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Specialisation, Internationalisation and the Fascination with Big Numbers

Trends and developments in the European legal profession in an environment of rapid growth

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tion rules applicable to undertakings". The Court did, however, not mention a single word on the point whether, by prescribing minimum tariffs, the "Real Decreto Legislativo" restricts competition. Since Advocate General Léger had emphasised in express terms that he could not see any justification for such minimum tariffs, one is perplexed by the fact that the Court of Justice did not even address the issue, which by no means had become obsolete by the Court's way of reasoning. Regarding the German "Bundesrechtsanwaltsgebührenordnung", it is crucial to note that the Court, like its Advocate General, apparently implicitly disapproved the idea, that "legislative or regulatory measures" could infringe Article 10 in conjunction with Article 81 of the Treaty, even in the absence of any previous proposal or application of an association of undertakings. Therefore, for all practical purposes, the question of the German BRAGO's conformity with EC-Law is not open any more.

2. As to the Dutch accountants' case, the Court followed its Advocate General's proposal that national chambers of lawyers, even if they are public law entities, are associations of undertakings within the meaning of Article 82. The Court rejected in this context the reasoning of the German government that the mere public law structure of an organisation exempts it from the application of the competition provisions of the Treaty.

The Court did, however, not follow its Advocate General's proposal to apply Article 86 to services of general economic interest. The Court, as a matter of courtesy, it seems, did not comment on the Advocate General's representations in this regard. Instead, it accepted in a somewhat modified way, an idea which the Advocate General had developed in the Italian lawyers' tariff case. If associations of professionals are empowered to enact mandatory ethical rules, their activities in this respect may be justified, even if it amounts to a restriction of competition.

The final outcome of the Dutch proceedings is particularly remarkable for German observers. The prohibition of partnerships of lawyers and (Dutch!) accountants is justified because for the Court it was crucial, "that in the Member State concerned [the Netherlands] accountants are not bound by a rule of professional secrecy comparable to that of members of the Bar, unlike the position under German law, for example".

Were the European legal position to change, should the Dutch professional organisation of accountants adopt the German rule?

Specialisation, Internationalisation and the Fascination with Big Numbers

Trends and developments in the European legal profession in an environment of rapid growth[*]

Dr Benno Heussen[**]

1. Remarks on comparisons between individual legal cultures

1.1. Problem: Comparability

If you want to compare the professional picture of German lawyers in some way with the situation outside of Germany, you will run into obstacles quite soon, as lawyers differentiate themselves from country to country through certain essential elements, such as their legal systems, social environments, traditions and many other influences.

Here I am comparing all advisers who are entitled to hold their own titles in their respective countries indicating that they are legal advisers and court advocates – titles such as "Rechtsanwalt", "avocat" or the like. Difficulties naturally begin to surface at this point, as in the United Kingdom the notion of "lawyer" embraces the most varied forms of legal scholars (including judges), whereas the legal practitioners in a narrower sense lack "subtitles" – they are either "solicitors" or "barristers". Hence the amount of comparisons already differ from the outset.

Thus we need additional elements that are characteristic to the "adviser-type" we are discussing. The following are some possibilities:

Academic degree: Most countries require it; others do not (e.g. Japan).

Admission by the state or the bar: This criteria seems to hold relatively uniform validity, but it remains a mere formal criteria, since in Sweden, for instance, although the title is contingent upon admission, anyone can still offer legal advice without any limitations.

Independence from the state: One should be able to take this for granted, yet in totalitarian states it is in many cases just a facade and the only way for a lawyer to succeed at all is through close collaboration with state authorities.

Independence from clients: Here I would not venture to make the general statement that lawyers in most cases are truly independent. They should at least have an unrestricted option of this sort. Ironically, lawyers that are dependent on the state are to a large measure independent with regard to their clients, as the example of the East German lawyers illustrates.

[*] *Lecture held at the AEA (Association Européenne des Avocats) Conference "Changing Standards: The European Legal Profession Today", Seefeld (A), 25 - 26 January 2002.*

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Duty of loyalty to client's interests: Similar to the area of independence, one must indeed subscribe to the notion that someone identifying himself as a lawyer possesses the requisite will and ability and in particular puts his own interests (on certain critical points, as well as remunerative interests) behind those of the client. But one can never generalise what the interest may be in a concrete instance.

Duty of confidentiality: This is surely the most indispensable dictate, though often riddled with holes in totalitarian systems.

Right to confidentiality: Not long ago we would have all said that we have this right in Germany. Now, since the entry into force of the bundle of laws to combat terrorism – the so-called "Terror-Pakete", we might not be saying this any longer, and outside of Germany it seems even worse – the criterion can therefore not be decisive.

There remains an array of additional criteria, like for example, the taking of a special lawyers' responsibility for the quality of their own work, the existence of insurance, etc. Here the differences from country to country are so great that it hardly makes sense even to attempt a comparison.

1.2. Degree of professional regulation

Whether the title "lawyer" is conferred from state posts or from an institution serving the purpose of self-regulation (bar associations, etc.) depends on historical peculiarities varying from country to country.

Historically the oldest bars in Europe arose in their modern forms around 1100 A.D. within the law faculties of Bologna and Paris and appeared relatively soon thereafter in England.

In Germany this development was completely lacking for different reasons. Legal advisers were seen much more as individuals who had legal knowledge, but did nothing with it. They were the learned counsellors of the courts and not of the political party. After 1713 Friedrich Wilhelm I himself tried to abolish these posts in Prussia. Thus, the kind of advocacy that had already existed for some 700 years in Italy, France and England has only been known here in Germany since 1871. In Japan, which after the opening of borders to foreigners during the Meiji period adopted to a considerable extent the German legal system including the constitution, the development is probably once again 30 to 40 years later and was changed after World War II with the adoption of American elements. Indeed, in the case of Japan today, one cannot speak of a "tradition" of the sort to which we in Germany can lay claim.

Competition from Other Advisers / Professional Groups other than Lawyers

1.a Tax consultants, BGH NJW 2000, 1560
Advisers in establishing the identity of heirs, BGH NJW 1989, 2125
Legal advisers in administrative matters (including litigation), BGH NJW 2000, 2277
1.b Auditors, BGH NJW 1988, 561
1.c Notaries, BGH NJW 2001, 70
1.d Patent attorneys, BGH NJW 1987, 3005
1.e Banks, OLG Hamburg ZIP 81, 965
Executors, OLG Karlsruhe NJW-RR 94, 236
2. Insurance brokers, NJW 97, 2824
3. Associations, OLG Köln NJWE-WettbR 99,100
3.a Societies, BGH NJW 95, 516
3.b Unions, BGH NJW 1982, 1882
3.c Inland collections, BGH NJW-RR 2001
4. Real estate investment advisers, BGH NJW 2001, 70
4.a Credit brokers, BGH NJW 98, 1955
Accident settlements, BGH NJW 2000, 2108
6. Trademark control
7. Notification of copyright, BGH NJW 98, 3563
8. Brokerage services, BGH NJW-RR 2000, 1502
9. Property caretakers, BGH NJW 93, 1924
10. Foreign collections, OLG Stuttgart MDR 97, 285
11. Cargo controllers, BGH NJW 92, 838
12. Energy advice, BGH NJW 95, 3122
13. Factoring, BGH NJW 2001, 756
14. Cargo carriers, BGH NJW 92, 838
15. Society for craftsmen, BGH NVwZ 1991, 298

The colonisation of India and the adoption of the ruling British legal system in the Commonwealth shows us a highly developed culture of lawyers in India. In China – at any rate in comparison with Taiwan – such a culture is scarcely existent, and while a country like Vietnam should have lawyers, one hardly has enough information to be able to imagine if they would have anything at all to look for in our comparison. No statistics whatsoever exist for Saudi Arabia and Kuwait; nevertheless, in the United Emirates there are 135 lawyers, whose practice with a high probability is overwhelmingly geared around international commerce. This is similar to Japan, where at any rate of the very few 16 000 lawyers, over half work in Tokyo and Osaka and there the vast majority on behalf of foreign clients. Outside of the crowded industrial areas, one encounters difficulty finding any lawyer at all, much less a specialist in something.

1.3. The difference of legal systems

When making comparisons, one always tends to see the system in which one is as the norm and define all others as deviations from this norm.

Even if one limits oneself to Europe and, thankfully for the time being, excludes the former East Bloc states, one encounters two systems with very different ways of legal thinking. On one hand, there are the systems that essentially rely upon codified law, like the German; on the other, systems – above all "common law" – that are based on case-law.

Given that judge-made law plays a meaningful role in German law as well, one is inclined to ignore these differences and can easily come to hope that both systems will quickly merge – particularly under the pressure of a uniform European legal order. This test has not been passed by a long shot. The struggle will truly take off when the European Parliament makes laws that are to be uniformly understood in common law as well as, for instance, in German or Greek law. What we are presently seeing are not just difficulties in translation!

These differences have considerable influence on the professional picture of lawyers, their self-image and their profes-

sional cooperation. In transactional business these differences are more easily concealed; in other legal areas they will pose major problems for the future.

1.4. Countries without classical legal traditions

Countries that could not develop such legal traditions for themselves, as above all with the former Soviet republics, cannot get along without availing themselves of one system or the other. At the moment it seems as if the legal systems with codified laws have the better chance, but our colleagues from the USA and Great Britain are busily seeing to it that it does not become a one-way street. Does a "third way" exist here? Until that time lawyers working in these legal systems must make up their own minds which tradition they want to endorse: There is no "European tradition" for the legal trade.

1.5. Guilt and Shame Cultures

It becomes more difficult when one's eyes wander outside of Europe. Thanks to Islamic-Judeo-Christian traditions, we have grown up in a "guilt culture", which is to say a legal culture that establishes individual guilt and/or liability, be it under civil, criminal or administrative law. The invention of the contract in Roman law or the development of individual claims against the state in public administrative law and more elements of constitutional law are genuine milestones of European evolution that are either entirely absent in other legal cultures or found only as borrowings from European ideas – such as in the case of Japan.

"The study of the law of the Roman Empire, just as that of the Venetian Republic, shows that the political stability and longevity of a world power are unthinkable without the existence of a developed legal system".[1]

This quotation is totally correct from the view of the European legal tradition. It must read differently if one wants to understand it worldwide. In China, in Japan and in most Asian countries that have developed advanced civilisations (thus also including India), a developed legal system was not used at all, but rather a "conflict-settlement system" – how ever this would be conceived in the respective culture. In Japan, for example, where making contact with a third party whom one does not know as a rule already requires a go-between, it is necessary to find such a mediator for any kind of conflict regulation at all events who can resolve the conflict without losing face. This is very similar in Korea, China and with great certainty also still today in Taiwan, in spite of the fact that American legal culture is available there in its full spectrum, it is however in fact not used in the same was as in the USA.

In these "shame-cultures", as Margaret Mead has called them, the question of who caused a certain harm is much less relevant than that of whether that individual must feel shame for this harm. Consequently the strategies for conflict regulation there are different than those to which we are accustomed. A lawyer working in such a system will see his primary duty as making a contribution to ensure that his client does not lose face and less as obtaining justice for his client in the Western sense.

My experience with Japanese lawyers, for example, always proceeded in a relatively similar way: one explained to me first of all intricately what the legal rules were, which was mostly nothing new for me, since to a large extent Japanese law had been borrowed from German law. However, much more time was needed to explain to me, that I should not here and now use all of the legal tools known to me if I wanted to succeed.

Nevertheless, it should just be stated that a highly developed country such as Japan, with a population of 130 million, needs only 16 000 lawyers and only 2 000 additional jurists who serve as judges and public prosecutors. The number of conflicts there is surely not smaller than here [in Germany]; they are just handled differently.

1.6. Competition from other professional groups

In those countries in which anyone may dispense legal advice (e.g. Sweden), the competition with legal advice from lawyers is naturally the highest. Yet even in Germany, where the law on legal advice (Rechtsberatungsgesetz) lays down relatively strict requirements, it is nevertheless astounding the extent to which other professional groups may provide advice for legal problems connected with their respective fields. The overview demonstrates that there is hardly an area in economic law in which lawyers are not in competition. Unfortunately, in this area I do not have information about the situation in other countries.

1.7. Statistics

One often says that statistics lie, but in fact the numbers (insofar as these are not falsified) are not capable of lies. Statistics must therefore be interpreted just like any other statement, because each number belongs to a social, cultural or other context which must first be read before the number can be interpreted. Number and reality cannot exist separate from one another if they want to carry a claim to truth.

Statistical information must be considered subject to this proviso.

Density of Lawyers by Country

Nr.	Country	Population	Lawyers	Inhabitants per Lawyer
1	Israel	5.840.000	23.600	247
2	USA	281.000.000	1.000.000	281
3	Spain	40.000.000	96.000	416
4	Greece	10.600.000	25.000	424
5	Jersey	851.500	1.820	467

[1] *Heller*, Venedig. Recht, Kultur und Leben in der Republik 697-1797, 1st ed., Vienna (A), 1999.

6	UK (England + Wales)	54.000.000	98.000 Solicitors 10.000 Barristers = 108.000	500
7	Australia	19.000.000	36.000	527
8	Ireland	3.740.000	5.200 Solicitors 1.100 Barristers = 6.300	593
9	Germany	82.000.000	120.000	683
10	Italy	57.300.000	70.000	818
11	Switzerland	7.200.000	6.200	1.161
12	Hungary	10.400.000	8.000	1.300
13	Singapore	4.100.000	3.000	1.366
14	Netherlands	15.900.000	10.900	1.458
15	Poland	38.600.000	4.000 advokats 20.000 radca prawny (paralegals)	(9.650) 1.608
16	Czech Republic	10.300.000	6.000	1.716
17	France	61.300.000	35.000	1.751
18	Turkey	65.500.000	35.000	1.871
19	Austria	8.100.000	3.900	2.076
20	Sweden	8.900.000	3.215 but many other legal advisers - Banks	2.768
21	Taiwan	22.000.000	4.000	5.500
22	Romania	23.000.000	3.000	7.666
23	Japan	130.000.000	16.000	8.125
24	China	1.300.000.000	130.000	10.000
25	India	1.200.000.000	100.000	12.000
26	Commonwealth of Independent States	280.000.000	19.000 (Russia)	14.736
27	United Arab Emirates	2.500.000	135 (Saudi Arabia, Kuwait: no figures available)	18.518
28	East Germany (until 1989)	17.000.000	600	28.333
29	Indonesia	212.000.000	1.200	176.666
30	Vietnam	9.000.000	7240	329.166

When one simply accepts the numbers as they present themselves, one must for example come to the conclusion that a highly developed legal system by virtue of its complexity demands many lawyers, and thus that Israel and the USA in this respect must be our shining examples.

Moreover, one will ask with which cases the Greeks nourish their lawyers, why the Spaniards have so many more lawyers than the French, for example, and how their English colleagues cope with the density of lawyers there.

Without going any further, one can see Vietnam or Indonesia as developing countries for lawyers, for there are only three lawyers, statistically speaking, for a city the size of Munich. Do we really need 8 000 colleagues here to handle the same work?

One sees at first glance that the statistic has little expressive weight and serves better for playful interpretations, when it is so superficial, which it must necessarily be.

All the same, the numbers have in any case an expressive power in those places where we move within Europe, within comparable legal systems and within comparably complex social systems, such as is the case, for example, between the United Kingdom, Germany, Holland, France or Italy.

1.8. Unknown cases

Finally one must consider that by far not everyone who pops up in the statistics or lists, is practically active as a lawyer. On the basis of various cross-sectional analyses I have made, I would estimate the number of lawyers in Germany who although admitted and therefore pay their bar fees and insurance contributions, are not however or only seldom active, at about 25 percent of the 120 000 admitted lawyers. This number includes some 9 000 "in-house" corporate attorneys; the rest, however, are colleagues who are primarily involved in commerce or who in their old age take on a case here or there or only once, but who do no not want to give up the title. I can imagine that in other countries it is exactly the same, perhaps the portion of lawyers registered in this way is even higher as it is here in Germany (otherwise I can hardly explain the multitude of Spanish and Greek colleagues).

If one compares the numbers applicable to these countries, then one raises in fact some questions that we cannot answer with statistics. They can only be a first approach to further consideration.

2. Some remarks on big firms

2.1. The meaning in the overall market

The statistical material shows us the strong concentration of general interests for firms with big numbers. Publications such as "Legal 500" or "Chambers Global" just as the monthly journals in the USA or Great Britain deal primarily with these firms.

Global 50 Rankings:
Next Year's New World Order?

Firm	Lawyers 1999-2000	Predicted Size in 2001
Clifford Chance	2,209	3,100
Linklaters	1,360	2,200
Freshfields Bruckhaus	1,397	1,871
White & Case	1,030	1,194
Lovells Boesebeck	897	1,288
Denton Wilde Sapte	462	750
Coudert Brothers	452	700
Borden Ladner Gervais	590	600
The Aussies	too small	big enough

www.law.com/special/professionals/amlaw/global_50/next_year.html

What meaning they may have in their respectively relevant national or international markets cannot be inferred from size alone.

Law Firms in Germany (2001)

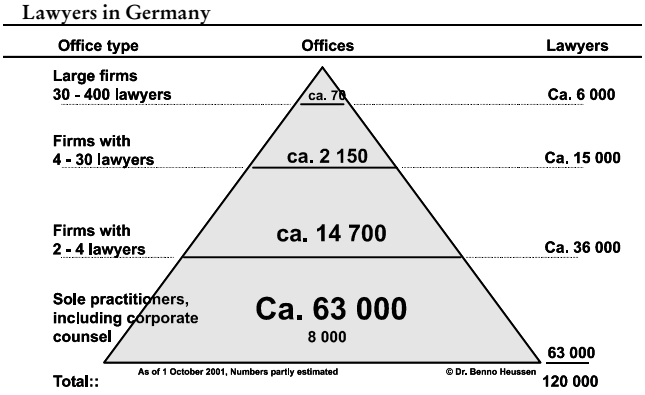
Rank	Firm	Lawyers in Total	Partners	Offices	Lawyers Overseas
1	Freshfield Bruckhaus Deringer	409	156	6	1.382

2	Clifford Chance Pünder	404	128	5	no data available
3	Linklaters Oppenhoff & Rädler	309	85	4	1.638
4	KPMG Beiten Burkhardt	280	46	6	no data available
5	CMS Hasche Sigle Eschenlohr	273	147	9	4
6	Wessing	240	120	4	5
7	Andersen Luther	219	58	10	3.400
8	Lovells Boesebeck Droste	213	70	5	1.087
9	White & Case Feddersen	180	38	5	1.411
10	Hengeler Mueller	170	70	7	7
11	Baker & McKenzie	165	62	4	3.048
12	Haarmann, Hemmelrath	163	103	8	142
13	Nörr Stiefenhofer Lutz	150	68	5	40
14	Pricewaterhouse-Coopers Veltins	150	43	7	no data available
15	Gleiss Lutz Hootz Hirsch	135	67	4	35

Source: JUVE, Handbuch der Wirtschaftkanzleien, 2001/2002

For Germany we nevertheless know how the structure of the entire legal profession is distributed in relation to these small group of firms, but for other countries unfortunately I cannot contribute any comparable numbers.

Lawyers in Germany



On this point I must rely upon my personal knowledge of the market, which leads me to the following observations:

The large firms with international practices may generate at most between five and ten percent of the total turnover achieved by all lawyers of the respective country. In an international cross-section, the number should more likely be lower.

That lies in the indisputable fact that there is essentially only transactional business in cross-border work, that is to say in areas in which companies are bought and sold or for example, large financial transactions, such as international credit, financing etc. take place. In this way, the proportion of advice from lawyers is considerably higher in Anglo-American countries than for example, in Germany, where (in-house) legal departments deal with many of these responsibilities themselves.

With the exception of Baker & McKenzie, which has already been active in Germany for over fifty years, and the English firms that have integrated with large German law firms, such as Linklaters, Clifford Chance and Lovells, there is hardly a foreign office that has succeeded in acquiring local business. This is essentially because this business is seen as producing so little profit as to be not worth the trouble.

This does not change the fact that a foreign office which brings its own business with it can definitely find a market here – albeit against very stiff competition. This market segment is decidedly narrow.

Location is the decisive factor for the size of an office. The large law offices can only get a foothold in really big cities; the smaller the city, the smaller the size of the firm. The reason for this is based on two factors:

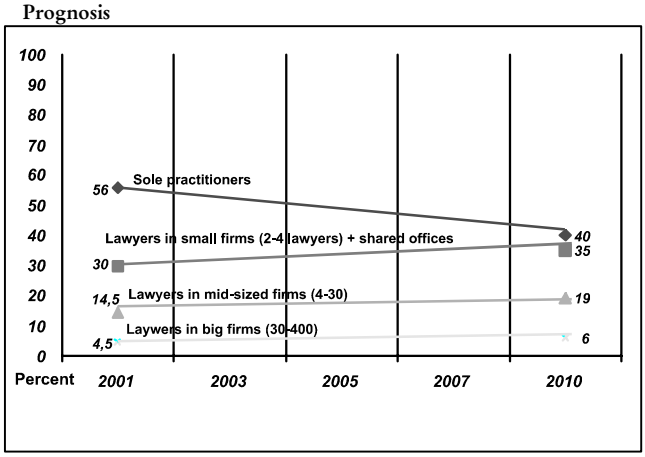
Conflicts of interest: If in a middle-sized city of 40 000 inhabitants there were only two to three large law firms in existence, they could no longer handle certain matters as conflicts of interest would prevent them from doing so.

Specialisation: Any specialised lawyer needs sufficient cases to keep his specialist knowledge up-to-date – and these cases are not to be found in a middle-sized city. Those wanting work in antitrust law must go to the big city; in contrast, one can handle traffic accidents wherever one may be.

2.2. Sole practitioners and small firms

For these reasons over sixty percent of all legal advice services in Germany are furnished by sole practitioners and small firms. In the USA it is quite similar, in spite of the fact that they have about three times as many lawyers as we do. That speaks strongly for predicting that this development will present itself in similar ways in all other countries.

Prognosis



2.3. Multidisciplinary Partnerships (MDP)

There are countries in which MDPs are absolutely forbidden (e.g. USA, Sweden), while in others they are generally permitted (e.g. Germany).

These partnerships include lawyers, tax advisers and certified public accountants (CPAs). I believe that it makes a big difference whether lawyers work together just with tax advisers or going further, also want to include CPAs.

The partnership between lawyers and tax advisers seems to me a wholly natural alliance, all the more so in that lawyers can also provide tax law advice. I know of no legal rule that would forbid lawyers from doing so and why they should therefore not be allowed to enter into partnership with the corresponding tax specialists?

The situation with CPAs is different. First of all here there is a conflict of interest which is problematic. The CPA must examine the behaviour of the company and a part of this behaviour may also include: which lawyer is chosen and how the legal problems are dealt with. If CPAs and lawyers were in the same company, then there is the danger that the auditors audit themselves. The American SEC rules ensure that this does not happen. While even just a few years ago our colleagues in the US petitioned for MDPs with CPAs, this movement was struck down: there is a clear majority opposing this.

In Germany the compliance of MDPs was compelled through constitutional law actions, but I question whether that can truly be seen as a favour rendered.

For the reasons discussed above, our partnership is an independent law firm in that it is comprised only of lawyers without any CPAs.

2.4. The Big Five

PriceWaterhouseCoopers was the last major international consulting firm to organise legal services in its field, namely in separate attorney associations at the national level and within the Landwell network internationally. Arthur Andersen, Ernst & Young, Deloitte Touche Wedit and KPMG had already done this. It is interesting to note that the models are all very different: at Andersen Legal and KPMG Legal the lawyers are to a large extent integrated with the consulting firms; at Ernst & Young they work on the basis of a cooperation agreement; and with us they work in an independent association of lawyers not included on the group balance sheet, but which operates freely in the market. Each was the respective product of a different philosophy.

The major associations of attorneys not acting closely with consulting firms initially feared that their markets would be impaired. That is only the case on a very small scale:

The legal services offered by consulting firms – even those working totally independently as we do at PriceWaterhouseCoopersVeltins – must adhere to the rule not to act against their own clients and thus, based on these grounds, sometimes cannot even represent clients audited by the firm. Many companies are as a result disqualified as clients because they fall under one or the other.

The business on which the major law firms focus their attention – namely the transaction business – is based on a much higher degree of personal trust and personal relationships than some think, as is the case with all other highly qualified consulting activities. Such relationships grow over years and are not replaceable by mere size.

Expectations of In-House Counsel from Law Firms

Statements	Yes in %
- Being "international" is an important criteria in choosing a law firm	17
- We are seeking a full-service firm both nationally and internationally	16
- The merger of the large German commercial firms has not noticeably increased the value of the lawyer services	90
- Trust is the most decisive criteria in the lawyer's services	79
- Lawyers must be specialists	57
- We find the conflict of interests in large firms unsettling	39
- Lawyers are by far not client-oriented	38
- Lawyers must be more aggressive in the implementation of our interests	37
- We need personal contact between client and lawyer	32
- Senior partners should never refer cases to junior colleagues without consultation with the client	30
- As a rule we compare the fees charged by several law firms	62
- For the quality delivered the junior lawyers are mostly too expensive	30

Source: Handelsblatt survey 11/01 among 1800 large German companies (see Handelsblatt of 19 November 2001)

Contrary to widely held opinion, clients are not seeking a "one-stop shop", but rather specialists for the respective questions they may have. This is in any event the case in Europe and this tendency is now also increasingly observed in the USA. Therefore a large office of attorneys closely connected to a large company is not more attractive to clients than for instance an highly specialised boutique firm – not even when taking lawyers' fees into account, which in any case has remarkably little importance in decisions of this nature, as the latest opinion polls illustrate.

3. Additional information

3.1. Internet

In view of the slowness with which official statistics are made available, one must resort to the internet for the information – some of it existing there by chance. Through www.icclaw.com and www.law.com or www.hierosgamos.org one encounters a great amount of data which is otherwise not accessible. There I discovered, for example, that in Japan there are some 1 800 female lawyers, which is about 12 percent of their 16 000 active colleagues. For us, the number is about twice as high, but the fact that we discovered this is a true pleasure: the number apparently resulted as a chance product from a survey by Australian students. They did not exist in the official Japanese statistics.

For those interested in the details, I can only recommend using the most powerful search machine on the planet at this time: www.google.com.

3.2. Additional literature

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Michael Streck, Beruf: Anwalt Anwältin, 1st ed., Munich (D), 2001.

"Between Tradition and the Future"*

*Dr Rupert Wolff***

A. An introduction to the CCBE and its activities

I. General overview

Let me begin with a discussion of the CCBE, the Council of the Bars and Law Societies of the European Union. The CCBE was founded in 1960 by the national bar leaders of the ten member States of the European Communities. Today it is an international non-profit organisation under Belgian law (*association internationale sans but lucratif*) with its headquarters in Brussels.

The CCBE has no individual members per se. Its members are the national bar associations and law societies that represent the legal profession in the fifteen member states and the three other EEA states: Norway, Iceland and Liechtenstein. Thirteen additional European countries – including all of the candidates for EU expansion – enjoy observer status in the CCBE.

Through its members the CCBE represents more than 500 000 European lawyers and approximately another 200 000 colleagues from the observer states.

The CCBE is the officially recognised NGO[1] representing the European legal profession before the Commission, EU institutions, the Court of First Instance, the Court of Justice, the Council of Europe and the Court of Human Rights in Strasbourg. In addition, the CCBE liaises with the American Bar Association (ABA) and with many other international bar organisations.

II. The CCBE's Code of Conduct

The CCBE adopted a common Code of Conduct in the 1970's; this code was amended on 28 November 1998 in Lyon, France.

The continuing integration of the European Union and the EEA as well as the increasing frequency of the cross-border activities of lawyers within the European Economic Area have necessitated the elaboration of a set of common rules for cross-border practice.

This need became all the more compelling since all Member States implemented the Establishment Directive,[2] a directive that was proposed to the Commission by the CCBE after a long and intensive debate. The GATS[3]/WTO[4] negotiations began in the meantime and the CCBE takes active part in discussions with the Commission as to the position to be taken with regard to the European legal profession; in fact, the CCBE has finalised its "Inbound position paper" which is available from the CCBE website.[5]

III. The major committees of the CCBE

The CCBE's *Access to Justice Committee* has actively worked on the Commission's last Green Paper on access to justice and legal aid. The *Technology Committee* concerns itself with the implementation of the E-Commerce Directive and its impact on the legal profession, as well as on the creation of an EU lawyers database, a web portal allowing users to find the right lawyer for a specific field of law and with specific language skills. Furthermore, in November 2001 this Committee introduced the new EU-wide professional identity card in EC format, which it will implement in co-operation with the Dutch bar association.

The Task Force *Anti-Crime* works on the impact of 11 September on the legal profession and on civil rights and lobbied intensively to improve the money laundering directive; the latter was just recently agreed on in a conciliation proceeding. The first draft presented by the Commission was unacceptable for the legal profession in that legal advice would not have been excluded from the reporting obligation of lawyers. This problem has been sorted out and legal advice is now explicitly exempted from the reporting obligation. In various talks and conferences, the CCBE has underlined the impor-

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1 Non-governmental organisation.

2 Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (OJ L 77 of 14 March 1998, at 36-43).

3 General Agreement on Trade in Services.

4 World Trade Organisation.

5 See www.ccbe.org.