

EDITORIAL

In the European Union and its member states, the topic of mediation ranks high on the political agenda these days. Japan has a long tradition of consensus-oriented dispute resolution: in the 20th century this was formalized particularly in the form of conciliation; at the beginning of the 21st century this has been supplemented by rules on ADR. *Harald Baum* und *Eva Schwittek* give an overview of the relevant developments with their continuities and discontinuities. Over the past years, the Japanese legal profession has experienced breathtaking modernization and internationalization. A *zadan-kai* (panel discussion) organized and moderated by *Bruce E. Aronson* and involving a number of outstanding legal practitioners of leading Japanese and international law firms in Tokyo gives a lively and up-to-date picture of these developments. Change and continuity are in the center of the ensuing contribution by *John Buchanan* and *Simon Deakin*. Based on 24 interviews with Japanese corporate leaders, the authors examine the effect of the most recent corporate law reforms on corporate governance in Japanese enterprises. They reach the conclusion that Japan may be experiencing less convergence towards a global standard than it seems at first glance.

Minoru Nakazoto and *J. Mark Ramseyer* in their brief study analyze the Japanese baseball business as compared to its counterpart in the United States. The two following articles deal with issues of constitutional law. *Yasuhiro Okuda* and *Hitoshi Nasu* comment on the much-discussed Supreme Court decision of 4 June 2008, in which Art. 3 of the Nationality Act was declared discriminatory and unconstitutional. The authors take the view that the decision may well mark the beginning of a more activist approach of the courts towards constitutional review. *Susanne Olberg* reports on the recent discussion on whether Japanese rules on the state of emergency, which up to now has not been addressed in the Constitution, should be given an express constitutional basis. *Nels Hansen* presents the first annotated translation of the 2007 lead case by the Supreme Court on the legality of defense measures against hostile takeovers. In addition, he analyzes the decision – which was also the topic of two articles in the preceding issue – from an American academic perspective.

In June, the German-Japanese Association of Jurists (DJJV) celebrated its 20th anniversary with a ceremonial act at the Hamburg City Hall. *Prof. Dr. Tokiyasu Fujita*, Justice of the Japanese Supreme Court, gave a speech in German on the expectations of the Japanese public vis-à-vis the Supreme Court. The speech allowed a rather personal insight into the operation of the Court. To illustrate his views, Justice Fujita drew on the example of the recent case commented on by *Okuda* and *Nasu*.

In the CASE LAW section, *Eiji Takahashi* and *Tatsuya Sakamoto* first comment on three important decisions on Japanese corporate law dealing with control and inspection rights of minority shareholders as well as with questions of the statute of limitation applicable to damage claims against directors. In a fourth illustrative decision, the Ôsaka High Court had to decide on damage claims brought by the bereaved dependants of a director of a small company who had suffered death from overwork (*karô-shi*). At issue was whether the company owed the deceased a duty of care despite him being not an ordinary employee. *Christopher Heath* translates and comments on two recent decisions on patent law.

Several book reviews introduce a variety of recent publications on Japan and Japanese law. The reviews cover interesting symposium volumes, important English publications on Japanese business law, and a study of the big environmental scandals and their impact on human rights in Japan. *Nina Truchseß* and *Verena Meckel* report on two symposia held in Berlin and Kyoto respectively. *Ko Watari* describes her positive experiences during an internship at the *Nichibenren*, and *Julian Aleker* reports on his studies at Niigata University.

Finally, in order to make the rich collection of contributions in the Journal's past issues even more accessible, this issue provides a collective index of the issues Nos. 1 to 25.

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