

Prof. Dr. Holger Knudsen
Max Planck Institute for Comparative and International Private Law
Mittelweg 187
D-20148 Hamburg
Germany

Access to Tailored Legal Information

The Max Planck Institute for Comparative and International Private Law, of which I am the head librarian, was founded in 1926, i.e. after World War I. It was in the beginning meant to provide advice for German enterprises seeking to establish economic contacts with foreign countries. But over the years it has grown into an institution for research on all aspects of foreign and international private and economic law. Last year we could celebrate the book number 500.000 in the library and we are probably the largest institution in our field of interest in Europe and possibly even world wide. The annual growth rate is more than 10.000 volumes and we are visited by more than 1.000 library guest from some 50 to 60 countries every year. There are more than 100 individuals, researchers and clerical staff alike, on the Institute's payroll.

I base my presentation on Professor Lown's questionnaire.

Is there a need to access foreign law?

The need to access foreign law is indeed ever growing for a number of reasons. One must in the beginning consider that law, unlike all other fields of knowledge, is a purely national affair. There are about 200 countries in the world and so inevitably 200 legal systems world wide and, as a matter of fact, even more since quite a number of states are federal and composed of entities with their own laws, sometimes combining intricate mixed legal systems under one legal roof. But while the law is (and will remain) national the global village is getting ever closer. This translates into the need to consider two quintessential problems: a globalized economy needs access to foreign laws, and in a globalized world an ever growing number of individuals live in countries that are not their own.

In what context does that need arise?

In my institute access to foreign law is needed in two instances: firstly, foreign law is needed from a comparative perspective, i.e., the quest for the "best solution". As it is not possible for courts, administrative bodies, and law firms, to maintain vast libraries on the world's legal systems, and as we can provide access to most of the laws, we also function, secondly, as a service institution.

What challenges and difficulties do you face in accessing foreign law?

Not every country has publishing houses or government printers with a vast program, and there are many countries which completely lack an efficient bookselling system. So the problem is twofold: the book production (if any) in many countries of the world is often unknown, and it is difficult to identify competitive booksellers. So knowing about legal literature and getting it into a library can be a real challenge. This is unfortunately true for most African countries (a notable exception being the Republic of South Africa), most successor states of the former Soviet Union (with the exception of Estonia, Latvia, Lithuania, Russia, and Ukraine), virtually all the mini-states of the Caribbean and the Pacific area, and many Asian states like Yemen, Afghanistan, North Korea, Laos, Nepal, Bhutan, Burma, and Cambodia. And it is exactly those countries which pose difficulties in getting printed materials for which digital materials are not available.

Law being a national affair is based on language. There are some 34 languages in Europe alone with more than one million native speakers (plus about the same number of language with lesser native speakers) and an estimated 5000 languages world wide. So you must know the language of the country you deal with. Thus interpreting and applying the data is impossible without a command of the country's language. In my Institute there are area specialists for the main regions and the main languages of the world including the Chinese, Japanese, Korean, Arabic, and Russian languages (to name just a few not written with Latin letters) so even though the problem of language exists it is not felt to be insurmountable.

Do you foresee an increase in the need to access foreign law?

Yes, absolutely and in all fields of law – as the world is growing closer together.

What solutions or initiatives would assist you in the challenges you face? How might these mechanisms or initiatives be incorporated into a new global instrument?

I do not see such opportunities in a foreseeable future. Even for the member states of the European Union it is virtually impossible to create a database of the laws and court decisions of the few countries involved* so I am afraid it will not be possible to create a world database of laws as there are problems of accessibility, language, manpower, and cost. Questions of copy right also play a role here. So instead of creating new structures a better use of existing structures should be envisaged.

As always in life it is relatively easy to define strategic plans – and it can be very painstaking to tread new paths.

*Even though two basic initiatives have started so at least a first move forward was made:

N-Lex for access to the national laws of the member states: <http://eur-lex.europa.eu/n-lex/pays.html>

European Justice Portal for information about the legal systems of the member states: <https://e-justice.europa.eu>