

## **The Three Most Important Features Of My Country's Legal System That Others Should Understand**

### **1. 150-Year-Old Tradition Of A Strong German Legal System**

The German legal system has been one of the most influential legal systems of the world since the 2<sup>nd</sup> half of the 19<sup>th</sup> century. At that time academics and legal professionals worked over a period of 30 years on a codification of German law. This was the birth of the "Bürgerliches Gesetzbuch" ("BGB") (also known as the "Big German Book"), which still is the foundation of the civil law part of the current German legal system. Several Asian countries adopted the German legal system after World War II and even before: Japan, Korea - and China, first and unfortunately only during a small window of opportunity, mainly at Dongwu Law School in Suzhou in the late thirties of the 20<sup>th</sup> century and then again after the so-called opening of China beginning in the mid eighties of the 20<sup>th</sup> century. After the fall of the Berlin Wall, different eastern European countries used the German civil law as a model for their respective civil legal systems. Meanwhile, in practice, the German legal system has come to be based more on cases („richterliche Urteile“), which increasingly influence and are influenced by commentary. As a result, even the interpretation of codified law itself is becoming increasingly based on case law.

During the 2<sup>nd</sup> half of the 19<sup>th</sup> century, legal education in Germany was reformed. It became the unique privilege of the State to examine German jurists. The concept behind the reform was that anyone who wished to act as a full-fledged legal professional – whether as attorney, judge, lawyer, or legal academic – must successfully complete a First and a Second State Exam, separated by a two-year clinical program. Through the course of different internships at law firms, courts, legal administrative offices, prosecutors' offices, etc., this program provides an overview of the entire range of legal practice.

## 2. Internationalization Of Legal Practice Affects The German Legal System

In the second half of the 20<sup>th</sup> century, and with accelerating speed at the end of that century, the uninterrupted economic success of the US as the leading - and since the Fall of the Iron Curtain, so far the only remaining - world power has led the Anglo-American legal system to become the leading legal system in the world. In practice, business transactions in a globalized world are based on Anglo-American contract drafting techniques. By contrast, the approach of German codified law - that everything important is codified and that individual contracts need only address specifics relating to the parties - is going to become smaller. In that respect, the importance of the German legal system in practice is shrinking.

At the same time, a more and more globalized world urges thinking in global dimensions, not only in the field of “soft law”, but also in the field of hot topics such as IP, property rights, and others. Businesses and transactions among companies and multinationals no longer depend on national boundaries. In addition, although nations are still the most important actors for their citizens, numerous factors combine to force nations to act in a manner that recognizes this globalization. These factors include the transnational dimension of business, the enormous power of multinational companies and globally-active NGOs, human rights, wars, phenomena such as lack of primary resources (water, oil, etc.) and natural catastrophes. In Germany (as in all other European Union members), EU regulations are going to overpower national laws: more than 40 % of new federal legislation in Germany is caused by the need to implement EU law into the national legal system.

## 3. These And Other Factors Lead To Increased Pressure For Change In German Legal Education

Despite these phenomena, German legal education is still focused almost exclusively on German national law. Both State Examinations address only the German legal system. However, there are signs of change. A first reform of the first State Exam implemented in Summer 2006 required universities to be responsible for 30 % of the grades of the First State Exam, thus breaking the traditional rule that the professional qualifying examination for jurists is exclusively the prerogative of the German State. The Bologna Process, the aim of which is to establish a unified university system all over the EU, will

cause additional changes to traditional legal education in Germany. This change is not unique to law: Every discipline must adapt its curricular structure to the Bachelor and Masters Degree model.

Within the coming five to ten years, German legal education will undergo its most far-reaching change for the past 150 years. As a result, German law schools will improve and adapt to the global world – without losing quality. The challenge that German legal education will face is to find its way into the future by achieving a new balance between its well-developed school of thought and its logical and analytical strengths on the one hand and inevitable change and reform on the other.

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