International Workshop of Doctoral Students in Law
"Contemporary Challenges in Comparative Law"
- 1st edition -
April 24, 2026

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Section II.
Comparative Private Law

Friday, April 24, 2026

Online on Zoom

Moderator:

Associate professor ***Cristina Elena POPA TACHE,*** *President of the International Institute for the Analysis of Legal and Administrative Mutations*

! Each paper will be presented within 10 minutes

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SCIENTIFIC PAPERS

COMPARISON OF SELECTED PRINCIPLES OF PRIVATE LAW IN THE STATES OF THE FORMER CZECHOSLOVAKIA

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PhD. student **Michal KAŠŠAJ**
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Abstract

This article focuses on comparing selected fundamental principles of private law in the successor states of the former Czechoslovakia, specifically the Czech Republic and the Slovak Republic. The aim of this paper is to identify similarities and differences in the development and application of key principles in the context of legal developments after 1993. The research is based on a comparative analysis of legislation, case law, and relevant legal doctrine in both legal systems. At the same time, other scientific methods are also used, particularly synthesis and induction, as well as the methods of abstraction and analysis, which enable a deeper understanding of the phenomena under examination and the formulation of more general conclusions. Particular attention is paid to the recodification of private law in the Czech Republic and its impact on the interpretation of traditional principles, as well as to continuities and changes in Slovak private law. The findings suggest that, despite a common legal foundation, there is a gradual differentiation in the approach to the interpretation and application of individual principles, which has significant implications for legal practice and the further development of private law in both countries.

UNCERTAIN DEVELOPMENT OF CLASS ACTION LITIGATION: A COMPARATIVE STUDY

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Abstract

This study examines the uncertain development of class action litigation in South Africa, with particular focus on the ambiguity surrounding certification requirements and its impact on access to justice under section 34 of the Constitution. The primary objective is to evaluate whether the current reliance on judicial precedent provides sufficient legal certainty for successful class action litigation. The research adopts a comparative methodology, analysing South Africa's framework alongside the more developed regimes in the United States and Quebec (Canada), in order to identify best practices and potential reforms. The findings reveal that the overarching "interests of justice" criterion introduces significant unpredictability, granting excessive judicial discretion and undermining legal certainty for litigants. In contrast, foreign jurisdictions apply clearer and more structured certification standards, which enhance consistency and access to justice. The study concludes that South Africa's current approach risks impeding effective collective redress and recommends the adoption of a more objective standard,

such as the "sufficiently credible or plausible" test. This reform would promote legal certainty, improve access to justice, and support the development of a coherent class action regime aligned with constitutional values.

COMPARING DIFFERENT APPROACHES TO THE REGULATION OF CONTRACTS BETWEEN ELECTRICITY SUPPLIERS AND CONSUMERS: A COMPARISON BETWEEN THE HUNGARIAN AND THE FRENCH APPROACH

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Abstract

The aim of this study is to examine how the contract between suppliers and consumers of electricity is regulated in the French and the Hungarian legal systems. This comparison serves to illustrate how the same fundamental issue is can be approached from fundamentally different points by different legislators. The most important difference between the two solutions is the placement of the rules in the respective legal systems: the French solution deals with the specific contract as part of the Consumer Code, whereas in the Hungarian legal system the regulations relating to this contractual legal relationship can be found in the Law on Electricity. Resulting from this the Hungarian rules governing the contract take on a more technical nature, whereas the French regulation puts a stronger emphasis on the protection of consumers. Additionally, the study reflects on the wider theoretical legal questions relating to administrative contracts or public contracts. The reason for this is that in the Hungarian legal system, contracts relating to the organisation of public services are treated as a sub-category of public contracts by some authors, whereas in the French legal scholarship the main differentiation is ó based on the nature of the given service.

THE INDEFINITE LEGAL CONCEPT OF GOOD MORALS UNDER THE PRISM OF GREEK THEORY AND JURISPRUDENCE

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Abstract

The subject of this study constitutes the indefinite legal concept of good morals, as it is shaped in the theory and jurisprudence of the Greek legal order. More specifically, good morals are understood as a general and indefinite legal clause, which is found in various legal branches, through which the law enforcer has the appropriate margin of assessment, so as to adapt this clause to the particularities of each specific case. While the traditional view identifies them with the perceptions of the average, prudent and honest social person, modern theoretical approaches treat them as unwritten but normatively binding rules with moral necessity and simultaneously with broader foundation in the values of the Rule of Law. The aim of the research is the systematic mapping and critical evaluation of the above versions, as well as the expansion of the normative content of good morals. The methodology followed is dogmatic and interpretative, with analysis of the relevant bibliography and jurisprudence. The findings highlight the shift from a descriptive to a

normative understanding of the concept, which strengthens the systematicity of judicial judgment. The contribution of the study lies in the theoretical clarification of the concept and in strengthening legal certainty through a more coherent interpretative framework.

EFFECTIVENESS OF CHILD SUPPORT ENFORCEMENT TECHNIQUES: CIVIL IMPRISONMENT AND COMPARATIVE ANALYSIS IN CONTEXTS OF ECONOMIC INFORMALITY

PhD. student **Barbara SARTORI**
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Abstract

This article analyzes the effectiveness of child support enforcement techniques, with particular emphasis on the role of civil imprisonment in the Brazilian legal system. It is based on the paradox between the broad range of instruments provided by the Brazilian Civil Procedure Code of 2015 (CPC/2015) and the persistence of non-compliance with child support obligations. The objective is to assess, from a comparative perspective, the effectiveness of enforcement mechanisms, examining the Brazilian model — which allows civil imprisonment — in contrast with legal systems that do not provide for such a measure, especially in contexts marked by economic informality, asset concealment, and diverse debtor profiles. The research adopts a qualitative and comparative approach, combining doctrinal analysis with empirical elements derived from legal practice. In the Brazilian system, structured by the CPC/2015, the main enforcement tools include asset seizure, personal coercion, and auxiliary enforcement measures, as well as atypical measures aimed at ensuring judicial effectiveness. The results indicate that in scenarios of economic informality and asset concealment, patrimonial enforcement is often insufficient. In such cases, civil imprisonment operates as an indirect coercive technique capable of inducing compliance, although it may also prove ineffective in certain situations, particularly when the debtor serves the entire period of detention without fulfilling the obligation. It is observed that the effectiveness of this measure varies according to the debtor's profile, ranging from situations of socioeconomic vulnerability to deliberate non-compliance, often associated with family conflicts and insufficient internalization of parental duties. Unlike legal systems such as the Portuguese one, where civil imprisonment for debt is not allowed, the Brazilian system maintains personal coercion as a relevant enforcement tool. The study concludes that the effectiveness of child support enforcement depends not only on underlying socioeconomic conditions but also on the debtor's profile, demonstrating that civil imprisonment, although controversial, still plays a significant role in ensuring the right to maintenance.

SMART CONTRACT RECOGNITION IN INTERNATIONAL TRADE: COMPARING THE CISG AND CUECIC FRAMEWORKS

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Abstract

This study examines the recognition and enforcement of smart contracts and blockchain based transactions under the United Nations Covnention on Contracts for the International Sale of Goods (CISG) and the United Nations Convention on the Use of Electronic Communications in International Contracts (CUECIC). The objective is to assess whether the CISG, despite its widespread adoption and centrality in international trade, provides sufficient

doctrinal clarity for automated and decentralised commercial obligations, and whether the CUECIC offers a more coherent framework for validating electronic communications and automated performance. The research employs a comparative doctrinal analysis, assessing the interpretative approaches, scope provisions and functional equivalence standards in both instruments. The findings indicate that while the CISG can accommodate certain aspects of digital contracting through flexible interpretation, CUECIC provides a more technologically aligned regime. However, its limited global adoption significantly constrains its practical impact. The study argues that this divergence creates uncertainty for cross border transactions involving decentralised contract automation. The implications are particularly relevant for developing economies, where fragmented uptake of international instruments may hinder participation in digitally mediated trade.

THE GLOBAL STEEL OVERCAPACITY AND POSSIBLE OPTIONS TO SALVAGE THE SOUTH AFRICAN STEEL INDUSTRY

PhD. student **Tshepo E. RAMATABANE**
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Abstract

This paper explores the possible options for South Africa to salvage its 'limping' steel industry from the potential demise. In 2025, South Africa's major steel manufacturer indicated its intention to close some of its processing plants, citing the inability to compete with low-priced imports from countries with excess steel production. The increase in global steel production causes market distortion and poses instability in the global market. Amid the current unstable geopolitical landscape, the World Trade Organization (WTO) rules are struggling to effectively address the issue of global steel overcapacity. In response to adverse effects of the global steel overcapacity, other jurisdictions like the United States (US) and the European Union (EU) have explored alternative protective measures. To salvage South Africa's steel industry, the paper proposes that South Africa should reconsider the imposition of countervailing measures on steel products to supplement the existing anti-dumping and safeguard measures, customs duties, and import control measures. The paper uses a desktop study evaluating the relevant literature, legislation, policy review and case law. Furthermore, the paper calls for South Africa to adopt a balanced policy framework that considers both the interests of major steel industry and the downstream users in addressing global steel overcapacity.

SUBSEQUENT IMPOSSIBILITY AND HARDSHIP IN CONTRACT LAW: A COMPARATIVE STUDY OF HUNGARIAN AND SLOVAK LAW

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Abstract

Each contract that is not performed immediately after its conclusion may face disturbances in performance arising from supervening events, difficulties, or changes in circumstances. Non-performance or non-conformity is considered a breach, which gives rise to claims for damages and other consequences. In the absence of contractual provisions, exemption from liability for breach may be granted exceptionally in cases of subsequent impossibility and hardship, if the conditions defined by law and strictly applied by courts are met. This study, focusing on two

neighbouring states, Hungary and Slovakia, provides an overview of the key questions, challenges, and solutions found in different legal systems and instruments of international comparative law, and concludes by highlighting the advantages of properly drafted contractual provisions agreed by the parties.

THE IMPACT OF ARTIFICIAL INTELLIGENCE ON SALES CONTRACTS

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Abstract

The rapid advancement of technology and legislation has also impacted the effects of the sales contract, which remains one of the most versatile legal instruments. The main objective of this research is to analyze how the use of artificial intelligence (AI) influences contractual obligations, the validity of contractual clauses, and the allocation of liability between the parties involved. At the same time, we will examine emerging legal challenges and the impact on the fundamental principles of contract law. The methodology employed in conducting this research is based on the following methods: doctrinal method, comparative method, and deductive method. The study's results highlight significant legal challenges arising from the integration of AI, including uncertainties regarding the applicability of consent in AI-generated contracts. The implications of this research are important for legal practitioners and scholars, as it contributes to the modernization of contract law and supports the development of a legal approach centered on the use of artificial intelligence in commercial transactions.

THE APPLICABLE LAW TO THE SUBSTANTIVE VALIDITY OF ARBITRATION AGREEMENTS, A COMPARATIVE APPROACH UNDER THE UNCITRAL MODEL LAW AND THE NEW YORK CONVENTION

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Abstract

My objectives are to analyze the applicable law to substantive validity of arbitration agreements under the Model Law and the New York Convention. Determining such law might be relevant during all stages of the arbitral process, when jurisdiction of the tribunal is contested, determining whether there is a valid arbitration agreement, when anti-suit injunctions are sought, or at set-aside and enforcement stages. The importance of determining the applicable law is crucial. In the so-called Dallah or Kabab-Ji sagas courts in England and France, applying (or interpreting divergently) separate laws to the arbitration agreements, reached contradictory outcomes: UK courts deemed the tribunal had no jurisdiction over a non-signatory, whereas under the French law at the seat, it had, therefore the French court upheld the award, which dismissed the annulment action, but the England court refused enforcement. Neither the UNCITRAL Model Law nor the New York Convention provide for choice-of-law rules for the substantive validity of arbitration agreements. I will analyze certain jurisdictions to see how courts apply the above conventions. The scope is to determine the law implicitly chosen by the parties in the absence of an express choice, and what is the objective connector in the absence of choice.

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ALGORITHMIC HUB-AND-SPOKE ARRANGEMENTS AND THE ATTRIBUTION OF ANTICOMPETITIVE LIABILITY: A COMPARATIVE ANALYSIS OF EU AND US LAW

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Abstract

The growing use of artificial intelligence in the activity of undertakings, particularly pricing algorithms, has generated a new form of anticompetitive coordination in which a third-party software provider collects and combines confidential data to generate pricing recommendations and eliminate independent decision-making. This configuration, known as an algorithmic hub-and-spoke arrangement, raises a fundamental question: whether existing competition law frameworks are adequate to attribute liability to the algorithm provider as a co-author of an anticompetitive agreement. This paper examines the question through a comparative analysis of EU and US competition law. The methodology is primarily doctrinal, drawing on treaty provisions, case law of the Court of Justice of the European Union, such as AC-Treuhand (C-194/14 P) and Eturas (C-74/14), and US federal court decisions, namely United States v. RealPage, Inc. (No. 1:24-cv-00710, M.D.N.C.). Legal analogy is used to extend established jurisprudential principles to novel technological configurations. The comparative analysis reveals that while US enforcers have acted directly against the algorithmic hub, EU law has yet to produce a ruling expressly addressing the liability of algorithm providers as co-authors of a concerted practice. The paper proposes a standard of "constructive knowledge" as a doctrinal basis for extending Article 101 TFEU to algorithmic hubs.

TO TRAIN OR TO PROTECT, THAT IS THE QUESTION. COPYRIGHT CHALLENGES IN AI MODEL TRAINING

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Abstract

Despite expectations, artificial intelligence, like a child, is not „born" with intelligence. Thus, it appears as a capacity, not a given, although unlike a child, artificial intelligence can easily access the information uploaded to the servers. However, access to information is not enough to understand and use it later, for this the model needs to be trained. The training process uses both synthetic data, which does not raise issues from a copyright perspective, and protected works. The use of protected works has sparked discussions in the academic community, imposed some legislative changes/adaptations and often even revolts within artists community affected by the new technology. In this paper, I set out to conduct a comparative analysis of how pre-existing works are protected during the training process, from the perspective of existing regulations in European Union, the United State and China – the three major powers engaged in the „race" toward technological advancement. Furthermore, the paper aims to answer the question: to what extent can trainers of artificial intelligence models use copyrighted works?

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THE EVIDENTIARY VALUE OF AUDIO AND VIDEO RECORDINGS IN FAMILY LAW

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Abstract

Audio/video recordings may constitute items of evidence, regardless of the technical support on which they are stored, the law imposing as a condition of admissibility that they have been obtained in compliance with the law and morality, a condition that will be verified during the admissibility of evidence. The correct interpretation of the legal provisions must be made in strict compliance with domestic and international legal rules on the privacy of the individual. The notion of "private life" encompasses family and conjugal life, daily life at home, the home itself, sentimental life, friendships, leisure, the private aspect of professional work, etc. The right to privacy allows the individual to be the master of a secret, intimate territory, safe from any indiscretion. In order for the court to determine whether the recordings constitute an invasion of privacy, it must analyze the concept of privacy in the meaning of civil law, a concept which must be related to the actual content of the recordings and the conditions under which they were made.

INTERNATIONAL COMMERCIAL LAW GLOBALIZATION. EMPHASIS ON THE 1980 VIENNA CONVENTION ON THE INTERNATIONAL SALE OF GOODS

PhD. student **Mădălina SANDU**
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Abstract

The study aims to analyze the globalization and uniformization of international sales law, starting with a history of codification of international sales law and coming to the Vienna Convention and its everyday use in international law. The emphasis will be on the uniformization character of this Convention, namely the blending of common and civil law. The research methods used are article and case law review. The implications of the study regard the use of this international law instrument, its benefits and challenges in application.

POST-MORTEM DIGNITY: NORMATIVE CONSTRAINTS ON PERPETUAL REPOSE IN ROMANIA, FRANCE, AND GERMANY

PhD. student **Silviu-Dorin ȘCHIOPU**
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Abstract

This study investigates the legal challenges surrounding post-mortem dignity in Romania, France, and Germany (Free and Hanseatic City of Hamburg). It examines how these jurisdictions reconcile the protection of

undisturbed rest (the permanence of final resting places) with the necessities of cemetery renewal. To this end, the research employs a comparative legal analysis to identify commonalities and divergences within these regulatory frameworks. The paper assesses the impact of the duration of burial rights and the criteria for grave reclamation on post-mortem dignity. The analysis reveals that, while all three jurisdictions recognize post-mortem dignity as a foundational principle, its application in time varies significantly. Romania sets a default seven year minimum before potential exhumation, France a mere five years, and Hamburg enforces twenty-five years of rest. Ultimately, these results show that perpetual repose is not absolute but conditional, defined by normative temporal limits prioritizing land-use requirements over the traditional ideal of perpetual rest. The findings indicate that the scope of post-mortem dignity is essentially determined by a clock; each system provides a variable window of protection before land utility is permitted to supersede the right to an undisturbed rest. Consequently, the study identifies legal mechanisms enabling individuals to secure repose periods that transcend these baseline limits, thereby reinforcing their post-mortem dignity.

A HISTORICAL-COMPARATIVE APPROACH TO RISK-BASED LIABILITY. REINTERPRETING ROMAN ACTIONES ADIECTICIAE WITHIN THE FRAMEWORK OF THE EU AI ACT

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Abstract

This paper proposes an upstream reflection, conceptualize tomorrow's technological landscape by looking into the past. Through a historical-comparative view, it explores the „accountability gap" currently widening around the deployment of Artificial Intelligence systems. To be exact, we propose revisiting Roman praetorian mechanisms but not as historical relics, as viable blueprints for contemporary legal challenges. While most scholars tend to focus on the slave-AI analogy based strictly on degrees of autonomy, this study identifies critical structural flaws in that approach, therefore instead introduces a novel perspective: recalibrating the actiones adiecticiae qualitatis remedies according to the risk hierarchy newly codified by European Union through Artificial Intelligence Act (AI Act). The source and limits of AI deployer's liability should not relay on the algorithm's cognitive complexity, rather, liability should be tethered to the system's statutory risk category. We think we can adapt the concept of „peculium" to „digital peculium" to serve as limited liability cap for low-risk system, while high-risk ones to trigger an unlimited liability regime, closely mirroring the actio institoria. Finally, by revitalizing these archaic mechanisms of the fertile ground of AI Act, we could achieve the fusion necessary to build a modern model of „adjectival liability", but one capable of protecting without choking technological progress.

THE ENFORCEMENT OF SPORTS ARBITRATION AWARDS – A COMPARATIVE APPROACH

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Abstract

This paper examines the enforcement of sports-related disputes arbitration awards by contrasting two

distinct models: the traditional state-centred mechanism based on the 1958 New York Convention and the sport-specific model of "self-enforcement", operating within the closed regulatory systems of international sport. The study focuses on awards rendered by the Court of Arbitration for Sport (CAS), especially in football disputes within the FIFA framework and anti-doping disputes governed by the WADA system. Using doctrinal, comparative and case-law analysis, the paper aims to determine whether CAS awards are, in practice, enforced more effectively through internal regulatory mechanisms than through judicial recognition and exequatur procedures. The results indicate that many CAS awards become effective without any state recognition at all, because compliance is secured by governing bodies through disciplinary, eligibility and participation-related sanctions. The paper also addresses how that this self-enforcement model has recently come into tension with key aspects of EU law, notably competition law and effective judicial protection. Its implications are twofold: it highlights both the efficiency of sports-specific enforcement and the need to assess its compatibility with EU law and, where necessary, propose corrective institutional solutions.

GENERAL ASPECTS CONCERNING THE REGULATION OF CONSTRUCTION WORKS CONTRACTS IN COMPARATIVE LAW

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Abstract

The paper aims to analyze the manner in which construction works contracts are regulated across different legal systems, namely Romanian law, French law, German law, and Quebec law, the study aiming to identify both the common elements and the particular features of each system. The research employs the comparative method, grounded in the examination of legislation and legal doctrine. Within this framework, the notion of the construction works contract is analyzed in each legal system, highlighting its distinctions from the employment contract and the contract of sale. Furthermore, the paper identifies the normative framework applicable to construction works contracts in a comparative context. Contractual standards used in practice, such as those established in Germany (VOB) and in France (AFNOR NF P 03-001), are addressed in a concise and descriptive manner, being subject to a general overview for orientation purposes, without constituting the object of an in-depth analysis. The results of the study reveal the existence of common principles and mutual influences among the examined legal systems, while also identifying certain nuanced differences in terms of regulation and application. The implications of the research lie in providing a starting point for those interested in the comparative analysis of construction works contracts.