The 11th "Luxemburger Expertenforum" on the development of EU law

On 3 and 4 December 2017, the 11th "Luxemburger Expertenforum" on the development of EU law took place at the Court of Justice of the European Union. This forum is a workshop that is organised regularly by the German members of the Court of Justice (including the members of the European Court [formerly of First Instance] and the Advocates General); it is presided by the President of the CJEU, Koen Lenaerts, and attended by non-German members of the Court as well (although the discussions at the meeting are held in German).

This year's forum was divided into four parts. It started on Sunday evening with a dinner speech by the protestant Bishop of Berlin-Brandenburg, Markus Dröge, who looked back at the 500 year anniversary of the reformation and reflected upon the relationship between the church(es) and the state(s) under domestic and European laws. The latter topic was also the general subject of Monday's first morning session, which was titled "Constitutional challenges at the workplace". In this session, which was chaired by Advocate General Juliane Kokott, the tensions between an employee's right to exercise his or her religious freedom and the employer's desire for a neutral and harmonious working environment were discussed. Moreover, the speakers looked at the implications of a case pending before the CJEU for the impact of the Anti-Discimination Directives on employees working in hospitals or schools run by churches (C-68/17). The topics were approached from a constitutional perspective by Monika Hermanns, judge at the German Constitutional Court, and Rüdiger Stotz, General Director at the CJEU and a member of the working group on EU law set up by the Conference of European Churches. Inken Gallner, judge at the Federal Labour Court, and Felix Hartmann, professor of labour law at the Free University of Berlin, added both practical and academic views from the perspective of labour law. Matthias Bartke, a social-democratic member of the German parliament, commented both on matters of politics and policy.

The second session was chaired by chamber president Thomas von Danwitz and devoted to a subject dear to readers of our blog: "Mutual trust and mutual

recognition – are the structural principles of EU law still valid?". This question was approached from various angles: Dirk Behrendt, senator of justice of Berlin and a member of the German Green party, gave an overview over Berlin court practice concerning the recognition and enforcement of foreign judgments. Tim Eicke, a British judge at the European Court of Human Rights in Strasbourg, looked at the implications of the European Convention on Human Rights for mutual recognition between the EU member states. Harald Dörig. judge at the Federal Administrative Law Court, analysed the principle of mutual trust (or rather the lack thereof) in the field of migration and asylum law. Yvonne Ott, judge at the German Constitutional Court, and Alexandra Jour-Schröder, director for criminal justice at the European Commission, discussed tensions between European law on arrest warrants and domestic constitutional guarantees. After the short speeches, Jan von Hein, professor at the University of Freiburg, opened the discussion with a survey on the current state of play with regard to European civil procedure.

During lunch, Luxembourg's Minister of Foreign Affairs, Jean Asselborn, gave a speech on current challenges facing the EU and its member states, in particular with regard to migration politics (you may read the text of his speech here).

The third and final session was chaired by Alfred Dittrich, judge at the European Court, and dealt with the issue of whether and under which conditions national tax exemptions may qualify as prohibited subsidies under the TFEU. The speakers of this panel were Rudolf Mellinghoff, the president of the Federal Tax Court, Johannes Laitenberger, the General Director of the DG Competition, Kirsten Scholl from the German Ministry of Economics, Johanna Hey, professor at the University of Cologne, and Ulrich Soltész, lawyer at Gleiss Lutz in Brussels. Different views on the relationship between EU law on subsidies and domestic laws on taxation gave rise to an open and fruitful discussion.