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## **The report on an international academic conference “Bratislava Legal Forum 2016”**

“Bratislava Legal Forum” is an annual academic conference organized by Comenius University in Bratislava, the Faculty of Law. On the 21st and 22nd October 2016 it was held under the auspices of Andrej Danko, the Chairman of the National Council of the Slovak Republic. The major topic of the conference was “Alternatives for the Direction of the EU – Integration or Disintegration”. The conference was held on the occasion of the 95th anniversary of delivering the very first lecture at the Faculty of Law by Professor Augustín Ráth who was the first dean of the Faculty of Law at CU in Bratislava and the first Slovak rector of Comenius University in Bratislava. In the introductory word the Dean of the Faculty of Law Comenius University in Bratislava doc. JUDr. Eduard Burda, PhD assumed that “a superstate, in which all people will live together in peace, love and understanding, is an ideal, which appears in the human history practically since the idea of the state. From the Plato’s fundamental work “The Constitution” to the “United Federation of Planets” in the legendary Star Trek series (it must be acknowledged that nowadays it reaches far more people than the classical philosophers). In the last three decades, the European Union undoubtedly intended to create a superstate by the factual steps, even though the rhetoric of its representatives and especially the representatives of the individual Member States sometimes strongly denies this fact. The opinions of many politicians, but especially a considerable part of the general population of the European Union, recently presented a marked resistance against these trends”<sup>1</sup>. Then, he added that “this evolution is partly attributable to the historical consciousness of Europeans, most of which are living in its own state for centuries, but it is not reasonable to cover our eyes to the errors, which the European Union commits and which just intensify the dividing tendencies. The ambition of the international conference “Bratislava Legal Forum 2016” is to help to identify these problems and by the suggesting the legal solutions to find out the answers”<sup>2</sup>.

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<sup>1</sup> E. Burda, *Introductory Word*, Bratislava Legal Forum 2016 Conference Programme, p. 1.

<sup>2</sup> Ibidem, p. 1.

During the first day plenary session there were presented some papers related to the manifestations of integration and disintegration within the European Union with particular emphasis on the future of relations between the European Union and the Great Britain. The speech of JUDr Andreja Danko, who represented the National Council of the Slovak Republic, was devoted to some remarks concerning the problems related to the main topic of the conference. JUDr Andrej Danko is a keen observer of the changes in judiciary and public administration in the Slovak Republic. Professor Richard Fentiman, the Head of the Faculty of Law University of Cambridge, presented his observations on the relationship of Great Britain and the European Union in the future. Then, JUDr. Ján Šikuta representing the Supreme Court of the Slovak Republic showed the relations between the European Court of Justice and the European Court of Human Rights. Mgr. Kristína Považanová, PhD Vice-Dean of the Law Faculty of the Comenius University in Bratislava, referred in his speech to the situation of the refugees in Europe and how to develop common solutions in this regard.

The proceedings of the conference were divided into fourteen parallel thematic sections. The subject of the first section was associated with the substantive and procedural aspects of criminal law as *ultima ratio*. Criminal law is an area of law falling within the field of public law which protects a variety of relationships, which are primarily regulated by legal rules of the respective areas of law. Criminal law protects these relationships from their violation caused by gross fault which is extremely harmful to the society. In this sense, criminal law is of a subsidiary nature since it protects social values and relationships which are already governed by other areas of law. This nature is also seen in a fact that its measures (punishment) may be applied only after the legal or extra-legal measures have proved to be ineffective. This notion is usually expressed through a statement that criminal law represents the “last resort” measure (*ultima ratio principle*). During the international academic conference Bratislava Legal Forum 2016, the attention was drawn with respect to *ultima ratio principle* to the creation of substantive and procedural criminal law legal rules as well as to their interpretation by law enforcement bodies and courts.

The second discussion panel concentrated on the potential for the further harmonization in the area of financial law in the European Union. Financial crisis and subsequent debt crises in the EU Member States have led to the rise in initiatives aimed at harmonization of regulation in the area of public expenditure, in the area of state revenues, as well as in the area of financial market regulation. This section was intended for contributions which would have assessed the impact of the given initiatives and, in a broader context, look for an answer to a question where an optimum boundary between harmonization and free competition of alternative approaches would have been placed.

The third parallel session was devoted to the issues related to manifestations of extremism in the field of ethnic and religious intolerance. This section was intended

for experts from a wider spectrum of social sciences and humanities who specialized in manifestations of extremism and intolerance in the history of Slovakia and its neighboring countries. The attention was drawn to violent conduct instigated by cultural dissimilarity of an individual or an ethnic or religious group. Since the 19th century modern nationalism has provoked the escalation of some manifestations of intolerance. However, with the development of elements of the civil state, different forms of restrictions imposed on legal capacity were disappearing. The most tragic consequences in terms of the history of extremism were seen in the development of totalitarian national states, in Nazi Germany and its satellite states.

Social rights and their protection in the XXI century was the core of deliberations of the participants of the fourth session. During the discussion the attention was drawn to the involvement of states in this sphere. Social rights falling under the second generation of human rights are facing new challenges in the 21st century. These challenges are related to technological progress and the development of human resources but especially to the aftermath of economic crisis, constantly increasing globalization as well as to the current issues of economic and war migration. These rights are connected to equal conditions and equal treatment and they are related to the performance of state's economic and social role. Challenges faced by the EU Member States in the 21st century will definitely encompass the reaction to the given changes, especially in relation to the positive commitment to implement them and to protect rights such as the freedom to choose an occupation, right to conduct business activities and to carry on other gainful activities, right to engage in work, right to fair and just working conditions as well as the development of working conditions of particular groups (women, juveniles, or disabled persons). In addition to this, the commitment of states concerning the social security will also require significant attention, especially due to the fact that the European population is getting older and there is a lack of workforce.

The deliberations of the fifth panel of the conference focused on the problems of management and supervision in economic organizations in the context of EU law. Different standards required in governing and supervising, depending on the type of a business organization, were subject to comparative analysis with respect to selected EU or non-EU states jurisdictions and ECJ and ECHR case law.

The topics presented during the sixth session of the conference were related to the trends and the development of creativity in the field of international law in the beginning of the twenty-first century. International law is undergoing a complicated developmental period which is marked by the process of stagnation and fragmentation as far as its codification and progressive development is concerned. In terms of creation, interpretation, application and implementation of international law, it is necessary to seek new instruments which, in the growing absence of fundamental sources of law such as international treaties, international customary law and general

legal principles recognized by civilized nations, aid the perception of law as being the art of goodness and equity. In this regard, greater attention is drawn to subsidiary sources of law such as case law established by international tribunals and the doctrine established by the most qualified legal experts and their creative use in order to resolve urgent legal challenges connected with globalization and internationalization of many social relationships.

Collective redress was the subject of deliberation of the academics of the seventh session. The need for an intense interest in collective redress in the Slovak Republic results especially from the European law (namely from the European Commission Recommendation No. 2013/396/EU of 11 June 2013). Nowadays, Member States are required by EU law and international treaties ratified by the EU to establish in certain areas the injunctive collective redress mechanism and more Member States have also introduced the compensatory collective redress mechanism. The aim of this civil law section was to stimulate the interest of legal community in the given issue and to hold discussions about the need for the so called collective action and about specific features of national jurisdictions which ought to be reflected by legislator in the future legal regulation of this institute and to discuss the implications of this legal regulation for general procedural regime, in the strict sense, and in the broader sense, its implications for social and legal relationships.

The impact of EU law on the development of the principles and rules of administrative sanctions become the subject of research and debate among panelists of the eighth section of the conference. The section of administrative law focused on the need for the application of European law to administrative sanctioning and especially on the impact of European law on the formation of principles of administrative sanctioning and their application. The Convention for the Protection of Human Rights and Fundamental Freedoms, selected recommendations of the Committee of Ministers of the Council of Europe as well as related ECHR case law play an important role in this process. The choice of this topic also resulted from the fact that European law is insufficiently reflected by administrative authorities which carry on administrative sanctioning and it also stemmed from the resulting adverse nature of their decision-making process. The aim was to identify the respective basic issues and to define the principles which shall be applied in the process of administrative sanctioning.

The subject of a section no. 9 was the common European identity in the context of current legal challenges. The primary aim of European integration has always been to ensure peace across Europe. During the first decades, this objective was to be achieved namely through economic integration. However, this was becoming of ever more distinctive political nature, especially after the creation of the European Union, its citizenship and after the adoption of the Charter of Fundamental Rights. The creation of Schengen system and common asylum and visa policy also represented an important stage in this process. The starting point of this development was the

idea that states participating in European integration, despite significant differences between them, share common values which are evidenced mainly in the democratic form of governance and protection of human rights. Constitutional homogeneity or common legal (not only constitutional) principles which form the common European identity were frequently referred to in this regard. Current state of political development casts a rather different light on the issue of common European legal identity or common European values and at the same time puts it to the difficult test. Law has always been an integral part of social development and the fundamental tool for its implementation.

The tenth conference session was devoted to the internet as an area for the potential infringement of rights. Unfortunately, the internet is not immune to being misused to carry out unlawful activities. On the contrary, the seeming anonymity provokes conduct which one would think twice about and refrain from in the “analogue” world. It is not only the commission of crimes itself, such as dissemination of child pornography, “identity theft”, other frauds committed in relation to using electronic communication, purchase and sale of illegal goods, verbal offences targeted at specific groups of population or the infringement of intellectual property rights. The seemingly less harmful circulation of spam messages, interfering with one’s privacy, and protection of personal data, personality, business name and reputation of legal entities as well as unintentional hacking all represent rather wide-spread misconduct.

Protection of Rights in the Context of the Clash of Legal Culture was the topic of the eleventh panel. The subject of this section appeared to be very interesting and up-to-date in the context of migration crisis.

The academics of the twelfth session focused on the clash of legal cultures in Europe. This section concerned the current challenges faced by Europe and the whole world. The elements of new legal cultures are emerging in countries across Europe and neither their inhabitants, nor the authorities in the EU states have sufficient experience in dealing with them. This clash represents a challenge for the creation and application of law. A very important question remains to what extent the advantages gained through these new and enriching legal elements will correspond to the challenges and issues which the clash of legal cultures will bring about.

Criminal sanctions: progressive trends in the execution of criminal sanctions was the subject of the thirteenth panel. The execution of criminal sanctions undoubtedly represents one of the current criminal law issues. The issues concerning the development of legal regulation and new legal institutes are being discussed in this regard. These issues also encompass electronic monitoring of persons from the prison service perspective and open departments as a tool for the progressive execution of prison sentence. The development of legal regulation in this area requires that the Recommendation of the European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment is also followed.

The topic of the last fourteenth section was Europeanization of non-European legal area. The European Union not only created its own law but it also exports its law by means of various instruments to non-EU countries, starting with the export of general principles to detailed rules of technical nature. This phenomenon may be targeted, e.g. in concluding the contracts of association or in carrying on other external activities by the European Union, but it can also represent the accompanying consequence of the functioning of the internal market or of the adoption of European models by other integration groups without direct interference of the EU. The discussion held in this section focused on various aspects of the impact of international treaties and other external activities carried out by the EU on national jurisdictions.

It should be taken into account that thanks to the parallel sessions, the conference “Bratislava Legal Forum 2016” gained interdisciplinary nature. It was the platform for the presentation of research results for the experts from diverse disciplines. Interdisciplinary discourse also made it possible to present research activities. A particularly valuable benefit from the conference will be the use of the acquired knowledge in different areas of law focusing on practical legal solutions.

Faculty of Law and Administration of the University of Warmia and Mazury in Olsztyn in “Bratislava Legal Forum 2016” was represented by the Chair History of Law, Roman Law and Comparative Law, the Chair of Civil Procedure, the Chair of Criminal Law, and the Chair of Human Rights and European Law. The scholars presented the results of their research in selected panels of the conference.