

Prof. Dr. Dr. h.c. Klaus Rennert
President of the Federal Administrative Court
President of ACA-Europe

Address
opening the Seminar and the General Assembly
of ACA-Europe
on 13 and 14 May 2019 in Berlin

Dear Mr President Buchheister, dear Joachim,

Dear guests,

Dear colleagues,

I would like to give a warm welcome to all of you to another seminar and this year's General Assembly of ACA-Europe here in the main courtroom of the Higher Administrative Court of the federal states of Berlin and Brandenburg. I am delighted and also a bit proud that so many of you have accepted our invitation to come to Berlin.

Firstly, I would like to welcome our host, the President of the Higher Administrative Court, my colleague and friend Joachim Buchheister. When I asked him nearly two years ago whether ACA-Europe could hold its General Assembly of 2019 at his court, he agreed to it without any hesitation. And even when I mentioned that he had to be prepared for over 80 participants, he, nevertheless, has upheld his promise. Together with his colleagues from the court administration which is headed by Ms Seeger, he actively supported the preparations for our meeting. I would already like to cordially

thank Joachim Buchheister and the entire staff of the Higher Administrative Court.

Secondly, I would like to welcome Jean-Claude Wiwinius, president of the Luxembourg Supreme Court of Justice, as representative of the “Network of the Presidents of the Supreme Judicial Courts of the European Union” (NPSJC). We have also invited Kees Sterk, vice-chairman of the Netherlands Council for the Judiciary, as representative of the “European Network of Councils for the Judiciary” (ENCJ). Unfortunately, he cannot be her with us today. We would like to deepen our cooperation with our two European partner organisations. In this way we emphasize our common conviction that the European integration also requires an integration of the members of the “third power” in the EU Member States. The ENCJ has set an example by inviting a representative of ACA-Europe to its meetings last year in Lisbon and this year in Bratislava. We should follow this example and further promote the idea. It could become a great tradition. Finally, I am pleased to welcome in our midst Ms Erin Jackson who writes a law dissertation about associations of judges and for this purpose also wants to include ACA-Europe in her research. We’re delighted to have you here.

You will have noticed that there is a higher number of interpreters than usual. This is because you are not only able to follow the seminar in English or in French, as usual, but this time also in German. This is not intended to introduce German as third working language of ACA-Europe “by the back door”. But on the one hand, I know that many of you speak German very well and like to speak it. So why don’t we just do you this favour here in Germany? And on the other hand, we have some listeners from the Higher Administrative Court who will appreciate the interpretation into German. I would like to thank our interpreters in advance for all the work and effort that they will certainly have.

As you know, the administrative jurisdiction in Germany is threefold. My wish is to present to you the three levels of this jurisdiction as concretely as possible. After being guests at Cologne Administrative Court as a court at the lower level at the beginning of December last year, we now meet here in the Higher Administrative Court of Berlin-Brandenburg which is a court of the middle level. In Germany there are 51 administrative courts at the lower level and 15 higher administrative courts at the middle level. In principle, each one of the 16 federal states of Germany has its own higher administrative court, with the sole exception of the federal states of Berlin and Brandenburg which have one common higher court on the basis of a bilateral treaty. Next year, in 2020, we will see each other again in Leipzig at the supreme administrative jurisdiction: the Federal Administrative Court. At the same time, you will experience different sides of our highly diverse country: at the beginning, the catholic city of Cologne on the Rhine in the west of Germany; at the end of the German Presidency, Leipzig as a city in the heartland of the Protestant Reformation and as one of the showcase cities of the former socialist republic in the east; and, in between, today our German capital Berlin.

The building, in which we are right now, was built in the first years of the 20th century. From the outset, it was intended to house a higher administrative jurisdiction, namely the Higher Administrative Court of the former Kingdom of Prussia. In those days, Prussia comprised approximately two thirds of the area and two thirds of the population of the then German Reich. In this context it is important to know that before the Second World War, there was no supreme administrative court at the national level in Germany. In the federal states, too, administrative courts were only set up step by step in the second half of the 19th century: starting in 1863/64 in the Grand Duchy of Baden, followed by Württemberg and Bavaria, and finally in 1875 in Prussia, here in Berlin. Thirty years later, the Prussian Higher Administrative Court moved to this representative building in Neo-Baroque

style. At that point of time, the court's very liberal jurisprudence had already gained popularity far beyond the borders of Prussia.

It is known that Prussia was destroyed in the Second World War. This building stood up relatively well to the bombings. After the war, it accommodated at first the District Administrative Court of the British sector of Berlin and temporarily the Higher Administrative Court of the city of (West) Berlin, before in 1953 the just newly established Federal Administrative Court, which I have the honour to preside now, moved in here. Only since then, has there been a supreme administrative court in the Federal Republic of Germany to ensure standardisation and, where necessary, the development of the jurisprudence of the then eleven federal states. For fifty years, the Federal Administrative Court held office in Berlin, right here in this building. It wasn't until the German reunification when the Parliament and the Federal Government were relocated from Bonn to Berlin that the Federal Administrative Court moved to Leipzig in 2002 making room for the legitimate successor of the initial host: the Higher Administrative Court of the federal state of Berlin and since 2005 also of the federal state of Brandenburg.

Our today's seminar forms the second part of a sister seminar. We all still have very fond memories of the first part in Dublin and I would, once again, like to thank Frank Clarke and his Irish team for the great work, both in form of organisation and content. While, in Dublin, we have looked at the internal functioning of our supreme courts, we now, here in Berlin, want to draw our attention to the functions of and the access to the supreme courts. In doing so, we will readdress, further debate and find out more about the issues discussed in Dublin. And we will add other aspects. Therefore, the two seminars form two halves of an entity. Besides, a "third half" might be added: The next seminar, which will be organised by our Czech friends in September in Brno, will take up one or the other question, whilst at the same

time adding new topics for discussion. And yesterday, the Board decided to propose to the General Assembly that the knowledge gained in the seminars is to be supplemented with the necessary statistics and data in the context of the next “transversal analysis”. I would already kindly invite you to participate in this statistical survey.

It is with good reason that we deal so thoroughly with our courts. In the past, we often compared our jurisprudence on issues regarding substantive law and, in doing so, we determined similarities and differences. And we will continue to do so in the future. It is exactly for the purpose of exchanging views and experience on matters concerning the jurisprudence that ACA-Europe has been established; that is our main objective. However, in order not only to determine but also to fully understand similarities and differences, we need to know the general conditions of judicial work, including the size and structure of each court, the caseload, the requirements to access the court and the internal “machinery”. All of these are circumstances that can hardly be learned from books and that we alone can tell each other from our daily experience. Therefore, the seminars are an invaluable source of information for all of us. We have all experienced it in Dublin and we will experience it once again here in Berlin, and certainly also in Brno.

And we don't want to keep our findings to ourselves. The general reports providing the analysis of the questionnaire replies already are a real treasure trove and they are generally accessible on our website. The same will apply to the results of the “transversal analysis”. An idea would be to put together the statistics as well as the reports and further findings gained from the seminars in Dublin, Berlin and Brno in a separate publication. This might be of great interest among experts.

[...]

It's time now to move on to today's seminar. The development of its contents was once again ensured by my colleagues Dr. Carsten Günther and Dr. Alban Barrón. Just like last time, they have prepared the seminar by means of a questionnaire to which many of you have replied very precisely and informatively, and for that I thank you very much. Carsten Günther and Alban Barrón have analysed these answers and, on that basis, they have drawn up the general report. Carsten Günther will open the seminar by briefly presenting the general report.