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REPORT FROM THE COMMERCIAL LAW AND ECONOMIC LAW SECTION AT THE INTERNATIONAL SCIENTIFIC CONFERENCE BRATISLAVA LEGAL FORUM 2024 (BRATISLAVA, 17 – 19 SEPTEMBER 2024) / Dominika Pintérová, Regina Štastová, Mojmír Mamojka

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The Bratislava Legal Forum, as an inseparable symbol of the conferences of the Faculty of Law of Comenius University Bratislava, took place from 17 to 19 September 2024 in the premises of Comenius University in Bratislava. The central theme of this 10th Jubilee year was "*The Impact of European Law on National Legal Systems*".

On the first day of the conference, on September 17, 2024, three panels, consisting of prominent personalities and experts from practice, opened a joint discussion. In each panel, one central topic resonated and brought together other discussants.

The first panel on *"Twenty Years of Membership in the European Union: The Impact of the European Union on Justice"* featured a discussion in which participated Boris Susko, Slovak Minister of Justice, Vilém Anzenbacher, Czech Deputy Minister of Justice, Bence Tuzson, Hungarian Minister of Justice, and Zuzanna Rudzińska-Bluszcz, Polish State Secretary of the Ministry of Justice. This panel was moderated by Eduard Burda, Dean and Professor at Comenius University Bratislava, Faculty of Law.

The second panel presented a discussion on the topic *"The impact of membership in the European Union on the functioning of supreme judicial institutions"*, which was presented by discussants from application practice: Ján Šikuta (Slovak President of the Supreme Court), Petr Angyalossy (Czech President of the Supreme Court) and András Zsolt Varga (Hungarian President of the Supreme Court). The panel was moderated by Juraj Vačok, professor at the Faculty of Law of Comenius University Bratislava and judge of the Supreme Administrative Court of the Slovak Republic.

The last panel, which was part of the plenary session, was devoted to the topic *"Twenty years of advocacy in the European Union."* The discussion was moderated by Ondrej Laciak, Associate Professor at the Faculty of Law of Comenius University Bratislava, attorney at law and Vice-President of the Slovak Bar Association for Foreign Agenda. Under his leadership, the following participants spoke and discussed: Martin Puchalla (President of the Slovak Bar Association) and András Szecskay (Vice-President of the Hungarian Bar Association).

All three panels brought enriching discussions between participants not only during the panels, but also during the discussion in individual sections.

Subsequently, on September 18, 2024, the scientific part of the conference took place in individual sections. The Commercial and Economic Law Section was devoted to the topic: *"Current issues of commercial law, financial law and economic sciences in the context of the impact of European law on national legal systems"*. This section was attended by 8 national speakers with various interesting presentations. The section was moderated by Professor Mojmir Mamojka Jr. as the guarantor of this section. The topic of the discussion of the section was inspired by the overlap of European law and legislation into company law in the Slovak Republic. The central points of the discussion were the new EU acts and their impact on company law in the Slovak Republic *de lege lata* and *de lege ferenda*. Speakers brought key elements to the session as they reported on new European legislation and related challenges affecting commercial law.

Associate Professor Regina Hučková from the Faculty of Law of Pavol Jozef Šafárik University in Košice introduced the audience to the new legal regulation of digital services – the Regulation on Digital Services. In the analysis of the regulation in question, Associate Professor Regina Hučková paid special attention to the mechanism of online dispute resolution, pointing out the main advantages, also in connection with the existing out-of-court methods of dispute resolution introduced by previous European legislation.

In her presentation, Associate Professor Angelika Mašurová from the Faculty of Law of Comenius University Bratislava focused on shareholding structures with multiple voting rights as a tool for strengthening voting rights, as on 24 April 2024, the European Parliament adopted a legislative resolution on the proposal for a directive of the European Parliament and of the Council on shareholding structures with multiple voting rights in companies as part of the first reading, which seek admission of their shares to trading on an SME growth market. She stated that the current Slovak legislation does not allow for

the issuance of shares with multiple voting rights, which would privilege only a certain group of shareholders in accordance with the Draft Directive, but on the other hand, there are possibilities to achieve a similar effect.

Dr. Dominika Pinterová from the Faculty of Law of Comenius University Bratislava examined the limits associated with the use of artificial intelligence (AI) in the field of commercial law, through the lens of the Artificial Intelligence Act, focusing on the challenges it brings and what are its potential impacts on entrepreneurs and commercial relations. A key element was the analysis of the responsibilities of statutory and supervisory bodies of companies, as the AI Act extends professional (fiduciary duties) to the so-called special requirements for compliance with the AI Act.

Dr. Regina Štastová from the Institute of State and Law of the Slovak Academy of Sciences and at the same time the Faculty of Law of Comenius University Bratislava supplemented the discussion with the topic of the responsibility of the bodies of a joint-stock company for the provision of financial assistance. Allowing the possibility of providing financial assistance for the purpose of acquiring shares in a joint-stock company is a new institute of Slovak commercial law. This is a consequence of the transposition of Article 64 of Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 concerning certain aspects of company law. The aim of the paper was therefore to analyse the responsibility of the bodies of a joint-stock company for providing such a financing option, as an integral part of the protection of the company itself and its creditors in the event of non-compliance with legal conditions in the process of its provision.

Dr. Daniel Zigo and Dr. Matej Smalik from the Faculty of Law of Comenius University Bratislava focused on the impact of European law on foreign direct investment. As part of their contribution, they identified the current state and potential shortcomings of the current legislation in the field of foreign investment screening and at the same time outlined possible proposals for its improvement. The comparative approach of the research also allowed for a broader comparison with the approaches of Asian countries, thus creating a comprehensive picture of current trends and possible future challenges in the field of foreign investment screening.

Dr. Martin Spišák from the Faculty of Law of Comenius University Bratislava presented the piercing of the corporate veil in the light of EU law. He emphasised that a special type of piercing exists in EU law and is bound to Article 101 of the TFEU, while it is formed by the decision-making practice of the CJEU, not explicitly by the text of a legal norm. In particular, he interpreted the decisions of the CJEU: C-508/11 P in the case Eni, of 08.05.2013 and C-155/14 P in the case of Evonik, of 16.06.2016, while the argumentation in both decisions is similar.

Dr. Peter Šikulíneć from the Faculty of Law of Comenius University Bratislava focused his contribution on the analysis of how the new obligations arising from ESG regulations affect the fiduciary duties of statutory bodies and the rules of business judgment, and at the end of the paper he indicated that there may be a narrowing of the application of business judgment, as a result of ESG regulation. ESG regulation itself is an integral part of corporate law.

Associate Professor Jana Strémy from the Faculty of Law of Comenius University Bratislava traditionally dealt with issues focused on the position of influential personalities, this time in the law of the European Union. As she herself indicated, social networks and influencers appearing on them have become part of the marketing world, which is why she addressed the issues of influencer responsibility in her contribution. She has shown interest in addressing this topic in the future by announcing related issues, such as liability mechanisms and their enforceability in relation to influencers.

From the above contributions, it is possible to derive clear social and legislative trends and, consequently, the likely development of legal practice. The outputs of several speakers were intertwined with polemics over the existence and scope of legal responsibility for the "content" (i.e. *content*), which is disseminated (e.g.) by the already mentioned *influencers*, i.e. the question justifiably arises as to what conditions should be met (or how to grasp them normatively) in order for these persons to bear explicit and enforceable legal responsibility for the disseminated *content*. One of the ways to define the activities of *influencers* for the purposes of legal theory and at the same time to regulate them for the purposes of transparent and effective taxation of their income in the conditions of the Slovak Republic is to normatively or interpretively subsume this activity under *business* within the meaning of the Commercial Code or in accordance with a dedicated legal regulation. The participants of the session agreed that it is right to develop the concept of *liability for content at the same time* on the part of the providers of platforms through which this content can be disseminated. In other words, in an effort to create a functional normative framework *pro futuro*, it is not tolerable for the purpose of these platforms to be reduced to passively providing space for the hosting of any electronic content.

The interpretation of the scope of duties of statutory bodies of companies also gradually reflects aspects that rightly go beyond the traditional perception of the purpose of business corporations as entities primarily generating profits. Socio-legal events are more and more tangibly reflecting the requirements (legal, economic, environmental, etc.) for the so-called *sustainable business*, which – in our opinion – in the near future will also affect the perception of the institute of *business judgement rule* as a standard of conduct of the statutory body of a company. However, in anticipating the development of Slovak legislation, in contrast to some of the above-mentioned issues, we see room in the fact that the institute of *professional care*, in which this standard is reflected, does not necessarily have to be fundamentally amended, but it is sufficient if it is interpreted by means of legal opinions of courts naturally resulting in constant jurisprudence in the future.

Concentrating on the above, the participants of the section identified with the fact that in the current socio-legal phase with an emphasis on the European Economic Area, legislators and courts are rightly trying to formulate and enforce "*higher legal principles*" and thus positively influence a clearer value setting of the addressees of legislation.

In summary, the Commercial Law and Economic Law section at the Bratislava Legal Forum 2024 conference, focusing on the impact of European law on national legal systems, brought lively discussions and drew attention to the calls for national speakers. These discussions can serve as sources of inspiration for new regulations, which must inevitably face the challenges of current company law following the adopted European legislation.

On the third day of the conference, September 19, 2024, this year's Bratislava Legal Forum concluded with presentations by the guarantors and co-guarantors of the individual sections, which brought an evaluation of the course of individual sections, highlighting the most interesting contributions and, last but not least, setting resolutions, whether related to the conference or the topic for future years.