

6th CECL Conference Company Law Reform in Central and Eastern Europe

Legal Borrowing, Leapfrogging, and Innovating for a Competitive Regulatory Environment

9 - 10th June 2016, Warsaw, Poland - Warsaw Stock Exchange, Listing Hall

DAY 1

08:45 - 09:15 Registration >

09:15-09:30 Welcome Address >

Stef Bartman - Managing Director of CECL and Professor at Leiden University
Mariusz Haładyj - Undersecretary of State at the Ministry of Economic Development
Paweł Dziekoński - Vice-President of the Board, WSE
Arkadiusz Radwan - President of the Allerhand Institute, of counsel at Kubas Kos Gałkowski

09:30-10:00 Keynote Address >

Martin Winner - Chairman of the Austrian Takeover Commission; Professor at Vienna University of Economics and Business; member of ICLEG

10:00 - 11:30 Opening Panel >

- > Pulling the strings: present state and driving forces of regulatory reform in CEE
- > Institutional framework: courts, legal culture, business ethics – how do they determine regulatory choices?

Intro: Update from the Market by *Łukasz Gasiński* - Weil, Gotshal & Manges LLP

Chair: *Marek Wierzbowski* - University of Warsaw

Speakers: *Radu Catana* - Babeş-Bolyai University, *Taras Dasho* - KODARY Partners, *Beata Gessel-Kalinowska vel Kalisz* - President of the Lewiatan Court of Arbitration, *Ioan Şumandea-Simionescu* - Banca Transilvania SA

11:30 11:45 Coffee break >

11:45 - 13:00 Shareholder Rights Panel >

- > Curbing self-dealing: approaches to related party transactions and other conflicts of interests
- > Reconciling efficiency with protectionism: group law in CEE

Intro: Update from ICLEG & EMCA by *Pierre-Henri Conac*

Chair: *Stef Bartman*

Speakers: *Bohumil Havel* - Institute of Law, Czech Academy of Science & PRK Partners Prague, *Adam Opalski* - University of Warsaw, *Aleksandra Polak* - Kocharński Zięba & Partners

13:00 - 14:15 New Technologies Panel >

- > Leapfrogging: digitalization of company law

Intro: Update from Brussels by *Bartłomiej Kurcz* - Head of Company Law Section, European Commission

Chair: *Jacek Dybiński* - Allerhand Institute & Jagiellonian University

Speakers: *Jacek Jastrzębski* - University of Warsaw & PKO BP, *Vanessa Knapp* - Queen Mary University of London & ICLEG, *Laila Medin* - The Ministry of Justice of the Republic of Latvia

14:15 - 15:15 Lunch break >

15:15 - 16:15 Arbitration in Corporate Law Panel >

- > Rights' enforcement: arbitrability of corporate disputes in a comparative perspective

Intro: Update from the Court by *Rafał Kos* - Lewiatan Court of Arbitration, Kubas Kos Gałkowski Law Firm

Chair: *Marek Jeżewski* - Kocharński Zięba & Partners

Speakers: *Reinmar Wolff* - University of Marburg, *Gerold Zeiler* - zeiler.partners

16:15 - 17:30 Golden Shares Panel >

- > Imperium without Dominium? Company law aspects of State control over and influence on strategic companies in Central and Eastern Europe

Intro: Update from the Government by *Filip Grzegorzczak* - Deputy Minister of Treasury, Republic of Poland

Chair: *Pavlos Masouros* - Leiden University & CECL

Speakers: *Sebastian Mock* - University of Hamburg, *Thomas Papadopoulos* - University of Cyprus, *Tomasz Sójka* - Adam Mickiewicz University



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DAY 2

9:00 – 9:05 **Welcome Session** >

9:05 – 9:30 **Keynote Address** >

Andras Hanak - Euro-Phoenix

9:30 – 11:20 **New trends and regulatory innovations in CEE** >

Chair: *Anna Babych* - AEQUO

- > **Simple Joint-Stock Company- new flexible corporate vehicle in Slovakia** (*Žofia Šuleková* - University of Cambridge, UK)
- > **Small partnership as a vehicle for small and medium-size business in Lithuania: is the theoretical model effective in practice?** (*Lina Mikaloniene* - Vilnius University Faculty of Law)
- > **Company Law Reform in Ukraine: Recent Regulatory Developments** (*Julia Khort* - Legislation Institute of Verkhovna Rada of Ukraine)
- > **Digitalization of company law and corporate governance in Ukraine: challenge or opportunity?** (*Mariana Nakonechna*- Jagiellonian University & Allerhand Institute)

11:20 – 11:40 **Coffee break** >

11:40 – 12:45 **Related party transactions** >

Chair: *Krzysztof Grabowski* - Allerhand Institute & Conference of Financial Companies in Poland

- > **Related Party Transactions in Limited Liability Companies and Joint-Stock Companies in Ukraine: Comparative Aspects** (*Ivan Romashchenko* - Taras Shevchenko National University of Kyiv)
- > **Related party transactions in non-wholly owned subsidiaries: an attempt to regulate the rivalry - the CEE perspective** (*Marcin Mazgaj* - Jan Długosz University in Częstochowa)

12:45 – 14:15 **Creditor protection** >

Chair: *Szymon Syp* - korporacyjnie.pl

- > **Shareholder loans between subordination and Kapitalersatzrecht (Slovak perspective)** (*Kristián Csach* - Pavol Jozef Šafárik University in Košice)
- > **Redefining the civil responsibility? Facing the new concept of capital company** (*Marta Litwińska-Werner* - University of Warsaw, *Marcin Radwan-Röhrenscheff*- RÖHRENSCHEFF Law Firm)
- > **Innovating through Comparative Law. How to Efficiently Regulate, in a Civil Law System, the Fiduciary Duties in a Near-Insolvent Company** (*Bogdan Buta* - CMS Cameron McKenna SCA)

14:15 – 14:45 **Lunch** >

14:45 – 15:50 **Corporate mobility** >

Chair: *Thomas Papadopoulos* - University of Cyprus

- > **Companies' Freedom of Establishment in the EU: Comparative and Empirical Findings with Special Emphasis on the Situation in Central and Eastern Europe** (*Federico Mucciarelli* - SOAS and Modena, *Mathias Siems* - Durham University)
- > **The Polish Supreme Court request for the CJEU preliminary ruling on an outbound company seat transfer in Poland: light at the end of the tunnel** (*Ariel Mucha* - Allerhand Institute & Jagiellonian University)

15:50 – 16:55 **Takeover law** >

Chair: *Arkadiusz Radwan* - President of the Allerhand Institute, of counsel at Kubas Kos Gałkowski

- > **Laws on Mandatory Bids, the "Best Price Rule", and the Problem of Collusion: A Primer over the Defects of Balkan Takeover Laws and the Limits of Public Enforcement (as a Lesson for Reforms in Transitional Economies)** (*Casimiro A. Nigro*, *Marko Ketler*, *Filip Grle* - Goethe University, Frankfurt am Main)
- > **The concept of control in takeover law of European states with particular emphasis on Central and Eastern Europe** (*Tomasz Regucki* - Allerhand Institute)

16:55 – 18:00 **Corporate ethics** >

Chair: *Wojciech Rogowski* - National Bank of Poland, Warsaw School of Economics & Allerhand Institute

- > **Whistleblowers in Central and Eastern Europe (CEE): Incentives, retaliation and leaving the past behind** (*Stelios Andreadakis* - Leicester Law School)
- > **Juridification of Corporate Social Responsibility** (*Radek R. Wasilewski*, *Jan Uniejewski*, *Joanna Marendziak* - Uniwersytet Szczeciński)

18:00 – 18:10 **Concluding remarks and closing ceremony** >



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Opening panel >

Pulling the strings: present state and driving forces of regulatory reform in CEE
Institutional framework: courts, legal culture, business ethics – how do they determine regulatory choices?

The first session will set the stage for further discussion and provides insights into the logic of regulatory change and company law reforms in CEE. It will also be devoted to some general issues of company law in CEE and will look into its status quo as seen against historic and cultural backgrounds. The opening panel will cover the recent developments in company law of CEE in light of European Acquis. The company law will also be presented from the institutional perspective, which will include the analysis of determinants of regulatory policy, such as legal transplants and path dependence.

Shareholder Rights Panel >

Curbing self-dealing: approaches to related party transactions and other conflicts of interests
Reconciling efficiency with protectionism: group law in CEE

Second session will be dedicated to selected major issues regarding corporate governance. First part of the panel will present comparative approach regarding regulatory remedies for conflicts of interests within the company. Legal aspects of self-dealing and related party transactions, i.e. transactions between management or major shareholder and the company itself, parent company or subsidiary company will be examined. In the second part of the panel new developments and regulatory approaches to group law will be discussed.

New Technologies Panel >

Leapfrogging: digitalization of company law

This panel will be devoted to application of new technologies to the company law in order to enhance and facilitate business establishment and operations. Firstly, growing number of countries allow the companies or partnerships to be established electronically in order to reduce the costs and time needed to incorporate new business. Secondly, distant communication allows for change of the manner of decision making process by managers and shareholders. Thirdly, some states (e.g. Ukraine) introduced dematerialization and electronic trade of shares of both public and non-public companies, whereas other states (e.g. Poland) are at the moment reluctant to allow all of the companies to have their shares dematerialized, reserving electronic trade for public companies only. One of the main questions of this session is whether we can observe specific phenomenon of "regulatory leapfrogging" which would mean that the CEE countries may in fact be more innovative and apt to adopt technologies in company law as well.

Golden shares panel >

Imperium without Dominium? Company law aspects of State control over and influence on strategic companies in Central and Eastern Europe

Last fifteen years have seen a vivid legal and economic debate on State control over strategic companies. The Court of Justice of the European Union in a series of judgments established a restrictive approach to Golden Shares, i.e. any regulations which empower the state to maintain strategic influence on privatized publicly-traded companies without proper equity stakes. Those regulations covered both company law institutions (such as veto rights, voting caps etc.) and mandatory laws (such as any requirements to obtain State consent before exceeding particular share threshold in certain companies). The vast majority of Golden Shares were found incompatible with the Treaty provisions, namely the free movement of capital and the freedom of establishment, and this fact strongly influenced the views on possible State ownership policies. Nonetheless in legal systems of European countries there are still many institutions which may be regarded questionable as to their compliance with Treaty provisions. Continued existence of Golden Shares is also the result of rapidly changing geopolitical situation, financial crisis and economic debates. The last panel will cover the present status and future prospects regarding the issues of state control in CEE.



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