This paper deals with the commercial aspects of parenthood in the context of domestic social and legal environment. It summarizes available information on the this social reality and reflects its existence with regard to the individual needs of man (surrogate motherhood, providing semen for assisted reproduction commercially).

---

## WHO NEEDS THE FAMILY?

SENTA RADVANOVÁ

*radvanov@prf.cuni.cz*

Právnická fakulta, Univerzita Karlova v Praze Katedra občanského práva

**Key words:** family, private law, public law

This paper deals with different needs reciprocity and the existence of family in relation to society as a whole (the family as a small social group). On the other hand, realizing the family mostly live together various entities meets the individual needs of the individual and the biologically traditionally. What is the role played by law and its norms, expressing these different "needs". The issue is especially seen from a contemporary perspective – social phenomena operating in postmodern society. Successes and mistakes Czech legislation directed to the family.

---



## THE LIMITATION OF PERIOD FOR DENYING OF LEGAL PATERNITY

MONIKA SCHÖN

*monika.schon@centrum.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Denying of Legal Paternity, case law of the ECHR and the Czech Constitutional Court, the Czech Family Code, the new Civil Code

This essay deals with the limitation of period for denying of legal paternity according to the Czech Family Code (Law No. 94/1963 Coll.) and to the new Civil Code (Law No. 89/2012 Coll.) which comes in force on January 1st, 2014, in the light of the case law of European Court of Human Rights and the Czech Constitutional Court.

---

## DISINTEREST IN NEW CIVIL CODE

KATEŘINA SMOLÍKOVÁ

The difference between gross and obvious disinterest disinterest in the new Civil Code in comparison with a qualified absolute indifference and disinterest in family law

---

BUDE DOPLNĚN

ONDŘEJ ŠMÍD

bude doplněna

---

# CURRENT AND FUTURE PERSPECTIVES OF SURROGATE MOTHERHOOD IN THE CZECH REPUBLIC

ANNA HOŘÍNOVÁ

The main problem this paper deals with, is a current legal framework for surrogate motherhood which is effective in the Czech Republic. However, it is focused also on future perspectives of the problem while it is taking the new civil code into account.

---

Section  
Comprehensive Reform of  
Private Law

## THE UNPREDICTABILITY IN THE NEW ROMANIAN CURRENT CIVIL CODE REGULATION

Unlike the Romanian Civil Code of 1864 which did not regulated the institution of unpredictability, the current Romanian Civil Code came into effect from 1 October 2011, expressly governs this institution in Art 1271. According to Law 71/2011, unpredictability will be applicable only to contracts indexed after entry into force of the new Civil Code, respectively after the date of October 1, 2011. The mentioned article governs the rule in paragraph 1, except in paragraph 2 and in paragraph 3, the conditions under which can take place the court intervention. Art.1271 paragraph 1 of the Civil Code, based on the will role of the parties in true signed contracts show that they are bound to perform its obligations, even if their performance has become more onerous, whether due to increased costs of performance of its own obligations, whether due to decrease the value of consideration. According to paragraph 2 of the Civil Code art.1271 if execution has become excessively onerous because of a change of circumstances which would render exceptional manifestly unjust ordered the execution debtor obligation, it is possible the court intervention in the contract, which may deliver or adapt the contract to distribute equitably between the parties both benefit and losses resulting from the circumstances change or termination the contract at the time and condition determined by it. In accordance with paragraph 3 of Article 1271 Civil Code, the court may intervene in the contract only if the following conditions are cumulatively met:

- a) Change of circumstances occurred after the contract
  - b) changing circumstances and its extent was not and could not be considered by the debtor, reasonably, when signing contract
  - c) debtor did not assumed the risk of changing circumstances and could not reasonably be considered that this risk could be summed
-

d) Debtor tried within a reasonable and good faith negotiation of the contract fair and reasonable adaptation.

---

RESPECT OWED TO THE DECEASED  
HUMAN BEING: ASPECTS OF ITS  
REGULATION IN THE NEW ROMANIAN  
CIVIL CODE

SEVASTIAN CERCEL

*sevastiancercel@yahoo.com*

University of Craiova Faculty of Law and Administrative Sciences

**Key words:** rights of the personality, deceased human being, memory, body, New Romanian Civil Code

The legal personality of the human being ends upon death, therefore “the rights of the personality” come to an end, too. The respect owed to the deceased person is a notion pertaining to tradition, being yet consecrated in the Romanian law by the provisions of the New Civil Code. Respect is owed to the deceased person, to his memory, as well as to his body (art. 78 NCC). Thus, the respect owed to the deceased human being concerns two great aspects: “memory” and “body”. First, the legal provisions regulate the content of the obligation to respect the memory of the deceased person. On the other hand, the dead body, although not a natural person any longer, is “impregnated with the personality of the one who existed”. The solutions of the New Civil Code bring forward the firmness and clarity of law in this matter.

---



## AN ATTEMPT AT NEW PERSPECTIVE ON THE CONCEPT OF PERSONAL RIGHTS

JÁN CIRÁK

Legal theory, practice as well as legislation acknowledge the incorporation of personal rights into Civil Code. Taking into consideration the current ongoing legislative work on the new Slovak Civil Code the paper will provide an analysis of basic theoretical and legal foundations of personal rights and their protection.

---

## SEVERAL CONSIDERATIONS ON CONCLUSION OF CONTRACTS FOLLOWING THE TENDER PROCEDURE ACCORDING TO THE PUBLIC CONTRACTS ACT

DAVID DVOŘÁK  
*dvorak@mt-legal.com*

Právnická fakulta Masarykovy univerzity, katedra občanského práva

**Key words:** public contracts, contracting

Award procedures according to the Act No. 137/2006 Coll. on public contracts, as amended, represent a specific contracting process which is, on the contrary to the standard contracting process according to the civil or commercial code, characterized by high degree of regulation and formality. Still, it is a civil contracting process, representing by its nature *lex specialis* to the public tender regulated by the commercial code. While the award procedure from the commencement of the tender procedure to the selection of the most suitable offer is regulated by the public contracts act in a detailed manner, the peculiar process of the conclusion of the contract with the selected bidder is given much less attention and some of its aspect are left to the general legal regulation. Therefore, the aim of the article is the analysis of this part of the award procedure with focus, above all, on the character of the relation between a contracting entity and a selected bidder till the moment of the conclusion of a contract, also in relation to the impact of the new civil code.

---

# THE CORPORATE SOCIAL RESPONSIBILITY IN SUPPORTING EDUCATION, SCIENTIFIC RESEARCH AND TRAINING

HANY ELMANAILY

## Introduction

Education, scientific research and training represent some of the most important human rights which are agreed upon in all the constitution. They are of great importance in our contemporary life as a lot of the new inventions and discoveries a result of human scientific effort supported by governments which, in turn, will contribute to the welfare of humanity and overcoming the problems which faced humans. A lot of the developing countries have recently declared that developing education and scientific research are their national project in order to realize civilization and renaissance. Nowadays, we should talk about the importance of the financial support which private corporations should offer to help upgrading education and scientific research whether in pre or post university education as a social responsibility towards the society where they practice their activities. Although scientific search needs a lot of financial resources to execute scientific project, the expected income of this research is very important not only for one country but for the whole word as well. This made the European committee consider that supporting education, scientific research and training is the most important way by which companies can play an important social role and the committee considered it the project for the European continent in 2012.

## Role of Corporation

Companies can offer free scholarships for students in their local societies to study in foreign universities to run any projects which these companies aim at according to the importance of these projects. Contracting and real estate companies can also participate in constructing and rebuilding schools, universities and scientific countries. Also,

---

companies which produce educational materials used education and scientific research can offer donations and loans aiming at participating socially in developing these societies. A lot of institutions resort to private companies as sponsors to their activities and conferences especially if these conferences deal with activities related with these companies. Most pharmaceutical companies used to do the same thing. training is also one of the most important fields of co operation between education institution and companies these companies can advertise their services and goods to their societies and at the same time , they can provide training in the field of contracts and law causes for students who study law . They can although provide training in the field of producing medicines for student who study medicine, science and pharmacy. Computer making companies can also play an important role in this field because of importance of this field in our life. TE data for internet and computer services has decided to run a similar project in a village in El-Fayoum governorate in Egypt aiming at training the youth in the field of computer. In developing countries, illiteracy eradication programs are of great importance as these countries suffer from the high level of illiteracy which can affect about 50% of people in some of these countries. This made Vodafone for communications to declare a plane to eradicate illiteracy for a million persons in Egypt yearly. The company aims achieving two things from this project: Firstly, increasing its popularity among consumers through its social activities. Secondly, the computer knows that illiteracy is the main reason that some people can't benefit from its services which, in turn, affects its work.

-There is also an important element which companies must put into consideration when they support education, scientific research and training which is developing programs for the handicapped to consolidate in his society. Any handicapped can consolidate in his society. So easily if he is provided with the suitable developing programs which can make him an effective part of the society. Companies can make these projects very successful by promising to employ 5% of its work force from the handicapped after finishing their training course. This thing can also be applied for those who finish their sentences in prisons.

Egyptian experiment

In Egypt, some companies play an important role in caring for sport

---

for example “Pepsi” ran a competition in football in all the Egyptian schools to discover talented players and to support sports activities. There was no law which oblige Pepsi to do so, but it benefited by advertising its products on the costume which the players wore during this tournament. It applied it extended its activities to run other tournaments to discover the talented in other sports such as handball and athletics. Other companies which are related with real estate vowed to rebuild some playgrounds in universities and schools. It also vowed to improve the floor of these playgrounds and to provide these universities and schools with the necessary equipment to develop the level of sports which will benefit both the companies and sport in schools and universities at the same time.

- In 2011, the Egyptian government declared its intention to build “Zewail’s city for science and technology”. Although Egypt suffers from serious financial crisis, this project requires a lot of fund. El Amria pharmaceutical company donated 250 million pounds to this project on condition that it will benefit from the results of the scientific research results from this city. It also has the right to train and teach its workers in this city. The owner of this company had also established “ Ein institution for developing the handicapped” and “ El-Safwa language school”. He assured that his company cares for the social as well as economic dimensions. This donation encouraged other companies to do same. For example, “ BIM Co” donated 30 million dollars as a social responsibility toward supporting scientific research, education and training in Egypt. -We should put into consideration that companies supporting education, scientific research and training will benefit a lot from this support in so many different ways:

1-Supporting education, scientific research and training is the most successful way for companies to advertise their products and services. 2-It strengthens the relationships between companies, universities and research institutions. This helps companies to raise the standard of skills and abilities of its workers by contracting with research institutions to train their workers. This positively helps in increasing these companies’ production and developing its quality.

-This commitment can only be afforded by mea companies which earn a large sum of money yearly. This means that researches will only

---

be available for mega companies.

-The financial resources which can be used to support the project of training, education and scientific research include:-

1-Developing education, scientific research, and training in the budget of the company as a social responsibility. 2-Depending on the income coming from the prefunded projects. 3-Providing money for the training and educating projects of the workers through agreeing upon being dealt with equally with education and research institutions. In Jordan, in 1998, the law number 66 was issued to oblige companies to allocate 1% of their yearly profits to support scientific research and training.

Oil producing countries

- In oil producing countries, oil companies should practice its social role in supporting education, scientific research and training especially after the increasing growth of oil prices and after discovering new oil fields, especially in the Arab Gulf area. These companies can establish everlasting institutions to support education, scientific research and training with the cooperation of the governments concerned. Qatar is a live example of this cooperation as it established “ Qatar Foundation to development’s abilities” A lot of centres and other institutions work under the supervision of this foundation such as “ Qatar foundation for science and research which was established through the effort of Qatar company for oil with the help of other mega oil companies and Qatar foundation for technology which, in turn, was setup by Qatar company of oil with the cooperation of information technology companies. This foundation has provided financial fund for research projects between Qatar, Texas, Cornell and Virginia universities. Any researcher can ask for any financial support he needs from this foundation to run this research project.

-During school and university holidays companies can practise their social role by supporting students through running sports, cultural and art competitions through which we can discover all their talents especially in the stage of pre-university education. The talented will be sponsored by companies and the companies will use them to advertise its products and services in case they participate in national or international competitions. They will carry the slogan of their sponsors along with the slogan of social care.

---

## DISTANCE ELECTRONIC CONTRACT – SELECTED ASPECTS

MILOSLAV HRDLIČKA

The contribution will be focused on the changes in the distance electronic contracts after the effective date of Act No. 89/2012 Coll., The Civil Code. Will be discussed especially maintained the written form of electronic contracts.

---

## SELECTED ISSUES OF IMPACTS OF THE NEW CIVIL CODE IN THE SPHERE OF THE INSOLVENCY LAW

JAKUB JUŘENA  
*165820@mail.muni.cz*  
Právnická fakulta MU

Insolvency law is primarily applied in the context of impending or already initiated insolvency proceedings. Therefore it contains regulation of the process of insolvency proceedings. However insolvency law includes variety of provisions containing substantive regulation. These provisions are built up on the general legal institutes of private law. Recodification of private law therefore must affect insolvency law. This paper focuses on analysis of selected impacts of the New Civil Code into the sphere of insolvency law, potential arising issues and also attempts to outline possible solutions.

---



## THE STORY ABOUT STRAY PARAGRAPHS OR AS THE PROCEDURAL RULE MEETS THE SUBSTANTIVE RULE

ALEXANDRA KOTRECOVÁ

Article subscribes general trends as procedural rules move closer to the substantive law, particularly in the area of private law. It refers mainly to two key areas and to reverse the burden of proof and the burden of proof, as well as the issue of class actions. Article demonstrates these trends in legislation and new Czech Civil Code to an exemplary interpretation of certain provisions. Article finally gives consideration to whether and to what extent such a penetration into the procedural rules of substantive law appropriate and desirable.

---

## OBJECT OF CIVIL LAW RELATIONS IN THE NEW CIVIL CODE

PAVEL KOUKAL

This contribution will concern the issue of the definition of the object of civil law relations in the new civil code.

---

## BUDE UPŘESNĚN

INGRID KOVÁŘOVÁ KOCHOVÁ  
*kovarrii@centrum.cz*  
Právnická fakulta MU

bude upřesněn

---

## PROTECTION OF THE NOTES AND COINS IN THE VIRTUAL REALITY

SILVIA LATTOVÁ

*sisalattova@gmail.com*

Masarykova univerzita, Právnická fakulta

**Key words:** euro notes, euro coins, reproduction, electronic copies

In my contribution I would like to present the protection of the notes and coins, how is stated in the legal codes. I would like to describe the possibilities of the using and making copies of the bank notes and coins, namely euro notes and euro coins.

---

## RELATIVE INEFFECTIVENESS

MARTIN LEBEDA

*206967@mail.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Relative ineffectiveness, objectionability, Civil Code

Relative ineffectiveness is not a new institute of private law. This institute has been used in praxis, for example in the Insolvency Act. The Civil Code operates with the same institute using a different term – objectionability. This new term should specify better the essence of institute. Ineffectiveness is the term used in substantive law, however objectionability is the term applied in procedural law. Although from the point of view of a new conception of invalidity it is only the additional institute, it is very important and useful in praxis.

---

## THE STORY ABOUT STRAY PARAGRAPHS OR AS THE PROCEDURAL RULE MEETS THE SUBSTANTIVE RULE

JUDR. JAKUB LÖWY

Article subscribes general trends as procedural rules move closer to the substantive law, particularly in the area of private law. It refers mainly to two key areas and to reverse the burden of proof and the burden of proof, as well as the issue of class actions. Article demonstrates these trends in legislation and new Czech Civil Code to an exemplary interpretation of certain provisions. Article finally gives consideration to whether and to what extent such a penetration into the procedural rules of substantive law appropriate and desirable.

---

## JOINT PROPERTY OF THE SPOUSES – YESTERDAY, TODAY AND TOMORROW

JAN MAURIC

Matrimonial property relations between spouses is a legal institution with which almost everyone of us in the life encounters, whether through marriage or as a party to a contract or dispute. The subject of this paper is a brief overview of the evolution of this legal institution and assessment of the changes that brings new Civil Code.

---

## HOW CLEAR IS THE "CLEAR INTENT OF THE LEGISLATOR OR THE MEANING OF THE LAW"? REFLECTIONS ON INTERPRETATIVE LEGAL NORM.

MARTINA MUŠÁLKOVÁ  
*m.musalkova@seznam.cz*  
Právnická fakulta MU

**Key words:** intent of the legislator, the meaning of the act, interpretative standard, application of the law, authentic text, explanatory memorandum and its binding effect, sources of private law

The paper is devoted to the analysis of some of the opening provisions of Act No. 89/2012 Coll., The Civil Code, with a focus on technical and legal theoretical realization of private reform, especially on the inner mechanisms of interpretation and application of the new private law code. The analysis' conclusions are useful in particular in the field of application of private law, as the judicial authorities will have to take into account the opening provisions as an entry portal into the remaining text of the new private code.

---



## DIFFICULTIES OF JUDICIAL INTERPRETATION AND APPLICATION OF THE NEW CIVIL CODE

TEREZA NOVOTNÁ

*novotntereza@gmail.com*

Právnická fakulta – Masarykova univerzita

**Key words:** Interpretation of Law, Application of Law, the new Civil Code

The new Civil Code coming into force on 1st January 2014 is going to be the greatest intervention to the system of law of the Czech Republic and it is going to affect almost all legal fields. My contribution is focused on the fundamental difficulties that are expected from this new discontinuous regulation of private law relationships which can occur in the process of interpretation and application of this regulation by the civil courts, especially regarding the essential legal principles leading the civil proceedings.

---

## THE EXTRA-PATRIMONIAL RIGHTS OF THE PERSON FROM THE PERSPECTIVE OF THE NEW ROMANIAN CIVIL CODE

EDMOND GABRIEL OLTEANU  
*egolteanu@yahoo.com*  
University of Craiova

**Key words:** extra – patrimonial, rights, personality, copyright

After more than 100 years of Romanian Civil Code, modified slightly in the period 1945-1989, "the fashion" of legislative reform affected the Romanian civil legislation. A New Romanian Civil Code comes with a modern approach in extra patrimonial rights, regulating in art. 58 "right to life, health, physical and mental integrity, to dignity, to their own image, to privacy and other rights recognized by law." The extra – patrimonial rights are divided into rights concerning the personality attributes and rights that arise in conjunction with the authors of intellectual creations. In this respect, are regulated (in Art. 59-81 of the New Romanian Civil Code) the following categories of extra-patrimonial rights: - extra – patrimonial rights relating to the existence and physical and moral integrity of the individual (right to life, right to health and physical integrity, the right to liberty, honor); - rights relating to the identification of the person (right to a name, right at domicile). Another category is the one of extra patrimonial rights relating to the intellectual property (moral rights of the author, the inventor and so on). The latter are governed by the Law of copyright and related rights and seek the protection of copyright, integrity of work, honor and reputation of the author. Among the novelties, the New Civil Code comes with a detailed regulation of the right to privacy, sometimes considered in Romania a danger for the press freedom. Article 74 of the New Civil Code is governing possible violations of privacy: use in bad faith, the name, image, voice or likeness of another person; dissemination of news,

---

debates, surveys or reports written or audiovisual on intimate, personal or family, without the consent of the person concerned, and so on.

---

## CATEGORY OF REASONABLENESS IN NEW CIVIL CODE

MARIÁN ROZBORA

In european law is gradually becoming category of reasonableness. We find this in civil codes, or EU's regulations and in other resources. Also the new czech Civil Code uses this category in several provisions. It is therefore desirable to try to identify this category.

---

TRANSFER OF OWNERSHIP BY A  
NON-OWNER IN THE NEW CZECH CIVIL  
CODE

JIRÍ SLOVÁČEK

will be added later on

---

## PROTECTION OF A SURETY'S SUBROGATION RIGHT IN COMPARATIVE PERSPECTIVE

JOZEF ŠTEFANKO  
*stefanko.j@gmail.com*  
Trnavská univerzita v Trnave

**Key words:** ručenie, ochrana ručiteľa, subrogácia, nečinnosť veriteľa, Občiansky zákonník

Základným prvkom zabezpečenia záväzku ručením je ručiteľova subrogácia do práv veriteľa v dôsledku plnenia za dlžníka. Príspevok sa zaoberá otázkou, ako vybrané právne poriadky zabezpečujú, že ručiteľ bude môcť svoju následnú pohľadávku voči dlžníkovi efektívne realizovať, najmä s ohľadom na konanie veriteľa a solventnosť dlžníka. Posudzuje tiež, do akej miery je ochranné ustanovenie v súčasnom znení českého i slovenského Občianskeho zákonníka efektívne využívané a zvažuje vhodnosť jeho reformy.

---

## TRUST FUND AND ITS POSITION IN THE CZECH LEGAL ENVIRONMENT

VLASTIMIL VITOUL

*vitoul.vlastimil@gmail.com*

Masarykova univerzita, Právnická fakulta

**Key words:** trust fund, asset management

The new Czech Civil Code brings many significant changes and innovations to the legal system of the Czech Republic. One of them is the institute of the Trust Fund. This paper deals with the regulation of asset management and a special emphasis is put on the institute of the Trust Fund, which is completely a new concept for the czech legal environment. The paper points to possible position of trust funds in the czech legal enviroment.

---





Section  
Criminal and Procedural  
Alternatives in Individual and  
Collective Criminal Law

## CRIMINAL LIABILITY OF LEGAL PERSONS IN ITALY

PAVEL BIRIUKOV

The article deals with questions of legislative regulation of legal person's liability in Italy. Main attention is paid to the EU law.

---

## ELECTRONIC MONITORING AS A MEANS TO REDUCE PRISON POPULATION

LUCIE BOLEDOVIČOVÁ

*170103@mail.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Electronic monitoring; house arrest; control; prison overcrowding.

This paper deals with the quantitative analysis of Czech prison overcrowding which represents the main reason for the introduction of alternative sanctions and measures, not only in Czech Republic. The paper focuses on electronic monitoring as one of the means of control of house arrest according to Czech legislation in force. Attention is also paid to possible ways of its technical implementation

---

PROCEDURAL ISSUES REGARDING THE  
CRIMINAL LIABILITY OF LEGAL PERSONS  
IN HUNGARY

SZILVIA DOBROCSI

...

---

## THE IMPACTS OF THE FAST-TRACK PROCEDURE ON CRIME AND CRIMINAL PROCEDURE

LIBOR DUŠEK

The paper investigates the impacts of the fast-track criminal procedure ("zkrácené přípravné řízení") which was introduced in the Czech Republic in 2002. The new procedure enabled simpler and speedier prosecution of certain less serious crimes. The theory predicts that such a procedural reform could reduce the number of less serious crimes by making the punishment, as perceived by the offenders, more severe due to lower time discounting. It could also decrease the number of serious crimes by reducing the administrative workload of the police.

In the empirical analysis, the paper first documents large disparities in the implementation of the fast-track procedure across police districts. These disparities are exploited as a "quasi-natural experiment" that allows estimating the impacts of the fast-track procedure. I find that district that implemented the fast-track procedure more intensively experienced a greater reduction in property crimes. I do not find convincing evidence of any spillover effects on serious crimes. Last, I find strong evidence of a rather perverse impact of the reform: the police shifted its efforts towards more vigorous enforcement of petty crimes covered by the fast-track.

---

## PLEA BARGAINING AS A NEW SPECIAL FORM OF CRIMINAL PROCEDURE

MARKÉTA FILIPOVÁ

*f.marketa@seznam.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** plea bargaining, special forms of criminal procedure

The article is dealing with plea bargaining – the new special form of Czech criminal procedure. The current law will be analysed, it will be compared to plea bargaining abroad and the opinions of legal experts will be analysed.

---

THE LAW ON CRIMINAL LIABILITY OF  
LEGAL PERSONS AND AND AFFAIR OF MR.  
RATH.

KAROL HRÁDELA

Criminal liability of legal entities, actions of legal entities, attribution of actions of legal entities, political party, local self-governing unit, legal entity, the Civil Code, the Commercial Code, Member of parliament

---

## EDUCATIONAL MEASURES AS A CATEGORY SUI GENERIS SYSTEM OF ALTERNATIVE PENALTIES APPLICABLE TO JUVENILE CRIMINAL

MIRIAM HRUŠKOVÁ

The system of alternative penalties applicable in criminal juveniles can be defined as the sum of institutes whose primary purpose is to replace a prison sentence for juveniles, their organization and the relationships between them, the literature distinguishes substantive alternative measures, alternative measures process, that is diversions in criminal proceedings and alternative procedures performed outside the criminal justice system, that method of resolving criminal cases the law further modified (for example mediation). The article further categorizes alternative measures that can be applied to juvenile offenders, and particularly emphasizes the institution of educational measures, as a special and separate category within the framework of these measures. Describes the purpose and application specific educational policies which points to the fulfillment of the tasks of process alternatives.

---



## APPLICATION PROBLEMS IN THE FAST-TRACK PROCEDURE

MICHAL HVOZDA

*m.hvozda@yahoo.co.uk*

Univerzita Pavla Jozefa Šafárika v Košiciach, Právnická  
fakulta, Slovenská republika

**Key words:** Criminal law, Pre-trial, Fast-track procedure, Application problems

The aim of this contribution is to draw attention to application problems that occur in the fast-track procedure, specific form of pre-trial. The author in this paper attempts to find solutions to these problems, and formulating their own reflections, using the issue of laws in other states.

---

## PERSPECTIVES OF THE FUTURE USING OF CRIMINAL WARRANT AS THE TRADITIONAL PROCEDURAL ALTERNATIVE

LENKA JAMBOROVÁ

Criminal warrant belongs to the traditional institutes serving to accelerate the criminal procedure. Despite this, the current Czech regulation contains some of the problematic elements, for example minor position of the aggrieved party or lack of restriction of "reformationis in peius" in the case of a protest. Nowadays, a remarkable part of the criminal cases is resolved by criminal warrant. However, concerning the implementation of the plea bargaining (guilt and punishment agreement) into the Czech criminal law, it would be appropriate to deal with the future possibilities of using the criminal warrant.

---

## CONDITIONAL RELEASE – AN ALTERNATIVE TO SERVING PRISON SENTENCE

VĚRA KALVODOVÁ

This article is devoted to conditional release from serving of prison sentence from point of view of fundamental criminal law principles, amendments to Criminal Code and consideration "de lege ferenda".

---

## CHOSEN PROCEDURAL ALTERNATIVES IN CRIMINAL LAW FROM THE POINT OF VIEW OF COMPENSATORY DAMAGES

JANA KLESNIAKOVÁ  
*viaiuris10@gmail.com*

Právnická fakulta Masarykovy univerzity v Brně

**Key words:** compensatory damages in criminal law, claims of party aggrieveds, procedural alternatives of solution to criminal matters, diversions

The main purpose in alternative processes (diversions) in criminal procedure is rationalization of criminal justice. It means for person aggrieved speeded up and available decision about compensation of damages. Actual procedural adjusting has advantages but also disadvantages. These disadvantages restrict to satisfying of material and moral claims of the party aggrieveds in the course of alternative solution to criminal matters.

---

CRIMINOLOGICAL ANTHROPOLOGY  
DURING THE DYNAMIC INTEGRATION OF  
SCIENTIFIC KNOWLEDGE (BASED ON THE  
RECORDS IN THE REPUBLIC OF  
KAZAKHSTAN AND THE RUSSIAN  
FEDERATION).

NURGUL KONARBAYEVA

*kasiet.n@mail.ru*

Competitor of the Department of Criminal Law of HSE NRU of the  
RF

**Key words:** Criminological anthropology, criminals, determination of crime.

Criminological anthropology during the dynamic integration of scientific knowledge (Based on the records in the Republic of Kazakhstan and the Russian Federation). One of the controversial questions in criminology in the Republic of Kazakhstan and the Russian Federation is the definition of the subject and the validity of the methodology of criminological anthropology, which has both theoretical and practical importance. Criminological anthropology identified the subject and the methodology in the process of its formation and development. But they became the cause of many scientific discussions and polemics. This is due primarily to the following historical factors: a) criminological anthropology branched off not from the law but from psychiatry, its modern interpretation is the result of a long scientific integration; b) the law for a long time, if not since the appearance of the first books on criminological anthropology accepted dominating public opinion, accusing it of being monodisciplinary and unilateral. It was the fact that gave a powerful impetus to formation and development of the science. Since

---

its formation, criminological anthropology was swept over by a huge wave of sometimes unjustified criticism, the essence of which was that the criminological anthropology was only the recognition of heredity, atavism, and special anthropometric data of a criminal as the cause of committing crimes. At the same time, this trend continued during the Soviet period of development of Criminology. But, indeed, despite the ideology of the time, there were views that criminology developed under political pressure and ideological orientation was inherent in it. On the basis of studies of murders and violent crimes, E.G. Samovichev states that the fact that no one has managed to find out a specific determination of murders does not indicate its absence, but: a) lack of adequate theoretical concepts of the mechanisms of generation of specific forms of human behavior b) methods used for the study of special causes of premeditated murders are inadequate their subject, c) that ideology dominates in this case, but not scientific criminological concept of the absence of specific determinants of criminal behavior (compared to the law-abiding) and features of the perpetrators of the crime. If many authors consider criminology as an interdisciplinary science, a subject and a complex branch of preventive law, in our opinion, it is, above all, the merit of criminological anthropology. Modern criminology has its roots in criminological anthropology; this very fact determines the interdisciplinary nature of criminology, as well as its subsequent development. The emergence of criminology as an independent science is directly related to the anthropological school of criminal law. Criminology branched off from the criminal law due to the valuable works of the representatives of this school. These works include works of Ch.Lombrozo "Crime" and "Criminal anthropology" (later published in Russia, "Recent progress in science of the criminal", 1892), "Anarchists" by E.Ferri, "Criminal Sociology," and of course, "Criminology" by R.Garofalo. Due to the theoretical and practical works of such luminaries, investigating various questions of personality as Ch.Lombrozo, E.Ferri, B.Gomberg, I.S.Noy., J.M. Antonian, EG Samovich, E.F. Pobegailo and others, sufficiently developed school, studying personality theories in criminology was formed, which we risk to call criminological anthropology. Studying the works of the above authors, we made the following conclusions. Criminological anthropology in its development linked criminal behavior

---

---

primarily to the individual data of the criminal, hence its multifaceted nature, which covers criminal-psychological and sociological essays and psychiatric works. As a result, the issues of individual have been the object of study of many disciplines such as legal, social, and medical, in general natural sciences. Thus, many disciplines for a long time could not decide on object of criminological anthropology and some authors considered it part of the various disciplines. Any scientific discipline or theory goes through a completely natural reinterpretation of previous stages of its development: some areas are updated, traditional views are revised, new ideas are put forward, data from other neighboring sciences is drawn on and attempts to create integrative system of knowledge using new discoveries, techniques, etc. are made. In our view, this is all very characteristic of modern criminological anthropology, when more or less ingrained traditional beliefs collide with new views, new interpretation of the accumulated facts. This process, known for its costs, as a rule, is enriched by the interaction and exchange. Everything of value is included in the research and practice and secondary is discarded. The emergence, formation and justification for any new trend or the border science, together with a certain methodology, guidelines and research object must have its own zone of contact with other neighboring disciplines, and also be based on their main method of investigation. In this respect, in the study of issues of personality, modern criminological anthropology is formed at the intersection of medical science, anthropology, psychology, genetics and law. Probably we need to treat integrity, not as something imposed from the outside, because it is immanent in every field of knowledge. It is also important humanitarian, philosophical, psychological, or natural science foundation, which prevents the researcher from slipping into the particular problems of specific area of knowledge. In the complex of legal sciences, especially in tandem of Criminal Law and Criminology it is particularly important to emphasize this position, because of its high specialization and differentiation. During global and dynamic integration of scientific disciplines, modern criminological anthropology emerged as a paradigm, which examines individual-typological variability of criminal and psychobiological characteristics of offender in relation to the social environment to assess their criminal legal, predictive and preventive value. According to mod-

---

ern criminological anthropology, causes of crime will be determined by the fact of internal interaction of biological, personal and external environmental factors with the properties of the individual offenders at different hierarchical levels of their organization. In this regard, prognostic study of this system due to comprehensiveness and complexity of structure and function, determines the need for a systemic approach, and calls for further joint work, the efforts of scientists in the fields of law, genetics, psychology, and medicine.

---



## NEW CONCEPTS INSPIRED BY COMMON LAW IN THE CZECH CRIMINAL PROCEDURE

ALENA KRISTKOVÁ  
*170334@mail.muni.cz*

**Key words:** Essential principles of criminal procedure, efficiency, agreement on guilt and punishment, collaborating witness.

This contribution deals with new concepts inspired by common law which have been regulated in the Czech criminal procedure so far. Agreements on guilt and punishment and collaborating witness have potential to make the criminal procedure more effective. The drawback is that these concepts contradict some essential principles of the criminal procedure, especially the principle of legality, formality, principle of free evaluation of evidence or the principle *nemo tenetur*.

---

## THEORETICAL AND PRACTICAL PROBLEMS OF INTRODUCTION OF CRIMINAL LIABILITY OF LEGAL ENTITIES IN RUSSIA

ANDREY KUDRYAVTSEV

*kudris@mail.ru*

Voronezh State University, Faculty of Law

**Key words:** criminal liability of legal entity, criminal code, corporate crime, legal person, sane person, guilt

The content of Article 19 of the Criminal Code provides a negative answer to the question of the criminal liability of legal persons. As the only subject of a crime to be brought to justice in this norm called sane person over a certain age. This approach is in the tradition of the Russian criminal law that can be held criminally liable only individuals, mental development which enables them to realize the social danger of voluntary actions performed by them and foresee the possibility of occurrence of related adverse effects. And the situation that each person is only responsible for what made his own, guilty (conscious, volitional) actions in the theory of domestic criminal law was fixed long ago. By the way, the argument about the impossibility of determines fault is the main one in the arsenal of the opponents to establish criminal responsibility for legal entity. After all, if a legal entity – a legal fiction that hides most specific group of individuals, then the prosecution of the organization can avoid its real perpetrators of the crime.

But in the theory of criminal law proposals on the possibility of recognition of a legal entity the offender had gained new acuteness and begun to seriously discuss since 1991, and were particularly strong – in the preparation of the first post-Soviet criminal code. It was connected, in particular, with the development of the actual institution of legal persons in civil law of Russia, the emergence of new forms that were not known to Soviet legislation. Obviously, the active participation of

---

---

private enterprises in the economy and increased competition, both then and now provokes many to illegal methods to extract business income. At the same time acutely raised and still the issue of environmental security. After all, the consequences of the activity of large enterprises sometimes lead to serious environmental problems that do not disappear after the prosecution of individual managers. Supporters of introducing criminal liability of legal persons believe that the deterrent to the commission of crimes by corporations or her punishment for these acts may serve significant financial sanctions, reputation loss, and the possible elimination.

It must be noted that among the public sectors of Russian law representatives of administrative law first decided to introduce liability of legal persons by. Moreover, for the commission of certain acts the Administrative Code provides for liability in the form of fines, the dimensions of which are significantly higher than in the most repressive law – criminal law. This, by the way, in the eyes of supporters of fixing liability of legal persons in the Criminal Code is also a sign argument – this dissonance should not be. Administrative action can not substitute itself of the influence of repressive criminal law.

However, the hot theoretical disputes are still pending. As for the practical level, the most important step in the direction of establishing in one form or another institution of criminal liability of legal persons is the preparation of a separate draft of federal law by The Investigative Committee of the Russian Federation. Its working title is "On amendments to some legislative acts of the Russian Federation in connection with the introduction of criminal legal action in relation to legal persons" [<http://www.sledcom.ru/discussions/?SID=1273>].

The need to establish such institution is explained in the explanatory memorandum to the bill referring to the legal, social, economic and political factors. The authors of the draft stresses that in recent years, the number of crimes committed in the interest or with legal entities has significantly increased in Russia, which indicates the formation of a new type of crime – "corporate crime." This type of crime is a real threat to the economic security of the state and the interests of bona fide participants in the economic circulation. It has a negative impact on the investment attractiveness of Russia, which causes

---

an outflow of capital from the country. Crime entities destabilize the fundamentals of the economy, which indirectly contributes to decline in key economic indicators, including inflation, cuts in production, the outflow of capital in the shadow economy. Also notes that corporate crime contributes to higher crime rate trends in society in general. [<http://www.sledcom.ru/discussions/?ID=45943>].

Attention is drawn to the fact that, as the name of the proposed bill and the explanatory memorandum to him, is not about the criminal liability of legal persons in its present understanding but the special mechanism of action. However, it seems, it's made it to the proposed option could be considered as a compromise of both the supporters and opponents of the introduction of the institute of criminal liability of legal persons.

What will be the fate of this project, which has not even submitted to the Russian parliament, is unknown. But it's no doubtable that the movement towards the establishment of the institute of criminal liability of legal persons for offenses or participation in them has begun. By the way, actualizes the discussion the fact that in international legal instruments, including the UN Convention, to which the Russian Federation joined (e.g., the UN Convention against Corruption of 31.03.2003), Member States proposed to introduce to national criminal law norms of corporate responsibility.

---

## PLEA BARGAINING IN CZECH CRIMINAL LAW AND ITS PROBLEMATIC MOMENTS

JANA KURSOVÁ

This article is focused on plea bargaining, which was recently established into the Czech criminal law. The article describes nature of this agreement and its relation to the basic principles of Czech criminal law. Possible application problems of plea bargaining in its current form will be outlined further as well as evaluation of its benefits.

---

## SUSPENDED SENTENCE OF IMPRISONMENT WITH PROBATION PATROL

JOZEF MEDELSKÝ

*jozef\_medelsky@hotmail.com*

Paneurópska vysoká škola Fakulta práva

**Key words:** trest odňatia slobody, alternatívne riešenie, restoraivna justícia, podmienený odklad výkonu trestu odňatia slobody, Česká republika, Slovenská republika

Suspended sentence of imprisonment with probation patrol is one of the alternative executions of imprisonment possibilities. This institute is strictly based on legal conditions determinated in Criminal Code. Also the mentioned institute represents the philosophy of restorative justice in slovak legal order. The article compares the regulation of this institute in Slovak and Czech republic.

---

## NEW REGULATIONS ON THE SANCTIONS APPLICABLE TO MINORS IN THE NEW ROMANIAN CRIMINAL CODE

RUXANDRA RADUCANU

*rux\_raducanu@yahoo.com*

University of Craiova Faculty of Law and Administrative Sciences

**Key words:** Keywords: educational measures, juvenile offender, criminal penalty

This study aims to compare the system of sanctions applicable to juvenile offenders as provided in the current Romanian Criminal Code and the new Romanian Criminal Code adopted by Law no. 286/2009. The new regulations remove criminal penalties, a perspective that characterized the view of the Romanian legislature in 1968, the protection and rehabilitation of minors prevailing and requiring the application of non-custodial educational measures. The new Romanian Criminal Code reflects, in the matter of sanctions applicable to juvenile offenders, a modern view focusing on educational measures. However, abandoning the educational measure of confinement in an educational medical centre is not a happy choice of the Romanian legislature, mainly because the new Criminal Code does not contain appropriate regulations. Thus, the legislature's concern for all juvenile offenders is not complete, since there is no protection for the minors suffering from physical or mental illness. Keywords: educational measures, juvenile offender, criminal penalty

---

## PUNISHMENT AS SUBJECTIVE EXPERIENCE

TOMÁŠ SOBEK  
7664@law.muni.cz  
FPr MU

**Key words:** retributivismus, subjektivismus, trest

Odsouzení jsou jako jednotlivci odlišně vnímaví k tvrdosti ("bolestivosti") formálně stejného trestu. Měli bychom z pozic retributivismu přizpůsobit trest (včetně jeho výše) k tomu, jak bude ten či onen odsouzený subjektivně pociťovat jeho tvrdost? Subjektivisté (např. Adam Kolber, Shawn Bayern, John Bronsteen) říkají, že ano.

---



## FAMILY GROUP CONFERENCES AS AN ALTERNATIVE TO CRIMINAL PROCEDURE

DOMINIKA STRIGÁČOVÁ

*dominika.strigacova@gmail.com*

Právnická fakulta Trnavskej univerzity v Trnave Kollárova 10, Trnava

**Key words:** family group conferences, the Eigen-Kracht conference, victim, offender, reparation, mediation

The contribution will deal with one of the most successful restorative methods of solving juvenile delinquency cases in New Zealand, Australia and the Netherlands and with possibility of using of family group conferences in conditions of Slovak republic.

---

## PROCEDURAL ALTERNATIVES AND THEIR INFLUENCE ON USING OF ALTERNATIVE PUNISHMENTS

FILIP ŠČERBA

The article deals primarily with three procedural alternatives used for the acceleration of criminal proceedings within the Czech criminal law – criminal warrant, diversions in criminal proceedings and the newest one, guilt and punishment deal (plea bargaining). The article refers to the fact, that using of these instruments is influencing the way of sanctioning of criminal offences, primarily the using of alternative punishments.

---

## THE AGREEMENT ON GUILT AND PUNISHMENT AND MEDICAL PERSONNEL CRIME

KATEŘINA ŠTŘEJTOVÁ  
*134832@mail.muni.cz*  
PrF MU

**Key words:** the agreement on guilt and punishment, procedural alternative, medical personnel crime

The contribution deals with newly established procedural alternative – institute of the agreement on guilt and punishment. First part is focused on general definition of the institute and comparison with Slovakian legislative. Next the attention is paid to possibilities of practical application of the institute in cases of medical personnel crime.

---

## MONEY LAUNDERING AS A FORM OF TRANSNATIONAL ORGANIZED CRIME

GULNUR YENSEBAYEVA – GULNUR TULEUBAYEVA

*guliriko@mail.ru – g.tuleubayeva@mail.ru*

L.N.Gumilyov Eurasian National University, Law faculty

**Key words:** Transnational organized crime, corruption, organized crime, money laundering, RICO laws

Legal Model RICO laws to confiscate any profits and property from crime community and its individual members, was the basis of the UN Convention against Transnational Organized Crime and the Convention against Corruption. On the basis of international legal requirements, the confiscation of criminal proceeds can only be based on the fight against money these same crime. Many documents of the United Nations has noted the need to combat both terrorism, organized crime and corruption. The heart of this struggle should be an effective response to the economic crime. It is no accident in Article 2 of the UN Convention against Transnational Organized Crime, said the persecution of organized crime aims to obtain, directly or indirectly, a financial or other material benefit.

---

## SOME FORMS OF TRANSNATIONAL ORGANIZED CRIME

GULNUR TULEUBAYEVA – GULNUR YENSEBAYEVA

*g.tuleubayeva@mail.ru – guliriko@mail.ru*

L.N.Gumilyov Eurasian National University, Law faculty

**Key words:** transnational organized crime, human trafficking, drug trafficking, illicit arms trafficking, money laundering, corruption, organized crime

In the twenty-first century has worsened not only related to economic globalization, regional political instability, habitat degradation, and crime. Currently, the threat comes from both traditional and new from previously unknown, cross-border forms of crime. Modern trends in organized crime of the Commonwealth of Independent States (CIS) showed expansion of transnational criminal activity, the development of international links with organized groups and criminal organizations in other countries. Currently, organized crime is becoming increasingly international, or transnational in nature, making it a real threat to the stability and economic development, both individual states and the international community as a whole.

---

## AGREEMENT BETWEEN THE PROSECUTOR AND DEFENCE

LADISLAV VLACHOVIČ

*ladislav.vlachovic@gmail.com*

Paneurópska vysoká škola, Fakulta práva Tomášikova 20, 821 02,  
Bratislava

**Key words:** dohoda o vine a treste, slovesná právna úprava, česká právna úprava, závery

The article deals with one of the institutes, which offers the alternative resolving of case. Agreement between the prosecutor and defence is in the Czech republic new institute, while in the Slovak republic is this institute part of criminal code from the recodification which entered into force in 2006. This article compares slovak and czech legal law regulations of the agreement between the prosecutor and defence and summarises it with conclusion.

---

## MONEY LAUNDERING AS A FORM OF TRANSNATIONAL ORGANIZED CRIME

GULNUR YENSEBAYEVA – GULNUR TULEUBAYEVA

*guliriko@mail.ru – g.tuleubayeva@mail.ru*

L.N.Gumilyov Eurasian National University, Law faculty

**Key words:** Transnational organized crime, corruption, organized crime, money laundering, RICO laws

Legal Model RICO laws to confiscate any profits and property from crime community and its individual members, was the basis of the UN Convention against Transnational Organized Crime and the Convention against Corruption. On the basis of international legal requirements, the confiscation of criminal proceeds can only be based on the fight against money these same crime. Many documents of the United Nations has noted the need to combat both terrorism, organized crime and corruption. The heart of this struggle should be an effective response to the economic crime. It is no accident in Article 2 of the UN Convention against Transnational Organized Crime, said the persecution of organized crime aims to obtain, directly or indirectly, a financial or other material benefit.

---

## SOME FORMS OF TRANSNATIONAL ORGANIZED CRIME

GULNUR TULEUBAYEVA – GULNUR YENSEBAYEVA

*g.tuleubayeva@mail.ru – guliriko@mail.ru*

L.N.Gumilyov Eurasian National University, Law faculty

**Key words:** transnational organized crime, human trafficking, drug trafficking, illicit arms trafficking, money laundering, corruption, organized crime

In the twenty-first century has worsened not only related to economic globalization, regional political instability, habitat degradation, and crime. Currently, the threat comes from both traditional and new from previously unknown, cross-border forms of crime. Modern trends in organized crime of the Commonwealth of Independent States (CIS) showed expansion of transnational criminal activity, the development of international links with organized groups and criminal organizations in other countries. Currently, organized crime is becoming increasingly international, or transnational in nature, making it a real threat to the stability and economic development, both individual states and the international community as a whole.

---



---

## A CRIMINAL ORDER ISSUED REGARDLESS OF ASCERTAINED FACTS OF A CASE

JAN ZŮBEK

The author of the article deals with consequences of the issuing of a criminal order in a situation when the facts of the case have been ascertained only from files, and the judge has not had a possibility to become directly acquainted with evidence proving the guilt of the accused, and where, in some cases, holding of a trial and producing evidence before court might have led to different judge's conclusions and therefore to a different judgment. Quite often a criminal order is the result of summary criminal proceedings where the facts of a case have only been cleared up in general terms, and the thorough knowledge of the facts based on producing evidence, on statements of the defendant with respect to such evidence, and on proofs of evidence moved by the defendant should yet be acquired in proceedings before court. In this context, the author considers if, in such cases, there is a greater than usual degree of danger that an erroneous and unjust judgment of conviction may be made. Public interest in fair and factually correct consideration of criminal conduct and the defendant's right to a due process, as it is entailed in our Constitution, the Charter of Fundamental Rights and Freedoms and in general principles of criminal law, is a counterweight to the interest in quick and efficacious criminal justice. In this regard, current legislation is solely based on the presumption of a responsible attitude of a judge and on alertness of the defendant to his rights. Given to a large number of cases disposed of by criminal orders, it is possible to encounter final and conclusive criminal orders which have been issued regardless of insufficient findings of facts and/or which have other factual or formal deficiencies. According to the author, the current legislation should be enriched with a procedural means by which it would be possible to simply remove obviously wrong, unjust acts of the application of law. At the same time, existence of such means, or consequences of its application, would motivate sole judges to deal with this alternative procedural

---

measure judiciously. In the end of the article a possible solution de lege ferenda is presented.

---

Section  
Current (Legislative and  
Application) Questions of  
Administrative punishment

## CRIMINAL ADMINISTRATIVE PROCEEDINGS OF LEGAL PERSON

JOZEF BANDŽAK

This article is about the administrative breaches of legal person with the accent on the main problems and specific issues related proceedings aspects.

---

## ADMINISTRATIVE PUNISHMENT IN RECENT DECISION-MAKING OF THE COUNCIL FOR BROADCASTING AND RETRANSMISSION

RÓBERT BARDAČ

The Council for Broadcasting and Retransmission supervises the legality of broadcasting content under the Act Nr. 308/2000 of Coll. on Broadcasting and Retransmission and on changes of the act Nr. 195/2000 of Coll. on Telecommunications in Slovakia. The Council's decision may be appealed on the Supreme Court of Slovak Republic. The Supreme Court is the final instance; its decisions are binding for the Council and for concerned broadcaster, too. The article deals with Council's recent decision-making and with the most relevant Supreme Court decisions with respect to administrative punishment.

---

## THE CONCEPT OF A SINGLE ECONOMIC UNIT AND LIABILITY FOR THE INFRINGEMENT OF COMPETITION LAW

HELENA BARTÁKOVÁ

The article analyses the concept of a single economic unit as a basis for determining the legal entities liable for an infringement of competition law as it appears in the decisions of the Court of Justice, General Court and European Commission. The concept of a single economic unit enables the EC and NCAs to attribute a wrongdoing of an economic unit to the individual companies that belong into it. The impact of this concept on the administrative punishments awarded to such companies is also examined in the article. The last part of the article is devoted to the approach of Czech NCA – Office for the Protection of Competition – and Czech administrative courts to punishing the companies operating as a single economic unit.

---

## ADMINISTRATIVE PUNISHMENT AFTER ZOLOTUKHIN VS. RUSSIA DECISION

LENKA BURSÍKOVÁ

*l.bursikova@email.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** administrative punishment, double jeopardy, Zolotukhin

The submitted paper focuses on the impact of the Zolotukhin vs. Russia decision of the Grand Chamber of European Court of Human Rights. The decision should have contributed to the unification of the interpretation of the term "same conduct" included in the art. 4 of the Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms. However, it gave rise to many confusions and problems in connection with the application of the double jeopardy principle in the field of administrative punishment. The paper aims to define some of these problems and provide a relevant reaction to them.

---

## CONSIDERATIONS ON THE ADMINISTRATIVE PUNISHMENTS IN THE ROMANIAN LEGAL SYSTEM

ANAMARIA CRISTINA CERCEL

*acf88@yahoo.com*

Appel Court of Law Craiova

**Key words:** administrative liability, contraventional offences, repressive sanctions

Administrative punishments are applied as a consequence of engaging administrative liability for the breach of the provisions of administrative law. Among these punishments, the most important ones are the sanctions with regard to contraventions (contraventional offences). The Ordinance of the Government (OG) no. 2/2001 is the general framework for contraventional offences sanctions. According to its provisions, contraventional offences punishments are classified in main sanctions, such as admonishment (warning), contraventional fines and community service, and complementary sanctions: confiscation of the goods used for, or resulted from contraventions, stay in execution or annulment of the approval which authorizes a certain activity, closing the unit, blocking of the bank account, suspending the activity of the economical agent, withdrawing the license or the approval for certain operations or external commercial activities – temporary or definitive, demolition of the constructions and bringing the land to its initial state. The application of these administrative sanctions is governed by legal principles. In the hypothesis of a challenge of these sanctions, the procedure to be followed in front of the court of law is the civil procedure. However, in concrete situations, some sanctions have been characterized as repressive and therefore there is a need that procedural safeguards characteristic to criminal law are provided for the sanctioned person.

---



## DISCIPLINARY MEASURES AGAINST PRISONERS

LENKA ČIHÁKOVÁ

*lenkacihakova@yahoo.com*

Masarykova univerzita Právnická fakulta

**Key words:** disciplinary measures, prisoners, judicial review, Czech Republic

The paper deals with some specific elements of disciplinary measures against prisoner in the Czech Republic. Disciplinary measures against prisoners are a part of administrative punishment with some differences. The first part of the paper focused on the changes in the area of disciplinary measures, the second part deals with practical aspect of the changes.

---

# A FEW REMARKS ON THE ADMINISTRATIVE OFFENCES PROCEDURE INITIATED ON PROPOSAL

ZDENĚK FIALA

The papers aims to outline the main areas of problems and specific issues related to administrative offences procedure initiated on proposal.

---

## REFORM POSSIBILITIES OF DECISIONS MADE IN BLOCK PROCEEDING

KATEŘINA FRUMAROVÁ

The paper deals with the question of block proceeding and it is concentrated on the problem of reform possibilities of decisions made in block proceeding. It focuses on reform possibilities within public administration and also on possibility of judicial review, namely in context of recent decisions of administrative courts, especially of The Supreme Administrative Court.

---

ADMINISTRATIVE DELICTS AND  
REQUIREMENT OF LEGAL REGULATION  
FORM OF DUTIES WITHIN THE EXAMPLE  
OF LOCAL TRAFFIC REGULATION

DAVID HEJČ

*hejc@mail.muni.cz*

Msarykova univerzita, Právnická fakulta

**Key words:** administrative delicts, imposing of duties, reservation of Act., secondary legal regulation, local traffic regulation

The proposal deals with issue of legal regulation form of duties form the area of local traffic regulation in secondary legal regulation. Attention will be mainly paid to question of sufficient degree of activity definition, which is prohibited or commanded by secondary legal regulation for road users in certain places.

---

## A FINE FOR INACTIVITY OF THE PUBLIC ADMINISTRATION

MATEJ HORVAT

*matej.horvat@flaw.uniba.sk*

Univerzita Komenského v Bratislave, Právnická fakulta, Katedra  
správneho a environmentálneho práva

The article deals with the valid and effective Act on Complaints and it compares it with the former Act on Complaints in the matter of fining a penalty for obstructing a remedy in case of an already identified failures in the actions of public administrative body.

---

## FINANCIAL SANCTION (PENALTY), AS A TOOL OF STATE SUPERVISION OVER TERRITORIAL SELF-GOVERNMENTS ACCORDING TO CURRENT HUNGARIAN LEGISLATION

GÁBOR HULKÓ

The article is dealing with a selected legal institute of state supervision over territorial self-governments, leaded in with Act no. CLXXXIX/2011 on the Territorial Self-governments in Hungary, namely the financial sanction (penalty) fined by an organ of state administration during the supervision process over the territorial self-governments.

It is considered as an administrative punishment of financial character assessed by the organ of state administration (as an organ of public administration on the one hand) against an organ of territorial self-government (as an organ of public administration on the other hand). This alone grants a specific character to this administrative sanction.

The article is examines the nature of this financial punishment, it's position in the system of administrative punishment in general and among the legal institutes of state supervision, but also specific applicational questions, for example legal limits of administrative consideration, procedural issues respectively the possible legal remedies against the decision of the organ of state administration.

---

## ENTITIES OF ADMINISTRATIVE PUNISHMENT IN ENVIRONMENTAL LAW

PETRA HUMLÍČKOVÁ  
*humlic.prf@gmail.com*  
PF UK

**Key words:** administrative punishment, environmental law, entities

This paper addresses the issue of the entities that are subject to administrative punishment in a specific area of environmental law. This paper deals with the legislation and case law application practice, with emphasis on the determination of liability in the event of subcontracting relationships.

---

## BUDE DOPLNĚNO

JANA JURNÍKOVÁ

*jana.jurnikova@law.muni.cz*

Masarykova univerzita – Právnická fakulta katedra správní vědy a  
správního práva

bude doplněno

---



(NON)SUFFICIENCY OF THE RANGE OF  
SANCTIONS OF THE DISCIPLINARY  
PROCEEDING ON THE UNIVERSITIES?

IVO KEISLER

*ivo.keisler@gmail.com*

Právnická fakulta Masarykovy univerzity, Liga lidských práv

This paper deals with the issue of college and university disciplinary proceeding, more specifically contemplates the sufficiency of the range of sanctions that the law allows colleges and universities to apply for misdemeanours. In addition to outlining the historical context and evaluating the present state of affairs, the author also lists a number of suggestions with regards to possible changes of legal regulations of the sanctions in question. These suggestions are mainly topics for an expert discussion. The author of the paper is a student of the Faculty of Law at Masaryk University and is also a member of its Disciplinary Commission and therefore draws on his own experience.

---

## LEGAL ASPECTS OF DETENTION OF AN OFFENDER

PETR KOLMAN

*kolman@law.muni.cz*

Masarykova univerzita – Právnická fakulta katedra správní vědy a  
správního práva

**Key words:** Administrative law, Detention of an offender, Public law

The article deals with the legal aspects of the detention of an offender.  
And in terms of both *de lege lata* and *de lege ferenda*.

---

ADMINISTRATIVE OFFENCES PROCEEDING  
AS A SPECIAL KIND OF ADMINISTRATIVE  
PROCEEDING IN THE PROPOSAL OF THE  
NEW SLOVAK ADMINISTRATIVE CODE  
PROCEDURAL

SOŇA KOŠIČIAROVÁ

The paper is dedicated to the issue of the principles of administrative punishment in the Council of Europe's documents. It is also interested in the topic of procedural principles of drawing a liability for administrative offences (*de lege ferenda*). The paper takes into account the preparation of the legislative intent relating to the administrative offences proceeding regulation in the new Administrative Code Procedural in Slovakia.

---

AUTHORITY OF SOCIAL-LEGAL  
PROTECTION OF CHILDREN AND  
INSTRUMENTS OF INFLUENCE ON  
PARENTS.

VERONIKA KOZLOVÁ  
*veronika.kozlova@email.cz*  
Masarykova univerzita

**Key words:** Authority of social legal protection of children, Child's best interest, parenthood

Authorities of social-legal protection of children are first instance, that has to protect a Child, who is growing up in insufficient environment. Contribution focuses on competence of an administrative authority in relation to parents of the endangered child.

---

## LEGITIMATE EXPECTATIONS IN THE PROCESS OF SANCTION IMPOSING

JAKUB KRÁL

*[jakub.kral@mail.muni.cz](mailto:jakub.kral@mail.muni.cz)*

Právnická fakulta MU

**Key words:** tort; sanction; administrative discretion; legitimate expectations; excess

The article is focused on issues of sanction determination for committing of torts. Author deals with analysis of excessive administrative body practice when sanction does not correspond with tort seriousness and circumstances of its committing. Goal of the contribution is extracting basic rules which must be respected during specification and reasoning of sanction.

---

## THE SELECTED ASPECTS OF STATE INSPECTION AND ADMINISTRATIVE PUNISHMENT IN THE CASE "METHANOL"

IVO KRÝSA

*info@khsstc.cz*

Krajská hygienická stanice Středočeského kraje

**Key words:** state inspection, administrative punishment, public health protection

In times of normality government power focuses on two aspects: compliance with the obligations imposed by legislation and administrative punishment in the event of non-compliance. However, in times of emergency these standard mechanisms are eligible to significant modification. This article deals with some of the selected aspects of activities of public authorities in relation to the case "Methanol". The author focuses on the process of the adoption of emergency procedures, their interpretation and application in practice.

---

## SOME CONSIDERATIONS ABOUT ADMINISTRATIVE PUNISHMENT IN ROAD TRANSPORT

MAREK KUBÍČEK

*marek.kubicek@gmail.com*

Univerzita Komenského v Bratislave, Právnická fakulta Šafárikovo  
nám. 6, P.O. BOX 313, 810 00 Bratislava 1

The new road transport act no. 56/2012 Collection of Law has entered into force from 1. 3. 2012. The aim of this article is to demonstrate changes, which the new act has introduced in the field of administrative punishment in this segment of public administration.

---

## IS UNLAWFULLY COLLECTED SANCTION UNJUST ENRICHMENT OF ADMINISTRATIVE BODY?

LUCIA MADLEŇÁKOVÁ

The decision on sanction becomes final, regardless of the outcome of the administrative review of that decision by the court. Frequently it happens that the obliged entity pays the fine imposed on the basis of decision of the administrative authority that was later canceled by court. How can a person obtain mandatory return of their funds, after several years of trial? Can be collected fine perceived as unjust enrichment of administrative body and claim it before civil court according to civil law?

---



## THE PRINCIPLE OF LAWFULNESS AND THE SLOVAK LEGAL REGULATION OF ADMINISTRATIVE PUNISHMENT.

MICHAL MASLEN

The principle of lawfulness requires that public authorities primarily respect the Constitution of the Slovak Republic in the field of administrative punishment. The regulation of the administrative punishment in Slovakia is significantly fragmented. The administrative justice responds to such situation. It analogously applies the constitutional guarantees of individual rights protection concerning the criminal punishment. The paper deals with the possibilities of implementation of the uniform standard of administrative liability drawing in the Slovak legislation.

---

## THE OUTLINE OF THE LAW ON OFFENCES

PAVEL MATES

*mate@ksp.zcu.cz*

Vysoká škola finanční a správní

**Key words:** administrative punishment, offences

The current adjustment of administrative punishment, as was gradually created from 90. years of the last century has stopped long ago, however, all previous efforts to change the situation, in particular towards the codification of this sector for the time being have not undergone administrative law. The Ministry of the Interior now presents a draft Bill that would address this situation in a spirit of political trends in the practice of application of the administrative authorities and case law.

---

## COMPETENCES OF MUNICIPALITIES IN THE FIELD OF ADMINISTRATIVE PENAL LAW

MILOŠ MATULA

The contribution is dedicated to the topic of competences of municipalities in the field of administrative penal law, especially in relation to the offence procedure. The problem is solved with regard to current concept analyses that are being carried out in public administration, as well as with regard to possible legislative proposals. A particular attention is paid to different competence in the area of offence procedures depending on the fact whether the offence falls within own (independent) or delegated competences of municipalities, and also to the possibility to entrust such a power only to some municipalities. These problems relate also to general proposals of changes in the sphere of delegated competences of municipalities.

---

## MATERIAL ASPECT OF OTHER ADMINISTRATIVE OFFENSES PROSECUTED BY TERRITORIAL FINANCIAL AUTHORITIES

MARTINA NAVRÁTILOVÁ

*navratilova.pre@seznam.cz*

Právnická fakulta – Univerzita Palackého v Olomouci

**Key words:** material aspect of the offense, an administrative offense, sanctions, territorial financial authorities

Contribution first briefly defines valid and efficient regulation of the other administrative offenses in the Czech Republic that are pursued by territorial financial authorities. Subsequently, the author defines material aspect of such offenses and its importance in determining the amount of penalties and assessments legally wrongful act punishable by territorial financial authorities, all in the context of the particular case of the Supreme Administrative Court

---

## FORFEITURE AND RETENTION OF GOODS IN THE PROTECTION OF INDUSTRIAL PROPERTY

VLADIMÍR NOVOTNÝ

*novotny@mup.cz*

Metropolitní univerzita Praha

**Key words:** industrial property, protective measures, sanctions

The regulations providing protection of industrial property also address cases of goods forfeiture and retention. Some regulations specify a thing as the goods. Special and not commonly used institutes, which are close as for results to these institutes, is an application of a simplified method followed by the destruction of goods. The paper focuses on these types of sanctions as well as protective measures.

---

## THE CASE LAW AND ADMINISTRATIVE PUNISHMENT

LUKÁŠ POTĚŠIL

*lukas.potesil@law.muni.cz*

Masarykova univerzita, Právnická fakulta, katedra správní vědy a  
správního práva

**Key words:** case law, administrative punishment

This paper focuses on the role and task of case law in the sphere of administrative punishment, especially in the context of the envisaged reform of administrative punishment. This entry describes relevant case law and provides its evaluation.

---

## COMPETENCE OF LOCAL GOVERNMENT IN IMPOSING SANCTIONS FOR VIOLATIONS OF LEGAL OBLIGATIONS.

MARIÁN ŠEVČÍK

Analysis of legislation on imposing sanctions according to de lege lata  
and de lege ferenda.

---

## PUNITIVE POWERS OF MUNICIPALITIES

JIŘÍ VENCLÍČEK

*j.venclicek@gmail.com*

Masarykova univerzita, Právnická fakulta

Paper deals with material competence of administrative authorities to deal with administrative offences, respectively, by the role played in this area by municipalities. From this examined issue it cannot be separated the overall concept of the administrative offences. The first part outlines the theoretical base of the problem, as it results from the existing scientific discussions. In other parts paper deals with the historical development and current legislation of administrative offenses from the view of formal concept of public administration. Finally the paper contains own discretion on this topic.

---



Section  
European Union Law after  
Lisbon. European Union and  
International Law

## EXTENDING THE SCOPE OF APPLICATION OF THE EU CHARTER OF FUNDAMENTAL RIGHTS ON THE BACKGROUND OF THE COURT OF JUSTICE CASE LAW ON THE EUROPEAN CITIZENSHIP

RADOSLAV BENKO

The presentation comes out from Article 51 para 1 of the Charter of Fundamental Rights of the European Union which determines the scope (field) of its application. According to the provision, provisions of the Charter are addressed to the Member States only when they are implementing Union law. Said by other words, provisions of the Charter are binding on the Member States only when they act within the scope (*ratione materiae*) of Union law. The Court of Justice of the European Union in its recent case law has extended considerably the scope of application (*ratione materiae*) of Article 20 of the Treaty on the Functioning of the European Union (former Article 17 of the Treaty establishing the European Community) relating to the European citizenship. It can be applied nowadays even in such situations which lack before required the cross-border dimension. Article 20 of the TFEU represents nowadays an autonomous source of rights for Union citizens, which can be applied in the purely internal situations (situations in which no actual movement has taken place). Extending the scope of application of the provisions of the Treaties leads to the extending of the scope of application of the Charter. The presentation will examine the scope of application of the Charter on the background of the recent Court of Justice case law on the European citizenship. Inter alia, the Court of Justice case law in *Zambrano*, *McCarthy* and *Dereci* will be discussed.

---

# AGREEMENT ON THE UNIFIED PATENT COURT AND ITS STATUTE AS AN ATYPICAL SOURCE OF EU LAW

RADIM CHARVÁT

*radim.charvat@tiscali.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** EU unitary patent, European patent, Unified Patent Court, Agreement on the Unified Patent Court, EU law

The European Union has been making effort to establish a unitary patent for more than 30 years. For the effective functioning of this patent, unified patent court is inevitable to create within the European Union. For this purpose, "draft Agreement on an Unified Patent Court and draft Statute" has been prepared. This paper aims to analyze several legal aspects of this draft Agreement.

---

## NEW RULES ON COMITOLOGY

MARTIN JANKŮ

The term comitology in EU law is used for the characterization of procedures for the adoption of EU legislative acts by the Commission. Comitology brought many conflicts and battles for power within the institutional triangle of the EU Council, the European Parliament and the Commission, and was therefore target of numerous criticisms. In response to the changes brought about adoption of legislative procedure by the amended Article 290 and 291 of the TFEU the system of comitology committees and their operation was fundamentally transformed as well. On 1 March 2011 came into force the new Regulation of the European Parliament and Council (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control of the Commission's exercise of implementing powers by Member States. This Regulation is directly applicable in all Member States and replaces the previous regulation of the European Parliament and of the Council of 1999. This paper analyzes the main changes of the comitology procedures under the aspect of the new arrangements and discusses the question of whether these changes will make the legislative process more efficient and closer to the needs of the dynamic development of EU law.

---

BILATERAL TREATIES INSIDE THE  
EUROPEAN UNION ADDRESSING ISSUES  
TOUCHED BY ITS COMPETENCES – CASE  
OF TAX TREATIES

FILIP KŘEPELKA

Contribution will analyse several aspects of bilateral treaties among the member states addressing issues touched by the European Union.

---

## EUROPEAN UNION AND NATIONALITY, CITIZENSHIP AND HUMAN RIGHTS – SETTLEMENT OF OLD OR THE OPENING OF NEW DISPUTES?

TAMAS LATTMANN

The so-called "democratic deficit" of the European Union has triggered the creation of new legal mechanisms under the Lisbon Treaty. Some of these may serve as a serious accelerator of citizens' integration to the operation of EU institutions, a splendid example of those is the right to petition to the European Parliament. But on the other hand these possibilities also seem to serve as methods to revive some of the old debates among central and eastern european states and political forces, thus turning these tools into tools of the past instead of the future.

The resistance of President Klaus to the Lisbon Treaty and the EU Charter of Fundamental Rights, the Hungarian legislation about the extension of Hungarian citizenship in 2010, or the recent Hungarian-originated petition to the EP aiming to abolish some of the Benes Decrees (in Slovakia) have raised serious concern not only among professional, but also political and wider public opinion. These are not only political or human rights questions but also shed light onto questions about the legal nature of the European Union as well. For example, the European Commission's desperate but still careful resistance towards these questions, the will to keep a constant distance from the affected states' sovereign matters is fully understandable, but gives rise to politically-motivated, and sometimes quite selective – but harsh – political criticism. These unfortunately have the potential to not only ruin relationships in our region but also to discredit the European idea itself.

In my paper and presentation I wish to touch upon some of the current political and legal debates, and present a Hungarian interpretation – at some points vastly critical towards the official governmental position.

---

My aim is also to collect ideas from colleagues present at the conference, and to contribute to a long and more intense relationship between our educational institutions and research projects.

---

# LEGITIMACY AND DEMOCRATIC DEFICIT IN THE EUROPEAN UNION AFTER THE LISBON TREATY

ZUZANA MELCROVÁ  
*zuzana.melcrova@nssoud.cz*

**Key words:** Legitimacy, democratic deficit, European Union, Lisbon Treaty.

The article will on the several different levels deal with the concepts of legitimacy and democratic deficit in the European Union after the Lisbon Treaty. First we will define legitimacy and democratic deficit from the theoretical point of view and additionally the term „problem of translation“ will be explained. In the next part of the article we will discuss the question of imbalance of the powers within the European Union and between the European Union and its Member States. Similarly the system of checks and balances in the European Union will be of our concern. Further we will deal with the legitimacy of the institutions of the European Union and with democratic deficit of the legislative processes on the European level. Finally we will try to assess the solutions to the problem of democratic deficit in the European Union brought by the Lisbon Treaty and to consider the real possibility to fully resolve it.

---



## EUROPEAN UNION AND FOREIGN INVESTMENT LAW

DAVID MULLER

The aim of this contribution is to present the recent development and analyze the basic features of the new European investment policy, which has been designed since the entry of the Lisbon Treaty into the force, as this Treaty transferred the competences within this field to the EU. This agenda would consequently become a part of the trade agreements, which EU negotiates with the third countries.

---

PROTECTION OF HUMAN RIGHTS OF  
ALLEGED INTERNATIONAL TERRORISTS BY  
THE ECHR AND THE CJEU IN A  
COMPARATIVE VIEW

LUCIE NECHVÁTALOVÁ

*lucienechwatalova@centrum.cz*

Masarykova univerzita – Právnická fakulta Katedra mezinárodního a  
evropského práva

**Key words:** terrorism, ECHR, CJEU, Kadi, Nada

This paper will be focused on an actual issue of human rights protection of alleged international terrorists before the ECHR and the CJEU. The core of the paper will be concentrated on an analysis of two key judgments of the mentioned judicial bodies, in particular *Kadi v. Council and Commission* and *Nada v. Switzerland*. After that it will ensue a comparison of two analysed concepts with respect to the protection of human rights of alleged international terrorists.

---

---

# THE RIGHT TO INFORMATION ABOUT THE RIGHT TO SILENCE AS EU PROCEDURAL GUARANTEE IN CRIMINAL PROCEEDINGS AND ITS IMPACT ON NATIONAL LEGAL SYSTEMS

IRENA NESTEROVA – ARIJA MEIKALISA

*nesterova.irena@gmail.com*

Faculty of Law, University of Latvia

**Key words:** EU procedural guarantees in criminal proceedings, EU criminal justice, human rights, right to information, right to silence, right not to testify.

After the Lisbon treaty there have been adopted first directives which set common minimum standards on the rights of suspects and accused persons in criminal proceedings throughout the European Union. The objective of the paper is to analyze the right to information about the right to silence as one of the most ambiguous and controversial issues provided in the Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (the Directive on the Right to Information). Author will examine the actual and problematic aspects about the comprehension and effective protection of these rights in national legal systems. The author argues that the notion “the right to remain silent” which is used in the Directive on the right to information may cause confusion in application of these rights in Member States legal systems because it is characteristic to common law legal systems while in the civil law systems as an equal term is basically used “the right not to testify”. The author concludes that the major challenges in adopting the right to information about the right to silence in Member States will be related to ensuring them in practice. Both the comparative studies of European

---

criminal procedure and the survey of the accused persons, counsels, and officials who perform criminal proceedings which was carried out by the author in Latvia shows that in practice the right to information about the right to silence is considerably violated. The author argues that when adopting the right to information about the right to silence in national legal systems Member States should not be confined to the implementation of the minimum standards, but to maintain and strive to implement higher standards and refrain from undue restriction of the right to silence. For example, it shall be recognised that the violation of the requirement to inform accused person about the right to silence can lead to the absolute inadmissibility of evidence. Also the information that not testifying can cause adverse interference, as it is provided in legal framework of England and Wales, has to be regarded as unlawful restriction of the rights to silence.

---

## THE STATE IMMUNITY THROUGH THE LENS OF THE CJEU

ZDENĚK NOVÝ  
*zdenek.novy@law.muni.cz*  
Masarykova univerzita

**Key words:** Brussels I Regulation, EU law, Immunity, State

The paper will offer the view on the state immunity as a traditional part of general international law through the lens of the case law of the CJEU. The working hypothesis is that the case law CJEU corresponds to the tendency towards the restriction of the state immunity in general international law hence strenghtening the functional approach thereto.

The overall idea is that the role of state in contemporary global world has decreased since the state has become only one of the important actors in international (economic) relations. As a consequence, the state cannot enjoy any more priveleges than other entities while acting in private (commercial) relations. And this is fully reflected by the recent CJEU case law.

---

## PRINCIPLES OF MUNICIPAL SERVICE IN THE RUSSIAN FEDERATION AND IN THE EUROPEAN UNION

ELENA PODKOPAEVA

*podkopaeva@abc-advocats.ru*

Voronezh State University, Law faculty

**Key words:** municipal service, principles of municipal service, the Russian Federation, the European Union, municipalities, public service

The article considers problems of legal regulation of principles of municipal service in the Russian Federation and in the European Union and its consequences for municipalities.

---

## THE RELATIONSHIP BETWEEN US AND EU AS MEMBERS OF WTO

ĽUDMILA POŠIVÁKOVÁ

The article is focused on the main features of the relationship between EU and US as members of WTO, main features of contradictions and their solutions in terms of WTO. European Union, before December 2009 known as the European Communities, has been a WTO member since January 1995 as well as United States. It means that both of them have trade policies based on the requirements of WTO (GATT). So for EU and US must WTO remain the principal forum and authority for dispute resolution. In recent years, number of disputes arise not only from limited sectoral or protectionist concerns or from technical disagreements over applicability of WTO rules, but from wider issues of public and political concern too. In general, the trade policies of nations reflect not only the policy choices of governments, but also the political and economic preferences of society. Disputes between United States and European Union are affected by use of hormone growth promoters in beef, banana imports, tax concessions for exporting companies and Airbus or Boeing subsidies. One of aim of the article is also to clarify the reasons of disagreements between EU and US, but also results of dispute resolution mentioned above.

---

## THE COMMON SECURITY AND DEFENCE POLICY AFTER THE LISBON TREATY

MICHAELA RAPČANOVÁ

*michaela.rapcanova@minv.sk*

Akadémia Policajného zboru v Bratislave

**Key words:** common security and defense policy, institutional structures within the CSDP, CSDP operation, the Lisbon Treaty

In this paper, author analyzes the institutional and conceptual innovations in the common security and defense policy, which embodies the Lisbon Treaty. She also displays the process of transformation of the European security and defense policy and the common security and defense policy and highlights the activities of the European Union in the field.

---



## SOCIAL POLICY AFTER LISBON AND CHARTER OF FUNDAMENTAL RIGHTS OF THE EU

ZUZANA ŠTEFANKOVÁ

After the Treaty of Lisbon has entered into force the Charter of Fundamental Rights of the EU has gained the same legal value as the Treaty on EU and the Treaty on Functioning of the EU. Bearing in mind that the EU Charter contains social rights, as well as the fact that Protocol no. 30 annexed to the Treaties deals with the issue of application of the EU Charter in the United Kingdom and Poland, the presented paper will endeavour to underline the goals of EU Social Policy followed after the Treaty of Lisbon.

---

## NEW ROLE OF INTERNATIONAL TREATIES IN EU LAW

VLADIMÍR TÝČ

*tyc@law.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** EU competences, international treaty, EU law, Treaty on Budget discipline

The need to regulate matters of vital importance for the EU but outside its competence increases the role of international treaties. They are being used as a substitute of the EU primary and secondary law. One of the most exciting examples is the Treaty on Budget Discipline (Fiscal Compact Pact) concluded between 25 EU Member States. The study provides the analysis of the most important juridical aspects of that Treaty.

---

## INTERNATIONAL DIMENSIONS OF EU COMPETITION LAW

ZUZANA ŽÁKOVÁ

*zakova.zuzana@gmail.com*

Paneurópska vysoká škola Fakulta práva

**Key words:** competition law, European Union, trade agreements, WTO

A great number of cases, where competition law of the EU has been infringed, incline towards an international scope, rather than remaining within the "boundaries" of the European Union. As the title of my article suggests, I will focus on the link between trade agreements (bilateral and/or plurilateral), which include competition provisions and the legal framework of EU competition law. On the other hand, I will also concentrate on the possibility of including competition law in the scope of the World Trade Organization.

---



Section

## THE PROTECTION OF ARABLE LAND IN THE BASIC LAW OF HUNGARY WITH RESPECT TO THE EXPIRING MORATORIUM OF LAND ACQUISITION IN 2014

TÉGLÁSI ANDRÁS

The moratorium forbidding the purchase of arable land by foreign citizens and legal persons in Hungary expires in 2014. The Constitutional Court had examined the constitutionality of this regulation (i.e. the prohibition of the acquisition of arable land for foreigners) already in 1994 and found it, however temporarily, in conformity to the Constitution being in force at that time. The question is open, whether the protection of arable land in the Constitution could be changed as the new Basic Law of Hungary comes into force on 1st January 2012, and, if it is so, what will be the extent of that change, as well as whether the former jurisprudence of the Constitutional Court will remain valid after expiration of the moratorium. On the 6th of April, 1994, two days before the termination of the first parliamentary period, the first freely elected Hungarian Parliament after the political transition adopted Law LV of the year 1994 concerning arable land. Since the publication of that Law, foreign citizens, legal entities (of any domicile) or any other organization without legal personality cannot acquire ownership of arable land or any natural reserve in Hungary except in some extraordinary circumstances. In addition, even a Hungarian private person can acquire arable land of a maximum of 300 hectares or 6000 golden crowns (AK) of value. The Constitutional Court examined the provisions of the Act on arable land prior to its publication in compliance with the proposal for preliminary control of norm by the President of Republic in its decision of No. 35/1994. (VI. 24.) AB. The President founded his proposal, among other grounds, on the idea that such a limitation upon acquisition of property would result in a hinderance of effective operation of market laws and formation of prices according to the basic

---

---

laws of economics, as well as (i) contravening the national understanding concerning the treatment of private property, (ii) diminishing the international competitiveness of Hungary, the formation of economical farms and the creation of international integrations, and (iii) infringing upon the principles laid down in article 9 para (1), article 13, 14, 56 and article 70/A para (1) of the previous Constitution of the Republic of Hungary. The Constitutional Court described the provisions limiting the acquisition of arable land under the Act on arable land in its decision of No 35/1994. (VI. 24.) AB together with the exclusion of foreign individuals and legal entities from the acquiring such property in conformance with the Constitution up “until the reasonable grounds of the judged limitations exist according to an objective consideration”. It is questionable whether these grounds, which the Constitutional Court described as reasonable according to the objective consideration in 1994, still apply after the effective date of the new Basic Law of Hungary on 1st January 2012. This issue is interesting today, not only because the Basic Law has become effective, but also because the expiration of the moratorium on acquisition of land is approaching. In 2010 the Minister of Agriculture and Rural Development initiated a request on behalf of the State of Hungary to the European Commission, in accordance with the request of the Hungarian Parliament of No 2/2010. (II. 18.) OGY that the expiration time of transitory provisions on the acquisition of arable land estates defined originally as 1st May 2011 in the accession treaty should be postponed by 3 years i.e. until 30th April 2014 , which is approaching. It is a matter of debate as to how all these facts will influence the protection of arable land in Hungary as established in the Basic Law and guaranteed by the Constitutional Court. In the Basic Law, as distinguished from the Constitution in force until 2011, arable land appears *expressis verbis* in Article P) in part “Foundation”. In Article P) of the Basic Law arable land is specified in connection with the protection of natural resources, together with forests, water resources, biological diversity, native species of plants and animals, as well as the cultural values and their protection, maintenance and conservation for the future generations is named as obligation for the State and every citizen. All these provisions will continue to improve the protection of arable land.

---

## PROTECTIVE ZONE OF GRID EQUIPMENT : SELECTED ISSUES

HELENA DOLEŽALOVÁ

*320942@mail.muni.cz*

Masarykova univerzita Právnická fakulta

**Key words:** protective zone; photovoltaic power plant; restriction of ownership

Under Section 46 of Energy Act, the protective zone of a grid equipment is the area in the immediate vicinity of the equipment that is designed to secure reliable operation and to protect persons' life, health, and property. The zone may arise on the date of putting the equipment into operation without any information to owners of land within the zone, which is the case of photovoltaic power plant on roof that arises many questions.

---



## UNCERTAINTIES ABOUT LANDOWNER (LAND OWNERSHIP IN DISPUTE)

MARTINA FRANKOVÁ

The aim of this article is to point out various reasons which lead to legal uncertainty regarding the person of landowner. From this point of view the article sums up current regulation and a future legislation with regard to the new Civil Code (especially provisions contained in the Civil Code, in the new Civil Code, in the Act on Registration of Proprietary and other Material Rights to Real Estates, in the Act on Cadastre of Real Estates of the Czech Republic (Cadastral Law), and in the new Act on Cadastral Law which is in preparation). This article mainly deals with the issue of unknown owner, duplicity of ownership, protection of good faith, possibility to abandon the land and finally with the possibility to use the Cadastre as a tool to protect the land ownership. It is also taking into account a future legislation and current case law.

---

## PLANTING FAST-GROWING TREES

MARIE POLÁČKOVÁ – JAKUB HANÁK

*[jakub.hanak@mail.muni.cz](mailto:jakub.hanak@mail.muni.cz)*

Masarykova univerzita – Právnická fakulta katedra práva životního prostředí a pozemkového práva

**Key words:** fast-growing trees, environment, agriculture land, nature and landscape

Planting fast-growing trees became rampant and is associated with a number of legal issues. This paper discusses the conditions for establish and maintain plantations of fast-growing tree species. Special attention is given to the impact on the environment (agricultural land, nature and landscape). Related issues such as protection of the landowner's rights and procedural aspects are also discussed.

---

## DANGER TO ROAD TRAFFIC ORIGINATING FROM FOREST ESTATES – A STUDY OF LIABILITY FOR DAMAGE

IVANA PRŮCHOVÁ – TOMÁŠ KOCOUREK

*ivanap@law.muni.cz – tomas.kocourek@nssoud.cz*

Masarykova univerzita Právnická fakulta – Nejvyšší správní soud

**Key words:** roads, forest estates, liability of the land owner for the damage

Our paper deals with different situations in which the traffic on the roads is endangered by a threat originating from the forest estates (the fall of trees or stones, the slide down of soil etc.). The law potentially provides with different means of protection of the road owner which significantly differ as for determining the person who is obliged to bare the costs of measures eliminating the risks. The mutual relation of these legal means is ambiguous and therefore our aim is to clarify whether it is acceptable to use any of these means, eventually which one is the only admissible.

---

## OWNERSHIP OF LAND IN THE SPECIALLY PROTECTED AREAS

MICHAELA KONEČNÁ  
*270529@mail.muni.cz*

**Key words:** Ownership, Especially protected areas, state, municipalities and regions, each one, type of land

This contribution deals with some aspects of ownership to land in especially protected area in the czech legislation. Particularly it tries to give (hand down) a comprehensive overview of all persons, who can own the land in the especially protected areas, when it refers to individual peculiarities connected with their ownership of land in especially protected areas. There will be the type of land also taken into account.

---

## ALTERNATIVE DISPUTE RESOLUTION OF PROPERTY DISPUTES

FRANTIŠEK LIPTÁK

Our paper deals with alternative dispute resolution methodology with application on disputes arising in the area of legal relationships concerning properties, whether land use disputes, private vs. public interest conflict, disputes arising in real estate development, infrastructure development and also its resolution, while offering comparison with litigation procedure.

---

## LAND SOCIETIES AS AN ALTERNATIVE WAY TO PROTECT SOIL, FLORA AND FAUNA?

HANA MÜLLEROVÁ

Land societies do not make a special legal form established or presupposed by the environmental norms to the protection of the environment but they develop their activities to the same objective based on legislation on civil societies and by the means of cooperation with land owners. The contribution points, what practical impacts the activities of the land societies have for the protection of the environment and its components and what its legal linkages within the Czech environmental legislation are.

---

## LAND AS OBJECT OF LEGAL RELATIONSHIPS IN PERSPECTIVE OF NEW CIVIL CODE

The new Civil Code fundamentality changes including the existing regulation of the substantial part of private-law relationship, including the land law relationships. The paper contains a few ideas whether and to which extent the new legislation affects this area of social relations, to which land itself gives the seal of special relationships, and how new legislation has the potential to be beneficial to the development of these relations.

---

## PLANTING FAST-GROWING TREES

MARIE POLÁČKOVÁ – JAKUB HANÁK

*marie.polackova@seznam.cz*

Právnická fakulta – Masarykova univerzita

**Key words:** planting fast-growing trees, agricultural land, parties of the administrative proceedings.

Planting fast-growing trees became rampant and is associated with a number of legal issues. This paper discusses the conditions for establish and maintain plantations of fast-growing tree species. Special attention is given to the impact on the environment (agricultural land, nature and landscape). Related issues such as protection of the landowner's rights and procedural aspects are also discussed.

---



## THE ESTATE AS A CULTURAL MONUMENT

KLÁRA PROKOPOVÁ

*170274@mail.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** estate, cultural monument, archaeology

This contribution is focused on the estate as a subject of State monument care, the application of a Cultural Monument status and comparison to other types of protection, mostly related to archaeological issues.

---

## THE ISSUE OF CADASTRE OF REAL ESTATES AND LAND AS AN OBJECT OF RIGHTS IN CONTRACTUAL RELATIONSHIPS

FILIP SCHWARZENSTEIN

*filip.schwarzenstein@mail.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** New Civil Code, land, legal regulation, Cadastre of Real Estates

Land as Principal Factor of Production has its own invaluable significance in Social Relationships. Therefore is Exercise of Proprietary Rights over the Land under relevant Public Law Regulation besides the Legislation of Private Law. Cadastre of Real Estates of Czech Republic is certainly one of most important Legal Instruments of this kind of Legal Regulation. Its value and character is progressively changed under the influence of new Legal Order and Judicial Decision. In recent time New Civil Code has the major participation of this development.

---

---

# THE PROTECTION OF ARABLE LAND IN THE BASIC LAW OF HUNGARY WITH RESPECT TO THE EXPIRING MORATORIUM OF LAND ACQUISITION IN 2014

ANDRÁS TÉGLÁSI  
*teglasi.andras@uni-nke.hu*  
National University of Public Service

**Key words:** arable land, constitution, acquisition of arable land in Hungary, new Basic Law of Hungary

On the 6th of April, 1994, two days before the termination of the first parliamentary period, the first freely elected Hungarian Parliament after the political transition adopted Law LV of the year 1994 concerning arable land. Since the publication of that Law, foreign citizens, legal entities (of any domicile) or any other organization without legal personality cannot acquire ownership of arable land or any natural reserve in Hungary except in some extraordinary circumstances . In addition, even a Hungarian private person can acquire arable land of a maximum of 300 hectares or 6000 golden crowns (AK) of value. The Constitutional Court examined the provisions of the Act on arable land prior to its publication in compliance with the proposal for preliminary control of norm by the President of Republic in its decision of No. 35/1994. (VI. 24.) AB . The President founded his proposal, among other grounds, on the idea that such a limitation upon acquisition of property would result in a hinderance of effective operation of market laws and formation of prices according to the basic laws of economics, as well as (i) contravening the national understanding concerning the treatment of private property, (ii) diminishing the international competitiveness of Hungary, the formation of economical farms and the creation of international integrations, and (iii) infringing upon the principles laid down in article

---

9 para (1), article 13, 14, 56 and article 70/A para (1) of the previous Constitution of the Republic of Hungary. The Constitutional Court described the provisions limiting the acquisition of arable land under the Act on arable land in its decision of No 35/1994. (VI. 24.) AB together with the exclusion of foreign individuals and legal entities from the acquiring such property in conformance with the Constitution up “until the reasonable grounds of the judged limitations exist according to an objective consideration”. It is questionable whether these grounds, which the Constitutional Court described as reasonable according to the objective consideration in 1994, still apply after the effective date of the new Basic Law of Hungary on 1st January 2012. This issue is interesting today, not only because the Basic Law has become effective, but also because the expiration of the moratorium on acquisition of arable land is approaching. In 2010 the Minister of Agriculture and Rural Development initiated a request on behalf of the State of Hungary to the European Commission, in accordance with the request of the Hungarian Parliament of No 2/2010. (II. 18.) OGY that the expiration time of transitory provisions on the acquisition of arable land estates defined originally as 1st May 2011 in the accession treaty should be postponed by 3 years i.e. until 30th April 2014 , which is approaching. It is a matter of debate as to how all these facts will influence the protection of arable land in Hungary as established in the Basic Law and guaranteed by the Constitutional Court. In the Basic Law, as distinguished from the Constitution in force until 2011, arable land appears *expressis verbis* in Article P) in part “Foundation”. In Article P) of the Basic Law arable land is specified in connection with the protection of natural resources, together with forests, water resources, biological diversity, native species of plants and animals, as well as the cultural values and their protection, maintenance and conservation for the future generations is named as obligation for the State and every citizen. All these provisions will continue to improve the protection of arable land.

---

## COMPETENCE ISSUES IN THE AREA OF QUALITATIVE SOIL PROTECTION

PETR VACULÍK – JANA TKÁČIKOVÁ

*petr.vaculik@ukzuz.cz – jana.tkacikova@law.muni.cz*

Masarykova univerzita, Právnická fakulta – Masarykova univerzita

**Key words:** Agricultural soil, qualitative protection, competent authorities

Protection of agricultural soil as a basic component of the environment is currently under the competence of two central bodies of state administration, the Ministry of Environment and Ministry of Agriculture and their subordinated administrative authorities. This dichotomy carries out questions about the functionality of the management of soil protection. This paper will address issues of public administration including supervision in this field, issues of mutual cooperation between the relevant authorities and possible solutions to any deficiencies.

---

## COMPETENCE ISSUES IN THE AREA OF QUALITATIVE SOIL PROTECTION

PETR VACULÍK – JANA TKÁČIKOVÁ

*petr.vaculik@ukzuz.cz – jana.tkacikova@law.muni.cz*

Masarykova univerzita, Právnická fakulta – Masarykova univerzita,  
Právnická fakulta

**Key words:** Agricultural soil, qualitative protection, competent authorities

Protection of agricultural soil as a basic component of the environment is currently under the competence of two central bodies of state administration, the Ministry of Environment and Ministry of Agriculture and their subordinated administrative authorities. This dichotomy carries out questions about the functionality of the management of soil protection. This paper will address issues of public administration including supervision in this field, issues of mutual cooperation between the relevant authorities and possible solutions to any deficiencies.

---

## NON-RESERVED MINERAL DEPOSITS AS PART OF THE LAND: SELECTED ISSUES

ONDŘEJ VÍCHA

*ondrej.vicha@upol.cz*

Právnická fakulta Univerzity Palackého Olomouc

**Key words:** mineral – deposit – deposit of non-reserved mineral – land – Mining Act

The paper deals with the legal aspects of the protection and use of the non-reserved mineral deposits. These deposits are part of the land, in contrast with reserved deposits, which are owned by state. There are outlined differences between legal regime of reserved and non-reserved minerals or reserved and non-reserved mineral deposits. Author highlights the differences between the Mining Act and the Construction Act or the lack of economic instrument in relation to the mining of non-reserved minerals.

---





Section  
Law and cyber security

## CYBERSECURITY IN AUSTRIA – STATUS QUO ANALYSIS

MATĚJ MYŠKA

This contribution focuses on the status quo analysis of the cyber security in Austria. Thus the newly adopted National ICT Security Strategy Austria 2012 shall be presented, discussed and compared to the proposed Czech Act on Cybersecurity.

---

Section  
Public financial activity – legal  
and economic aspects

SEVERAL REMARKS CONCERNING THE  
JUDGMENT OF THE CONSTITUTIONAL  
COURT OF THE CZECH REPUBLIC NO. I. ÚS  
3244/09

KAREL ALEXA  
*karelalex@volny.cz*

**Key words:** judgment I. ÚS 3244/09, time limit for tax assessment, Tax Procedure Code

This paper analyses some aspects of the judgment of the Constitutional Court of the Czech Republic No. I. ÚS 3244/09. At first, it describes the main idea of the Court, i.e. that the lapse of time limit for tax assessment can, in specific cases and under certain conditions, result in a tax assessment. As next, it points out at some difficulties regarding the Court's argumentation. The last part of the paper is dedicated to the specification of the range of other cases in which the judgment could be applied.

---

## THE TERM CHARGE IN THE LEGAL ORDER OF THE CZECH REPUBLIC

RADIM BOHÁČ

This article deals with the definition of the term charge in the legal order of the Czech Republic. This term is not used in the legal order uniformly. The aim of this article is to determine the correct meaning of the term charge in the legal order.

---

-

KAREL BRYCHTA

-

---

---

## TAX POLICY VERSUS ECONOMIC EFFICIENCY DURING THE PERIOD CRISIS EVENTS

KAROLÍNA ČERVENÁ

*karolina.cervena@upjs.sk*

Univerzita Pavla Jozefa Šafárika, Právnická fakulta, Košice

**Key words:** zdaňovanie; daňová politika; efektívnosť;

Taxation as financial activities of the State directly related with specific tax policy of the country, in the broader context shall by subject of the impact of tax policy to supranational structure, which is the State part of the structure. Economic efficiency is generally perceived economic theory as the optimal efficiency of existing resources, means and results of working operations of the company, which aims to achieve socially beneficial goals. The taxation issue are dealing permanent the economists, in economic theory and the theory of economic policy may be encountered, as in the past (eg Physiocrats proposed single tax, what justify the consideration that is more advantageous directly to tax the ground rent only, i.e. to charge by tax only land owners) so even in present, with diverse views on the role, status, importance of taxation and tax policy in general and also the efficiency of taxation (for example economist A. B. Laffer sees as positive economic effects of taxation situation where the tax reduction will stimulate growth in economic activity, the decline in tax rate increases the net after-tax real income, which in turn motivates and encourages individual traders to work, savings and investments which have an impact on production growth and resulting in the increase of the tax base thereby increasing tax revenues to the state budget). In our contribution, the main theme focus on the assessment of interaction of taxation, respectively tax policy (as part of the financial activities of the State) and economic efficiency of the economy, particularly during the non-standard period, the economic crisis

---

certainly is.

---



DRAFT COUNCIL DIRECTIVE ON THE  
COMMON CONSOLIDATES TAX BASE  
COMPARED WITH THE PROCEDURES OF  
DETERMINING THE TAX BASE IN THE  
SLOVAK REPUBLIC.

MÁRIA DURAČINSKÁ

In her article, the author deals with the analysis of the Draft Directive on the Common Consolidated Corporate Tax Base („CCCTB“). Based on this draft, it is obvious that some agreement was reached in determining the companies in which CCCTB could be used within the European Union. Corporate tax base has been defined, and in this context also the types of tax exempt income and deductible expenses have been proposed. Other tax matters defined in relation to CCCTB include, in particular, depreciation of long-term assets, valuation principles, handling the losses, sale of assets and shares, or the mechanisms of CCCTB apportionment among individual Member States.

---

## SELECTED LEGAL PROBLEMS OF LOCAL GOVERNMENT UNITS ECONOMIC (ENTREPRENEURIAL) ACTIVITY IN POLAND

MACIEJ ETEL

*etel.m@uwb.edu.pl*

Uniwersytet w Białymstoku Wydział Prawa

**Key words:** entrepreneurial activity, economic activity, entrepreneur, local government units, commune, county (powiat), voivodeship, communal activity, an activity in the public utility domain, an activity going beyond the domain of public utility, legal problems, legal system of the Republic of Poland

The issue of undertaking and conducting an entrepreneurial (economic) activity by a local government units is controversial. The current regulations, as they stand today, are not perceived uniformly, which results in many difficulties at the stage of their interpretation and application. Taking this into consideration, it should be pointed out that this article aims to present a general presentation of the issue regarding to the entrepreneurial (economic) activity performed by a local government units. However, it does not resolve the questions resulting from the practical application of the complex but not consolidated regulations, which, due to several blanket clauses and vague phrases, were not determined precisely.

---

## A COMPARISON OF SELECTED NATIONAL EURO ADOPTION ACTS

EVA INDRUCHOVÁ

*eva.indruchova@seznam.cz*

Právnická fakulta, Univerzita Karlova v Praze, Česká republika

**Key words:** Euro, Euro Adoption Act, National Coordination Group, General Act on the Introduction of the Euro, Euro observatories, Changing Statute

The article deals with a comparison of selected national Acts on the adoption of single currency euro as a new national currency. The comparison in question is based on those Member countries of the European Union which adopted euro most recently, i.e. Slovenia, Malta, Cyprus, Slovakia and Estonia.

---

## THE ACT ON TAX AUTHORITIES – BASIS O FINANCIAL SYSTEM OF THE STATE

DAVID JEROUŠEK

The Article is focused on the new Act on Tax Authorities in the Czech Republic, which comes into effect from 1. January 2013. This fundamental change of competency norm of the Czech Tax Administration, brings very important changes as from the view of competency, both as from the view of the Tax Administration proceedings. We could say, that it gives a whole new dimension and the foundations of the financial system of The State. The new model, called as 14+1, is also mentioned in this article.

---

## THE LIMITS OF REGULATION AND SUPERVISION OF INSURANCE

DAVID JOPEK

In my contribution, I discuss general views on regulation and supervision in the financial sector with particular reference to the insurance industry.

---

## THE THREE-LEGGED CHAIR OF FINANCIAL STABILITY – REFORM PROCESSES IN THE EUROPEAN UNION, ESPECIALLY TO THE CONCEPT OF EUROPEAN BANKUNION

JÁNOS KÁLMÁN

*janos.kalman88@gmail.com*

Széchenyi István University Deák Ferenc Faculty of Law and Political Sciences

**Key words:** Key words: bankunion, direct supervision, financial crisis, financial stability, financial supervision, fiscal policy, monetary policy, prudential supervision.

The three-legged chair of financial stability Reform processes in the European Union, especially to the concept of European Bankunion

The financial system – in today’s world – is perhaps the most important system among all the systems. As all the economies of the world have become interlinked, it has become a very complex system. The basic concept of this study is that the fundamental function of the whole financial system is to supply the economy with money. To execute this function: the financial system is performing the channelization of the savings of individuals and making it available for various borrowers and operating financial payment system. Through these basic functions of the financial system distributes the earnings in area and time, which makes possible to handle the existing uncertainties and risks in the financial system itself.

The financial system can fulfill these functions – the transmission of financial resources, risk management and payment service activities – only if it operates stable. Each of the three legs have to be on the ground.

The study suggests that the modern financial system is standing on three legs. The first leg (or pillar) is the monetary policy, the second

---

one is the fiscal policy, and the third one is the well-balanced operation of the financial markets. In this concept, the whole financial market just like a three-legged chair. It is widely known that the tree-legged chair is so stable, but if one of the legs is shorter (or even longer) than the others, it can easily collapse.

Since July 2007, the world has faced, and continues to face, the most serious and disruptive financial crisis since 1929. The present crisis results from the complex interaction of market failures, global financial and monetary imbalances, inappropriate regulation, weak supervision and poor macro-prudential oversight.

In connection with the outbreak of the crisis, the study examines the reform processes in the European Union. The author believes that this crisis can be a great opportunity to reform the three-legged chair, and to restore the stability. The world's monetary authorities and its regulatory and supervisory financial authorities can and must do much better in the future to reduce the chances of events like these happening again.

The final conclusion of the study is that each of the legs have to be strong. Only this can defend the financial system from economic shocks. This means that every legs have to be on the same level: either on the Union level or the national level. The first option (EU level) means further integration toward a federal structure; the second option means to cut back the current structure of the European Union.

---

## STATE REGULATION AND ITS EVALUATION

ALENA KOPFOVÁ – EVA TOMÁŠKOVÁ

*alena.kopfova@law.muni.cz*

Právnická fakulta, Masarykova univerzita Brno

**Key words:** state regulation, evaluation, Size of Government, Czech Republic

This paper deals with some problems of regulation from the view of state economic. The first part of this paper offers theoretical knowledge about regulation. The goal is to find out how stage of regulation is in the Czech Republic in comparison with the other countries in central Europe. We would like to use instruments as Size of Government and Regulation from Cato Institute, Government Spending and Fiscal Freedom from Heritage Foundation. We use the methods of analysis and comparison for writing this paper.

---



TITLE WILL BE ANNOUNCED SOON

DR KRZYSZTOF TESZNER

title will be announced soon

---

## FISCAL DRAGS – LEGAL AND ECONOMIC ISSUES

STANISLAV KOUBA

The contribution will deal with legal and economic aspects of fiscal drags. It is actual topic in the Czech republic. In connection with the fiscal crisis it is also very actual in another European countries. Contribution will deal with legal and economic aspects of the Czech solution and probably will compare this solution with other countries.

---

## FISCAL FEDERALISM AND LOCAL CHARGES

JANA KRANECOVÁ

*kranecova@mail.muni.cz*

Masarykova univerzita Právnická fakulta

**Key words:** Decentralization, fiscal federalism, income, local charges, local taxes, municipalities, sources of funding.

The aim of this paper is to point out the deficiencies of fiscal federalism in the concept of the Czech territorial self-government from the perspective of system of local charges, as own resources of municipalities. In terms of the theory of fiscal federalism, the contribution will focus on the possibilities of municipalities to influence these resources, particularly the amount of their income. Emphasis will be placed on tools of municipalities as well as the factors that influence their decision-making of in the area of local charges.

---

## PENSION FUNDS – LEGAL AND ECONOMIC ISSUES

PAVLÍNA KUBEŠOVÁ  
*pavlina.kubesova@hotmail.com*

Univerzita Karlova v Praze, Právnická fakulta, Katedra finančního  
práva a finanční vědy

**Key words:** pension fund, transformation fund, participation fund,  
pension reform

This thesis concerns with pension funds from the point of view of their position in the legal system of the Czech republic (rate of regulation, control etc.) and also with their economic issues (profitability, risk etc.). It puts greater emphasis on conditions with expected effect from 1st January 2013. The work includes the comparison of the attitude of the chosen EU members to their pension funds, too.

---

---

## LEGAL ASPECTS OF EXPENDITURES REDUCTION IN PUBLIC BUDGETS

LIBOR KYNCL

*libor.kyncl@law.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Expenditures reduction; budgetary cut; financial activities; deficit; public budgets; legislative changes.

The aim of this article is to focus on legal aspects of executing the expenditures reduction in public budgets (so called budgetary cuts). Expenditures reduction are the important part of the public financial activity of numerous states because these states declare that they intend to reduce their expenditures more or less successfully after a long period of massive over-use of credit and of large state debts emissions. To reduce the expenditures means to lower their amount in order to avoid the long term repeating large deficits. The question is how to lower the expenditures in financial activity of the state and self-administration in order to safeguard the basic budgetary principles of the rule of law regime. The paper will include the basic connections of the expenditures reduction with regard to the existing legal and decree-based regulation and it will mention the connection of a budgetary cut with legislative procedure. The methods of analysis and description, the historical method, the comparative method and the method of synthesis will be used in this paper along with the methods of legal acts' and legal principles' interpretation.

---

THE POTENTIAL OF THE  
CONSTITUTIONALISATION OF BUDGET LAW  
AS PART OF FINANCIAL LAW

HANA MARKOVÁ  
*markova@prf.cuni.cz*  
Právnická fakulta UK Praha

bude doplněno

---

## CUSTOMS ADMINISTRATION AND CONTROL

PAVEL MATOUŠEK

Customs authorities are legitimated to control documents, goods and persons. This contribution is focused on controls which are connected with customs authorities.

---

## LEGAL REGULATION OF MUNICIPAL BUDGETS' REVENUE IN LITHUANIA

DOVILE MINGELAITE  
*dovile.mingelaite@mruni.lt*

**Key words:** Local Self-government, municipal finances, municipal revenue, public finances, legal regulation.

Municipal financial independence is defined of fiscal decentralization degree. When modern democracies countries improves the functioning of the public administration system and increasing the influence of local government, more and more attention is paid to the decentralization process. One of the state management developments trends is to increase the autonomy of local governments and their developments functions, at the same time addressing and funding issues. Revenues is needed to finance municipal ongoing social, economic and other local programs, also for municipalities of maintenance. All municipal activity are needed to ensure revenues and estimated costs are recorded in municipal (local) budgets. Lithuanian legislation provides that the municipal budget revenues consist of tax and non-tax revenues and the state budget grants. The largest municipal budget revenues consist of tax revenues and grants. This paper analyzes the structure of revenues of local governments in terms of fiscal decentralization. The present European Charter of Local Self-Government established the principle of local financial autonomy, moving it into the national legal framework and implementation in Lithuania.

---



## PUBLIC FINANCIAL ACTIVITY AND THE OBJECT OF LEGAL REGULATION

PETR MRKÝVKA

The article discusses the importance of public financial activity for the financial law. The public financial activity is a wide range of activities of the State and public corporations. The public financial activity is carried out a number of social relations. These require specific legal regulation. It is not just the realm of classical public finance and monetary system, but also the influence of the state in the financial market. Public financial activity can be described as a permanent unifying subject of legal regulation in the financial law. At the same time it is an element that maintains the unity of financial law.

---

## THE INFLUENCE OF FINANCIAL ACTIVITY OF THE STATE OF SELF-GOVERNING STATUS OF MUNICIPALITIES

KRISTÝNA MÜLLEROVÁ

This work deals with the influence of financial activity of the state on the activity of local government, particularly in terms of municipal budget revenues. The author describes the influence of the state on the activity and strengthening or weakening of the self-governing status of municipalities, whether the state supports the municipalities in their self-governance. The work deals with a financial foundation that the state provides to municipalities for their activities and the possibilities. The paper mentions the attitude of the Czech Republic to the European Charter of Local Self-Government. There are briefly discussed exceptions of the Czech Republic to the Charter and their impact on the status of municipalities in the Czech Republic.

---

## INSPECTION OF TERRITORIAL SELF-GOVERNING UNITS

LENKA NĚMCOVÁ  
*nemcova.l@email.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Inspection, management, territorial self-governing unit, Financial, income, spending, budget process, budget review.

In my article entitled "Inspection of territorial self-governing units" focusing attention on the actual management of local governments, such as municipalities and counties, but especially for the inspection of management. This issue is governed by Act No. 420/2004 Coll. Reviewing the management of municipal governments and voluntary associations of municipalities. Given that municipalities and counties in its activities managing public funds, it is necessary to see that these funds are handled in accordance with the approved budget for the period that follow the purpose of any subsidies or refundable financial assistance provided by the territorial government units of compliance with the substantive and formal correctness of documents, etc. Due to the fact that these are public funds it is necessary to follow the rules for management given current legislation.

---

## ECONOMIC BURDEN OF TAX INCURRED AS PREREQUISITE TO DETERMINATION OF OVERPAYMENT

JANUSZ ORŁOWSKI

*janusz.orlowski@op.pl*

Uniwersytet Warmińsko-Mazurski w Olsztynie, Wydział Prawa  
i Administracji

**Key words:** Economic burden of taxation; overpaid tax; overpaid tax refund; requirements for determination of overpayment.

Undue tax paid or paid in an amount exceeding the tax due constitutes overpaid tax. Act on Rules for Taxation 1997 regulates its determination, refund and accrual of interest. In determining overpayment of tax, the Act does not require that the requesting entity actually incur the tax burden. However, such requirement is commonly assumed in the practice of administration and by the courts. Doubts arise over its reasonableness in view of the consistency of the tax system and compliance with constitutional tax principles.

---

## SUBJECTS OF THE FINANCIAL ACTIVITY

ZDENKA PAPOUŠKOVÁ

*zdenka.papouskova@upol.cz*

Univerzita Palackého v Olomouci Právnická fakulta

**Key words:** Financial activity, subject of financial activity, financial authority, tax

The author discusses the institut "financial activity" and subjects which carry out financial activity. On the front burner, there are changes about financial authorities, especially their power.

---

## THE DEVELOPMENT OF THE INSTITUTION OF TAX LIABILITY IN THE RUSSIAN FEDERATION.

MAXIM PROKOSHIN  
*maximlawyer@mail.ru*

International Institute of Public Administration and Management.  
The Russian Presidential Academy of National Economy and Public  
Administration

**Key words:** Russian tax legislation; tax liability institute; tax offence; tax evasion; business purpose; tax benefit; optimization of taxation; commercial court practice; Tax Code of the Russian Federation; Commercial Procedure Code of the Russian Federation; Civil Code of the Russian Federation;

The paper is dedicated to the analysis of development of Russian tax legislation and in particular of the tax liability institute. The paper reveals the significance of commercial court practice in formation of the institute of tax liability by analyzing theoretical and practical aspects of liability. Analysis is made on the basis of the content of the regulatory legal acts, court decisions and their application in Russia.

In the Russian Federation a tax offense is an unlawful act (action or inaction) of a taxpayer, tax agent or other persons entailing liability under the Tax Code. Liability for committing tax offenses shall be borne by organizations and natural persons . Natural persons can be held liable for tax offences from the age of sixteen. Holding an organization liable for a tax offense shall not release its officials from administrative, criminal or other liability under federal laws, provided that the appropriate grounds for that exist . According to the Federal Law "On Accounting" head of organization is liable for lawfulness of all business transactions . Therefore the Head of organization is the person who often responsible for tax evasion. On a much smaller number of cases,

---

---

Chief Accountant shall be borne liability. The person called to account shall not be required to prove his innocence of committing a tax offense. In order to develop institute of tax liability RF Constitutional Court has developed the concept of "good faith" and "bad faith" of the taxpayer, and indicated that it considered unfair taxpayer, who with the help of instruments used in civil law relations, creates a circuit of illicit enrichment through the budget . Furthermore The Supreme Commercial Court of the Russian Federation offered to use the concept – «a reasonable business purpose» as criterion for the resolution of economic disputes. The importance of the categories of "business purpose", "tax benefit" and the significance of commercial court practice is also defined by "Guidelines for tax policy in the Russian Federation for 2012 and the planning period of 2013 and 2014" This document states the following: «Equally important is the issue of qualification of the situation when the formal observance of the law by the taxpayer, that is, the commission of acts not prohibited by law, resulting in damage to the fiscal interests of the state and municipalities. Often the sole purpose of using of civil law instruments (the "business purpose") becomes the tax benefit (note – i.e. unlawful tax benefit). Under these circumstances, should be established legal instruments of counteraction of misusing of the law. For the preparation of the relevant legislative provisions it is necessary to make use of commercial court practice, as well as international experience ». Contact – email: maximlawyer@mail.ru

---

## THE FISCAL COUNCIL IN THE HUNGARIAN CONSTITUTIONAL SYSTEM

PETER SMUK

*smukpeter@gmail.com*

Széchenyi István University Faculty of Law

**Key words:** Fiscal Council, division of powers, state debt, Basic Law

### Summary

In this paper I introduce the Hungarian Fiscal Council, as it was regulated in 2008 and in 2011. The setting up of the Fiscal Council was a response to the irresponsible fiscal policy of governments. The two regulations of the Council are different, with remarkable competencies of the second one. I argue that its veto right, along with other financial rules of the new Basic Law of Hungary, bring new and unusual aspects to the division powers in the Hungarian constitutional system.

---



## SELECTED ASPECTS OF THE MONUMENT CARE FUNDING

KLÁRA PROKOPOVÁ – DAGMAR STREJČKOVÁ

*klara.prokopova@law.muni.cz – d.strejckova@gmail.com*

Masarykova univerzita, Právnická fakulta

**Key words:** funding, Monument care, public interest

The article deals with the mechanisms of State Monument Care funding in the Czech Republic, focusing on the status and the role of the subjects participating on it. Special attention is paid to economic methods applied in the process of cultural heritage protection.

---

## THE IMPORTANCE OF LOCAL CHARGES AS MUNICIPALITIE'S REVENUES

TAŤÁNA ŠPÍRKOVÁ

This contribution is focused on the importance of local charges as municipalitie's revenues. The author's aim is to describe and evaluate valid legal regulation in the context of amendments.

---

# LEGAL AND ECONOMIC ASPECTS OF THE REGULATION METHODOLOGY OF NON-FISCAL PART OF THE FINANCIAL LAW

DANA ŠRAMKOVÁ

*dana.sramkova@law.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** financial law, non-fiscal part, financial arbitrator, methodology of financial regulation

This paper deals with the legal and economic aspects of regulation in non-fiscal part of financial law. After a brief general introduction, the author focuses on selected issues, particularly on the issue of regulation of the financial arbitrator, including the reflection of the last amendment. The paper is prepared in the framework of the specific research project of Masaryk University, entitled "Method and economic regulation in the financial limits of the law" (in Czech: "Metoda a ekonomické limity regulace ve finančním právu"), No MUNI/A/0922/2011.

---

## BUDGET OF THE EUROPEAN UNION AND QUESTIONS ON ITS FINANCING

EVA ŠULCOVÁ

Financing of the European Union has been developing constantly, both the structure and the process of budget approval. The structure of the European budget has been subject to criticism because of discrepancies between political priorities and the given structure of the budget. Based on the Lisbon Treaty further changes to process were made and new powers were given to the European Parliament in respect of control over the flow of European funds. Other measures are currently discussed to promote the transparency with financing the EU. The most recent proposal is to impose mandatory budgetary reforms in the eurozone. In the paper, questions and answers shall be raised in respect of the European budget. These shall be reflected also in the light of impact on national budgets and other public budgets.

---

## MODERN TOP LEADERSHIP VERSUS MODERN OPERATIONAL LEADERSHIP

IVAN VÁGNER

In managerial theory is wrongly confuses the purpose and contents of the top leadership and operational leadership of other people. This semantic misunderstanding but has serious negative implications for managerial practice. While generally declares that valuable resource of each organization are its human resources, but in the managerial practice, with the potential of human resources often literally wasting. One of the causes of this phenomenon is currently the incorrect theoretical perception of the relation for top leadership and operational leadership. The subject of the contribution will be the issue of the theoretical comparison purpose and content for top leadership and operational leadership of other people in order to clearly define their purpose, content and relationship to the effective formation and hence the functioning of the organizational management system.

---

ECONOMIC DEVELOPMENT AND  
INVESTMENTS IN THE NATURA 2000 AREAS  
– ON THE EXAMPLE OF POLAND.

KAROLINA ZAPOLSKA

*karolina.zapolska@gmail.com*

Wydział Prawa Uniwersytet w Białymstoku

**Key words:** grants and EU funds, the region with special natural values, areas of nature conservation, Natura 2000

European ecological network Natura 2000 is one of the major actions of European ecological policy. Natura 2000 is implemented since 1992 in the territory of all the European Union Member States. The main issue of the article are the basic purposes and effects of Natura 2000. Moreover, the article focuses on legal requirements on proper investment in the areas of Natura 2000.

---

Section  
Revolution and Law

## THE CADIZ CONSTITUTION OF 1812

STANISLAV BALÍK

The paper is a commemoration to the Spanish Constitution of 1812, which celebrates round anniversary this year. Attention has been paid to the historical circumstances of Cadiz Constitution, currents of opinion among its creators as well as to its very content. There was discussed its classification and the particular provisions thereof from the perspective of the Separation of Powers Theory and also the influence of the French Constitution of 1791 to its text was mentioned. Finally, the contribution provides information about the fortunes of the Constitution of 1812 in Spain and its influence in Latin America.

---



## BIRTH OF PRINCIPATE – A HIDDEN REVOLUTION

RADEK ČERNOCH

*radekcernoch@mail.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Octavianus Augustus – Offices – Principate – Privileges of Emperor – Procedural Law.

This paper analyzes the main changes in the constitutional area that occurred during the reign of Octavianus Augustus. Republican offices were still formally existing, however, the emperor accumulated the real power in the state and created new, imperial offices. Emperor and some lawyers honoured by him later became an authority in the procedural law. Although these changes were made gradually and very slowly, together represent a truly revolutionary change.

---

## MODIFICATIONS OF THE RUSSIAN JUDICIAL SYSTEM AFTER THE FIRST REVOLUTION

KATARÍNA FEDOROVÁ

During the first Russian revolution of 1905, the government adopted massive repressive measures, including interventions to existing judicial system. Main aim of this actions lied in the extension of possibilities of the state power to punish anti-state crimes and crimes against public order.

---

## REVOLUTION IN RELIGIOUS THINKING OF ROMANS

MIROSLAV FRÝDEK

*miroslav.frydek@law.muni.cz*

Masarykova univerzita Právnická fakulta

**Key words:** Roman law, Religion, Revolution.

One of the first "revolutions" in religious beliefs in ancient Rome occurred as a result of the so-called "Constitutions of Servius". The aim was to undermine and replace the family system with the political system. To be successful, each religious revolution must disrupt the foundations of the previous establishment and create a new model. This new model within the Period of the Kings and the Early Roman Republic, performed transfer of the sacred power from family lines to representatives of the family, namely the pater familias. Christianity posed the subsequent "religious revolution." Supporters and followers of carpenter – the Christ – confessed only one God. Their approach to religion was not acceptable for Romans, who confessed multitudes of gods, including the Emperor, and they became illegal groups and target of persecution, torture and executions. "The revolution" in religious thinking occurred on the grounds of the Edict of Milan in 313, which legalized the Christianity as a faith that was allowed to be confessed within territory of the Roman Empire. In 325, the Nice Council was held, which formulated the Nicene Creed. "The revolution" continued and the Emperor Theodosius I. declared Christianity as the state religion in 380 and thus the long way from legal church to church of lawyers up to an origination of religious state in the 754 came.

---

## KOSICE GOVERNMENT PROGRAM "LITTLE REIBUTION DECREE"

PETRA HAVLÍČKOVÁ

Kosice government program is defined as a clear systematic document, which marked the beginning of the Democratic People's statehood after World War II. Just above program had in sixteen articles devoted to just a few points. The article tries to capture the analysis of several articles KVP, which fully correspond with the problems of a small R Presidential Decree No. 138/1945 Coll. punishment of some sins against the national honor, better known as retributive decree had little meaning rather regional or local, and tried to verify through the National Committee traitors, collaborators. The above decree great complement retributive decree, but did not belong to criminal law, but administrative law. etribution Decree.

---

„THE ROOT OF THE NATIONAL  
ADMINISTRATION, CONFISCATION AND  
ALLOCATION IS IN THE REVOLUTION.“  
„BENEŠ“ OR BENEŠ-DECREES? DUAL VIEW  
OF CONFISCATORY DECREES AS AN  
EXPRESSION OF CONTINUITY AND  
DISCONTINUITY.

ONDŘEJ HORÁK

This paper deals with the various views on the confiscatory decrees of the President of the Republic No. 12 and 108/1945 Sb. since their approval to the present.

---

## THE GERMAN MINORITY IN ČSR AFTER BLACK FRIDAY

MONIKA HORÁKOVÁ

*52947@mail.muni.cz*

Fakulta managementu a ekonomiky Univerzita T. Bati ve Zlíně

**Key words:** Československá republika, menšiny, ekonomická krize, československo-německé vztahy

The economic crisis after the collapse of the New York Stock Exchange had a fatal impact on relations between Czechs, Slovaks and the German minority of the First Republic. The mere provocation and increased political engagement during the persistent economic difficulties arose in a much serious problems that caused together with the deteriorating of international position of Czechoslovakia devastation on the functioning of the state as such. The purpose of this article is to describe the processes and bring them from the perspective of the 21st century.

---

## REVOLUTIONARY LEGISLATION IN SOVIET RUSSIA: NOVEMBER 1917 TO JULY 1918

JAN CHUDOBA

The paper focuses on written sources of Soviet Law as they emerged in various forms following the October events of 1917. The aim of the article is to point out the very concurrence of the written law, which often led to legal dualism in many respects, and other issues arising therefrom.

---

## REVOLUTION AND LEGAL REGULATION OF THEATER

MARKÉTA KLUSOŇOVÁ

The theater is a significant social force so each state tries to regulate it. The aim of this paper is to describe legal regulation of theater in the Czech Republic from 19th century to present and to compare the differences between the various stages of its development. I will emphasize on connection between changes in legislation and revolutions. Finally I will focus on current situation of legal regulation of theater in the Czech Republic.

---



---

## ASPECTS OF THE SO CALLED REVOLUTIONARY JUSTICE IN THE TRIALS OF THE NAZI CRIMINALS AFTER WW II

DAVID KOHOUT

The main subject-matter of this contribution is the discussion concerning the issues of how deeply the post-WW II trials with Nazi criminals were influenced by the ideas of the so called revolutionary justice. From the purely historical perspective these trials (before the allied tribunals as well as before national courts) can be perceived as a prevalence of the principle that all those suspected of crimes should stand their case before a court, which is called upon to mete out the decision on the guilt and punishment. In this understanding, these trials can be seen as an antagonist to the wild and arbitrary revolutionary justice by the victors. However – from the legal point of view, this matter had opened a number of problematic issues, which can be viewed as extraordinary and beyond the continuous development of the legal order. The key problem was the concept of individual criminal responsibility of an individual for crimes against International Law. This concept (and its underlying principles) had not had its precedent in the Public International Law before the Moscow Declaration (1943) and the Charter of the International Military Tribunal (1945). The analysis of these aspects of discontinuity or the new starting point of the legal normativity in the Public International Law respectively (which is up-to-now the basis of the International Criminal Law as such and many national legal orders as well) is going to be the core part of the speech.

---

## SOVEREIGNTY AND CONTINUITY IN COMMAND THEORY OF LAW

PETR OSINA

Article concentrates on the analysis of the main arguments of the command theory of law, which relate to the definition of the sovereign and the continuity of his power.

---

---

## THE NATIONAL AND DEMOCRATICAL REVOLUTION IN 1918 AND THE RECEPTION OF THE LEGAL ORDER

KAREL SCHELLE

*karel.schelle@schelle.cz*

Masarykova univerzita – Právnická fakulta

**Key words:** Origins of Czechoslovakia, reception norm, reception of legal order.

The first statute of the new Czechoslovak state became the one prepared in haste, which is usually called “the reception norm”, being endorsed on 28th October 1918 during a meeting of general assembly of the National Committee in Prague. This statute has been later published in a partially changed version in the Collection of Statutes and Regulations under the number 11. This statute, like the whole course of the coup d’état, was being prepared during some previous days, sometimes even hours, by a very small group of Czech politicians. That is why Alois Rašín at night between 27th and 28th October 1918 quickly prepared the text of the first statute of the state, which the Czech public could get familiar with on the next day from newspapers and posters. According to this statute “the entire municipal and imperial statutes and regulations are valid so far” and consequently it was stated, that “the entire municipal, state and local offices are subordinated to the National Committee and they work and act according to the hitherto valid statutes and regulations so far”.

---

## WILL BE ADDED LATER

MIROSLAV FRÝDEK- IVANA STARÁ

*ivanastara@post.cz*

Právnická fakulta MU

**Key words:** Revolution;religion;Constitutions of Servius;Pater familias;Christianity;The Edict of Milan;The Nice Council

One of the first "revolutions" in religious beliefs in ancient Rome occurred as a result of the so-called "Constitutions of Servius". The aim was to undermine and replace the family system with the political system. To be successful, each religious revolution must disrupt the foundations of the previous establishment and create a new model. This new model within the Period of the Kings and the Early Roman Republic, performed transfer of the sacred power from family lines to representatives of the family, namely the pater familias. Christianity posed the subsequent "religious revolution." Supporters and followers of carpenter – the Christ – confessed only one God. Their approach to religion was not acceptable for Romans, who confessed multitudes of gods, including the Emperor, and they became illegal groups and target of persecution, torture and executions. "The revolution" in religious thinking occurred on the grounds of the Edict of Milan in 313, which legalized the Christianity as a faith that was allowed to be confessed within territory of the Roman Empire. In 325, the Nice Council was held, which formulated the Nicene Creed. "The revolution" continued and the Emperor Theodosius I. declared Christianity as the state religion in 380 and thus the long way from legal church to church of lawyers up to an origination of religious state in the 754 came.

---

## SOME ASPECTS OF THE DEVELOPMENT OF SERVITUDES IN ROMAN LAW

JAN ŠEJDL

There were many twists during the life of the Roman state and the Roman Empire. Due to the nature of Roman law, which did not have strict contraposition of public and private law in itself, many of these reversals have their core in both public and private sphere at the same time. The paper aims to affect some of these aspects and highlight any development tendencies and continuity.

---

## THE REVOLUTION DEVOURS ITS OWN CHILDREN – THE POLITICAL TRIAL WITH A GROUP OF OSKAR VALASEK ET AL.

MICHAL ŠKERLE

The paper describes one of the political trials with the members of communist secret police, which took place as one of the following trials after the Trial with the leadership of the treasonous conspiracy headed by Rudolf Slánský. In this trial with ten people that took place from 7th to 9th December 1953 and was called Oskar Valášek et al. the accused were punished by imprisonment from 4 years to 25 years. These convicted members of the secret police were among the loyal members of the Party, the greater part of them were of Jewish origin, many of them had experience of the Spanish Civil War (the interbrigade) and from the resistance movement, either in the West or in the army or guerrilla groups during the Slovak National Uprising. They were the people who have demonstrated their commitment to the Communist Party and the Party entrusted them important tasks in the newly built security apparatus of the state. In pre-February period they were actively involved in activities against the non-Communist parties. They created StB in such a form they could subsequently recognize during the investigations of themselves.

---

## REVOLUTIONARY LAW AND LEGITIMACY

JAN ŠMÍD

The goal of the article is an answer what is the base of legitimacy of the revolutionary law. Whether is its source in the content alone or whether is possible to legitimate backward from consequent political process.

---

## THE MOST SIGNIFICANT CHANGES IN THE LEGAL ORDER AFTER THE ESTABLISHMENT OF THE PROTECTORATE OF BOHEMIA AND MORAVIA

JAROMÍR TAUCHEN

*tauchen@mail.muni.cz*

Masarykova Univerzita, Právnická fakulta

**Key words:** Protectorate Bohemia and Moravia, legal order, private law, public law, Third Reich, national socialism.

After 15 March 1939, after the establishment of the Protectorate of Bohemia and Moravia, there were made fundamental changes in the legal system. Most likely the most important change was the fact that in the Protectorate of Bohemia and Moravia dual law came into effect – Protectorate law (autonomous) and German law (imperial). Its application used to depend on nationality of the subjects of legal relations. In connection with the introduction of dual law in Bohemia and Moravia, the German courts were also established as well as the entire German occupation administrative apparatus headed by the Reich Protector. The article also mentions public interventions in selected areas of private law, although most changes were made in the labor law.

---



POLITICS AND ITS CONSTITUTIONAL  
WISHES: ROMANIAN CASE OF  
PRESIDENTIAL ABEYANCE

MARIUS VACARELU

This year Romania was on the top of the news: interesting facts, a strong attitude of few politicians, a great campaign to dismiss state president and, finally, a great struggle for Constitutional Court loyalty. All this conflict appeared because some of constitutional settlements are not so clear and a lot of people preferred to interpret them only according with their interest. The legal system remains something more clear and coherent, but Romanian politicians had a great capacity to create new rules and new ideas. As a partial conclusion, the politicians need and wishes are able to destruct in one week almost totally a public law system. As general conclusion, the system can react against politicians. Constitutional law and constitutional control of acts resisted, showing in the same time their limits of regulation and interpretation. Our text will try to describe “sine ira et studio” Romanian constitutional summer, trying to offer some ideas for every lawyer: how it can be defended a legal system against legislators, when only population remain the last obstacle not passed by the politicians. Revolution has a delay, gentlemen!

---

## SOME POST-WAR MEASURES ROOTED IN THE PERIOD OF THE FIRST CZECHOSLOVAK REPUBLIC

LADISLAV VOJÁČEK

The paper points to the fact that a lot of socially conscious measures taken after 1945 which are (reasonably, to a large extent) being attributed to the Communists and their attitude to law are rooted in the period of First Czechoslovak Republic, especially in its very beginning. And this is not only the case of the land reform, which is generally known. Soon after the new republic was constituted, many other measures were prepared and taken in the name of “socialization” – the term both widely accepted and broadly interpreted. The issues of expropriation (nationalization), social insurance, Labour Code and work allocation were discussed. According to the late 1930s outline of Civil Code, the provisions on family-law matters should have been taken out, and obligatory civil form of marriage ceremony was considered even sooner.

---

## Section

Unfication vs. regionalization  
vs. national codification of  
private international law

LABYRINTH OF THE REGIONALIZATION OR  
PARADISE OF THE EUROPEIZATION?

TBD

---

THE LEGAL REGULATION OF THE  
INSURANCE IN THE NEW CIVIL CODE IN  
COMPARISON WITH THE PRINCIPLES OF  
EUROPEAN INSURANCE CONTRACT LAW

PETR DOBIÁŠ

The conference paper is focused on the analysis of the legal regulation of the insurance contract in the Principles of European Insurance Contract Law, which is compared with legal regulation in the insurance matters in the new Czech Civil Code (No. 89/2012 Coll.).

---

## NEW TRENDS IN APPLICATION OF UNIFIED SUBSTATIVE LAW BEFORE ARBITRATORS

KLÁRA DRLIČKOVÁ

*klara.drlickova@email.cz*

Masarykova univerzita Právnická fakulta

**Key words:** CISG, party autonomy, reservations, arbitration

The general aim of this paper is the question of application of the CISG before arbitrators. The starting point is a provision of CEAC (Chinese European Arbitration Centre) Rules which enables the parties to arbitration to choose as an applicable law the CISG without regard to any national reservations. The CISG itself does not allow such an agreement of the parties especially as regards to the reservation under Article 96. The aim of this paper is to analyze if such an agreement is really possible before arbitrators and if the arbitrators are able to decide this matter differently from national courts. The basic idea is that the arbitrators are not national organs, they do not have a forum and they are not bound to apply international convention in the way the national courts do.

---

## INSURANCE CONTRACT – FROM DIRECTIVES TO REGULATION

HANA FUNKOVÁ

*hana.funkova@gmail.com*

Právnická fakulta Masarykovy univerzity

**Key words:** insurance contract, insurance directives

In my contribution I will pay the attention to the development of insurance law in the international environment of the European Union. I will focus on non-life insurance regulation. The European Union responded to the development, expanding freedom in the field of business. It responds thus to facilitate the free movement of insurance companies. It is clear that to remove barriers to freedom of establishment there is a need to coordinate the conditions of access to insurance business, the insurance surveillance and the financial security deposit in the Member States. Based on these requirements, the directives on non-life insurance are issued. These directives do not contain conflict of law rules to determine the law applicable to the insurance contract. This function is fulfilled by the Rome I Regulation. In this paper I will analyze the directives to be able to describe the shift in the conditions for entry into this business sector in the European market. I will also deal with the issue of whether the unification is the best way in this sector.

---

PROTECTION OF CONSUMERS BY CHOICE  
OF LAW LIMITATIONS – IS THE  
UNIFICATION OF CONFLICTS OF LAW  
PROVISION SUFFICIENT?

SLAVOMÍR HALLA  
*134878@mail.muni.cz*

**Key words:** consumer contracts, choice of law, party autonomy, private international law, Convention on the law applicable to contractual obligations (Rome 1980), Regulation on the law applicable to contractual obligations (Regulation Rome I.)

Substantive law is a main and prime source of legal means which may be utilized for the protection of consumer. However, a new global consumer lives in the global world. Its “domestic” national legal framework may differ substantially in many way (and quality levels) from those of a place where e.g. consumer buys goods, merchant providing services is seated, or where consumer enjoys its vacation. One must therefore ask, which national legal order is to be called upon in order the consumer receives necessary protection – and whether such protection should be the same or even better than the one the consumer enjoys in the place of residence. Moreover, should the legislator allow parties in the consumer contract to choose applicable law to such a contract? Of course, admitting the choice of law agreement brings into the analysis new “players” which must be also considered as such (un)limited possibilities of governing legal frameworks may certainly change (if not clearly deprive) the protected status of the consumer. This contribution focuses primarily on the choice of law agreements in the consumer contracts as affecting the level of consumer protection. The paper will provide short historical overview of legislative developments, both domestic (Czech Act on Private international law), and regional (Rome Convention on applicable law, Regulation Rome I.), in comparison with selected legislations

---



(e.g. US, Switzerland). A critical approach to the possibility of limiting the party autonomy in consumer cases will be based primarily to answer the question whether selected method contributes to the easiness of determination of applicable law.

---

LABYRINTH OF THE REGIONALIZATION OR  
PARADISE OF THE EUROPEIZATION?

bude doplněno

---

## THE NOTION OF WRITING AND ITS IMPORTANCE IN A GLOBAL WORLD

MILUŠE HRNČIŘÍKOVÁ

*m.hrnčirikova@centrum.cz*

Právnická fakulta UP v Olomouci

The form of legal acts represents one of the general conditions of its validity. However the nowadays tools of communications have a significant impact on the formal validity of legal acts. Especially in the international trade the speed of communication plays one of the main roles and the requirements of writing might be considered impractical. On the other hand, since the speed often leads to inconsistency and causes legal uncertainty, the need for writing might eliminate these legal pitfalls. The presentation focuses on the development of formal validity and the notion of writing in the choice of law rules and in international conventions. The main attention is paid to the arbitration agreements and prorogation agreements.

---

## LEX LOCI DELICTI IN DEFAMATION CASES

LUCIA KOVÁČOVÁ

*lucia.kovacova2@gmail.com*

Právnická fakulta Masarykova Univerzita

**Key words:** privacy, personality rights, defamation, lex loci delicti, internet

After the failed attempt to unify choice of law rule for international defamation in Rome II regulation, this issue is still not unified. One of the reasons is that defamation represents intervention to the privacy of persons and directly affects the fundamental human right -right to privacy. However this rights is not unlimited, and should be in balance with the freedom of the expression. Since choice of law rule should reflect balancing of these rights, it is very difficult to find satisfactory solution. Only few countries in the European Union have special choice of law rule for defamation. The majority approach lies in the application of lex loci delicti rule. In this paper I would like to examine the suitability of application of lex loci delicti rule for defamation cases with an international element as well as results of application of this rule in practice. Presumption is that quantitative changes related with the change of social conditions for the emergence and spread of defamation require qualitative changes in choice of law solution.

---

## THE PRINCIPLE OF TERRITORIALITY OF INTELLECTUAL PROPERTY RIGHTS IN RELATIONS WITH AN INTERNATIONAL ELEMENT – IS IT TIME TO LET IT GO?

JAROSLAV KRÁLÍČEK  
*170265@mail.muni.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Territoriality, intellectual property, law applicable, jurisdiction, private international law.

The principle of territoriality of intellectual property rights is in private international law reflected also in the process of determining the competent authority, and also in the process of determining the applicable law. In the first mentioned process the principle is reflected in the premise, that the court of the country, which protects the concerned intellectual property right, is the one to have jurisdiction. In the latter mentioned process the principle is reflected in the premise, that such a court should always decide according to the *lex loci protectionis*. *Lex loci protectionis* would then *de facto* usually correspond to the *lex fori*. However, insistence on such a conception of the principle of territoriality of intellectual property rights at the time of the ever increasing number of international relations in the area in question, while these relations usually tend to affect multiple jurisdictions, especially on the internet, may already seem unbearable. This paper thus deals with the assessment of sustainability of the existing conception of the principle of territoriality of intellectual property rights with regard to possible adaptation of this principle to the current needs.

---

## ELECTRONIZATION AS A „NEW“ PHENOMENON AND ITS INFLUENCE ON PRIVATE INTERNATIONAL LAW

TEREZA KYSELOVSKÁ

*tereza.kyselovska@law.muni.cz*

Masarykova univerzita Právnická fakulta

**Key words:** Electronization, private international law, doctrine, territoriality, connecting factors, internet

This contribution deals with the problem of electronization as a "new" phenomenon in private international law. Due to the development of information and communication technology the number of legal relations with international element is increasing. Law applicable and jurisdiction is determined on the basis of private international law rules and their connecting factors. PIL is based on the principle of territoriality. Legal conduct is tied to the territory of a particular state. On the internet, however, there are no borders between states and their jurisdictions. It is necessary to discuss whether the principle of territoriality can still be the stable foundation for PIL in the era of globalization.

---

---

## LEGAL RELATIONS INVOLVING FOREIGN ELEMENTS IN THE REGULATION OF THE NEW ROMANIAN CIVIL CODE

Under current conditions – where the activity of individuals and legal entities takes place not only within the national borders of a state but also in international life, we assist at birth of legal relations in which parts are those individuals and/or legal entities and in which one or more elements are foreign. So, besides the legal relations which are govern by national law, there are legal relations that arise from international relations, where does not appear as sufficiently application of national law. Such legal relations which that are specific to the Private International Law are regulating in Romania by the new Romanian Civil Code in Book VII – which integrated the Private International Law provisions contained in Law no. 105/1992 on the regulation of Private International Law legal relations and in the another laws- in a revised way in order to harmonize them with EU and international instruments in the field of Private International Law. The New Romanian Civil Code, which have been seen as a modern regulator, adapted at the current socio-economic realities promoted a monistic conception of regulation of private legal relations into a single code so that Private International Law aspects, which have been subject to different laws were included in this new law which, in part, kept the old ways of application of governing law of the legal relations involving foreign elements, but did the changes and additions.

---

## METHODS OF REGULATION OF INTERNATIONAL PRIVATE LAW

DAVID SEHNÁLEK – ROMAN ŘÍČKA

*david.sehnalek@gmail.com – roman.ricka@mail.muni.cz*

Masarykova univerzita, Právnická fakulta – Masarykova univerzita,  
Právnická fakulta

subject of the contribution will be specify

---



## INTERNATIONAL ELEMENT IN INTERNATIONAL PRIVATE LAW

SIMONA TRÁVNÍČKOVÁ

Due to changes in international commerce there is a different perception of international element as a corner stone of private international law. There is no need to recognize some relevant objective international element in the legal relationship to apply conflict of laws and jurisdiction rules. The example of this change can be Rome I regulation – in can be applied also on legal relations without any objective international element, or regulation Brussels I – the choice of foreign court clause can be part of a domestic contract between two parties residing in the same state.

---



Section  
20 years after dissolution of  
Czechoslovakia – uniting and  
dividing aspects

## LEGISLATIVE PROCESS IN THE CZECH REPUBLIC AND SLOVAK REPUBLIC – MUTUAL COMPARISON

ZUZANA ANTOŠOVÁ

*zuzana.kasardova@gmail.com*

Právnická fakulta UPJŠ v Košiciach Katedra teórie štátu a práva

**Key words:** legislation, legislative process, National Council, parliament, Czech Republic, Slovak Republic

Contribution deals with the legislative process. The author defines legislative process in the Slovak Republic and in the Czech Republic and explains its characteristics. By comparison author points to the common and different characters of the legislative process in the Slovak and Czech Republics. She evaluates also the adequacy of the legislation in both countries.

---

## THE COMPETENCES AND ELECTION THE PRESIDENT OF THE SLOVAK REPUBLIC – STEP BACK, STEP FORWARD, STEP BACK

BORIS BALOG

*boris.balog@uninova.sk*

Paneurópska vysoká škola Bratislava, Fakulta práva

**Key words:** The president, direct election, the government, the appointment of members of the Government, the National Council of the Slovak Republic, the Constitution, the Amendment of the Constitution

The Czech Republic has decided to move towards direct election of the head of state – the president. The Slovak Republic has decided to take this already in 1999. In addition to the changes in presidential elections, since 1993 have been adopted some Amendments to the Constitution of the Slovak Republic, which affected the position of President of the Slovak Republic. These Amendments are related to the competences of the President, as well as its relationship with the Government of the Slovak Republic, but also its relationship with the National Council of the Slovak Republic. Not all changes can be assessed positively – some were a step forward, while others were a step back. Just this – the positive and the negative – are subject of the contribution. In addition to Parliament in shaping the position of President of the Slovak Republic participated in its decision-making activities of the Constitutional Court of the Slovak Republic, the relevant decisions are also analyzed in this paper.

---

## ELECTIONS TO THE LEGISLATIVE BODIES OF THE CZECH REPUBLIC AND THE SLOVAK REPUBLIC – WHAT UNITES US, WHAT DIVIDES US

JANA FECILAKOVÁ

*janka.fecilakova@fw.sk*

Právnická fakulta UPJŠ v Košiciach Katedra teórie štátu a práva

**Key words:** election, legislative body, Slovak Republic, Czech Republic

Contribution approaching legislative elections of the Czech Republic and the Slovak Republic by mutual comparison of the existing legislation of both countries. In the contribution author describes electoral legislation in time of existence uniform Czechoslovak Federal Republic, supplemented considerations and facts justifying the different development of legislative parliamentary elections successor states after 1992. Contribution highlights also to mutual and differences characters of the existing legislation, parliamentary elections in Slovakia and the Czech Republic.

---

---

TWENTY YEARS AFTER THE DISSOLUTION  
OF THE CZECHOSLOVAK FEDERATION:  
UNITING AND DIVIDING ASPECTS IN THE  
AREA OF SOCIAL RIGHTS, FIRST OF ALL IN  
THE SOCIAL SECURITY

ĽUDMILA GAJDOŠÍKOVÁ

*gajdosik@concourt.sk*

Ústavný súd Slovenskej republiky

**Key words:** sociálne zabezpečenie, dôchodkové zabezpečenie, nemocenské poistenie, základné práva a slobody, Listina základných práv a slobôd

Both, the Slovak Republic and the Czech Republic, with regard to their common state which has existed until January 1, 1993, have had almost the same legal regulation in the whole field of social security. First of all because the old-age security and sickness insurance were belonging to the common competence of the federation, they have been member-states of. After the dissolution of the Czech and Slovak Federative Republic the development of social security in each of both republics has taken its own way. But there are facts, which are uniting them, firstly, international multilateral treaties from the field of social security, signed by the Slovak Republic and the Czech Republic; not to forget about the membership of both republics in the European Union. From the point of view of the domestic legal basis there is still the Charter of Fundamental Rights and Freedoms adopted by the Constitutional Act No. 23/1991 Coll., which is a relevant part of the valid constitutional law in both countries, and which created the foundations of the protection of fundamental rights and freedoms under new democratic conditions.

---

## CZECHOSLOVAKIAN FEDERALISM IN THE EUROPEAN CONTEXT

MICHAL GREGUŠKA

*michal.greguska@ucm.sk*

Fakulta sociálních vied UCM v Trnave

**Key words:** federalism, Czechoslovakia

The priority objective of this paper is to analyze the causes of collapse of Czechoslovakia in terms of theoretical models of concept functioning federal state organization. Is particularly relevant to point to the most important processes and impulses that led to the creation of crisis to the final resolution. In this context, it is necessary to introduce additional risks and dangers present in selected federal systems, for which a case of Czechoslovakia may be an important memento.

---



# FREEDOM OF THE MEDIA IN CZECH AND SLOVAK REPUBLIC

MICHAL HÁJEK

This paper will focus on selected issues of medial regulation in Czech and Slovak Republic.

---

## EXECUTION OF PRESIDENTIAL POWERS IN CZECH AND SLOVAK REPUBLIC

PETER HORVÁTH

*peter.horvath@ucm.sk*

Fakulta sociálnych vied UCM v Trnave

**Key words:** president, government, parliament, powers

Both presidents acting within parliamentary form of government. The aim of paper is to refer similar and different powers and competences in their relation to government and parliament and to evaluate their real power in political system of their countries.

---

## ELECTIONS OF PRESIDENTS OF CZECH AND SLOVAK REPUBLIC

PAVOL JUHÁS

*pavol.juhás@ucm.sk*

UCM v Trnave Fakulta sociálnych vied

**Key words:** president, elections, direct election, presidential powers

The aim of paper is to examine, if the establishing of direct election has a positive impact on stability and the execution of presidential powers. The Slovak experience will be confronted with the expectations of legislator in implementation of this form of elections in Czech republic.

---

DISSOLUTION OF FEDERATION AS A  
SPECIFIC ASPECT OF EU LAW  
APPLICATION. („SLOVAK PENSIONS“ IN CCC  
CASE LAW)

MIROSLAV KNOB

The paper describes the use of an element of the federation in CCC arguments, concerning so-called “Slovak pensions” case law. Paper mainly discusses the CCC argumentation in case PL. ŤS. 5/12, in which the Constitutional Court used the argument, that the legal relationships before the dissolution of the federation are, from the EU law scope of view, not the interstates legal relationships. Objective of this paper is to evaluate this argument in light of the CJEU case law and to put this argument in the context of the overall development in the CCC “Slovak pensions” case law.

---

## THE EUROPEAN UNION AND TOGHETER AGAIN

MILAN KOČAN

The author in his speech devoted to the integration process of the Slovak and the Czech Republic before accession to the European Union. Compares each stage of the accession negotiations, and also focuses on the impact of EU law on the legal systems of both countries. The author in his paper also focuses on issues closely linked to democratic principles and the European Union in terms of the Slovak and the Czech Republic to the EU member states.

---

## BREAK-UP OF CZECHOSLOVAKIA AND YUGOSLAVIA IN COMPARATIVE PERSPECTIVE

DAVID KOLUMBER

*d.kolumber@seznam.cz*

Masarykova univerzita, Právnická fakulta

**Key words:** Czechoslovakia, Yugoslavia, post-communism; federation; conflict; secession; disintegration; constitutionalism; citizenship

Czechoslovakia and Yugoslavia were created after WWI, in the period of WWII both of these states broke up for the first time and both of these states later did not survive a substitution of Communist party's predominance by a political pluralism. This contribution deals with similarities and differences in development of these federations, especially in the period of their break-up in 1990's.

---

## A REVIVE OF A LEGAL ACT IN BOHEMIA, MORAVIA AND SILESIA AND IN SLOVAKIA

ZDENĚK KOUDELKA

*zdenek.koudelka@mail.muni.cz*

Masarykova univerzita, Právnická fakulta, Katedra ústavního práva a  
politologie

**Key words:** Legal Act

The text deals with the reviving of the legal regulation, which had been cancelled by the legal regulation subsequently cancelled by the Constitutional Court.

---

## CITIZENSHIP OF THE SLOVAK REPUBLIC

KLAUDIA MARCZYOVÁ

*klaudia.marczyova@minv.sk*

Akadémia Policajného zboru v Bratislave

**Key words:** citizen, dual citizenship, citizenship, citizenship act SR, termination of citizenship, the constitution

The paper deals with legislation of the citizenship SR. Based on the basic theoretical concepts, approaches different ways of acquiring citizenship, and termination of citizenship of the Slovak Republic. It refers to (not) to acquire dual citizenship after changing legislation, as well as other aspects related thereto.

---



## CONSTITUTIONAL RIGHTS PROTECTION – COMMON CHALLENGES

ONDŘEJ MORAVEC

The system of constitutional rights protection has developed differently in both countries. Both countries belong to the system of specialized centralized judicial review with high importance of individual constitutional complaint. However, it seems that this system might be not fully functional; such hard cases without similar solution arise already today. The main ambition of the contribution is to point out such cases on concrete examples.

---

# THE DEVELOPMENT OF THE CONSTITUTIONAL COMPLAINT IN THE CZECH REPUBLIC AND THE SLOVAK REPUBLIC

LUCIA NEDZBALOVÁ

The paper deals with the institute of the constitutional complaint in the Czech and the Slovak republic after dissolution of the Czechoslovakian federation. It focuses on the connecting elements of the both legal regulations related with the existence of the common state. On the other hand it pays attention to their most significant differences. It also empasizes the problematic matters which occur in this field and offers the proposals to solve them.

---

## THE STATE SUCCESSION AFTER THE DISMEMBRATION OF THE CZECH AND SLOVAK FEDERATIVE REPUBLIC

MARTIN SKALOŠ

*skalos.martin@gmail.com*

Právnická fakulta UMB Komenského 20, Banská Bystrica

**Key words:** Slovak-Czech relations – Czechoslovakia – constitution – the constitutional act of the Czechoslovak Federation – dissolution of the Czech and Slovak Federal Republic – succession – Slovak republic – Czech republic – Vienna conventions – division of property – membership in international organizations.

After the dissolution of Czecho-Slovakia (December 31, 1992) it was also essential to regulate legal succession in international treaties in relation to state owned property, state archives and state debts as well as regulate membership of newly established republics in international organisations which is the issue dealt with by this paper.

---

THE DIFFERENCE OF THE  
CONSTITUTIONAL DEVELOPMENT AFTER  
THE YEAR 1992 IN RELATION TO THE  
SEPARATION OF EXECUTIVE POWER  
BETWEEN THE PRESIDENT OF THE SLOVAK  
REPUBLIC AND THE JUDICIARY.

MARIÁN ŠEVČÍK

Analysis of the institutional development of the judiciary in the context of creating the administrative justice in the Slovak republic and the special status of the president of the Slovak republic in the years 2011-2012

---

## ELECTIONS OF REPRESENTATIVES OF LOCAL AND REGIONAL SELF-GOVERNMENT IN CZECH AND SLOVAK REPUBLIC

RICHARD BRIX – MARTIN ŠVIKRUHA

*[martin.svikruha@gmail.com](mailto:martin.svikruha@gmail.com)*

Fakulta sociálnych vied UCM v Trnave

**Key words:** elections, self-governments, Czech republic, Slovakia,

The separation of common states of Czech and Slovaks in the early 90's of 20th century belongs to the most discussed topics, which are still part of many considerations and discussions, even 20 years since the separation. The issue of Czech-Slovak break up being discussed from many points of view was a part of many analyses, while an aim of our contribution is to analyze region elections of representatives in the Czech Republic and Slovakia. We will make closer view of self-government's development within both states after collapse of common republic, while we draw our attention mainly on elections of representatives of towns and villages and also on the election of the representatives of self-governments, as in Slovakia and in The Czech republic, where the topic of indirect election of representatives of self-governments and its possible amendment has been highly actual in recent time. We will try to determine positives and negatives of either way of election comparing both different ways of election of self-governments, thereby a comparison of direct election used in Slovakia and indirect election in the Czech Republic.

---

## MODELS OF PUBLIC ADMINISTRATION REFORMS IN CZECH AND SLOVAK REPUBLIC

MAREK VRBINČÍK

*marek.vrbincik@ucm.sk*

Fakulta sociálnych vied UCM v Trnave

**Key words:** reform, public administration, Czech republic, Slovakia

After the Czechoslovak federation was dissolved, both countries had to face both, social and political problems, on their own, without the option of shifting the responsibility from one to another. One of the main issues was the public administration reform that was for multiple times the source of quarrels among politicians in both countries. In the context of aforementioned our focus is narrowed on the comparison of ideas on the inevitable change of public administration organization in newly created sovereign states.

---

## PUBLIC SERVICE TELEVISION AND EXTINCTION OF THE CZECHOSLOVAK FEDERATION

ROSTISLAV VRZAL

This contribution is dedicated to the extinction of the Czechoslovak federation from the point of view of the public service televisions in the Czech republic (Czech television) and in the Slovak republic (Slovak television, primarily separate, nowadays as an organisation part of the Radio and Television of Slovakia), and the public service provided by them in television broadcasting. The article deals especially with the historical basis of the activity of both of these public service medias and with the constitutional conditions for their activity in succession states, including the following evolution. An important part of this article is also a description of changes that have happened in the organisation of slovak public service medias. Primarily separated Slovak television and Slovak radio have recently been fused to one company named Radio and television of Slovakia, whereas in the Czech republic there still exist Czech television and Czech radio as two independent legal persons.

---

## HOW ARE WE DEALING WITH UNLAWFUL STERILIZATIONS OF (MAINLY) ROMA WOMEN

DAVID ZAHUMENSKÝ

One of the most serious human rights problems inherited by Czech and Slovak republics from their former common state is problem of sexual sterilizations carried out either with improper motivation or unlawfully. This paper will discuss how solution to this problem has been dealt by the two countries.

---



EIGHT YEARS IN THE EU – ISSUES AND  
PRIORITIES OF THE MEMBERSHIP OF THE  
CZECH REPUBLIC AND SLOVAK REPUBLIC,  
ESPECIALLY FROM NEWSPAPER POINT OF  
VIEW

JIRÍ ZEMAN

*jiri.zeman@centrum.cz*

Právnická fakulta Masarykovy univerzity

**Key words:** European Union; issues and priorities of the membership of the Czech Republic and Slovak Republic; newspapers

The Czech Republic, as well as the Slovak Republic had been preparing for membership in the European Union for a long time. Their preparation was monitored and evaluated by European Union. Even then it emerged that although many issues were same for both countries, the problems both the states had to solve were significantly different. This paper tries to answer the question, what the situation – regarding the constitutional law – is today. It is based among others on reports from newspapers in both countries.

---



Section

## PARAFISCAL CHARGES AS A NEW INSTRUMENTS OF PUBLIC FINANCIAL ACTIVITY IN RUSSIA

The theme of this report is parafiscal charges as new public financial instruments. The author gives the definition of parafiscal charges, reveals differences between parafiscal charges, fees and taxes. The author comes to the conclusion that the parafiscal charges are valid instruments for public financial activities, an alternative to traditional taxes and fees.

---