

Dear THEMIS-students,

Esteemed colleagues,

Ladies and Gentlemen,

It is a pleasure and an honour for the Law Faculty at *Freie Universität Berlin* to host this year's THEMIS summer school. I am particularly delighted to be able to welcome you today, as I serve not only as the Dean of the Law Faculty, but also as the Director of the *Institute for Private International Law, International Civil Procedure and Comparative Law* at *Freie Universität Berlin*. As is natural in this position, the matter of European Private Law is close to my heart, and I also co-teach the course 'European Contract Law' which is part of the THEMIS-curriculum at *Freie Universität Berlin*.

I.

To all of you who have participated in the THEMIS-programme this year, an exciting year is coming to its close. Let me briefly reflect upon the title of this extraordinary exchange-programme, which was set up by the four prime European Law schools *Bocconi, Esade, Université de Paris 12* and *Freie Universität*:

As you all know, THEMIS is the goddess of divine law and order, who also presided over the ancient oracle of Delphi. In this role, she was the divine voice who first instructed mankind in the primal laws of justice and morality. According to *Moses Finley's* description in his work 'The world of Odysseus', the concept of *Themis*

"is untranslatable. A gift of the gods and a mark of civilized existence, sometimes it means right custom, proper procedure, social order, and sometimes merely the will of the gods (...) with little of the idea of right."

Obviously, the goddess of divine law serves as a fitting eponym for a legal exchange programme – I shall turn to the aspect of "little of the idea of right" at a later point in time. There is also another facet of THEMIS I would like to mention: THEMIS was an early bride of *Zeus*, the god of gods. And one of the titles of *Zeus* was the title 'hetaireios', meaning that he was the god of fellowship or of friendship. Ideally, the participation in an exchange program does not only further language abilities and the knowledge of foreign legal orders, but helps you gain new and different friends. And I do hope that you have broadened your horizons during your THEMIS-year, not only

in terms of factual knowledge, but also by forming and nurturing friendships with other students who have an entirely different cultural background than you do.

II.

This year's summer school focuses on European Contract Law and Economic Law. If I may share, very briefly, my own experiences in the process of developing a European Contract Law: As a member of the *Study Group on a European Civil Code, Working Team on the Lease of Goods*, I have had the privilege of taking part in the transnationalization of private law within the European Union. The *Study Group on a European Civil Code* is a network of academics, from across the EU, conducting comparative law research in private law in the various legal jurisdictions of the Member States. The aim of the Study Group is to produce a set of codified principles for the core areas of European private law.

The foundation for this work is detailed comparative law research. However, the eventual principles represent more than a mere restatement of the existing law. Instead, the Study Group seeks to formulate principles which constitute the most suitable private law rules for Europe-wide application. The published principles are complete with commentary and comparative notes. Together with the *European Research Group on Existing EC Private Law* (the so-called '*acquis group*'), the *Study Group* has furthermore undertaken to develop a *Common Frame of Reference*. This long-term project aims at providing the European Legislators (Commission, Council and European Parliament) with a "toolbox" or a handbook to be used for the revision of existing and the preparation of new legislation in the area of contract law.

III.

Of course, this summer school is not all about work and study. You will also have ample time to explore Berlin and do some sightseeing. On Wednesday, you will receive a tour and will be welcomed at a reception at the historic *Kammergericht*, today the seat of the Berlin Court of Appeal. During the Third Reich, the *Kammergericht* hosted some of the trials of the notorious *Volksgerichtshof* or "people's court". The *Volksgerichtshof* did not follow the laws and procedures of regular German trials, but denied due process rights and handed down an enormous amount of death sentences. It was not a court of justice, but a court of terror. Places such as the *Kammergericht* serve as a powerful reminder that the laws, just as the

term “themis” may be born solely by the will of the persons in power, with “little of the idea of right”.

An equally powerful reminder of the past is the *Reichstag*, which you will visit tomorrow. The *Reichstag* was the first parliament of the German Empire (opened in 1894). The building caught fire in February 1933 under circumstances which even today remain murky. In any event, the Nazis used the fire as an excuse to suspend most constitutional rights in the *Reichstag Fire Decree* and to increase state security throughout Germany. This process later led to the war that would engulf the entire continent in fire. During your visit, you may possibly get to see the graffiti written by victorious Russian soldiers after the capture of the Reichstag in 1945. And you will marvel at the reconstruction of the building, including its signature glass dome, which allows for a splendid view of modern Berlin. When you stand there, take a moment to reflect upon the building’s significance as a symbol of the victory of democracy over tyranny.

A mere 50 years ago, not only Berlin, but much of the European continent, had been reduced to rubbles and ash. It is from the horrid war experience that the European Union was built. During the next two weeks, there will be plenty of time for arguments and discussion upon items such as whether the time is ripe for further legal integration within the EU, such as a unified European Contract Law, or whether the Community possesses or lacks the power to enact specific measures, or whether a particular Community rule is wise or in need of reform. But during the heat of such arguments, one should not forget what a marvellous progress the entire process of European unification has been and still is. It certainly constitutes a development that was beyond imagination 50 years ago.

IV.

Finally, let me turn back to Greek mythology: Of course, the name of our continent and our political union can also be traced back to ancient Greece, more precisely to the Phoenician princess *Europa* seduced and abducted by *Zeus* who had immediately fallen in love with her when he saw her gathering flowers by the sea. As you all know, the Greek gods, including *Zeus* and THEMIS, resided on Mount Olympos. Thus, I shall conclude my remarks with that favourite Olympic phrase:

Let the games begin!