

4th Polish-Portuguese PhD Students' Conference on Competition Law. Białystok, 10 June 2016

The 4th Polish-Portuguese PhD Students' Conference took place on 10 July 2016 in Białystok, Poland. The conference focused primarily on competition law issues in Portugal and Poland. It was organized by the Department of Public Economic Law at the Law Faculty of the University of Białystok. The conference was the result of on-going fruitful cooperation between the latter and the Católica Porto Law School, Catholic University of Portugal. The international character of the conference provided an excellent opportunity for Portuguese and Polish PhD students to exchange opinions on issues related to competition law in particular.

Professor Anna Piszcz (University of Białystok) opened the conference and welcomed a number of guests including: Professor Manuel Fontaine Campos (Católica Porto Law School), Professor Dusan V. Popovic (Faculty of Law, University of Belgrade), Professor Aleksander Werner (Warsaw School of Economics) and Professor Daniel D. Barnhizer (College of Law, Michigan State University). Professor Piszcz presented subsequently the assumptions and scope of the conference.

The first session was chaired by Professor Piszcz. Professor Manuel Fontaine Campos took the floor first with a presentation entitled "The regulation of state aid according to the Portuguese Competition Act". His speech centred on finding an answer to the question: what could/should be the role of National Competition Authorities (hereinafter, NCA) regarding state aid control? The speaker analysed the international trade and the economic rationale of state aid. The speaker also explained the rationale of supranational state aid and presented the scope of the control exercised by the European Commission in this regard. The last part of his presentation devoted to the role and powers of the Portuguese Competition Authority.

Professor Dusan V. Popovic spoke next presenting a paper entitled "Control of state aid from the perspective of an EU candidate country". He started his speech by comparing legislative frameworks referring to state aid control entrusted to a NCA in Western Balkans. Professor Popovic also made a comparison between provisions and legal frameworks that existed in the pre-accession period in Central and Eastern European Countries. In the last part of the presentation, the speaker indicated a vague



perspective of EU accession as the main problem with the harmonization of national state aid acts with the Treaty on the Functioning of the European Union.

Professor Aleksander Werner gave the third paper entitled “Control of state aid in Polish regulations”. The speaker devoted a large part of his presentation to institutions of state aid control in Poland. Professor Werner also focused on procedures applied in the evaluation of the compatibility of public aid with EU law and covered the relationships between EU and Polish state aid law. Furthermore, he analysed Polish regulations concerning the control of the granting of state aid.

Professor Daniel D. Barnhizer presented the last paper of the first session entitled “Contract automation – evaluating the normativity of codability”. Its author stressed two areas of automation in contract law: contract formation/standardization and the automation in legal jobs in contract. Professor Barnhizer presented examples of common law provisions preventing effective automation. In the last part of his presentation, the speaker explained what makes “codability” normatively desirable.

The first session ended with a panel discussion where the participants of the conference discussed legislative proposals and compared their national state aid control systems.

The second part of the conference included presentations prepared by PhD students from both Poland and Portugal that centred around state aid control issues, consumer protection and competition law. Professor Manuel Fontaine Campos moderated the second session of the conference.

Katarzyna Kimla (Warsaw School of Economics) spoke first discussing various forms of fiscal state aid in a presentation entitled “State aid granted by means of tax measures”. She highlighted the main sources of regulation both at EU and national level. She presented a number of different forms of tax reliefs, such as deferring tax payment, distribution of tax liability into instalments as well as full or partial redemption of tax arrears. They were followed by an analysis of examples taken from the Polish state aid system.

Paulina Korycińska-Rządca (University of Białystok) gave the second presentation entitled “New Polish model of abstract control of standard forms of agreements concluded with consumers under the Act on Competition and Consumer Protection”. The presentation focused on abstract control of contractual terms found in consumer contracts in Poland pursuant to the amendment of the Act on competition and consumer protection adopted in 2015, which came into force as of 17 April 2016. The speaker outlined a number of major changes introduced by the amendment and the key advantages and disadvantages resulting from providing a new model of abstract control of adhesion contracts. She spoke also of new challenges facing the UOKiK President, the National Competition Authority, and the outlook for the future.

Nuno Castro Marques (Católica Porto Law School, Catholic University of Portugal) presented the next paper entitled “Cartels in Portuguese procedures, investigative powers and new legal dimensions of the fight against anticompetitive agreements”. He described antitrust proceedings on anti-competitive conduct in Portuguese law and presented key competences granted to the National Competition Authority to prevent and fight cartels. Discussed in the presentation were also the main phases

of the proceedings, referring to procedural issues, the setting of fines as well as judicial review of the NCA's decisions. The speaker emphasized the importance of the authority's role in enforcing the Portuguese Competition Act.

Magdalena Knapp (University of Białystok) discussed subsequently the concept of abuse of superior bargaining power in a presentation entitled "Protection against the abuse of superior bargaining position". She addressed therein the problem of exploitative behaviour of one party which imposes unjust terms and conditions on a weaker contractual party. She analysed different legislative measures implement by states in order to address issues relating to abusive conduct of stronger contracting parties. The speaker presented a number of shortcomings present in existing regulations and incentives to introduce specific provisions on abuse of superior bargaining position.

The next part of the conference consisted of conclusions and a summary of the session devoted to the presentations made by PhD students. The conference allowed for the exchange and analysis of international experiences on competition law issues. The next meeting, to be held on 14 October 2016 in Białystok, is now eagerly awaited. It will focus on private enforcement of competition law and combating unfair competition.

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