

Remarks at the Opening of the Symposium Celebrating the 10th Anniversary of the *German Law Journal* – German Federal Bar (BRAK)

By Axel C. Filges*

I am delighted to be here to celebrate with you the tenth anniversary of the *German Law Journal*. The mere existence of a publication like the *German Law Journal* is remarkable, but what is even more impressive is that it is of such a high intellectual quality.

We lawyers do not make the law, we do not—at least not in the first place—interpret the law and we do not look for theoretical reasoning for the law. This distinguishes our profession from politicians, judges and professors. We lawyers use the law every day in consulting and representing our clients. Therefore, we are in a very privileged position—we are closer to everyday life. We are the first ones to see the direct practical impact of modifications or amendments of laws.

For the same reason we are also closer to the practical impact of the transnationalization of law. We are the ones who are asked how to conclude a contract with a South African company, what rules apply to a German-French marriage or divorce or what rights an employee working in America has. Issues like these are not exotic anymore. Such questions are part of our daily work.

When I studied law, many years ago, the legal horizon of most students ended at the German borders. Thank goodness that times have changed fundamentally. Due to its direct impact on the situation in Germany, European law is nowadays almost seen as national law and therefore part of the mandatory curriculum of every law student. All law schools interested in a good reputation offer at least insights into other legal systems. Being open-minded towards foreign law systems is now the be-all and end-all of becoming a good lawyer.

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But the transnationalization of law not only provides us with the opportunity to get closer to foreign law systems. It also gives us the chance—or more accurately the necessity—to get closer to our own law system.

It is especially us lawyers who are more often than not in the convenient position to choose the applicable law—or at least to motivate our clients to do so. We can consider and weigh the advantages and disadvantages and then propose the best solution to our clients. The largest part of all cross-border cases concerns contracts. Here, for example, we have the opportunity to apply a choice of law clause as well as a legal venue clause.

This opportunity should not be underestimated. It is not just an empty formula. At this point the balance of powers will be decided. Those who decide which law applies score the first point of the game. We lawyers are obviously not neutral at this point; we have a natural interest to initiate contracts under German law.

Last year at the German *Juristentag*—an annual national meeting that gathers all legal professions to discuss the most important legal developments—the President of the Federal Republic of Germany, Horst Köhler, stressed the importance of a good legal system as an advantage in economic competition. For him, clear, reliable and efficiently executable laws are an essential basis for lasting economic success and national wealth. The German Federal Bar is, like the President, convinced that the German legal system is clear, reliable and efficient. Last year, we have initiated the foundation of the Alliance for German law. Besides the German Federal Bar, the Alliance comprises of all other professional organizations in the German legal sector, including the German Bar Association, the Federal Chamber of German civil law notaries, the German Judges Association and the German Notaries Association. Its main objective is to show the public in Germany and abroad the advantages of the German legal system.

We are convinced that German law is efficient, cost-effective and reliable. We are convinced that the German legal system is a good reason for investment in Germany. We are convinced of these arguments and we want to convince others, too.

Let me give you but a few examples that you can find in a booklet published by our Alliance under the title *Law – Made in Germany*.¹ Like most other European countries, Germany belongs to the long-standing family of continental European legal systems in the tradition of Roman law. For this reason German law is based on codes. The Civil code, for example, has been in existence for more than one hundred years—a long time, considering the rapidly changing history of Europe. Even if the almost uncountable number of codified provisions in Germany has often been the subject of satire, there are undeniable advantages of codified law: codification provides legal certainty, as it defines general principles and guidelines and often-used terminology.

¹ See <http://www.lawmadeingermany.de/>.

There are, for example, specific statutes that lay down rules for individual types of contracts, such as contracts of sale or lease. In balancing the freedom of contract and the regulation by written rules, the German legal system allows for the adaptation of general rules to the requirements of an individual case. The advantages can be seen at first glance: a German contract is much more concise compared to a contract under English or American law. In addition, codification enables a fast and direct access to the law. It also makes it easier to find relevant court decisions as they are all summarized in categorized commentaries.

The complement of contract law at a cross-border commercial level is company law. The German Commercial Code contains rules for the different types of enterprise: *e.g.* the private limited company as the most important corporate form under German law. The regulations for private limited companies have undergone significant changes last year—closely observed and accompanied by the *German Law Journal*. The special issue of the *German Law Journal* published on the occasion of the passage of this bill was one that I read with great attention—and not only because I am a lawyer in an international law firm that mainly represents public and private companies.

The Law society of England and Wales published a booklet last year that praises the common law system as the "jurisdiction of choice."² We took this publication as a challenge to start an international competition of legal systems—a competition of legal professions in which, in good tradition, the best arguments may win. And we are ready to enter this competition. We will redouble our efforts to promote the advantages of Continental-European law and cooperate with other countries in this effort. There is no reason for us to hide; German law has an excellent reputation worldwide.

The contribution of the *German Law Journal* to the effort of creating a better international understanding of German law cannot be overestimated. If the result of this competition of law systems is to be effective and beneficial to society, it is necessary to know and understand the other system.

The *German Law Journal* not only observes current developments in German law, but also provides a well-informed insight into the traditions of German legal thinking. Thus, the readers who, as I have learned, come from the impressive number of 92 countries, get unique access to the theoretical background of German law. Due to the international character of the *German Law Journal*—only in observing the selection of articles published—the German reader gets an impression of how German law is perceived abroad. This provides the German reader with the opportunity to change his or her perspective—a great value for the understanding of their own system.

² See http://www.lawsociety.org.uk/documents/downloads/jurisdiction_of_choice_brochure.pdf.

For this reason, I would like to thank all those who have contributed to the rising success of the *German Law Journal* over the past ten years. With your passion and your expertise you make sure that German law is not only known but also understood abroad. You have initiated a real "dialogue of law."

I congratulate the *German Law Journal* on its 10th anniversary. May it continue to present German law at the same extraordinarily high level as it does today and even broaden its reach. And with that, may more and more people, companies and countries develop a stronger interest in German law.