



**International Conference**

# **ANTICIPATING NEW TRENDS IN CRIMINAL JUSTICE**

**The 6th Edition of the Sino-European Criminal Law Forum**

**Timișoara – September 24th, 2019**

**West University Timișoara  
4 V. Pârvan Blvd.**



**International Conference**

# **ANTICIPATING NEW TRENDS IN CRIMINAL JUSTICE**

**The 6<sup>th</sup> Edition of the Sino-European Criminal Law Forum**

Timișoara – September 24<sup>th</sup>, 2019

**West University Timișoara  
Faculty of Law**



## **WEST UNIVERSITY OF TIMIȘOARA – FACULTY OF LAW**

300575 • 9A Eroilor Bvd. • Timișoara • România

Phone: +40 256 592 400 • Fax +40 256 592 442

E-mail: [drept@e-uvt.ro](mailto:drept@e-uvt.ro) • [www.drept.uvt.ro](http://www.drept.uvt.ro)

## **CENTER FOR RESEARCH IN CRIMINAL SCIENCES**

International Conference

## **ANTICIPATING NEW TRENDS IN CRIMINAL JUSTICE**

Sino-European Criminal Law Forum, 6<sup>th</sup> edition

Timișoara – September 24<sup>th</sup>, 2019

# **CONFERENCE AGENDA**

### *General Information on the Agenda of the Conference*

#### **Monday, 23 September 2019**

18.00 – 20.00      Arrival of the participants - Hotel Timișoara, 1-3  
Mărășești St. (other locations)

20.00 – 22.00      **Dinner** - Lloyd Restaurant, 2 Victoriei Square

#### **Tuesday, 24 September 2019**

9.00 – 9.15      Official opening of the conference – A 01, West University of  
Timișoara, ground floor

9.15 – 11.15      Conference proceedings (Panel I) A 01, West University of  
Timișoara, ground floor

Coffee break

11.15 – 11.45	
11.45 - 13.00	Conference proceedings (Panel II) A 01, West University of Timșoara, ground floor
	<b>Lunch</b> (catering) - West University of Timșoara, 1st floor
13.00 – 14.00	
14.00 – 15.30	Conference Proceedings (Panel III), A 01, West University of Timșoara, ground floor
	Coffee break
15.30 – 16.00	
16.00 – 17.30	Conference proceedings (Panel IV), A 01, West University of Timșoara, ground floor
	Conclusions
17.30 - 17.45	
18.00 – 19.00	City tour (departure in front of Hotel Timisoara)
	<b>Dinner</b> Merlot Restaurant, 1 Nistrului River Alley
19.30 - 22.00	

**Note: The International Conference will take place in A 01, West University of Timișoara, Timișoara, 300223, 4 Vasile Pârvan Bvd.**

### **Wednesday, 25 September 2019**

9.00	Departure of the participants
------	-------------------------------

#### **Contact persons:**

- Assoc.Prof. Flaviu Ciopec Phd, phone: +40.723.380.315, e-mail: [flaviu.ciopec@e-uvt.ro](mailto:flaviu.ciopec@e-uvt.ro)
- Sen.Lect. Laura Stanila Phd, phone: +40.721.266.914, e-mail: [laura.stanila@e-uvt.ro](mailto:laura.stanila@e-uvt.ro)

# CONFERENCE AGENDA

## *Detailed Agenda of the Conference*

**Tuesday, 24 September 2019**

9.00 - 9.15

Official opening of the conference - A 01, West University of Timșoara, ground floor

### **Panel I**

A 01, West University of Timșoara, ground floor

9.15 – 11.15

Moderators:

Prof. Wei Changdong, PhD  
Sen. Lect. Laura Stanila, PhD

Prof. Sun Wanhui, PhD	<i>East China University of Political Science and Law</i>	Understanding and Application of the Crime of Destroying Production and Operation in the Chinese Criminal Law
Prof. Wei Changdong, PhD	<i>Shanghai Academy of Social Sciences Chinese Society of Criminology Research Center for European Criminal Law</i>	China's Wisdom and Contribution to the World in the Construction of "Clean China" Rule of Law System
Prof. Zoran Pavlović, PhD	<i>Faculty of Law University of Business Academy Novi Sad Provincial Ombudsman of Vojvodina, Republic of Serbia</i>	The Position and Rights of Homosexually Oriented Sentenced Prisoners in Serving Prison Sentences

Prof. Elek Balázs, PhD

*Faculty of Law  
Debrecen University Hungary  
High Appeal Court of Debrecen  
- Hungary*

The European Aspects of  
Tax Fraud (The Hungarian  
Practice)

11.15 – 11.45

Coffee break

## **Panel II**

A 01, West University of Timșoara, ground floor

11.45 – 13.00

Moderators:

Prof. Zoran Pavlovic, PhD  
Sen. Lect. Laura Stanila, PhD

Prof. Wang Enhai, PhD

*East China University of  
Political Science and Law*

Reflection on the Leniency  
System for Admission of  
Guilt and Acceptance of  
Punishment—From the  
Perspective of the Accused's  
Right to Repent

Prof. Csaba Szilovics, PhD

*Faculty of Law  
University of Pécs Hungary*

Tax Heroes

Balláné Szentpáli Edit, PhD

*Faculty of Law  
Debrecen University Hungary*

Plea Bargain – Tax Fraud

Sen. lect. Laura Stănilă,  
PhD

*Center for Research in Criminal  
Sciences  
Faculty of Law  
West University Timșoara  
Romania*

On the Necessity of  
Recognizing Artificial  
Intelligence as Subject to  
Criminal Law



13.00 – 14.00

Lunch (catering) - West University of Timșoara, 1st floor

### **Panel III**

A 01, West University of Timșoara, ground floor  
14.00 – 15.30

Moderators:

Assoc. prof. Csaba Fenyvesi, PhD  
Assoc. prof. Flaviu Ciopec, PhD

Prof. He Ping, PhD	<i>East China University of Political Science and Law</i>	The Risk of Money Laundering in Internet Finance and Its Countermeasures
Prof. Herke Csongor, PhD	<i>Faculty of Law University of Pecs Hungary</i>	The pre-trial in the new Hungarian Criminal Procedure Code
Assoc. prof. Csaba Fenyvesi, PhD	<i>Faculty of Law University of Pecs Hungary</i>	Future Developments and Challenges in Criminalistics as Part of Criminal Justice
Assoc. prof. Flaviu Ciopec, PhD	<i>Center for Research in Criminal Sciences Faculty of Law West University Timisoara Romania</i>	New Trends in Addressing Corporate Crimes: Internal Investigations



15.30 – 16.00

Coffee break

### **Panel IV**

A 01, West University of Timșoara, ground floor

16.00 – 17.30

Moderators:

Assoc. prof. Flaviu Ciopec, PhD  
Sen. lect. Ioana Pașca, PhD

Assoc. prof. Chen Haifeng, PhD	<i>Law Institute of Shanghai Academy of Social Sciences</i>	The Specialization of Criminal Procedure for Duty Crimes in China
Assist. Researcher Cheng Yan, PhD	<i>East China University of Political Science and Law</i>	The Development of Defense Right in Chinese Criminal Procedure
Adrian Stan, PhD Candidate	<i>Center for Research in Criminal Sciences Faculty of Law West University Timișoara Romania</i>	Discussions on amending the Law no. 241/2005 of tax evasion. The position of Romanian Constitutional Court
Matei-Ciprian Graur, PhD	<i>Center for Research in Criminal Sciences Faculty of Law West University Timisoara</i>	The Convict's Right to Hope. Difficulties Regarding the Condition of Payment of the Prejudice in the Matter of Conditional Release

17.30 - 17.45

Conclusions

A 01, West University of Timșoara, ground floor





# **CONFERENCE PROCEEDINGS**



## **New Trends of Anti-corruption: Perfecting the Employment Prohibition System for Civil Servants after Resignation in China**

**Du Wenjun**

*Professor, PhD*

*Deputy Secretary-General of Judicial Research Branch of Shanghai Law Society*

*Deputy Director of Law Institute of SASS, P.R. China*

### **Abstract:**

The employment of civil servants from the civil service to the private sector is a reasonable flow of talents under the market resource allocation. However, in this process, it is easy to generate corruption problems such as benefit transferring. It is necessary to regulate the re-employment after the separation of civil servants. The reason for the corruption of former civil servants is the lag of power loss and the privatization of surplus power and option corruption brought by the expansion of power. As power corruption in the process of the re-employment after the separation of civil servants is difficult to strict by the moral self-discipline, so we can combine extraterritorial related rules with China's specific national conditions, to improve the employment prohibition system for civil servants after resignation in China. To be specific, three specific systems shall be improved: filing and reviewing rules of turnover; tracking system of employment; punishment system of illegal resignation to re-employment, in order to balance the free flow of talent market and social order that is fair and honest.



## **The Risk of Money Laundering in Internet Finance and Its Countermeasures**

**He Ping**

*Professor, PhD  
East China University of Political Science and Law  
P.R. China*

### **Abstract:**

The purpose of this paper is to make objective description on the risk of money laundering in internet finance and to put forward countermeasures in order to combat money laundering more effectively and efficiently.

This paper describes various money laundering in internet finance and points out the future efforts to be made in the fight against money laundering.

Internet finance is a new financial business which relies on the special platform of Internet. It is the connection between Internet and new financial business. Relying on the Internet platform, criminals have lots of advantages in using Internet finance to launder money. According to the characteristics of internet finance and the ways of money laundering, there are mainly the following ways of money laundering using Internet finance: laundering money by online banking, using the Internet payment to launder money, laundering money with virtual money and using P2P to launder money.

In accordance with the requirements of the FATF, drawing on the experience of other countries in anti-money laundering of internet finance, and combining the characteristics of anti-money laundering, China should make due efforts in the following aspects: improve the anti-money laundering laws and regulations, strengthen cooperation and exchanges among relevant departments, improve the internal control system and train anti-money laundering professionals, effectively fulfill the customer identification obligations and carry out customer risk classification management, establish a standardized customer identity data and transaction record preservation system, and reasonably construct the monitoring and analysis system of large and suspicious transactions to improve the level of anti-money laundering monitoring.

This paper provides a comprehensive description of, and comments on, various money laundering in internet finance and future efforts to be made in the fight against money laundering, which would be beneficial to policy makers, enforcement authorities and judicial professionals.



## **Understanding and Application of the Crime of Destroying Production and Operation in the Chinese Criminal Law**

**Sun Wanhui**

*Vice-President of China Society of Case Law*

*President of Shanghai Society of Case Law*

*Member of International Association of Criminal Law*

*Member of China Society of Human Rights*

*Professor of East China University of Political Science and Law*

*P.R. China*

### **Abstract:**

There is no systematic theoretical reflection on the crime of destroying production and operation in judicial practice, the crime of pocket suits the essential consideration of punishment, however, it is difficult to satisfy the formal requirements of the principle of legality and the clarity of criminal law. The "other" in subjective and objective crime is not limited, only based on the rigid demand of criminal law to maintain order, and the result-oriented thinking gives up the fixed adherence to the objective behavior, and even regards the "destruction" itself as the behavior mode of the crime, the combination of these factors contributed to the tendency to pocket the crime. For the actual penalty loopholes, it should not rely on the expansion of judicial charges or to solve it in pockets. In order to eliminate the tendency of judicial pocketing in the crime of destroying production and operation, it is necessary to delimit the connotation and boundary of "operation" reasonably, the understanding of "operation" is controlled by "production", and "operation" needs tangible value output from the nature of behavior; The "destroy" itself is not a kind of behavior mode but a kind of state result; reasonably interpreting the connotation of subjective crime and its objective direction, the justifiable reason is excluded from the "other personal purposes", "other personal purposes" should not include the purpose of illegal possession, the actor needs to recognize the relationship between the destroyed object and the production and operation.

---



# **Reflection on the Leniency System for Admission of Guilt and Acceptance of Punishment—From the Perspective of the Accused's Right to Repent**

**Wang Enhai**

*Professor, PhD  
East China University of Political Science and Law  
P.R. China*

## **Abstract:**

The accused has the right to repent in application of the Leniency System for Admission of Guilt and Acceptance of Punishment. The procuratorial organs and courts do not need to separately examine the reasons for repentance, but these reasons can be used as basis for conviction and sentencing. The controversy over the system is concentrated on an eternal theme—fairness and efficiency. The author holds that the Leniency System for Admission of Guilt and Acceptance of Punishment does not apply in cases of statutory sentence for life imprisonment or death penalty. At the same time, the court should issue the sentencing standards for relevant crimes as soon as possible. In addition, in cases where the procuratorial organs recommend applying to the system, the court has the power to decide not to apply.



# **The Development of Defense Right in Chinese Criminal Procedure**

**Cheng Yan**

*Assistant Researcher, PhD  
East China University of Political Science and Law  
P.R. China*

## **Abstract:**

The legislation of criminal defense in China has been through a slow and tough process. In 1979, Chinese Criminal Procedure Law was enacted and the right to defense was included. However, at that time the regulation about defense was pretty vague, which resulted in its infeasibility. In 1996, the amendment of Chinese Criminal Procedure Law was enacted and the defense regulations were perfected to a large extent. The access to lawyer during investigation phase was realized and the legal aid system was also improved. The defense right had its greatest development in 2012, when the latest amendment of Criminal Procedure Law was enacted. The defense rights of attorneys during investigation phase were expanded. Their rights to meet with the client, to have the experts on their side, and to cross-examine the witness were realized to some extent.



## **China's Wisdom and Contribution to the World in the Construction of "Clean China" Rule of Law System**

**Wei Changdong**

*Professor, PhD*

*Director of Criminal Law Department, Shanghai Academy of Social Sciences*

*Vice President of Chinese Society of Criminology*

*Director of Research Center for European Criminal Law*

*P.R. China*

### **Abstract:**

The construction of the rule of law system of "clean and honest China" began at the beginning of the founding of the People's Republic of China. It has been systematically updated in the process of China's modernization and is an important part of the rule of law system with Chinese characteristics. Since the founding of the People's Republic of China, the Communist Party of China has always attached great importance to the construction of the rule of law system of "clean China". Since the reform and opening up, facing the reality of corruption control in the process of modernization, it has persisted in exploring corruption control on the basis of the basic political system of the country with Chinese characteristics, the modern national governance system and the governance model of the country with Chinese characteristics. Following the development path of "Constructing the Legal System - Promoting the Legal System - Enforcing the Rule of Law - Optimizing the Rule of Law", we have gradually constructed a theoretical system guided by advanced party theory and state governance theory and established a "dualistic" legislative system consisting of Party laws and state laws. The legislative system of anti-corruption with Chinese characteristics is the decisive basis for the success of corruption control. In 40 years of exploration, China has completed the task of governance that the first modern country usually needs 150 years to complete. In the process of building a clean and honest country in China, we have carefully answered why the legal system is needed in China where legal resources are incomplete. What kind of legal system is needed? How to improve the legal system? How to construct good law? How to enforce the rule of law is a fundamental problem. The experience of building a clean and honest country in China is an important part of the development experience of socialism with Chinese characteristics and an important contribution of the Chinese nation to the construction of a clean and honest country in the world. It is necessary to make use of this experience for reference and exchange.



## **The Specialization of Criminal Procedure for Duty Crimes in China**

**Chen Haifeng**

*Associate Professor, PhD  
Law Institute of Shanghai Academy of Social Sciences  
P.R. China*

### **Abstract:**

In recent years, through the formulation of supervision law, amendment of the Constitution, the Criminal Procedure Law and other laws, China has gradually become a special criminal procedure for duty crimes in the shape of ordinary criminal procedures, improving China's anti-corruption system and bringing about better anti-corruption achievements in China. However, China's special anti-corruption procedures also have some disputes, especially the protection of rights and power restrictions. The specialization of the criminal procedure of duty crime is China's experience and may be a reference experience for other countries, but it still needs to be improved.



## **The Position and Rights of Homosexually Oriented Sentenced Prisoners in Serving Prison Sentences**

**Zoran Pavlović**

*Full Professor, PhD*

*Head of the Department of Criminal Law*

*Faculty of Law*

*University of Business Academy Novi Sad*

*Provincial Ombudsman of Vojvodina, Republic of Serbia*

### **Abstract:**

The position and rights of homosexually oriented sentenced prisoners in serving prison sentences are an important topic both in the penological framework and in the general context of respect for human rights. Not just psychic, physical and sexual violence within the convicts collective, but also the inadequate attitude of professionals in prisons, are often highlighted as problems when we are talking about the people oriented to the same sex. It is precisely in this respect that this paper is going to present the results of attitudes of the persons serving the sentence, and in relation to the phenomenology and the etiology of the victimization of the gay population in penal institutions. A sample of 78 respondents from the District Prison in Novi Sad is included and the obtained data testify about the disadvantaged position of the mentioned subgroup, but also about the generally discriminatory and violent culture that is not determined primarily by sexual preferences.

**Key words:** prison, homosexuality, violence, human rights

## **Plea Bargain – Tax Fraud**

**Balláné Szentpáli Edit**

*PhD  
Faculty of Law  
Debrecen University, Hungary*

### **Abstract:**

The pursuit of acceleration of legal proceedings in the Hungarian procedural law has been observable for long.

In the past decades several European countries have implemented new laws to reduce the time required by litigations. In the Hungarian procedural law, plea bargain introduced by Act XC 2017 is intended to fulfil the economy goals in court proceedings. To achieve the targets the court, the prosecution and the defense should be able to interpret and put the law in practice in a consistent way.

During both the negotiation over the plea bargain and the court proceeding, the accused's confessions play a key role, for the simplification of the process is based on, after all, the sentences by which the accused plead guilty to avoid imprisonment and losing freedom, which would be the most painful for them.

In case of criminal proceedings initiated owing to tax fraud, the accused usually plead guilty if – considering the volume of the financial loss caused by them – the prosecution proposes suspended imprisonment. Therefore, if the loss exceeds 50 million forints, the prosecution proposes mandatory prison sentence and the case shall be solved within the framework of standard judicial processes.

## **Artificial Intelligence Influencing Geostrategic Winds**

**Elena Tilovska-Kechedji**

*Associate professor, PhD  
Faculty of Law  
University "St. Kliment Ohridski" Bitola, Macedonia*

### **Abstract:**

The great powers strategies are changing due to the investment in technology especially in AI. Artificial Intelligence is re-defining the postulates of geopolitics and threatening global peace and security. The technological revolution is here, and states are losing control of their understanding of the impact artificial intelligence will have on society but on their governance as well. The rise of intelligent machines will break the boundaries that should exist between man and machines. How these technologies will be used remains a question, because the great powers will seek to use the maximum of these technologies for their own national security. The potential impact of these developments on strategic stability and security is uncertain for now.

**Key words:** Geo-strategy, artificial intelligence, stability and security

## **The European Aspects of Tax Fraud (The Hungarian Practice)**

**Elek Balázs**

*Professor, PhD  
Head of Criminal Department  
Faculty of Law  
Debrecen University Hungary  
High Appeal Court of Debrecen, Hungary*

### **Abstract:**

According to the Treaty on European Union, the EU and the member states combat fraud and all other unlawful activities that are injurious to the EU's financial interests by implementing measures that fulfill this article's provisions – measures that have a deterrent effect and offer efficacious protections within the member states as well as the EU's institutions, organizations and offices.

Member states should also harmonize their activities to protect EU financial interests against fraud in other respects, so long as these policies are in keeping with treaty provisions. The financial interests of the European Union, the budget, and – more broadly – the integrity, functionality and reliability of Community or EU financial tools, represent concerns that inherently fell outside the scope of member States' protected legal interests. This legal interest is “damaged” by every unlawful behavior that can be regarded as fraudulent activity against the entire budget or EU-managed funds. Such behaviors include VAT fraud, customs abuses, applications for grants/subsidies by ineligible parties, as well as other acts of corruption and related document forgeries.

Professional literature on European law does not dispute whether the EU has the competence to author criminal statutes. In addition to issuing rules in the form of directives that impose certain limitations, the EU legislator may issue criminal-law norms in the course of ordinary lawmaking.

When creating legal definitions in the extraordinary section of Law C of 2012 on the Criminal Code, the Hungarian legislator had to devote particular attention to meeting the criteria laid out in European Union law as well as international conventions and recommendations. When interpreting and enforcing the legal definitions examined in this paper, the courts therefore must be familiar with EU legal acts as well as the practice of the European Court of Justice.

## **Future Developments and Challenges in Criminalistics as Part of Criminal Justice**

**Csaba Fenyvesi**

*Associate Professor, PhD  
Faculty of Law  
University of Pecs, Hungary*

### **Abstract:**

The study attempts to outline the future theoretical and practical possibilities of the development and improvement of criminalistics, the expected further tendencies. On the one hand, the author defined the scientific fields where a real and at the same time conscious development of present criminalistic methods would be expected and required, on the other hand, he formulated his intuitions and also my recommendations concerning development and the expected challenges facing criminalistics.

The study discusses the following:

- a) the exploration of human smell, the possibility of discovering its molecular structure and the scientific values connected with it;
- b) the creation - instead of the polygraph as a tool for detecting and orienting the detection of lying-telling the truth - of a “mono-scanner” or “mind-reading” device, its advantages from the aspect of a more efficient and reliable search for the truth;
- c) means and methods for testing sincerity besides the polygraph, (PSE, LVA, THERMAL CAMERA, FAST, SILENT TALKER); (AGÁRDI, KÁRMÁN)
- d) future possibilities implied by the triad of grapho-comparison, grapho-analysis and grapho-linguistics;
- e) potential – computer-based – techniques and possibilities for the identification of writing; (CEDAR, FISH, computerized graphometry, SignPass, TRIGRAPH);
- f) the formation and extension of mobile on-the-scene laboratories and the future of DNA testing;
- g) the future possibilities and challenges posed by digital detection; (training of digit-detectives, ethical-“white hat” hackers, sound identification, enhancement of hot spots analysis by GIS, on-the-scene 3D scanner, development of face reconstruction based on superprojection-imposition);
- h) the development of secret techniques for obtaining, collecting and mining data;
- i) the requirement of the introduction of forensic nursing and of the forensic nurse in Hungary;
- j) the adoption and spread of the Bayes analysis in Hungary;
- k) the refining of profile-constructing techniques;
- l) the introduction and more active use of cognitive and other new interviewing techniques.

## **New Trends in Addressing Corporate Crimes: Internal Investigations**

**Flaviu Ciopec**

*Associate Professor, PhD  
Director of the Center for Research in Criminal Sciences  
Faculty of Law  
West university Timisoara, Romania*

### **Abstract:**

The new provisions on the liability of legal entities have made a significant gain for state criminal justice: companies could now be fined or subjected to penalties, often more severe than fines, i.e. dissolution, temporary suspension of activity or prohibition of participation in public tender.

Faced with sanctions that have altered the ultimate essence of a corporate milieu, alongside and outside the criminal justice process, internal control procedures have been put in place in order to take away a potentially criminal matter from the state supervision.

These processes, neutrally called - internal investigations - have the capacity to constitute the genuine content of a new criminal practice, taken over by all major law firms that provide advice to large corporations.

This study seeks to identify the main features of this type of investigation, the convergence of elements belonging to different areas (criminal law, labor law, information technology law, etc.), the divergence from classical investigative procedures and the potential insurgence against human rights.

**Key words:** internal investigations, new criminal practice, convergence, divergence, insurgence

## **The Pre-Trial in the New Hungarian Criminal Procedure Code**

**Herke Csongor**

*Professor, PhD*

*Head of Department of Criminal and Civil Procedure Law*

*Faculty of Law*

*University of Pecs, Hungary*

### **Abstract:**

The new Hungarian Criminal Procedure has three main stages: the investigation, the intermediate proceeding and the judicial procedure.

The intermediate proceeding is not expressly regulated by the CPC. However, albeit the actions of the prosecutor following the investigation on the merits (aiming at its completion) are structurally contained in the chapter on investigation under the CPC, the actions are not substantively part of the investigation (as the actions are not designed to detect either the crime or the perpetrator or to obtain relevant evidence, etc.).

Also, the pre-trial may not conceptually constitute part of the judicial procedure, since its aim is to state whether the judicial procedure (arraignment) is necessary or it results in the omission of the judicial procedure.

The main subjects of the pre-trial are in addition to the general issues examined during the pre-trial the conduct of the procedure directed at passing a penalty order and the rules of the preparatory session (procedure in case of the admission of culpability, procedure in case of the non-admission of culpability, the rules of the preparatory session in case of legal remedy against a penalty order, the preparatory session in case of an arrangement).

## **Tax Heroes**

**Csaba Szilovics**

*Professor, PhD  
Faculty of Law  
University of Pécs, Hungary*

### **Abstract:**

The subject of the study is the tax resistance. The author defines the concept and the legal elements of the tax resistance. The author also submits the historical and modern prevailing forms and the economical, political and legal connections of the phenomenon. He makes a distinction between individual and social forms of tax resistance and investigates the different reactions of different groups of taxation.

Finally, the author submits the examples and possibilities of tax resistance in Central and Eastern Europe.

**Key words:** taxation, tax compliance-tax resistance, *homo economicus*, responsibility of the Government.



## **On the Necessity of Recognizing Artificial Intelligence as Subject to Criminal Law**

**Laura Stănilă**

*Senior Lecturer, PhD  
Secretary of the Center for Research in Criminal Sciences  
Faculty of Law  
West University Timișoara, Romania*

### **Abstract:**

Artificial Intelligence (AI) is a fashionable topic nowadays, it's multiple approaches in the field of law in general and in the field of criminal law in special, becoming the new search for the Sorcerer's Stone for the scholars. The criminal doctrine of AI has already been split into two directions: the pro-recognizing legal personality for AI with the consequence of imposing criminal liability of AI, and the non-recognizing legal personality direction which aims to demonstrate the prematurity of the discussion of this subject due to the lack of theoretical schemes and insufficient knowledge on the evolution of the AI itself.

The analysis of the legal doctrine in this field has revealed the fact that the majority of the scholars had approached the issue from the perspective of the possibility of imposing criminal liability of the AI. But, in fact, the first logical step in a scientific approach is in fact to determine the necessity of discussing the issue. In other words, we must answer to the question if we need a legal institution of criminal liability of AI in the first place, and only after we find the right answer, we may be preoccupied on how are we going to impose criminal liability for AI.

In the article the author tries to find logical, ethical and social arguments addressing the issue of necessity of imposing criminal liability for AI from the perspective of the notion of risk as a main element of the social reaction.

**Key words:** Artificial Intelligence (AI), legal personality, criminal liability, anthropomorphic model, social risk

## **Some New Trends in Romanian Criminal Law Legislative Development**

**Mihai Dunea**

*Senior Lecturer, PhD*

*Faculty of Law*

*"Alexandru Ioan Cuza" University Iași, Romania*

### **Abstract:**

In the last period of time previous to the moment of elaborating this article (from around 2017 to 2019), the Romanian legislator (either the primary one: the Parliament, or the delegate one: the Government) manifested an intense and constant preoccupation regarding the modification of the current (and still relatively new) Criminal Code, and in general, of changing different parts of the criminal legislation dating from 2009 (year of conception and official publication), but who went into force only in 2014 (on the 1st of February).

This political will often went into conflict with the general view of justice projected by some representatives of the civil society and of some of the most important professions in the juridical field of occupation (e.g.: the judges and the prosecutors), giving rise to extended media coverage, endless discussions, (sometimes) street manifestations and even some quasi-riot like phenomenon in some of the largest cities in Romania (and especially in the capital), polarizing most of the society and maintaining a state of pressure in general.

The interesting outcome (namely, that none of the most important modifications proposed and/or adopted by the legislator, in this period, didn't actually went into force, most of them being rejected by the Constitutional Court of Romania), is only surpassed by the peculiarity of inconsistency of the new proposals that now occur, in comparison with the former one's (the red thread being that the legislator seems to be set on changing at least some parts of the current criminal legislation, though it is still a new legislation).

In this article, the author will present and critically comment some of this new tendencies revealed in the last period by the current criminal law legislature of Romania, in order to diagnose the trends of criminal law evolution (or involution) that currently occur in the Romanian legislative landscape, the focus being set onto the general aspects of criminal law that the legislature proposed to change.

## **The Effectiveness of Criminal Sanctions: An Evaluation of the Criminal Policy**

**Mădălina-Cristina Dănișor**

*Senior Lecturer, PhD  
Faculty of Law  
University of Craiova, Romania*

### **Abstract:**

The question this article aims to find the answer to regards the effectiveness of the criminal sentencing system in Romania, in the context of a criminal policy defined by the government as liberal and respectful with the human rights. Is this system an effective one? The question can only find a suitable answer if we agree on the significance of the concept of effectiveness.

We will try to explain the meaning of effectiveness in relation to the functions the criminal sanctions are held to accomplish and to the degree of this accomplishment in the sentencing process. A sanctioning system is thus effective if it has the capability to educate the society, to protect the society from crimes and to protect the human rights, to restore the social link destroyed by the offences, to avoid the recurrence of serious crimes, to rehabilitate the offenders.

The increase of the significance and use of sanctions as fines, community services as an alternative sanction to the fines as well as probation, represents an important step in the changing paradigm of criminal sentencing process. Unfortunately, there is proof of insufficiency and ineffectiveness due to the high degree of incarceration and recidivism. The deficiencies of this criminal policy must be overcome by an integrative social policy.

## **Discussions on Amending the Law no. 241/2005 of Tax Evasion. The Position of Romanian Constitutional Court**

**Adrian Stan**

*PhD Candidate  
Center for Research in Criminal Sciences  
Faculty of Law  
West University Timișoara, Romania*

### **Abstract:**

A recent discussion on a draft law amending the Law no. 241/2005 on the prevention and combating tax evasion has attracted our attention and we considered it necessary to consult the official websites of the chambers of the legislative in order to observe the status of the amendment. We can observe that the law amendment has not been noticed by criminal law specialists, from the examinations carried out until this moment, excepting some short press articles.

We have observed, on December 2018, that the Chamber of Deputies of the Romanian Parliament adopted the final form for the promulgation of the law, which was filed on 20 December 2018 at the General Secretary for the exercise of the right to contest its constitutionality. On 21 December there has been sent an unconstitutionality control request by some deputies. On 13 March 2019, The Constitutional Court, after observing the Law, declared that all the amendments are contrary to the Fundamental Act.

On a first analysis, the position of the Court is fully justified. The amendment contains some solutions that are, in our opinion, contrary to the provisions of the Criminal Code and the Procedural Code and which are contrary to the rule of the separation of powers, the independence of justice and the equality of the citizens. Moreover, a number of criticisms can be argued regarding the very weak legislative technique used by inserting some terms and expressions that move away from the field of criminal law.

**Keywords:** tax evasion, Law no. 241/2005, amendment, claimed prejudice, taxes, equality, opportunity

## **The Convict's Right to Hope. Difficulties Regarding the Condition of Payment of the Prejudice in the Matter of Conditional Release**

**Matei-Ciprian Graur**

*PhD, Center for Research in Criminal Sciences*

*Faculty of Law*

*West University Timisoara, Romania*

### **Abstract:**

The year 2014 was an important moment in changing the dynamics of criminal law institutions in our internal system, the legislator reinventing some of the rules of the criminal process.

Among many criminal law institutions, conditional release has received a new legislative approach, which has also led to a change in judicial practice in the matter. Regulated as a way of individualizing the execution of a custodial sentence, this aspect of controversy over when the institution of conditional release becomes applicable, it is based on the state's criminal policy at a certain point in time.

The controversy we are referring to considers that the individualization of the execution of the sentence in the case of conditional release operates post-judicially during the execution of the punishment, and not at the time when the conviction is pronounced.

As stated in the doctrine, the institution of conditional release is a vital criminal policy measure for the purpose of punishment. In this respect, it was mentioned that conditional liberation should be regarded as an incentive for convicts who give evidence of correction, being intended to accelerate the process of reeducation and social reinsertion.

**Keywords:** hope, conditional release, criminal process, prejudice, social reintegration, civil obligations.