



Call for Papers

Conference on *Rule of Law Challenges in the EU: Implications for Economic Law*

10th January 2019, Budapest, Hungary

Hungarian Academy of Sciences (MTA)
Centre for Social Sciences Institute of Legal Studies

Centre for Antitrust and Regulatory Studies, University of Warsaw

The rule of law, as a value which the Member States share with each other and with the Union, serves as the basis of the European Union, its policies and its legal order. It is inherent in the obligations imposed in law on the Member States and their enforcement and is central to a relationship of mutual trust between the Member States, in particular their institutions including national courts and tribunals. On the one hand, the Member States and their citizens legitimately expect that the Union institutions observe the rule of law in their actions. On the other, the Member States must comply with rule of law standards in their conduct under the scope of EU law and beyond. Inter-State cooperation in Europe is, therefore, premised, in politics and in the functional environment of law, on subjecting the exercise of public powers both at national and European level to similar constitutional requirements.

The rule of law is, in particular, a prerequisite for lawful and effective law enforcement. It requires that the enforcement authorities apply clearly defined legal rules, including prohibitions, to particular facts with sufficient transparency, uniformity and predictability so that private actors can reasonably anticipate what actions would be prosecuted and fashion their behavior accordingly. Their decisions should be based on sufficiently specific legal rules and their enforcement actions should be predictable and fair. This is particularly applicable for enforcement in the European Union where it takes place within compound frameworks combining European and national authorities and subject to rules and practices developed at both the European and the national level.

Recent developments in Central and Eastern European Member States have put the realization of Article 2 TEU in the operation of the European Union to jeopardy. EU's so-called rule of law crisis has hit hard the European integration project after an only partially resolved economic and financial crisis. The weakening of constitutional checks and balances and gradual constitutional backsliding in the Member States have also put pressure on EU enforcement frameworks, especially those where effective and uniform enforcement depends on the contribution of national authorities not only as a matter of policy, but also of observance of the rule of law.

In this conference, we aim to analyze the question of whether and how systemic and larger-scale weakening of constitutional safeguards, in particular the protection of fundamental rights and

institutional independence, have impacted the authority of EU and national economic law and its enforcement in the Member States. Additionally, we aim to scrutinize the overall impact of these developments for the European integration process. More specifically, we aim to examine whether and how national legislations have been disrupting the effective enforcement of economic law in horizontal and sector specific areas, how objectives of economic patriotism have been implemented in national law and how economic policy agendas have potentially contradicted those of market integration. Our investigation extends beyond substantive law; developments in the national institutional framework, in particular those affecting the independence and accountability of national administrative and regulatory authorities and those challenging the independence of the judiciary, will also be examined together with the EU's reactions (or the lack of its reactions) to these changes.

The organizers welcome contributions in the broad field of economic law and regulation (competition law, energy law, financial regulation, consumer law etc) that analyze in particular the following issues:

- How does the independence of the judiciary influence effective law enforcement?;
- How does the independence of administrative agencies, for example national competition authorities (NCAs) influence law enforcement?;
- In what ways is the decentralized enforcement of EU competition law affected by the level of independence of the NCAs?;
- How effective are accountability mechanisms exercised by national courts and national parliaments over administrative agencies?;
- How would the Commission's proposal for ECN+ improve independence and accountability mechanisms? What are the challenges of the implementation of this proposal?;
- Rule of law hiatuses in the design of common policies and/or the related institutional frameworks;
- Insufficient rule of law standards and guarantees in the enforcement mechanisms of the EU Commission and/or, EU networks or in EU agency enforcement;
- Systemic problems with effective judicial protection before EU and/or national courts;
- Systemic problems with the independence of national enforcement and/or regulatory agencies and national courts;
- Systemic insufficiencies of rule of law standards in administrative and/or judicial enforcement in the Member States;
- Significant gaps in the authority and/or enforcement of EU legal rules in the Member States.

Abstracts should be no more than 600 words and be sent to Kati Cseres (k.j.cseres@uva.nl) and Maciej Bernatt (mbernatt@wz.uw.edu.pl) not later than 25th November, 2018.

Full papers will be considered for peer-review for the special issue the organizers are planning to put together after the conference.

Preliminary Programme

Opening Remarks:

Kati Cseres (MTA TK JTI and University of Amsterdam)

Maciej Bernatt (University of Warsaw, Centre for Antitrust and Regulatory Studies)

Keynote address:

Eleanor Fox (New York University): Markets, Competition Law and Democracy

First Session: Rule of law challenges in competition law

Chair: Kati Cseres (MTA TK JTI and University of Amsterdam)

Speaker: Paul Nihoul (Judge, General Court, Court of Justice of the European Union)

Panel: Christopher Harding (Aberystwyth University), Firat Cengiz (University of Liverpool), Maciej Bernatt (University of Warsaw, Centre for Antitrust and Regulatory Studies)

Lunch

Parallel sessions with selected papers

Second Session: Economic governance in times of constitutional challenges

Chair: Márton Varjú (MTA TK JTI)

Speaker: Tony Prosser (University of Bristol): Economic Constitutions and Institutional Balance

Panel: Pieter Van Cleynenbruegel (University of Liège), Wojciech Sadowski (K&L Gates), Kati Cseres (MTA TK JTI and University of Amsterdam)

Closing speech:

Christopher Vajda (Judge, Court of Justice of the European Union)

Conference close

Venue: HAS Centre for Social Sciences Institute of Legal Studies (H-1097, Budapest, Tóth Kálmán u. 4.)

Queries: Marton Varju, varju.marton@tk.mta.hu.