

## 31 THE XXVII<sup>TH</sup> CONGRESS OF THE INTERNATIONAL FEDERATION FOR EUROPEAN LAW (FIDE)

*Budapest, 18-21 May 2016*

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From May 18 to May 21 2016, Hungary hosted the XXVII<sup>th</sup> Congress of the International Federation for European Law (*Fédération Internationale pour le Droit Européen, FIDE*).<sup>1</sup> FIDE Congresses are the most prestigious forums in the European Union for discussing fundamentally important issues in European legislation. The Congresses are held every two years, traditionally attracting some five hundred attendants from all over Europe. It was not only on the four days of the Budapest Congress that European lawyers turned their attention to Hungary, since as the organizing country it also determined the main direction of research into and discussions on European law in the past two years, by defining the topics of the Congress.

FIDE<sup>2</sup> was founded in Brussels, Belgium in 1961 with the goal of studying the law and institutions of the European Communities. In the past 55 years, FIDE has become the most prestigious international organization of lawyers involved in the field of European law, whose members are among the most reputed legal scholars of the area.<sup>3</sup> It is the key objective of the Federation to promote the activities of the national associations that were established in the member states of the European Union and EFTA<sup>4</sup> with a view to pursuing research into European law and facilitate the relations and information exchange between the member states. The most important forum for this is the series of congresses organized

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1 An English language summary record of the four-day event can be viewed on the homepage of the Budapest Congress, via the following link: [http://fide2016.eu/index.php?option=com\\_content&view=article&id=105:the-international-legal-community-s-eyes-are-on-budapest&catid=37&Itemid=269&lang=en](http://fide2016.eu/index.php?option=com_content&view=article&id=105:the-international-legal-community-s-eyes-are-on-budapest&catid=37&Itemid=269&lang=en).

2 The official homepage of FIDE can be found at [www.fide-europe.eu/](http://www.fide-europe.eu/).

3 Zoltán Kereső, 'A FIDE (az EU jog Világszövetsége) Magyar Tagozat Egyesület megalapításáról' (On the Foundation of the Hungarian National Association of FIDE (the World Association of EU Law)), *Jogelméleti Szemle (The Journal of Legal Theory)*, No. 2004/3, pp. 35-36.

4 There are currently as many as 29 national member associations taking part in FIDE's activities, which work in the member states of the European Union, as well as in Norway and Switzerland of the EFTA member states.

*KINGA DEBISSO*

every two years, which connects the lawyers specializing in European law and the national laws of the EU member states. The position of the president of FIDE is filled by the president of the national association of the organizing country in the two years preceding the Congress. The FIDE Congresses allow the participating academics and the acknowledged officials of the EU institutions to discuss the current legal issues arising in relation to the development of the policies and institutional structure of European integration, as well as to study the potential solutions together. European law cannot be studied in isolation from the national law of the member states, therefore the EU law topics identified as the leitmotif of the Congresses are always discussed by the participants in the light of member state implementation practices. The key achievement of the FIDE Congresses is the synthesization of the research conducted by the rapporteurs, through which a great contribution is made to the development of European law.

The Hungarian FIDE Association was founded in November 2003, a few months before Hungary's accession to the European Union. In its establishment, Visiting Professor of the College of Europe Dr. Jenő Czuczai had a major role. He is currently also a standing member of the FIDE Executive Committee. Jean Monnet Professor of European law László Kecskés, and former Minister of Foreign Affairs Professor János Martonyi also played an important role in its foundation. Professor Ernő Várnay and Professor Miklós Király acted as former presidents of the Hungarian Association. The current president of the Association is Head of the Curia Dr. Péter Darák, its deputy president is Justice of the Constitutional Court and Dean of Pázmány Péter Catholic University, Faculty of Law, Professor András Zs. Varga, who also filled the chair and deputy chair positions of FIDE, respectively, in the period between 2014 and 2016.

Hungary's application for the organization of the 2016 Congress was accepted by the FIDE Executive Committee at the Madrid Congress in 2010. The Budapest Congress was organized jointly by the Curia of Hungary and Pázmány Péter Catholic University, Faculty of Law under the patronage of President of Hungary, Mr. János Áder. Professor Gyula Bándi was elected chairman of the Organizational Committee set up by Pázmány Péter Catholic University. The members of the Committee included Professor Péter Kovács, Judge of the International Criminal Court, Associate Professor Petra Lea Láncoš and Associate Professor, Head of Department Marcel Szabó. The Government made generous financial contribution to the organization of the Congress, besides which the National Bank of Hungary, the Association of Hungarian Lawyers and the Hungarian Bar Association also acted as sponsors.

The main topics of the 2016 Congress were defined by the presiding Hungarian FIDE Association, in cooperation with the FIDE Executive Committee. All the three topics discussed at the Congress are very topical and are of high significance for both Hungary and the European Union as a whole: 1) the European Banking Union established in response to the financial crisis is one of the key steps in creating a single European financial market;

31 *THE XXVIII<sup>TH</sup> CONGRESS OF THE INTERNATIONAL FEDERATION FOR EUROPEAN LAW*  
(FIDE)

2) the private enforcement and collective redress in European competition law may bring about substantial changes in the enforcement of consumer claims and in the area of collective actions; 3) for the enforcement of the principle of subsidiarity and the preservation of national sovereignty, the division of competences and regulatory powers between the EU and the member states is of utmost importance.<sup>5</sup> Besides the three main topics, the speakers of the opening and closing plenary sessions of the Congress discussed the issues of the protection of the constitutional identity of the member states, the international role of the European Union, as well as the consequences of the Transatlantic Trade and Investment Partnership for Europe.

Three internationally acclaimed scholars have agreed to act as general rapporteurs: Professor Takis Tridimas of King's College London for Topic 1, Professor Peter-Christian Müller-Graff of Heidelberg University for Topic 2, and Professor Jacques Ziller of Pavia University for Topic 3. The general rapporteurs compiled questionnaires on each of the topics, which were completed in the form of member state reports prepared by the national rapporteurs. Invited by the national FIDE associations, national rapporteurs were responsible for giving a detailed assessment on the implementation of the relevant field of European law in their own country, with a view to explore the effectiveness of European law and the problems faced by domestic legal systems when dealing therewith.<sup>6</sup> The main topics were also addressed by the institutional rapporteurs from the decision-making institutions of the European Union. The responses received were synthesized by the general rapporteurs in a summary report, in which supranational-level recommendations were formulated. The Congress publications thus give a very detailed overview of the issues critical for the development of the European Union. The event held in Budapest was the first one to make the Congress reports available to the participants both in a printed and electronic book version, published by Wolters Kluwer Publisher. The Congress also hosted an exhibition of the most prestigious European legal publishing houses.

The significance of the Congress is shown by the fact that its regular participants and speakers count the most renowned representatives of the legal science, the judges and advocate generals of the Court of Justice of the European Union, the officials of the Legal Services of the EU institutions, as well as the representatives of the law enforcement agencies of the member states. The Court and the Commission supports the event by providing professional level interpretation services, with simultaneous interpretation of the presentations and speeches of the Congress in English, French, and German.

5 Interview with Professor Gyula Bándi on the Budapest FIDE Congress, *Ügyvédvilág*, Vol. X, No. 12 (2015 December), p. 15.

6 Zoltán Kereső, 'A FIDE (az EU jog Világszövetsége) Magyar Tagozat Egyesület megalapításáról' (On the Foundation of the Hungarian National Association of FIDE (the World Association of EU Law)), *Jogelméleti Szemle (The Journal of Legal Theory)*, No. 2004/3, pp. 35-36.

KINGA DEBISSO

The Congress also gives an opportunity to the organizing member state to introduce its own country, culture and the main sights of the city hosting the event to FIDE members and guests. The Budapest-based Congress was held in the city center, in the building of the Kempinski Hotel Corvinus. During the evening receptions the participants had the chance to marvel at the view of the Danube bank, which is part of the UNESCO World Heritage, and they made a visit to the Castle Bazaar, located below the Buda Castle.

Following the initiative launched in Tallinn, Estonia, in 2012, the Faculty of Law of Pázmány Péter Catholic University organized a Youth Congress sponsored by the Konrad Adenauer Stiftung (Foundation) for young researchers on the day before the beginning of the Congress, i.e. on May 18. The conference was aimed to give an opportunity to the young representatives of European legal science to join the current research projects and the discussion of the topics of the Congress. The keynote speech of the Doctoral Student Conference was held by Dr. Matthias Goldmann, scholar at Heidelberg's Max Planck Institute for Comparative Public Law and International Law on the topic of constitutional pluralism.

On May 19, at the opening plenary session of the Congress Dr. Péter Darák, President of the Curia and of FIDE, as well as Professor and Rector of Pázmány Péter Catholic University Professor Szabolcs Anzelm Szuromi, O.Praem. welcomed the participants. Péter Darák emphasized that the law of the European Union has always had a special importance for the Central and Eastern European states and their legal professionals. In the countries of the region, *acquis communautaire* constituted an essential basis for the democratic transition and the opening to market economy well before their accession to the European Union.

In his welcome address, Professor Szabolcs Anzelm Szuromi, O.Praem. called the participants' attention to the need for the creation of a new *Ius Commune Europae*. A new common European legal framework, especially through the codification of European private law, may eliminate the differences arising from the peculiar features of the national laws and may prove to be more efficient in ensuring the enforcement of human rights through the rules that are becoming more and more uniform. He stressed that it is especially in the fields of contract law, liability beyond contracts and property rights where unified private law norms should be developed in the future.

In his keynote speech, Minister of Justice Professor László Trócsányi analyzed the conflict between the priority of EU law and the constitutional identity of the member states. He called the participants' attention to the need for answering a high number of relevant questions in this field. Thus, it bears great significance to what extent the constitutional identity of the member states, which is an inseparable part of their fundamental political and constitutional setup, is equivalent to national identity, and to what extent it can be coherent with the concept of national sovereignty. It should also be elaborated which elements of the constitutional identity of the member states the European Union

is obliged to take into account when it uses its competences. In connection with the division of competences between the European Union and the member states, which is one of the key topics of the Congress, the detailed analysis of these questions is an important future task of legal science.

President of the Court of Justice of the European Union Professor Koen Lenaerts highlighted that the most significant development for the Court of Justice of the European Union in the period since the last FIDE Congress has undoubtedly been the reform of the court system of the EU. In this context, a decision was made on the integration of the Civil Service Tribunal into the General Court, which will double in size from 28 to 56 judges by 2019 in three phases. This reform process aims to reinforce the efficiency of justice at EU level in a sustainable manner in the interests of EU citizens. It also seeks to ensure that the Court of Justice of the European Union is able to meet the challenges of the present and future alike. President Koen Lenaerts warned the participants of the Congress that the principle of the rule of law and the requirement of respecting human rights cannot be disregarded even amidst such grave crises as the still ongoing banking crisis, or the threat of international terrorism.

Dr. Francisco Fonseca Morillo, Deputy Director-General of the European Commission also called to the participants' attention that the institutions of the European Union are posed new challenges by the current events. These days, the European Commission, which drives the development of the European Union, has to respond to totally different situations than it had to in the decades that followed its foundation. As was emphasized by Jean Monnet too, those methods which were stipulated in the treaties that established the Communities are different from those that will probably be applied in the later phase of integration, among others, in matters of politics, security and education. In these situations, the experience gained in practice should be relied on by the European institutions. He stressed that the European Commission has to apply the EU law creatively, always suited to the situation in question but at the same time, accurately and efficiently.

Professor Armin von Bogdandy, Director at Heidelberg's Max Planck Institute for Comparative Public Law and International Law proposed the formation of a European legal space contrary to the general approach, which considers the approximation of the different legal systems as the tool for promoting integration. The European legal space incorporates the law of the European Union and the related international legal mechanisms, the European Convention on Human Rights and the different national laws, which activate or respond to transnational law through the discipline of comparative European law. Through this, European law determines the complex created by the mutually correlated legal systems, it offers a framework for the theoretical and dogmatic schemes and allows for the opposing powers to meet on a stage that is more neutral for the discipline of law. Within this frame, comparative European law will find a new mission and a solid legal foundation.

KINGA DEBISSO

Professor Marc Maresceau of Ghent University presented the legal, political and economic challenges that are currently faced by the European Union's neighborhood policy. The legal framework regulating the relations between the European Union and its neighboring countries is characterized by great complexity and diversity, as well as growing uncertainty. Professor Maresceau underlined that further enlargement of the European Union in the coming years does not seem to be a realistic goal. After the accession model, it is the EEA Agreement that offers the most complete and efficient legal framework for establishing an integration-oriented relationship between the EU and its neighborhood. However, he deems the transposition of this model in any countries outside the EFTA member states as virtually impossible.<sup>7</sup> Professor Maresceau also pointed out that the political developments in the European Union and Turkey seriously undermine the chances for a progressive integration of Turkey into the EU. In his opinion, the restoration of confidence and stability in the relations between Russia and the EU will be a fundamental condition for the establishment of a sound and successful neighborhood policy with the states of the Eastern Partnership.

The three main topics of the Congress were discussed in detail during the parallel working group sessions in the afternoon of May 19 and in the morning and afternoon of May 20. The experts attending the three discussion panels led by prestigious moderators had a lively and informative professional debate. In the course of these discussions, the general and institutional rapporteurs of the three topics summarized the responses given to the questionnaires and presented the key findings of their synthesizing research efforts and the conclusions that they had drawn from these for European law. The results of the panel discussions, as well as the recommendations that were formulated were presented by the general rapporteurs at the closing plenary session of the Congress.

The thematic presentations of the plenary session of May 21 analyzed the consequences of the Transatlantic Trade and Investment Partnership (TTIP) for Europe. Professor Marise Cremona of the European University Institute emphasized that the TTIP negotiations themselves, irrespective of their final outcome, involve important consequences for the future of the European Union and its common commercial policy. On the one hand, the negotiations well reflect, on the other hand, they also form the changing environment of the trade policy of the European Union. The negotiation process resulted in a number of changes in the communication of the institutions and the transparency of their operations, in which the European Parliament, the European Ombudsman and the civil society also played a key role. Professor Cremona underlined that during negotiating agreements which are of the regulatory or quasi legislative type, the involvement of and the provision of appropriate information to the European Parliament and the national parliaments may have fundamental significance for the approval of the agreement.

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7 The relations between Switzerland and the European Union are governed by a series of bilateral agreements.

In her presentation, Professor Inge Govaere, Jean Monnet Chair in EU Legal Studies at Ghent University analyzed the consequences of TTIP dispute settlement on the autonomous EU legal order. Based on the relevant rules of EU law and the respective legal practice of the Court of Justice of the European Union, she came to the conclusion that there is no such obstacle that would prevent the incorporation of a dispute settlement mechanism into the international agreements entered into by the EU. However, the dispute settlement provisions in an EU agreement may not affect the allocation of responsibilities in the EU Treaties and through this, the autonomy of the EU legal order.

Professor János Martonyi, former Hungarian Minister of Foreign Affairs – quoting the words of Pompey, i.e. ‘*Navigare necesse est*’ (‘To sail is necessary’) – stressed that trade is not only useful but also, indispensable. Both multilateral and bilateral commercial liberalization prove that free trade is one of the key drivers of economic growth. However, the liberalization measures should be dependent on strict and clear criteria. The proposals made by the European Commission concerning a new court system involved in investment disputes and regulatory cooperation<sup>8</sup> are aimed at safeguarding that a transatlantic trade and investment partnership is established, but at the same time that it functions in compliance with democratic principles and public control. Professor Martonyi reminded the audience that free and fair trade are not mutually exclusive categories, on the contrary, they are conditional upon one another.

After the panel discussion, in his closing speech Professor András Zs. Varga, Dean of the Faculty of Law of Pázmány Péter Catholic University summarized the achievements of the Congress. He pointed out that Hungary is situated in the heart of Europe and its future can only be secured by the future of whole Europe. The idea of “unity in diversity” determined the Hungarian constitutional identity for several centuries and allowed us to survive the Ottoman conquest of the 16th-17th centuries. In those times when the predecessor of today’s Pázmány Péter Catholic University was established by Archbishop of Esztergom Péter Pázmány at Nagyszombat, the majority of Hungary, including Buda and Pest, was occupied. The Budapest Congress pointed out a number of crisis situations with which the European Union and its member states have to cope in the upcoming years. However, the role of Europe remains to be acting as a lighthouse in stormy times, preserving the cohesion of the European institutions and citizens. As was put by Pope Saint John Paul II in Santiago de Compostela over thirty years ago, ‘Europe...: Find yourself... Be yourself. Discover your origins. Give life to your roots. Revive those authentic values that gave glory to your history and enhanced your presence on the other continents... You can still be the beacon of civilization and stimulate progress throughout the world.’

As the closing event of the Congress, the Presidency for the period between 2016 and 2018 was taken over by the member of the Court of Justice of the European Union Professor

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8 Commission Document, Regulatory cooperation in TTIP, The Benefits, 21 March, 2016.

*KINGA DEBISSO*

José Luís da Cruz Vilaça, acting on behalf of FIDE's Portuguese Association, as the host of the forthcoming XXVIIIth Congress.

The speeches and presentations of the opening and closing plenary sessions will be published after the event, in the fourth volume of the Congress Proceedings as an electronic publication, which will be available via the homepage of the Congress.<sup>9</sup>

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9 <http://fide2016.eu/>.