

CONFERENCES AND REPORTS

Scientific seminar “Quelle liberté dans l’Europe du XXI^{ème} siècle”, Paris, 2nd October 2015

On the occasion of twenty years of cooperation between University Paris II Panthéon-Assas and Faculty of Law of Charles University in Prague, both Universities organized in Paris on 2nd October 2015 a scientific seminar “Quelle liberté dans l’Europe du XXI^{ème} siècle” (“What Freedom in Europe of the XXIst Century”). Seminar was opened by H.E.Ms. **Dr. Marie Chatardová**, Czech Ambassador to France. In her opening address, the Ambassador mentioned best traditions of Czech-French research and pedagogic cooperation quoting the opinions of personalities like Jan Patočka or Milan Kundera. Introductory remarks were formulated by **Professor Guillaume Leyte**, President of University Paris II Panthéon-Assas and **Professor Jan Kuklík**, Dean of Faculty of Law of Charles University in Prague. Former Directors of joint French-Czech diploma in law **Professor Didier Truchet** and **Professor Emmanuel Decaux** as well as present directors of this diploma **Professor Olivier de Frouville** and **Professor Michal Tomášek** presented their experience in managing this diploma. An interesting discussion then developed on the issue whether French law could be eventually taught in English. In order to attract more students who do not speak French but are interested in French law.

The morning session opened a contribution of **Professor Emmanuel Decaux** from the University Paris II Panthéon-Assas on present challenges of European growth crisis. He mentioned that accession of Czech Republic and other Central and Eastern European countries to the EU contributed largely to a general growth and prosperity in Europe and stressed a French role in this process. **Professor Milan Damohorský** from Faculty of Law of Charles University in Prague in context with forthcoming summit on climatic changes to be held in Paris end 2015 reminded systemic problems of climate change law related particularly with implementation of the Kyoto Protocol. **Professor Francesco Martucci** from the University Paris II Panthéon-Assas developed the French understanding of political activities of Václav Havel. He underlined his political messages of dissidence communicated by theatre. His book *Powerless of the Powerful* underlines the importance of rule of law as an important message to Western leaders that dissidence was active in that time Czechoslovakia which was concretely manifested by “Charter 77”.

The afternoon session started with a lecture by **Professor Benoît Plessix** from the University Paris II Panthéon-Assas. He underlined duality of jurisdiction in France in the area of protection of rights in administrative procedure manifested by the role of “Conseil d’État” and “cours de cassation” respectively. Each change of political regime in France was always about to abolish “Conseil d’État” but the role of “natural judge” has always been present in a French perception in order to protect above all property rights. Step by step his role has been historically enlarged to protect a broader range of fundamental rights and freedoms. The role of natural judges was even enlarged in the matters of regional administration issues to the detriment of administrative judges. **Professor Stanislava Černá** from Faculty of Law of Charles University in Prague focused on freedom of decision in commercial company groups. According to her the liberty of contracting and the liberty to create vertical chains of companies must be well balanced with optimal management of societies including due corporate governance methods, in particular in case of controlled companies. It is necessary to distinguish between a regime of those countries which are more opened toward company groups on the one hand and countries with a more restrictive regime on the other. **Professor Catherine Kessedjian** from the University Paris II Panthéon-Assas spoke about party autonomy of freedom of will in European law. Giving a freedom to choose a legal regime or even a judge there is an undeniable possibility of abuse. The liberty has never been used unilaterally and in an independent way but it has always been a shared liberty. In the EU contract law there is a problem for legislators because of a big temptation to regulate contractual liberty. Purchase contract can be the best example of such a temp-

tation. **Professor Jan Dvořák** from Faculty of Law of Charles University in Prague chose as topic of his intervention an important topic of liberty to make a will and inheritance contract. He presented these instruments as an expression to decide freely on its property with respect to basic legal principles and rights of third persons. He compared the new Czech legislation in the matter– Civil code of 2012 with French, Swiss, German and Austrian model.

The evening session was launched by a speech of **Associate Professor Věra Štangová** from Faculty of Law of Charles University in Prague on legal position of women-mothers in Czech social security system. She analyzed a structure of Czech social security system from different points of view including a functional one. She stressed that social benefits and maternity benefits are equal for mother and for father in case the latter was taking care of a child. The length of maternity leave depends on a large extend on the mother's decision and is thus a right not an obligation. **Professor Didier Rebut** from the University Paris II Panthéon-Assas reflected a protection of basic freedoms under a new system of European cooperation in criminal matters after implementation of European arrest warrant. European arrest warrant is according to him a step to abolish territorial division of Europe as a necessary consequence of removal of barriers to a free movement of persons. Strengthening of cooperation in criminal matters is difficult to imagine without strengthening of concept and implementation of basic rights and freedoms. He reminded the late case-law of the European Court of Justice that a present system of European basic rights and freedoms was sufficient and that it was not necessary to add elements from Member States systems. **Professor Pavel Šturma** from Faculty of Law of Charles University in Prague discussed a question about necessity of restrictions in order to protect basic freedoms in the 21st century. He called for a return of Europe to traditional values of general international law. It is necessary to reconsider who is at present a bearer of real sovereignty in Europe. System of human rights is fragmented into system of the European Convention of Human Rights, system of the Charter of Fundamental Rights of the European Union and of national systems. Furthermore the European Court of Justice said goodbye to accession of the EU to the European Convention of Human Rights. Both the European Court of Human Rights and the European Court of Justice themselves are not able to give an answer to solution of crises. It is thus necessary to return back to general international law.

The whole day seminar was summarized by co-chairmen of sessions Professors Olivier de Frouville and Michal Tomášek.

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