

The School of German Law in Cracow Celebrates Its 5th Anniversary

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The School of German Law at the *Jagellonian* University in Cracow was established in 1997 as joint academic undertaking of the Law Faculties of the three Universities Ruprecht Karls- University (Heidelberg, Germany), Johannes Gutenberg-University (Mainz, Germany) and Jagellonian University (Cracow, Poland). The initiators and first directors of the School were Professor Kazimierz Lankosz (Cracow), Professor Horst Konzen (Mainz), and Professor Peter Hommelhoff (Heidelberg). The 5th anniversary of the School in 2002 provides a good opportunity to sum up the activity of the School until now and to ventilate some thoughts on the future plans for this innovative undertaking, which already had proven to have gone well beyond its original boundaries.

The original and main task of the School has been to expose Polish law students to the fundamentals of the German and European Legal Systems and to further facilitate the mutual contacts between both German and Polish law students and scholars through the organization of seminars, research visits and paid internships. This should certainly also contribute to the continuing understanding and friendship between these two nations. The program of the School of German Law has remained the same from its inception. During the Winter semester the Polish students complete a special course on German legal terminology. In the Summer semester they attend a series of eleven lectures devoted to the basics of the German private, public and penal law, always against the background of European Union law. Until now the following German professors have delivered their lectures in Cracow, notably without receiving any remuneration: *Dieter Dörr, Meinrad Dreher, Barbara Grunewald, Mathias Habersack, Walther Hadding, Reinhard Hepting, Curt Wolfgang Herdenröder, Peter Hommelhoff, Dagmar Kaiser, Horst Konzen, Justus Krümpelmann, Olaf Miehe, Peter-Christian Müller-Graff, Reinhard Mußgnung, Walter Perron, Walter Rudolf, Arndt Teichmann, Peter Ulmer and Uwe Volkmann*. Apart from the lectures, students also participate in special rehearsal classes, pass a series of written tests and, finally, towards the end of the course, take an oral examination before a commission consisting of German professors. Participants of the School find welcoming working conditions to deepen their knowledge in the library of German law, which comprises the most actual textbooks, commentaries and official collections of decisions of the German Federal Constitutional Court. In fact, the

library at the School of German Law in Cracow is, for now, the best-equipped one on German and European law in Poland. Upon completion of the course, the students receive diplomas certified and sealed by the three universities taking part in the project. Until now 120 Polish students have successfully completed the School of German Law in Cracow.

It has become a tradition at the School that its best students are given an opportunity to supplement their theoretical knowledge of German law acquired at the School with paid internships in the legal department of a number of renowned German companies. These companies include: *InfraServ GmbH & Co*, *Hoechst KG* (Frankfurt Main), *Aventis Pharma Deutschland GmbH* (Bad Soden/Taurus), *Boehringer Ingelheim GmbH* (Ingelheim/Rhein), *Manheimer Versorgungs- und Verkehrsgesellschaft mbH* (Mannheim), which are also generous sponsors of the School. Moreover, a small selection of top graduates of the School receive yearly scholarships allowing them to prepare their doctoral dissertations in Germany.

On the occasion of inauguration and termination of each of the School's academic years ceremonies take place, to whom both presence as well as distinguished lectures by guest speakers add particular splendour. In the past years the ceremonies were honoured *inter alia* by the German Minister of Inner Affairs, Mr Otto Schilly, the at the time German Minister of Justice, Professor Herta Däubler-Gmelin, the former president of the Second Chamber of the European Court of Justice and current president of the German Federal Court, Professor Günter Hirsch, the former President of the German Federal Constitutional Court, Professor Jutta Limbach, as well as the former President of the German Federal Court of Justice (BGH), Professor Walther Odersky. During the last ceremony terminating the academic year 2001/2002 in June 2002 the two German initiators of the School, Professor Horst Konzen of the University of Mainz and Professor Peter Hommelhoff of the University of Heidelberg were awarded the titles of "doctor honoris causae" of the Jagellonian University in respect of their merits for the Polish-German academic co-operation.

The second important element of the program are the Polish-German student seminars sponsored by *Robert Bosch GmbH* (Stuttgart) and taking place alternately in Poland and in Germany. In the School's five years of existence, nine seminars have been held in Cracow, Mainz and Heidelberg, at which some forty German and Polish students, professors and assistants did participate each time. The main topics of the seminars were *inter alia* the Law of Credit Securities (secured transactions), Company/Corporate law, Construction law, Insolvency law, as well as recent developments in European Private law. Participation in the general seminars not only contributes to the students' and the scholars' academic development, but has furthermore been a great opportunity for the establishment of closer personal contacts and friendships.

It must be stressed that thanks to the support of the authorities of the three universities, the personal involvement of many people and the financial support of

numerous sponsors, such as the Foundation for *Polish German Co-operation* (Warsaw), the *Stifterverband für die deutsche Wissenschaft* (Essen), the *Deutscher Akademischer Austauschdienst* [DAAD] (Bonn), the *ZEIT-Stiftung Ebelin und Gerd Bucerius* (Hamburg), the *Mannheimer Versorgungs- und Verkehrsgesellschaft mbH* (Mannheim) and a number of further German and Polish enterprises and law offices, the School of German Law has become a regular and already highly esteemed institution at the Jagellonian University, having created a solid foundation for closer academic and research co-operation.

The outstanding achievements of the School can only serve as example for similar undertakings. In the beginning of the 2000 academic year, the *Centre of the Schools of Foreign Laws* was established at the Faculty of Law in Cracow (coordinating director: Dr. Fryderyk Zoll). It also includes the School of American Law (partner University: the Catholic University of America, Washington D.C., U.S.A.) and the School of French Law (together with the Université d'Orléans in France). Following these examples the Faculty of Law in Cracow, in co-operation with the University Ternopil (Ukraine) and the University of Vilnius (Lithuania), did establish the Schools of the Polish and European Law at all of these Universities. Previous experiences of the School of German Law has also proven useful in the realisation of these new projects. Schools of Law as a platform for international academic co-operation between East and West – why not? The uniting Europe surely needs such initiatives.

The successful co-operation between German and Polish scholars led to an intensive scientific exchange. However, on both sides the need was expressed to broaden this co-operation on specific legal issues connected with the transformation of the Polish legal system, which to a large extent was induced by the European law. This gave birth to the idea of the European Postgraduate College “System Transformation and Law Harmonisation in the Uniting Europe” which started in February of 2002. The College will contribute immensely to an intensification of mutual research into comparative law, enabling young Polish and German lawyers to prepare doctoral dissertations under the supervision of professors from Cracow, Heidelberg and Mainz. Some thirty PhD-students (15 from the German and 15 from the Polish side) will be financially supported (thanks to the *Deutsche Forschungsgemeinschaft*, the *Deutscher Akademischer Austauschdienst* and private sponsors) for a maximum period of two years. Their research should concentrate on the German-Polish legal problems connected with the transformation of the Polish and other middle-European legal and economic systems in course of their integration into the EU. Content related, the Postgraduate College is divided into five main subjects: Basics of Public Law, Civil Law, Labour Law, Company and Enterprise Law, General Economic Law. Each of the PhD students is supervised by a German and a Polish Professor. Moreover, the students are obliged to stay at least six months in the other country.

The success of the project is especially important from the Polish point of view. As regards the urgent need for the unification and harmonisation of our law with that of the European Union and the close relation between German and Polish law, research into the German legal system can be helpful for the development of Polish law in the current period of transition. But a comparison with the legal system in the state of rapid transformation, such as the Polish one, makes also possible the functionally examination of the German law. Creating the modern legal institutions, e.g., capital market, banking or securities law, after many years of the communist central governed economy, the Central European reforming states, i.a. Poland, were often starting from the "zero point" being compelled to adopt the regulations existing in other developed countries. Transforming states could select among many national legal solutions picking up the best and most useful ones and adjusting them to their own needs. Thus, the real competition of the legal systems has been taking place. For the German scholars it is interesting and important to know what aspects of German law are being accepted and adopted as a whole or in modified ways by their Polish neighbour. The German regulatory concepts which have not been adopted in the transforming states can be regarded as being inferior in relation to national regulations of other countries. From this, conclusions can be drawn on the modernisation of the German law. So, e.g., the German company law has been for the most part the regulatory example for legislators in the Central European countries. Especially many German statutory regulations, but also concepts developed in the doctrine and jurisdiction, concerning capital companies (limited liability company, German: GmbH, and joint-stock company, German: AG), such as the construction of the company before registration (German: *Vorgesellschaft*) and the concept of the minimal legal capital, have been taken over into the new company laws of the reforming countries, i.a. Poland. On the other hand, the negative example constitutes the German capital market law. The German concept of the stock exchange which differentiate between the "carrier" (*Träger*) of the stock exchange as a subject of the private law and the stock exchange itself, which is regarded as an institute of the public law (*Anstalt des öffentlichen Rechts*) was considered as too complicated and overregulated. The institutions of the Polish capital market law have been patterned after the French solutions with the help of the French specialist (especially from the *Société de Bourses Français*). Some modern regulations of the Polish capital market law may serve as an example also for the German legislator, e.g. the protection of the shareholders in case of company delisting. Polish law regards the general assembly of shareholders as being competent to take the resolution about this (with the qualified majority of 4/5 voting rights, when the half of the legal capital is represented). Moreover, the opposing shareholders have the right to exit the company in return for a fair price. The given examples prove that the legal comparison may be equally fruitful for the transforming state as Poland and for the Germany, which is regarded as a country

legally and economically developed but requiring modernisation to stay competitive.

Finally, as we got to know recently, the Polish law may also give an example for the European legislators at creating the European Constitution. The European legislators are especially impressed by the introduction of the Polish Constitution form 2. April 1997 defining the Polish Nation as “all Citizens who believe in God being the source of the Truth, Justice, Good and Beauty, as well as those who do not part this belief but derive these universal values from other sources”. The introduction stresses the Christian roots of the Polish nation and culture not hurting the believers of other religions as well as unbelieving citizens. It reflects also the traditional Polish spirit of tolerance (Poland is probably the only European country, in which no religious war took place and which gave the shelter for the religious refugees, also Jews, from other countries). “The notion of the nation in Polish, German and future European constitution” – is it not an interesting subject for the doctoral thesis ?