

WELCOME MESSAGE

““ The Portuguese Association for European Law (APDE) is, and has always been, a particularly active member of FIDE – Fédération internationale pour le droit européen, having participated in all the FIDE congresses since 1984. A book containing the Portuguese reports presented to the congresses that have taken place since then has been published, in English or French, by the APDE under the title “Estudos de Direito Europeu – Congressos da FIDE, Relatórios Portugueses – 1990-2008”, Lisboa, Principia Editora, 2009, 797 pages.

In 1992, APDE organised in Lisbon the XV FIDE Congress with the following topics: “Financial services within the Community and with third countries”, “The imposition of sanctions for breach of Community law” and “The new aspects of the free circulation of persons. Towards a European Citizenship”.

Now, APDE is presiding FIDE for the period from May 2016 to May 2018 and in that capacity actively organising the XXVIII FIDE Congress, which will be held on May 23-26, 2018 in the historical beach resort of Estoril, 20 minutes from the Lisbon centre, facing the Atlantic Ocean and close to the westernmost end of continental Europe. The splendid venue that will host the 2018 Congress will be the Congress Centre of Estoril, neighbouring the famous Casino, whose ancestor inspired Ian Fleming when writing Casino Royal, the first Bond book.

The topics to be debated during the XXVIII Congress have been carefully chosen to match some of the most topical issues of EU law that constitute so many challenges for the European society and the competitiveness of our economy.

The first topic will be devoted to **THE INTERNAL MARKET AND THE DIGITAL ECONOMY**. No doubt the new digital economy may be considered as the single most important driver of innovation, competitiveness and growth in Europe and the world. Tackling the problems of governance in the digital single market thus became one of the Commission’s main priority policy areas for 2014-2019.

Internet and e-commerce, the new sharing economy and peer-to-peer transactions, not to mention media and telecoms across the borders, are thus at the heart of the debate and of policy and legislative initiatives on the national and Union’s levels.

This encompasses access by consumers and businesses to new markets and online goods and services, liability regimes on internet, consumer and children protection, IP rights, competition and regulation, the cross-border enforcement cooperation, online trust and

cybersecurity, the respect for pluralism and cultural heritage, possibly the fourth telecoms wave.

Of course, one cannot dissociate all these matters from the necessary protection of personal data and fundamental rights: freedom of expression and the right to privacy, information mass storage, confidentiality of communications and global security. Judicial control and the growing case-law on these matters will be at the core of our reflections.

Under topic II we will take stock of the current debate on the relationship between TAX, STATE AID AND DISTORTIONS OF COMPETITION.

As recalled in the Questionnaire for the national rapporteurs to this topic, from 2013 onwards the European Commission initiated an EU-wide review of more than 1,000 tax rulings, which already resulted in a number of decisions ordering Member States to recover large sums of what it deemed unlawfully granted state aid. These decisions are now the subject of review by the EU Courts.

The debates will therefore primarily focus on the different national regimes and practices concerning tax rulings and agreements between tax authorities and taxable entities in search of advance legal certainty, mainly when several national legislations and tax authorities are concerned. In such situations, transfer pricing methods, rules governing profit allocation, anti-avoidance and anti-abuse provisions, correction mechanisms to avoid double taxation or double non-taxation become crucial issues.

Furthermore, effective implementation of recovery decisions requires appropriate national procedures and timely enforcement by the national courts. International agreements involving the protection of property or of foreign investments may also interfere with EU and national regimes and ought to be considered as part of the background of the problem.

Above all, one should not forget that a correct and objective application of the relevant and sometimes conflicting rules on the different - EU, national and international - levels is a precondition for ensuring that non distorted competition in the internal market will prevail.

The third topic is particularly suited to be dealt with in the region of Lisbon: this is THE EXTERNAL DIMENSION OF THE EU POLICIES.

In the first place, an update on the division of powers and competences between the EU institutions and Member States and their respective roles on the international sphere will be required. This would provide a kind of follow-up and focused deepening to one aspect which was marginally addressed during the Budapest Congress in 2016.

Secondly, we will focus our debates, on the one hand, on the international agreements that have been negotiated by the EU (and whose effective application is facing serious political difficulties and delays) on trade liberalisation, market access and investment protection, such as TTIP and CETA, within the context of other regional or global international agreements.

On the other hand, the immense challenges on immigration and asylum that our Area of Freedom, Security and Justice is facing will provide the opportunity for an intense debate. We will certainly try to understand how the current crisis is impacting or will impact on the existing and evolving regulations, international agreements, practices and institutional machinery dealing with such fundamental issues, including judicial protection and the rule of law.

By discussing those topics, I believe we will be touching upon some of the main fieldworks and of the trickiest issues that will continue to mark the evolution of the European Union and to challenge the policies of its institutions for the next two years. In this context, I hope FIDE may give a valuable contribution to the debate of some of the main risks, which are seriously threatening our Union.

That is why we are working to ensure that topics, such as Brexit and the evolution of the international community in an era of political and military tensions, which have already given cause to huge human and social costs that are dramatically affecting the EU policies for the times to come, will be addressed by respected European and international figures.

We firmly believe that bringing back protectionist barriers and defensive walls is threatening the core European values and ideals that are a constituent part of the Union's DNA. Not only they oppose free trade and free movement of persons, but also they substitute solidarity and mutual trust with national selfishness and widespread mutual suspicion.

It is not possible to build a European Union of nations and peoples on such sickly grounds. Furthermore, Europe risks to definitely lose every remaining influence it may still keep over international affairs without a united front against the many risks arising out of the international environment and of the terrorist threat. Such united front is, moreover, a precondition for a really common external and security policy assisted by the necessary common resources and capabilities.

It is my firm belief that the European Union is a unique framework to achieve all those objectives in the respect of fundamental rights, democracy and the rule of law. We have to preserve these values for the next generations of European citizens!

That is also why we will not forget the young lawyers and law students who are anxious for clarification of their career perspectives in Europe. Following a tradition inaugurated in Copenhagen and pursued in Budapest, we are organising, in cooperation with the law faculties, a PhD seminar on EU law, taking as its leitmotiv the Congress' topics.

The Portuguese team I have the privilege to lead is looking very much forward to welcome a record number of participants and accompanying persons in Lisbon, hopefully with its usually mild and gentle oceanic climate and beautiful sunshine. I am confident that all them will leave Estoril gratified by a dense and lively debate on the relevant EU law issues that will be on the programme - *et avec un brin de nostalgie du fado, du soleil et de la mer de Cascais*.



JOSÉ LUÍS DA CRUZ VILAÇA

President of FIDE 2016 to 2018 and President of APDE

Judge at the European Court of Justice

Professor at Católica Global School of Law, Lisbon