

**INTERNATIONAL CONFERENCE ON FINTECH, CYBERSPACE AND
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**Section I.
FinTech Law**

Friday – March 31, 2023

ONLINE ON ZOOM

Keynote speakers:

Associate professor **Ioana Nely MILITARU**, Faculty of Law, Bucharest University of Economic Studies

Lecturer **Cristina COJOCARU**, Faculty of Law, Bucharest University of Economic Studies

! Each paper will be presented within 15 minutes

! Fiecare lucrare va fi prezentată în maxim 15 minute

**LEGAL NATURE AND TYPES OF DIGITAL ASSETS IN THE ACTIVITIES OF
TECHNOLOGY-ORIENTED STARTUPS**

Professor Dr. habil. Kateryna NEKIT

National University “Odesa Law Academy”, Ukraine

Guest researcher at University of Mannheim, Germany

Abstract

Digital assets play an increasingly important role in people's lives and are ever more often becoming the basis for launching business. The prospects that digital assets open for identifying new sources of profit are stimulating the intensive development of technology-oriented startups. However, despite the active spread of relations arising from digital assets, legal regulation in this area is only at the initial stage of development. The concept and legal nature of digital assets remain unclear at the legislative level in most countries of the world. In the legal doctrine, there are active discussions on the legal nature of digital assets, but it still has neither a clear definition of its essence nor a clear

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delineation of the objects covered by this concept. Such legal uncertainty makes it much more difficult to run a business based on the use of digital assets. Therefore, the aim of this study is, first, to define the concept and fields of emergence of technology-oriented startups and the types of digital assets used in their activities. Secondly, the article looks into the legal nature of digital assets and considers the possibility to recognize digital assets as a type of property. The recognition of digital assets as a special type of property allows applying to them provisions on the right to ownership, which guarantee the highest degree of protection and best ensure the interests of their owners.

A FEW COMMENTS ON FINTECH IN THE LIGHT OF CYBER SECURITY

JUDr. Tereza JONÁKOVÁ

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Abstract

The following paper examines the current opportunities for ensuring the security of cyberspace and financial technologies in relation to the institutional and legislative environment from the perspective of the European Union. The rapid growth in the field of financial technologies brings with it not only pros and benefits, but also cons and security threats, both on an individual and on a complex systemic level. The use of financial technology tools themselves thus poses not only the necessary co-responsibility of the target entities when using them, but also comprehensive reflections on, institutional security and national and supranational legal regulation of the so-called digital economy.

**A REGULATORY ANALYSIS OF DIGITAL FINANCIAL SERVICES AND THE
ADOPTION OF CENTRAL BANK DIGITAL CURRENCIES IN ZIMBABWE AND
SOUTH AFRICA**

Research professor Howard CHITIMIRA

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Post-doctoral research fellow Elfias TORERAI

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Abstract

The use of digital financial services such as mobile money has created new frontiers for more people, especially the poor, to participate in the formal payment systems in Zimbabwe and South Africa. Individuals who do not have bank accounts are now able to access financial services and products using technological devices such as mobile phones. In this regard, digital financial services have broadened financial inclusion allowing the poor to participate in financial markets and other formal economic activities which they were unable to access before. In addition, digital financial services represent a broad range of emerging financial technology (fintech) products which could lead to the adoption of digital currencies in many countries, including Zimbabwe and South Africa. These fintech products have been useful channels for the poor to transact and receive money since the outbreak of the coronavirus (covid-19) pandemic. However, the regulation of digital financial services and their products remains problematic in South Africa and Zimbabwe owing, in part, to the absence of statutes that expressly and robustly regulate these services. Furthermore, there is no sufficient policy clarity on the adoption of central bank digital currencies in the aforesaid countries. Accordingly, this article explores the adequacy of the regulatory frameworks and robustness of the enforcement approaches adopted in Zimbabwe and South Africa. This is also done in the context of the African Union (AU)'s Agenda 2063 goal of enabling trade linkages amongst African countries.

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**A LEGAL ANALYSIS OF WORK-CARE LEAVE POLICIES AND THE PROMOTION OF
GENDER EQUALITY IN THE SOUTH AFRICAN WORKPLACE**

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Abstract

The United Nations (UN) has come up with several Sustainable Development Goals (SDGs) for its 2030 vision. One of these SDGs deals with the need for all countries to promote gender equality. The gender equality goal is premised on empowering women and girls with various economic opportunities. The assumption is that in many countries, including in South Africa, women and girls are marginalised socially, culturally, economically, and politically. To this end, it should be noted that the South African constitution promotes equality for all persons. It also provides for fair labour practices. Labour statutes such as the Labour Relations Act 66 of 1995 (LRA), the Employment Equity Act 55 of 1998 (EEA) and the Basic Conditions of Employment Act 75 of 1997 (BCEA) provide for, inter alia, the realisation of gender equality in the South African workplace. This includes promoting a health balance between work and care obligations for women. While gender equality is a noble goal, its pursuit exposes some of the underlying inequalities that have not been fully addressed in South Africa. Historically, labour rights have been skewed against African or black men in the South African workplace. In the euphoria of a democratic South Africa, the new push has been to promote equality of men and women in the workplace. This tends to overlook the fact that African men have hardly enjoyed work-care obligations. In this regard, the South African labour laws offer very little for the African men. Consequently, little has been done to provide men with better work-care conditions in the South African workplace. Thus, despite efforts to promote gender equality, women still disproportionately shoulder the care burden in South Africa. This article provides that a lot needs to be done to promote gender equality and balance how the rights of both women and men are protected in the South African workplace.

**THE GROWTH OF CRYPTOCURRENCY BUSINESS UNDER THAILAND'S
GOVERNMENT INVENTION THROUGH LEGAL MEASURES**

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Abstract

The first appearance of cryptocurrency in Thailand was only occurred in a small community and not widely famous among a financial transaction. In 2018 – at the present, Thai people advert a cryptocurrency as trade and other financial transactions, however, these crypto business are encountered a large number of commercial and criminal issues and principal agencies under Thai government uses legal measures or make regulations to intervene and control them. Some of legal measure are problematic to stimulate the digital economic growth under the crypto industry and development of financial platforms. Objectives of the study are presentation of advantages and disadvantages of Thai legal measures to control crypto industries in commerce and methodologies for qualitative research are data collection via laws, policies, and legal cases in Thailand. As results of studies, the early direction of laws and policies from Thai government agencies attempted to prevent customers for crypto trades and company business, these agencies have begun to improve lenient legal approaches.

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**IFSCA INNOVATIVE SANDBOX REGULATION FOR FINTECH: A LEVERAGE TO
MULTI-REGULATOR SANDBOX IN INDIA**

Assistant professor Amit Kumar KASHYAP

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Abstract

In India, the regulatory sandbox framework for fintech companies was introduced by the Reserve Bank of India (RBI) in 2019. Later it has been regulated by Securities and Exchange Board of India (SEBI) and Insurance Regulatory and Development Authority IRDA as well on separate footings. While the regulatory sandbox framework in India has been a positive step towards promoting fintech innovation, there are some challenges and limitations that fintech companies have faced in the sandbox, limited participation, limited duration, limited scope and lack of coordination among multiple regulators. The International Financial Services Centres Authority (IFSCA) has introduced an innovative regulatory sandbox framework for fintech companies in India in 2021. The IFSCA innovative sandbox framework in India is a unique initiative that offers several advantages over the regulatory sandbox frameworks of RBI, SEBI, and IRDA. This paper addresses the leverage, economic advantage and ease of doing business provided by Regulated Sandbox in IFSCA for Fintech through doctrinal research Methodology. The researcher further analyses the regulatory aspects of Sandbox Approach in India for Fintech Innovation with special reference to IFSCA Innovative Sandbox Regulation.

**EXPLORING RISKS AND ISSUES RELATED TO POLICY MAKING AND
REGULATION IN FINTECH**

Assistant professor Mejd Aures BENLALA

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Abstract

This paper aims to highlight the role of FinTech in today's modern financial industry. FinTechs are often concentrated in specific activities for which they try to offer a comparative (and competitive) advantage in terms of quality or price, which is achieved through two main ways: (a) by improving the efficiency of companies through cost reduction and productivity enhancement and thus increasing profitability; and (b) by improving the quality of financial services and products offered to consumers. Then, the paper attempts to lay out and address potential risks related to: the financial institutions, consumers or customers and investors, and the pro-cyclicality and systemic risk in the markets. This requires the interaction and intervention of policy makers and regulators. Therefore, the assessment of FinTech's benefits and risks ended up with recommendations for policy makers and regulators aimed at supporting innovation in the field of finance, while ensuring that the use of FinTechs is consistent with promoting financial stability, competition and market integrity, and guaranteeing the protection of consumers and financial investors. The paper concludes that in order to keep up on these changes while upholding high standards for security, stability and consumer protection, more agile and proportional forms of regulation must be established through closer cooperation among public authorities. Given the changing financial sector, the new technology will be a lever of innovation for regulatory authorities, too.

EXCHANGE-TRADED FUNDS, FINTECH AND ONLINE STOCK BROKERS

Junior researcher Marcel PITERMAN

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Abstract

The aim of this paper is to demonstrate that the ETF, often found on fintech and online stock brokers, is an alternative to mutual funds for investors. There are many options to invest in, but the basic way that the world is set up nowadays for investing is through a PPR plan. Most of these accounts are set up to invest in a very narrow range of markets, often indexes or money market accounts, both charging overt and hidden fees, which can add up to about 2% per year. Besides that, investors can have an index on every industry in the market, so, for example, there are technology ETFs. Investing in these financial instruments can be very simple as they are available through online stock brokers and

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fintech. The exchange-traded funds are the very essence of simplicity and can be more beneficial because, in most cases, maintenance fees are not charged or the cost is extremely low. So, the investor, for whom the fees hurt the most, has now an alternative, which is to invest in ETFs via fintech or online stock brokers, and maybe have better returns, paying less or no fees.

LEGAL TREATMENT OF THE ISSUE OF MIGRATION PROCESSES

PhD. student Rina ZEJNELI

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Abstract

Migration, as a sociological phenomenon, also requires legal regulation, both national and international, and today, for this reason, there are a number of international conventions that regulate migration issues. During socio-economic formations, migratory movements have never been spontaneous processes, but they have been prompted by a series of factors, such as economic security, high unemployment, poverty, violation of human rights, persecution due to political beliefs, discrimination, totalitarian government, armed conflicts, religious conflicts, etc. Migration can be internal and international; the same are distinguished among themselves according to the criteria of territory and state borders. The state territory and the borders of a state that is different from other states, is regulated by international legislation and international law. Regardless of whether we are talking about countries of origin or countries of transit, today all countries face the challenges of migration. Even the Republic of North Macedonia as a transit country has been affected by this global phenomenon, also because of its geographical position which is located on the Balkan-Western route, which is a transit route for entering European countries. Migrants who use this route mainly flee from the wars taking place in the Middle East, who first stop in Turkey or Greece, and then in various ways use the territory of the Republic of North Macedonia as a transit to Serbia or even Albania to pass in the countries of the European Union.

**CONSIDERATIONS ON DISCIPLINARY SANCTIONS APPLICABLE TO EMPLOYEES.
ELEMENTS OF COMPARATIVE LAW**

Lecturer Mihaela Emilia MARICA

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Abstract

The present article discusses the problematic aspects pertaining to the disciplinary sanctions applicable to employees who commit breaches of the rules defining work discipline. It contains an analysis of the categories of disciplinary sanctions provided for by the Labour Code: written warning; demotion, with the salary corresponding to the position to which the demotion was ordered, for a period not exceeding 60 days; reduction of the basic salary for a period of 1-3 months by 5-10%; reduction of the basic salary and, where applicable, of the management allowance for a period of 1-3 months by 5-10%; disciplinary termination of the individual employment contract. The article highlights, on the one hand, the specifics of domestic regulations with consideration of the most important aspects of case law, and on the other hand, it offers elements of comparative law with reference to countries such as Belgium, Dominican Republic, France, Cyprus in order to provide the legislative optics of other countries as well as reveal the problems in this field of labour law.

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DIGITIZATION OF THE SOCIAL LIFE – BUSINESS OR PLEASURE?

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Abstract

This article is a part of the author's research in the postdoctoral program within ASE Bucharest - Faculty of Law and is focused on the fact that the collaborative economy and participatory economy are major challenges of democracy in general and participatory democracy. Also, we tried to emphasize the importance of digital processes in the process of globalization of democracy in general and the implication of the digitization on social life of the individuals. The general objective of the postdoctoral paper and of this article is to develop a multidisciplinary and cross-sectional study to highlight the role of artificial intelligence in the globalization of democracy, at the same time, the study includes an analysis of the risks to which enterprises and public authorities are subjected in the context of using new technologies and the impact that legal vulnerabilities may have on the social life of the overwhelming majority of the population that uses new technologies today. The author used for this study among the usual research methods, the empirical approach corroborated with the historical approach that underlined the practical relevance of the theses proposed by well-known authors in the field. Among the results and implications, we mention the dissemination of knowledge of concepts and their analysis to the academic community and beyond, and the study can be useful in calibrating and improving management processes both in private/joint ventures and in local and central public authorities.

**BLOCKCHAIN TECHNOLOGY AND SMART CONTRACTS - PUBLIC POLICIES
NEEDED IN THE TECHNOLOGY RACE**

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Professor Dominic BUCERZAN

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Associate Professor Crina Anina BEJAN

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Abstract

Writing about a branch of law entitled as being of new technologies puts us in a challenging but topical area because we only identify fragmented the meaning that concerns a set of legal norms that have been promulgated from the legislative level and thus even less the grain of positive law, effectively applicable at national level or even in most of the Union countries. However, we proceed not only with this thought in the conception of the present material, but also with the idea that has become dominant as a concern of the business environment, an idea that highlights the prerogative of any person to "try their luck" by concluding a coded agreement, using a laptop and at the same time by at least one other legal subject willing to use blockchain technology by consensus. We can also visualize the civil servant automatically enrolled in the digitization process, who acts as a "business partner" of the public administration and, in the context of the non-adaptation of the current legal area, performs service duties using blockchain technology in purchases on the energy market. To conclude a so-called "smart contract" by means of blockchain technology, certainly implies an agreement of will and the typed intention of those concerned in a legal framework not regulated by general legal rules or specific and applicable private provisions. We thus aim to quantify and even outline a legitimate content with purpose, which has a purpose, which as early as 2018 at the level of the International Trade Commission was emphasized and expressed in the Report indicating blockchain technology as a policy and practice commercial of the future that seems to have already caught up with us. The present paper proposes a statistical study that reflects the integration of the concepts of blockchain technology and smart contracts in the knowledge of legal-administrative practice in Romania.

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DIGITAL EURO CURRENCY, ECONOMIC AND LEGAL IMPLICATIONS

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Abstract

The digitization of the economy, artificial intelligence and technological innovations are influencing consumers' perception of payment services. As cryptocurrencies and stable coins became more popular, the central banks of the world realized that they had to offer an alternative, namely, digital currency. To ensure that the population continues to have unlimited access to central bank money in a way that meets their needs in the digital age, the Council of the European Central Bank has decided to advance work on the possible issuance of a digital euro – an electronic form of central bank money, accessible to all citizens and commercial companies. From a legal perspective, the introduction of a digital euro would require careful analysis of cybersecurity, data protection, and consumer protection issues. Legal changes would also be necessary to ensure that the digital euro is recognized as legal mean of payment and subject to the same legal framework as traditional currency, as well as to ensure consumer protection and interoperability with other digital payment systems. The digitalization of the economy and new technologies are likely to influence the users' behavior regarding the digital euro currency?