

**Expert Hearing on May 10, 2023 in the Legal Committee of
the German Bundestag**

**"Create effective regulations to manage mass litigation."
Stellungnahme von Dr. Philipp Plog**

Legal Tech Verband, Chairman of the Board

Summary

Dear members of the Legal Affairs Committee,
Ladies and Gentlemen

I would like to thank you for the opportunity to speak on behalf
of the Legal Tech Association.

One can clearly sense that a great deal of despair resonates in
the demands paper of the Association of Judges, which the CDU
has adopted in large part.

But it is also clear that the rule of law must bring citizens'
concerns to a decision. Wenn also Ansprüche im Raum stehen,
dann muss der Staat auch Klärung liefern.

Almost all of the CDU's demands seek to restrict the procedural rights of those affected. Very few are directed at additional resources. And the issue of digitizing civil proceedings plays no discernible role at all.

However, streamlining civil proceedings does not provide a solution to the structural crisis in the judiciary.

The difficulties are not based on affected parties exercising their rights.

They are based on the fact that the judiciary cannot get a grip on many procedures. It does not have adequate procedural management. And the legislature has not yet provided a sensible framework for handling the cases.

We came to this conclusion in a comparative study we conducted last year with Bucerius Law School and the Boston Consulting Group. Germany lags behind leading nations in digitizing the judiciary. The judicial organization and the procedural code are not being thought of digitally in our country; instead, we are attempting - like the CDU's current motion - only selective

adjustments to the "analog approach". There is not yet a sophisticated strategy for harmonizing the level of positive law with the technological framework conditions in the administration of justice and the application programs.

Incidentally, the problems of procedural handling can also be seen in cases that are not asserted in numerous individual proceedings, as they are the focus of the CDU motion here - but bundled together. In Germany, it is possible to bundle numerous claims in one litigation vehicle - and this also makes sense from a procedural point of view. But the civil process makes it more difficult.

The diesel cases brought by myright against Volkswagen, for example, have not been decided for years. Although thousands of consumers are affected. One of the reasons for this is that there is no consistent system for collective legal protection in Germany. And the cabinet draft for the remedial action also pretends that mass proceedings are always conducted by consumer protection organizations and competition associations. This fails to recognize reality, and the needs of the courts.

The judiciary must now be given the means to overcome traditional case management. And this naturally includes changes to the ZPO. Against this background - and with this prioritization - we believe it is right to take up individual procedural proposals in the CDU motion.

The extension of the jump appeal is sensible, but will not be enough - we believe it is necessary that in certain cases the direct route to the Federal Court of Justice be opened up even without a final judgment (for example, with a basic judgment). We can also imagine the structuring of the parties' submissions and the suspension of parallel proceedings for accelerated clarification. And the establishment of auxiliary adjudicative bodies makes sense.

We consider other proposals questionable: for example, limiting extensions of time limits, transferring evidentiary hearings to other proceedings, and de facto abolishing the principle of publicity.

I look forward to the discussion.

Ladies and gentlemen, thank you for your attention!