



SUMMARIA IURIDICA

Õigusartikleid välisajakirjadest,
raamatuid ja uuringuid

2019 : 4

Väljaanne ilmub
viis korda aastas
ISSN 1736-0404

SISUKORD

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PENSIONIREFORMIDEST EUROOPA RIIKIDES : VALIK RAAMATUID JA ARTIKLEID

Riikliku pensionikindlustuse peamine eesmärk on tagada inimestele pensionipõlveks piisav sissetulek. Pensioni suurusele seab piirid riigi rahaline suutlikkus, mis omakorda sõltub oluliselt tööealiste inimeste arvust ja nende makstud sotsiaalmaksust. Eesti rahvaarv väheneb prognooside järgi aastaks 2060 seniselt 1,31-ilt miljonilt 1,11 miljonini. 18-63-aastaste inimeste arv väheneb 256 000 võrra ehk 32%. Üle 63-aastaste inimeste arv suureneb 106 000 inimese võrra ehk 41%.

Töötajate ja pensionäride suhte prognoos näitab, et kui viimasel 20 aastal on olnud keskmiselt üle kahe töötaja ühe vanaduspensionäri kohta, siis aastaks 2060 langeb see alla 1,3. Inimeste eluiga järjest pikeneb ja seetõttu pikeneb ilma pensioniiga tõstmata ka pensioniloleku aeg. Selline areng tooks kaasa pensionide vähenemise: muudatusi tegemata langeb keskmine vanaduspension summa tulevikus alla 300 euro. See on probleem, millega tuleb tegeleda juba täna.

Loe lähemalt: <https://www.sm.ee/et/eesti-pensionisusteemi-uuendamine>

Pensionireformid on toimunud või toimumas ka teistes Euroopa riikides. Summaria Iuridica käesolevas numbris pakume teemakohaseks lugemiseks valikut raamatutest, artiklitest ja internetiallikatest.

RAAMATUD

Blair, Catherine. [Securing pension provision : the challenge of reforming the age of entitlement.](#) - Basingstoke ; New York : Palgrave Macmillan, 2014. - IX, 152 lk.

[Challenges of aging : pensions, retirement and generational justice](#) / ed. by Cornelius Torp. - Basingstoke ; New York : Palgrave Macmillan, 2015. - XVII, 295 lk.

[Delaying retirement : progress and challenges of active ageing in Europe, the United States and Japan](#) / eds. Dirk Hofäcker, Moritz Hess, Stefanie König. - London : Palgrave Macmillan, 2016. - XXIII, 385 lk.

Fachinger, Uwe. [Die Dynamisierung von Alterseinkommen - Chancen und Risiken eines neuen Mischungsverhältnisses staatlicher, betrieblicher und privater Alterssicherung.](#) - Berlin : Deutsche Rentenversicherung Bund, 2014. - 82 lk.

Hack, Melanie Regine. [Taking age equality seriously : the example of mandatory retirement : a comparative legal analysis between Norway and Germany in light of Council directive 2000/78/EC.](#) - Baden-Baden : Nomos, 2016. - 423 lk.

Vaata ka:

Ernits, Kerli. [Eesti pensionisüsteemi reformide mõju hindamine naiste pensionide põlvkonnasisesele jaotusele teoreetiliste asendusmäärade abil : magistr töö ärijuhtimise magistr kraadi taotlemiseks ärijuhtimise erialal](#) / Tartu Ülikool, majandusteaduskond, rahvamajanduse instituut ; juhendaja: Andres Võrk. - Tartu : Tartu Ülikool, 2014. - 107 lk. ([TÄISTEKST](#))

Käsper, Rando. [Eripensionid Eesti pensionisüsteemis ja nende põhiseaduspärasus : magistr töö](#) / Tartu Ülikool, õigusteaduskond, avaliku õiguse osakond ; juhendaja: Gaabriel Tavits. - Tartu : Tartu Ülikool, 2019. - 71 lk. ([TÄISTEKST](#))

Mägi, Kerli-Getter. [Pensionisüsteemide tulemuslikkus Eesti ja Põhjamaade näitel : lõputöö](#) / Sisekaitseakadeemia, Finantskolledž ; juhendaja: Indrek Saar. - Tallinn: Sisekaitseakadeemia, 2016. - 42 lk.

Piirits, Magnus. [Eesti pensionisüsteemi reformide põlvkondadevaheliste efektide analüüs simulatsioonimeetodi abil : magistr töö sotsiaalteaduse magistr kraadi taotlemiseks majandusteaduses](#) ; Tartu Ülikool, majandusteaduskond, rahvamajanduse instituut ; juhendaja: Andres Võrk. - Tartu : Tartu Ülikool, 2014. - 160 lk. ([TÄISTEKST](#))

Raie, Kerttu. [Alternatiivsed pensionipõlve kindlustamise viisid haavatavas sihtrühmas : magistr töö](#) ; Tartu Ülikool, sotsiaalteaduste valdkond, ühiskonnateaduste instituut, kommunikatsioonijuhtimise õppekava ; juhendaja: Maie Kiisel. - Tartu : Tartu Ülikool, 2016. - 148 lk. ([TÄISTEKST](#))

Vaata lisaks:

<https://www.pensionikeskus.ee/>

Pensionikulud Euroopa riikides

<https://www.stat.ee/29943>

<https://blog.stat.ee/2017/02/08/pensionite-objektiivne-vaade/>

ARTIKLID

Artiklite täistekstid e-ajakirjadest ja andmebaasidest on kättesaadavad Rahvusraamatukogu [otsinguportaali](#) sisseloginud kasutajale.

Anderson, Karen M. ; Kaeding, Michael. [European integration and pension policy change: variable patterns of europeanization in Italy, the Netherlands and Belgium](#) // British Journal of Industrial Relations. Vol. 53 (2015), issue 2, p. 231-253.

This article investigates how European welfare states respond to reform pressures arising from European integration. We focus on the field of public pensions and examine the impact of two institutional variables that mediate the impact of reform pressures: the extent of public pension provision and the number of national political veto points. We argue that, all else equal, member-states with few veto points and a relatively small public pension sector are the most likely cases of policy change in response to europeanization, whereas member-states with a high number of veto points and extensive public pension commitments are the least likely candidates for policy change. We test these arguments in four cases of europeanization in three countries (Belgium, the Netherlands and Italy).

Banyár, József. [Possible reforms of pay-as-you-go pension systems](#) // European Journal of Social Security. Vol. 18 (2016), issue 3, p. 286-308.

This study outlines and compares the possible ways of reforming modern, pay-as-you-go (PAYG) pension systems – reforms which are necessitated by unfavourable demographic processes. This comparison is made in a general context and the examination does not focus on any specific country. Pension reform ideas usually stay within the pension paradigm outlined by Samuelson ('AI scenario'). While also describing these approaches, the study points out – citing lesser-known ideas in this context – that there are several ways out of the situation. [---]

Borzaga, Matteo. The Italian social security system after the recent economic and financial crisis and the related reforms: are austerity measures the right answer? // Journal of Social Security Law. Vol. 24 (2017), issue 2, p. 64-81.

In this article, the author examines the constitutional principles applicable to the Italian social security system and assesses the implications of recent benefit reforms, including those governing pensions, which have occurred against a back-cloth of financial constraints and austerity. ([WESTLAW](#))

Collins, Micheál ; Hughes, Gerard. [Supporting pension contributions through the tax system: outcomes, costs and examining reform](#) // The Economic and Social Review. Vol 48 (2017), issue 4, p. 489-514.

Using the taxation system as a means of supporting contributions to pensions is a long standing and increasingly important policy tool. This paper examines the effectiveness of that tool using new data for Ireland in 2014. Looking at contributions from employees, employers and individuals into private pensions, we show the relatively small size of most pension contributions and highlight the challenges these imply for the adequacy of future pension income. [---]

Domonkos, Stefan ; Simonovits, András. [Pension reforms in EU11 countries: an evaluation of post-socialist pension policies](#) // International Social Security Review. Vol. 70 (2017), issue 2, p. 109-128.

This article evaluates the pension policy pathways of the 11 former state socialist nations that have joined the European Union since 2004. Focusing primarily on the post-2004 period, the analysis discusses the most important measurable outcomes of these countries' pension reforms, in terms of poverty alleviation, pension adequacy and fiscal sustainability. Going beyond the quantifiable concepts, we also investigate the quality of the 11 countries' pension systems in terms of equity as well as efficiency, emphasizing the less conspicuous design errors present in these systems. Although these errors have received little attention to date, they may harm pension schemes along several dimensions, including their fiscal sustainability.

Ebbinghaus, Bernhard. [Multipillarisation remodelled: the role of interest organizations in British and German pension reforms](#) // Journal of European Public Policy. Vol. 26 (2019), issue 4, p. 521-539.

Recent reforms have responded to demographic ageing and fiscal challenges by shifting toward the multipillarisation of pensions to achieve financial sustainability. Reforms towards privatization and marketization of retirement income provision occurred in Britain and Germany with different pension system legacies. While public opinion supports largely the status quo, the stakeholders, in particular, organized capital and labour, have evolved in their positions towards pension reforms. The analysis seeks to draw out how organized interests have sought to influence multipillarisation but also adapted their strategies in the context of increasing financialisation in the two political economies. [---]

Enev, P. [Reforms in the pension systems of Bulgaria and Poland – comparative analysis](#) // Trakia Journal of Science. Vol. 15 (2017), suppl.1, p. 305-310.

The socio-economic changes occurred after 1989, face the problems of the pension systems of Bulgaria and Poland. The challenges faced by the social security systems called for a completely new reforming philosophy. A multi-pillar model of social protection has been introduced with the specifics in both countries. The article's main goal is to follow the reforms implemented in the social security systems of Bulgaria and Poland by examining individual solutions in the field of social security policy, pointing out current challenges and trends in the two pension systems. [---]

Goedemé, Tim ; Marchal, Sarah. [Exploring a blind spot in comparative pension reform research: long-term trends in non-contributory pensions in Europe](#) // International Journal of Social Welfare. Vol. 25 (2016), issue 2, p. 161-175.

Over the past two decades, pension reforms have been high on the agenda of social policy makers in Europe. In many countries, these reforms have resulted in less generous public pensions. At the same time, minimum income protection for older adults has received attention from policy makers, but much less so from social policy researchers. Therefore, this study explored how benefit levels of non-contributory minimum income schemes for older adults evolved from 1992 to 2012 in 13 'old' member states. Building on two cross-national longitudinal datasets with comparative data on minimum income protection in Europe, the study shows that over the past 20 years, the erosion of the principal safety net of last resort for older persons has been limited. Moreover, a substantial number of European countries have pursued a deliberate policy of considerably increasing minimum income benefits.

Grech, Aaron George. [Pension policy design changes in EU countries since the mid-1990s](#) // International Journal of Social Welfare. Vol. 24 (2015), issue 3, p. 296-304.

Recent decades have been characterised by significant pension reforms. This article reviews this process, focusing on five policy design issues that have concerned policymakers: optimising poverty alleviation effectiveness; redefining the state's role in smoothing incomes over the life-course; balancing contributions to benefits; adjusting the system to respond to demographic, economic and social changes; and ensuring that reforms will be long-lasting. While the role of state pensions is diminishing, there is a growing realisation of the need to ensure that they remain adequate, reigniting interest in minimum pensions and contribution credits. [---]

Hohnerlein, Eva Maria. [Pension indexation for retirees revisited – normative patterns and legal standards](#) // Global Social Policy (2019/April) p. 1-20.

Maintaining adequate pension levels throughout the entire retirement phase is a persistent challenge in old-age protection. Most public pension schemes in OECD (Organisation for Economic Co-operation and Development) countries provide for some form of indexation for pensions in payment. These mechanisms have been object of frequent revisions for different purposes, in particular across Europe. This article explores the social and financial policy objectives linked to standard indexation parameters in public pension schemes, and offers a rough taxonomy of additional factors used to modify traditional indexation arrangements, with a special focus on changing rules and practices adopted in the European Union (EU) area after the 2008 international economic and financial crisis. [---]

Jarocinska, Elena ; Ruzik-Sierdzinska, Anna. [The impact of pension system reform on projected old-age income: the case of Poland](#) // CASE Network Studies and Analyses (2016) issue 482, p. 1-2, 5-28.

This paper analyses the distributional effects of the Polish old-age pension reform introduced in 1999. Following a benchmark Mincer earnings equation, and using a newly developed microsimulation model we project future pension benefits for males born in years 1969-1979. We find that inequality of predicted first pension benefits measured by the Gini coefficient increases from 0.119 to 0.165 for cohorts of men

retiring between 2036 and 2046. The observed increased inequality of pension benefits is due to the decreasing share of initial capital that is based on a more generous DB formula in the total accumulated pension capital. At the same time, inequality in replacements rates decreases due to a stronger link between contributions paid through the entire working life and pension benefits.

Komp, Kathrin. [Shifts in the realized retirement age: Europe in times of pension reform and economic crisis](#) // Journal of European Social Policy. Vol. 28 (2018), issue 2, p. 130-142.

Many recent policy reforms aimed to delay retirement. Such a delay seems important because population ageing makes it a necessity for financially sound pension schemes and a sufficiently large workforce. However, pension reforms do not only affect when people retire, they likewise affect what influences the realized retirement age. Moreover, the 2008 economic crisis restructured labour markets, thereby affecting retirement. This article investigates recent shifts in the realized retirement age and influences on it. It does this through multilevel analyses of international data from the survey of health, ageing and retirement in Europe. It compares individuals who retired in 2005/2006 to those who retired in 2012/2013, thereby identifying changes over time. [---]

Loužek, Marek. [Pension reform in the Czech Republic after 2010](#) // Post-Communist Economies. Vol. 26 (2014), issue 1, p. 89-102.

The aim of this article is to analyse pension reform in the Czech Republic after 2010. Pension reform in the Czech Republic has gained new pace. The panel of consultants and experts on pension reform recommended mandatory saving in funds. The Constitutional Court ruled that citizens with higher incomes during their professional careers should receive higher pensions. The government responded by a minor amendment to the Pension Insurance Act and also prepared a major pension reform, which has introduced an opt-out, albeit on a fairly modest scale. The political risks of the current pension reform are considerable. [---]

Natali, David. [Pension reform in Europe : what has happened in the wake of the crisis?](#) // DICE Report. Vol. 13 (2015), issue 2, p. 31-35.

This paper provides a summary of pension policy reforms in Europe. It focuses on the fate of the pension paradigm that has dominated recent decades: so-called pension privatisation. Such a paradigm consists of the full or partial replacement of social security pension schemes with pension systems based on individual, private pension savings accounts. This model has been implemented in many countries. [---]

Nyqvist, Anette. [Insecurity in an orange envelope: national pension system reform in Sweden](#) // PoLAR: Political and Legal Anthropology Review. Vol. 38 (2015), issue 2, p. 265-278.

In this article, I examine the implications of Sweden's reformed national pension system and how this policy reconfigures the state-citizen relationship. By applying the methodological approach of 'studying through,' the study depicts a shift in responsibility from a state level to an individual level. More specifically, I here shed light on how politicians, technocrats, and bureaucrats work to educate and foster the general public into responsible, hard working and financially literate citizens. The article further reveals that such attempts are not readily accepted or adopted by the citizens at the receiving end of the pension policy and so, instead of providing stability and security, this social security policy invokes a sense of insecurity in Swedish citizens.

Suárez Corujo, Borja. Pension system reforms in times of austerity: the Spanish case // Journal of Social Security Law. Vol. 24 (2017), issue 2, p. 82-98

This article examines the impact that the economic crisis has had on pension systems and how it has influenced the development of pension policies in the EU, and particularly in Spain. It is divided into two parts. The first one focuses on the main challenges currently faced by pension systems in Europe – the threat of ageing populations and its implications for the long-term sustainability of public finances – and the process of pension reform that originally started a long decade ago, and that has in recent years gained intensity due to the economic crisis. As an illustration of the intensity of this process, the second part specifically deals with the latest pension reform trajectory in Spain critically examined from a legal and constitutional perspective. [---] ([WESTLAW](#))

Verbič, Miroslav. [Political economy of pension reforms: an empirical investigation](#) // European Journal of Law and Economics. Vol. 47 (2019), issue 2, p. 171-232.

We examine effects of political institutions on the probability of introducing pension reforms. A novel dataset is constructed that tracks the systematic development of pension legislation in 36 countries for the period 1970–2013 by focusing on mandatory pay-as-you-go, occupational, and supplementary

pension reforms. The evidence highlights the fundamental importance of political institutions in shaping the probability of pension reforms, after controlling for potentially confounding effects of demographic structure, preferences for redistribution and macroeconomic fundamentals. Countries with stronger constraints on the chief executive, non-fractionalized political competition with moderate political power of government and opposition parties with centrist parties in power, and fiscal federalism in the presence of electoral rules with vote sharing thresholds and a high degree of regional autonomy are significantly more likely to introduce pension reforms. The beneficial effects of executive constraints, political competition and inter-jurisdictional federalism on reforms are robust to several misspecification checks, unobserved heterogeneity, and country-specific time trends. We show that when pension reforms occur, some layers of political institutions strengthen public and private pensions relative to GDP while others tend to weaken it.

Vaata lisaks:

[The 2018 Pension Adequacy Report \(Vol. I\)](#)

Volume I is devoted to comparative analysis of pension adequacy in the EU-28. It examines the current living standards of older people and how they are shaped by pension systems, proceeds with an overview of recent pension reforms and concludes by analysing the main challenges to the adequacy of future pensions and ways of tackling them. Among other issues, the report highlights the gender differences in pension entitlements, the pension adequacy of persons in non-standard or self-employment and the role of supplementary pensions.

[The 2018 Pension Adequacy Report \(Vol. II\)](#)

Volume II provides a more detailed description of the pension system and pension adequacy in each of the 28 Member States.

[Pensions at a glance 2017 : OECD and G20 indicators](#)

The 2017 edition of Pensions at a Glance highlights the pension reforms undertaken by OECD countries over the last two years. Moreover, one special chapter focuses on flexible retirement options in OECD countries and discusses people's preferences regarding flexible retirement, the actual use of these programs and the impact on benefit levels. This edition also updates information on the key features of pension provision in OECD countries and provides projections of retirement income for today's workers. It offers indicators covering the design of pension systems, pension entitlements, the demographic and economic context in which pension systems operate, incomes and poverty of older people, the finances of retirement-income systems and private pensions.

Agostini, Chiara ; Lisi, Valentina ; Natali, David ; Sabato, Sebastiano. [Balancing protection and investment: structural reforms in five countries](#) (2016)

Carone, Giuseppe ; Eckefeldt, Per ; Giamboni, Luigi ; Laine, Veli ; Pamies Sumner, Stéphanie. [Pension Reforms in the EU since the early 2000's: achievements and challenges ahead](#) (2016)

UUSI ÕIGUSRAAMATUID JA ARTIKLEID VÄLISAJAKIRJADEST

Artiklite täistekstid e-ajakirjadest ja andmebaasidest on kättesaadavad Rahvusraamatukogu [otsinguportaali](#) sisseloginud kasutajale.

ÕIGUSE ÜLDKÜSIMUSED

RAAMATUD

Kaaij, Hester van der. [The juridical act : a study of the theoretical concept of an act that aims to create new legal facts](#). - Cham, Switzerland : Springer, 2019. - IX, 184 lk.

Luts-Sootak, Marju. [Eesti õiguse 100 aastat](#). - Tallinn : Post Factum, 2019. - 205 lk.

ARTIKLID

Bull, Hans Peter. Über die rechtliche Einbindung der Technik // [Der Staat](#) (2019) Nr. 1, S. 57-100.

Für die rechtliche Beurteilung neuer technischer Entwicklungen werden im folgenden Text einige Anregungen vorgetragen. Vor allen materiellen Überlegungen ist zu klären, welche Bedeutung der Begriff der Technik hat und welches die abzuwehrenden Gefahren sind (II.). Als Voraussetzung jeder rechtlichen Regelung wird die Verantwortlichkeit von Menschen herausgestellt (III.). Als grundlegende verfassungsrechtliche Ansätze der Technikkritik werden sodann die Achtung der Menschenwürde, die Freiheitsrechte der Beteiligten und das Prinzip der Rechtsstaatlichkeit besprochen (IV.). Die weiteren Abschnitte befassen sich mit den Regelungsstrukturen und den praktischen Ansätzen der rechtlichen Bewältigung neuer Technologien (V.) sowie mit den technikkritischen Aufgaben der Politik (VI.). Am Schluss wird auf die juristisch und politisch nicht beeinflussbaren Bedingungen der Technikentwicklung hingewiesen (VII.).

Märksõnad: *tehnoloogia; tehnoloogia areng; info- ja kommunikatsioonitehnoloogia; algoritmid; õiguslikud aspektid; vastutus; Saksamaa*

Hylton, Keith N. Law and economics versus economic analysis of law // [European Journal of Law and Economics](#). Vol. 48 (2019), issue 1, p. 77-88.

I agree with Calabresi's general distinction between Economic Analysis of Law and Law and Economics. However, these broad categories may obscure important differences between types of law and economics scholarship. I would distinguish positive economic analysis from normative economic analysis, and positivist legal analysis from nonpositivist analysis. The four categories generated by these distinctions provide a more fine-grained map of the styles of reasoning in law and economics, and has implications for the future of law and economics.

Märksõnad: *õigusteadus; õigusteooria; käitumisökonoomika; majandusteadus; majandusanalüüs; positivism*

Krawczyk, Michał ; Szczygielski, Krzysztof. Do professions curb free-riding? An experiment // [European Journal of Law and Economics](#). Vol. 47 (2019), issue 3, p. 361-376.

The question of ethical conduct is key for professionals, such as lawyers, doctors, or experts of different kinds. We run a laboratory experiment aimed at investigating whether acting within a profession leads to more (or less) ethical, prosocial behaviour compared to acting outside of it. We also investigate how professionals react to others' misbehaviour. [---]

Märksõnad: *juristid; arstid; spetsialistid; käitumine; kutse-eeetika; eksperimendid; karistused*

Rademacher, Timo. Wenn neue Technologien altes Recht durchsetzen: Dürfen wir es unmöglich machen, rechtswidrig zu handeln? // [Juristenzeitung](#) (2019) Nr. 14, S. 702-710.

Neue Technologien, welche die Einhaltung von Recht erzwingen können, finden zunehmend Verbreitung. Gleichzeitig verlieren die bisherigen verfassungsrechtlichen Argumentationsfiguren zur Abwehr solcher Strukturen unter den neuen Funktionsbedingungen leistungsfähiger künstlicher Intelligenz langsam an Überzeugungskraft. Dieser Beitrag eröffnet unter dem Suchbegriff eines „Rechts zum Rechtsverstoß“ eine neue Argumentationslinie, die es ermöglichen soll, rechtsdurchsetzende Technologien auch in Zukunft wirkungsvoll und kriteriengeleitet einzuhegen.

Märksõnad: *tehnoloogia areng; robotid; õiguslikud aspektid*

ÕIGUSAJALUGU**RAAMATUD**

[Ius commune graeco-romanum : essays in honour of Prof. Dr. Laurent Waelkens](#) / eds. Wouter Druwé, Wim Decock, Paolo Angelini, Mathias Castelein. - Leuven ; Paris ; Bristol, CT : Peeters, 2019. - 328 lk.

ARTIKLID

Czajkowski, Kimberley. The limits of legal pluralism in the Roman empire // [The Journal of Legal History](#) Vol. 40 (2019), issue 2, p. 110-129.

The Roman empire was legally pluralistic. But what exactly does this entail in concrete terms? With the growth in historical studies of legal pluralism in the Roman empire, some significant differences in approach have emerged. This article tests and clarifies some of the limits in the current 'legal pluralism' conceptual landscape, focussing on disputes and dispute resolution. It is argued that a clearer distinction should be drawn between 'normative' and 'jurisdictional' pluralism, though both approaches still raise certain conceptual problems. [---]

Märksõnad: *pluralism; õigusteadus; vaidluste lahendamise; Vana-Rooma*

Leese, Michael. Greek influences on Roman dowry law // [The Journal of Legal History](#). Vol. 40 (2019), issue 2, p. 130-154.

Classical and Hellenistic Greek laws and dowry practices were generally more progressive and provided more protections for wives than early Roman marriage law and practice. Roman dowry law then witnessed a series of significant developments over the course of the republic, beginning with the time when the Romans were coming into increased contact with Greek culture. Changes in social attitudes towards the conditions for women in marriage, their ability to control their dowries, and their right to own property, seem to have been responsible for these transformations in Roman family law. [---]

Märksõnad: Rooma õigus; perekonnaõigus; naised; abielu; omand; Kreeka; mõjud

TSIVILÕIGUS

RAAMATUD

[Tsiviilseadustiku üldosa seadus ; Võlaõigusseaduse, tsiviilseadustiku üldosa seaduse ja rahvusvahelise eraõiguse seaduse rakendamise seadus ; Märksõnaline sisujuht : tekst toodud muudatuste ja täiendustega seisuga 15.04.2019](#). - Tallinn : Juura, 2019. - 58 lk.

ARTIKLID

Biemans, Jan. Private law regulation of innovations and creditors' rights: what we can learn from domain name rights for blockchain rights // [European Review of Private Law](#). Vol. 27 (2019), issue 3, p. 455-484. The most significant innovation in recent years has been blockchain technology. Such innovations demand a response from the law. The most significant innovation of the last twenty-five years has been the internet. The relative lack of government regulation in the domain of public law has been one of the key features of the internet. The private law regulation of domain name rights has been left to private institutions to arrange this through contract law. Contract law, however, has its limitations when it comes to pledging, seizing and the forced sale of domain name rights. [---] These cannot be solved by bottom-up selfregulation. I will demonstrate this by discussing the law in the Belgian, Dutch, German and American jurisdictions. In particular, I will address the unique bottomup self-regulation of domain name rights in the Netherlands, which aims to replace statutory rules in the field of property law by contractual provisions. [---]

Märksõnad: plokiahela-tehnoloogia; Internet; domeeninimed; krüptoraha; asjaõigus; võlaõigus; eraõigus; innovatsioonid; omand; Belgia; Holland; Saksamaa; Ameerika Ühendriigid

Kohelmainen, Antti. Edunvalvojan edustusvalta ja päämiehen itsemääräämisoikeus // [Lakimies](#) (2019) n:o. 3-4, s. 289-312.

Kirjoituksessa käsitellään edunvalvojan edustusvaltaa ja päämiehen itsemääräämisoikeutta. Artikkelissa tarkastellaan tilannetta, jossa täysi-ikäisen päämiehen toimintakelpoisuutta ei ole rajoitettu ja edunvalvoja tekee oikeustoimia päämiehensä puolesta vastoin tämän tahtoa.

Märksõnad: eestkoste; esindamine; volitused; põhiõigused; esindusõigus; tahtevabadus; Soome

Салагай, О. О. ; Сошкина, К. В. Правовые подходы к установлению минимального возраста продажи алкогольной продукции // [Журнал российского права](#) (2019) № 5, с. 90-98.

Целью настоящей работы является анализ правовых аспектов установления и возможного увеличения возраста для продажи алкогольной продукции. Анализируются правовые основания, касающиеся продажи алкоголя с определенного возраста, юридическая перспектива, законодательство зарубежных стран и Российской Федерации, точка зрения судов и действующая судебная практика, позволяющая увеличить минимальный законный возраст продажи алкоголя. [---]

Märksõnad: alkohol; alkohoolsed joogid; müümine; piirangud; vanus; alaealised; teovõime; Venemaa

Asjaõigus

RAAMATUD

[Asjaõigusseadus ; Asjaõigusseaduse rakendamise seadus ; Märksõnaline sisujuht : tekst toodud muudatuste ja täiendustega seisuga 15.04.2019](#). - Tallinn : Juura, 2019. - 93 lk.

Võlaõigus

Fervers, Matthias ; Gsell, Beate. [Ergänzende Vertragsauslegung bei der AGB-Kontrolle im unionsrechtlichen Kontext](#) // Neue Juristische Wochenschrift (2019) Nr. 36, S. 2569-2574.

Der Beitrag zeigt, dass Voraussetzungen und Grenzen der europarechtlichen Zulässigkeit ergänzender Vertragsauslegung klärungsbedürftig sind, dass die „Drei-Jahres-Lösung“ weder zu überzeugen vermag noch europarechtlich haltbar sein dürfte und dass eine Vorlage an den EuGH dringend erforderlich ist.

Märksõnad: *lepingud; energia; tarnimine; Euroopa Liidu õigus; Euroopa Kohus; kohtulahendid*

Norr, Joonas. Perusoikeuksien horisontaalivaikutus sopimusoikeudellisen kohtuuden ja hyvän tavan tulkinnassa // [Lakimies](#) (2019) n:o. 3-4, s. 363-386.

Kirjoituksessa tarkastellaan perusoikeuksien horisontaalivaikutusten yleisiä oppeja sopimusoikeudellista kohtuutta ja hyvää tapaa määrittelevän kokonaisharkinnan näkökulmasta.

Märksõnad: *põhiõigused; lepinguõigus; hea tava; lepingud*

Wang, Qiang. In a cage of law: liability imputation system in the tort law on kept animals : a Chinese – German comparative study // [European Review of Private Law](#). Vol. 27 (2019), issue 3, p. 617-646.

The imputation of liability for damages caused by kept animals found in China's tort law is a unique, synthetic, and multidimensional dual system. On the one hand, hazard-based liability is the dominant factor, and on the other is fault-based liability the auxiliary factor. The Tort Law on kept animals is oriented towards the types of liability for damages caused by kept animals, rather than towards categories of animal types, and it categorizes liability degrees under both normal and special circumstances. While underlining the merits achieved by this liability imputation system in terms of its structure (on the macro-level), this article also probes into the problems and difficulties arising out of some key junctures (on the micro-level), especially as the system is put into practice and its operational complexity is revealed. Because of the strong affinity of the Chinese civil law, and especially tort law, with its German counterpart, this article references the German tort law on animal keeper's liability for an historical and comparative legal analysis, bringing more light to the Chinese system of liability. [---]

Märksõnad: *koduloomad; lemmikloomad; loomakasvatus; omanikud; vastutus; kahju tekitamine; Hiina; Saksamaa; võrdlev analüüs*

Perekonnaõigus

RAAMATUD

[Eastern and western perspectives on surrogacy](#) / eds. Jens M. Scherpe, Claire Fenton-Glynn, Terry Kaan. - Cambridge : Intersentia, 2019. - XII, 603 lk.

ARTIKLID

Behrentin, Rolf ; Grünenwald, Christoph. [Leihmutterchaft im Ausland und die deutsche Rechtsordnung](#) // Neue Juristische Wochenschrift (2019) Nr. 29, S. 2057-2062.

Der Fortschritt der Reproduktionsmedizin bringt immer wieder neue Formen zur Realisierung eines Kinderwunsches hervor. Damit einher gehen moralisch, gesellschaftlich, psycho-sozial und rechtlich ungeklärte Fragen. Eine dieser Formen ist Leihmutterchaft. Der Beitrag gibt einen Überblick zu den rechtlichen Fragen dieses Themenkomplexes aus Sicht des deutschen Rechts.

Märksõnad: *asendusemadus; reproduktiivmeditsiin; lapsed; lapsendamine; põlvnemine; peresuhted; kohulahendid; Saksamaa*

Busby, Nicole ; Weldon-Johns, Michelle. Fathers as carers in UK law and policy: dominant ideologies and lived experience // [Journal of Social Welfare and Family Law](#). Vol. 41 (2019), issue 3, p. 280-301.

This article explores how working fathers are conceptualised within the UK's work-family law and policy framework and whether a dominant ideology of fatherhood can be discerned. The socio-legal literature on men and masculinities is considered alongside established feminist theory on families, paid work and unpaid care to provide a backdrop to the analysis of current policy provision in this area. Three 'ideal' type ideologies of fatherhood are identified ('absent', 'involved' and 'active') which are used to critically examine the current legal framework. [---]

Märksõnad: *isad; lapsevanemad; isadus; töö- ja pereelu ühitamine; Suurbritannia*

Летова, Н. В. Усыновление (удочерение) ребенка как способ защиты его прав и законных интересов // [Государство и право](#) (2019) № 6, с. 66-73.

В статье автор исследовала правовую природу усыновления, определила особенности усыновления как приоритетной формы устройства ребенка, оставшегося без попечения родителей, выявила сущность усыновления как одного из юрисдикционных способов защиты прав и законных интересов ребенка. [---]

Märksõnad: *lapsendamine; lapse õigused; peretoetus; registrid; Venemaa*

Sanyal, Tilak. A mechanism design approach to child custody allocation in divorce // [European Journal of Law and Economics](#). Vol. 47 (2019), issue 3, p. 389-406.

The paper considers a household family comprising of husband, wife and their child. Each parent consumes a private good and contributes voluntarily for a household public good which is child's welfare. When divorce occurs, the court has an ex ante transfer mechanism for the parents such that truthful revelation of valuation of child's welfare by each parent becomes strategyproof. Based on this, the sole custody of child is assigned to the parent having the highest value.

Märksõnad: *abielulahutus; eestkoste; lapsed; lapse heaolu; hooldusõigus; ülalpidamiskohustus*

Skinner, Christine. One lawyer acting for two clients: implications arising from an experimental practice model 'family matters' // [Journal of Social Welfare and Family Law](#). Vol. 41 (2019), issue 3, p. 265-279.

The legal services market has faced unprecedented change following implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). Alternative business models and wider use of digital technologies have developed alongside debates about the future of legal practice in family law. [...] This paper contributes to that debate by highlighting implications for such practice innovations based on research evidence of solicitors' experiences of delivering an experimental model of practice: 'Family Matters Guides'. [...]

Märksõnad: *lapsevanemad; abielulahutus; mediatsioon; Suurbritannia; õigusabi; õigusnõustajad*

Zannoni, Diego. Jurisdiction and law applicable to civil partnership under Italian law // [Zeitschrift für Europäisches Privatrecht](#) (2019) Nr. 3, S. 571-592.

The paper presents Legislative Decree no. 7 of 2017 which has introduced a set of conflict-of-law rules for same-sex civil partnership in Italy. The following analysis does not just aim to satisfy a scientific interest. Italian civil partnerships can be entered into by foreign citizens regardless of their citizenship and residence status in Italy. This is of practical relevance for citizens of those states which do not provide for civil partnership in their legislation.

Märksõnad: *samasooliste partnerlus; kodakondsus; välismaalased; Itaalia; Euroopa Liidu õigus; rahvusvaheline eraõigus*

Zimmermann, Andrea Dagmar. [Großeltern 2.0 – Umgangsrecht der Großeltern mit dem Kind](#) // Zeitschrift für Rechtspolitik (2019) Nr. 2, S. 40-44.

Die Beziehung zwischen Kindern und ihren Großeltern rückt nicht zuletzt aufgrund der steigenden Lebenserwartung der Großelterngeneration in den Blickpunkt der Wissenschaft. Die *lex lata*, insbesondere § 1685 I BGB, wird der Bedeutung dieser für das Kindeswohl zentralen Beziehung nicht gerecht; die restriktive Rechtsprechung höhlt das Umgangsrecht weiter aus. Der Reformbedarf ist unübersehbar.

Märksõnad: *vanavanemad; peresuhted; lapsevanema-lapse suhe; kohtulahendid; Saksamaa*

ÄRIÕIGUS

RAAMATUD

Hannigan, Brenda. [Company law](#). - Oxford : Oxford University Press, 2018. - LXIII, 767 lk.

Gerner-Beuerle, Carsten ; Schillig, Michael. [Comparative company law](#). - New York, NY : Oxford University Press, 2019. - LXX, 1010 lk.

[Комментарий к Федеральному закону "О несостоятельности \(банкротстве\)" : постатейный](#) / под редакцией В. Ф. Попондопуло. - Москва : Проспект, 2019. - 1197 lk.

ARTIKLID

Almlöf, Hanna ; Bjuggren, Per-Olof. A regulation and transaction cost perspective on the design of corporate law // [European Journal of Law and Economics](#). Vol. 47 (2019), issue 3, p. 407-433.

For the corporate business model to be successful, it is important to align the interests of those who control and finance the firm. Corporate law has here an important task to fulfill. It offers a legal framework that can facilitate parties to conclude mutually preferable agreements at low transaction costs. The purpose of this paper is to show how to design corporate law to fulfill this task and apply this knowledge to a Swedish case. [...]

Märksõnad: *äriühinguõigus; Rootsij; tehingukulud; lepingud*

Dann, Matthias ; Markgraf, Jochen W. [Das neue Gesetz zum Schutz von Geschäftsgeheimnissen](#) // Neue Juristische Wochenschrift (2019) Nr. 25, S. 1774-1779.

Am 26.4.2019 ist das so genannte Geschäftsgeheimnisgesetz (GeschGehG) in Kraft getreten (BGBl. 2019 I 466). Der Beitrag stellt Ziele und Inhalt des Gesetzes vor und umreißt die mit der Neuregelung einhergehenden Folgen für die Praxis.

Märksõnad: ärisaladused; kõlvatu konkurents; juurdepääs infole; ettevõtlus; Saksamaa

Katsoulacos, Yannis. On the choice of legal standards: a positive theory for comparative analysis // [European Journal of Law and Economics](#). Vol. 48 (2019), issue 2, p. 125-165.

In contrast to existing economic theory on the choice of legal standards in the enforcement of competition law, we develop a modelling framework that accounts explicitly for (a) Courts' choices, given the substantive standard adopted and (b) Competition Authorities (CAs) setting legal standards anticipating Courts' choices, recognizing that CAs place at least some weight on the implications of their choices for the outcome of the judicial review process and, hence, for their reputation.[--]

Märksõnad: konkurentsioigus; majandusanalüüs; õigusnormid; kohtuasjad; Euroopa Liit; Ameerika Ühendriigid; Kanada

Mann, Thomas ; Schnuch, Franziska. Corporate Social Responsibility öffentlicher Unternehmen // [Die Öffentliche Verwaltung](#) (2019) Nr. 11, S. 417-425.

Eines der Gegenwarts- und Zukunftsthemen des Aktien- und Kapitalmarktrechts ist die 2017 gesetzlich eingeführte Berichtspflicht der großen kapitalmarktorientierten Unternehmen über ihre Corporate Social Responsibility (CSR). Die meisten öffentlichen Unternehmen des Bundes, der Länder und Kommunen werden hiervon jedoch nicht erfasst. Der Beitrag zeigt auf, dass den öffentlichen Unternehmen gleichwohl aufgrund ihrer Instrumentalfunktion für die Erfüllung öffentlicher Aufgaben und ihrer Bindung an Grundrechte und andere öffentlich-rechtliche Grundsätze auch ohne ausdrückliche gesetzliche Festlegung eine besondere Verantwortung im Bereich der CSR zukommt.

Märksõnad: ettevõtted; riigiettevõtted; vastutus; sotsiaalne vastutus; põhiõigused; avalik-õiguslikud juriidilised isikud; põhiseadused; Saksamaa

Reddy, Bobby V. Thinking outside the box – eliminating the perniciousness of box-ticking in the new Corporate Governance Code // [The Modern Law Review](#). Vol. 82 (2019), issue 4, p. 692-726.

On 16 July 2018, a new Corporate Governance Code was published. Like previous iterations, it applies on a 'comply-or-explain' basis, whereby companies are required to either comply with provisions or explain reasons for non-compliance. However, the new code substantially simplified the previous version of the code in an attempt to attenuate the process of 'box-ticking'. [--] This article elucidates the history of box-ticking, and the reasons why companies succumb to it, since Adrian Cadbury pioneered the concept of 'comply-or-explain' in 1992, before proposing an exclusively principles-driven approach to the Corporate Governance Code which would alleviate box-ticking and fulfill the original aspirations of Cadbury over a quarter of a century ago.

Märksõnad: äriühinguõigus; äriühingute valitsemine; õigusloome; Suurbritannia

Salo, Marika ; Oksaharju, Jukka. Järkevän sijoittajan monet kasvot // [Lakimies](#) (2019) n:o. 3-4, s. 418-446.

Artikkelissa analysoidaan organisaatiohuolimattomuuden vastuurakennetta ja sen osatekijöiden sisältöä sekä muodostetaan tätä koskeva tulkintasuositus.

Märksõnad: väärtpaberitur; väärtpaberid; investeringud; finantsturud; siseteabe väärkasutamine

Schön, Wolfgang. Organisationsfreiheit und Gruppeninteresse im Europäischen Konzernrecht [Zeitschrift für Unternehmens- und Gesellschaftsrecht](#) // (2019) Nr. 3, S. 343-378.

Rechtspolitische Vorschläge und wissenschaftliche Diskussion zum Europäischen Konzernrecht konzentrieren sich zunehmend auf den Begriff des „Gruppeninteresses“ als Ausgangspunkt bedeutsamer Abweichungen vom allgemeinen Kapitalgesellschaftsrecht im Recht verbundener Unternehmen. In diesen Überlegungen wird das „Gruppeninteresses“ vielfach als gemeinsames Interesse aller beteiligten Einzelgesellschaften verstanden und im Sinne von wechselseitigen Rücksichtnahme- und Ausgleichspflichten konkretisiert. [--]

Märksõnad: äriühinguõigus; ettevõtted; kontsernid; huvid; Euroopa Liidu õigus; Saksamaa

Schweitzer, Heike. Digitale Plattformen als private Gesetzgeber: ein Perspektivwechsel für die europäische „Plattform-Regulierung“ // [Zeitschrift für Europäisches Privatrecht](#) (2019) Nr. 1, S. 1-12.

Die Digitalisierung fordert das Privatrecht in seinen Grundfesten heraus. Durchgängige Grundlage der strukturellen Veränderungen ist die neue Bedeutung von Daten. Sie führt zu weitreichenden Veränderungen der Informationsbedingungen: fort aus einer Welt knapper Information, die in der Vergangenheit auch die Regeln des Privatrechts gepägt hat, hinein in die Welt überbordender Information und großer, unstrukturierter Datenmengen („big data“). [---]

Märksõnad: digitaalmajandus; andmepõhine majandus; jagamismajandus; andmekaitse; konkurents (maj.); järelevalve; õigusloome; eraõigus; Euroopa Liidu õigus

INTELLEKTUAALNE OMAND

RAAMATUD

[Copyright reconstructed : rethinking copyright's economic rights in a time of highly dynamic technological and economic change](#) / ed. by P. Bernt Hugenholtz. - Alphen aan den Rijn, The Netherlands : Wolters Kluwer, 2018. - XX, 338 lk.

[Enforcement of intellectual property rights in the EU member states](#) / ed. by Flip Petillion. - Cambridge : Intersentia, 2018. - XXVIII, 1243 lk.

ARTIKLID

Antonelli, Cristiano. A reappraisal of the Arrovian postulate and the intellectual property regime: user-specific patents // [European Journal of Law and Economics](#). Vol. 47 (2019), issue 3, p. 377-388.

Recent advances in the economics of knowledge are raising questions related to the current intellectual property regime. This paper discusses the foundations of the appropriability trade-off, highlights the crucial distinction between inter- and intra-industry spillovers, and advocates the introduction of patents based on a combination of property and liability rules.

Märksõnad: intellektuaalne omand; patendid; vastutus; teadmised; majanduslik väärtus

Cheng, Wenting. China engages with the global intellectual property governance: the recent trend // [The Journal of World Intellectual Property](#). Vol. 22 (2019), issue 3-4, p. 146-161.

[---] In intellectual property (IP), China has recently engaged with global IP governance both responsively and actively. This paper answer the questions (a) how did China respond to the global IP up-ratchet which sets higher IP standards; and (b) how did China actively promote its agenda for the global IP governance. This paper argues that China has a clearer and more consistent position in its responsive engagement than in active engagement. In other words, China is more affirmative in making defensive coalitions opposing TRIPS-plus standards proposed by developed countries than promoting its own IP initiatives regionally or plurilaterally. [---]

Märksõnad: intellektuaalne omand; printsiibid; õigusloome; Hiina

Foo, Gavin ; Chew, Edmund. Singapore's biggest copyright reform in 30 years // [WIPO Magazine](#) (2019) no. 4, p. 15-19.

[---] For whom does copyright exist? This question underlies virtually all law reform efforts in the field. In today's complex normative landscape, where the only constant is technological and market change, policymakers are challenged to find solutions that fairly accommodate the concerns of an increasingly varied group of stakeholders who have yet more varied interests and perspectives. Prior to the enactment of the Singapore Copyright Act in 1987, the Parliamentary Select Committee considered 34 written representations on the draft Bill. [---]

Märksõnad: autoriõigus; reformid; Singapur

Henkel, Joachim ; Zischka, Hans. How many patents are truly valid? Extent, causes, and remedies for latent patent invalidity // [European Journal of Law and Economics](#). Vol. 48 (2019), issue 2, p. 195-239.

A substantial number of patents tested in court for validity are invalidated. If a similar portion of all patents was deemed invalid in hypothetical validity tests, then this would indicate a seriously flawed patent system due to restrictions unduly imposed by these erroneously granted patents on users and follow-on innovators. [---] Empirically, we focus on Germany, where revocation proceedings are separate from infringement suits and where, in court decisions during the period of 2010–2012, 45% of patents were determined to be fully invalid and 33% to be partially invalid. [---]

Märksõnad: patendiõigus; patendid; kehtivus; kohtulahendid; Saksamaa

Малеина, М. Н. Объекты авторского права на теле человека и проблемы их использования // [Журнал российского права](#) (2019) № 5, с. 55-65.

Сложный макияж, оригинальные (без трафарета) татуировки, роспись по телу квалифицируются автором статьи как произведения изобразительного искусства. Если грим включает пластические наклейки, а также парики и другие постижерные изделия, и к тому же используются косметические средства, то появляется новый объект авторского права (произведение искусства), который имеет воплощение в форме изображения и в объемно-пространственной форме. [---]

Märksõnad: *autoriõigus; kehakunst; kehamaalingud; tätoveerimine; omand; Venemaa*

Oker-Blom, Max ; Aalto-Setälä, Minna. Toiminimen yleistoimiala tavaramerkkirekisteröinnin esteenä // [Lakimies](#) (2019) n:o. 3-4, s. 465-474.

Kirjoituksessa tarkastellaan tavaramerkkilakiesitystä, Ruotsin tilannetta ja siihen liittyvää tavaramerkkidirektiivin tulkintaa.

Märksõnad: *kaubamärgid; ärinimed; seaduseelnõud; Euroopa Liidu õigus; seaduste kooskõlastamine; Soome; Rootsi*

Rosati, Eleonora ; Rosati, Carlo Maria. Data-based case law applied to EU copyright (1998-2018): a quantitative assessment // *Intellectual Property Quarterly* (2019), issue 3, p. 196-223.

This contribution proposes a novel approach, which combines traditional legal analysis with the use of a quantitative method, to analyse the standards employed in case law in a given area. The goal of our Data-Based Case Law (DBCL) is determining the meaning of relations between standards (considered in pairs) and appreciating the statistical significance of the resulting relations. We submit that this combined approach may be employed in any area of the law where there is a substantial body of judicial decisions. We demonstrate the functioning of our DBCL in relation to copyright law in the European Union (EU). Copyright has been subject to a limited harmonisation of the laws of individual EU Member States. [---]

Märksõnad: *autoriõigus; õigusloome; autonoomia; efektiivsus; proportsionaalsuse põhimõte; Euroopa Kohus; kohtulahendid; Euroopa Liidu õigus (WESTLAW)*

KESKKONNAÕIGUS

Affolder, Natasha. Contagious environmental lawmaking // [Journal of Environmental Law](#). Volume 31 (2019), issue 2, p. 187-212.

[---] The concept, and intentionally unfamiliar terminology, of 'contagious lawmaking' creates a space for both fleshing out, and problematizing, the phenomenon of the dynamic and multi-directional transfer of environmental law ideas. This article sets the stage for further study of the global diffusion of environmental law. It does so by identifying the phenomenon of contagious lawmaking and by making explicit some of the terminological and methodological challenges implicated in its study. The article draws on narratives of the 'global' diffusion of environmental impact assessment, cited as 'the most widely adopted environmental management tool in the world'.

Märksõnad: *keskkonnakaitse; õigusloome; globaliseerumine; rahvusvaheline koostöö*

Kauppila, Jussi ; Kautto, Petrus ; Römpötti, Essi. Säätelytaakan rakentuminen ympäristönsuojelussa // [Lakimies](#) (2019) n:o. 3-4, s. 264-288.

Kirjoituksessa käsitellään säätelytaakkaa ja sen rakentumista ja kustannuksia ympäristönsuojelussa.

Märksõnad: *keskkonnakaitse; õigusloome; põllumajandus; jäätmed; nanotehnoloogia*

Teodoroiu, Simona-Maya. [The administrative contract regulated by the environmental law](#) // *Perspectives of Law and Public Administration*. Vol. 8 (2019), issue 1, p. 128-135.

The study offers an integrated, multidisciplinary research and approach of the adhesion contract/standard contract, as regulated by the administrative law and environmental law. It offers both a synthesis of the creation and evolution of this contract in the administrative law, being then acquired by a more recent branch of law – the environmental law. It analyzes the actual ramifications and utility of the adhesion contract in environmental law, both on national and European level. [---]

Märksõnad: *keskkonnakaitse; halduslepingud; siseriiklik õigus; Rumeenia; Euroopa Liidu õigus*

TÖÖÕIGUS

RAAMATUD

[Blackstone's employment law practice 2019](#) / ed. by Gavin Mansfield. - Oxford : Oxford University Press, 2019. - C, 811 lk.

[Комментарий к Трудовому кодексу Российской Федерации \(постатейный\)](#) / под редакцией К. Н. Гусова, Э. Г. Тучковой. - Москва : Проспект, 2019. - 1370 lk.

[Mediation in collective labor conflicts](#) / eds. Martin C. Euwema, Francisco J. Medina, Ana Belén García, Erica Romero Pender. - Cham, Switzerland : SpringerOpen, 2019. - X, 339 lk.

ARTIKLID

Лютов, Н. Л. Трансформация трудового правоотношения и новые формы занятости в условиях цифровой экономики // [Журнал российского права](#) (2019) № 7, с. 115- 130.

В статье рассматриваются вопросы, связанные с воздействием информационной революции на правовое регулирование труда. В процессе массового внедрения информационных технологий в человеческую жизнь классическое трудовое правоотношение, ориентированное на промышленный труд, подвергается трансформации. Возникновение новых нетипичных форм труда (труд через онлайн-платформы, дистанционный труд и др.) приводит не только к количественному росту специальных норм трудового законодательства, но все из которых оптимальным образом отражают интересы сторон трудовых отношений, но и к тому, что классическое понятие трудового отношения и трудового договора становится применимым к сужающемуся кругу работающих. [---]

Märksõnad: *töösuhted; jagamismajandus; digitaalrajandus; töölepingud; Venemaa*

Sagan, Adam. „Stimmt so!“ – Die Anrechnung von Trinkgeld auf den gesetzlichen Mindestlohn // Neue Juristische Wochenschrift (2019) Nr. 28, S. 1977-1982.

Die beiden dürren Sätze des § 107 III GewO sind die einzige nennenswerte Regelung zum Trinkgeld im deutschen Privatrecht. Gerichtliche Entscheidungen zum Trinkgeld sind selten. Im rechtswissenschaftlichen Schrifttum wird das Thema wenig beachtet. Im Bereich des Mindestlohns herrscht allerdings die Auffassung vor, Trinkgeld könne unter bestimmten Bedingungen auf den gesetzlichen Mindestlohn anzurechnen sein. Dieser Ansicht tritt der Beitrag entgegen.

Märksõnad: *teenindustöötjad; palk; miinimumpalk; ettekandjad; omanikud; Saksamaa*

Signoretto, Camille ; Valentin, Julie. Individual dismissals for personal and economic reasons in French firms: one or two models? // [European Journal of Law and Economics](#). Vol. 48 (2019), issue 2, p. 241-265.

Most OECD countries divide dismissals into different types, depending on their grounds, as either disciplinary or economic. Restricted to individual dismissals, this article seeks to better understand how the differences between these two grounds with regard to statutory provisions result in the dismissal behavior of employers. Do employers choose this designation to minimize termination costs (severance payment and damages)? Using an original database of French establishments from 1999 to 2009, this article aims to analyze the factors influencing employers' use of economic and personal dismissals, providing insights into the enforcement capability of legal dismissal rules and the part played by strategic behavior. [---]

Märksõnad: *töösuhted; vallandamine; töölepingu lõpetamine; personalijuhtimine; Prantsusmaa*

SOTSIAALÕIGUS

Giertz, Lottie ; Melin Emilsson, Ulla ; Vingare, Emme-Li. Family caregivers and decision-making for older people with dementia // [Journal of Social Welfare and Family Law](#). Vol. 41 (2019), issue 3, p. 321-338.

This article addresses the dilemmas concerning legislation, individual autonomy and the reality of everyday life for people coping with dementia. We describe and analyse decision-making in relation to older people with dementia in Sweden, within the area of social work regulated by the Social Services Act and the Parental Act. [---]

Märksõnad: *sotsiaalteenused; dementsus; eakad; otsustamine; eestkoste; küsitlusuuringud; Roots*

Нансо, М. Б. Социально-экономические и правовые основы реформирования пенсионной системы // [Журнал российского права](#) (2019) № 5, с. 80-89.

Статья посвящена анализу экономико-правовых предпосылок и последствий реформирования пенсионной системы России. Проблема имеет особую актуальность в силу того, что речь идет о реализации конституционного права граждан России на пенсионное обеспечение, что находится в прямой зависимости от реализации иных конституционных прав, в частности права на труд. [---]

Märksõnad: *pensionid; pensionikindlustus; pensionisüsteemid; pensionireformid; Venemaa*

North, Gemma. Assessing for bruises on the soul: identifying and evidencing childhood emotional abuse // [Journal of Social Welfare and Family Law](#). Vol. 41 (2019), issue 3, p. 302-320.

The term 'emotional abuse' is acknowledged by law in the Children Act 1989 and refers to the wider social concept of harm that occurs in the psychosocial domain. Emotional abuse is a contested notion and a form of harm that statutory child protection social workers find difficult to recognise and gather evidence of. [---] This article draws on rich research data, gathered for an Economic and Social Research Council funded doctoral project. The data offers an original perspective on the interaction between social work and law, adding to existing literature on the frictions that exists. [---]

Märksõnad: *lapsed; vaimne vägivald; peresuhted; lastekaitse; Suurbritannia; sotsiaaltöö*

FINANTSÕIGUS

RAAMATUD

Burzec, Marcin ; Smoleń, Paweł. [Introduction to Polish tax law](#). - Berlin ; New York : Peter Lang, 2018. - 156 lk.

[European tax handbook 2019](#). - Amsterdam : IBFD, 2019. - 1250 lk.

Иванов, А. Ю. [Блокчейн на пике хайпа : правовые риски и возможности](#). - Москва : Издательский дом Высшей школы экономики, 2018. - 236 lk.

ARTIKLID

Дементьев, И. В. Налоговое правоприменение: смена правовых парадигм // [Журнал российского права](#) (2019) № 8, с. 96-106.

Административная и судебная практика последних лет свидетельствует о расширении диспозитивных начал налогового правоприменения. Это противоречит традиционной парадигме правоприменения. В ходе налогового правоприменения активно используются новые формы правовой деятельности (договор), а толкование гражданско-правовых понятий и терминов осуществляется в особом налогово-правовом режиме. Для налогового правоприменения характерно расширение судебной дискреции путем закрепления в налоговом законодательстве или судебной практике так называемой общей противоположной нормы. [---]

Märksõnad: *maksud; maksustamine; maksusoodustused; õigusloome; kohtulahendid; Venemaa*

Strand, Magnus ; Monsen, Erik. Passing-on unlawful charges: still no small // [European Public Law](#). Vol. 25 (2019), issue 2, p. 249-273.

This contribution focuses on the so-called passing-on problem in actions for repayment of charges levied by Member States in breach of EU law. 'Passing-on' occurs when the economic burden of a charge levied from a business is passed on to burden that business' customers, and possibly even further down the supply chain. [---] Using examples from their home jurisdictions Sweden and Norway, the authors demonstrate that the passing-on problem is a multi-million euro issue which remains governed by diverging national laws, albeit subject to some restrictions developed by the Court of Justice in the absence of EU harmonization. With a view to safeguarding legal certainty, the effective protection of EU law rights, and the elimination of random discrepancies among national rules that are crucial to the proper functioning of the internal market, the authors call for EU harmonization of the legal issues triggered by passing-on. To that end, the authors present two alternative models for harmonization.

Märksõnad: *maksustamine; kaudsed maksud; Euroopa Liidu õigus; Taani; Roots; Norra; siseriiklik õigus; seaduste kooskõlastamine; Euroopa Kohus; kohtulahendid*

KARISTUSÕIGUS

RAAMATUD

[The Oxford handbook of gender, sex, and crime](#) / eds. Rosemary Gartner, Bill McCarthy. - New York : Oxford University Press, 2019. - XI, 723 lk.

[Karistusseadustik ; Karistusseadustiku rakendamise seadus ; Märksõnaline sisujuht : tekst toodud muudatuste ja täiendustega seisuga 1. juuli 2019](#). - Tallinn : Juura, 2019. - 185 lk.

ARTIKLID

Ceffinato, Tobias. [Bereitstellen krimineller Infrastruktur im Internet](#) // Zeitschrift für Rechtspolitik (2019) Nr. 6, S. 161-163.

Angesichts der teils erheblichen Verlagerung der Begehung ganzer Deliktsfelder auf das Tatmittel Internet ist fraglich geworden, ob das geltende Strafrecht das mit dem Bereitstellen der digitalen Infrastruktur verwirklichte Unrecht (noch) adäquat zu erfassen vermag. Mit dem Entwurf eines Strafrechtsänderungsgesetzes zur Einführung eines Straftatbestands des „Anbietens von Leistungen zur Ermöglichung von Straftaten“ wird der Versuch unternommen, Antworten auf die aufgeworfenen Fragen zu geben. Der Gesetzentwurf verdient dabei nur zum Teil Zustimmung.

Märksõnad: *Interneti-teenused; kuriteod; karistused; seaduseelnõud; Saksamaa*

Fagerlund, Monica. Lähisuhdeväkivallan etenemiseses rikosprosessiin esteitã // [Haaste](#) (2019) n:o. 2, s. 13-15.

Lähisuhdeväkivallan etenemiseses rikosprosessiin on yhä ongelmia, joihin voisi vaikuttaa erityisesti koulutuksella sekä kehittämällä riskinarviointia ja toimintakäytäntöjä.

Märksõnad: *perevägivald; seksuaalne vägivald; politsei; statistilised andmed; Soome*

Zdun, Steffen. The fluid nature of street culture: non-violent participation, changes in adult life, and crumbling ethnic barriers in Germany // [European Journal of Crime, Criminal Law and Criminal Justice](#). Vol. 27 (2019), issue 3, p. 207-225.

This paper examines changes in the practice of street culture among non-violent young adult men. Many individuals who participate in street culture behave and talk in a pretty rough way among each other and act almost aggressively. This is done for establishing a certain reputation and self-image that relates to street culture rules and it is even widespread among non-violent players of this milieu. A comprehensive look on their behavior includes modifications of street culture practices in adult life. Another aspect of the fluid nature of street culture are crumbling ethnic barriers in this milieu in Germany. [---]

Märksõnad: *kuritegevus; noored; noortekultuur; grupidentiteet; käitumine; Saksamaa*

MENETLUSÕIGUS

RAAMATUD

Kask, Kristjan. [Kui seinad räägiksid : küsitlemise kunst](#). - Tallinn : Argo, 2019. - 160 lk.

[Täitemenetluse seadustik ; Tsiviilkohtumenetluse seadustiku ja täitemenetluse seadustiku rakendamise seadus ; Märksõnaline sisujuht : tekst toodud muudatuste ja täiendustega seisuga 1. aprill 2019](#). - Tallinn : Juura, 2019. - 108 lk.

ARTIKLID

Caruana, Mireille M. The reform of the EU data protection framework in the context of the police and criminal justice sector: harmonisation, scope, oversight and enforcement // [International Review of Law, Computers & Technology](#). Vol. 33 (2019), issue 3, p. 249-270.

This paper considers select emergent issues arising from the reform of the EU data protection framework, and how these might impact upon data processing in the law enforcement and criminal justice sectors. It analyses those aspects of the recently enacted Directive 2016/680 on data protection in the police and criminal justice sectors that will be determinative of its effective and consistent application in practice.[---]

Märksõnad: *kriminaalmenetlus; süüteod; andmekaitse; isikuandmed; politseitöö; järelevalve; seaduste kooskõlastamine; Euroopa Liidu õigus*

Edmond, Gary ; Martire, Kristy A. Just cognition: scientific research on bias and some implications for legal procedure and decision-making // [The Modern Law Review](#). Vol. 82 (2019), issue 4, p. 633-664.

Common law judges have traditionally been concerned about bias and the appearance of bias. Bias is believed to threaten the administration of justice and the legitimacy of legal decision-making, particularly public confidence in the courts. This article contrasts legal approaches to bias with a range of biases, particularly cognitive biases, familiar to scientists who study human cognition and decision-making. [---]

Märksõnad: *kohtunikud; õigusemõistmine; otsustamine; kognitiivsed protsessid; õiguspsühholoogia; tõendamine (jur.)*

Huotari, Kirsi. Ruotsalaisten tuomioistuimien tapa kommunikoida istuntosaleissa, tuomioistuimien ratkaisuisissa ja mediassa ja mitä me voisimme siitä oppia // [Lakimies](#) (2019) n:o. 3-4, s. 447-459.

Kirjoituksessa keskitytään kommunikaatiotapoihin, jotka merkityksensä ja ajankohtaisuutensa vuoksi ovat herättäneet mielenkiintoa ruotsalaisissa tuomioistuimissa.

Märksõnad: *kohtud; kohtunikud; kohtuasjad; kommunikatsioon; meedia; sotsiaalmeedia; Rootsi*

Lewinski, Kai von ; Kerstges, Tim. Interessenkonflikt zwischen der Tätigkeit als Prozessfinanzierer und Inkassounternehmen im Lichte des § 4 RDG // [Zeitschrift für Zivilprozess](#) (2019) Nr. 2, S. 177-209. „Rechthaben und Rechtsbekommen sind zwei verschiedene Dinge“ - so besagt es ein weithin bekanntes Sprichwort. Recht zu bekommen bedeutet im zivilrechtlichen Kontext meist, einen materiell bestehenden Anspruch prozessual durchzusetzen. [---] Das Herzstück dieses Beitrags liegt darin, durch Auslegung des § 4 RDG (Rechtsdienstleistungsgesetz) die Anforderungen an die jeweils betroffenen Interessen herasuzuarbeiten, bei deren Vorliegen ein Verstoß gegen § 4 RDG vorliegt. [---]

Märksõnad: tsiviilkohtumenetlus; õigusabi; inkasso; teenused; finantseerimine; huvide konfliktid; seaduste tõlgendamise; Saksamaa

Riekkinen, Juhana. Sähköinen todistelu haaste rikostutkinnalle ja todistelulle // [Haaste](#) (2019) n:o. 2, s. 32-33. Varsinkin oikeudenkäyntien varmuus- ja oikeudenmukaisuustavoitteisiin kohdistuu sähköisten todisteiden yleistyessä monenlaisia riskejä.

Märksõnad: kohtumenetlus; eeluurimine; elektroonilised dokumendid; tõendamine (jur.); Soome

Würdinger, Markus. „Justice delayed is justice denied.“ – Zur Europäisierung und Optimierung des Rechtsschutzes bei überlangen Zivilverfahren // [Zeitschrift für Zivilprozess](#) (2019) Nr. 1, S. 49-69.

[---] Es geht um die Europäisierung und Optimierung des Rechtsschutzes bei überlangen Zivilverfahren. Ausgangspunkt soll eine rechtstatsächliche Betrachtung sein. Sodann ist zu zeigen, dass jedermann nach der Europäischen Menschenrechtskonvention und nach dem Grundgesetz ein Recht auf ein Verfahren in angemessener Frist hat. [---]

Märksõnad: kohtumenetlus; euroopastumine; põhiõigused; menetlusaeg; tsiviilkohtumenetlus; põhiseadused; inimõiguste ja põhivabaduste kaitse konventsioon (1950); Saksamaa

RIIGIÕIGUS

RAAMATUD

Heringa, Aalt Willem. [Constitutions compared : an introduction to comparative constitutional law.](#) - Cambridge : Intersentia, 2016. - XV, 473 lk.

[Kohtunike XVIII korraline täiskogu : 8. veebruar 2019, Tartu.](#) - Tallinn : Riigikohus, 2019. - 52 lk.

[National constitutions in European and global governance : democracy, rights, the rule of law : national reports](#) / eds. Anneli Albi, Samo Bardutzky. - The Hague : T.M.C. Asser Press, 2019. - 2 kd. (1522 lk.)

Палант, Борис. [Билль о правах.](#) - Москва : Мысль" 2019. - 244 lk.

Старостин, Сергей Алексеевич. [Чрезвычайное положение : монография = State of emergency.](#) - Москва : Проспект, 2019. - 119 lk.

[Verfassungsgerichte und Obergerichte in Mitteleuropa](#) / Herbert Küpper, Attila Vincze (Hrsg.). - Berlin : Peter Lang, 2018. - 205 lk.

ARTIKLID

Beck, Wolfgang. Legal Tech und Künstliche Intelligenz // [Die Öffentliche Verwaltung](#) (2019) Nr. 16, S. 648-653.

Künstliche Intelligenz (KI) und Legal Tech (LT) sind Schlagworte, die nicht nur in der Öffentlichkeit für Aufmerksamkeit sorgen, sondern mittlerweile auch Gegenstand einer intensiven rechtswissenschaftlichen Diskussion sind. Was beide Begriffe beinhalten und wie sie sich voneinander unterscheiden soll nachfolgend verdeutlicht werden. [---] Die Abhandlung stellt Anwendungsbereiche vor und zeigt sowohl bestehende als auch künftige Regulierungsbereiche auf. Dabei wird deutlich, dass die Gesetzgebung die informationstechnologischen Möglichkeiten gezielt nutzen kann, um Gemeinwohlbelange auch im Internet zur Geltung zu bringen.

Märksõnad: tehisintellekt; infotehnoloogia; Internet; õigusabi; nõustamine; sotsiaalmeedia; Saksamaa

Blokker, Paul. Populism as a constitutional project // [International Journal of Constitutional Law](#). Vol. 17 (2019), issue 2, p. 535-553.

The engagement of conservative, populist governments with constitutional reform and constitution-making is perceived as a significant threat to the rule of law and democracy within the European Union. Constitutionalists often assume a relation of mutual exclusion between populism and constitutionalism. [---] The article first discusses populist constitutionalism in the context of the two, main modern

constitutional traditions: the modernist and the revolutionary ones. Second, I discuss the populist critique of liberal constitutionalism, with a central focus on the recent cases of right-wing populism in power in East-Central Europe. Four dimensions are prominent: (i) popular sovereignty as the key justificatory claim of populism; (ii) majority rule as the main populist mode of government; (iii) instrumentalism as the legal–practical approach of populists; and (iv) legal resentment as the populists' main attitude toward public law. [---]

Märksõnad: *populism; konstitutsionalism; parempoolsed parteid; demokraatia; Ida-Euroopa; Kesk-Euroopa; Ungari; Poola; Euroopa Liit*

Бондаренко, Д. В. ; Путило, Н. В. Право на использование родного языка в Российской Федерации в условиях глобализации // [Журнал российского права](#) (2019) № 7, с. 43-55.

Языковые отношения являются основой жизнедеятельности любого государственного образования. От того, как и насколько они урегулированы правом, зависят жизнеспособность, политическая устойчивость, территориальная целостность, независимость и даже безопасность государства. В разных странах процесс формирования языкового законодательства и языковой политики шел по-разному, но всегда под влиянием исторических и экономических, а также геополитических условий и факторов. Российская историческая реальность имеет существенные отличия от европейской, и языковая правовая доктрина у нас прошла более сложный путь развития, причем на разных исторических этапах векторы развития менялись на диаметрально противоположные. [---]

Märksõnad: *riigikeel; emakeel; keelepoliitika; keelekasutus; keelelised vähemused; kakskeelne haridus; rahvusvaheline õigus; Venemaa*

Bumke, Christian. Die Entwicklung der Grundrechtsdogmatik in der deutschen Staatsrechtslehre unter dem Grundgesetz // [Archiv des öffentlichen Rechts](#) (2019) Heft 1, S. 1-80.

Seit ihrem Inkrafttreten vor siebzig Jahren sind die Grundrechte zu einem zentralen Pfeiler des deutschen Verfassungsstaates geworden. Wie sich das heutige Grundrechtsverständnis herausgebildet und sich über die Zeit verändert hat, diesen Fragen soll im Folgenden nachgegangen werden. Die Schilderungen konzentrieren sich auf das Forschungsgespräch in der Staatsrechtswissenschaft, nicht nur um den überbordenden Stoff beherrschbar zu halten, sondern auch, weil im Mittelpunkt des Interesses gewöhnlich die Rechtsprechung des Bundesverfassungsgerichts steht, deren Entwicklung in den vielfältigsten Zusammenhängen nachgegangen wurde und wird.

Märksõnad: *põhiõigused; õigusteadus; põhiseadused; konstitutsioonikohtud; kohtulahendid; Saksamaa*

Determann, Lothar ; Heintzen, Markus. Die verfassungsgerichtliche Normenkontrolle in Deutschland und den Vereinigten Staaten von Amerika im Vergleich // [Zeitschrift für Gesetzgebung](#) (2019) Nr. 1, S. 52-70.

Verfassungsgerichtliche Normenkontrollen führen in Deutschland und in den USA trotz unterschiedlicher Traditionen und unterschiedlicher normativer Kontexte zu überraschend ähnlichen Ergebnissen. [---] Der Beitrag vergleicht die einschlägige Rechtsprechung von Bundesverfassungsgericht und U.S. Supreme Court.

Märksõnad: *õigusnormid; kontroll; normikontroll; konstitutsioonikohtud; ülemkohtud; kohtulahendid; võrdlev analüüs; Saksamaa; Ameerika Ühendriigid*

Jarass, Hans D. Bedeutung des einfachen Rechts für die Bestimmung verfassungsrechtlicher Begriffe // [Die Öffentliche Verwaltung](#) (2019) Nr. 12, S. 457-468.

Das Grundgesetz enthält an zahlreichen Stellen Rechtsbegriffe, die auch im einfachen Recht Verwendung finden. Wenn nun im einfachen Recht der betreffende Begriff näher definiert bzw. konkretisiert wird, stellt sich die Frage, welche Bedeutung die einfachgesetzliche Konkretisierung für das Verfassungsrecht hat. Dem wird im Folgenden nachgegangen. Dabei wird den verfassungsrechtlich fundierten Auslegungsmethoden und dem Vorrang der Verfassung besonderes Gewicht zukommen. Abschließend werden die Befunde auf die aktuelle Problematik des Fernstraßenbegriffs in Art. 90 GG angewandt.

Märksõnad: *põhiseadused; lihtseadused; õigusselgus; seaduste tõlgendamise; Saksamaa*

Jürgensen, Sven. Verfassungsnormativität im Recht der Politik // [Die Öffentliche Verwaltung](#) (2019) Nr. 16, S. 639-647.

Politik und Verfassung stehen in einem komplizierten Verhältnis zueinander. Das Recht gibt der Demokratie ihre notwendigen Spielregeln und trägt so zur Legitimation politischer Herrschaft bei, soll den politischen Prozess aber weder in inhaltlicher noch in organisatorischer Sicht unnötig einengen. Ob

das Grundgesetz diesen Erwartungen gerecht werden kann, liegt maßgeblich daran, wie die entsprechenden Verfassungsnormen, vor allem Art. 21 und 38 GG, verstanden werden. Entgegen der Tendenz, sie mit überzogenen und nicht hinreichend reflektierten Anforderungen an die Politik zu überfordern, möchte dieser Beitrag die Realität der politischen Struktur und den Gedanken der Beeinflussbarkeit verbindlicher Entscheidungen zu Leitlinien des Verfassungsverständnisses im Recht der Politik machen.

Märksõnad: poliitika; põhiseadused; õigusnormid; parlamendid; parteid; valimisõigus; Saksamaa

Khaitan, Tarunabh. Constitutional directives: morally-committed political constitutionalism // [The Modern Law Review](#). Vol. 82 (2019), issue 4, p. 603-632.

About 37 state constitutions around the world feature non-justiciable thick moral commitments ('constitutional directives'). These directives typically oblige the state to redistribute income and wealth, guarantee social minimums, or forge a religious or secular identity for the state. They have largely been ignored in a constitutional scholarship defined by its obsession with the legitimacy of judicial review and hostility to constitutionalising thick moral commitments other than basic rights. This article presents constitutional directives as obligatory telic norms, addressed primarily to the political state, which constitutionalise thick moral objectives. [---]

Märksõnad: põhiseadused; konstitutsionalism; moraal; poliitika; demokraatia; liberalism; põhiõigused; riigid; poliitiline identiteet

Клеандров, М. И. О необходимости психодиагностирования кандидатов на должности судей // [Государство и право](#) (2019) № 6, с. 5-17.

Исследуется важная проблема по формированию судейского корпуса Российской Федерации с учётом и на основе проведения психодиагностического обследования кандидатов на должности судей. До настоящего времени в Российской Федерации, в отличие от ряда иных государств, организационно-правовой механизм такого обследования отсутствует, нет и соответствующего законодательства. [---] Предлагается решение названной проблемы посредством совершенствования законодательства.

Märksõnad: kohtud; kohtunikud; psühhodagnostika; õigusloome; Venemaa

Koß, Michael ; Tan, Miryam. Beeinflussen Regierungen die parlamentarische Tagesordnung? Agendakontrolle und Zeitverteilung im britischen Unterhaus und im Deutschen Bundestag // [Zeitschrift für Parlamentsfragen](#) (2019) Nr. 2, S. 368-384.

Das britische Unterhaus war das erste Parlament der Welt, in dem die Regierung das Privileg erhielt, die Tagesordnung weitgehend allein zu bestimmen. [---] Im Folgenden wird zweierlei verglichen: zum einen die Verteilung von Plenarzeit auf wichtige und weniger wichtige Vorlagen und zum anderen die jeweilige Verteilung unter verschiedenen Regimes von Agendasetzungsmacht, also mit und ohne umfangreiche Privilegien für die Regierung bei der Kontrolle über die parlamentarische Tagesordnung. Die konkret miteinander zu vergleichenden Zeitabschnitte wurden dafür so ausgewählt, dass mit Ausnahme der unterschiedlichen Verteilung von Agendasetzungsmacht möglichst viele Gemeinsamkeiten bestehen.

Märksõnad: parlamendid; kodukorrad; valitsused; töökorraldus; Suurbritannia; Saksamaa

Leunig, Sven. Rechtliche Regelungen des Fraktionsausschlusses im Bundestag und in den Landesparlamenten // [Zeitschrift für Parlamentsfragen](#) (2019) Nr. 2, S. 276-298.

Der Ausschluss von Abgeordneten aus Parlamentsfraktionen ist in Deutschland ein seltener Vorgang. Gleichwohl kommt es immer wieder einmal vor, dass Abgeordnete ausgeschlossen werden. [---] Im Folgenden wird es um die Frage gehen, wie der Ausschluss von Abgeordneten in den Geschäftsordnungen der deutschen Bundestags- und Landtagsfraktionen zum gegenwärtigen Zeitpunkt (März 2019) geregelt ist. [---] Zudem werden in diesem Beitrag auch die Entwicklungen im Zeitverlauf innerhalb der Landtagsfraktionen beschrieben, soweit sie sich aus geänderten Geschäftsordnungspassagen zum Thema „Fraktionsausschluss“ ergeben.

Märksõnad: parlamendid; parlamendifraktsioonid; parteid; kodukorrad; liidumaad; Saksamaa

Niemi, Hanna-Maria. Ihmisarvo perustuslakivaliokunnan lausuntokäytännössä // [Lakimies](#) (2019) n:o. 3-4, s. 337-362.

Artikkelissa tutkitaan sitä, miten perustuslakivaliokunta käyttää ihmisarvon käsitettä, ja suhteutetaan valiokunnan käsitteelle antamia merkityksiä muutamiin keskeisiin oikeudellisesta ihmisarvotutkimuksesta esiin nouseviin teemoihin.

Märksõnad: parlamendid; parlamendikomisjonid; inimväärikus; põhiseadused; inimõigused; Soome

Roggan, Fredrik. Die (deutschen) Geheimdienste und das Grundrecht auf Unverletzlichkeit der Wohnung // [Die Öffentliche Verwaltung](#) (2019) Nr. 11, S. 425-433.

Eine inzwischen nahezu stetig erörterte Frage lautet, wie gewichtig die Aufklärungstätigkeit der Geheimdienste für die staatliche Aufgabe der Sicherheitsgewährleistung ist. Dabei wird nicht nur vereinzelt ein Bild der deutschen Sicherheitsarchitektur gezeichnet, wonach die Tätigkeiten von Strafverfolgungs- und Gefahrenabwehrbehörden gleichrangig neben denjenigen der Dienste stehen. Die Schranken des Wohnungsgrundrechts einerseits und gesetzgeberische Entscheidungen der jüngeren Zeit andererseits legen ein anderes Verständnis nahe.

Märksõnad: *julgeolek; luureteenistused; jälitustegevus; eluase; puutumatus; põhiseadused; Saksamaa*

Strohmeier, Rudolf W. ; Gamisch, Astrid. Die Veröffentlichung von Gesetzen im digitalen Zeitalter // [Die Öffentliche Verwaltung](#) (2019) Nr. 12, S. 478-487.

[---] Dieser Artikel gibt zunächst einen Überblick über die verfassungsmäßigen Anforderungen an die digitale Veröffentlichung von Gesetzen und ihre Vorteile gegenüber der herkömmlichen Methode. Danach werden technische Schwierigkeiten, die sich durch die elektronische Veröffentlichung ergeben können, und Lösungsansätze dafür diskutiert. Im Anschluss wird darauf eingegangen, warum eine Verfassungsänderung für deren Einführung nicht erforderlich ist. Schließlich werden einige weitere, mit der Problemstellung verbundene Fragestellungen angesprochen.

Märksõnad: *seadused (jur.); avaldamine; e-riik; juurdepääs infole; põhiseadused; Saksamaa*

HALDUSÕIGUS

RAAMATUD

[Comparative administrative law : administrative law of the European Union, its member states and the United States](#) / ed. by René Seerden. - Cambridge : Intersentia, 2018. - XXI, 440 lk.

[E-Government-Gesetz, Onlinezugangsgesetz : mit E-Government-Gesetzen der Länder und den Bezügen zum Verwaltungsverfahrenrecht : Kommentar.](#) - München : Beck, 2019. - XL, 1023 lk.

[Ehitus- ja planeerimisõigus : õigusaktide kogumik = Право о строительстве и планировании : сборник законов.](#) - Tallinn : Estlex, 2019. - 231 lk.

[Haldusõiguse üldosa : õigusaktide kogumik = Общая часть административного права : сборник законов.](#) - Tallinn : EstLex, 2019. - 269 lk.

[Personal data in competition, consumer protection and intellectual property law : towards a holistic approach?](#) / eds. Mor Bakhoun, Beatriz Conde Gallego, Mark-Oliver Mackenrodt, Gintarė Surblytė-Namavičienė. - Berlin, Germany : Springer, 2018. - VI, 577 lk.

[Väärteomenetluse seadustik ; Märksõnaline sisujuht : tekst toodud muudatuste ja täiendustega seisuga 1. jaanuar 2019.](#) - Tallinn : Juura, 2019. - 108 lk.

ARTIKLID

Altenschmidt, Stefan ; Hoss, Juliane. [Ressourcenabbau im Weltraum: Herausforderungen und Chancen für das deutsche Wirtschaftsverwaltungsrecht](#) // Neue Zeitschrift für Verwaltungsrecht (2019) Nr. 16, S. 1156-1161.

Die Möglichkeit des Abbaus natürlicher Ressourcen auf dem Mond und auf anderen Himmelskörpern ist in der letzten Zeit aufgrund der technologischen Fortschritte aber auch der intensiver werdenden Weltraumaktivitäten der Volksrepublik China stärker in das Blickfeld der Öffentlichkeit geraten. In diesem Zusammenhang stellen sich Fragen zur Vereinbarkeit des Ressourcenabbaus mit den Bestimmungen des internationalen Weltraumrechts und der Fortentwicklung dieser Rechtsmaterie. [---] Der Beitrag zeigt auf, dass dies völkerrechtlich nicht zwingend ist und nationale Regelungen des Ressourcenabbaus im Weltall zulässig sind. [---]

Märksõnad: *loodusvarad; omand; ressursikasutus; varude juhtimine; kosmoseõigus; tehnoloogia areng; majandusõigus; rahvusvahelised õigus; siseriiklik õigus; Saksamaa; Hiina*

Coglianesi, Cary ; Lehr, David. [Transparency and algorithmic governance](#) // Administrative Law Review. Vol. 71 (2019), issue 1, p. 1-56.

Machine-learning algorithms are improving and automating important functions in medicine, transportation, and business. Government officials have also started to take notice of the accuracy and

speed that such algorithms provide, increasingly relying on them to aid with consequential public-sector functions, including tax administration, regulatory oversight, and benefits administration. [---] Can algorithmic governance be squared with legal principles of governmental transparency? We analyze this question and conclude that machine-learning algorithms' relative inscrutability does not pose a legal barrier to their responsible use by governmental authorities. [---]

Märksõnad: avalik sektor; tehisintellekt; tehisõpe; algoritmid; e-riik; Ameerika Ühendriigid

Dörner, Andreas ; Vogt, Ludgera. Politische Krisenkommunikation: welche Rollen nehmen Politiker in TV-Sondersendungen ein? // [Zeitschrift für Parlamentsfragen](#) (2019) Nr. 2, S. 411-433.

Politische Krisenkommunikation tangiert somit auch repräsentationstheoretische Dimensionen von Parlament und Regierung. Ohne dass in diesem Beitrag vertieft darauf eingegangen werden kann, ist doch in Rechnung zu stellen, dass die politischen Akteure bei ihrer Übernahme konkreter Kommunikationsrollen im Krisenmanagement auch symbolisch jeweils für „ein Ganzes“ stehen, wobei „das Ganze“ je unterschiedlich definiert ist: als Partei oder Fraktion, als Regierung, Parlament oder Behördenapparat, als Volk oder Staat. [---] Der vorliegende Beitrag versucht, diese Chancen und Risiken systematisch zu betrachten. Grundlage ist ein interdisziplinäres, qualitativ-empirisches Forschungsprojekt, das derzeit mit Unterstützung der Deutschen Forschungsgemeinschaft an zwei Standorten (Philipps-Universität Marburg und Bergische Universität Wuppertal) durchgeführt wird. [---]

Märksõnad: kriisikommunikatsioon; poliitiline kommunikatsioon; kriisijuhtimine; televisioon; poliitikut; Saksamaa

Etscheid, Mario. Funktionen, Prozesse und Konzepte der Fachaufsicht // [Verwaltungsarchiv](#) (2019) Nr. 2, S. 181-217.

Die Auseinandersetzung mit Fachaufsicht in der (vor allem rechts wissenschaftlichen) Literatur beschränkt sich größtenteils auf die Behandlung der Fragen, woraus die Pflicht und Befugnis zur Aufsicht abgeleitet werden, welche Bedeutung Hierarchie für Aufsicht hat, wann bzw. unter welchen Bedingungen Aufsichtsbeziehungen bestehen, welche Rechte einer Aufsichtsinstanz zustehen, ob und wann sie „präventiv“ und/oder „repressiv“ tätig wird und welche Bedeutung die Weisung als Aufsichtsinstrument hat und wo Grenzen für ihren Einsatz bestehen, welche abstrakten Maßstäbe bei welcher Art von Aufsicht anzuwenden sind. [---]

Märksõnad: avalik sektor; professionaalsus; vastutus; järelevalve; riigiasutused; põhiseadused; Saksamaa

Galetta, Diana-Urania. Public administration in the era of database and information exchange networks: empowering administrative power or just better serving the citizens? // [European Public Law](#). Vol. 25 (2019), issue 2, p. 171-181.

In computer science, data is an 'elementary' piece of information that is coded or codifiable. Thus, generally speaking, information generally includes the processing of more data, i.e. more 'elementary information'. Nonetheless, if access to a considerable amount of data leads inevitably to more information, an information overdose – to indicate that phenomenon resulting from the excess of data – certainly leads to less transparency. The output of too much data is namely a kind of 'opacity for confusion', with information overload causing just disorientation. [---]

Märksõnad: andmekogumine; andmetöötlus; avalik haldus; digitaalinformatsioon; andmekaitse; Itaalia; Euroopa Liidu õigus

Han, Minji. Intelligentes E-Government in Südkorea zur öffentlichen Dienstleistungsinnovation // [Die Öffentliche Verwaltung](#) (2019) Nr. 14, S. 543-551.

In Südkorea ist das E-Government schon seit Langem sehr fortgeschritten. Jetzt macht das südkoreanische E-Government nochmals einen neuen Sprung nach vorne. Denn mit dem Aufkommen der vierten industriellen Revolution, die auf verschiedenen Informations- und Kommunikationstechnologien basiert, sind neue E-Government-Strategien erforderlich. Mit dem intelligenten E-Government strebt Südkorea nach öffentlichen Dienstleistungsinnovationen, damit Bürger dieses an allen Orten in Gebrauch nehmen können und das E-Government von den Bürgern als ein persönlicher Sekretär betrachtet werden kann.

Märksõnad: e-riik; avalikud teenused; tehnoloogia areng; andmekaitse; Lõuna-Korea

Kment, Martin ; Berger, Anja. Obliegenheiten im öffentlichen Recht // [Verwaltungsarchiv](#) (2019) Nr. 2, S. 121-142.

Allgemein bekannt sind Obliegenheiten vor allem aus dem Zivilrecht, insbesondere aus dem Privatversicherungsrecht. Dennoch existieren auch im Bereich des Öffentlichen Rechts diverse

Obliegenheitstatbestände. In der rechtswissenschaftlichen Literatur bislang nicht mit derselben Aufmerksamkeit bedacht wie ihr Pendant im Zivilrecht sollen öffentlich-rechtliche Obliegenheiten Gegenstand des Beitrags sein. Dabei wird zunächst der Bestand gesichtet und in einem ersten Schritt geklärt, wo Obliegenheiten Anwendung finden, durch welche Merkmale diese gekennzeichnet sind sowie ob und in welche Kategorien Obliegenheiten unterteilt werden können. [---]

Märksõnad: *avalik õigus; kohustused; proportsionaalsuse põhimõte; põhiseadused; Saksamaa; Euroopa Kohus; kohtulahendid*

Koch, Pernille Boye ; Gottrup, Rikke. Reversible transparency: a study of the new Danish Access to Information Act // [European Public Law](#). Vol. 25 (2019), issue 2, p. 205-227.

This article analyses the new Danish Access to Information Act, specifically how it has controversially reduced public access to information when it comes to the most central political decisions. These changes represent an interesting development in a state usually considered an exponent for a high level of transparency in the public sector. We analyse how the Act has made it possible to reject applications for information to be used for ministerial advice and pertaining to documents exchanged between ministers and MPs, and we discuss the introduction of an article enabling the rejection of applications solely on the grounds that they will use considerable administrative resources. [---]

Märksõnad: *juurdepääs infole; informatsioonivabadus; avalikkus; Taani*

Moran, Gregg. [Procedural data security](#) // Journal of Internet Law. Vol. 22 (2019), issue 11, p. 1, 20-27.

To date, data security concerns have bewildered the legal system and regulated entities alike. But this does not have to be the case. Although some commentators have argued that having a statute or regulation governing data security would be inflexible and undesirable, this article suggests that a rule is in fact possible if it maintains the right focus. Specifically, the statute or regulation should focus on the procedures by which companies consider and adopt or reject their data security policies, rather than the substance of their ultimate decisions. In essence, the question becomes whether people entrusted with sensitive data act in good faith, rather than whether they act "reasonably."

Märksõnad: *andmekaitse; infoturve; arvutiturve; heauskus; õigusloome; Ameerika Ühendriigid*

Ramaswamy, Muruga P. [The impact of the new Chinese Foreign Investment Law 2019 on the administrative legal system governing foreign investments and implications for the investment relations with Lusophone Markets](#) // Juridical Tribune. Vol. 9 (2019), issue 2, p. 330-343.

In March 2019, China revamped its domestic legal regime governing foreign investments with a new Foreign Investment Law that will enter into force in 2020 ('FIL2019'). The paper examines how the new law impacts the administrative control of foreign investments in China. [---]

Märksõnad: *investeeringud; välisinvesteeringud; avalik sektor; kontroll; õigusloome; Hiina*

Rottenwallner, Thomas. Die Kontrolle durch die öffentliche Verwaltung – Systemschwäche zwischen Exzessen und Defiziten // [Verwaltungsarchiv](#) (2019) Nr. 2, S. 143-180.

Obwohl die öffentliche Verwaltung allenthalben damit beschäftigt ist, jemanden oder etwas zu kontrollieren und zahllose Diskussionen über ein zu viel oder zu wenig an Kontrolle stattfinden, gibt es bis heute keine allgemein anerkannte Lehre von der Verwaltungskontrolle. [---] Bedeutung erlangt dies vor allem bei Kontroll excessen, die durch ein übersteigertes Sicherheitsbedürfnis hervorgerufen werden können, und Kontrolldefiziten beim Mindestschutz der Bürger vor allgegenwärtigen Gefahren. Der Beitrag will sich hiermit näher auseinandersetzen.

Märksõnad: *avalik haldus; kontroll; järelevalve; terminid; Saksamaa*

Scott, Paul F. Secrecy and surveillance: lessons from the law of IMSI catchers // [International Review of Law, Computers & Technology](#). Vol. 33 (2019), issue 3, p. 349-371.

Recent years have seen a new and welcome transparency as to the legal framework governing many of the state's surveillance activities in the United Kingdom. The decline of secrecy as to law, however, is only one side of the coin. There remains a significant secrecy as to fact: not only when and where the state's capacities are deployed, but also what those capacities are. Taking as an example the situation of 'IMSI catchers' – devices which permit the detection of mobile phones and interception of its communications – this contribution suggest that this degree of factual secrecy makes it difficult (perhaps impossible) to secure accountability for the conduct of state surveillance, notwithstanding the new era of legal clarity in which we find ourselves.

Märksõnad: *jälitustegevus; julgeolekuteenistused; pealtkuulamine; privaatsus; salastamine; õigusselgus; inimõigused; kohtulahendid; Suurbritannia*

MEDITSIINIÕIGUS

RAAMATUD

Adido, Terry O. [Transplant tourism : an international and national law model to prohibit travelling abroad for illegal organ transplants](#). - Boston : Brill, 2018. - XI, 333 lk.

Laurie, Graeme T. ; Harmon, Shawn ; Dove, Edward S. ; Mason, John Kenyon ; McCall Smith, Alexander. [Mason & McCall Smith's law & medical ethics](#). - Oxford : Oxford University Press, 2019. - LII, 722 lk.

ARTIKLID

Hodson, Nathan. Permission without direction: gross negligence manslaughter and erasure following Bawa-Garba // [European Journal of Health Law](#). Vol. 26 (2019), issue 3, p. 183-203.

This article explores when a doctor convicted of gross negligence manslaughter would be erased from the medical register. The General Medical Council (GMC) sanctions guidance avoids directing the Medical Practitioners Tribunal (MPT) about erasure following gross negligence manslaughter and rulings at the High Court and Court of Appeal argue against any presumption of erasure after a doctor is convicted of gross negligence manslaughter. [---]

Märksõnad: arstid; ettekavatsemata tapmine; hooletus (jur.); kõrgema astme kohtud; kohtulahendid; meditsiinieetika; registrid; usaldusväärsus

Katzenmeier, Christian. [Haftungsrechtliche Grenzen ärztlicher Fernbehandlung](#) // Neue Juristische Wochenschrift (2019) Nr. 25, S. 1769-1774.

Das Verbot ausschließlicher ärztlicher Fernbehandlung wurde jüngst gelockert. Die Neuregelung gewährt allen Beteiligten mehr Freiheit und bietet Chancen auf eine bessere Gesundheitsversorgung, birgt aber auch Gefahren für Patienten und Risiken für Ärzte. Der Beitrag zeigt, dass auch nach der Liberalisierung des Berufsrechts das Haftungsrecht der Krankenbehandlung ohne persönlichen Kontakt recht enge Grenzen zieht.

Märksõnad: arstid; patsiendid; ravi; Internet; kaugtöö; e-tervis; vastutus; piirangud; Saksamaa

Montanari Vergallo, Gianluca. The Marco Cappato and Fabiano Antoniani (dj Fabo) case paves the way for new assisted suicide legislation in Italy: an overview of statutes from several European countries // [European Journal of Health Law](#). Vol. 26 (2019), issue 3, p. 221-239.

The article looks into the case involving Fabiano Antoniani, who, following a major road accident, was left tetraplegic. Marco Cappato drove him to a Swiss clinic where Mr. Antoniani took his own life by self-administration of lethal pentobarbital sodium. Cappato was put on trial, but the Italian Constitutional Court urged the Parliament to decriminalise assisted suicide in extremely serious cases. From a comparison with other European countries, approaches range from restrictive (banning both active euthanasia and assisted suicide), to entirely permissive. An intermediate approach only entails a ban on active euthanasia. [---]

Märksõnad: eutanaasia; abistatud enesetapp; Itaalia; Euroopa; konstitutsioonikohtud; kohtulahendid

RAHVUSVAHELINE ÕIGUS

RAAMATUD

Arnold, Samantha. [Children's rights and refugee law : conceptualising children within the refugee convention](#). - London ; New York : Routledge, 2019. - X, 207 lk.

Caiado, José Guilherme Moreno. [Commitments and flexibilities in the WTO agreement on subsidies and countervailing measures : an economically informed analysis](#). - Cambridge University Press, 2019. - XXIX, 246 lk.

Chetail, Vincent. [International migration law](#). - Oxford : Oxford University Press, 2019. - XLVII, 449 lk.

Ganne, Emmanuelle. [Can blockchain revolutionize international trade?](#) - Geneva : World Trade Organization, 2018. - XVI, 145 lk.

[German yearbook of international law = Jahrbuch für internationales Recht = Annuaire suisse de droit international. Vol. 61](#). - Berlin : Duncker & Humblot, 2019. - 605 lk.

Lixinski, Lucas. [International heritage law for communities : exclusion and re-imagination](#). - Oxford University Press, 2019. - XIX, 291 lk.

Petersmann, Ernst-Ulrich. [Multilevel constitutionalism for multilevel governance of public goods : methodology problems in international law.](#) - Oxford : Hart Publishing, 2019. - XXI, 389 lk.

Voulgaris, Nikolaos. [Allocating international responsibility between member states and international organisations.](#) - Oxford : Hart Publishing, 2019. - XXIV, 233 lk.

ARTIKLID

Du, Haomiao ; Heldeweg, Michiel A. An experimental approach to regulating non-military unmanned aircraft systems // [International Review of Law, Computers & Technology.](#) Vol. 33 (2019), issue 3, p. 285-308.

This article introduces three modes of regulatory experimentation – derogation, devolution and open-texture – for regulators to respond to the challenges brought by disruptive innovation such as non-military unmanned aircraft systems (UAS). [---] The principles of certainty, equality and proportionality express the legal values that guide decision-making towards legitimate experimental regulation. [---]

Märksõnad: droonid; kaugjuhitavad sõidukid; tehnoloogilised uuendused; tsiviilennundus; lennuohutus; õigusloome; Euroopa Liidu õigus; rahvusvahelised lepingud

Ekman, Åsa Odin ; Engblom, Samuel. Expanding the movement of natural persons through free trade agreements? A review of CETA, TPP and ChAFTA // [International Journal of Comparative Labour Law and Industrial Relations.](#) Vol. 35 (2019), issue 2, p. 163-200.

Researchers and international institutions have tried to solve a fundamental paradox in the politics of migration. While introducing stricter migration policy stands high on the agenda of many countries, demographic facts suggest that they will need to introduce more extensive labour immigration to avoid labour shortages. [---] This article explores one of the political options for resolving this: regulating the movement of natural persons through free trade agreements. It examines three recently concluded free trade agreements (FTAs), the EU–Canada Comprehensive Economic and Trade Agreement (CETA), the China–Australia Free Trade Agreement (ChAFTA) and the Trans-Pacific Partnership (TPP), in an attempt to answer two questions. [---]

Märksõnad: tööjõu liikuvus; vabakaubandus; rahvusvahelised lepingud; ränne (demogr.); isikute vaba liikumine; rahvusvahelised organisatsioonid

Hostovsky Brandes, Tamar. International law in domestic courts in an era of populism // [International Journal of Constitutional Law.](#) Vol. 17 (2019), issue 2, p. 576-596.

This article examines the manner in which the rise of populism affects the use of international law by domestic courts. It argues that populism may have a negative effect on the willingness of domestic courts to refer to international law. It further argues that although such response is understandable, it is regrettable, since incorporation of international law into domestic court rulings can serve as a counter-populism measure. Maintaining international law as part of the domestic legal discourse is particularly important in a populist setting, for two reasons. [---]

Märksõnad: kohtud; õigusemõistmine; populism; inimõigused; siseriiklik õigus; demokraatia

Kosińska, Anna Magdalena ; Mikołajczyk, Barbara. Does the right to migration security already exist? Considerations from the perspective of the EU's legal system // [European Journal of Migration and Law.](#) Vol. 21 (2019), issue 1, p. 83-116.

The aim of this article is to attempt constructing a conceptual framework and define the right to migration security and include it in the Europe-wide discourse on the migration crisis. In the adopted approach, the right to migration security is a third-generation right, i.e. a solidarity right in the doctrine of human rights. [---] The study analyses the range of the right to security in the context of human security and points out the necessity of ensuring the security of migration processes, which poses a special challenge to the international system of human rights. The authors also focus on highlighting the strengths of third-generation rights as a remedy to the problems faced by the international community. Finally, the authors propose to include the right to migration security in the EU's system for the protection of fundamental rights and the guarantees functioning within the area of freedom, security and justice.

Märksõnad: ränne (demogr.); kriisid; põhiõigused; inimõigused; turvalisus; Euroopa Liidu õigus

Kuner, Christopher. International Organizations and the EU General Data Protection Regulation // [International Organizations Law Review.](#) Vol. 16 (2019), issue 1, p. 158-191.

The importance of personal data processing for international organizations ('IOs') demonstrates the need for them to implement data protection in their work. The EU General Data Protection Regulation ('GDPR')

will be influential around the world, and will impact IOs as well. Its application to them should be determined under relevant principles of EU law and public international law, and it should be interpreted consistently with the international obligations of the EU and its Member States. [---]

Märksõnad: *andmekaitse; privaatsus; rahvusvahelised organisatsioonid; Euroopa Liidu õigus*

Sharkey, Amanda. [Autonomous weapons systems, killer robots and human dignity](#) // Ethics and Information Technology. Vol. 21 (2019), issue 2, p. 75-87.

This paper critically examines the relationship between human dignity and autonomous weapons systems (AWS). Three main types of objection to AWS are identified; (i) arguments based on technology and the ability of AWS to conform to international humanitarian law; (ii) deontological arguments based on the need for human judgement and meaningful human control, including arguments based on human dignity; (iii) consequentialist reasons about their effects on global stability and the likelihood of going to war. [---]

Märksõnad: *humanitaarõigus; robotika; arukad süsteemid; eetika; inimväarikus; sõjaõigus*

Spieker, Luke Dimitrios. [Does article 15 ECHR still matter in military operations abroad?](#) // Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (2019) Nr. 1, S. 155-183.

Much has been written on the United Kingdom's (UK's) "presumption to derogate" from the European Convention on Human Rights (ECHR) in military operations abroad. Obviously, the government's announcement to anticipate a general derogation under art. 15 ECHR in case the UK engages in future deployed operations has been subject to severe criticism. [---] The ECtHR seems to have developed a new standard – the standard of "arbitrariness" – in case of genuine norm conflicts between the ECHR and other international regimes like international humanitarian law.[---]

Märksõnad: *humanitaarõigus; sõjalised konfliktid; sõjalised operatsioonid; inimõiguste ja põhivabaduste kaitse konventsioon (1950); Suurbritannia; kohtulahendid*

Inimõigused

RAAMATUD

Callus, Anne-Marie ; Farrugia, Ruth. [The disabled child's participation rights](#). - London : Routledge, 2019. - VIII, 172 lk.

Draghici, Carmen. [The legitimacy of family rights in Strasbourg case law : 'living instrument' or extinguished sovereignty?](#) - Oxford : Hart Publishing, 2019. - XXXI, 422 lk.

Gonzalez-Salzburg, Damian A. [Sexuality and transsexuality under the European Convention on Human Rights : a queer reading of human rights law](#). - Oxford : Hart Publishing, 2019. - XVIII, 229 lk.

Odier-Contreras Garduño, Diana Itza. [Collective reparations : tensions and dilemmas between collective reparations and the individual right to receive reparations](#). - Cambridge : Intersentia, 2018. - XVI, 425 lk.

[The right to inclusive education in international human rights law](#) / eds. Gauthier de Beco, Shivaun Quinlivan, Janet E. Lord. - Cambridge University Press, 2019. - XXVIII, 704 lk.

Wewerinke-Singh, Margaretha. [State responsibility, climate change and human rights under international law](#). - Oxford : Hart Publishing, 2019. - XXV, 189 lk.

ARTIKLID

Cook, Kate. A mutually informed approach: the right to life in an era of pollution and climate change // European Human Rights Law Review (2019) issue 3, p. 274-290.

Considers the growing dangers of environmental pollution, and why states should agree an informed approach to the application of the right to life under ECHR art. 2 in such a context. Reviews studies on the perils of global warming, and examines the potential right to life elements of informed adaptation action, including measures to strengthen resilience and combat vulnerability, to promote non-discrimination, and to mitigate climate change.

Märksõnad: *inimõiguste ja põhivabaduste kaitse konventsioon (1950); inimõigused; kliimamuutused; keskkonnakaitse; rahvusvahelised kohtud; kohtulahendid; riigivastutus; saastamine (WESTLAW)*

Hilal-Harvald, Malthe. [The multilocal genesis and migration of the European face veil bans](#) // Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (2019) Nr. 1, S. 121-153.

Since 2010, Europe has seen the enactment of bans on face veils in the public space in several European jurisdictions. The French and Belgian face veil bans have been challenged and upheld in the European Court of Human Rights in three instances. These bans have caused a vast amount of scholarly literature; most of which criticizes the face veil bans for being unjustified restrictions on the freedom of religion. [---] Thus, the objective of this article is to illuminate the migratory dynamics that have led France, Belgium, Austria, the Netherlands, and Denmark to adopt the same legal strategy towards the perceived dangers of the Islamic face veil. By applying the metaphor of migration of constitutional ideas to the legislative histories of the five case studies as well as the links between them, this article demonstrates how the idea of banning face veils cannot be traced back to a single jurisdiction or legal tradition. [---]

Märksõnad: *usuvabadus; riigi-kiriku suhe; religioosne sümbolika; islam; põhiõigused; piirangud; kohtulahendid; Belgia; Prantsusmaa; Austria; Holland; Taani*

Fenwick, Helen ; Fenwick, Daniel. Finding „East“/“West“ divisions in Council of Europe states on treatment of sexual minorities : the response of the Strasbourg Court and the role of consensus analysis // *European Human Rights Law Review* (2019) issue 3, p. 247-273.

Reflects on the prejudice against sexual minorities in some Eastern European countries, and the tension created by the ECtHR's duty to protect such minorities while avoiding open conflict with some states. Discusses the opposing views on the protection of sexual minorities, and the court's responses to suppressions of support for such minorities, and to same-sex marriages. Considers whether a more robust defence of sexual minorities is justified.

Märksõnad: *Euroopa Inimõiguste Kohus; seksuaalvähemused; inimõigused; Ida-Euroopa; homofobia; kohtulahendid; samasooliste partnerlus; subsidiaarsus (WESTLAW)*

Sinani, Blerton. [Overview on the legal instruments of the Council of Europe in the field of administrative law](#) // *Juridical Tribune*. Vol. 9 (2019), issue 2, p. 298-316.

The interest in administrative justice has been growing in many countries recently. At the core of an accountable and transparent administration is the right to effectively challenge acts and decisions that affect civil rights and obligations, and so also the daily life of individuals. [---] This paper will analyze the certain provisions of the European Convention on Human Rights regarding mainly with the right to a fair trial and the right to an effective remedy and will try to give a concise retrospective to some of the most interesting cases of administrative nature decided by the European Court of Human Rights. [---]

Märksõnad: *põhiõigused; haldusmenetlus; õiguskaitse; inimõiguste ja põhivabaduste kaitse konventsioon (1950); Euroopa Inimõiguste Kohus; kohtulahendid*

Zysset, Alain. [Freedom of expression, the right to vote, and proportionality at the European Court of Human Rights: an internal critique](#) // *International Journal of Constitutional Law*. Vol. 17 (2019), issue 1, p. 230-251.

This article offers an internal critique of the European Court of Human Rights' deferential approach to the content and limits of the right to vote (under the right to free and fair elections, article 3 of protocol 1 to the European Convention on Human Rights). Rather than imposing an independent theory of democratic rights, the critique is internal as it relies on the court's own conception of democracy developed under article 10 ECHR (freedom of expression) and article 11 ECHR (freedom of reunion and assembly). It uses normative democratic theory to show that the court's conception under those rights reveals an utmost concern for political inclusion and that this conception is systematically used by the court to balance alleged interferences with this article. [---]

Märksõnad: *sõnavabadus; valimisõigus; inimõiguste ja põhivabaduste kaitse konventsioon (1950); vangid; kinnipeetavad; kohtulahendid; Euroopa Inimõiguste Kohus*

Euroopa Liidu õigus

RAAMATUD

Croon-Gestefeld, Johanna. [Reconceptualising European equality law : a comparative institutional analysis](#). - Oxford : Hart Publishing, 2019. - XXIV, 255 lk.

[Discretion in EU public procurement law](#) / eds. Sanja Bogojević, Xavier Groussot and Jörgen Hettne. - Oxford : Hart Publishing, 2019. - XXVII, 291 lk.

[The effectiveness and application of EU and EEA law in national courts : principles of consistent interpretation](#) / ed. by Christian N. K. Franklin. - Cambridge ; Antwerp ; Chicago : Intersentia, 2018. - XLVI, 531 lk.

[EU competition litigation : transposition and first experiences of the new regime](#) / eds. Magnus Strand, Vladimir Bastidas Venegas, Marios C. Iacovides. - Oxford : Hart Publishing, 2019. - XXVIII, 241 lk.

Finck, Michèle. [Blockchain regulation and governance in Europe](#). - Cambridge, United Kingdom ; New York, NY, USA : Cambridge University Press, 2019. - IX, 214 lk.

Koo, Justin. [The right of communication to the public in EU copyright law](#). - Oxford, UK : Hart Publishing, 2019. - XXVII, 250 lk.

Ruijter, Anniek de. [EU health law & policy : the expansion of EU power in public health and health care](#). - Oxford University Press, 2019. - XXXIV, 215 lk.

ARTIKLID

Alén-Savikko, Anette. Satelliitipaikannuksen häirintä lainsäädännön kohinassa // [Lakimies](#) (2019) n:o. 3-4, s. 240-263.

Kirjoituksessa käsitellään satelliitipaikannuksen häirintää lähinnä suomalaisen lainsäädännön näkökulmasta. Olemassa olevia oikeusnormeja tarkastellaan myös EU-oikeuden valossa.

Märksõnad: *satelliidid (tehn.); müra; positsioneerimine; raadiosignaaliid; õiguslikud aspektid; Soome*

Frantziou, Eleni. Constitutional reasoning in the European Union and the Charter of Fundamental Rights : in search of public justification // [European Public Law](#). Vol. 25 (2019), issue 2, p. 183-203.

This article argues that the CJEU's use of the EU Charter of Fundamental Rights in situations falling within the scope of EU law needs to be supplemented by clearer constitutional reasoning about the role of fundamental rights in the public order of the European Union. The article demonstrates, through an analysis of the Charter's drafting context, that the primary function of this instrument is to highlight the centrality of a set of public goods in the EU, rather than merely to add to the number of individual rights to which EU law gives rise. [---]

Märksõnad: *konstitutsionalism; põhiõigused; Euroopa Kohus; Euroopa Liidu põhiõiguste harta (2004); kohtulahendid*

Garcimartín, Francisco. The EU Regime on Securitisation: coordination between the regulatory framework and the conflict of law rules // [Zeitschrift für Europäisches Privatrecht](#) (2019) Nr. 1, S. 13- 40.

This article analyses the relationship between the EU securitisation regulation and the Commission's proposal on the law applicable to the third-party effects of assignment of claims. The former is an instrument of regulatory law, the application of which requires certain private-law conditions; in particular with regard to proprietary and insolvency law. [---]

Märksõnad: *väärtpaberid; tehingud; eraõigus; pankrotiõigus; omandiõigus*

Hancher, Leigh ; Marhold, Anna. A common EU framework regulating import pipelines for gas? Exploring the Commission's proposal to amend the 2009 Gas Directive // [Journal of Energy & Natural Resources Law](#). Vol. 37 (2019), issue 3, p. 289-303.

This contribution investigates the form and content of a new and updated European Union (EU) legal framework intended to regulate third-country import pipelines for gas, including the 'upstream' component of the Nord Stream 2 pipeline. The article will first set the scene and examine the essential features of the current legal regime regulating import pipelines in the EU and explore its extraterritorial dimension, including the discussion of the allocation of competences between the EU and its Member States. [---]

Märksõnad: *maagaas; gaasitransport; gaasijuhtmed; Euroopa Liit; liikmesriigid*

Narciso, Madalena. The regulation of online reviews in European consumer law // [European Review of Private Law](#). Vol. 27 (2019), issue 3, p. 557-582.

Most consumers consult online reviews before entering a contractual relation. Online reviews are written feedback or a rating left by consumers on a good or service they have experienced. Online review mechanisms are designed and controlled by online platforms. From a legal perspective, online reviews can be perceived as pre-contractual information: they tackle information asymmetries between businesses and consumers and they shape consumers' contractual will. [---] This article explores online reviews' relevance for private law by determining to what extent existing European consumer Directives

apply to them, focusing particularly the E-Commerce Directive and the Unfair Commercial Practices Directive.

Märksõnad: *tarbijakaitse; e-kaubandus; e-äri; Internet; teenused; info; kõlvatu konkurents*

Risso, Giorgio. Product liability and protection of EU consumers: is it time for a serious reassessment? // [Journal of Private International Law](#). Vol. 15 (2019), issue 1, p. 210-233.

[---] This article examines the interactions between the Directive, the Rome II and the Brussels I-bis Regulations in cross-border product liability cases. The aim of this article is to assess whether the piecemeal regime existing at the EU level risks undermining the protection of EU consumers. The analysis demonstrates that the regime is quite effective in guaranteeing an adequate level of consumer protection, but reforms are needed, especially to address liability claims involving non-EU manufacturers or claims otherwise connected to third states, without requiring a complete overhaul of the EU product liability regime.

Märksõnad: *tarbijakaitse; tootevastutus; Euroopa Liit; seaduste kooskõlastamine*

Schladebach, Marcus ; Becker, Frederike. [Die Verschärfung der Investitionskontrolle im deutschen und europäischen Außenwirtschaftsrecht](#) // Neue Zeitschrift für Verwaltungsrecht (2019) Nr. 15, S. 1076-1080.

Zunehmende ausländische Direktinvestitionen aus dem asiatischen Raum in Deutschland und anderen EU-Mitgliedstaaten sind einerseits ein erfreulicher Beleg für die Attraktivität des Wirtschaftsstandorts EU, können jedoch bei so genannten kritischen Infrastrukturen zu Gefahren für die öffentliche Sicherheit oder Ordnung der EU-Mitgliedstaaten führen. [---] Mit derselben Intention hat die EU im Frühjahr 2019 eine Verordnung erlassen, die mittels eines verbesserten Informationsaustauschs der Gefahr vorbeugen will, dass Drittstaatsinvestoren unkontrolliert ihre strategischen Wirtschaftsinteressen in Europa durchsetzen. Der Beitrag stellt diese Neuerungen vor.

Märksõnad: *majanduslik areng; investeringud; ettevõtted; välisinvesteringud; kontroll; julgeolek; Euroopa Liit; Hiina; Saksamaa*

Thym, Daniel. A bird's eye view on ECJ judgments on immigration, asylum and border control cases // [European Journal of Migration and Law](#). Vol. 21 (2019), issue 2, p. 166-193.

Many experts of EU migration law deal with ECJ judgments on a regular basis, but they rarely reflect on how individual rulings on diverse themes such as asylum, family reunification or return relate to each other. This article fills that gap and presents a horizontal analysis of 155 judgments combining quantitative and qualitative findings. Our statistical survey shows that selected themes and references from certain countries dominate the ECJ's activities. In qualitative terms, the article considers three overarching themes: the concept of public policy; the practice of statutory interpretation, including in light of objectives: the principle of proportionality and interaction with domestic courts.[---]

Märksõnad: *sisseränne; asüül; varjupaigataotlejad; statistika; Euroopa Kohus; kohtulahendid; proportsionaalsuse põhimõte*

Rahvusvaheline eraõigus

RAAMATUD

[The private international law of companies in Europe](#) / eds. Carsten Gerner-Beuerle, Federico M. Mucciarelli, Edmund-Philipp Schuster, Mathias M. Siems. - München : Beck, 2019. - XX, 769 lk.

Wilke, Felix M. [A conceptual analysis of European private international law : the general issues in the EU and its member states](#). - Cambridge : Intersentia, 2019. - XXVIII, 413 lk.

ARTIKLID

Huang, Jeanne. Chinese private international law and online data protection // [Journal of Private International Law](#). Vol. 15 (2019), issue 1, p. 186-209.

This paper explores how Chinese private international law responds to online data protection from two aspects: jurisdiction and applicable law. Compared with foreign laws, Chinese private international law related to online data protection has two distinct features. Chinese law for personal jurisdiction is still highly territorial-based. The "target" factor and the interactive level of a website have no play in Chinese jurisprudence. [---]

Märksõnad: *andmekaitse; rahvusvaheline eraõigus; kohtulahendid; Hiina*

Schuz, Rhona. Choice of law in relation to matrimonial property in the 21st century // [Journal of Private International Law](#). Vol. 15 (2019), issue 1, p. 1-49.

The traditional lack of consensus in relation to the choice of law rule/s governing matrimonial property has become topical and relevant over the last few years. The European Union, concerned about the impact of the disparities between the laws of Member States in this field, in the light of increasing divorce and migration, embarked on an initiative to harmonize private international law rules in relation to matrimonial property. [---] This article meets this need by analysing the extent to which the various approaches best promote central choice of law objectives. In addition, insights are gleaned from the experience of the Israeli legal system in relation to couples migrating from Islamic States. [---]

Märksõnad: *abieluvara; naised; diskrimineerimine; eraõigus; lisrael; Euroopa Liit*

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