

THE IRZ AND ITS CONTRIBUTION TO LEGAL HARMONISATION IN PRESENT AND FUTURE EU MEMBER STATES – PART 1 – GENERAL**

1. INTRODUCTION

The German Foundation for International Legal Cooperation, IRZ, is an organisation which has cooperated with a large number of the present Member States of the European Union in harmonising their laws and which has been supporting the present and potential accession candidates in this task until today.¹ As the IRZ is celebrating its 20th anniversary, the following is a condensed outline of its foundation, development and tasks.² Presenting the IRZ in a journal which deals with European law and the harmonisation of national laws, however, also aims to look upon the practice of the Europeanisation of national laws. Furthermore, there will also be attorneys at law and other law experts among the readers of this journal who are interested in working as short or long-term experts within the field of international legal advice. They will be interested in learning about the different kinds of the

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** The IRZ and its contribution to the legal harmonisation of present and future EU Member States: Part 2 – The next issue of this journal will cover the IRZ’s activity in South Eastern Europe.

1 Extensive information on the IRZ, in particular the annual reports, are available on www.irz-stiftung.de which provide further details in German and English on the IRZ’s activities in specific countries. In addition to English and German, IRZ’s website is also available in Arab and Russian.

2 To mark the occasion of this anniversary, a commemorative publication has been issued by Stefan Hülshörster, Dirk Mirow: „Deutsche Beratung bei Rechts- und Justizreformen im Ausland – 20 Jahre Deutsche Stiftung für internationale rechtliche Zusammenarbeit, Berlin 2012“ [German Consultation Services assisting International Legal and Judicial Reforms – 20 years of German Foundation for International Legal Cooperation, Berlin 2012] in the following referred to as „IRZ-FS“ which contains a large number of further articles about the IRZ’s work in German.

respective support programmes in the overview in the presentation of the IRZ. In this context, however, it is impossible to give a detailed outline. The texts and materials included in the footnotes, however, many of which are available on the Internet, allow those who want to familiarise themselves in more detail with international legal cooperation to read more about the forms of international cooperation in general.

2. FOUNDATION, MISSION, ORGANISATIONAL STRUCTURE AND FUNDING OF THE IRZ

2.1. *Foundation and Organisational Structure of the IRZ*

2.1.1. Foundation

The initiative for founding the IRZ as an independent advisory institution specialising in law³ was launched at a conference in Bonn on 18 and 19 November 1991, where ministers of justice of various states of East and Central Europe discussed ways for a change away from socialist and towards free democratic states based on the rule of law upon invitation of the former Federal Minister of Justice, Dr. Klaus Kinkel⁴. An organisation was established which was not supposed to „export“ German law⁵, but which was to provide support to the former socialist states of East and Central Europe in the spirit of partnership in the transformation of their legal systems by giving legislative advice as well as support in the basic and further training of attorneys at law.

2.1.2. Form of Organisation

Despite the designation „Foundation“ in the IRZ’s name, the legal form of an association according to the German law was chosen as legal form of organisation.⁶ The legal form of an association is ben-

3 This specialisation is the IRZ’s characteristic feature. However, it has to be pointed out that legal cooperation in Germany rests „on many shoulders“, and insofar, a „decentralised approach“ is taken (as the present Federal Minister of Justice, Ms. Sabine Leutheusser-Schnarrenberger put it in her message in IRZ-FS, 15 *et seq*; she also stated that the IRZ „has become a key player in international legal cooperation since its foundation“)

4 Cf. Klaus Kinkel, foreword to IRZ-FS, 19.

5 Cf. Kinkel, *op. cit.* fn. 4, 20.

6 A complete list of the IRZ’s members is available on <http://www.irz-stiftung.de/stiftung-wir-ueber-uns/mitglieder/mitglieder.html>; also compare the entry

eficial due to the structure of the IRZ's members: the members of the IRZ are namely the professional associations and interest groups of the different classical legal professions (to mention only as examples: The German Association of Judges DRB, the Federal Bar, the German Bar Association, the Federal Chamber of Notaries and the *Bund Deutscher Rechtspfleger* – association of judicial officers), a small number of companies and associations of enterprises (for instance the Association of German Chambers of Commerce and Industries as well as the German Insurance Association GDV) as well as some (few) individuals who are particularly linked to the objectives and work of the IRZ (in particular attorneys at law in prominent positions and Members of the German Bundestag). This structure enables the IRZ to draw on the expertise of these organisations and individuals in its daily work without any detours and to find also experts with rare profiles without long lead times.⁷

2.1.3. Competences and Tasks of the Employees

The task of the IRZ and its members is to match the actual needs of its partners with the advice provided by the assigned experts for which they are especially qualified due to their professional training. Most employees of the IRZ are attorneys at law; many of them speak the languages of the partner states to which they are assigned, quite a few have held legal and Slavonic chairs, and some of them also pursue academic work on the laws of the respective partner states or have even done a PhD in them.⁸ Furthermore, many heads of section and project

on the IRZ in the German version of the online Wikipedia encyclopaedia.

7 Cf. Rainer Deville, Inga Todria, „Mission impossible: Die perfekte Personalauswahl bei Richtern“ [Mission Impossible: The Perfect Staff Selection of Judges], IRZ-FS, 187 et. seq., who sum up their experience gathered in the search for experts having a particular profile required in a specific project in the sentence „The IRZ knows them all“.

8 *Stefan Hülshörster* (the IRZ's present Deputy Director and Head of Section for Belarus, Moldova and Ukraine) did his PhD on *Recht im Umbruch: Die Transformation des Rechtssystems in der Ukraine unter ausländischer Beratung* [The Law undergoing a Radical Change: The Transformation of the Legal System in Ukraine assisted by Foreign Advice], Studies of the Institute for Eastern Law, Munich, Frankfurt am Main, Berlin, Bern, Brussels, New York, Oxford, Vienna 2008. Doctoral thesis of *Julie Trappe* (General Twinning Coordinator and Head of Section for Romania and Turkey), *Romania's Dealing*

managers have gathered practical professional experience with regard to the partner states which they deal with today and/or are trained in the classical legal professions (judge, public prosecutor and attorney at law) as well as in public authorities and ministries before working for the IRZ. The employees of the IRZ responsible for the project work do not only „manage“ the advice to be given to the respective foreign project partner on the basis of this qualification, but they also contribute their legal and country-specific expertise and experience. Due to these intercultural competences, they are furthermore suitable „relay stations“ for the communication between the advised institutions in the foreign partner states and the mainly German experts.

2.2. *The IRZ's Funding and its Fields of Activity defined by the Funding Type*

2.2.1. Overview of the IRZ's Funding Sources

The work of the IRZ is funded by the Federal Ministry of Justice, the Federal Foreign Office (for South East Europe in particular from the financial contribution of the Federal Republic of Germany to the Stability Pact for South East Europe) by which the so-called bilateral work of the IRZ is funded, as well as by so-called third-party funds.⁹ Third-party funds are on the one hand raised by successful tenders in legal projects awarded by the EU and the World

with its Communist Past. An Examination from a Criminal Law Perspective, Göttingen 2009. The author of this article, *Stefan Pürner* (presently Head of Section for Bosnia and Herzegovina, Macedonia, Montenegro and Serbia) did his PhD on *Die GmbH als neugeschaffene Form ausländischer Investition in Jugoslawien: Vorbedingungen, gesetzliche Regelungen, rechtliche Probleme; ein Beitrag zur wirtschaftlichen Ost-West-Zusammenarbeit in der Umbruchphase* [The German GmbH as a newly created Form of Foreign Investment in Yugoslavia: Prerequisites, Regulations, Legal Problems; a Contribution to Economic Cooperation between the East and the West in the Period of Transition], Regensburg 1992.

9 Further information on the types of EU projects implemented by the IRZ are available on the IRZ's website in German on <http://irz-stiftung.de/index.php?menuid=60&getlang=de>, in English on <http://irz-stiftung.de/en/stiftung-projects/information-eu-projects/>, in Russian on <http://irz-stiftung.de/index.php?menuid=60&getlang=ru>, and in Arabic on <http://irz-stiftung.de/index.php?menuid=60&getlang=ar>.

Bank and their implementation, and on the other hand by so-called twinning projects.¹⁰ These fields of activity can be described in simplified terms as follows:

2.2.2. Bilateral Work Funded by the Federal Government budget

Within the field of bilateral work, the IRZ files applications with the German Federal Government outlining the projects defined in cooperation with the foreign partners. These projects are defined and planned directly on a bilateral level between the IRZ and the respective partner institution (for instance advice on specific laws, implementation of a series of basic and further training events or the publication of expert literature). In this area, it is possible to plan tasks and their solution with the partners in a creative way, thus being relatively flexible. It is particularly possible, within the fields of work predefined in the project proposals and the financial limits defined by the approved funds, to respond quickly and flexibly to new needs and the project partners' individual initiatives (the publication of this journal, for instance, is funded from these bilateral funds). The bilateral work is also particularly sustainable since in some areas, long-term cooperation and projects are implemented within its framework. Examples are the cooperation within the field of the basic and further training with a large number of academies, including academies in South East Europe and judicial training centres. Within the bilateral work, the IRZ cooperates with resident local employees in South East Europe, whereas foreign experts only travel to the respective country for specific activities (expert talks within legislative projects, seminars and the like).

10 For general information on twinning projects in English: http://ec.europa.eu/europeaid/where/neighbourhood/overview/twinning_en.htm, as well as the Twinning Manual, which gives an insight into the procedure of twinning projects in English: http://ec.europa.eu/enlargement/pdf/financial_assistance/institution_building/2012/manual_may_2012.pdf and in German: <http://www.berlin.de/rbmskzsl/europa/europapolitik/twinning.html> as well as on twinning projects within the IRZ's sphere of activities: Julie Trappe, „EU Twinning-Projekte als Chance der internationalen Zusammenarbeit“ [EU Twinning Projects as an Opportunity for International Cooperation], *IRZ-FS*, 341 *et seq.*

2.2.3 General Information About Third-Party Funded Projects

Invitations to tender are issued for third-party funded projects after being defined by the tendering institution (EU or World Bank) in cooperation with the beneficiary of such project first (e.g. a foreign ministry of justice) and after having set up a detailed work schedule. Then organisations or consortia can tender for this project pursuant to fixed tendering rules. These projects mainly run between 18 and 36 months. In most cases, a project office is established for these projects in the partner country. These projects have at least one long-term foreign expert (team leader or resident twinning advisor) who lives in the respective partner country during the whole project period. In most cases, he or she is supported by further foreign long-term or short-term experts. His or her task is to execute the tasks defined in the invitation to tender and to achieve the stipulated objectives. The work in these projects is accompanied and supervised by a supervisory body consisting of representatives of the beneficiary organisations, the partner country and the tendering organisation.

2.2.4. The IPA Programme of the EU as Main Third-Party Funded Programme

Third-party funded projects of the EU are tendered within the programme „Instrument for Pre-Accession Assistance (IPA)“¹¹, the legal basis of which is Council Regulation (EC) No. 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA). It provides support to countries with pending EU accession within the period of 2007 to 2013. The IPA is aimed at increasing efficiency and coherence of the assistance by providing a uniform framework for enhancing institutional capacities, cross-border cooperation as well as economic and social development and rural development. The Pre-Accession Assistance supports the stabilisation and association process of the accession candidates and potential new members, thus taking account of the particularities and procedures which they respectively undergo. This definition implies that the projects do not

11 A detailed description with many further links is available in German: http://ec.europa.eu/regional_policy/thefunds/ipa/index_de.cfm and in English on http://ec.europa.eu/regional_policy/thefunds/ipa/index_en.cfm.

only relate to the legal area.¹² Another distinction has to be made between technical assistance and twinning projects.¹³

2.2.5. Technical Assistance

The group of organisations eligible for third-party funded projects varies depending on the kind of project. Within the IPA Programme, there are on the one hand technical assistance projects for which also private companies (consultants) can tender. This means that the IRZ competes with profit-oriented organisations (quite successfully) in this field.

2.2.6. Twinning

The IRZ, however, is particularly active within the twinning area. Twinning projects¹⁴ are also called „*Behördenpartnerschaft*“ (partnership between public authorities) in German. The EU issues invitations to tender for projects to support the partner states by governmental organisations and so-called mandate bodies (to which the IRZ belongs). In this context it is not possible to give a detailed description of twinning projects.¹⁵ However, it should be pointed out that in these programmes, public officials (civil servants, employees and also old-age pensioners) from public administrations are assigned to other

12 Information on the IPA projects in Macedonia is available in German: http://ec.europa.eu/regional_policy/thefunds/ipa/fyrom_development_de.cfm and in English on http://ec.europa.eu/regional_policy/thefunds/ipa/fyrom_development_en.cfm.

13 It would lead too far to outline in this article in further detail for what kind of projects technical assistance, and for what kind of projects twinning projects are (should be) chosen. The EU recently had this issue investigated by a consultancy; the respective report „Evaluation Twinning versus Technical Assistance – Final report“, Rotterdam, 26 January 2011 is available on http://ec.europa.eu/enlargement/pdf/financial_assistance/institution_building/2012/20120525_twinning_vs_ta_final_report.pdf.

14 For general information on twinning projects in English: http://ec.europa.eu/europeaid/where/neighbourhood/overview/twinning_en.htm and the Twinning Manual, which gives an insight into the procedure of twinning projects in English: http://ec.europa.eu/enlargement/pdf/financial_assistance/institution_building/2012/manual_may_2012.pdf and in German: <http://www.berlin.de/rbmskzl/europa/europapolitik/twinning.html> as well as on twinning projects within the IRZ's sphere of activity: Julie Trappe, *op. cit.* fn. 10, 341 *et seq.*

15 Available in German: <http://www.europa.bremen.de/twinning>.

European states outside the territory of the EU Member States or to new EU Member States for a limited period of time in order to assist their colleagues as advisors in their daily work. The assignment periods vary between one and three years for resident twinning advisors and several weeks for short-term experts. Twinning projects are aimed at supporting the set-up of administrations and, as a rule, at conveying experience with regard to EU legislation. The integral person in twinning projects is the resident twinning advisor (RTA), who is in charge of managing the assignment of short-term experts and of coordinating the project in the respective country.

3. OVERVIEW OF THE IRZ'S DEVELOPMENT ¹⁶

3.1. *Original Group of Partner Countries and EU Accession of Former Partner States*

The IRZ's field of tasks changed and expanded in the first 20 years of its existence due to the recent historical developments. At the early stage, the focus was above all on the former socialist states in Central and Eastern Europe, the Russian Federation and the new independent states of the former Soviet Union (also within the „Eastern neighbourhood“ as part of the European Neighbourhood Policy ENP). Consisting of eleven states¹⁷, the group of these countries was comparably manageable compared to today.¹⁸

During the years up to the fifth enlargement of the EU (first part of the Eastern enlargement of the EU) in 2004, the IRZ provided support to the Baltic states Estonia, Latvia and Lithuania as well as to the Czech Republic, Hungary, Poland, Slovakia and Slovenia in many different ways with regard to the harmonisation of the legal system and legal practice to the requirements of the *aquis communautaire*. With

16 Further to the development of the IRZ also cf. interview with its present director, Dirk Mirow, in NJW-aktuell 26/2011 (p. 12 et. seq.), available in German: <http://irz-stiftung.de/stiftung-download/medienberichte/medienberichte.html>.

17 Kinkel, *op. cit.* fn. 4, 20.

18 With regard to the IRZ's first years also cf. Lujo Fade, „Aller Anfang ist schwer: Gründung und Anfangsjahre (Mai 1992 bis Mai 1998) der Deutschen Stiftung für internationale rechtliche Zusammenarbeit (IRZ-Stiftung)“ [All Beginnings are Difficult: Foundation and Early Years (May 1992 to May 1998) of the German Foundation for International Legal Cooperation (IRZ Foundation)], *IRZ-FS*, 317 *et seq.*

the accession of these countries, the IRZ finished its activities there, apart from some few remaining activities. There are, however, still relations to these countries insofar as today future EU Member States are advised by local attorneys at law commissioned by the IRZ. Due to the specific circumstances in these countries, the IRZ, however, is still active in the EU Member States Bulgaria and Romania which acceded the EU in 2007.

3.2. Enlargement by the Stability Pact, the MEDA Region, Asia, the Arab Revolution

While on the one hand the IRZ's field of activity became smaller due to the accession of former partner states to the EU, it expanded on the other hand due to further recent historical developments. Especially the end of the bloody conflicts on the territory of former Yugoslavia should be mentioned in this context as a consequence of which the IRZ was commissioned by the German Federal Government to support Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia in their legal transformation (which turned into legal harmonisation with an increasing approximation to the EU). In the following period, states from the European-Mediterranean cooperation (MEDA Region), but also states from Central and South East Asia such as Armenia, Azerbaijan, Georgia, Kazakhstan and Uzbekistan as well as Vietnam were included in the activities. The so-called „Arab spring“ finally resulted in the IRZ's reassuming its work in Egypt and Tunisia, again by order of the Federal German Government.¹⁹

19 Cf. Patrick Schneider, „Zusammenarbeit mit Zukunftsperspektive– Die Arbeit der IRZ in Ägypten und Tunesien“ [Cooperation with Future Prospects – The IRZ's Work in Egypt and Tunisia], *Deutsche Richterzeitung* [Judges' Journal] 2012, 258 *et seq.*, http://irz-stiftung.de/dokumente/upload/5dbd5_schneider_driz_sept12.pdf; Wolfgang Janisch, „Deutsche Experten für Ägypten und Tunesien: Juristische Entwicklungshelfer“ [German Experts for Egypt and Tunisia: Legal Development Workers], *Süddeutsche Zeitung* of 11 May 2011, <http://www.sueddeutsche.de/politik/deutsche-experten-fuer-aegypten-und-tunesien-juristische-entwicklungshelfer-1.1095678>; *Focus online* of 25 May 2011 „Exporteur des deutschen Rechts: Fettnäpfchen tunlichst vermeiden“ [Exporter of the German Law: You'd Better not Put your Foot in it], http://www.focus.de/politik/ausland/krise-in-der-arabischen-welt/tid-22444/exporteur-des-deutschen-rechts-fettnaepfchen-tunlichst-vermeiden_aid_630664.html. See also http://mediacenter.dw.de/german/video/item/272553/Unterwegs_mit_deutschen_Juristen_in_Tunesien.

It is quite remarkable, especially in times in which an efficient use of governmental funds is the order of the day, that the IRZ tackles all these tasks with surprisingly few staff. Presently, as little as 45 employees work for the IRZ in Germany at the two sites in Bonn (headquarters) and Berlin who are assisted by 15 colleagues abroad.²⁰

For the sake of completeness, it should be mentioned that the IRZ was recorded only as a temporary organisation in the budget of the Federal Republic of Germany until recently. This was expressed by the fact that until 2010, the funds of the IRZ were marked with the so-called „KW note“ („kann wegfallen“/can be cancelled). The removal of this restriction can also be understood as an acknowledgement of the circumstance that a small and efficient organisation has meanwhile developed in the form of the IRZ whose know-how and expertise within the field of legal transformation (and harmonisation) is valuable also in the new historical contexts.

4. SELECTED ASPECTS IN CONNECTION WITH THE IRZ'S WORK

4.1. *General*

For lack of space, it is impossible to cover the IRZ's work exhaustively in this context.²¹ For this reason, only some major aspects will be outlined here which are of particular interest to the readers of this journal.

4.2. *Focus on the Rule of Law and Legal Harmonisation*

The IRZ's work was originally aimed at supporting (only) its partner states on their way to a rule-of-law state.²² This was already a challenge in itself! When the „former socialist states“ more and more turned into EU accession candidates and potential candidates, it became necessary for the IRZ to redefine its task, i.e. the mission of providing advice to the partner states. After all, this mission was not only to support these

20 Cf. Focus Online, *op. cit.* fn. 19..

21 In this context, reference is made to IRZ's commemorative publication which covers a multitude of aspects from the IRZ's work in more than 40 articles on almost 500 pages.

22 Cf. Stefan Pürner, „Vorbedingungen der internationalen Rechtsberatung durch die IRZ“ [Prerequisites for International Legal Advice by the IRZ] in IRZ's commemorative publication, 349 *et seq.*

states in setting up the rule of law (also states which have not adopted the *acquis* may nevertheless be states governed by the rule of law), but specifically to provide support in the harmonisation of national law with the *acquis*. As can be seen from today's EU Member States which have harmonised their legal system, amongst other things, in cooperation with the IRZ, the IRZ Foundation is well prepared for this task.

4.3. Importance of the German Law

The harmonisation of national laws raises many questions since there is no uniform way towards harmonisation, because in particular the EU Directives give considerable leeway in the harmonisation of a national law with regard to its implementation. For this reason, it is quite natural that the way towards a harmonised law and its contents is not automatically defined. As we are considering a German organisation which provides support in legal harmonisation, we will only deal with the question of the importance of German law in the IRZ's work,²³ especially as there has been a „competition of legal systems“, in particular between Anglo-American and Continental-European „providers“, in the transformation states for many years now.²⁴

23 The question whether and how offensively Germany and German organisations should represent the German law abroad was and still is intensively discussed in Germany for some time. Unfortunately, this discussion cannot be covered in further detail here. However, reference is made to the initiative „Law made in Germany“ which has meanwhile been launched in this context by various German legal organisations, which sets out the advantages of the German law as a response to respective efforts on the Anglo-American part to present the advantages of Anglo-American law. (cf. the website on this initiative on <http://www.lawmadeingermany.de/archiv.htm>; a critical comment on this initiative by Alexander F. Peter, „Warum die Initiative „Law – Made in Germany“ bislang zum Scheitern verurteilt ist“ [Why the Initiative „Law-Made in Germany“ has so far been doomed to Failure], *Juristenzeitung* 2011, 939 *et. seq.*, whose reasoning, however, is not entirely comprehensible. In particular his or her doubts, whether the German law is actually welcome by the target group, is not entirely comprehensible in view of the situation and legal tradition in South East Europe.

24 Further to this topic from the view of the local project work cf. Stefan Hülshörster „Konkurrenz der Rechtsordnungen“ [Competition of Legal Systems], *Zeitschrift für Wirtschaft und Recht in Osteuropa* [Journal for Commerce and Law in Eastern Europe] 2011, 191 *et. seq.*, http://www.irz-stiftung.de/dokumente/upload/74896_wiro_06_2011_irz.pdf. Interesting in this context is also Menno Aden „Law Made in Germany“, *Recht der internationalen Wirtschaft* [International Commercial Law] 2012, issue 1–2, 1, who also covers practical

It should be pointed out in this context that as a matter of fact the German law plays an important role in the advice given by the IRZ as a German organisation in other states. However, it is not about engaging in a „legal export“ or „legal imperialism“ or adopting the German law „wholesale“ in another country. The objective is rather to find solutions together with the partners which are also feasible for the actual situation in the respective country.²⁵ In this respect, the IRZ and its experts are quite aware of the fact that Germany is a big country with comparably good financial resources, an established legal culture (which also includes the professional self-conception of all legal professions!), a large number of courts and published court rulings and comprehensive legal literature. These are only some of the outline conditions which distinguish Germany from many transformation states which already rule out an indiscriminate adoption of the German law.

4.4. *Reasons in Favour of the German Law as a Basis*

Nevertheless, the German law plays an integral role in the advice provided by the IRZ which is expressly desired by the partner states. As the German law enjoys a very good reputation there, it is „actively demanded“ by the partner states. There are a large number of factual reasons in favour of this:²⁶ On the one hand, the German law is already harmonised law. This may be a matter of fact, when we speak about advice given by European organisations. However, it should not be forgotten that also Anglo-American approaches are taken in the daily routine of legal reform in the transformation states and are also adopted by some states.²⁷ Another advantage of the German law is the fact that it is predictable, since it is codified. This is a circumstance which is definitely an advantage in the „stormy“ transformation.

advantages of the German law vis-à-vis American law (lower costs for legal advice already when drawing up contracts).

25 On this topic: Hülshörster, *op. cit.* fn. 24, 192. If the national legal tradition, the respective legal culture and the legal history are not taken into account, a legal reform will lead to nothing or will at least run the risk of having no long-term effect.

26 Cf. Stefan Pürner about the IRZ's activity in Bosnia and Herzegovina, WiRO 2011, 381 *et. seq.*

27 Cf. Hülshörster *op. cit.* fn. 25, 192.

The main reason for considering solutions on the basis of the German law in the legal transformation in the states of South East Europe, however is that it is a law which was used as a guideline not only before the socialist era, but also during this time to the extent it was possible in Socialism. Or to put it in other words: the German law (and Austrian law) as a „law of reference“ includes the advantage that we remain in the former tradition, thus avoiding arbitrary breakups or „changes of the operating system“.

4.5. The Importance of Cooperating with Civil Society and Non-Governmental Organisations within the IRZ's Activity

A state governed by the rule of law must be established by the state, i.e. by governmental institutions. However, this cannot be done in a patronising way but must be supported by society („those who are subjected to the law“). Furthermore, it is not the case that the respective governments in the transformation states would always follow the way towards the rule of law straightforwardly and without stepping backwards. There are also examples for this among the new EU Member States. But also the „old“ Member States need guardians. From this, it follows that several approaches must be taken in the advice given with regard to legal transformation rather than addressing only public bodies. For this reason, the IRZ does not only cooperate with governments and public bodies but also with NGO's. NGO's can support the „restructuring towards a rule-of-law state“ at citizen level; in situations, however, in which the public bodies' will to transform their law is about to fade to a lip service, they can also become a guarantor to ensure that the rule of law is not entirely lost out of sight as a target. NGO's furthermore have a better overview of the legal reality in their respective area than contacts with official bodies, the lecture of court judgements (if procedures come to a judgement at all and the judgements can then be published) and talks with the responsible people in the public bodies can provide.

The transformation process towards the rule of law (and thus also towards the harmonisation of the national law to become a direct or indirect housemate in the joint house of the European Union) was triggered in the past, to be more specific in the late nineteen-eighties

and early nineteen-nineties. The way to this goal, however, leads far into the future, since the rule of law is no static condition, but rather a target which will never be achieved, unless the achievements made so far are put into question every day anew in the light of the developments and findings which have been made in the meantime. Furthermore, we must respond to new tasks and challenges by looking critically at the status quo. What is more, we always have to face the risk of setbacks. (There are plenty of historical examples from different historical eras in various states.)

All these problems can be tackled most efficiently by cooperating with those who have least respect for the achievements made so far, who are little impressed by historical events which had partly taken place long before they were born, and who ask the old questions anew, yet with young perseverance and with little respect for the achievements made so far. The importance of young attorneys at law for transformation results from the fact that transformation is a project which reaches *far* into the future. Actually, nothing more needs to be said about the importance of young attorneys at law in science and practice as well as of NGO's.