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REPORT ON THE INTERNATIONAL SCIENTIFIC CONFERENCE ENTITLED "PUBLIC INTEREST AS A DETERMINANT OF STATE INFLUENCE ON THE ECONOMY AND FINANCE"

On 26-27 October 2023, the Faculty of Law and Administration of the University of Gdańsk hosted an international academic conference on the issue of public interest as a determinant of the state's influence on the economy and finance. The event had a hybrid character.

Representatives of leading research centres from Poland, the Czech Republic and Germany took part in the joint meeting. These included the University of Gießen, Masaryk University in Brno, the University of Marburg, the European University Viadrina in Frankfurt (Oder), Adam Mickiewicz University in Poznań, Jagiellonian University in Kraków, the University of Zielona Góra, the University of Warsaw and the University of Gdańsk.

The conference was one of the scientific activities carried out as part of an international research grant funded by the Ministry of Science and Higher Education under the "Excellent Science" programme. The grant manager is dr hab. Hanna Wolska from the University of Gdańsk.

The conference organising committee consisted of dr hab. Anna Jurkowska-Zeidler, prof. UG, prof. dr hab. Andrzej Powalowski and dr hab. Hanna Wolska. Whereas, the members of the scientific committee were: Doc. JUDr. Petr Mrkývka, PhD. (Masaryk University in Brno), Prof. Thilo Marauhn (University of Gießen), dr hab. Adam Niewiadomski, prof. UW (University of Warsaw), dr hab. Ewa Przeszło, prof. UŚ (University of Silesia in Katowice), dr hab. Ewa Szewczyk, prof. UZ (University of Zielona Góra), dr hab. Michał Biliński (Jagiellonian University in Kraków), JUDr. Johan Schweigl, PhD (Masaryk University in Brno), Dr. Ayse-Martina Böhringer (University of Gießen), Dr. Aleksander Jakubowski (University of Warsaw), Dr. Magdalena Jaś-Nowopolska (University of Gießen), Dr. Agnieszka Piwowarczyk (University of Silesia in Katowice), Dr. Carsten Schirmacher (University of Marburg), Dr. Anna Trela (Adam Mickiewicz University in Poznań).

The symposium began with an official welcome to its participants by the Vice-Dean for Education of the Faculty of Law and Administration of the University of Gdańsk – dr hab.

Małgorzata Balwicka-Szczyrba, prof. UG, and the project manager – dr hab. Hanna Wolska. The first part of the conference featured three introductory lectures.

The opening keynote was given by prof. Dr. Stefan Haack of the European University Viadrina in Frankfurt (Oder), who focused in his speech on the origins of the concept of public interest. The German academic traced the changes in the understanding of public interest from antiquity to modern times. Among other things, he drew attention to the process of development of legal sciences leading to the distinction between public interest and private interest. He also pointed out the current difficulties in unambiguously defining these two concepts and mutual interplay of their interests in practice.

In the second introductory lecture, dr hab. Adam Niewiadomski, professor at the University of Warsaw, referred to the implementation of the principle of respect for the public interest in rural spatial planning. The professor juxtaposed it with the conflict of private interest, including, above all, interference with property rights, as well as the conflict of various public interests. He also assessed the legal solutions concerning economic compensation for the infringement of private interest (property rights) in the implementation of the planning public interest.

The last lecture was given by dr hab. Michał Biliński from the Jagiellonian University, who presented his position in the case C-333/21 pending before the CJEU concerning the controversial project of organising a football Super League (ESL). The presentation indicated that the aim of this initiative is to develop a commercial organisational formula for football competitions, which at the same time would be independent of FIFA and UEFA structures. For the above reasons, the resolution of the dispute between the indicated parties has an important impact on the answer to the question of the future of the organisational structure of European football. In this case, EU competition law and the establishment of a catalogue of values that could possibly justify the compatibility of the restrictions applied by FIFA and UEFA to the organisers of ESL with Articles 101 and 102 TFEU are of fundamental importance.

Immediately after the presentation of the introductory lectures, the first panel of the conference was devoted to the economic aspects.

Prof. dr hab. Andrzej Powalowski (emphasising his co-authorship of the speech with dr hab. Ewa Przeszło, prof. UŚ) referred primarily to the importance of the social market economy. He emphasised that it requires multifaceted care to maintain its essence (standard) and a proper balance between "marketisation" and "socialisation". In his view, this should be fostered by defining the content of the "public interest" clause and, in particular, the social interest. He pointed out that it is in the public (social) interest to link the market economy with social needs when determining any circumstances related to the functioning of the social market economy.

The public (social) interest is at the same time the premise for the formation and development of what is to be considered a "social economy". The same interest requires that the social economy that is created is supported by providing it with assistance of both a subjective and functional nature.

Dr. Carsten Schirrmacher from the University of Marburg z pointed out that the public interest underlying corporate insolvency law has changed. In the past, the legislation primarily served to put unprofitable companies out of business and distribute their remaining assets in a way that was fair to creditors. Nowadays, the focus is on the reorganisation of bankrupt companies in order to save tax revenue and jobs. The German academic was positive about this change initiated by, among others, the Polish legislator and a change which has now reached all European legal systems.

The presentation by Lukas Faulstich of the Justus-Liebig University of Giessen dealt with public interest issues in relation to regulations dedicated to public health protection in the Federal Republic of Germany. In particular, he drew attention to the norms concerning the introduction of legislation mandating the use of *Nutri Score* food labels. The intention of the legislator is that these should lead to a reduction in the asymmetry of knowledge between food producers and consumers. At the same time, he pointed out the consequences of the introduction of these labels in the light of fundamental rights and constitutional safeguards.

Dr. Anna Trela of Adam Mickiewicz University in Poznań referred to a new institution regulated in the Entrepreneurs' Law, namely the "right to make a mistake". She indicated that the institution is one of the manifestations of the limitation of regulatory obligations. The legislator recognised that budding entrepreneurs make unintentional mistakes that do not actually threaten the interests of other subjects of the law or harm public safety and order. The speaker also referred to the conception of the public interest in public business law and in this context characterised the institution of the "right to make a mistake", which an entrepreneur may commit within 12 months of starting a business. In the following part of the paper, the author made a comparison of the solution in force in Polish law with the French solutions, in which the right to error applies to various categories of entities, not only entrepreneurs.

At the end of this part of the panel, dr hab. Monika Król, professor from the University of Łódź, presented some remarks on public interest as a standard in environmental law. This was followed by a discussion at the end of the panel.

After the break, the next panel was joined by speakers who commented on the public interest in energy law.

Eva-Maria Thierjung from the University of Greifswald emphasised the close correlation between the regulatory "ambitions" of the government and the use of the value-

based term "public interest". This is particularly relevant in the field of energy law, which is extremely susceptible to political pressure. She also drew attention to recent reforms in Germany and at the European level in the field of renewable energy (RES) in the electricity sector. In her speech, she also pointed out that measures in favour of RES are qualified as "overriding public interest".

Dr. Magdalena Jas-Nowopolska from the University of Giessen, in turn, referred to the importance of qualifying energy supply as a service of general economic interest in an era of recently observed energy price increases. She presented selected measures and actions taken both at EU level and in the Federal Republic of Germany to relieve end consumers from high prices and, on the other hand, to create incentives for electricity savings.

At the end of the panel, dr hab. Hanna Wolska, from the University of Gdańsk, presented some remarks on the possibility for the President of the Energy Regulatory Office to order the continuation of business activity by an energy company despite the expiry of its licence. According to the speaker, this is a special regulation related to the need to ensure continuity of supply and protection of energy service recipients when the public interest requires it. Thus, this regulation provides for an exception from the principle of freedom to undertake, perform and terminate business activities. This presentation was followed by a discussion concluding the panel.

The first day of the conference was concluded with a speech by dr hab. Ewa Szewczyk, professor from the University of Zielona Góra. Apart from referring to the most important theses delivered, she emphasised that the concept of public interest appears in various branches of law. Hence, an analysis of this concept shows that there is clearly a lack of consensus as to its exact nature. The only consensus is that the public interest clause is categorised as an essential clause and is therefore a useful concept to make the law more flexible.

The second day of the conference took place on 19 November 2021 and consisted of three panels relating to financial aspects. Three papers were presented in the first panel.

In her presentation entitled "WTO attitudes to the protection of public interest on Green Energy", Dr. Małgorzata Wróblewska of the WSB Merito University in Gdańsk presented the CBAM (Carbon Border Adjustment Mechanism), a legal instrument aimed at combating climate change. She pointed out that its introduction was highly controversial as a potential barrier to trade. She pointed out that CBAM is an example of a completely different understanding of the public interest by the European Union and the World Trade Organisation.

JUDr. Michal Janovec, Ph.D. from Masaryk University in Brno presented a paper on "Public interest as a key for saving the banks in problems". In his presentation, he traced the development of the regulation of state intervention in the banking system from 2007 and the

onset of the global financial crisis. The speaker concluded that there is a need to create regulations to respond more efficiently to financial crises and to coordinate assistance to banks. At the same time, he stressed that the public interest can be manifested by taking care of the stability and predictability of the banking sector.

JUDr. Johan Schweigl, Ph.D. addressed the concept of financial stability and its relevance to the public interest, particularly in the context of the European Union (EU). The Czech academic emphasised the key role of financial stability in ensuring that households and businesses have access to credit and in promoting economic growth, job creation and raising living standards. He argued that maintaining financial stability is a key responsibility of central banks and financial regulators and is essential to achieving broader goals. He concluded that further multidisciplinary research is needed to fully understand the complex interactions between the different elements of the financial stability framework in the EU and to develop more effective policies to maintain financial stability. The speech was followed by a discussion at the end of the panel.

After the break, the second panel was joined by Dr Mgr. Damian Czudek, from Masaryk University in Brno, Dr. Damian Cyman from the University of Gdańsk and Dr. Cam-Duc Au, from the University of Applied Sciences for Economics and Management in Essen.

Dr Mgr. Damian Czudek, from Masaryk University in Brno, presented selected attributes of public interest in the implementation of public finance control. His speech was based on the hypothesis that control can only be considered legal and legitimate if it is duly justified by the protection of a specific public interest. From an interpretative perspective, it is important to resolve a conflict, even a potential one, whether with a private interest or possibly with another public interest.

Dr. Damian Cyman from the University of Gdańsk addressed the issue of the impact of the public interest on financial market regulation. He presented the basic challenges for regulators related to the dynamic development of this area of the economy. He emphasised the special role of the stability of this segment of finance, which has become a kind of public good subject to special protection.

Dr. Cam-Duc Au from the University of Applied Sciences for Economics and Management in Essen presented an overview of a case study of Germany with its regulatory initiatives on the possible influence of government on crypto-assets in finance. The presentation pointed out that regulation has the right tendencies to support innovation and adaptation of digital assets such as crypto-assets or currencies. This can mainly be described as creating a legal framework for consumer protection, thus reducing operational and reputational risks for

financial firms involved in digital assets. After this presentation, the speakers started a discussion on the issues presented in this panel.

After the break, the third panel was joined by Mgr. Michal Blažek, Ph.D. and JUDr. Michal Smejkal, Ph.D. from Masaryk University in Brno, and researchers from the University of Gdańsk - Przemysław Panfil, Ph.D., dr Lukasz Kielin and dr hab. Anna Jurkowska-Zeidler, Prof. UG.

Mgr. Michal Blažek, Ph.D. and JUDr. Michal Smejkal, Ph.D. from Masaryk University in Brno presented the protection of employees' income as one of the many public interests pursued by the state. They presented the material and procedural instruments of employee protection and compared specific forms of regulation in different legal systems.

Dr hab. Przemysław Panfil from the University of Gdańsk presented a short lecture entitled "Fiscal stability as a condition for sustainable socio-economic development". In it, he emphasised the importance of the constitutional fiscal rule, noting the public interest in the formation of a balanced and sustainable budget by the state. According to dr hab. Przemysław Panfil, a manifestation of caring for the public interest is maintaining the discipline of public finances.

"Fiscal Sustainability as a European Union Value" was the title of the presentation by Dr. Łukasz Kielin from the University of Gdańsk. He noted the axiological perspective of shaping sustainable public finances, while pointing out the potential costs associated with increasing the deficit of the public finance sector. Dr. Kielin emphasised the importance of intergenerational solidarity in relation to budgetary policy. He also noted that sustainable public finances can be treated in terms of value, as, according to the speaker, they reduce the risk of public finance crises. This allows to avoid severe social costs and create better integration of EU countries.

Dr hab. Anna Jurkowska-Zeidler, professor at the University of Gdańsk, addressed issues related to the public interest and the regulation of the Polish banking system. She presented some general arguments regarding the actual legal regulation of the banking system. In addition, the speaker explained what changed in the architecture of the entire financial market after the global financial crisis of 2008. She also referred to the basic facts of banking security.

The second day of the conference ended with a short summary presented by dr hab. Edvard Juchnevicius, professor at the University of Gdańsk, in which he emphasised that the public interest is a construct that is gaining more and more prominence in financial law. Based on the speakers' statements, it can even be said that under different legal orders of Poland, Germany and the Czech Republic, it is a value in itself.

The conference moderators were dr hab. Ewa Szewczyk, professor at the University of Zielona Góra (moderator on the first day of the conference) and dr hab. Edvard Juchnevicius, professor at the University of Gdańsk (moderator on the second day of the conference).

The conference was concluded with a brief summary presented by project manager dr hab. Hanna Wolska, in which she thanked the speakers, moderators and participants for their participation in the event.