

CLIVE ANDERSON: A very English sounding rule that he brought in. Anyway you're painting a good picture there of the relevance of the law. But can I just ask Judge Schiemann in the European Court of Justice, does it make any practical difference to you sitting as a judge there? Does, have you had to adapt your judging ways to fit in with the European way of doing things?

CONRAD SCHIEMANN: Oh very much so, indeed. The position here is very noticeably different at first blush in procedural terms because of the language problems. We are now a community of nineteen different languages which means that we may be addressed in any one of nineteen different languages in court with simultaneous translations which is a great inhibition in having the law hammered out in court, in the same way as traditionally has been done in England.

CLIVE ANDERSON: Well any flowery advocate would find that rather irritating to have his words translated and a rather more precise, construal of statute would equally find the arguments must tail off into translation points. Does that cause problems?

CONRAD SCHIEMANN: Yes it does. Which is why we tend to rely much more on written material which too may need to be translated but there, there is more time for the translators to get precisely the right word and also for the national judge who happens to speak that language to be able to nuance it as required. But there is a language problem which affects partly the use of the actual words but also in a rather cultural sense also sometimes the cold conceptual way of talking. I think when I came here first there was a slight amusement at the fact based approach which the British have tended to bring to the court to move from the facts of a case to deciding the principle, rather than doing what in some ways strict theory requires one to do, namely to consider the point in the abstract which is perhaps more in the French tradition.

CLIVE ANDERSON: So you're perhaps reinforcing the notion that the English legal system is what? More down to earth, more robust, less addicted to fancy theories?

CONRAD SCHIEMANN: Well, all this can be exaggerated. At the end of the day all our societies face very much the same type of tensions which it's the function of the law to resolve. Tensions between freedom of contract and protection of the consumer. Let money lenders fix what rates they like or lay down maximum rates. That goes back to the Romans. Tensions between freedom to demonstrate and freedom to walk along the road. Tensions between freedom of the legislator to lay down laws and the desire to protect the minority of the moment against oppression by the legislator. And we all tend to come up with very much similar examples, albeit by slightly different processes.

CLIVE ANDERSON: Professor Markesinis, would you say there's another - what could we describe as a convergence of between the various European systems, the English system, French, German and everything. Are they all going to come together under sort of body of European law?

PROFESSOR BASIL MARKESINIS: I would most definitely think that that is a convergence. It's a gradual convergence, it's an incremental convergence which actually suits our mentality, our legal mentality. And the reason why it's there is very simple. We see a convergence in tastes, in habits. Everyone nowadays drinks cappuccino instead of tea. We wear the same clothes, drink Coca-Cola, eat McDonald's, the tastes, the customs, the habits are changing, and so is the law. But in addition to that you have the globalisation phenomenon. You have the fact that more companies are operating across borders and of course where companies go, lawyers usually follow.

CLIVE ANDERSON: Professor John Bell.

PROFESSOR JOHN BELL: I would add two things to that. Firstly in public law we have very common rules in the European Convention on Human Rights where people work together as a team in the court in Strasbourg to try and create rules which can apply to different countries. So that we are looking at cases now in England which are bits of litigation in Austria or in Turkey. So that's one thing.

And the other thing is the importance of legal education and the way in which now we have elements of legal education which are common and students who study in different European universities are coming from different European countries and beginning to understand each other socially as well as legally and that creates a body of people who are able to work together to build a further European - a legal system

CLIVE ANDERSON: And so as a body of European law that's going to be developed do you think?

PROFESSOR JOHN BELL: Well there will also be national laws that will be different. There will be experimentation, there will be procedures that are different. But there are common values, there are common ideas. How we work those through in practice is often going to be different. Just as within the United Kingdom we're used to the Scots and the Welsh and the Northern Irish doing things differently say in education from the English.

MISHAL HUSAIN: Fascinating to learn from that discussion how the English common law is changing and developing because of a cross-fertilisation with civil law systems.