

## EDITORIAL

After ten years of publishing the Journal at its own expense, the German-Japanese Association of Jurists, in coordination with its co-editor, the Max Planck Institute, has decided to transfer the publication to a commercial publisher. The present issue of the Journal is the first to be published by Carl Heymanns Verlag, Cologne et al. Founded in 1815 and one of the leading German publishing houses specializing in legal publications, Carl Heymanns publishes the book series *Japanisches Recht* (Japanese Law), with 40 volumes since 1976.

This change means that the Journal is no longer exclusively a members' journal, but can also be purchased directly. However, not much will actually change for the *members* of the DJJV, who will receive more detailed information in a separate letter. The mode of publication will remain unchanged, and editorial responsibilities remain with the undersigned. A minor change is that the mailing of the Journal, which had become increasingly difficult, will now be handled by the publisher rather than the Secretariat General of the DJJV. Another change is that the section "News of the Association" will no longer be integrated in the Journal; instead, it will be inserted as a supplement in the copies mailed to the members. Otherwise, neither the size of the Journal nor its contents have been altered.

The present issue puts a certain emphasis on the recent and rather dramatic developments regarding takeovers and their regulation in Japan. A spate of unsolicited bids has rattled corporate Japan, resulting in court battles over defensive measures and the setting up of an advisory group, the Corporate Value Study Group. The Group issued two reports in May 2005 and March 2006 with recommendations of how best to deal with defensive measures against hostile takeovers. Based on these recommendations, the Ministry of Economy, Trade and Industry and the Ministry of Justice issued sophisticated joint "Guidelines Regarding Takeover Defenses" in May 2005. Together with English abstracts of the two reports and preceded by a short comparative introduction to takeover regulation in Japan by the undersigned, the English version of the guidelines is reprinted in the DOCUMENTATION section. Complementing these, Sôichirô Kozuka starts the ARTICLES section with an analysis of Japanese court decisions dealing with the legitimacy of defensive measures. In the CASE LAW section, Eiji Takahashi and Tatsuya Sakamoto present translations with commentary of two important recent decisions regarding such defenses. A short article by Curtis J. Milhaupt summarizes his findings about the Japanese developments from a U.S. perspective.

The ARTICLES section continues with a comprehensive overview by Moritz Bälz of the liberalized rules for the restructuring of Japanese companies by way of mergers, demergers, and share exchanges under the new company law. This contribution carries

on our series of information about the major reforms of Japanese company law.<sup>1</sup> The same is true for two shorter contributions. Jörn Westhoff gives a critical evaluation of the impact of the new company law on foreign companies doing business in Japan. Peter Rodatz discusses issues of corporate governance. In a shift of perspective, Frank Bennett pictures the long history of regulating the sale of used goods for the purpose of suppressing theft since pre-Meiji times. Thereafter, Kent Anderson and Leah Ambler present a cautiously optimistic assessment concerning the upcoming modified-mixed court system's (*saiban-in seido*) likelihood of improving criminal justice in Japan. Taking a comparative view, Julia Walkling analyzes the function of "administrative guidance" in the context of approval proceedings for waste disposal factories in Japan and Germany. Stefan Wrška describes the work of the Research Commission on the Constitution established in 2000 with the purpose of doing the first comprehensive inspection of the Japanese Constitution since 1947. Thorsten Beyerlein introduces the so-called "Intellectual Property High Court" (*Chiteki Zaisan Kôtô Saibansho*) set up on 1 April 2005.

The LECTURES section carries two contributions presented at the "6<sup>th</sup> International Symposium on Advances in Legal Medicine (ISALM)." The lecture by Makoto Ida deals with the background of homicides committed in Japan. Masami Okaue discusses domestic violence, which is acknowledged as a serious social problem in Japan. Before that, Klaus Püschel and Satoru Miyaishi describe the development and aims of ISALM.

Hiroshi Oda gives a first brief overview of the fundamental reform bill of financial market regulation in Japan which was adopted by the Diet on 7 June 2006. Yuko Nishitani explains the reform bill of private international law that was passed by the Diet on 15 June 2006. In the section on CASE LAW, Dirk Schüßler-Langeheine and Eberhard Hafermalz supply a comprehensive overview of important civil decisions of the Supreme Court during 2004. This adds to an earlier report from 2003 in issue 19 (2005). The BOOK REVIEWS introduce a PhD thesis on the company split in Japan as well as the *Liber Amicorum* for Prof. Dr. Toichiro Kigawa and a German publication on defensive measures in Japan. A REPORT by Matthias Scheer summarizes the findings of the comparative conference on privatization of state enterprises jointly organized by the DJJV and Waseda University and convened in Tokyo on 24 and 25 February 2006. Peer Gebauer resumes the various German-Japanese legal conferences that were part of the successful "Germany-in-Japan Year" of 2005/06. Christoph Antons reports on the annual ANJeL conference in Sydney on 28 February 2006. Finally, the various pieces of information supplied in the FORUM section may be of interest.

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<sup>1</sup> Cf. most recently the contributions of M. DERNAUER, *Die japanische Gesellschaftsrechtsreform 2005/2006*, and E. TAKAHASHI/M. SHIMIZU, *The Future of Japanese Corporate Governance: The 2005 Reform*, in: *ZJapanR / J.Japan.L.* 20 (2005) 123 ff. and 19 (2005) 35 ff., respectively.