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FROM THE ACTIVITIES OF THE IRZ

General: IRZ's activities in the countries of the project area "South Eastern Europe I" (Bosnia and Herzegovina, Montenegro, Northern Macedonia and Serbia) have also been strongly influenced by the COVID 19 pandemic in recent months. In March 2020, all activities had to be adapted to the new situation within a few days. Not only did the pandemic measures make face-to-face meetings impossible, but they also had an impact on the continuation of other types of projects, such as those in the field of legislative advice and publications, as groups of experts were unable to meet or printers were not working.

In retrospect, it can be said that the IRZ was relatively well prepared for the unforeseen situation, as many of the new event formats were based on forms of action with which experience had been gained, or on which at least discussions with project partners and preliminary planning had already taken place. Experience with the medium "Internet" had been gained for years, for example through websites of EU projects and publications. Video discussions with the transnational teams of the IRZ project areas and partners have also been taking place for some time and concepts for online lectures have already been prepared with a view to distance learning. Seen in this light, the pandemic has inevitably accelerated some developments that were already being considered. It is also already becoming apparent that formats that were promoted to continue activities under the conditions of the pandemic will also be integrated into the framework of future face-to-face events. For example, experts and participants from other parts of the country or neighbouring states can be connected to future face-to-face meetings via video conference.

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Bosnia and Herzegovina: Like many other events in the project area, the conference “Family Law Days” organised by the Law Faculty of the Džemal Bijedić University in cooperation with the IRZ, which took place for the seventh time in Mostar on 26 and 27 September 2019, followed a regional approach by involving lawyers from other Western Balkan states. On the topic of “Human Rights Protection as a Driving Force for the Development of Family Law”, lawyers from the two universities of Mostar and practitioners in the field of family law heard and discussed the following lectures by experts from Bosnia and Herzegovina, Croatia, Serbia and Slovenia.

The Western Balkans Regional Conference of the Constitutional Courts on Religious Freedom, which took place from 16 to 18 October 2019 in Teslić in the Republika Srpska, one of the two entities of Bosnia and Herzegovina, had a high-ranking regional audience. The event was financially supported by the German Federal Foreign Office and jointly organised by the Constitutional Court of the State of Bosnia and Herzegovina and the IRZ. Participants came from six Southeast European constitutional courts: In addition to judges and academic staff of the host constitutional court, the event was also attended by presidents and judges of the constitutional courts of Croatia, Montenegro, Northern Macedonia, Slovenia and Serbia. The event was divided into several panels, which were moderated by the vice-presidents of the Constitutional Court of Bosnia and Herzegovina, Mato Tadić and Mirsad Čeman, and by the author as representative of the IRZ. As a basis for the discussion Zlatko M. Knežević, President of the Constitutional Court of Bosnia and Herzegovina, Dr. Rajko Knez, President of the Constitutional Court of Slovenia, Vesna Ilić-Prelić, President of the Constitutional Court of Serbia, Hamdija Šarkinović, Judge at the Constitutional Court of Montenegro, Dr. sc. Mato Arlović, Judge of the Constitutional Court of Croatia, and Dr. Darko Kostadinovski, Judge of the Constitutional Court of Northern Macedonia presented the relevant case law of their constitutional courts and Prof. Dr. Udo Steiner, Judge at the Federal Constitutional Court (ret.) the case law of the Federal Constitutional Court on questions of freedom of religion and belief.

The sustainability of the event will be ensured by a conference volume, which brings together all the materials discussed at the conference and is published jointly by the Constitutional Court of Bosnia and Herzegovina and the IRZ.

Also still in 2019, the first joint event of the IRZ with the Bar Association of the Republika Srpska on the topic “Prevention of Money Laundering – Application of the Legal Regulations of the Legal Practice in the Republika Srpska and the Attorney’s Duties with regard to the Prevention of Money Laundering in Germany” took place on 28 October 2019, at which Harriet Krüger, attorney and specialist in criminal law, described the situation in Germany on the basis of numerous cases from practice. As the German regulations are similar to those in the Republika Srpska, but there is no practical application there yet, this lecture was at the same time a contribution to the application of the law.

Due to the outbreak of the COVID-19 pandemic, various events, which were to resume cooperation with various project partners in Bosnia and Herzegovina for the current year from March onwards, had to be cancelled at short notice. An immediate switch to online seminars was not possible for a number of reasons, particularly technical ones. Once these had been overcome, several online events in Bosnia and Herzegovina were devoted to consumer law.

One of these was an online seminar for judges on “The practical impact of European law on national law using the example of consumer law” which took place on Friday 12 June 2020 and was organised in cooperation with the Judicial Education Centre of the Federation of Bosnia and Herzegovina. As IRZ expert, Prof. Dr. Zlatan Meskić presented cases from the Bosnian-Herzegovinian consumer law practice to the judges, who took part in the event from their workplaces in Bihać, Mostar, Zenica and Sarajevo. The seminar also made it clear that the EU directives were partly incompletely or incorrectly transposed.

The previous two-day online seminar on 8 and 10 June 2020 with doctoral candidates from the Faculty of Law of the University of Zenica, which presented the case methodology in German legal education using cases from consumer law, had a somewhat broader approach. Consumer law is particularly suitable for this purpose, as the technique of interpretation in conformity with the Directive can be presented. Finally, a further issue of the legal journal “Nova Pravna Revija – Časopis za domaće, njemačko i evropsko pravo” (New Legal Review – Journal for domestic, European and German law) was published in the reporting period.

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Journal for Domestic, European and German Law, in short: NPR”) was published in the reporting period, in which, among other things, an article on the perspectives of German law in the competition between legal systems was written by the head of the Legal Department of the Association of German Chambers of Industry and Commerce, Prof. Dr. Stephan Wernicke.

Montenegro: Together with Serbia, Montenegro is considered as front runner among the future EU aspirants in the region and therefore plays an important role in the IRZ’s activities in the Western Balkans. This is also made clear by the fact that a Joint Declaration was signed between the Montenegrin Ministry of Justice and the German BMJV as early as 2014. On 14 November 2019, the Federal Minister of Justice and Consumer Protection, Christine Lambrecht, and the Montenegrin Minister of Justice, Zoran Pažin, signed the second work plan to this Joint Declaration in Berlin. The IRZ was represented at the meeting by its Chief Executive Officer, Dr. Frauke Bachler. The plan focuses on support to Montenegro in establishing and strengthening structures of a state governed by law (*pravna država/Rechtsstaat/Etat de droit*), including in the areas of anti-corruption, judicial cooperation in criminal, civil and commercial matters, anti-discrimination, enforcement and notaries.

Furthermore, the high priority Montenegro enjoys within the project work of the IRZ is evident from the fact that the Corruption Commissioner of the Federal State of Schleswig Holstein, Corinna Gädigk, retired Senior Public Prosecutor, is currently providing ongoing support to the Montenegrin Deputy Prime Minister and Minister of Justice, Zoran Pažin, as an advisor on issues relating to the fight against corruption and organised crime. This multi-year project was agreed at the highest political level between Chancellor Angela Merkel and the Montenegrin Prime Minister Duško Marković. Another of the regular working visits of Montenegrin judges to study German judicial practice, in particular the effective conduct of negotiations by judges, took place from 20 to 24 October. During this visit, the judges worked closely with Andrea Titz, President of the Bavarian Judges’ Association and Deputy President of the Traunstein Regional Court.

The support of Montenegro also includes the topic of alternative dispute resolution, on which various legislative and organisational initiatives are currently underway there. As a result, the first joint

event between the IRZ and the Montenegrin Centre for Mediation took place on 19 and 20 November in the capital Podgorica with the seminar “Alternative Dispute Resolution, in particular mediation, in Germany: legal foundations and application practice”. At the opening, the German ambassador Dr. Robert Weber spoke words of greeting. Afterwards, Ibrahim Smailović, Director of the Department of Civil Law at the Ministry of Justice of Montenegro, and Marina Lutovac, Director of the Centre for Mediation, presented the legal regulations and the current situation of mediation in Montenegro, thus creating a first basis for the very intensive comparative law discussion and a fruitful exchange of experiences. During these presentations, it became clear that Montenegro is working intensively on developing the possibilities of alternative dispute resolution, in line with the relevant indications in the EU country reports.

The second basis for the general discussion was created by presentations on mediation and conciliation in Germany by IRZ experts Harald Walther, Director of the District Court and mediator, Michael Haußner, former State Secretary and ombudsman of the German Savings Banks and Giro Association and former IRZ advisor to the Ministry of Justice of Montenegro, and Winfried Schubert, former President of the State Constitutional Court and ombudsman of the German Savings Banks and Giro Association. Overall, the event not only deepened the topic of mediation in various practice-relevant areas, but also drew a comprehensive picture of the various alternative dispute resolution mechanisms.

Together with the Montenegrin Association of Lawyers on 21 November 2019, IRZ organised the panel discussion “Requirements for lawyers in the 21st century”. It was attended by representatives of the Ministry of Justice, various legal professions, the legal profession and students. The aim of the event was to make forecasts for the legal sector in Montenegro based on developments in Germany and to derive recommendations for action from these forecasts. The conclusion of the IRZ’s activities in Montenegro in 2019 was marked on 9 December by the XIII National Anti-Corruption Conference, initiated by the non-governmental organisation MANS, Network for the Promotion of the Non-Governmental Sector, which was supported by the IRZ together with the EU Delegation in Montenegro, the Embassy of the United Kingdom and Transparency International and again met with

very broad media coverage. The IRZ supported the third panel of the conference, where investigators from Montenegro, Italy and Germany reported on their work, by having Prosecutor Björn Ziera present the German experience.

As in the other states in the region, the outbreak of the pandemic in spring 2020 prevented planned face-to-face meetings. At the same time, this situation resulted in the necessity for the constitutional courts of the region to decide in the short term on the constitutionality of measures imposed to combat the pandemic. The IRZ reacted to this situation on the one hand by promptly providing the constitutional courts of the partner states in the area with translations of the corresponding current decisions of the Federal Constitutional Court. In addition, an online workshop was organised in which Montenegrin constitutional judges exchanged views on various constitutional issues related to the corona pandemic with IRZ expert Prof. Dr. Udo Steiner, former judge at the Federal Constitutional Court, on 20 May 2020.

North Macedonia: In North Macedonia, constitutional law is also one of the focal points of IRZ's activities. On 4 December 2019, for example, the IRZ and the Institute for Democracy "Socitas Civilis" jointly organised an event on the subject of constitutional complaints in Skopje, where information was provided on the advantages, the legal ways of introducing and the organisational requirements for successful implementation of an effective constitution complaint. The event was preceded by an internal workshop on the subject, the results of which were summarised in a policy paper cowritten by Dr Mirijana Lazarova Trajkovska, former President of the Section Judge at the European Court of Human Rights and in the meantime appointed Judge at the Supreme Court of Northern Macedonia, Winfried Schubert, former President of the Constitutional Court of Saxony-Anhalt, and Dr Denis Prešova, Assistant to the Chair of Constitutional Law and Political System at the University of Skopje.

On 5 December 2019, a round table was also held in cooperation with the Constitutional Court itself to discuss the content of a possible constitutional court law. The discussion also included critical comments on the work of the Constitutional Court. However, there was agreement that North Macedonia needs a constitutional court law, which should in particular also regulate a comprehensive constitutional complaint.

The IRZ's project work in North Macedonia, however, also covered issues of Civil Law, which traditionally is another focus of IRZ's activities there. For example, two seminars on the civil liability of lawyers took place in Skopje on 3 and 4 October 2019. Since reforms are planned in North Macedonia in the areas of substantive criminal law and criminal procedural law it also published translations of the German Criminal Code (StGB) and the German Code of Criminal Procedure in book form in autumn 2019. Both translations were preceded by a scientifically sound introduction. The introduction of the translation of the StGB was carried out by Prof. Dr. Dres. h.c. Friedrich-Christian Schroeder, scientific director of the Institute for Eastern European Law in Munich, based in Regensburg. The IRZ also accompanies the judicial reform in North Macedonia very intensively. For example, IRZ experts issued various statements on the drafts of a new Administrative Offences Act as well as on amendments to the Administrative Court Code and the Court Act, which were taken into account to a large extent in the new legal regulations. Minister of Justice Prof. Dr. Renata Deskosoka thanked the IRZ experts for their support with a detailed letter of thanks.

In North Macedonia, online events also replaced planned face-to-face events in spring 2020. For example, an online seminar series on "Justice and the Media" was held on 15 and 22 June, organised by the Academy for Judges and Prosecutors of North Macedonia in cooperation with the IRZ. In his welcoming remarks, the Permanent Representative of the German Ambassador, Mr Otto Graf, stressed the importance of the field of law in the preparation of the accession of North Macedonia to the EU.

Serbia: IRZ's activities in Serbia, where a large network of long-standing project partners exists, were also extremely intensive. On the one hand, due to the great interest, the conferences on professional obligations of notaries had to be held twice on 27 and 28 May to allow all those interested to take part. The event was jointly organised with the Serbian Chamber of Notaries and the Federal Chamber of Notaries (BNotK). On the part of BNotK, the former Vice President of the Council of Justice Richard Bock, Koblenz, and Notary Dr. Lovro Tomašić, Mellrichstadt, who gave his speech in the national language, gave a lecture.

Two events with different partners dealt with general questions of legal transformation. The first was the conference on 29 November entitled “Legal transplants – ‘borrowing’ norms or the silent struggle for legal supremacy?”, which was organised jointly with the Serbian Justice Academy and the regional non-governmental organisation *Harmonius*, which is supporting the harmonisation of their respective national laws with EU law. Dr. Christa Jessel Holst, the former Southeast Europe advisor at the Max Planck Institute for Foreign and International Private Law in Hamburg, was one of the speakers at this event. The contributions to the discussion also mentioned a new legal transplant in Serbian law, which is viewed critically by many participants.

One of these is a penalty assessment rule, which was introduced into the Criminal Code with the latest amendments. It is modelled on the American “Three-strikes-and-you-are-out”-rule and introduces a mandatory penalty for repeat offenders. On the other hand, the latest issue of the journal “Kontinentalno pravo – časopis za održiv i skladan razvoj prava” (Continental Law – Journal for Sustainable and Purposeful Legal Development, in short *KoPra*), which the IRZ publishes in cooperation with Serbian legal scholars, was presented on 6 December 2019 in Belgrade at a joint event organised by the Faculty of Law, the Institute of Comparative Law and the IRZ. In this issue *KoPra* presents the common continental European heritage in the law of the states of South-Eastern Europe and Germany, gives suggestions for an adequate practical development of law in accordance with this tradition and the social conditions and points out undesirable developments through hybrid laws. The second part of the event was a thematic block on the occasion of the 70th anniversary of the so-called German Basic Law (constitution). Here, the German-speaking judge at the Serbian Constitutional Court, Prof. Dr. Milan Škulić, first spoke on the topic of “Constitutional Law and Criminal Law”, pointing out, among other things, the great importance of the unification of court practise. In the second lecture on the topic, university assistant Eva Weinberg, Regensburg/Barcelona, gave an overview of the role of the Federal Constitutional Court, differentiating between the national role and the relationship to the case law of the European Court of Justice. Eva Weinberg presented the role of the Federal Constitutional Court on the basis of new decisions on the “right to be forgotten”, which are

still little known outside of Germany. Short presentations in German language by the younger Serbian constitutional law experts Dr. Miloš Stanić (“The valuable German experience regarding the constitutional complaint”) and Mirsoslav Djordjević (“The culture of the Basic Law and the role of the Federal President”) rounded off the spectrum. The magazine KoPra is also available for download on its website www.kontinentalno-pravo.info.

In Serbia, long-standing series of events were also continued. On 12 December 2019, for example, another practical seminar on arbitration was held in Belgrade, jointly organised by the German-Serbian Chamber of Commerce, the German Institution of Arbitration (DIS) and the IRZ, at which Anne-Kristin Piplica, Head of the Economic Department of the German Embassy, in her welcoming address to the series of events, which has been running for more than half a decade, attested to a great synergy effect through the sustained cooperation of the three organisers. Afterwards Patryk Kulig, Case Manager and Counsel at DIS, gave a lecture on “Efficient Case Management and Early Termination of Arbitral Proceedings – Advantages and/or Disadvantages” and former Minister of Justice Prof. Dr. Tibor Varady spoke on “The Importance of Language for the Control of Arbitral Awards by the Court”.

IRZ’s connections to the German-speaking alumni from the countries in the project area and Croatia as a former IRZ partner city are particularly sustainable. For this target group, a further workshop “News from German Law” was held in Belgrade from 13 to 15 December 2019, which was attended by 50 participants from Bosnia and Herzegovina, Croatia, North Macedonia and various parts of Serbia. On the opening evening, Matthias Schikorski, Advisor for Political Issues and Migration at the German Embassy, welcomed the participants. In the further course of the event, the participants exchanged views with German experts on current issues of civil, criminal and public law. The lectures by two IRZ alumni, who are currently in Bonn with scholarships for the Master’s programme, also attracted particular attention. They reported in German on their Master’s theses on German law (Petar Brudar “Algorithms and Collusion in Competition Law“ and Nikola Dašić “The Recognition of Minor Marriages Contracted Abroad in German Law”). The great solidarity among the participants and their routine in communicating on legal

issues in German language also made it possible to set up a regular online workshop for this target group at the beginning of April 2020. Participants from Banja Luka, Belgrade, Berlin, Bonn, Frankfurt/Main, Kakan, Kragujevac, Munich, Skopje, Sarajevo and Zagreb, among others, were reached in this way, including IRZ-alumni who are currently in Germany for study visits and internships. They were able to qualify for these, not least through IRZ measures in German. This includes a course in German legal terminology, which has been held at the Belgrade Faculty of Law for more than 15 years. This course was also conducted as an online seminar from March 2020. At the same time, the “Master in European Integration” study programme of the Faculty of Law at the University of Belgrade, which is supported by the IRZ, was also converted to an online format. At the closing event of this study programme, which is led by Prof. Dr. Dragica Vujadinovic, on 9 June, the Deputy German Ambassador to Serbia, Dorothea Gieselmann, welcomed the participants and then spoke about the German contribution to Serbia’s preparation for the EU. Not only current and former participants of the Masters Course were invited to the event. Because it took place online and had been made known, for example, on LinkedIn, numerous interested people also took part who could not have come to a face-to-face event in Belgrade. These included many project partners, experts, representatives of members and alumni of the IRZ.

Transnational: The IRZ also actively participates in the academic monitoring of international legal advice and contributed with its experience to the development of interdepartmental documents for the German promotion of a state governed by law (*pravna država/Rechtsstaat/Etat de droit*). As part of the academic and theoretical support for activities in this area, the author of this report contributed two articles to the PeaceLab blog “Promotion of Ideas for a Strategy of the Federal Government”, one of which was explicitly quoted in the Federal Government’s “Interdepartmental Strategy for Rule of Law Promotion”, which emerged from this discussion. In addition to that he took part in the annual conference of the Advisory Council for Civil Crisis Prevention and Peace Promotion at the Federal Foreign Office in Berlin on 25 September 2019. Furthermore, together with his colleague Dr. Stefan Hülshörster, Managing Director of the IRZ, he is working on the “Handbuch Rechtsstaatsförderung” (Handbook on of a state governed by law – *pravna država/Rechtsstaat/Etat de droit*) which

is currently being prepared by the Free University of Berlin and the Federal Foreign Office.

A further activity in this regard with regard to the partner states of the IRZ's Project Area 7 was the Danube Justice Ministers' Conference in Ulm on 11 and 12 September 2019. The conference, which was attended by justice ministers and other representatives of the Danube region states, was organised by the Baden-Württemberg Ministry of Justice with the participation of the IRZ. The event was opened by, among others, Baden-Württemberg's Minister of Justice Guido Wolf. Afterwards, Dr. Frauke Bachler, Managing Director of the IRZ, introduced the participants to the activities of the IRZ. The thematic introduction was given by Prof. Dr. h.c. Herbert Küpper, Managing Director of the Institute for Eastern European Law, Munich e.V. and Vice President of the Southeast Europe Association. On both days of the conference, the participants discussed with Dr. Josip Grubeša, Minister of Justice of Bosnia and Herzegovina, Georg Eisenreich, Minister of State of Justice of the Free State of Bavaria, Malte Graßhof, President of the Constitutional Court of Baden-Württemberg, Dr. Janos Boka, State Secretary in the Ministry of Justice of Hungary, Tomáš Kafka, Head of the Central Europe Department in the Ministry of Foreign Affairs of the Czech Republic, and Sebastian Weinzierl from the European Commission's Directorate-General for Justice, Consumers and Equality, various aspects of the of a state governed by law (*pravna država/Rechtsstaat/Etat de droit*) were discussed. In the Panel II conducted by IRZ Prof. Dr. Milan Škulić, Judge at the Constitutional Court of the Republic of Serbia, Prof. Dr. Miloš Živković, Faculty of Law Belgrade, State Secretary (ret.) Michael Hausßner, former advisor to the Ministers of Justice of Croatia and Montenegro on behalf of IRZ, as well as Judicial Counsellor and Notary (ret.) Richard Bock, former Vice-President of the Federal Chamber of Notaries (BNotK) exchanged their views on the influence of German law in the Western Balkans as a contribution to EU rapprochement. There was criticism that various reform projects are unnecessarily abandoning the previous continental European heritage and thus creating hybrid laws, although an orientation towards German law based on a common legal tradition would ensure greater sustainability and acceptance. Dr. Margarita Popova, Vice President (ret.) and former Minister of Justice of the Republic of

Bulgaria, underlined that there are other ways of doing things. In a contribution, she emphasised her previous cooperation with the Bavarian Ministry of Justice and the IRZ as a positive example of consulting at eye level with respect and knowledge of the traditions and culture of the partner country.

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