EDITORIAL

In this issue of Revista Jurídica Portucalense No. 35, the section dedicated to SCIENTIFIC RESEARCH is made up of thirty-one articles that have been selected according to the rules of the double-blind peer review process.

After the scientific research papers, in the JURISPRUDENCE section we have two analyses of the case law of the European Court of Human Rights, the first by Catherine MARQUESINI CHIAVONE, entitled *Risks to Privacy v. Risks to Public Safety, a Dilemma to be overcome in the (Digital) Risk Society*. *Comments on the partially dissenting judgement of Judge Pinto de Albuquerque in the case of Big Brother Watch and Others v. United Kingdom*. The second jurisprudential analysis by Catherine MAIA and Rafaela MENDEL, entitled *Commentary on the ECtHR judgement Correia de Matos v. Portugal from the perspective of group discrimination*.

Let's now summarise each of the thirty-two articles that make up the SCIENTIFIC RESEARCH in this issue of Revista Jurídica Portucalense.

José Luís Bonifácio RAMOS, in the article entitled *Proof and Truth; Antagonism or Difficulty?*, presents a study in which he concludes that there is no antagonism between proof and truth, and that the civil process is not intended to avoid the truth or oppose it, but this does not mean that this process favours institutions or removes difficulties.

Rogério MOLLICA, Patrícia Lichs Cunha Silva de ALMEIDA and Solange Teresinha Carvalho PISSOLATO carried out research under the title *Artificial intelligence and the unprecedented role of the Brazilian judiciary in integrating the UN's 2030 agenda*, which concluded that the Brazilian Judiciary has incorporated the Sustainable Development Goals of the 2030 Agenda into its routine and administrative and extrajudicial management through the development of tools and the use of artificial intelligence, indexing them in its taxonomic structure of judicial processes.

António GOUCHA SOARES, in his article *The European Green Deal*, examines the legislative reform triggered by the presentation of the European Green Deal, analysing the regulatory roadmap contained in Objective 55 (including the so-called European Climate Law) and the core elements of the European Union's climate transition reform.

Tiago Vinicius ZANELLA, in his study *The United Nations Convention on the Law of the Sea and the marine environment: a contribution to the analysis of the regulation of the protection and preservation of the marine environment in the UNCLOS*, starts from the relevance, influence, implications and characteristics of the Convention to its impact and influence on the preservation of the marine environment and the development of international law.

Daniel TABORDA, Nuno de LEMOS JORGE and António Martins, in their study on the *Problems of the alimony tax system*, analyse the tax system for alimony in the personal income tax (IRS), considering the limits on deductions and the way in which the obligation to pay alimony is determined under civil law.

This is followed by an article by José Maria MONIZ, entitled *Free uses of protected works in Cape Verdean law - notes from a brief essay on their scope and operation*. In this work, the author concludes that the domestic legal framework categorises free uses in an exhaustive manner and is highly protective of copyright, arguing for the need for some flexibility.

Martonio MONT'ALVERNE BARRETO LIMA and Francisco Thiago PINHEIRO LEITÃO consider, in their work on *Judicial Control over 'Internal Corporal' Acts: Case of the Direct Action of Unconstitutionality 6524 in the Light of Rui Barbosa's Exception of Political Nature*, that it is possible to control purely political acts, as long as they keep the projection in the text of the Constitution and that the judgement of ADI 6.524 is in line with the thesis of political nature and its ramifications, especially on the political role played by the Supreme Court.

Yevhen LEHEZA, Oleksandr DUBENKO, Liudmyla PAVLYK, Oleksandr PRASOV and Volodymyr PAVLOV, in the article entitled *Foreign Experience of Responsibility for Driving Vehicles in Condition of Alcohol Intoxication: International Standards, Administrative and Criminal Aspects*, they present a comparative analysis of the legislation of some European countries, Australia and the USA in relation to responsibility for drunk driving, concluding that this legislation seeks to deter serious offenders and repeat offenders by means of

specialised courts (organisational factor), strengthening punitive sanctions (jurisdictional factor), disseminating educational and therapeutic programmes (medical-educational factor) and using vehicle blocking devices in the event of alcohol being identified in the driver's body (technical factor).

Ana CONDE, Carla SANTOS PEREIRA, Eva DIAS COSTA, Maria ARAÚJO, Mariana ISIDORO DOMINGUES, Micaela PINHO, Mónica MARTINEZ DE CAMPOS, Rita ARAÚJO, Shital JAYANTILAL in the article entitled *Surrogate pregnancy in Portugal: A view from international practices*, they comprehensively analyse the implications of surrogacy within different legal systems, drawing attention to the need for Portugal to prepare for the implementation of legislation on surrogacy, navigating the ethical challenges and the need to protect all parties involved, they conclude that it will be fundamental in drafting this legislation, to address research gaps and ethical dilemmas, to defend the rights and well-being of all individuals affected by surrogacy.

Lam NGUYEN VAN and Quang VU, on the subject of *The right to freedom to choose the type of company: The case of Vietnam*, present a study in which they conclude that, while the right to freedom of enterprise is a fundamental right enshrined in the Vietnamese Constitution, Vietnamese legislation only treats this right as a mere right of companies, only recognising certain types of company, which limits this freedom of choice, and propose solutions to improve the laws and effectively apply this fundamental right.

Álvaro GONZÁLEZ-JULIANA's work on *The (lack of) transparency of funding for parliamentary groups: a study in the light of Spanish law* aims to analyse the applicability of Spanish Law 19/2013 of 9 December on transparency, highlighting the lack of active publicity in this area and the difficulties in making the right of access to this information effective.

Oleg M. YAROSHENKO, Olena H. SEREDA, Volodomyr M. HARASHCHUK, Leonid V. MOHUILEVSKYI, Alla M. YUSHKO are carrying out research under the title *Non-fixed working hours in the context of globalisation: the impact of international trends on Ukrainian legislation and employers' practices*, which identifies the benefits of non-fixed working hours and analyses the challenges faced by participants in labour relations when establishing flexible working hours in the context of globalisation.

Joaquim RAMALHO and Fernando ALMEIDA, in the article entitled Seizure of Electronic Mail: The Regimes of the Code of Criminal Procedure and the Cybercrime Law, reflect on the process of the special regime for the seizure of electronic mail and the general regime for the seizure of correspondence, regarding the need for a prior order from the judge in order for the respective seizure to be carried out.

Clara de Sousa ALVES, in her article A restituição do lucro ilicitamente obtido no caso do desvio de oportunidades de negócio societárias, concludes that, de iure condendo, it is time to rethink the punitive function of civil liability and the inclusion of the figure of disgorgements in the Portuguese legal system.

Ricardo de Moraes and SOARES, Paula HELIODORO, Vanda MARTINS, Cristina Morais da PALMA, in their study on Analysing VAT in the context of Association Contracts in Participation: The Case of the Wine Sector, discuss the association in participation, concluding that it is a legal business, which they classify as a contract for the sharing of results, without patrimonial autonomy or legal personality, there being no constitution of a new legal entity or autonomous assets.

Micaela MONTEIRO LOPES, in her work on the (uncontroversial) special gaming tax, comments on the singularities of casinos, recognising their importance in the development strategy of the national economy without prejudice to the need for a careful analysis from a tax perspective.

Murillo Magalhães CARRERA, in his research entitled Embargos de Terceiro - Uma Perspectiva Jurídico Prática, aims to establish when a third party, who is not a party to the enforcement proceedings, can file third party embargoes against attachment or any judicially ordered act that offends their possession or any other right incompatible with the scope of that diligence.

Moh FADLI, Shinta HADIYANTINA, Dewi CAHYANDARI, Airin LIEMANTO and Mustafa LUTFI, under the theme Mobilising Society for Peace: Improving Access to Tribal Dispute Resolution Justice in the Baduy and Sasak Tribes, Indonesia, reflects on the uniqueness of adat (tribal) dispute resolutions, particularly in the Baduy and Sasak tribes, compared to district courts in responding to issues and accelerating peace, and concludes that dispute resolution through an adat institution is considered effective, despite the need for improvement, in terms of institutional strengthening, coordination between

dispute resolution institutions and law enforcers, meaningful participation and evaluations.

Hendri SUSILI, R RIJANTA and Ahmad ZUBAIDI, also in the field of dispute resolution, present a Model for resolving the unresolved segment of the Noel Besi-Citrana land borders between Indonesia and East Timor, analysing the divergent interpretation of the 1904 Treaty and proposing a political approach resolution model that goes directly through the presidents of both states.

Ihor ANDRONOV, Larysa DIDENKO, Semen REZNICHENKO, Roman POZHODZHUK and Vitaliia ROMANIUK, in their study on Limitations of the right to protection of personal data and the right to secrecy of correspondence under martial law in Ukraine, propose the development of reliable mechanisms for the protection of the right to privacy and its elements, within the framework of the current martial law that allows the limitation of constitutional human rights, concluding that it is necessary to determine the extent of such limits and restrictions, and to provide reliable mechanisms for the protection of the rights covered when they are exceeded.

João Ricardo CATARINO, Alexandre Morais NUNES and Susana SOBRAL explore the subject of Variable Commutativity Taxes and the Reserve of Legislative Competence in the Portuguese Constitution: a relationship (yet) to be stabilised, noting the need to clarify the concept of financial contributions so that they can be distinguished from other taxes and recommending the creation of an effective general law that thoroughly conceptualises the figure of fees and other financial contributions, as well as the establishment of more effective scrutiny measures to protect economic agents and prevent abuses in their institution.

Muhammad Imran KHAN, under the title Kashmir, the Longest Unresolved Conflict on the Security Council's Agenda: A Test Case for the Council's Mandate to Maintain International Peace and Security, reflects on the causes of the unresolved conflict, which he concludes are the lack of an effective enforcement mechanism for the international legal order, the inability of the international political system to understand the explosive nature of this conflict and the fact that the main architects of the Sustainable Development Goals are also the main suppliers of weapons to the parties in dispute.

Kunthi TRIDEWIYANTI, Luh Rina APRIANI and Nurul MIQAT, in their study entitled Indigenous People and Customary Law in the Case of Religious Rights: A Taste of Injustice of the Karuhun Urang in Indonesia, examines the Adat Karuhun Urang Community, seeking to determine how the applicable religious justice is unjust, and concluding that the legal separation between religion and belief discriminates against this Community, whereby the recognition of belief as a primary religion, along with the protection of indigenous peoples' religious rights, including religious practices and beliefs is crucial in order to fulfil the constitutional principle of freedom of religion.

Viktoria STRELNYK, Natalia HRES and Tetiana CHURILOVA, in their work Legal support for the rights of the child and the pregnant woman in the context of the fourth generation of human rights in Ukraine, note that there is a lack of effective government response to cases of violation of the rights of the surrogate mother and the child on the territory of the state, and the authors propose that the state control the organisations that provide mediation services and the doctors who practice in the field of surrogate motherhood.

Duarte Lynce de FARIA, in the article Liability arising from the Law on Maritime Safety and the importance of the I.S.M. Code - the case of the MSC Patrícia oil spill in Sines (Portugal), assesses maritime safety rules and their consequences, particularly the significant impact of the I.S.M. Code on the assessment of liability by insurers and the I.S.M. Code. on the assessment of liability by insurers and criminal liability, concluding that the new techniques and modern equipment on board ships and the increasingly demanding nature of their management require a new approach to exoneration clauses that take into account the main international references and standards of quality and good practice on board.

Luís Manuel PICA concludes, in his study The impact of digital transformation on the sustainability of the Social Security system, that the sustainability of social security is an almost embryonic concern of Social Security Law, arguing for the need to rethink the forms of financing and measures that should be adopted to respond to the new realities brought about by the digitalisation and automation of procedures.

Baris KAYA's article, entitled UNIDROIT Model Law on Factoring: Criticisms and possible effects, focuses on the circumstances of this law and

analyses some of its biggest challenges, such as the issues raised by receivables subject to transfer, the notification and registration system and priority rights, but concludes that it should be welcomed as an example.

Maksim BATURIN and Svetlana MOROZ, on the subject of the AIFC Court: Theory and Practice, analyse the theoretical and practical foundations on which the activities of the Astana International Financial Centre court are based, identifying the essence, characteristics and particularities of the Centre and establishing the procedural framework on which the court is based.

Ricardo Sousa da CUNHA, in his research on The Administrative Pursuit of the Public Interest Subject to the Law, addresses the dichotomy between the 'pursuit of the public interest' and the 'protection of citizens' rights', and assesses the extent to which the administrative pursuit of the "public interest" safeguarded in the Constitution is still subject to the same constitutional purpose of subjecting the exercise of power to the Law.

Yasmine LOZA, in her article Discrimination in the Crime Paradigm: a socio-legal approach, reflects on the relevance of multidisciplinary approaches within the socio-legal apparatus and the potential interconnections of justice in society for the recognition and protection of all identities as human beings under international law.

Finally, Olívia CARVALHO, Ana BORGES and Sónia GALINHA present a study on Children's rights: knowledge and compliance, in which they analyse whether children have knowledge of the Convention on the Rights of the Child and whether it is complied with.

As always, we are grateful to the Foundation for Science and Technology (FCT).

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