REVIEWS OF SCIENTIFIC EVENTS

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"To the Brink – and Back": German Delegation at the 2018 Munich Security Conference, Munich 16–18 February, 2018

On February 16–18, 2018, the 54th Munich Security Conference (*MSC 2018*) took place in the Bavarian capital city of Munich. The delegation of the German federal government consisted of Foreign Minister Sigmar Gabriel, Defense Minister Ursula von der Leyen, and Interior Minister Thomas de Maizière. One of the hosts of this year's conference was Bavarian Minister Horst Seehofer. Also, at least 30 members of the German Parliament and general Volker Wieker, the General Inspector of the German Armed Forces, also appeared this year in the south of Germany. Defense Minister U. von der Leyen and Interior Minister T. de Maizière were the most active members of the German delegation. They both participated in several informal meetings and official side events during the 3-day-gathering.

In a speech during the kick off the *MSC 2018* on February 16, 2018, German Defense Minister U. von der Leyen stressed the importance of political and military cooperation between Germany and France within the European Union (*EU*) and the Normandy format leading to the peaceful solution of the Donbas conflict. She recognized the initiation of permanent structural cooperation (*PESCO*) with the participation of 25 EU member countries and the creation of the European Defense Fund (*EDF*) by the European Commission in June 2017. In her opinion, they are the leaven for the future of "European Defense Union" and "the army of Europeans." At the same time, she stressed that *PESCO* is not a competition for NATO, and there is no threat of duplication of the Alliance's tasks and organizational structures. Mrs. U. von der Leyen repeated the postulate of establishing a mechanism of enhanced civil cooperation, comparable to *PESCO*, within the Common Foreign and Security Policy (*CFSP*). According to U. von der Leyen, actions taken within the EU last year could allow the EU to increase its strategic independence in the field of security and defense, as well as to benefit NATO by strengthening the European pillar of the NATO Alliance.

Despite emphasizing the importance of the German-French tandem and efforts taken by both countries to strengthen cooperation in the field of security and defense within the EU, U. von der Leyen clearly emphasized the need to maintain strong transatlantic bonds, which are the basis of NATO's strength. Von der Leyen also appreciated the U.S. efforts to increase its military presence across Europe as part of the Atlantic Resolve Operation and financing the European Deterrence Initiative (*EDI*), which increased from 3.4 billion USD in 2017 to 4.8 billion USD in 2018. She drew attention to the efforts currently being made by Germany to strengthen collective defense in NATO, including German participation in the VJTF (*Very High Readiness Joint Task Force*), Baltic Air Policing, and the enhanced Forward Presence in the Baltic states (*eFP*). She also stressed the importance of German participation in the "out-of-area" missions in the Middle East and Africa (*MENA*). It includes the German engagement in Resolute Support Mission in Afghanistan, Inherent Resolve Operation carried out from Jordan and Iraq, MINUSMA in Mali, as well as the in-

volvement of German civilian observers to the OSCE Special Monitoring Mission (*SMM*) in eastern Ukraine.

Defense Minister U. von der Leyen also underlined the role of the United Nations (*UN*) in resolving conflicts in both regional and global dimensions. Germany, apart from applying for the place of a non-permanent member of the UN Security Council, also undertakes efforts to reform it. Mrs. U. von der Leyen pointed out that currently, in many cases, the activities of the UN Security Council are paralyzed by its permanent members (the US, the UK, France, Russia and China) with the „right of veto." She spoke in favor of the need to strengthen the UN High Commissioner for Refugees (*UNHCR*), the World Food Program (*WFP*) and UNICEF. At the same time, Mrs. U. von der Leyen criticized President Donald J. Trump regarding his announcement on cutting U.S. contribution to the UN budget.

U. von der Leyen repeatedly stressed the need to continue efforts to modernize the German Armed Forces. It should include the acquisition of modern weapon systems, the transformation of military communication systems toward the full digitalization of the Bundeswehr. She also suggested that the German Armed Forces, in the coming years, will be more keen to cooperate with the private sector, for instance, startups companies. German Defense Minister described cooperation between the US Defense Department and enterprises from the Silicon Valley companies as a model solution for Germany.

U. von der Leyen also referred to the need to strengthen the Bundeswehr's cyber defense capabilities due to the growing number of foreign attacks on the German IT infrastructure, as well as the implementation of recommendations issued by NATO. She repeated that NATO, since the 2016 NATO Summit, has recognized cyberspace as one of the modern battlefields alongside land, air, and sea. As a positive signal in the development of German cyber defense capabilities, Defense Minister U. von der Leyen appreciated, therefore, the decision to establish of cyberdefense units (*Cyber- und Informationsraum, CIR*) within the Bundeswehr last year.

Speaking at the panel titled "Jihadism After the Caliphate," on February 17, 2018, German Interior Minister T. de Maizière stressed that despite the military successes reached by an international coalition fighting against the so-called Islamic State (*IS*) in the Middle East in recent months, there is still a serious terrorist threat to Germany and other EU countries. Both individual operatives and terrorist cells generate this threat. This factor demonstrates the attractiveness of *IS* ideology, especially among young Europeans. T. de Maizière also pointed out that a large percentage of German jihadists went to other regions where Islamic terrorist organizations operate using the breakdown or weakness of local state structures, for instance, in Libya, Yemen or Afghanistan. In his opinion, since the 2016 Brussels terrorist attacks in Brussels, there has not been any significant terrorist attack within the EU, which marked a sophisticated level of operational planning. The assaults that occurred after the Brussels attacks characterized by organizational simplicity. Nevertheless, they also had the high death toll and a wide response of mass media worldwide. It shows a clear decline of the operational capabilities of Islamic terrorist cells and individuals across the EU.

T. de Maizière also focused on problems in the circulation of intelligence information between law enforcement of EU countries. These obstacles depend on both technical problems related to the use of various IT systems by EU countries, and different national legal regulations. He also called for changes them by expanding the Schengen Information System (*SIS*) with the possibility of collecting biometric data. T. de Maizière declaimed to continue efforts to counteract Islamic terrorism effectively. In his opinion, currently ava-

ilable means and tools at the EU level should be used more effectively, including *SIS* and the passenger name record database (*PNR*). It is also necessary to continue the cooperation between special services and law enforcement within the EU, as well as in the framework of multilateral cooperation with the United States and the countries from the Middle East and North Africa (*MENA*).

EU countries should faster implement de-radicalisation plans by involving the non-governmental sector and religious communities. The EU should also increase its commitment to resolving regional conflicts in the MENA region, which have fueled Islamic fundamentalism. According to the German Interior Minister, it could be achieved by intensifying economic support to countries remaining under this threat.

T. de Maizière also emphasized that the 2015 migration crisis no have direct links to the growth of terrorist threat in Germany. He noted, however, that strongly radicalized individuals associated with the IS and Al-Qaeda, trying to hide among refugees, attempted to slip into the EU. The German authorities also spotted some cases of radicalization of people who have sought political asylum in Germany. He also stressed that the vast majority of terrorist attacks occurred in the EU in recent years were arranged and carried out by people permanently residing in EU countries and frequently having citizenship one of the EU countries, most notably France, Belgium or the UK.

Foreign Minister S. Gabriel used the *MSC 2018* to pay attention to the need to revitalize the system of both conventional and nuclear disarmament. At his speech and then press conference on February 18, 2018, he referred to the *2018 Nuclear Posture Review* conducted by the Trump Administration in January 2018, describing it as a serious threat to international order. Mr. Gabriel also said it was now up to Europe to take the lead in pushing for worldwide nuclear disarmament. As expected, he also mentioned the breakdown of the conventional arms control system within the Organization for Security and Cooperation in Europe (*OSCE*). Finally, Minister S. Gabriel called for taking steps to establish regulations at EU level to tighten arms industry exports to third countries outside the EU and NATO, especially to countries involved in ongoing armed conflicts.

The 54th Munich Security Conference traditionally focused on international conflicts happing around the EU and NATO neighborhood, the condition of the armed forces of NATO countries, and disarmament issues. The German agenda primarily included topics related to Franco-German military cooperation within EU, the future of *CSDP* and its new initiative known as *PESCO*, transatlantic ties as well as the terrorist threat from the *IS* and Al-Qaida. As expected, Defense Minister U. von der Leyen played a leading role among all German politicians who appeared in Munich. She was also the only one among members of the federal government presented in Munich, who was sure about the future in the next German cabinet. Finally, both S. Gabriel and T. de Maizière ended up on the sideline of the new government. Heiko Maas and H. Seehofer replaced them as Foreign and Interior Ministers respectively. This year Chancellor Angela Merkel did not decide to come over to Munich, leaving the stage for U. von der Leyen.

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Challenges and Opportunities for the EU Digital Single Market, Brussels, 23 April, 2018

In May 2015, the European Commission adopted the EU Digital Single Market (DSM) strategy in an effort to reduce barriers to cross-border online commerce. A series of legislative actions seek to eliminate barriers that hinder companies and consumers from using the internet to sell and buy from abroad. The aim of the conference was to answer several questions: what successes have been achieved? What challenges have been encountered and what further challenges should be expected? Participants have been asked to make an assessment of the progress made toward achieving the main priorities for strengthening the digital single market, the opportunities to accelerate progress and other potential future digital services initiatives at the EU level.

The conference was divided in 4 sessions. Speakers included experts, analysts, EU representatives, politicians, researchers and professionals from the digital sector. European Commissioner for Digital Single Market and Vice President of the European Commission, Andrus Ansip participated as a special guest.

Discussions during all sessions focused on digitalisation, the process defined as a main "disruption" of todays economy. The question about nature of this disruption – whether it is positive or negative – remained open. Three main recurring issues throughout the conference have been: data policy, digital platforms and artificial intelligence.

Data policy. Discussion was centred around General Data Protection Regulation (GDPR), which was to be implemented on 25 May 2018. Regulations of the digital market adopted within the GDPR by the European Commission invoked criticism and objections about overregulation on one side, while on the other they have been presented as an important step towards creating foundations of a coherent European policy on data protection. As A. Ansip stressed, the GDPR is a major asset for the EU – as confirmed by Facebook's plans of incorporating some of its ideas into company's global regulation.

From the scientific point of view, presented by Patrick Legros (Professor of Economics, ULB University in Brussels), there is a clash between the need for trust on the side of consumers towards companies and the need for big data collection which is necessary to provide high quality services. Data sharing creates perspectives for businesses but it also creates danger of impeding fundamental privacy right of consumers. Therefore, data policy creation requires different trade-offs. His view was shared also by experts and professionals. Discussion about data protection emerged between business and consumers. Roland Doll from Deutsche Telekom argued that the position of business and consumer protection agencies does not differ substantially, as the people protected by these agencies are in fact companies' clients. Although, as he stressed, the fundamental right for privacy should not be treated as absolute. Considering the dynamics of the process of digitalisation, a more flexible attitude is necessary, enabling to respect the right to privacy and at the same time to develop services of better quality by the companies. David Martin Luiz from the European

Consumer Organization (BEUC) agreed with R. Doll to some extent, but he also expressed support for current steps by the European Commission, which he also considered as too slow. As Maximilian Strotmann from the Cabinet of A. Ansip pointed out, also GDPR relates to the issues of communication privacy and data protection.

Within the assessment of regulations adopted by the European Commission in the GDPR, most experts stressed the need to keep new legislation proportionate. Adina Claici from Copenhagen Economics claimed that new law should have social purpose and should not be a response to the business demands. According to Siada El Ramly from EDiMA, in current action by the Commission the political will has overtaken the actual need for regulation. Just because a new business model is created does not mean the necessity for new legislation. She described current analysis as not enough fact based and the legislation process as too slow and not keeping up with dynamic changes. The criticism of European Commission's action was shared also by business representatives: Christian Borggreen from CCIA Europe and R. Doll, who also touched upon the investment perspectives on the European market. As he claimed, the chances for investment increase in new technologies (e.g. 5G) are low due to the long term unpredictability of the environment. It is caused by EU's action as a legislator trying to regulate a diversified and competitive market.

Above criticism was rebuffed by the Commission representatives: Thomas Kramler (DSM Task Force, DG COMP) and M. Strotmann. GDPR is in their opinion a right answer to the current dynamics. It aims to replace numerous micro-regulation on the national, local and sectoral level with general European framework for all companies and customers; it will therefore limit current overregulation. Within the discussion a distinction between overregulation on one side and self-regulation on the other was evident. An interesting motion of a middle-option came up, described as co-regulation.

Majority of the speakers agreed on a positive assessment of DSM strategy and the direction of the action by the European Commission. Most important achievements have been named, among them: end of roaming charges, portability rules and limiting of geoblocking. Simultaneously the process was perceived as too slow. As MEP Eva Mydell pointed out, the discussion about digitalisation should be less politically motivated and emotional and to higher extent based on expertise and deeper understanding of modern topics such as data policy, innovations or artificial intelligence.

Platforms. State of the European digital platforms sector has been analysed as well as its competiveness and perspectives for ensuring a fair and innovation-friendly platform economy. As highlighted by S. El Ramly, what is crucial is not trying to come up with a European competitor for Google or Amazon, but to enable small and medium companies on the EU market to widen their reach and strengthen their position, as it should fuel growth in European economy. Example of Spotify has been evoked – the only European company among the TOP 25 digital platforms worldwide, which was able to secure its position despite iTunes domination on the market. Another point of the discussion was the sole definition of a platform. As T. Kramler suggested, there are various business models of digital companies and Spotify is rather to be described as a distributor of music than as a typical platform.

The term of "network effect" has been introduced in the discussion by A. Claici. In her opinion, the effect of network does not only affect big platforms by creating "winner takes it all" conditions. There are also counter-examples of network effect causing small platforms' decline – as some people leave one platform, others may follow their example.

What's more, not all platforms enjoy network effect to the same extent. It strongly impacts social networks, which is not the case for such companies as Amazon or Uber. Referring to the issue of taxation of the "digital giants," C. Borggreen considered possibility of a side effect; some European companies could be forced to hamper their development in order to avoid high charges.

Artificial intelligence. The issue of AI comes up inevitably during discussions about data. Development of this technology bases on big data analysis. During the conference, AI has been described as "a next wave in digital revolution," able to bring new global winners. As China and USA are competing for leadership in this field today, Europe struggles with serious problems such as: insufficient digital skills, adoption of digitalisation as well as productivity puzzle. Although Europe stands well in terms of research and innovation, many companies face serious difficulties in the process of practical adoption of latest technologies and translating them into productivity gains. During the summary discussion A. Ansip stated the need to demystify AI in Europe, as it is already being used and it works within many sectors also connected with everyday reality (e. g. milk production or chicken farms). As he stressed, USA and China already have huge data sets, which Europe is missing so far. A. Ansip declared possibility of achieving the level of 20 billion USD for AI technology by the EU until 2020 (USA level in 2016). Pointing at France as a good example, he noted that Europe's success in this field depends on the investment activity of all Member States.

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Current Challenges for the Application of the Rule of Law in European States, Poznań, 12–13 April, 2018

More recently, a few European states have been alleged to have violated the rule of law, the key element of operation of a democratic state. Respect for the rule of law in European Union Member States has increasingly been of interest for EU institutions, both in relation to the procedure under Art. 7 of the Treaty of the European Union and to the proposal of the European Commission to link the amount of EU budget allocation for a Member State with the evaluation of the State's respect for the values enshrined in Art. 2 of the Treaty of the European Union, including the rule of law principle.

A significant role in both cases is played by the evaluation performed by the European Commission, the executive body in the institutional order of the EU. The unique function of the European Commission, coupled with laconic provisions of EU treaties and the fact that the rule of law was introduced into treaties only in 1999, along with the entry into force of the Amsterdam Treaty, triggers not only questions concerning the competence of the European Commission to audit the compliance of acts of national law with the rule of law principle, but first of all those concerning the normative content of the above principle, shared by all the EU Member States. The former question was addressed e.g. in the 2017 monograph by T. Konstadinides, *The Rule of Law in European Union. The Internal Dimension*, (Portland, Oregon, 2017). In the introduction the author observes: "Thus, despite its good will to enforce virtuous practice across the Member States by first extending EU law compliance outside cross-border situation and beyond mere breaches of substantive provisions, the EU has entered uncharted territory. Such a development may in turn expose the EU's power limits as well as democratic and rule of law flaws, viz the restrictive interpretation for entire system of the judicial review of EU law and externally viz the EU's international responsibility for wrongful acts with regard to, for instance, the implementation of various 'anti-crises' measures" (*Ibid*.: 4). As to the latter issue, which was the root cause of the organisation of the conference, one may quote A. v. Bogdandy's statement about difficulties with a definition of the normative content of the rule of law: "Dies ist kein leichtes Unterfangen, bildet doch die Rechtsstaatlichkeit ein nur schwer definierbares Konzept. Zudem verstehen die verschiedenen Verfassungstraditionen unter den englischen, griechischen, italienischen, französischen Entsprechungen *rule of law, κράτος δικαίου*, *stato di diritto*, *État de droit*, um nur einige Beispiele zu nennen, durchaus nicht immer dasselbe."[1]

In the face of the above challenges, the Institute for Western Affairs (Instytut Zachodni, hereinafter IZ) decided to host an international conference dedicated to *Current Challenges for the Application of the Rule of Law in European States*. Conference participants included

[1] A. v. Bogdandy, M. Ioannidis (2014), *Das systemische Defizit Merkmale, Instrumente und Probleme am Beispiel der Rechtsstaatlichkeit und des neuen Rechtsstaatlichkeitsaufsichtsverfahrens*, „Zeitschrift für ausländisches öffentliches Recht und Völkerrecht", No. 74, p. 288 ff.

a number of specialists on constitutional law from Austria, Spain, Poland, Federal Republic of Germany, Hungary, and the representation of the European Commission in Poland. All of them look into the application of the rule of law in both theory and practice.

The first panel, titled *Structural Issue of the Use of the Rule of Law in a Democratic State*, held on 12 April 2018 in the IZ offices, addressed from the point of view of legal theory e.g.: the question of the normative content of the rule of law, first of all from the perspective of national jurisprudence, the interdependencies between the rule of law, the principle of sovereignty of a nation and that of the tripartite division of powers, with emphasis on the current problems arising from the use of the above principles in EU states. The panellists focused moreover on the activities of constitutional courts, with consideration of the unique characteristics of case law, so-called judicial law, and the democratic legitimacy of justices of constitutional courts to interpret the law. The panellists of the 1st panel were: a justice of the Federal Constitutional Court of the Federal Republic of Germany Peter Müller, who spoke about *Gewaltenteilung und unabhängige Gerichtsbarkeit als Voraussetzung demokratischer Verfassungsstaatlichkeit (Division of power and independent jurisdiction as a condition for a democratic constitutional statehood)*, Prof. A. Bryk from Jagiellonian University, who spoke about the *Sources and Consequences of the New Constitutionalism,* Prof. C. Jabloner from the University of Vienna, for 20 years President of the Austrian Administrative Court, who spoke about *Der Rechtsstaat zwischen Perfektionierung und Destruktion (State of Rule of Law – Between Perfectionism and Destruction)*, and Prof. A. Dziadzio from Jagiellonian University, with the lecture titled *Dispute on the Essence of the Rule of Law in Historical and Present Context.*

The well-researched presentations, which however demonstrated divergent approaches to the content and function of the rule of law and its relations to other systemic principles as well as on the role of constitutional courts in contemporary democratic systems, triggered a lively debate between the panel experts themselves and between them and the other conference participants.

The debate raised e.g. the following statements made in the presentations: "Concepts attempting to counter democracy and the rule of law are incompatible with the principles enshrined in the European treatises. This occurs when the term 'non-liberal democracy' is used to put forward a claim that the realisation of a uniform and objective will of the Nation has the highest priority in the democratic system" (P. Müller). "The rule of law principle does not give a guarantee of respect for itself but is invariably exposed to eternal elements. This is the theoretical core of the famous, if contentious and overused observation made by Böckenförde, who stated that 'A free secular state is sustained through the conditions it cannot guarantee of itself" (C. Jabloner). "The hierarchical structure of legal norms is today seen as the sole guarantee of the rights of the individual. All powers, including the legislator, have the role of "agendas of legal order," guarded by the constitutional court. Each attempt to change the position in the system of the constitutional court is considered as a threat to democracy, rule of law and the rights of the individual. "A sovereign democracy," where the nation as a political community makes use of the law to pursue their goals and interests, has been at present replaced by the "non-sovereign constitutional democracy" (A. Dziadzio).

During the second panel, *Selected Issues of the Use of the Rule of Law Principle in a Multicentric Legal System* were discussed apart from the above aspects of the rule of law in the European Union Member States. During this very panel, Mr. Rafał Szydlauer, coun-

cillor for political and legal affairs in the Representation of the European Commission in Poland, delivered a lecture titled *Dialogue Concerning the Rule of Law Principle Between Poland and the European Commission.* He gave a succinct overview of the contention between the European Commission and the Government of the Republic of Poland concerning the reform of Polish judiciary. The debate on the one hand focused on the unambiguously negative assessment of Poland's current government coalition by the representative of the European Commission, and on the other hand the competence of the Commission to carry out assessment of the compliance with the Constitution of the Republic of Poland of the amendments introduced in said legislation. The procedure under Art. 7 TEU applies to the violation of values under Art. 2 TEU, the rule of law included. According to R. Szyndlauer's assumptions, the Commission assesses the violation of the principle by making use not of the criteria of EU law, but rather checking the compliance with the national constitution, thereby supplanting the national constitutional court. A question arises, then, if the procedure under Art. 7 TEU and the audit by the European Commission carried out under it, is a solution of the dilemma flagged by G. Jellinek in the 19th c. in the context of operation of a constitutional court**:** *Quis custodiet custodes Ipsos?* [2] (Who will guard the guards themselves?)?

In reference to A. von Bogdandy's afore-quoted opinion about the ambiguity of the rule of law in the multicentric system of European law, and to R. Szyndlauer's statement, M. Bainczyk, senior analyst of the Institute for Western Affairs, delivered a presentation titled: *Cztery wymiary zasady państwa prawnego w UE. Zasada państwa prawnego jako warunek członkostwa państwa w Unii Europejskiej w orzecznictwie polskiego i niemieckiego Trybunału Konstytucyjnego* (*Four dimensions of the rule of law in the EU. The rule of law principle as a precondition for membership in the European Union in case law of the Polish and German Constitutional Court*)[3]. In the speaker's opinion, the problem of defining at the EU level of the content of the rule of law principle and of the criteria of its violation may stem not only from its diverse understanding in various European states, but also from the divergent functions the principle plays in the multicentric system of European law. As of the 1970s, the rule of law enshrined in Art. 20 of the Basic Law of the Federal Republic of Germany was interpreted in the case law of the Federal Constitutional Court of the Federal Republic of Germany as an inviolable principle of this state's operation in the process of European integration, an element of the inviolable constitutional identity of Germany. In Poland, too, after its accession to the EU, Polish Constitutional Court referred to the rule of law as a precondition for Poland's integration with the EU. It was only in the late 1990s that the principle of the rule of law was introduced as an underlying principle to EU law, addressed to the EU as such (second dimension), its Member States (third dimension) and third countries (fourth dimension).

The next two presentations within the second panel related to questions of applying the rule of law in Spain and Hungary. Prof. A. Torres Gutiérrez from the University of Navarra delivered a lecture titled *Contemporary Challenges for the Application of the Rule of Law in Spain*. Following a brief historical and theoretical introduction to the provisions of the Spanish Constitution, A. Torres Gutiérrez discussed four extremely interesting cases where the use of the rule of law proved a substantial challenge for the judiciary, especially for the

[2] G.Jellinek (1885), *Ein Verfassungsgerichtshof für Österreich*, Wien, p. 25.

[3] The presentation was partly based on conclusions derived from the research project number DEC-2012/05/B/HS5/01395 financed by NCN.

Constitutional Court: 1) The limitation of the fundamental rights of the air traffic controllers, on the occasion of their strike of 3 December 2010, 2) The abusive participation of executive power in the legislative process, 3) The appointment of State Public Prosecutor by the Government, and the separation of powers, 4) The secessionist tensions in Catalonia. In reference to the last case, A. Torres Gutiérrez concluded as follows: "We think that it is necessary to make two final reflections. The first one is that federalism is based on *solidarity* and *constitutional loyalty*. The second one is that this problem will not be resolved (only) with the application of the Criminal Code. It will be necessary to re-establish the political dialogue, and the Rule of Law."

In turn, Prof. G. Schweitzer from the Hungarian Academy of Science presented an overview of the application of the principle of rule of law in Hungary after the amendment of a law concerning the freedom of religion. The topic of his lecture was: *The Legal Status of Churches and Religious Communities in Hungary Since 2011*. Act IV of 1990 on the Freedom of Conscience and Religion and the Church on the one hand, under international norms guaranteed individual and collective entitlements, and, on the other hand, liberalized the procedure of founding churches. Starting 2011, the legislator tightened the conditions for the recognition of churches and many religious communities with church status were deprived of their status legally acquired previously. According to the legislator, the extremely generous conditions of founding a church gave opportunity for the abuse of law, and to undue access to state subsidies provided to churches, as well as for the registration of organizations as churches that in fact do not engage in religious activities. The above amendments were addressed in the 2014 judgement of the European Court of Human Rights (hereinafter ECHR) concerning the case of the Hungarian Christian Mennonite Church vs. Hungary[4]. ECHR indicated that Hungary is in breach of Art. 11 read in the light of Art. 9 of the European Convention on Human Rights and Fundamental Freedoms and found *"*that the Hungarian Government had not shown that there were not any other, less drastic solutions to problems relating to the abuse of State subsidies by certain churches than to de-register the applicant communities. Furthermore, it was inconsistent with the State's duty of neutrality in religious matters that religious groups had to apply to Parliament to obtain re-registration as churches and that they were treated differently from incorporated churches with regard to material benefits without any objective grounds"[5]. In the speaker's opinion, to date Hungary has failed to implement the above ECHR judgement.

This report indicates only some of the questions addressed during the two-day conference. Full texts of the presentations will be published as conference proceedings. The lively debate confirmed the significance and necessity of a dialogue between various European intellectuals, an element of building a European constitutional community. An interesting example of this debate is the agenda of the conference held by the German Forum of the History of the Judiciary (Forum Justizgeschichte e.V.): Unabhängige Justiz? Traditionen deustcher und europäischer Justizverwaltung (*Independent Judiciary? German and European Traditions of Judicial Administration)*. The conference agenda implies that a reform of the judiciary is necessary in the Federal Republic of Germany, as the courts there operate on the basis of the 1935 law which currently, mainly with respect to court administra-

[4] Judgement of ECHR, 8.04.2014, *Magyar Keresztény Mennonita Egyház and Others v. Hungary* 2 70945/11, 23611/12, 26998/12 et al.

[5] *Freedom of religion*, Factsheet, https://www.echr.coe.int/Documents/FS_Freedom_religion_ENG.pdf (30.05.2018).

tion, does not comply with European standards, and the principles of operation of German courts, including judicial appointments, even in the highest courts, are used as an argument by the Polish side.

Last but not least, we should point out that the speakers' lectures and the debate between the panellists and the other conference participants were translated simultaneously into Polish, German and English. In the unanimous opinion of conference participants, despite the highly specialised language and lively debates, the interpretation provided was of premium quality.

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