



“Removing obstacles: an advanced phase in mutual learning experience towards good practices in competition law enforcement”

**II. International judicial conference, 4-5 October 2013,
Supreme Court of Slovenia, Ljubljana**

EU Commission's training of national judges in EU competition law and judicial co-operation between national judges – organised jointly by Faculty of Economics University of Ljubljana, Utrecht University Faculty of Law and the Supreme Court of Slovenia



Universiteit Utrecht



Program Judicial conference:

(Each topic is assigned 55 minutes: 25 for short presentation and 30 for a roundtable discussion)

Program organiser: Mitja Kovač, Katarina Zajc and Jaka Cepec (University of Ljubljana, Faculty of Economics)

FRIDAY, 4TH OF OCTOBER

Chaired by: As. prof. dr. Mitja Kovač (University of Ljubljana, Faculty of Economics)

9.00-9.30: Welcome and coffee

9.30-9.50: Opening addresses by the Judge **Nina Betetto** (Vice-president of the Supreme Court of Republic of Slovenia) and by the Judge **Miodrag Đorđević** (Senior judge of the Commercial tribunal of the Supreme Court of Republic of Slovenia)

9.50-10.15: **Theme I.: Economic evidences in competition cases**

Hendrik Kerkmeester (Commercial Chamber at the Court of Appeals Amsterdam and University of Antwerp, Belgium): *Economic evidences in competition cases*

10.15-10.40: **Theme II.: Market definition: MS experiences**

Marcus Smith (President of the Court of Appeals, London UK): *Market definition (including the SSNIP-test)*

10.40-11.10: **Theme III.: National Courts and the EU Commission**

Arjen Meij (Judge and Chamber President at the General Court of the European Union from 1998 until 2010, current Judge at the Court of Appeal of The Hague, The Netherlands and professor at University of Luxemburg and Utrecht University): *National Courts and the European Commission in State Aid Control*

11.10-11.40: Coffee break and snacks

11.40–13.10: **Roundtable discussion sessions**

First round of working groups sessions on themes 1-3, chaired by experts from different Member States



13.15-14.15 Lunch

14.15-15.40: Roundtable discussion sessions

Second round of working groups sessions on themes 1-3, chaired by experts from different Member States

15.40-16.00: Coffee and tea break

16.00-16.15: Plenary session: presentation and discussion of the results from working groups on theme I, II, and III.

16.15 -17.00: Keynote address

Roger van den Bergh (Erasmus University Rotterdam): *“The More Economic Approach in European Competition Law: Is More Too Much or Not Enough?”*

20.00 **Conference dinner** at the Castle of Ljubljana

SATURDAY, 5TH OF OCTOBER

Chaired by: prof. dr. Anna Gerbrandy (Utrecht University, Faculty of Law, Europa Institute, The Netherlands)

8.30-9.00: Coffee

9.00-9.20: Theme IV: Competence delimitations

Jacques Steenberg (Director of the National Competition Authority of Belgium and University of Leuven, Belgium): *Competence delimitations and links*

9.20-9.40: Theme V: Procedural powers on Commission and Human rights Charter

Marc Fierstra (Supreme Courts of The Netherlands): *Procedural powers of the Commission and of the national competition authorities and the basic right to privacy - access to business and private communication, right to enter business and private premises*

9.40-10.30: **First round of roundtable discussions** (themes IV and V)

10.30-10.40: Coffee break and snacks



10.40-11.30: **Second round of roundtable discussions** (themes IV and V)

11.30-12.00: **Presentation of the discussion's results and final conclusions and summing up by the chair person**

12.30: departure to Bled for lunch (13.00) and visiting lake Bled (in case of bad weather visiting Postojna for lunch and visit to world-famous Postojna caves)

Conference Venue

The program takes place in Ljubljana at the Supreme Court of Slovenia, Tavčarjeva 9, 1000 Ljubljana, Slovenia

Project description

European Commission DG Competition has granted to the Faculty of Economics University of Ljubljana (Slovenia) with its partners Utrecht University Faculty of Law, Europa Institute (The Netherlands) and the Supreme Court of Slovenia a joint project on training of national judges in EU competition law and judicial co-operation between national judges.

Training of national judges in the context of the enforcement of the European competition rules through acquiring and distributing information on European competition law specifically adapted to the needs of national judges. The primary objective of the project is the training of national judges in the context of the public and private enforcement of the European competition rules, including articles 101 and 102 of the Treaty with the emphasis on the economic analysis incumbent in these articles and the enforcement of state aid rules. The goal is to ensure the coherence and consistency in the enforcement of these rules by discussing the practical issues arising in the enforcement of EC competition law in the national courts of the selected Member States and encouraging a debate on these issues aimed at establishing solutions in the form of best practices of the Member States involved. Project also promotes judicial co-operation and creates coherence and consistency in the enforcement of European competition law. The secondary objective of the project is to improve and encourage the future co-operation and networking with and between the national judges involved, by bringing them together for a one day expert meeting and for a two-day conference in which a dialogue is stimulated aimed at selecting practical solutions to judicial problems with the enforcement of EC competition law.

The conference (held in Ljubljana) will focus on five themes relating to the enforcement of competition law. To ensure the bottom-up approach of the project, these themes have been prepared and elaborated in collaboration with the national



expert organisations and with the Europa Institute of Utrecht University (The Netherlands).

The conference consist out of a plenary sessions with international experts of high standing, which serves to establish a smaller forum to exchange and evaluate good practices.

Speakers and discussants:

Justice Arjen Meij (Judge and Chamber President at the General Court of the European Union from 1998 until 2010; Judge at the Supreme Court of the Netherlands and Judge and Vice-President at the Netherlands' Administrative High Court for Trade and Industry, professor at University of Luxemburg and Utrecht University), prof. dr. Roger van den Bergh (Erasmus University Rotterdam), Justice Marc Fierstra (Supreme Court of The Netherlands), Justice Marcus Smith (Court of Appeals London, UK), Justice Miodrag Đorđević (Supreme Court Republic of Slovenia), prof. dr. Anna Gerbrandy (Utrecht University), prof. dr. Jasminka Pecotič Kaufman (University of Zagreb), Claire Leger (Erasmus University Rotterdam), Justice Jan Passer (Supreme Court of Czech Republic), Justice Hendrik Kerkmeester (Court of Appeals Amsterdam and University of Antwerp), Justice Viktorija Lovrić (Supreme Court of Croatia, Zagreb); As. prof. dr. Sabina Zgaga (University of Maribor), Herman van Harten (Utrecht University), Tomas Rymeikis (Law Firm Eversheds Saladžius, Vilnius, Lithuania) and Mitja Kocmut (Law firm Kocmut, Ljubljana).

More Information

Webpage: <http://efnet.si/en/2013/06/03/training-of-national-judges-in-eu-competition-law-and-judicial-co-operation-between-national-judges/>

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Student task-force

Anja Bergant, Lea Perovšek and Sandra Jurišević

University of Ljubljana

The *University of Ljubljana* (UL) is an institution with a very rich tradition, established in 1919. With its more than 56,000 undergraduate and postgraduate students; total of 22 faculties, 3 academies of art and 1 university college employ approx. 3500



teaching and research staff, and nearly 900 technical and administrative staff. Numerous research projects, coordinated or participated by University of Ljubljana, follow the latest world discoveries and trends.

Faculty of Economics University of Ljubljana

The *Faculty of Economics at the University of Ljubljana* (FELU) is the University's largest faculty. FELU employs 157 teaching and research staff, and 90 administration staff. The FELU is both a national leader and an internationally recognised academic and research institution in the fields of business and economics. Faculty strive to become a world known for the quality of our academic programmes and achievements in education and research.

FELU is the only school in South-eastern Europe with EQUIS and AACSB accreditations, 15 curriculums offered in English for all three academic programmes, over 80 courses offered in English, 500 exchange students every year and partnerships with almost 200 institutions worldwide.

FELU has recently been re-awarded the global EQUIS quality accreditation which assures high international standards of quality. With this prestigious accreditation FELU joined the group of top 100 business schools around the world with the same premise: high academic achievements in teaching and research activities. FELU is the second EQUIS accredited school in the Central and Eastern Europe and serves as benchmark for other schools especially from Balkan area.

Utrecht University Faculty of Law

Founded in 1636 as the oldest Dutch university, Utrecht University has evolved into a modern and leading institution with a growing international reputation. The Shanghai Ranking ranks the university in the Netherlands on 1, on a shared 12th place in Europe and worldwide on a shared 53rd place. Utrecht University has 12 Nobel Prize winners and (from '95 - '10), 13 Spinoza Laureates and 29,755 students.

The Europa Institute of Utrecht University consists of three research departments: European Law, Public Economic law and Social Security law and has expertise in several areas of European Law. On the basis of this broad expertise, the Europa Institute specializes in two subjects: Market Regulation and Citizenship. In addition, the institute functions as a platform to bring expertise in European Law together. The institute collaborates with other research departments within the Law department and with researchers from other disciplines (e.g. Utrecht University School of Governance, Utrecht University School of Economics, Social and Behavioural Science and Humanities). Furthermore, the Europa Institute participates in several international academic networks in the field of European Law.



Ljubljana and Slovenia:

Slovenia is the only country in Europe that combines the Alps, the Mediterranean, the Pannonian Plain and the Karst. The changing landscape is constantly surprising, time and again. You can have one eye on the sea, then look in the other direction and be surrounded by high mountains. Heading up into the forests, you can see the green plains below you. From upland meadows your view stretches into river gorges. This proximity of opposites and contrasts is a hallmark of the country.

For more see: http://www.slovenia.info/en/About-Slovenia.htm?o_sloveniji=0&lng=2

Both residents and numerous visitors perceive Ljubljana as a city made to the measure of man. Ljubljana is classified as a mid-sized European city, but it has preserved its small-town friendliness and relaxed atmosphere while providing all the facilities of a modern capital. It is a very unique city dotted with pleasant picturesque places where you can expect all kinds of nice little surprises. During winter, its dreamy central European character prevails, and during summer its relaxed Mediterranean feel. Due to its geographical position, Ljubljana is a perfect base for exploring the many faces and beauties of Slovenia.

For more see: <http://www.visitljubljana.com/en/>

Hotels:

All participants will be accommodated in the following hotel (the rooms will be waiting for participants, booked, arranged and also pre-paid – participants merely register at the hotel's registration desk):

-City Hotel Ljubljana (Dalmatinova 15, 1000 Ljubljana),
webpage: <http://www.cityhotel.si/cms/index.xhtml>

From and to the airport:

Approachableness of the airport is one of the main factors determining the quality of the airport services, so we want to provide our passengers and visitors the most satisfactory ways of reaching the airport. There are numerous public transportation connections from the airport to the capital city Ljubljana and nearby towns to choose from.

For the bus shuttle please check: <http://www.lju-airport.si/en/passengers-and-visitors/getting-here/bus-and-shuttle/>

Taxi: The taxi rank is right in front of the terminal. Telephone: ++386(0) 590 60 777
Mobile ++386(0) 31 216 111 E-mail: taxiairport4@gmail.com
Web: airporttaxi.si



Distinguished speakers:

-Judge prof. dr. Hendrik Kerkmeester (Judge at the Commercial Chamber at the Court of Appeals Amsterdam, The Netherlands and professor of law and economics at the University of Antwerp, Belgium). Hendrik Kerkmeester finished his bachelor studies at the Erasmus University of Rotterdam (The Netherlands) and his PhD at the University of Chicago (USA). He was previously a professor of law and economics at the Erasmus University Rotterdam (The Netherlands) and publishes extensively in the field of law and economics, competition law and economics.

-Judge Marcus Smith (President of the Court of Appeals, Chairman of the Competition Appeal Tribunal (CAT) London UK): Marcus Smith specialises in commercial and commercial chancery work, which includes an extensive arbitration practice. He also practises in the field of regulation. Marcus' work spans aviation, banking, commercial contracts, competition, conflict of laws, insurance and reinsurance, IT and "soft" IP, professional negligence and sports. More specific details appear below. Marcus relishes cases that have a technical element to them – whether this is US tax law, the corrosion of metal in nuclear reprocessing plants, complex securitization structures, or the validity of the assignment of mobile phone patents. Marcus has particular expertise in relation to intangible property (of all sorts, including intellectual property) and is regularly involved in advice and litigation in this area. He is the author of the leading work in this area – *The Law of Assignment: The Creation and Transfer of Choses in Action* (OUP 2007).

-Judge, prof. dr. Arjen Meij (Judge and Chamber President at the General Court of the European Union from 1998 until 2010, current Judge at the Court of Appeal of The Hague, The Netherlands and professor at University of Luxemburg and Utrecht University (The Netherlands): Arjen Meij has served for twelve years as a Judge and Chamber President at the General Court of the European Union. Previously he was a Judge at the Supreme Court of the Netherlands and Judge and Vice-President at the Administrative High Court for Trade and Industry (College van Beroep voor het bedrijfsleven). Mr Meij was a GJ Wiarda Visiting Professor of European public law at Utrecht University in 2009. Currently he is 'Professeur invité' for European Litigation at the University of Luxembourg and Honorary Professor of European Legal Protection at Utrecht University. Meij is also Deputy Judge at the Court of Appeal of The Hague and Member of the Netherlands' Civil Honours Advisory Committee.

-Prof. dr. Roger van den Bergh (Erasmus University Rotterdam, Rotterdam Institute of Law and Economics): Prof. Roger Van den Bergh (1952) is Professor of Law and Economics at the Erasmus University Rotterdam. He serves as Director of



the Rotterdam Institute of Law and Economics (RILE). He was President of the European Association of Law and Economics from 1987 until 2001. He is currently Coordinator of the European Master in Law and Economics which has been recognized by the European Commission as an Erasmus Mundus Masters Course. Prior to joining the Erasmus University Rotterdam, Prof. Roger Van den Bergh was a Professor of Commercial Law at the Faculty of Applied Economics of the University of Antwerp (1987-1992) and a Professor of Law and Economics at the Universities of Utrecht (1993-1998) and Hamburg (1994-1998). He was a research fellow at several institutes, including the Max-Planck-Institut für ausländisches und internationales Patent-, Urheber- und Wettbewerbsrecht in München (1982, 1987, 1990), Yale University, New Haven (1991) and the Norwegian Academy of Sciences in Oslo (Centre for Advanced Studies, 1995). He was also a Visiting Professor at the University of Aix-en-Provence (1999), the Higher School of Economics in Moscow (2001), the LUISS “Guido Carli” University in Rome (2002, 2005) and the University of Bologna (2002-2005).

Prof. Roger Van den Bergh published extensively on competition law and economics, European law and economics, economic analysis of consumer law and economic analysis of tort law and insurance. His current research is on the reception of economic arguments in EU competition law, economic analysis of the subsidiarity principle in EU law and related problems of harmonisation of laws, topics of public safety (in particular, regulatory schemes for catastrophic accidents) and self-regulation of the liberal professions.

-Prof. dr. Jacques Steenbergen (Director of the National Competition Authority of Belgium and professor at the University of Leuven, Belgium): Prof. Dr. Jacques Steenbergen (born in Antwerp (Belgium) in 1949) is since 2007 Director General in the Belgian Competition Authority. He teaches competition law at the KU Leuven since 1979. Before joining the competition authority, he was partner in the Brussels office of Allen & Overy, and he has been legal secretary to the President of the Court of Justice under the presidency of Prof. J. Mertens de Wilmars. He is also editor in chief of the Dutch-Belgian European law review SEW, chairman of the Board of the Stichting van het Koninklijk Conservatorium of Brussels (the foundation of the royal academy for music of Brussels), and honorary member of the Bar of Brussels (Nederlandse Orde van Advocaten bij de Balie te Brussel). He is a former member of the Brussels and Flemish Bar Councils.

He lectured or gave conferences and served as member of nomination committees or PhD examination committees in institutes and universities in Austria, Belgium, China, the Czech Republic, France, Germany, Hungary, Italy, Japan, Luxembourg, the Netherlands, Poland, Portugal, Spain, Turkey, the United Kingdom and the United States. He publishes regularly on EU and competition law.



He obtained a PhD at the KU Leuven with prof. dr. W. van Gerven on legal remedies and ailing industries (1978). He holds a masters degree in law from the KU Leuven (1972), and bachelor degrees or equivalent certificates in law, philosophy and economics from the University of Antwerp (UFSIA)(1969).

-Judge Marc Fierstra (Judge at the Supreme Courts of The Netherlands, chairman of the third chamber (tax matters) and professor at Utrecht University and University of Amsterdam, The Netherlands). Justice Marc Fierstra finished his PhD in the field of international and private law at the University of Amsterdam and was a Judge at the Court of Appeal for Trade and Industry in Den Haag, was a Head of European Law Division, Legal Service at the Ministry of Foreign Affairs, Netherlands, a Senior Advisor Legislative Department at the Ministry of Justice (The Netherlands) and a legal secretary at the Court of First Instance of the EU.