

Report: 4th Summer Academy on International Dispute Resolution 2007**9th – 14th of July 2007****Friederike Stumpe, LL.M.**

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*Translated from the German report published in the Journal SchiedsVZ 2007, Heft 6, S. VIII**

The Fourth Summer Academy of the Heidelberg Center for International Dispute Resolution took place from the 9th to the 14th of July 2007. As in past years, it was held in cooperation with the German Institution of Arbitration (DIS) and the International Chamber of Commerce (ICC). This Fourth Summer Academy was a further contribution to the success story of the Summer Academies held so far. The directors, Prof. Dr. Thomas Pfeiffer, Prof. Dr. Burkhard Hess and Prof. Dr. Dr. h.c. Herbert Kronke succeeded in putting together a programme of lectures giving the participants a profound insight into the practice of European and international procedural law, alternative dispute resolution, and arbitration law. The speakers addressed useful techniques and tactics in lectures and interactive workshops.

The group of participants consisted of lawyers, representatives of business and politics, post-graduate students, doctorate students and trainee lawyers from Germany, Greece, the Czech Republic, Chile, Finland, Italy, Portugal, Brazil and Pakistan.

European and international procedural law

After some initial words of greeting to the participants and an introduction, Professor Dr. Thomas Pfeiffer, designated Vice-Rector for Teaching and Communications of the University of Heidelberg, gave a broad overview of transnational debt recovery in the internal European market. He addressed the most important acts of European civil procedure paying special attention to the Brussels-I Regulation¹, which as of the 1st of July 2007 will be extended to Denmark. He discussed the persisting problem of so-called legal torpedoes, which results from the equal treatment of actions for performance and actions for a negative declaratory judgment. Furthermore, he addressed choice of forum agreements, matters of provisional measures and notification of legal acts as well as the unlawfulness of anti suit injunctions under European law. Finally, Professor Pfeiffer dwelt on the topic of the European Enforcement Order for uncontested claims².

The next thematic block dealt with the international civil proceedings in the USA. Dr. Richard Kreindler (Shearman & Sterling, Frankfurt) elucidated the American perspective in his lecture and Prof. Burkhard Hess, dean of the Heidelberg law faculty and director of the Centre, demonstrated defence strategies in German American legal relations on the basis of practical case

* We are grateful for the permission to publish the report and its translation on this website.

¹ Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

² Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.

studies. These lectures included the peculiarities of the common law system, such as pre-trial discovery, which can influence German civil proceedings in cases of legal assistance³, punitive damages and the forum non conveniens rule. The lectures also discussed the jurisdiction of American courts, delivery, evidence by witness and American class actions.

Prof. Hilmar Raeschke-Kaiser, lawyer at the German Federal Court of Justice, gave an overview over “Transnational Civil Litigation”. He developed the notion of “transnational” rules of civil proceedings with the participants and addressed the ALI/UNIDROIT Principles of Transnational Civil Procedure. Due to his international experience as arbitrator and as a member of different study groups and associations in this sector, Prof. Raeschke-Kaiser delivered insight into the practice of international arbitration law.

Then Luc Demeyere (Allen & Overy, Antwerp) talked about the relation between European civil proceedings and arbitration proceedings. Amongst other things, Mr. Demeyere explained the application of different European acts to arbitration proceedings and referred to the relevant case law of the ECJ. He specially discussed the Brussels-I Regulation, the Evidence Regulation⁴, the Service Regulation⁵ and the Regulation on the European Enforcement Order. Furthermore, he addressed the question whether an anti-suit-injunction concerning an arbitration clause violated European community law. This question is now pending before the ECJ.⁶

The former advocate general at the ECJ, Prof. Dr. Carl Otto Lenz, explained the proceedings before the ECJ to the participants. He based his explanation on a case study concerning the “Bosman” proceedings⁷. In this case he had delivered the opinion of the advocate general. Prof. Dr. Lenz provided an interesting insight into this and other proceedings due to his first-hand experience.

Alternative Dispute Resolution

Negotiation Workshop

Dr. Christian Duve (Freshfields Bruckhaus Deringer, Frankfurt) chaired the Negotiation Workshop. He asked the participants about their prior experiences in negotiation and typical problems in such situations. On this basis different techniques of negotiation were developed and adopted in team work.

Mediation and the ICC Dispute Resolution Services

Subsequently, Peter Tochtermann (Judge, District Court Rastatt) and Jan Heiner Nedden (ICC, Paris) introduced the topic of mediation and its techniques, which were then applied to case studies in team work. Furthermore, Mr Nedden presented the procedure of alternative dispute resolution of the ICC. Finally, Mr. Tochtermann gave an interesting overview of the recognition and enforcement of clauses containing an agreement of amicably settlement of dispute. He

³ U.S. Code, Title 28, § 1782.

⁴ Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

⁵ Council regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters.

⁶ West Tankers Inc. v. RAS Riunione Adriatica di Sicurtà SpA & Ors. ((2007) UKHL 4), brought before the ECJ by the House of Lords.

⁷ C-415/93.

illustrated his overview with diverse case law, especially from the US, England, Switzerland and France.

International Arbitration

Following this, Prof. Dr. Dr. h.c. mult. Erik Jayme, former director of the Institute of Foreign and International Private and Economic Law Heidelberg, returned to international lawsuits and arbitration with his presentation of expertise on foreign law. Due to his first-hand experience he gave an extraordinary overview of typical problems focussing on the liability, the copyright of the expert of his expert report and the (problematic) use of expert reports in a different proceeding.

Finally, the participants were introduced to the practice of international arbitration by means of interactive workshops. The referees Dr. Patricia Nacimiento (Nörr Stiefenhöfer Lutz, Frankfurt), Dr. Francesca Mazza (ICC, Paris), Isabel Mulder (deputy secretary general of DIS, Cologne), Dr. Dirk Otto (Norton Rose, Frankfurt) and Dr. Dr. h.c. Herbert Kronke (director of the Heidelberg Center, currently secretary general of UNIDROIT, Rome) presented their extensive practical experiences and provided useful information. Ms. Mulder and Ms. Mazza described arbitral proceedings administered by the DIS and the ICC and the task of each of these institutions.

An imaginative social program completed the presentations. During a reception at the beginning of the week, a lunch at a Heidelberg brewery, a guided tour and a vespertine boat trip on the Neckar the participants had the possibility to discuss and exchange experiences. The summer academy was closed with a summer festival in the courtyard of the Institute of Foreign and International Private and Economic Law

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