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CONTEMPORARY CHALLENGES IN ADMINISTRATIVE LAW FROM AN INTERDISCIPLINARY PERSPECTIV

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Section I.

Recent Developments and Perspectives of Evolution of Administrative Law at National and International Levels

Friday, May 22, 2026

Online on Zoom

Moderator:

Professor PhD. habil. ***Cătălin-Silviu SĂRARU****, Faculty of Law, Bucharest University of Economic Studies*

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SCIENTIFIC PAPERS

ADMINISTRATIVE COORDINATION IN GOVERNANCE OF CROSS-BORDER INSOLVENCY: INDIA'S IBC FRAMEWORK AND COMPARATIVE BRICS PERSPECTIVES

Assistant professor **Amit Kumar KASHYAP**
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Abstract

The architecture of cross-border insolvency governance remains insufficiently examined in administrative law scholarship, despite its crucial role in integrating emerging economies into global financial systems. This paper positions India's Insolvency and Bankruptcy Code (2016) within a comparative administrative law context, analysing the challenges of transnational insolvency among BRICS jurisdictions through the lenses of institutional design, regulatory discretion, and procedural coordination, with a focus on India. India's IBC has reshaped insolvency administration by introducing creditor-driven, time-bound procedures and enhancing the authority of adjudicatory bodies, including the NCLT, Insolvency Professionals, and the Insolvency and Bankruptcy Board of India. Nonetheless, offshore assets, foreign creditors, and complex ownership structures reveal significant shortcomings in cross-border recognition and enforcement. The paper argues that India is advancing toward a sophisticated insolvency regime akin to Brazil's, driven by institutional learning and a receptivity to global best practices. However, the comparative analysis highlights fundamental barriers to administrative harmonisation among jurisdictions with distinct legal traditions and regulatory philosophies. By framing cross-border insolvency as an issue of administrative law, this article contributes to the emerging discourse on global administrative governance, underscoring the need for procedural safeguards, institutional accountability, and cooperative frameworks to manage transnational insolvency.

ADMINISTRATIVE AND LEGAL RESPONSES TO HUMAN TRAFFICKING (MIGRATION CONTROL, VICTIM PROTECTION SYSTEMS)

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Abstract

Human trafficking remains one of the most complex and persistent transnational crimes of the twenty-first century, requiring states to balance migration governance, criminal enforcement, and human rights protection within coherent administrative and legal frameworks. This study aims to examine administrative and legal responses to human trafficking, focusing on migration control mechanisms and victim protection systems at national and international levels. A doctrinal and comparative legal research methodology is employed to analyze policy implementation, institutional coordination, and administrative discretion in anti-trafficking frameworks. The findings indicate persistent fragmentation, inconsistent implementation, and a securitization-oriented migration approach that often undermines victim-centered protection and access to rights. The study concludes that integrating administrative law, international human rights standards, and coordinated public policy can enhance the effectiveness of anti-trafficking systems and reduce re-victimization risks. Overall, the research contributes to a rights-based interdisciplinary understanding of administrative responses to trafficking and offers policy recommendations for strengthening institutional effectiveness and legal protection of victims.

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THE ROLE OF THE HIGH ADMINISTRATIVE COURT IN SINGLE-INSTANCE ADMINISTRATIVE DISPUTE AND LIMITATIONS OF ADMINISTRATIVE JUDICIAL PROTECTION

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Abstract

With the reform of administrative dispute carried out in Croatia in 2010, the intention of the legislator was to introduce a two-instance system in the organization of the administrative judiciary and to strengthen the role of the High Administrative Court (hereinafter: HAC) as a second-instance court, primarily an appellate court. However, there are exceptions in certain special administrative areas, when the resolution of certain administrative matters is excluded from the jurisdiction of first-instance administrative courts and is assigned to a hierarchically higher court. Therefore, legal protection is prescribed through a lawsuit directly with the HAC or, after an appeal against a decision of the first-instance body in administrative proceedings, the lawsuit is not filed with the second-instance administrative court but with the HAC. In these disputes, a single-instance administrative dispute is conducted. With the new Administrative Disputes Act of 2024, the legislator recognizes the aforementioned issues. It introduces a provision requiring the proponent of the law to provide a detailed and reasonable explanation of the determination of the deadline provided for in special laws, within which the HAC must make a decision. In addition to prescribing deadlines, special laws contain provisions that prescribe the urgency of such disputes. Likewise, within the provisions on substantive jurisdiction, the legislator emphasized the obligation of the proponent to provide an explanation for granting such a form of administrative-judicial protection. In her earlier research, the author emphasized that it is precisely necessary to set legal conditions and additionally explain the reasons for the deviation. Likewise, the tendency for the spread of such exceptions should be reduced to as few administrative matters regulated by special laws as possible. Therefore, special emphasis will be placed on the specificities of the role and position of the HAC and the justification of exceptions in selected administrative matters, given that a tendency for their increase is observed.

THE ELEMENTS OF DUE PROCESS IN ADMINISTRATIVE TRIALS

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Abstract

The competencies of general jurisdiction are assigned to courts operating in specific fields, with the aim of delivering higher-quality and more efficient justice, more expeditious justice, as well as ensuring special protection for certain legal relationships. The right of every person to present claims concerning their civil and administrative rights and obligations before an independent and impartial court is exercised through fair, public, and prompt judicial proceedings. Part of this right is also considered the actual execution of the decision given. Delay or postponement in the exercise of this right results in a violation of the rights of its holder. Therefore, the recognition of a right through a judicial decision and its enforcement are intrinsically linked to the legal certainty that must be guaranteed to the individual. The analysis of the activity of the administrative courts to date enables us, on the one hand, to assess the extent to which the purpose of their establishment has been achieved and, on the other hand, to examine the overall state of compliance with human rights requirements for a legal process within reasonable legal time limits. The mission of the courts is not only to administer justice, but also to foster public confidence in the

delivery of justice. Extended timeframes for the issuance of administrative judicial decisions, although attributable to objective causes, undeniably affect public trust in the justice system.

THE EVOLVING AND AMBIVALENT ADMINISTRATIVE JUDGE IN JURISDICTIONAL CONFLICTS: INSIGHTS FROM THE TUNISIAN DUALIST SYSTEM

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Abstract

In dualist legal systems, the coexistence of court orders by administrative judges and judicial courts is based on a stable distribution of jurisdictions. However, despite the presence of codified blocks of competence, the conflicts of jurisdictions remain, compelling the administrative judge to find a balance between strict compliance with legal regulations and the complexities of public actions. This presentation examines the jurisprudence of the Tunisian Administrative Court (TA) concerning conflicts of jurisdictions as an illustration of this problem. On the basis of an analysis of TA's decisions since its establishment in 1972 till present days, it becomes possible to identify the two-level dynamics of the Tunisian case. This presentation will demonstrate that this ambivalence is not a dysfunction in the judiciary process but a rational approach to two important elements of the problem: (1) the vague nature of legislation in relation to hybrid actors such as public enterprises and (2) the complex nature of administrative actions itself. The oscillation of the jurisprudence of the administrative judge, as it can be seen in Tunisia, is not a signal of dysfunction but rather an attempt to preserve the integrity of administrative law in cases of uncertainty or contradiction of legal norms. Thus, the conflict of jurisdiction becomes an important analytical tool that helps comprehend the real role of the administrative judge, not merely as a passive and mechanical enforcer of legislation, but rather as an active interpreter using his discretionary powers in order to bridge the inevitable gap between legislative intention and administrative reality. Based on the Tunisian case study, this presentation will give interdisciplinary insights into comparative administrative law by showing that in dualist legal systems, certain degree of conflict of jurisdiction is inevitable and even beneficial.

REVISITING THE CJEU FASTWEB-PFE LINE OF JURISPRUDENCE ON THE REVIEW PROCEDURES IN PUBLIC PROCUREMENT: EUROPEAN AND NATIONAL DEVELOPMENTS

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Abstract

The study revisits the analysis of the Fastweb-PFE line of jurisprudence of the Court of Justice of the European Union (CJEU) concerning remedies in public procurement. The objective of the research is to examine the developments that have occurred since the publication of the author's previous article on this subject (2019), with a focus on the CJEU Judgment in Lombardi (C-333/18), which extended the principles from Fastweb and PFE to procedures involving multiple tenderers, and on the recent Decision of the High Court of Cassation and Justice (ÎCCJ) Appeal in the Interest of the Law no. 23/2025 regarding the admissibility of the principal intervention of the successful tenderer before the National Council for Solving Complaints (CNSC). The research method is analytical and comparative, grounded in a case-by-case examination of CJEU and ÎCCJ judgments and their application in national judicial practice. The case law developments confirm the devolutionary effect of lodging a challenge, in the sense that a legitimate interest arises for the challenged tenderer to challenge on its turn the offer of the challenging tenderer — a principle that applies regardless of the number of participants in the public procurement procedure, as long as there is no final decision excluding the claimant from the procedure. The application of this principle must

also be preserved within the national procedural framework, by admitting the possibility of filing a voluntary principal intervention request by the contested successful tenderer against the offer of the challenging tenderer. The implications of the study concern both the understanding of the devolutionary mechanism in remedies and the effective transposition of European remedies directives into Romanian law.

TOWARDS A NEW LAW ON POLITICAL PARTIES IN ROMANIA: CHALLENGES AND ACTION PLANS

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Permanent Electoral Authority, Romania
PhD **Octavian-Mircea CHESARU**
Permanent Electoral Authority, Romania

Abstract

The new European legislation regarding political life, as well as the development of new categories of political actors and developments of political life in Romania have revealed the imperative of ensuring a rigorous regulatory framework regarding the organization, functioning and financing of political parties, as well as the need to establish administrative and judicial procedures that guarantee predictability and speed in the matter of registration and management of political party records. Although the Law on Political Parties no. 14/2003 played a decisive role in consolidating political pluralism and stabilizing the legal relations regarding the establishment, organization and cessation of the activity of political parties, political, economic, social and technological developments require a substantial regulatory reform by adopting a law that would strengthen the functional capacity of parties, streamline their interactions with other public entities, ensure clear rules regarding their heritage and visual identity, as well as reduce the areas of uncertainty that have generated litigation, procedural delays and uneven solutions. The study uses observational and mixed research methods by objectively analyzing available resources regarding society's expectations and current deficiencies in the regulatory framework, as well as by correlating European and national norms, supranational recommendations and relevant case law, with the aim of indicating the main solutions and innovations that a new law must formalize.

A CURRENT DEBATE – LIABILITY FOR THE IMPLEMENTATION IN PUBLIC ADMINISTRATION OF A DEFECTIVE AUTOMATED SYSTEM CAUSING HARM

Associate professor **Elena Emilia ȘTEFAN**
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affiliated member of the Society of Juridical and Administrative Sciences

Abstract

In today's society, there is a growing tendency for public authorities - and not only them - to delegate decision-making to an automated system which operates based on algorithms. It is very easy for mistakes to occur in this process, starting, for example, from a programming error that generates a wrong or even unlawful result, producing chain effects. There have been countless situations when the government's implementation of a flawed automated system has led to harm in the field of social welfare, such as the Robodebt case in Australia or the childcare allowance scandal in the Netherlands. From the perspective of administrative law, it can be noted that at the European level there is no uniform legislation on liability for the use of automated decision-making systems and of the possible legal issues they may cause. In this context, the present study aims to identify the potential solutions to the issue of liability within the broader framework of the use of artificial intelligence in the public sector. The research results shows that the public authorities must be both responsible and liable for the implementation of artificial intelligence systems.

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REGIMES AND TYPES OF CONTEMPORARY ADMINISTRATIVE SYSTEMS

Professor PhD. habil. **Iulian NEDELCU**
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Abstract

The objectives of this study aim at the conceptual deconstruction of public administration from a comparative perspective, exploring how national legal traditions (French, German and Anglo-Saxon) shape the understanding of the contemporary administrative phenomenon. The research methodology used is qualitative, based on the comparative analysis of the reference doctrine and on the examination of the organic, functional and material criteria proposed by fundamental authors such as Jean Rivero, Georges Vedel or Antonie Iorgovan. The research results highlight the fact that, while the French and Romanian legal spaces revolve around the concepts of public service and public power, the common law systems adopt a pragmatic approach, focused on the "management of government affairs". The implications of the study are particularly relevant for the process of European administrative harmonization, demonstrating that a unitary definition of administration is hampered by different historical legacies, but remains essential for establishing the limits of judicial control over the executive power.

GENERAL CONSIDERATIONS REGARDING THE ORGANIZATION OF ADMINISTRATION

Professor PhD. habil. **Iulian NEDELCU**
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Abstract

The present study aims to provide a comparative analysis of the concept of public administration and of the main administrative regimes established within contemporary legal systems. The research seeks to identify the defining elements of public administration from the perspective of French, German, Anglo-Saxon, and Romanian doctrines, while also highlighting their influence on modern administrative organization. The methodology employed is qualitative in nature, based on doctrinal analysis, the comparative method, and the examination of the constitutional and legislative evolution of the concept of public administration. The study emphasizes that the definitions of public administration differ according to legal traditions and to the relationship between executive power, public interest, and public service. At the same time, the research reveals the existence of distinct administrative models — centralized, deconcentrated, and decentralized — as well as the diversity of administrative-territorial structures existing within European states. The results of the analysis demonstrate that European administrative harmonization is influenced both by the historical and constitutional specificities of each state and by the contemporary tendency toward strengthening local autonomy and administrative cooperation.

THE ELECTION, APPOINTMENT AND EMPLOYMENT OF EU AND NON-EU CITIZENS IN THE ROMANIAN PUBLIC ADMINISTRATION

PhD **Cristian-Vasile BITEA**
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Abstract

In an era dominated by mobility and migration, the use value of citizenship and domicile appear as essential or marginal in relation to political and social rights, depending on the differences between states regarding the applicable legal treatment regime. In the present paper we propose to analyze the conditions under which European

citizens, but also those of third countries, foreigners or stateless persons, can have access to the decision-making process and public institutions in Romania, as elected or appointed dignitaries or civil servants or contractual personnel, that is, if they are eligible for positions related to specific categories of personnel in the public administration. In this regard, we will investigate, with comparative notes, the specialized national legislation, as well as some acts of the European Union or acts of international law ratified or in the process of ratification, also appealing to a series of studies, statistics and doctrinal approaches in the matter.

THE SPECIAL CASE FOR REVISION REGULATED UNDER ADMINISTRATIVE LAW. A TOOL FOR PROTECTING THE PUBLIC INTEREST OR A SOURCE OF INSTABILITY, PARTICULARLY IN THE CONTEXT OF ADMINISTRATIVE CONTRACTS?

PhD student **Elena IACUBA**
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Abstract

This study analyses the special case for revision regulated by Article 21(2) of Law No. 554/2004, from the perspective of its practical usefulness and its compatibility with the principles of legal certainty and the expeditious resolution of administrative disputes. The objective of the research is to assess the necessity of regulating/ maintaining an autonomous extraordinary remedy in the field of administrative litigation in relation to those provided under general law, with a particular focus on disputes concerning administrative contracts and taking into account the principles governing this type of litigation, such as the principle of expediency. For the purposes of this research, methods specific to doctrinal and case-law legal analysis were used, including the examination of the relevant legislation, the case law of the Constitutional Court, the High Court of Cassation and Justice, the Court of Justice of the European Union, and the relevant legal literature. The conclusions of the study highlight that, although the regulation of this institution may be justified from the perspective of ensuring the effectiveness of European Union law and enhanced protection in relation to public authorities, its extensive application risks undermining the stability of legal relationships and leading to the excessive prolongation of disputes resolution. With regard to litigation concerning administrative contracts, the requirement of expediency in solving disputes of this nature must particularly take into account the need to ensure a balance between the public interest and private economic interests. In other words, only a restrictive interpretation of the special case for revision is capable of calibrating its implications on the predictability of administrative contractual relationships and the efficient use of public funds.

TAXATION OF RELIGIOUS PROPERTY IN ROMANIA

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Abstract

The idea of taxing religious property is not a new concept. Since the time of the ruler Al. I. Cuza, this intention was materialized by the proposal of secularization, which initially wanted to stop the externalization of income generated on agricultural lands, forests, pastures, etc. - property of religious communities -, in that case, of a large proportion of the properties of the Orthodox Church to Mount Athos, Greece, the Holy Places of Israel or Mount Sinai. In Romania there is already a special tax regime for religious communities, provided for by the Constitution, by Law no. 489/2006 on religious freedom and the general regime of religious communities (Law 489/2006) and the Fiscal Code. The distinction between sacred goods and commercial goods for example: Should churches, parish houses, agricultural lands of the Church remain exempt from tax? But should hotels, farms, commercial spaces or forests owned by religious groups be taxed partially, temporarily or in full? What is the "public benefit" or "benefit Corporations" model? This concept, used in some Western countries: (Italy, France, Spain and 39 states in the USA),

represents tax advantages that are linked to demonstrable public utility. They have already adopted the respective legislation for this concept. "In terms of B-Corp certifications, Romania ranks 4th in the world, among the countries that are rapidly moving towards the world top". In the case of taxing religious property, the following must be followed: differentiated taxation according to the legal nature of the asset sacred asset/administrative asset/economic asset/investment asset; from a constitutional perspective, such a reform must respect: religious freedom, autonomy of religious groups, fiscal equality, proportionality of the tax burden, protection of property. Herein lies the great challenge. The state cannot transform taxation into an indirect form of restriction of religious freedom. How much of the patrimony of religions is spiritual in nature and how much is economic in nature? This is, in fact, the key to the entire modern debate about the taxation of religious property. Keywords: religions, tax, exemption, Constitution, Law, taxation, property, freedom of religions. Research results: the definite existence of improvement and development of the concept of taxation of religious property. Method: historical, logical, comparative and legal research. Objectives: Increasing education and protection of society by using funds from taxes on religious property.

THE LEGAL ACTS OF A DISMISSED GOVERNMENT AND THEIR POTENTIAL IMPLICATIONS FOR CERTAIN EUROPEAN PROGRAMS

Professor PhD habil. **Gabriel-Liviu ISPAS**
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Abstract

For seven decades, NATO member states — particularly those that are part of the European Union — have relied on a system of collective defense in which the United States played a central role. However, recent developments in international conflicts — whether in the Union's neighborhood or seriously affecting the economies of member states — as well as the shift in U.S. doctrine under President Trump's administration, have compelled NATO member states that are part of the European Union to establish new common policies on military readiness and equipment, in order to prevent situations that could potentially lead to hostile actions. The SAFE program represents an appropriate response by the Union to a complex geostrategic situation, and member states are required to fulfill a number of legal obligations by May 31, 2026. The study examines the situation in Romania, assuming that on May 5, 2026, the Government was dismissed by a motion of no confidence adopted by Parliament, and the Emergency Ordinance for the SAFE program was adopted at a later date, potentially in violation of constitutional provisions. We will examine the potential legal consequences of such a situation, both from the perspective of individual liability and in relation to a European program. The research is both theoretical and applied, and the desired outcome is to identify mechanisms for enhancing the capacity to respond to atypical legal situations.

FROM POLITICAL LEADERSHIP TO ADMINISTRATIVE CONTINUITY: EXECUTIVE FUNCTIONS DURING GOVERNMENTAL CRISES. A COMPARATIVE LEGAL PERSPECTIVE

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Abstract

Governmental crises have become an increasingly frequent feature of contemporary democracies, raising complex questions regarding the continuity, limits and legitimacy of executive power. This paper examines the transformation of executive functions during periods of governmental crisis, focusing on the shift from political leadership to administrative continuity. The study adopts a comparative legal perspective, analysing the Belgian doctrine of affaires courantes, developed in the context of prolonged interim governments, and the Italian experience

of recurrent governmental instability and extensive reliance on executive normative instruments, both examined in relation to the Romanian constitutional framework governing caretaker governments. The research employs a comparative legal and doctrinal analysis of the constitutional and administrative mechanisms applicable to interim governments in Belgium, Italy and Romania. The paper argues that governmental crises do not eliminate executive power, but rather redefine its constitutional core. In this context, the excessive use of the executive's normative function has gradually altered the constitutional perception of the role of government in the contemporary state, often contributing to an imbalance between the executive and legislative branches. Consequently, the temporary limitation of delegated legislative powers during governmental crises may operate as a mechanism of constitutional rebalancing, revealing administrative continuity as the essential function of executive power.