

GERMANY

Date: 17 February 2006

Location: Max-Planck Institut

Organised by: IPR Verlag upon the kind invitation of the Max-Planck Institut

Number of experts invited: 213

Number of experts present: 20

1. Experts present

Prof. Peter Mankowski, University of Hamburg

Dr. Oliver Knöfel, University of Hamburg

Dr. Wolfgang Wurmnest, MPI

Dr. Nadjama Yassari, MPI

Dr. Hannes Rösler, MPI

Prof. Peter Winkler v. Mohrenfels, University of Rostock

Prof. Burkhard Hess, University of Heidelberg

Dr. Axel Halfmeier, University of Hamburg

Prof. Hartmut Linke, OLG Hamm

Dr. Ulrich Drobnig, MPI

Dr. Jürgen Samtleben, MPI

Prof. Marianne Andrae, University of Potsdam

Prof. Christiane Wendehorst, University of Göttingen

Prof. Reinhold Geimer, München

Dr. Giesela Rühl, MPI

Dr. Jens Kleinschmidt, MPI

Dr. Phillip Hellwege, MPI

Dr. Reinhard Ellger, MPI

Prof. Jens Adolphsen, University of Gießen

Prof. Rainer Hausmann, University of Konstanz

Dr. Thomas Simons, IPR Verlag

Prof. Geimer, München

Herr Anatol Dutta

Prof. Jürgen Basedow

Experts who have excused themselves but who showed interest to the project.

Prof. Kieninger , University of Würzburg ; Prof. Sethe, University of Halle; Prof. Baldus, University of Heidelberg; Prof. Franzen, University of München; Prof. Oppermann, University of Hannover; Prof. Magnus, University of Hamburg; Karl-Peter Puskajler, OLG München; Prof. Rott, University of Bremen; Prof. Gottwald, University of Regensburg; PD Weitemeyer, University of Kiel; Dr. Försterling, Frankfurt; Prof. Grothe, FU Berlin; Rain Andrea Nagel, Prof. Remien, University of Würzburg; Prof. Dörner, University of Münster; Prof. Stürner, University of Freiburg; Prof. Säcker, FU Berlin; Prof. Ebke, University of Heidelberg; Prof. Finke, University of Passau; Prof. Paulus, University of Berlin; Prof. Hohloch, University of Freiburg; Prof. Lüke, University of Dresden; Prof. Taupitz, University of Mannheim; Prof. Staudinger, University of Bielefeld; Dr. Kruis, Linklaters München; Prof. Müller-Graff, University of Heidelberg; Prof. Barbara Dauner-Lieb, University of Köln;

2. Agenda

1. Opening by Prof. Rainer Hausmann
2. Presentation of the project by Dr Thomas Simons
3. Discussion

3. Report on the meeting

The expert meeting was organised upon the kind invitation in the Max-Planck-Institut für ausländisches und internationales Privatrecht in Hamburg. Prof. Basedow, director of the institute, gave the greetings to the meeting and then let the chair to Dr. Simons of IPR Verlag. The meeting was introduced by a presentation of Prof. Hausmann, correspondent for Germany to the feasibility study. Prof. Hausmann gave an overview over the recent development of the law of judicial cooperation in civil matters and over the legislative projects which are presently being prepared. In his presentation, Prof. Hausmann stressed the importance of the new activities of the European Union for the different fields of private international law and the law of international civil procedure.

Dr. Simons presented the feasibility study and its objectives of capturing the European dimension in private international law, given that the legislator in this subject area is today the European Union. In his presentation, Dr. Simons discussed the various alternatives for the construction of a European research network with the objective of the intensification of the research cooperation at European level. Dr. Simons stressed the importance of the development of an adequate network and equally of adequate information instruments at the service both of the researchers in the Member States and of the legal practice.

In the discussion, the objective of the creation of a European research network structure was by most experts present positively valued. It was mentioned that in the presence of the European development of private international law some form of coordination of the research at European level would be useful. An important function would be the strengthening and the improvement of the cooperation and the opinion exchange between researchers in the different Member States and the research which is done by them. The relevance equally of the legal practice was underlined by some of the researchers present. The judiciary and its needs vis-à-vis the research should be adequately considered.

Prof. Basedow underlined the importance of a better knowledge of foreign law in the practice of private international law. He pointed out that the application of the conflict of law rules in the legal practice sometimes reveals a tendency to avoid the application of foreign law, where the content of the foreign law rules proves to be accessible only with difficulty. This led to the discussion whether in the context of a European research network facilities like better information on foreign legal sources should be provided. By means of example it was discussed, whether a collection of legislative texts in certain subject areas could be usefully supplied in that context. Although the concern was expressed, that such a collection of texts would need constant updating and careful editing, the possibility of creating similar tasks in the context of the strengthening of European research cooperation through the network was positively seen.

Another issue raised was that more and better information should be made available through the research network. It was stressed that better access to the relevant information is of much importance for the research. Especially that the sources of the legislation are made fully accessible was mentioned as an important interest of the research. The languages which the network should use were intensively discussed. There was a general agreement that English should be the network's main language. It was underlined that in cross-border contacts and exchange English and possibly French should be used, maybe also German. This should be the general rule for the main encounter like e.g. in conferences. In the context of minor seminars or in specialising subgroups of the network, the use of other languages could instead be considered.

It was rather intensively discussed how the relationship between the Network and the European Commission should function. The question was raised, how the Commission would use the input which it

would receive through the network. It was expressed that on the part of the research no sufficient feedback is received from the Commission to input provided to the legislative work, and whether and in which form comments provided are duly considered. The general opinion in the discussion was that a European research network structure would raise much interest among the researchers. A judgment on the utility of the network would however depend on whether it will provide useful activities for the researchers, before all instruments for better information and better and more intensive research contacts.

The expert meeting was concluded with a lunch.

Hamburg, 17 February 2006

Dr. Thomas Simons