



## JURISDICTIONAL REPORT: LAWASIA COUNCIL MEETING

18 November 2022

### LAWASIA Member Organisation – Annual Jurisdictional Report 2022

1. Please provide a brief summary (up to 100 words per item) of up to five (5) key events and activities undertaken by your organisation in the past 12 months.

Name / Date of Activity	Details of activity
Digitalization of the Justice System	A core concern of legal policy in this new legislative period of the German Bundestag is the digitisation of the justice system. The Federal Ministry of Justice has already set a first course with a working paper on the design of online civil court proceedings. BRAK is involved in the developments at an early stage in a preparatory workshop organized by the ministry together with the DAV, academia, the judiciary and legal-tech associations. The aim of the project is to initially provide access to the civil courts for the assertion of small claims via an online platform. BRAK has already positioned itself at an early stage by means of a position paper.
Demographic change and the presence of the rule of law	The digitalisation of the judiciary raises the question of the presence of the rule of law. The retreat of a judiciary that is present for the citizens through the dismantling of courts has already led to demonstrable deteriorations in access to justice for our clients in Mecklenburg-Vorpommern. Digitalisation can be a compensation, but it must not lead to a further loss of the rule of law. In this respect, we at the BRAK also observe with concern the retreat of the legal profession from the countryside. More and more individual lawyers in rural regions of our jurisdiction are giving up their practice and are also unable to find new blood. A working group of the presidents of the chambers convened by the BRAK is currently analysing the developments. Since 2018, BRAK statistics have recorded a decline in the number of lawyers admitted to practice exclusively in law firms. At the same time, we are noticing a concentration in the metropolitan areas and large cities. The membership figures in the large bar associations are increasing, while these are decreasing sustainably in the small ones and in the regions with rural structures. In the new federal states, the loss of members is particularly marked, at 10 % over the last five years. This downward trend will continue due to the age structure in the legal profession.

Money laundering prevention	<p>Combating money laundering in the context of legal practice is one of the challenges facing all European legal professions. For their self-governments, this means an additional area of responsibility with considerable effort and a constant adaptation process due to new requirements of the European and national legislator. The regional bars of Germany have developed recommendations for action for the legal profession, which provide guidance for lawyers affected by this topic. Since the beginning of 2022, a wave of cancellations of lawyers' collective escrow accounts by commercial banks has caused a stir. A flash survey conducted by the BRAK at the beginning of February 2022, in which almost 10,000 lawyers surveyed via the chambers took part, revealed that almost a quarter of those surveyed are affected by bank terminations and are thus unable to comply with their professional duty under section 43a (5) BRAO in conjunction with section 4 BORA. The background to the termination of long-standing business relationships is BaFin's interpretation and application guidelines (AAH), which have been in force since summer 2021 and impose new due diligence obligations on banks in the context of their anti-money laundering obligations. BRAK engaged in intensive discussions with the Ministries and the bank and achieved clarification that the amendment of the AAH does not require the termination of the omnibus escrow accounts. At the same time, the talks confirmed the scepticism about the banks' approach, which could lead to a systemic problem for the legal profession. The Statutory Assembly, the independent lawyers' parliament established at the BRAK, reacted in its meeting on 29 April 2022 by clarifying that lawyers do not have to keep escrow accounts. However, this did not solve the fundamental systemic problem of a conflict of duties due to the increased due diligence in money laundering prevention claimed by the banks.</p>
International Conference	<p>On 29 and 30 September 2022, the 5th International Lawyers' Forum on "The Legal Profession in Times of Change" took place in Berlin. More than 100 high-ranking representatives of lawyers' organisations from more than 30 jurisdictions exchanged views on digitalisation in the judiciary, the concept of the digital law firm, the role of lawyers' organisations and the judiciary in times of crisis.</p>
Bilateral Activities in the Asian-Pacific Region	<ul style="list-style-type: none"> <li>- German-Chinese Conference on Protection of Personal Data and Regulation of Algorithms from the perspective of the EU and China (hybrid format, 21.12.2021)</li> <li>- Opening of the Legal Year in Hong Kong (hybrid format, 24.01.2022)</li> <li>- Joint Webinar with LAWASIA on the topic "Advocacy in Times of Political Change" (online, 24.03.2022)</li> <li>- Joint Webinar of BRAK and the German Foundation for Legal Cooperation and the Vietnam Bar Federation on the topic of "Lawyers` constancy skills on negotiating and drafting M&amp;A contracts and transfer of real estate projects in the context of</li> </ul>

	<p>market economy and international integration” (online, 14 and 15 March 2022)</p> <ul style="list-style-type: none"> <li>- South Korean – German Legal Dialogue on “Public Defence and Legal Insurance” (online, 25.05.2022)</li> <li>- Consultation talks of the Max Planck Foundation, the Bar Council of the Maldives and BRAK on “Criminal Procedures – The rights of the accused” (online, 18 and 19 May 2022)</li> <li>- German-Japanese Symposium in Tokyo on „Artificial Intelligence in Law – Opportunities and Risks” (10.06.2022)</li> <li>- AIJA Conference in Singapore on “The Future of the Legal Profession: Reunite and Embrace the Change”</li> </ul> <p>Furthermore, BRAK has been issuing guidelines and opinions upon request by the Japan Federation of Bar Associations on the topic of “Business and Human Rights”.</p>
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**2. Please provide details of pending issues faced by your organisation that you wish to share with LAWASIA and other member organisations.**

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**3. Please list any items requiring assistance/support from LAWASIA and other member organisations (e.g. statements/ research/pro bono/joint events/joint projects etc.).**

1.	BRAK proposes a joint event (onsite) in June 2023 with LAWASIA, the German Chamber of Commerce and the Malaysian Bar Council on the topic of international arbitration in Kuala Lumpur
2.	
3.	

**4. Please list any events and/or initiatives that you would like to invite LAWASIA’s participation in over the next 12 months (e.g. opportunities for attendance, speakers, sponsorship etc.).**

Date	Name of Event/Activity	How can LAWASIA assist?