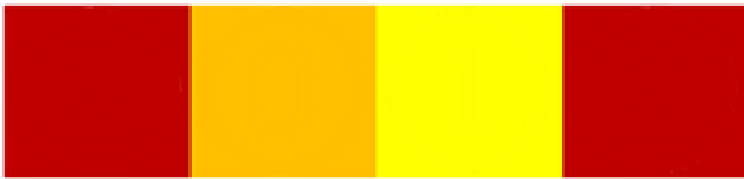


SOCIN



International Interdisciplinary
Conference on Social Innovations

Justice, Security and Human Rights

/Stream A of International research conference "Social Innovations: Theoretical and Practical Insights"/

CONFERENCE VENUE: Mykolas Romeris University, Vilnius, Lithuania.

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Day I Session

”Constitution and the EU law: Interaction, Challenges, Solutions”

Moderators:

**prof. dr. Eglė Bilevičiūtė,
Mykolas Romeris University**

**prof. dr. Darijus Beinoravičius,
Mykolas Romeris University**

CONSTITUTIONAL LIMITS OF THE EUROPEAN INTEGRATION - A GERMAN PERSPECTIVE

Andreas Funke

University Erlangen-Nürnberg, Germany

e-mail: andreas.funke@fau.de

The German Basic Law is open to a deep European integration. But it also limits this process. The limitations are not just drawn by general ideas like statehood or sovereignty as such. They rather follow from a particular constitutional configuration, linking constitutional identity, the principle of democracy and the idea of *pouvoir constituant*. But although the court is right in creating a connection between political autonomy and constitutional competences, it goes too far in defining a catalogue of essential state competences.

Purpose. In this research paper it will be elucidated the respective leading case of the German Constitutional Court, concerning the Treaty of Lisbon. The decision can be situated within a coherent scheme of republican constitutionalism.

Design/methodology/approach. In order to achieve the purpose, the relevant case law is being analysed.

Findings. Although the court is right in creating a connection between political autonomy and constitutional competences, it goes too far in defining a catalogue of essential state competences.

Keywords: European integration, democracy, political autonomy, constitutionalism.

Research type: research paper.

LAW DEVELOPMENT TRENDS IN THE EUROPEAN UNION

Darijus Beinoravičius

Mykolas Romeris University, Lithuania

e-mail: dabein@mruni.eu

Juta Večerskytė-Alshaiban

Mykolas Romeris University, Lithuania

e-mail: juta_vecerskyte@yahoo.com

Historically, the law in Europe was gradually secularized (some functions of the Church transferred to the state, for example the separation of the Church and the State), as well as the law was liberalized (legal separation from political dependence). All this has led towards the understanding of a law as a system with relative autonomy, it has allowed in Europe the formation of a new legal mechanism and the new authorities with their service personnel. In modern times, due to more and more frequent criticism of the law, the situation is slowly beginning to alter: the law as a system of rules and as a science is changing, taking into account the experience of other social sciences.

Purpose. The purpose of this research paper is to analyze the main legal development trends in the European Union countries and the historical background of those tendencies.

Design/methodology/approach. In order to achieve the purpose, the main legal development trends in the European Union Member States are analyzed, the primary tendencies are defined.

Findings. The results of the research show that the rapprochement of legal sciences and other social sciences are often criticized: this idea is being reprehended on the one hand because social sciences do not know the specifics of the legal science, and on the other hand - the formalization of legal categories gets too detached from social reality. The phenomenon of the integration of social sciences in the modern legal space is not without problematic consequences – it does not resolve the conflicts arising from legal reality and legal science, but creates new



reality, which essentially is neither purely legal, nor purely scientific. Philosophy of law, sociology of law, legal economic analysis and legal political science disciplines are hybrid derivatives of Social Sciences. The law is being explored from a wide range of social science aspects, which forces us in this article to talk of different scientific, social and practical discourses.

Keywords: legal cognition, law, social discourse, natural law, positive law.

Research type: research paper.

JOINT LIABILITY FOR UNPAID VALUE ADDED TAX: PROPOSED AMENDMENTS TO THE LAW ON VALUE ADDED TAX OF LITHUANIA COMPARED WITH THE LAW OF EUROPEAN UNION AND OTHER MEMBER STATES

Rūta Kazlauskaitė

State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania, Lithuania
e-mail: kazlauskaite.ruta@gmail.com

The purpose of the article is to reveal the problem of Lithuanian law (legislation and case law) associated to liability for businesses' unpaid value added tax (hereinafter – VAT) on frauds using “missing trader”.

Design/methodology/approach: VAT is an indirect tax, paid to budget by the customer, who uses purchased goods for his own needs. Business is charged by the VAT on difference between output VAT (VAT on business' output supplies) and input VAT (VAT on business' input supplies). Some businesses use a fraud to avoid the payment of VAT by purchasing or selling goods to business subjects that are called „missing trader“(a subject which does not pay the VAT to the budget on the transactions and its commissioners cannot be found). There is no such legislation in Lithuania, which requires VAT payer to be liable on its contractor's VAT obligation, if the contractor is “missing trader”. Though, as it is indicated on the case law of the Supreme Administrative Court Of Lithuania (according to the EU case law), VAT payer (taxable person) who did or could know that the transaction concerned was connected with a fraud committed by the seller loses the right to deduct the value added tax he has paid to the seller.

On 2014 the draft changing the Law On Value Added Tax (hereinafter – The Draft) was submitted to the Seimas. The Draft was prepared according the article 205 of the European Council Directive 2006/112/EC of 28 November 2006 (hereinafter – Directive 2006/112/EC) on the common system of value added tax, though The Draft received a negative reaction from the business subjects and some public institutions.

The paper deals with Lithuanian and EU case law on joint liability for unpaid VAT, also the Directive 2006/112/EC and the legislation of other member states, where the joint liability is provided by national law.



Findings – the EU legislation on joint liability for unpaid VAT and the practice (case law) of European Court of Justice (hereinafter - ECJ) is consistent, meanwhile there is no legislation in Lithuania, the Lithuanian case law is directly guided by the ECJ case law on similar cases.

Research limitations/implications – the case study is based on EU law;

Practical implications – the review of the provisions of The Draft, provisions of Directive 2006/112/EC, the other member states legislation on Directive 2006/112/EC and the case law of ECJ provides that in some aspects Lithuania seeks to apply the more strict provisions than the legislation of other member states.

Originality/Value: there were no reviews on joint liability for unpaid VAT in Lithuania.

Keywords: value added tax (VAT), joint liability;

Research type: case study.

CONSTITUTION AS A NATIONAL SYMBOL: THE EXAMPLE OF LATVIA

Jānis Pleps

Parliament (Saeima) of the Republic of Latvia, Latvia

e-mail: janis.pleps@saeima.lv

Purpose – The goal of the paper is to analyse the constitution as one of the symbols of national statehood.

Design/methodology/approach – The report considers the symbolic function of a constitution and its role in national statehood. Conclusions contained in the report are drawn by applying analytical, dogmatic, historical and contrastive research methods.

Findings – The paper intends to prove the impact of the constitution in reinforcing the status of the official state language and the doctrine of continuity of a state. It also outlines the presence of constitutional mythology whose task is to promote a uniform opinion in accord with national interests on the necessity and goals of forming a state, on constitutional development of national statehood and on future challenges. The constitution, together with the constitutional system and fundamental rights of an individual, determines the constitutional identity of a state and reflects the constitutional development of national statehood.

Research limitations/implications – By using constitutional law theory and Latvia as an example, the author is going to make some general conclusions.

Practical implications – The paper will be useful for better understanding of the foundations of the national statehood of Latvia.

Originality/Value – The author aims to explain the constitutional identity of a state, constitutional values reflected in the constitution, and the constitution's role in shaping national statehood. The author also will analyze the constitutional mythology in the modern constitutional state.

Keywords: Constitution, constitutional identity, constitutional value, symbolic function of constitution, constitutional mythology

Research type: research paper.

THE IMPACT OF EU EXCLUSIVE COMPETENCE IN THE FIELD OF JUSTICE

Paulius Griciūnas

Ministry of Justice, Lithuania

e-mail: paulius.griciunas@gmail.com

Purpose. This article provides the illustration of the impact of EU exclusive competence in the field of Justice on the competence of State institutions with particular focus to the conclusion of international agreements.

Design/methodology/approach. The development over time and analysis of the concept of implied powers and its effect on the competences of Member States shown through particular case studies. The study of the effect of exclusive EU competence on the conceptual changes of competence of particular State institutions.

Findings. The exercise of EU competence in conclusion of international agreements remains the developing concept. The process of alteration of competences of State institutions had not yet been finished.

Research limitations/implication. Present article provides an incentive for the further research on various competence issues in other fields of AFSJ and possibly in other principal areas of EU competence.

Practical implications – provides insights into the alteration of the competence of State institutions as foreseen by the Constitutional Act.

Originality/Value – Useful in understanding the concept of transfer of competence and helps in better understanding of the content of Constitutional Act.

Keywords: Constitutional Act, EU exclusive competence, Area of Freedom, Security and Justice.

Research type: viewpoint.

ADMINISTRATIVE-TERRITORIAL REFORM AS A PRECONDITION FOR EFFECTIVE DECENTRALIZATION OF POWER IN UKRAINE: ADAPTATION TO THE EUROPEAN STANDARDS

Tetyana Karabin

Uzhhorod National University, Ukraine

e-mail: karabin.sks@gmail.com

Purpose – analysis of the current state of administrative and territorial structure of Ukraine and the problems that it generates; justifying necessity of full administrative-territorial reforms in the country in line with EU standards.

Design/methodology/approach – conclusions about the present problems of administrative-territorial device are done on the basis of legal acts analysis, which regulate the issues of powers of public power local organs in Ukraine, and also practices of their application. Therefore the important constituent of a source base of the work are administrative acts of the corresponding organs which operate on territory of the Transcarpathia area. The determination of directions of administrative-territorial device of Ukraine improvement is carried out using the comparative legal analysis of analogical reforms which were conducted in the countries of Eastern Europe.

Findings – the administrative-territorial device reforms in Ukraine as constituent of the general administrative reform should precede the structural reform of state and local governments and implemented in accordance with the general EU standards.

Research limitations/implications – research was limited by the analysis of the Ukrainian legislation and practice of its application, analysis of Eastern Europe experience in the reforms implementation, and also by the analysis of unified classification of territorial units in statistical reporting system of the European Union: the Nomenclature of Territorial Units for Statistics;

Practical implications – research results can be used in the conceptions and strategies of improvement of administrative-territorial device of Ukraine. They can also be used for forming and planning of normative acts which regulate a certain question.



Originality/Value – research contains original author ideas, grounds, conclusions and suggestions, on the basis of the analyzed empiric material;

Keywords: administrative-territorial device, local organs of public power, decentralization of power;

Research type: conceptual paper.



THEORY AND PRACTICE OF THE INEFFECTIVENESS OF INTERNATIONAL LEGAL REGULATION OF INTERSTATE MILITARY CONFLICTS (case Russian Federation against Ukraine)

Heorhiy Dynys

Uzhhorod National University, Ukraine

e-mail: dynys@mail.uzhgorod.ua; s.heorhiyd@gmail.com

Purpose – The research objectives, namely:

a/ to analyze the currently existing international law doctrines and practice in what concerns the ability of the modern international law to perform its main function aimed “to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace”(Charter I of the United Nations and Statute of the International Court of Justice, Purposes and Principles., Article 1);

b/ to study the problem of compliance of international legal institutional instruments and mechanisms for regulation, prevention and settlement of interstate armed conflicts in view of the threats to the international security case study: (Russia-Ukraine, Russia-Georgia, Kosovo, Afghanistan, Iraq , Arab-Israel conflict).

c/ to formulate the general thesis stating that the act of aggression of the Russian Federation against Ukraine demonstrates the lack of effective and efficient international legal mechanisms for prevention, localization and further escalation of interstate armed conflicts. In its turn, this accumulates real potential threats for further development, causes occurrence of risks for the interests of the global international legal order.

d/ to create doctrine - theory and practice of transformation of modern international law that will which proves that the European legal system is the most effective model of the future universal international law;

Design/methodology/approach –analysis of theory and practice of international law transformation; scientific and doctrinal literature concerns EU; regulation, prevention and settlement of interstate armed conflicts; the practice of international courts, UN International Law Commission;

Findings - Ukrainian school of international law has always preserved its special intellectual positions in the general Soviet school of international law science, even during the time of the USSR.

In the environment of independent and sovereign Ukraine creation, the science of researching modern problems of international law, including the problem of availability of effective instruments and mechanisms for international legal regulation, prevention, and settlement of interstate armed conflicts, becomes especially critical and particularly important these days.

The main argument for the necessity of researching this problem is the need for systematic and comprehensive research, a thorough study of the examples of international armed conflicts between Russia - Ukraine, Russia-Georgia and Kosovo conflict in the territory of the former Yugoslavia, as well as the threats to the existence of Ukraine as an integral state and minimizing potential external threats through creation of an effective system of international legal regulation in the context of reception of Western doctrine achievements in the modern international law .

The Western doctrine of international law is characterized by diversity of approaches and standpoints, which are based on democratic values. Traditions of Anglo-American precedent law system are deeply educative as to modern understanding of the international law in the context of international court institutions development (M. MacDougal, R. Higgins and ets.).

Effectiveness of the international legal instruments in many respects depends on the effectiveness of main global actors and current transformations of legal world order. Therefore, deep study of world and regional doctrinal foundations of the contemporary international law and practice of international court institutions, in particular, the problem of the effectiveness of a contemporary international legal regulation mechanism is undoubtedly an important condition for successful realization of the mentioned doctrine.

Research limitations/implications – the research paper deals with the theory and practice of transformation of modern international law and the challenge of prevention of economic and social threats, including inter-State conflict in the form of aggression of Russian Federation against Ukraine, internal conflict, including civil war, genocide, terrorism and etc. shows effectiveness of a contemporary international legal regulation mechanism. More effective international regulatory frameworks and norms is the European legal system as the possible model of the future universal international law;

Practical implications – because of the aggression of Russian Federation against Ukraine meeting the challenge of prevention military interstate conflict in Europe need to reconstruct the regional European security system totally

Originality/Value – a/ to find the international law basic opportunities and legal decision of regional interstate military conflicts ;

b/ the act of aggression of the Russian Federation against Ukraine demonstrates the lack of effective and efficient international legal mechanisms for prevention, localization and further escalation of interstate armed conflicts. In its turn, this accumulates real potential threats for further development, causes occurrence of risks for the interests of the global international legal order.

c/ formulate doctrine - theory and practice of transformation of modern international law shows that the European legal system is the model of the future universal international law;

Keywords: international law, jus cogens, aggression, state responsibility, interstate armed conflicts;

Research type: research paper.

THE LEGAL FORMS OF PART SOVEREIGNTY AUTHORITY OF THE STATE DELEGATION AND PERSPECTIVE OF INTEGRATION OF UKRAINE INTO THE EU

Mykhailo Savchyn

Uzhhorod National University, Ukraine

e-mail: michael.savchyn7@gmail.com

Purpose. The subject of the report is to determine the limits of delegation of sovereign authorities of the state to supranational institutions in the context of European integration of Ukraine. Such delegation shall be in accordance with the criteria complementarities and ensuring of the content core of human rights, sovereignty and territorial integrity of Ukraine, inter alia, proportionality in restricting of human rights, the practical utility, procedural economy and democratic legitimacy in decision-making.

Design/methodology/approach. Compared the experience of Germany, France, and Czech Republic to determine the mechanism of delegation of authority of state into institutions of the EU and verify its legitimacy by constitutional justice. Disclosed feature jurisprudence of the Constitutional Court of Ukraine on understanding the nature of the supranationality in law as an example the case of the Rome Statute, in which the Court has demonstrated quite conservative position, recognized jurisdiction of the International Criminal Court as well as supranational.

Findings. Integration of Ukraine into the supranational institutions is stipulated by its internal policy factors and this challenges the state to form efficient authorities, a single and flexible legal system that must include the mechanisms of its approaching the generally recognized principles and norms of international law, as well as the methods of its unification in accordance with the requirements of supranational institutions – thus forming a networking structure of public authority of supranational level.

Research limitations/implications. The limitations of means of implementation (transformation) of international treaties in the legal system of Ukraine, which are formal restrictions on the deepening of European integration country is reveals. The basic form of



protection of national interests in process of the delegation of sovereign powers into supranational institutions is defined, inter alia economical negotiations and cooperation, deepening of export substitution, diversification and liberalization of national economy.

Practical implications. Enhancing mechanisms for consultation between local authorities and the state government, parliamentary and judicial constitutional review are considered as a balanced and deliberative decision-making in foreign policy. The Constitutional Court of Ukraine shall intensified internationally conformal method of interpreting the Constitution of Ukraine in the light of ensuring a balance between constitutional values and general principles of international law and Parliament – Verkhovna Rada with coordination with President and Cabinet shall occupied active position for implementation structure legal, economical reform and e-government.

Originality/Value. In the Report draws on ideas Ingolf Pernice, Jürgen Habermas, Ivan Yakovyuk and others scientists concerning the nature of supranational power and grounding concept network structure of public authority.

Key words: constitutional review, delegation of part's authorities of state, European integration, international treaties, supranational power.

Research type: research paper

EUROPEAN ARREST WARRANT IN CONFLICT WITH NATIONAL CONSTITUTIONS

Diána Mecsi

Constitutional Court, Hungary

e-mail: mecsi@mkab.hu

Purpose – The European Arrest Warrant (EAW) may serve as an example for demonstrating the challenges of the European union's further development. The creation of this genuine institution means a landmark in the integration. It was not without reason that the Member States were concerned about the introduction of a new, "automatic" way of extradition. The question of having different criminal laws because of the cultural, historical and moral diversity was turned into legal problems that national constitutional courts had to solve.

Design/methodology/approach – We have examined the decisions of different European constitutional courts (among others the EAW decisions of the German Federal Constitutional Court, the Polish, the Czech and the Hungarian Constitutional Court) and confronted them with each other and with the practical, everyday functioning of the EAW.

Findings – We draw conclusions by answering the question whether the right constitutional problems were questioned before the constitutional courts and the judges have interpreted well the true meaning of a closer judicial cooperation in the light of their national constitutions.

Research limitations/implications – We tried to understand how the national constitutions interacted with such a new European legal instrument, and what could have been the reasons behind the different lines of arguments.

Practical implications – It is a pending question in the European Union whether the full harmonization of the Criminal Codes is possible in the Member States. The conflict of the EAW showed the difficulties of the integration of criminal law.

Originality/Value – The author of the paper experienced closely the functioning of EAW, not only in Hungary, but also when worked for the Italian Ministry of Justice. The personal



interactions revealed some of the difficulties in international cooperation caused by the implementation of the framework decision on the EAW.

Keywords: European Arrest Warrant, constitution, implementation of framework decision; judicial cooperation in criminal matters

Research type: research paper.

THE IMPLEMENTATION OF EUROPE'S E-STRATEGY IN LITHUANIA IN THE APPLICATION FIELD OF THE ADMINISTRATIVE LAW

Eglė Bilevičiūtė

Mykolas Romeris University, Lithuania

e-mail: eglek@mruni.eu

Tatjana Bilevičienė

Mykolas Romeris University, Lithuania

e-mail: tbilev@mruni.eu

Purpose – To examine problems of implementation of Europe's E-Strategy in Lithuania in the application field of the administrative law.

Design/methodology/approach – Document analysis method was applied to examine the Lithuanian law governing administrative justice entities, the application of e-justice in the European Union (EU) and Lithuania. Comparative method was applied to analyze the EU and Lithuanian e-Government and e-Justice strategies. Statistical methods are applied to examine practice of administrative law courts and its statistical data.

Findings – Expression of social technologies in the law is related to the social and legal status of scientific knowledge and social effectiveness of legal activity, resulting from both social and legal, and meet the objectives pursued by the society decision-ways. From a technical point of view, e-Justice must be aligned with the broader e. system of government. E-Government is the first element of the public administration, and its development should be focused on the application of ICT in public administration system, the availability of public services and the promotion of quality, cost reduction, and so on. The article deals with the EU and Lithuanian e-Justice Strategy to Lithuanian administrative justice in cyberspace.

Research limitations/implications – This article deals only with Lithuanian administrative justice operators.



Practical implications – According to the changes of Code of Civil Procedure, Courts and bailiffs laws have been added by provisions relating to the management of electronic files. Administrative Proceedings Law since 2013 it is forecasted the application of electronic means in this area. The analysis of the administrative cases case statistics it can be observed the caseload growth. The administrative offenses usually face each citizen. However, new technologies are still applied in administrative proceedings not enough. The article deals with the administrative aspects of justice have not yet been widely discussed.

Originality/Value – E-justice strategies deals with the general courts of justice and labor issues, most scholars draw attention to the problems of common equity. Information technologies in Lithuanian administrative justice are not widely studied.

Keywords: e-strategy, e-justice, administrative law

THE EUROPEAN UNION AS A FUTURE DEFENDANT IN THE EUROPEAN COURT OF HUMAN RIGHTS

Inga Daukšienė

Mykolas Romeris University, Lithuania
e-mail: dauksiene@mruni.eu

Arvydas Budnikas

Mykolas Romeris University, Lithuania
e-mail: arvydas.budnikas@yahoo.com

Currently, because the Draft revised Agreement on the accession of the European Union (hereinafter also referred to as EU) to the European Convention on Human Rights is completed, there is a solid basis for a discussion of legal measures and problems on the EU's accession to the European Convention on Human Rights (hereinafter also referred to as ECHR). One of these questions is the problem of EU's and member states' delimitation of responsibility under the ECHR. In the EU law exists a separation between the lawmaking entity (the EU) and the executing entity (the member state). Therefore question being raised whether the EU or a particular member state shall be responsible for violations of the ECHR. Because of this, drafters of the accession treaty proposed to introduce the so called co-respondent mechanism. The mechanism allows the EU and its member states to be co-respondents before the European Court of Human Rights. This research paper analyses the problematic of mechanism.

Purpose. The purpose of this research paper is to answer whether the common responsibility of the EU and its member states solves the appropriate defendant problematic. Also problematic of the sole responsibility of the EU is being analyzed.

Design/methodology/approach. In order to achieve the purpose, the co-respondent mechanism is defined. It is being analyzed in which cases the member states and/or the EU could be defendants before the European Court of Human Rights.



Findings. The results of the research show that as defendants before the European Court of Human Rights can be either the EU, or the EU and member states together. There exists numerous cases when applicants could challenge defendants before the European Court of Human Rights. Because the co-respondent mechanism is currently not active, only predictions can be made about its effectiveness and applicability.

Keywords: EU, ECHR, accession, co-respondent mechanism, responsibility.

Research type: research paper.

LEGAL ISSUES OF PUBLIC ADMINISTRATION IN THE CONTEXT OF CONSTITUTIONAL REFORM IN UKRAINE

Yuliya Vashchenko

Taras Shevchenko National University of Kyiv, Ukraine

e-mail: y_vashchenko@mail.univ.kiev.ua

Purpose – The aim of this paper is to explore the issues of the legal nature of entities of public administration in Ukraine and to develop the theoretically proven recommendations on the enhancement of the system of public administration in the frames of the constitutional reform in Ukraine.

Design/methodology/approach – A theoretical framework is proposed based on the comprehensive analysis of approaches to understanding of the legal nature of entities of public administration provided by Ukrainian and foreign scholars with consideration of the historical stages and current state of constitutional and administrative reforms in Ukraine in frames of European integration.

Findings – The system of public administration in Ukraine needs to be improved based on theoretically proven concept. The legal nature, the organizationally-legal forms of entities of public administration, in particular, of such special state bodies as central state bodies of executive power with special status and regulatory authorities are among the most discussible issues. Based on the analysis conducted in this paper the conclusion about the necessity of the relevant criteria for the establishment of different organizationally-legal forms of central state bodies of executive power has been made. There is a separate group of bodies within the system of central state bodies of executive power that has the special scope of competence, special relations with the Government of Ukraine, the special procedure of establishment, reorganization and liquidation, as well as the special procedure of appointment and dismissal of the chairmen of the bodies – central state bodies of executive power with special status. However, such bodies have a transitional character; their existence within the system of the bodies of executive power seems to be artificial. Therefore it is recommended to exclude such bodies from the system of bodies of executive power. The author of this paper supports the establishment of the separate group of independent regulatory authorities (that should include, in particular, the Antimonopoly Committee of Ukraine, regulatory commissions in the spheres of energy, utilities,



telecommunications, bonds and financial markets) within the system of public administration of Ukraine. However, the legal framework for such regulatory authorities is still stipulated only by laws and regulations. Therefore it is proposed to amend the Constitution of Ukraine with provisions on independent regulatory authorities, and, in particular, to share the responsibilities regarding the appointment and dismissal of the chairmen and the members of such bodies between the Parliament and the President of Ukraine, to stipulate that the framework for establishment and functioning of these organs shall be stated only by laws of Ukraine, to define that the regulatory bodies shall be accountable to the Parliament of Ukraine and to the President of Ukraine.

Research limitations/implications – the present study provides a starting-point for further research, in particular, in issues of the legal status of such entities of public administration of Ukraine as regulatory commissions in bonds and financial services markets, in telecommunications sphere, as well as the Antimonopoly Committee of Ukraine.

Practical implications – the paper presents the recommendations regarding the changes to the legislation of Ukraine aimed at the enhancement of the system of public administration.

Originality/Value – the theoretical framework and practical recommendations presented in this paper can contribute to the development of the Administrative Law Science and the enhancement of the system of public administration in Ukraine.

Keywords: public administration, constitutional reform, administrative reform, state bodies of executive power, independent regulatory authorities

Research type: research paper

THE SCOTS HAVE REJECTED INDEPENDENCE AND THE UNION IS PRESERVED. OR IS IT? THE CONSEQUENCES OF THE SCOTTISH REFERENDUM FOR THE UK AND BEYOND

Christian Dadomo

University of the West of England, Bristol, United Kingdom

e-mail: Christian.dadomo@uwe.ac.uk

Purpose – The purpose of this paper is to analyse the potential consequences of the Scottish referendum on Scotland’s independence of 18 September 2014 on the UK constitution and the different constitutional scenarios that could ensue from it and, in particular, to explore the various scenarios regarding the redistribution of powers in the UK.

Design/methodology/approach – The paper is based on a doctrinal and conceptual approach combining the analysis, synthesis and comparison of current legislation on devolution, the recent Government command paper and the different UK parties’ proposals on Scottish devolution.

Findings – This paper is designed to give insights on the original way devolution works in the UK and of the potential direction it might further take, and notably how this might affect the way the British constitution operates currently. It is very clear that if this referendum has ended one debate in Scotland (for the time being), it certainly has reignited the explosive question of where power lies in the UK.

Research limitations/implications – As the recently appointed Smith Commission has yet to start its own work on further devolution for Scotland, the current analysis can only cover the various possible routes based on the UK parties’ own proposals and work out what would be the best possible option. As a result, the paper can only offer interim and provisional conclusions which will be completed once those recommendations are published in the near future.

Practical implications – This paper offers a theoretical approach and framework for further academic examination and discussion of the devolution process in the UK.

Originality/Value – As this is the first time that the UK had to deal with a potential break-away from one of its constituent parts through a referendum, the constitutional outcome will be one to study. This paper assesses the devolution process as it has operated so far and the



direction it is likely to take, and evaluates its effect on the unity of the UK State, its constitution and on Westminster's exercise of power.

Keywords: referendum, devolution, UK constitution, Scotland

Research type: research paper

ASPECTS OF EUROPEAN CONSTITUTIONALISM TRADITION IN LITHUANIA

Kristina Miliauskaitė

Mykolas Romeris University, Lithuania
e-mail: kristimi@mruni.eu

Gintaras Šapoka

Mykolas Romeris University, Lithuania
e-mail: gsapoka@mruni.eu

Eglė Venckienė

Mykolas Romeris University, Lithuania
e-mail: egvenck@mruni.eu

While analyzing the current constitutional regulation and searching for the improvement methods and resources of strengthening the constitutional system, researchers of the constitutional law look for the background information in the most recent legal experience, EU constitutional tradition and even more – in the experience of constitutionalism in the entire world and Lithuania. This presentation is an attempt to revise a tradition of the European constitutionalism and assess its impact on the Constitutions of the First Republic of Lithuania, to discuss application of the European constitutional heritage while developing the constitutional provisions in Lithuania. Moreover, it analyses (in the context of the European constitutionalism tradition) the Lithuanian scientific heritage related to theoretical and practical issues of the constitutionalism. It is analysis of scientific, national and legal experience of the Western European countries in 19th-20th century that the Lithuanian legal scientists referred to when creating a model of a perfect state under the rule of law and the ideas of the constitutionalism that evolved into the constitutional provisions of the independent Lithuania in early 20th century. In the course of drafting both the provisional and full-fledged Constitutions of the Lithuania of that time, which were the legal basis of the former state and which created preconditions for the Lithuania to gain experience in constitutionalism, one applied the experience of European constitutionalism, as well.



Purpose. The purpose of this paper is to discuss application of the European constitutional heritage while developing the constitutional provisions in Lithuania.

Design/methodology/approach. In order to achieve the purpose, will be revised a tradition of the European constitutionalism and assess its impact on the Constitutions of the First Republic of Lithuania

Findings. The results of the research show that in the course of drafting both the provisional and full-fledged Constitutions of the First Republic of Lithuania of that time, which were the legal basis of the former state and which created preconditions for the Lithuania to gain experience in constitutionalism, one applied the experience of European constitutionalism, as well.

Keywords: constitutional tradition,. The First Republic of Lithuania, model of a state under the rule of law.

Research type: research paper.

FREEDOM OF ASSOCIATION. EU STANDARDS AND UKRAINIAN CONTEXT

Yevgen Gerasymenko

Kyiv Taras Shevchenko National University, Ukraine

e-mail: y.gerasymenko@gmail.com

Purpose – This paper is aimed at analysis of the EU standards and Ukrainians legislative framework of the freedom of association with the focus on freedom of political activities, thoughts and beliefs, prohibition of discrimination and ungrounded ban of parties, as well as at the development on this basis theoretically proven recommendations on the improvement of the legal guarantees of the activity of political parties in Ukraine especially.

Design/methodology/approach – Theoretical framework of research is based on the comparative analysis of EU and Ukrainian law standards as well as jurisprudence of European Court of Human Rights and Ukrainian courts to understand approaches to protect freedom of association and in general – freedom of political activities in Ukraine with the perspective of European integration;

Findings – The general framework of the freedom of association prided by the Ukrainian legislation in general terms complies with the EU standards. It is relevant particularly for the Constitutional proclamation of this freedom, freedom of political thoughts, and principle of the political diversity as well as prohibition of discrimination. Laws of Ukraine establish proper legal framework for the creation and legalization of political parties. But the procedures of prohibition of parties are far from the compliance with both rules and jurisprudence. Thus there is legal collision in the definition of the competent court, uncertainty in the standing to sue namely what state authority is responsible for the control over the parties and lodging sue. Moreover there is lack of understanding among state officials of the Guidelines on prohibition and dissolution of political parties and analogous measures adopted by the Venice Commission at its 41st plenary session (Venice, 10 – 11 December, 1999) CDL-INF(2000)001-e, that could lead to improper and unfair judgments and finally to the incompliance with the European standards in human rights protection and become the obstacle on the way of Eurointegration.



Research limitations/implications – the present study provides a starting-point for further research of the obstacles and problems in the implementation of the EU standards in protection of the freedom of association in Ukraine especially considering implementation of the EU standards of banning political parties;

Practical implications – the paper presents the recommendations regarding the changes to the legislation of Ukraine aimed at the improvement of the guarantees of the freedom of association in Ukraine;

Originality/Value – the analysis of the theoretical framework, legal requirements, jurisprudence and practical recommendations formulated in this paper could contribute to the protection of the freedom of association in Ukraine and as the result to support Ukraine to meet UE standards in area;

Keywords: freedom of association, human rights protection, prohibition of discrimination, EU standards;

Research type: research paper.

THE CHALLENGES OF THE FORMATION OF THE EUROPEAN UNION'S LEGAL IDENTITY IN THE CONTEXT OF CONSTITUTIONALISM DEVELOPMENT

Jolanta Bieliauskaitė

Mykolas Romeris University, Lithuania
e-mail: jolab@mruni.eu

Vytautas Šlapkauskas

Mykolas Romeris University, Lithuania
e-mail: slapkauskas@mruni.eu

Milda Vainiutė

Mykolas Romeris University, Lithuania
e-mail: milda.v@mruni.eu

The research of European and the European Union Member States' legal identity is actualized by the development of the European Union. According to the Communication of European Commission, "2020 Europe: A strategy for smart, sustainable and inclusive growth", Europe will succeed only by working together. However, the deep assumptions of collaborative actions which establish the European legal identity and influence the creation of a unified law and order of the European Union lack consensual explicitness and it turns into an important challenge for jurisprudence. This situation was caused by two groups of factors: the multidimensional nature of European identity and the fact that the Member State seeks to uphold a spirit of liberal democracy. On the other hand, only the law as a social institution provides versatile possibilities for the development of the European Union on these conditions. According to the authors of this paper, constitutionalism, which represents the essence of liberal democracy, is an indispensable basis of the formation of the legal identity of the European Union and its Member States.

Purpose. The purpose of this paper is to define the socio-cultural challenges that arise during the formation process of European Union's legal identity at European and national levels.



Design/methodology/approach. In order to achieve the purpose, the concept of constitutionalism and its main elements are defined. The trends of constitutionalism of the European Union Member States are revealed and the impact of the international political situation on the further development of the European Union's constitutionalism is analyzed.

Findings. The results of the research show that in legal terms the legal identities of the European Union and its Member States that uphold the values of liberal democracy are developing through their dynamic interaction which seeks their coherence on the basis of the interpretation of constitutional law. Although so far it was deliberately sought to avoid the confrontation between a national constitution and the European Union law combining the principle of primacy of the European Union law with respect to the principle of national identity, the rise of new international threats makes the relevance of this legal policy more questionable. There is no coincidence in this context that the concept of multilevel constitutionalism, which can be useful for the further development of the European Union's legal identity, becomes more relevant.

Keywords: constitutionalism, liberal democracy, the European Union, identity.

Research type: research paper.



Day II Session 1

Moderators:

**Prof. dr. Vida Gudžinskienė,
Mykolas Romeris University**

**Rimvydas Augutavičius,
Mykolas Romeris University**



FAMILY CARE AS PART OF A SPECIAL COMMISSION TO INVESTIGATE MURDERING, USING EXAMPLES OF KILLING CHILDREN

Karsten Bettels

Criminalist, Diploma in Public Administration and Business Administration, Police Academy Lower Saxony, Germany

e-mail: karsten.bettels@polizei.niedersachsen.de

Purpose: In the last 20 years has been an accumulation of homicides against children in Lower Saxony by different perpetrators. In dealing with the families of the victims the police gained numerous positive and negative experiences that led to the professionalization and standardization of police work in this field. These experiences should be taught with reference to different sciences such as criminology, psychology, sociology or media studies.

Design/methodology/approach: The lecture is based on the speaker's knowledge as head of the "Sonderkommission Levke" (SoKo Levke), a Special Commission for clarification of two homicides against the eight-year-old children Levke Straßheim and Felix Wille in 2004 and on his knowledge as the leader of the centralized training of the management level in special commissions in Lower Saxony since 2010.

The lecture use experiences in "family care" of the special commissions "SoKo Dennis (1993 – 2010)", "SoKo Kutsche (1998)", "SoKo Levke (2004 – 2006)", "SoKo Jenisa" (2007), "SoKo Rechen" (2010) and "SoKo Parkhaus" (2012). (see google.com)

Findings: Family care was professionalized by the experiences in recent years. First it will be shown, what experiences have led to an intensive care of relatives, in particular parents and siblings in case of killing one of their relatives. The first negative example of lacking family care is the experience of the "SoKo Kutsche" in 1996. Benefits for the police and the family will be displayed. This will lead up to the most important goals of "family care" from the perspective of the investigation.

- to carry out confidence-building measures to the relatives,



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- to collect information about the planned efforts of relatives and to influence them,
 - to deal with the media and to influence the relation between the family of the victim and the media,
 - to develop a participation of the family of the victim in tactical police actions.

Research limitations/implications: An overview about some problem areas and possible solutions in the practical implementation of “family care” in a Special Commission will be shown. Especially experiences from the perspective of the investigation, from the difference to the professional psychological care of relatives, from dealing with the media and from the point of different cultural and social backgrounds in the families of the victim are presented and will show the possibilities and limitations of the work.

Practical implications: The shown examples will represent the necessity and usefulness of all these practical implications for both, the police and the family.

Originality/Value: The presented experiences and their implementations in police operations are very important for the professional handling of homicide against children.

Keywords: murder investigation, family care, media, police,

Research type: case study

CHILD DAY CARE CENTER AS OPPORTUNITY TO MEET THE NEEDS OF THE CHILDREN FROM SOCIAL RISK FAMILIES

Vida Gudžinskiė

Mykolas Romeris university, Lithuania

e-mail: vida.gudzinskiene@mruni.eu

Rimvydas Augutavičius

Mykolas Romeris university, Lithuania

e-mail: rimvydas.augutavicius@mruni.eu

Purpose - To provide the empirical background of the activities of the day care centers and the opportunities provided by these to meet the needs of children from social risk families. The following objectives were raised: 1) to reveal the needs of children at risk and the problematic of meeting these needs; 2) to characterize the functions and work types of the day care centers; 3) to present the opportunities to meet the needs of children in need of day care centers

Design/methodology/approach. Research methods. *Theoretical.* Analysis of problem related scientific and other literature, legislation. *Empirical.* A questionnaire-based survey – was made questionnaire, which was used in order to collect information about opportunities of child day centre to meet the needs of children from social risk families. *Data analysis methods.* Programs Windows Microsoft Exel ir SPSS. 17.0 (Statistical package For Social Science). The sample of research – the volunteers and employees of children day care centers from the most disadvantaged areas in Lithuania. 106 individuals participated in the survey. The main criteria for choosing the respondent was the involvement in the children day care center activities for at least 1,5 years. The survey was anonymous and total number of 106 answers was received. The survey was carried in – 2014 year (January and February).

Findings – The results partially confirmed the hypothesis – currently social risk families children needs of learning and social skills education in CDC located in problematical country's



areas are fairly well satisfied. But children needs of healthy lifestyle in most CDC are satisfied only at an average, and the needs of thoughtful leisure mostly are satisfied poorly.

Heavy workload complicates work with children from social risk families, and poor quality of work measures or its lack in CDC is related with the lack of financial resources (identified significant statistical relationship between the signs), which the VDC staff and volunteers identifies as the most problematic aspect, leading the possibilities to satisfy the needs of children from social risk families.

Research limitations/implications – The answers of the respondents participating in the quantitative research is based on their subjective experience and the results of the research could be different if another sample group or the sample group in different period was involved in the survey.

Practical implications – it was discovered how the children day care centers of the most disadvantaged areas in Lithuania could develop and improve their activities for the better meeting of the needs of children at risk.

Originality/Value – The potential and actual capacity of children day care centers of the most disadvantaged areas in Lithuania to meet the needs of children in need has been determined.

Keywords: children day care center, needs, meeting of needs, children at risk, volunteers

Research type: viewpoint

THE RIGHT TO PROTECTION OF PRIVATE LIFE IN THE LIGHT OF THE VICTIM'S OF REPRESSIVE REGIME RIGHT TO KNOW THE TRUTH

Edita Gruodytė

Vytautas Magnus University, Faculty of Law, Lithuania
e-mail: e.gruodyte@tf.vdu.lt

Silvija Gervienė

Vytautas Magnus University, Faculty of Law, Lithuania
e-mail: s.gerviene@tf.vdu.lt

Victim's of a repressive regime right to know the truth is spelled out in Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (hereinafter – Basic Principles and Guidelines). This document is treated as “the first comprehensive codification of the rights of victims of international crimes to reparations, remedies, and access to systems of justice.”¹ According to the article 24 of Basic Principles and Guidelines “victims and their representatives should be entitled to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law and to learn the truth in regard to these violations.”² As it is stated by Antonio Gonzalez Quintana in the special report for UNESCO, the right to know the truth means that it enables victims to evaluate in what way the individual personal, family or professional life may

¹ Kelly McCracken, „Commentary on the basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law“ <<http://www.cairn.info/revue-internationale-de-droit-penal-2005-1-page-77.htm>> [accessed 2014 09 16].

² Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005.

have been influenced by political, ideological, ethnic or racial prejudice.¹ This usually raises the question of the access to the files of secret services of repressive regimes.

However the analysis of the practice of states, that undergone changes from repressive to democratic regime, especially the countries that were under Soviet repressive regime, reveals that various approaches are implemented, i.e. different levels of restrictions on the files of secret services or government files of repressive regimes are imposed. Czech Republic is one of the examples that implemented full disclosure of the files of secret services immediately after collapse of Soviet regime. While in other countries, like Hungary, Ukraine, the files of secret services either remain closed or are revealed to the very limited extent.² The rationale for these restrictions is justified by the interest of a state security and in some cases by the need to protect private life. In case of Lithuania restrictions has been removed gradually over time, but some restrictions still remain and they concern the access to the special part of the National Documentary Fond, containing the information about the activities of former secret services under Soviet regime. According to the Law on Documents and Archives the special part of the National Documentary Fond is accessible provided that it contains no information regarding the persons who have admitted to secret collaboration with the intelligence agencies of the USSR and who have been entered on the record of the persons who have confessed, as well as in the cases when a person who suffered from the intelligence agencies of the USSR expresses his will on the limitation of use of the information on him until his death.³ The latter could be stressed as clearly indicating the intent to protect the right to private life.

In this case the questions could be raised whether these restrictions are compatible with the victim's right to the truth, whether victim's right to protection of his or her private life itself is not infringed if his or her right to the truth is restricted. The European Court in several cases recognized that a restriction to the certain information about private life was the violation of article 8 of the European Convention on Human Rights and Fundamental Freedoms.⁴ In this case the different dimensions of the right to private life could be addressed: the interest of those who

¹ Antonio Gonzalez Quintana, *Archives Of The Security Services of Former Repressive Regimes*, Report Prepared for UNESCO on behalf of the International Council of Archives (Paris: UNESCO, 1997).

² Monika Nalepa, *Skeletons in the closet: Transitional Justice in Post-Communist Europe* (New York: Cambridge University Press, 2010), p. 11-20; Open Society, *Archives of State Security Service Records* <<http://www.opensocietyfoundations.org/sites/default/files/echr-janowiec-annex-20130116.pdf>> [accessed 2014 09 19].

³ Republic of Lithuania Law on Documents and Archives, *Official Gazette*, 1995, No. 107-2389 as amended on 12 October 2012.

⁴ For e.g. *Gaskin v. The United Kingdom*, no. 10454/83, ECHR; *Guerra and others v. Italy* [GC], no. 14967/89, ECHR.



admitted themselves of the collaboration fact with the intelligence agencies of the USSR with the expectation that this information will not be revealed, the interest of those who do not want anyone to know that they suffered from the intelligence agencies of the USSR and the interest of victims to receive the information about the repressive acts that were committed against them and the persons responsible for these acts.

Purpose – to determine whether victim’s of repressive regime right to private life is infringed when his or her right to know the truth is limited because of others right to the protection of private life or other interests;

Design/methodology/approach – firstly the issue of the victim’s right to the truth will be explained, by revealing its rationale and scope. The scope of the right to the protection of private life will be determined according to the case law of the European Court of Human Rights in order to understand whether victim’s of repressive regime right to truth is also protected by his or her right to private life under European Convention on Human Rights and Fundamental Freedoms. After these findings the evaluation will be performed whether victim’s of repressive regime right to the protection of private life is infringed when his or her right to know the truth is limited because of others right to the protection of private life or other interests;

Findings – the question whether victim’s of repressive regime right to private life is infringed when his or her right to know the truth is limited because of the interests of others right to the protection of private life or other interests has not been directly addressed by the European Court of Human Rights, therefore it is very important to establish clearly when a restriction to the certain information about private life violates the right to protection of private life under the European Convention on Human Rights and Fundamental Freedoms¹;

Research limitations/implications – the right to private life is protected under different systems, designed to protect human rights, i.e. the UN human rights system, different national human rights systems, etc., therefore the scope of right to the protection of private life could differ significantly under different systems. The research is carried out only in the light of the human rights system of the Council of Europe;

Practical implications – the research will help to reveal what kind of the restrictions imposed by the legal regulation on the victim’s of repressive regime right to the truth could be compatible or incompatible with the right to the protection of private life in the light of the obligations of the state under European Convention on Human Rights and Fundamental Freedoms.

¹ As the research is still carried on, the findings, presented in this abstract, should be treated only as preliminary.

Originality/Value – The existing academic literature focuses directly on various aspects of the victim's of a repressive regime right to the truth¹ or analysis of various lustration policies² and do not address the questions whether infringement of this right also results in the infringement of his or her human rights protected either by international or regional documents. As a result this research will try to reveal whether victim's of repressive regime right to private life is infringed when his or her right to know the truth is limited;

Keywords: right to the protection of private life, victim's of repressive regime right to the truth, secret services of repressive regimes;

Research type: research paper.

References:

1. Matanović, E. *et al.* 2007. *Lustration and Consolidation of Democracy and the Rule of Law in Central and Eastern Europe*. Zagreb: Political Science Research Centre.
2. Nalepa, M. 2010. *Skeletons in the closet: Transitional Justice in Post-Communist Europe*. New York: Cambridge University Press.
3. Teitel, R.G. 2000. *Transitional Justice*. New York: Oxford University Press.
4. Aldana-Pindell, R. 2002. In Vindication of Justiciable Victims' Rights to Truth and Justice for State-Sponsored Crimes. *Vanderbilt Journal of Transnational Law.*, 35 (5): 1399-1501.
5. Horne, C. M. 2012. Assessing the Impact of Lustration on Trust in Public Institutions and National Government in Central and Eastern Europe, *Comparative Political Studies.*, 45(4): 412-446.
6. Quintana, A. G. 1997. *Archives Of The Security Services of Former Repressive Regimes*. Report Prepared for UNESCO on behalf of the International Council of Archives. Paris: UNESCO.
7. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005.
8. Republic of Lithuania Law on Documents and Archives. *Official Gazette*. 1995, No. 107-2389 as amended on 12 October 2012.
9. *Gaskin v. The United Kingdom*, no. 10454/83, ECHR 1989.
10. *Guerra and others v. Italy* [GC], no. 14967/89, ECHR 1998.
11. McCracken, K. *Commentary on the basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of*

¹ For e.g. Ruti G. Teitel, *Transitional Justice* (New York: Oxford University Press, 2000); Raquel Aldana-Pindell, *In Vindication of Justiciable Victims' Rights to Truth and Justice for State-Sponsored Crimes*, 35 Vand. J. Transnat'l L. 1399 (2002).

² For e.g. Erna Matanović, Anđelko Milardović, Davor Pauković and Davorka Vidović, *Lustration and Consolidation of Democracy and the Rule of Law in Central and Eastern Europe* (Zagreb: Political Science Research Centre, 2007). Cynthia M. Horne, Assessing the Impact of Lustration on Trust in Public Institutions and National Government in Central and Eastern Europe, *Comparative Political Studies* (2012, Vol. 45, No. 4): 412-446.



international humanitarian law [interactive] <<http://www.cairn.info/revue-internationale-de-droit-penal-2005-1-page-77.htm>> [accessed 2014 09 16].

12. Open Society. *Archives of State Security Service Records* [interactive] <<http://www.opensocietyfoundations.org/sites/default/files/echr-janowiec-annex-20130116.pdf>> [accessed 2014 09 19].

EXPRESSION OF THE PRINCIPLE OF LEGAL SECURITY IN THE INTERFACE BETWEEN THE TRADITIONAL PUBLIC ADMINISTRATION AND THE NEW PUBLIC MANAGEMENT MODELS

Ramūnas Vanagas

Mykolas Romeris University, Lithuania

e-mail: rvanagas@mruni.eu

Adomas Vincas Rakšnys

Mykolas Romeris University, Lithuania

e-mail: e_cnv@yahoo.com

Purpose – Indicating the importance of hybridization processes in reforms and public administration models and the nature of the potential problem of compatibility, the authors have set themselves the goal to analyze the changes in the expression of legal security as one of the fundamental principles of the state in different paradigms of public administration and its mechanisms, the created environment of the management model, as well as the way and reasons the implementation of this principle could contribute to the overall reformative aim of sustainable functioning of public institutions;

Design/methodology/approach – The article deals with the analysis of the expression of the principle of legal security and its application possibilities in the context of public administration model transformation, moving from the traditional, hierarchical centralized management and the long-term career in the civil service system inherent to continental Europe, to the new public management reforms distinguished by the Anglo-Saxon features, decentralization, privatization, institutional and economic efficiency as well as the direct responsibility of public officials and contractiveness;

Findings – The article leads to the conclusion that the traditional public administration is a stable and reliable state instrument to ensure the principle of legal security. It should be noted



that the legal formality and instrumentality not always determine the assurance of initial justice and security values because of its rigid nature; in such cases it is necessary to invoke the discretionary law opportunities to maximize the benefits provided by the experience of the system of long-term career of civil officials. The examination of defensive legal security revealed that there is a variety of mechanisms to ensure it as well as the possibility to address the court and various control authorities, which are supposed to reduce the damage incurred by the citizens;

Research limitations/implications – Legal security is the research object of social sciences, which manifests itself in the protection of human rights and legitimate interests in any field, and thus this object can be directly investigation in various aspects of society. For example, the protection of rights of consumers, public or private sector workers, laws and subordinate legislation, civil service and many other areas;

Practical implications – The implementation of the principle of legal security is essential in achieving the optimum economic development of the state. The legal security at the state level is essential to ensure the rights of citizens (in the context of the provision of public services), to enhance the confidence in the state and its institutions, as well as to develop the sustainable economic state, taking into account the fact that according to the research, the countries where the principle of legal security is non-declarative but optimally functioning are characterized by greater foreign investment;

Originality/Value – The article deals with the value problem and aims at answering the question whether the modernization of public sector should deform the traditional role of the state as a mechanism ensuring legal security, taking into account the fact that certain elements of the new public management encourage excessive concentration in economic performance, competition and lack of coordination, meanwhile the implementation of the principle of legal security is not always financially optimal and require stability and predictability of institutions. The authors failed to detect the development of the principle of legal security in the systematic analysis of opportunities in the field of public administration in Lithuania. Both foreign and Lithuanian researchers usually investigate the principle of legal security in the legal discourse by defining the genesis of this principle, the evolution of the concept, however, the attention is not paid to the institutional, organizational context;

Keywords: legal security; public administration; new public management;

Research type: viewpoint.



Day II Session 2

Moderators:

**Rimvydas Augutavičius,
Mykolas Romeris University**



DISSEMINATION OF DAMAGING INFORMATION AND DEFAMATIONS IN SOCIAL NETWORKS: ANALYSIS OF LEGAL PRACTISE AND COMPARATIVE ASPECTS OF EU MEMBER STATES AND ECHR CASE LAW

Saulius Katuoka

Mykolas Romeris University, Lithuania

e-mail: skatuoka@mruni.eu

Arnas Liauksminas

Mykolas Romeris University, Lithuania

e-mail: arnas.liauksminas@gmail.com

Purpose – This research paper is aiming to explore problems of freedom of speech online and answer a question how to balance the right of free speech guaranteed by Article 10 of the European Convention on Human Rights with the Article 8 right to privacy and reputation in order to give firm grounds for the scientific investigations of this field in the future;

Design/methodology/approach – This research paper provides a perspective for understanding how the contemporary international human rights regime developed, focuses on the impact of social networks on the international human rights regime, and summarizes the different attitudes towards the interpretation of freedom of speech right to privacy and reputation online. Due to particularity of the chosen topic, authors' in writing of the present research paper employs traditional theoretical methods: analysis (especially case law and legislation analysis), analogy, comparative, logical (generalization, deduction, induction), etc.

Findings – There is an enormous impact of internet and social networks on international human rights regime. Notwithstanding that the term of human rights is used extensively and frequently, it has several differences when applying to online environment. Also, research paper explores that legislation concerning media law and human rights law is firmly established as an



essential part of the law in the field in Europe. However, there are a significant number of cases dealing with dissemination of damaging information and defamations in social networks.

Research limitations/implications – With the respect to the scope of the research paper, authors' analysis is mainly devoted to the core documents of international and regional human rights systems, and the scholarly writings as well as the legislation of the Council of Europe and European Union and its member states on media law and the jurisprudence of the European Court of Human Rights.

Practical implications – The data from this research paper reveals several practical applications worthy of future. It would be valuable to further examine how international human rights law was affected by the internet and social networks and how this impacts the protection of freedom of speech and right to privacy and reputation online. Also, it analyses the main problems regarding the Dissemination of damaging information and defamations in social networks.

Originality/Value – Development of modern technologies is significantly influencing international law, especially in the field of human rights. The internet and social networks, such as *Facebook*, *Twitter* and others, have proven itself to be the fastest growing communications phenomenon, ever. This process in variety of ways affected freedom of speech. Previous works on this subject have mostly emphasised some aspects on the impact of internet and social networks in the field of international human rights overall. The research paper raise questions if the posts on *Twitter* and *Facebook* should be treated the same way as comments published in printed press as well as does the Internet turn every citizen into a journalist.

Keywords: freedom of speech on-line, libel, serious allegation, social network, proportionality;

Research type: research paper

NATIONALISM AND THE TERRITORIAL CLAIMS OF THE YUGOSLAVS: CHALLENGE TO RE-MAP THE BALKANS IN THE 21ST CENTURY

Vladislav B. Sotirović

Institute of Political Sciences at Mykolas Romeris University in Vilnius, Lithuania

e-mail: vsotirovic@mruni.eu; vladislav@sotirovic.eu

Purpose – The aim of this study is to make research on the main streams of historical development of national ideologies and claims of the peoples from the territory of ex-Yugoslavia from the time of national revivals up to the present day.

Design/methodology/approach – The main research strategy is analyzing historical sources from the “first-hand” category, documentary material from different national archives, ideological works and newspapers of different ethnopolitical background. It is also applied the methods of comparison of different domestic and international scientific research results on the study-topic of our investigation.

Findings – The results of research show that for the Yugoslav and Balkan nations *territorial* and *national rights* were always of much greater importance than the *human* or *civic rights*. This historical fact became a milestone for development of national ideologies among the Yugoslavs, which put on pedestal of “national policy” the aim to transform ethnographical borders into the national-state borders. The period of bloody dissolution of the SFR of Yugoslavia followed by the inter-ethnopolitical conflicts in Kosovo and the FYR of Macedonia (1991–2001) is typical example of such “national policy” overwhelmingly rooted in the idea of “inevitability” of ethnic cleansing, persecution, assimilation and the inter-ethnic exchange of the peoples.

Research limitations/implications – The study research has to be further continued by investigation of the prime historical sources, i.e. archival material, in several Balkan and international archives and libraries (for instance, in Albania and Vatican).

Practical implications – Historical retrospective of development of the national ideologies and territorial claims is necessary for the reason to understand practical politics of the Yugoslavs after the end of the Cold War when the Balkans once again became the “powder-keg” of Europe



in order to predict a future development of the local nationalism and regional political affairs for the matter of both regional and Europe's security.

Originality/Value – The case-study is based on 20 years of multi-sided comprehensive research and non-partisan scientific investigation.

Keywords: Nationalism, security, Yugoslavs, Balkans, ethnopolitical conflicts.

Research type: Case study.

ON GERMANIC AND BALTIC CRIMINAL LAW TERMINOLOGY

Violeta Janulevičienė

Mykolas Romeris University, Lithuania

e-mail: vjanul@mruni.eu

Sigita Rackevičienė

Mykolas Romeris University, Lithuania

e-mail: sigita.rackeviciene@mruni.eu

Purpose. The purpose of the paper is to present the results of the multilingual research which encompasses legal terminology material in three languages – English, Lithuanian and Norwegian. The investigated terms differ in two important aspects – they are used in three legal systems with different traditions in law and they are formed in three Indo-European languages of different origin (a West Germanic, a Baltic and a North Germanic) and different morphological structure (synthetic and analytic). The research focuses on terminology of one area of law (criminal law) and seeks to reveal term formation models in each of the investigated languages and to provide insights on general term formation tendencies in different European countries.

Methodology. The research was performed using the descriptive-comparative linguistic method which enables to unveil and compare the peculiarities of terminology of different languages. The English legal terms were sourced from the Acts of the Parliament of the United Kingdom, the Lithuanian terms – from The Criminal Code of the Republic of Lithuania, the Norwegian ones – from the Criminal Law Acts of the Kingdom of Norway. In addition, several monolingual and bilingual dictionaries of legal terms were used. The selected terms were divided into two types according to their structural complexity: one-word terms and multi-word terms. One-word terms were further subdivided into root-nouns, derivatives and compounds; multi-word terms were further subdivided into terms composed of 2-3 words and terms composed of more than 3 words. The formal structure of terms of each type was analysed and described in



detail. Finally, the quantitative analysis of the formation models was performed and the prevailing tendencies in term formation were outlined.

Findings. The findings of the research reveal important differences in legal terminology in English, Lithuanian and Norwegian. Part of them could be accounted for by the different structure of these three Indo-European languages, but some substantial differences are conditioned by different traditions and current attitude towards term formation. The research outlined that the English and Norwegian term developers prefer brevity and use-friendliness of a term to its precision and unambiguity. The latter two criteria are often applied to the definition of the term, but not to a term itself. The developers of the Lithuanian legal terminology, on the other hand, give priority to precision of a term and do not avoid multi-word terms of complicated structure.

Research implications. While this study represents a good beginning, it is our hope that it is only a springboard for the research on different branches of legal terminology and for a further analysis of more languages, including non-Indo-European ones.

Practical implications. The analysis presented is hoped to provide some insights on the terminology formation criteria preferred by term developers in different European countries with distinct legal traditions; that, in its own turn, could enable terminologists to assess more objectively native language terminology and give ideas for emerging term formation models in Lithuanian and other languages.

Originality. The analysis carried out is one of the first attempts to analyse formal structure of criminal law terms in three – a West Germanic, a North Germanic and a Baltic – languages.

Keywords: comparative legal terminology, term formation models, criminal law terms.

Research type: research paper.

FUTURE OF VALUE ADDED TAX IN EUROPE

Ginatré Grambaité

Aix-Marseille University, France

e-mail: grambaite@gmail.com

Since the birth of the Value Added Tax, only 50 years ago, it has come to be adopted by more than 130 countries, including not only all OECD members, but also many developing countries. The actual VAT system generates high and disproportionate risks for business, the unpaid tax collectors, due to non-legitimate traders committing fraud. Fraud-prevention measures taken increase the complexity of the current VAT system for legitimate traders, create legal uncertainty when doing business in the EU and shift risks to legitimate traders. The complexity of European VAT system and the legal uncertainty multiply VAT disputes and litigation in the Member States and at the Court of Justice of the EU. So now is an appropriate time to reflect on the VAT system. What it has established properly or not. However, Member States of European Union are not accepting the following situation there the rates of VAT are too different and there is no adequate mechanism to redistribute VAT receipts to mirror actual consumption. My purpose in this paper is to stimulate further interest in the VAT system in European Union and propose the theoretical guidelines for the new VAT system to establish in Europe, which has been extraordinary maltreated in the academic literature until nowadays.

Purpose – My purpose in this paper is to stimulate further interest in the VAT system in European Union and propose the theoretical guidelines for the new VAT system to establish in Europe, which has been extraordinary maltreated in the academic literature until nowadays.

Methodology/approach – The study provides to estimate the future of the VAT system, and to distinguish the difference between the theoretical approach and the point of view of the business sector. Therefore this paper includes the detail analyze of legal documents and scientific literature.

Findings – The main intention of EU is still to have a common system of VAT where VAT is charged by the seller of goods - an origin based VAT system. Like other taxes, VAT is subject to

evasion. However, VAT offers distinctive opportunities for evasion and fraud through: abuse of the credit; and refund mechanism.

Research limitations/implications – The main focus was on the French and European law regulating European VAT system, and the remarks are limited to these sectors.

Practical implications – The key managerial implications and recommendations can be formulated as follows: analyze the current legislation of the sector in question; identify the actual proposals made by EU institutions; and present your own point of view.

Originality/Value – The current VAT regime in the EU was introduced with the removal of fiscal frontiers in 1993. This paper develops and offers a strategy to finalise the creation of VAT system in Europe and also prospect the real improvement made by UE until today.

Keywords: Value added tax, VAT, European union, Fiscal system.

Research type: general review.

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THE CURRENT REFORMS ON FORENSIC SCIENCE: INTERNATIONAL EXPERIENCE AND FIRST STEPS IN LITHUANIA

Eglė Bilevičiūtė

Mykolas Romeris University, Lithuania
e-mail: eglek@mruni.eu

Vidmantas Egidijus Kurapka

Mykolas Romeris University, Lithuania
e-mail: egidijus@mruni.eu

Snieguolė Matulienė

Mykolas Romeris University, Lithuania
e-mail: m.sniega@mruni.eu

Sigutė Stankevičiūtė

Mykolas Romeris University, Lithuania
e-mail: sigutess@gmail.com

Purpose – To examine problems of reforms of forensic science institutions in Lithuania.

Design/methodology/approach – Document analysis method was applied to examine the Lithuanian law governing forensic science institutions and its activities, the reforms of such institutions in Lithuania. Comparative method was applied to analyze the Lithuanian forensic science institutions strategies. Statistical methods are applied to examine practice of forensic science entities and its statistical data.

Findings. The crime rate in European Union (hereinafter EU) is still improving despite its member states efforts to combat it. Therefore, the significant actions in EU policy for fighting against crime are taken recently by choosing forensic science as the main tool for this fight.



Hence, European Council envisaged the close relation between freedom, security and justice with forensic science and declared it in Draft Council Conclusions on the vision for European Forensic Science 2020 including the creation of a European Forensic Science Area and the development of forensic science infrastructure in Europe. It could be noted that this document also marks the beginning of harmonization of forensic science and its expansion from national into international level. Thus, the common European Forensic Science Area was decided to be created in. December 1st, 2011 as the measure for fighting against crime, the improvement of work of law enforcement institutions and performance of justice. The Vision for European Forensic Science 2020 itself is very short declaration. Problems might appear in implementation of this document first of all because of the different concepts of forensic science itself and different systems of law enforcement institutions.

Research limitations/implications: This article deals with reforms of Lithuanian forensic science institutions and with some world examples.

Practical implications –The article deals with the administrative aspects of forensic science institutions reforms have not yet been widely discussed.

Originality/Value – This research is continuing presentation and analysis of results of project concerning the implementation the European vision “Forensic science 2020” in Lithuania.

Keywords: forensic science, reforms, international experience.

Research type: research paper.

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Texts are not edited.

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