

CONFERENCES AND REPORTS

ON THE CURRENT DEVELOPMENT OF FINANCIAL LAW

PRAGUE CONFERENCE TO BE HELD IN JUNE 2020: PROSPECTS FOR DEVELOPMENT OF FINANCIAL LAW UNDER THE INFLUENCE OF EU LEGISLATION

Financial law, as currently mostly perceived within the Central European area, is an increasingly important branch of law, even with its overlap into other legal branches and non-legal areas (e.g. economic, political and social). Financial disciplines have been developing in our country since the second half of the 18th century. Originally, they were rather of an economic nature conceived as financial science (which is, however, closely related to financial law), later it was financial science and financial law itself. The course of financial science, including financial law, began to be taught at the Prague Faculty of Law from the second half of the 18th century.

The turn of the 20th century has been of great benefit to the theory of financial law since many important experts lived at that time.¹ The second half of the 20th century was marked by centrally planned economy when financial policy was adapted to the economic system and financial science was marginalized, which was reflected in the complete absence of financial science literature. Following the change in social relations in November 1989, a revival in financial science can be observed, including a link to the work of former theorists from the period of the First Czechoslovak Republic and the Austro-Hungarian Empire.

It should be noted that two respected academic personalities, who celebrate important anniversaries in May and June 2020, have greatly contributed to the development of the theory of financial law. The first of them is Prof. JUDr. Marie Karfíková, CSc., who is a Professor of financial law and financial science at the Faculty of Law of Charles University. The second honoured person is Prof. JUDr. Hana Marková, CSc., who also lectures at the Faculty of Law of Charles University. The two professors are organizing a conference on “*Prospects for Development of Financial Law under the Influence of EU Legislation*” to be held in the Patriotic Hall of Karolinum on 11 and 12 June 2020.²

The topic of the conference was very timely. Since its beginnings and the first purely financial regulation at the turn of the 19th century, and as it is also clear from the theoretical works of Czech and Czechoslovak theorists of the 19th and the turn of 20th century, financial law has been inherently connected with financial activity of the state, especially regarding payment obligations to the state

¹ Among the distinguished personalities of the theory of financial law of this period we can name e.g. Prof. JUDr. Karel Engliš and especially his two-volume work “*Soustava národního hospodářství*” (The System of National Economy, 1938) and the book “*Finanční věda: nástin teorie hospodářství veřejných svazků*” (Financial Science: Outline of the Theory of Public Units Economy, 1929), JUDr. Alois Rašín and his textbook called “*Národní hospodářství*” (National Economy, 1921) or Prof. JUDr. Albín Bráf, who published the book “*Finanční věda*” (Financial Science, 1900), and much of his writings were published posthumously in 1913–1924. Other experts of that time included Prof. JUDr. Vladimír Vybrál, who published “*Nástin československého práva finančního*” (The Outline of Czechoslovak Financial Law, 1934) or Prof. JUDr. Vilém Funk and his “*Finanční věda se zvláštním zřetelem k československému zákonodárství finančnímu*” (Financial Science with Special Regard to Czechoslovak Financial Legislation, 1922–1929).

² In view of the measures adopted by most countries of the world, including the Czech Republic, with the aim to prevent the spread of coronavirus infection and with respect to the associated restrictions on public, social, economic and cultural life, it was decided to postpone the date of the conference to a later date to be announced.

of tax nature and the creation of public budgets. Given the Czech Republic's accession to the European Union in 2004, the European Union also became an important financial law maker. Recently, therefore, the traditionally developed categories of financial activity have been supplemented by transnational financial activity typical for transnational groupings of states, to which a number of powers (including in the area of public finance) are transferred from individual states. A typical example of such a grouping of states is the European Union, whose legislation significantly affects the legal systems of member states, including the Czech Republic.

Both eminent Czech professors will be keynote speakers at the mentioned conference. Following the highlighting of the conference they are preparing, on the occasion of their important anniversaries, we also present an overview of their contribution to the development of financial law. In fact, they have played an important role in shaping the field of financial law in the last few decades, in terms of methodological, organizational, pedagogical and publication activity. In a way, they have contributed significantly to the redefinition of the field after 1990, and moreover, they have positively influenced shaping new generations of students and financial law professionals as well.³

PROF. KARFÍKOVÁ AND HER CONTRIBUTION TO THE THEORY OF FINANCIAL LAW

Prof. Karfíková has long been a recognized international expert in the field of financial law. After graduating from the Faculty of Law she worked at the Ministry of Finance and since 1975 she has been engaged in scientific and pedagogical activities and has worked at the Department of Financial Law and Financial Science of the Faculty of Law of Charles University. Significant dates in her life include 1985, when she earned the Candidate of Sciences (CSc.) degree in financial law and economic law, 1987, when she was appointed Associate Professor of financial law, and 2006, when she was habilitated as Associate Professor of financial law and financial science. She was appointed Professor of financial law and financial science in 2007. She has also been awarded several awards for her academic work. These include the Medal of the Faculty of Law of Charles University (2010), Commemorative St. Wenceslas Plaque for the representation of the city in the field of education, law and legal theory awarded by the town of Brandýs nad Labem - Stará Boleslav (2012), the International Cooperation Award granted by the Centre of Information and Organization of Public Finance and Tax Law Research in Central and Eastern Europe – University of Białystok (2012) and the Commemorative Medal for long-term cooperation awarded by the Faculty of Law of the Pavol Jozef Šafárik University in Košice (2013).

As for her pedagogical activities, she gives lectures, leads seminar classes, supervises diploma, rigorous and dissertation theses and examines students. Since 2012 she has headed the Department of Financial Law and Financial Science of the Faculty of Law of Charles University. Between 2014 and 2020, she was a guarantor of the master's degree programme Law and Jurisprudence at the Faculty of Law of Charles University. Since 2014 she has been a guarantor of the doctoral study programme Theoretical Legal Sciences – Financial Law and Financial Science at the Faculty of Law of Charles University.

Currently she is a member of the Scientific Council of the Faculty of Law of Charles University, the Scientific Council of the Faculty of Law of the University of West Bohemia and the Scientific

³ See, for example, publications describing the teaching and pedagogical activities at the Department of Financial Law and Financial Science headed by Prof. Karfíková and the extensive involvement of students in scientific research: KOHAJDA, M. Zapojení studentů do výzkumu v oblasti finančního práva. In: Z. Papoušková et al. (eds.). *Finanční právo – pedagogická disciplína, věda, praxe*. Olomouc: Iuridicum Olomoucense, o.p.s., 2012, pp. 27–36; KOHAJDA, M., KOTÁB, P. Finanční právo a finanční věda jako pedagogická disciplína na Právnické fakultě Univerzity Karlovy. In: *Zborník príspevkov zo spoločného stretnutia katedier finančného práva Právnických fakúlt univerzít Slovenskej republiky a Českej republiky*. Bratislava: Právnická fakulta Univerzity Komenského v Bratislave, 2016, pp. 32–37.

Council of the National Technical Museum in Prague. Between 1999 and 2006, she was a member of the Legislative Council of the Czech Government, between 1998 and 2006, she was the chairwoman of the Permanent Appeal Commission of the Minister of Finance for Insurance, and since 2006 she has been a member of the Appeal Commission of the Czech National Bank. Since 2009 she has been a member of the Presidium of the Public Audit Oversight Board. She is also an arbitrator of the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic and was the head of this Arbitration Court in the years 2016–2020. Moreover, she is a member of the Ethics Committee of the Czech Insurance Association, a member (as an Associate Judge) of the Disciplinary Chamber of the Supreme Administrative Court for disciplinary matters of judges and a deputy chairwoman of the Management Board and a member of the Presidium of the foundation “*Nadání Josefa, Marie a Zdeňky Hlávkových*”. Her engagement in this foundation is particularly remarkable since she does a lot of meritorious work as a deputy chairwoman of the Management Board.

Prof. Karfíková has always specialized mainly in the field of tax and insurance law. She regularly publishes articles on these issues in professional journals, including foreign legal journals, and she co-authored a number of textbooks and monographs. Already in 1979, she was involved in the publication of the textbook “*Československé finanční právo*” (Czechoslovak Financial Law), to which she contributed by elaborating the issue of procedural tax law. She first dealt with the issue of insurance in the monograph called “*Státní pojištění*” (State Insurance), which was published in 1981. In this monograph, there is her part dedicated to “*Pojištění v Československu*” (Insurance in Czechoslovakia). She has been dealing with these topics up to the present day, as evidenced by the following monographs, which she authored or co-authored, e.g.: “*Československé právo a podniky se zahraniční majetkovou účastí*” (Czechoslovak Law and Foreign-Owned Enterprises, Vienna 1990), “*Úvod do studia českého finančního práva II.*” (Introduction to the Study of Czech Financial Law II., Prague 1995), “*Základy pojišťovacího práva*” (Basics of Insurance Law, Prague 2001), “*Dějiny daní a poplatků*” (History of Taxes and Fees, Prague 2009). She also covered tax issues in the chapters of the textbook called “*Finanční právo*” (Financial Law), which was published in the edition *Právnícké učebnice* (Legal Textbooks) in 1995, 1999, 2003, 2006, 2009 and 2012.

The issue of insurance after the accession of the Czech Republic to the European Union is also reflected in monographs where she led the team of authors, namely “*Pojišťovací právo*” (Insurance Law, Leges, Prague 2010) and “*Pojišťovací právo, 2. přepracované vydání*” (Insurance Law, 2nd revised edition, Leges, Prague 2018). The monographs provide a detailed overview of private insurance regulation and are very exceptional on the Czech book market in terms of scope, being at the same time recognized as a useful aid in insurance practice. The interpretation of this legal field is given not only from the perspective of our national legislation, but also in the context of European Union law. The monographs analyse the regulation of insurance arising from a private insurance contract. Given that the field of insurance law has significant public law implications, the basic conditions of insurance and reinsurance activities, including the creation of technical provisions, financial investments and solvency, are also discussed. Furthermore, the issue of supervision of the insurance industry, not only in general, but also supervision of the insurance and reinsurance undertakings in a group, is explained.

Recently, Prof. Karfíková has also dealt with the general, i.e. theoretical, issues of financial science and financial law. This can be evidenced by the edition of “*Teorie finančního práva a finanční vědy*” (The Theory of Financial Law and Financial Science, Wolters Kluwer ČR, Prague 2018), which is a collective work published under her supervision. The book was awarded the Jaroslav Jirsa Prize for the best textbook of the year 2018 in social sciences and humanities, especially with respect to its scientific excellence, high quality and innovative approach. Among other positive legal subfields, Prof. Karfíková herself elaborated a chapter called “*Finanční nauky*” (Financial Doctrines) in a very innovative way, as it was the first time that the theoretical questions of financial science, financial policy and the theory of financial law were dealt with in their interconnection. Although these are basically generally used terms which constitute basic categories of the legal system, they are not defined in Czech law. In this context, Prof. Karfíková also clarified the difference between the theory of financial law,

which deals with the study of financial activity and public finance in general, and financial science, which is rather an economic science. When studying public finance and financial activities, an economist is primarily interested in their content, i.e. the economic aspect, while a lawyer is more interested in their form, i.e. the legal aspect.

Prof. Karfíková also frequently publishes abroad. As for the tax issues, we can mention e.g. *Czech Tax Procedure Code* (a chapter in the book *Tax Codes Concepts in the Countries of Central and Eastern Europe 2016*) or *Environmental Taxes in the Czech Republic – Taxes on Environmental Protection* (a chapter in the book *Publiční finance a daňové právo 2017*). In addition to the traditional areas of financial law, the academic literature elaborated by Prof. Karfíková also overlaps into constitutional, administrative or civil law. We can give *Considerations about the System of Financial Law and Financial Science* (*System of Financial Law: General Part: Conference Proceedings*) as an example.

In her academic activities Prof. Karfíková also takes account of results and conclusions from grant and research projects in which she led teams of her colleagues or participated in the research. On a regular basis she presents the results of her scientific work at domestic and international conferences, which she regularly attends in a number of European cities, such as Passau (Germany, 1991), Vienna (Austria, 1998), Danišovce (Slovakia, 2004), Chernivtsi (Ukraine, 2006), Saint Petersburg (Russia, 2006), Grodno (Belarus, 2006), Paris (France, 2008), Lviv (Ukraine, 2009), Győr (Hungary, 2011), Białystok (Poland, 2012), Omsk (Russia, 2013), Rome (Italy, 2014), Białystok (Poland, 2016), Vilnius (Lithuania, 2017), Štrbské Pleso (Slovakia, 2018), Öland (Sweden, 2019).

As for international cooperation, since 2005 Prof. Karfíková has been a member of the Centre of Information and Organization of Public Finance and Tax Law Research in Central and Eastern Europe – University of Białystok. She is also a member of editorial boards of foreign legal journals – *STUDIA IURIDICA Cassoviensia* (Pavol Jozef Šafárik University in Košice, Faculty of Law), *Law Enforcement Review* (Omsk State University), *Public Governance, Administration and Financial Law Review* (University of Budapest) and *“Gosudarstvennaja služba”* (The Russian Presidential Academy of National Economy and Public Administration, Moscow).

PROF. MARKOVÁ AND HER CONTRIBUTION TO THE THEORY OF FINANCIAL LAW

Prof. Marková, the second honoured person, has worked at the Faculty of Law of Charles University since 1973. In that year she started to act as an assistant at the Department of Financial Law and Financial Science. Since 1996 she was an Associate Professor at the same Faculty. She became a Professor of financial law in 2012. Currently, she also teaches at the University of Economics in Prague.

Since 2006 she has been a member of the Scientific Council of the Faculty of Law of Charles University, since 2014 she has been a member of the Scientific Council of the University of West Bohemia in Pilsen and since 2017 a member of the Scientific Council of the Faculty of Security Management of the Police Academy of the Czech Republic in Prague. Up to now she has been a member of the Legislative Council of the Czech Government (since 2008), a member of the Appeal Commission of the Ministry of Industry and Trade of the Czech Republic (since 2008) and a member of the Appeal Commission of the Ministry of Finance of the Czech Republic (since 2014). She has also been a member of the Centre of Information and Organization of Public Finance and Tax Law Research in Central and Eastern Europe – University of Białystok (since 2003) and a member of the editorial board of the journal *“Daně a finance”* (Tax and Finance) (since 2010).

For many years she served as Vice Dean at the Faculty of Law of Charles University as well. She was Vice Dean for Development in 2006–2010 and Vice Dean for Lifelong Learning in 2010–2014. She was also a member and deputy chairwoman of the Academic Senate of the Faculty of Law of Charles University (1995–2006). In addition, she was a member of the Accreditation Commission of the Ministry of Education, Youth and Sports in 2012–2016. In 2015–2019 she was a member of the Scientific Council of Masaryk University in Brno.

As part of her scientific activities, Prof. Marková also researches and participates in a number of grants. Currently it is the project *“Publicizace práva v evropském a mezinárodním srovnání”* (Publi-

cization of Law in European and International Comparison) – programme *Progres* – Q02 Charles University, Prague (2016–2022) and “*Právní, historické a společenskovední aspekty nových a tradičních menšin v České republice*” (Legal, Historical and Social Aspects of New and Traditional Minorities in the Czech Republic) – programme NAKI 2 – DG 18P020VV64 – Ministry of Culture of the Czech Republic (2017–2022). She also supervises a number of PhD students at the Faculty of Law of Charles University and at the University of Economics in Prague. She received several awards for her scientific work as well. These include the Silver Medal of the Faculty of Law of Charles University (2010), the Czech Bestseller Award 2009 in the category of professional literature of the Association of Czech Booksellers and Publishers and the publishing house Grada Publishing, a.s. (2010) and the International Cooperation Award within the Centre of Information and Organization of Public Finance and Tax Law Research in Central and Eastern Europe – University of Białystok (2012).

Apart from her academic activities, she was a commercial lawyer since 1990 and then an attorney at law since 1996. It was in the 1990s when there were major tax changes, giving her an opportunity to contribute to a completely new commentary on the newly adopted Income Tax Act. In 1992, prof. Marková began to publish commentaries on all tax laws. The publication “*Daňové zákony*” (Tax Laws) became almost the fate of Prof. Marková, as it is still published today, and it is recognized as a great aid for students and practitioners. It contains not only highlighted changes that occur in the given year, but the changes are also clearly mentioned in the introduction to the publication. In addition, significant law amendments are accompanied by comments from various experts involved in their creation or application.

Prof. Marková dedicates probably the most professional energy to the fields of tax and budgetary law. In her academic work she mainly focuses on the regulation of fees and public budgets, which was the topic of her candidate thesis (1986) and habilitation thesis (1996). These works influenced her next career path. It is mainly thanks to Prof. Marková that budgetary law as a significant section of financial law began to appear more in the financial law lecture programme at the Faculty of Law of Charles University. In 2001, she published a publication called “*Rozpočtové právo*” (Budgetary Law). In 2007, she decided to publish a more comprehensive publication of the same title - “*Rozpočtové právo*” (Budgetary Law) together with her PhD student R. Boháč (who is an Associate Professor of financial law today). Until then, there had not been much written solely about budgetary law, there had been no similar publication in the Czech Republic, just chapters in textbooks of financial law approaching the issues of public budgets only partially, not comprehensively. At the Faculty of Law of Charles University, Prof. Marková also initiated the teaching of a separate optional course called Budgetary Law, which is closely linked to another optional course Financial Management of Territorial Self-Governing Units. Both courses are taught under the supervision of Prof. Marková.

In her professional theoretical research, she came to a number of interesting conclusions, particularly concerning the issue of one part of budgetary law, namely the issue of subsidies. This is also a topic that Prof. Marková has pioneered in recent years. In fact, as she was dealing in more detail with budgetary law issues and was raising questions on this topic at various international conferences, she concluded that the issue of subsidies had not been widely elaborated so far. Apart from some rather practically oriented publications and several articles in professional journals or contributions at international conferences, this section had not been described in detail, although there was an increasing need to give the issue of subsidies a stronger place in the legislation. Although it has not yet been possible to come up with a statute that would comprehensively regulate subsidies, it is beneficial that the new textbook “*Teorie finančního práva a finanční vědy*” (The Theory of Financial Law and Financial Science) managed to cover a new perspective on the entire field of financial law, including the inclusion of some subfields such as subsidy law. Prof. Marková continues to work on this topic and has reserved a separate chapter on subsidy law in the publication. In this chapter she analyses whether and why the subsidy law is a subfield of budgetary law or whether it is a separate branch, how the subsidy process is regulated, etc.

CONCLUSION

On behalf of all registered participants and colleagues of both professors we would like to thank for organizing the Prague conference “*Prospects for Development of Financial Law under the Influence of EU Legislation*” originally planned to be held in June 2020. We wish Prof. Karfíková and Prof. Marková much success in their further academic work and publication activity, in grant management, in teaching students, and in sharing their experience with their colleagues. Both their previous and current activities are remarkable and of great value. Last but not least, we hope that both professors, as two leading figures of Czech financial law, will organize a number of other conferences in the coming years.

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