

Partizipation in der Justiz (PariJus) – Gemeinnützige Gesellschaft zur Förderung zivilgesellschaftlicher Teilhabe mbH

Participation in the Judiciary (PariJus) – Non-Profit Association for Promoting Participation of Civil Society gGmbH



ENALJ Meeting 9.-11.5.2025, Bergamo, Italy

PariJus Report on activities 2024/25 – the situation of the lay and honorary judges in Germany

I. Activities

1. LAIKOS Journal Online – Handbook for Lay Judges

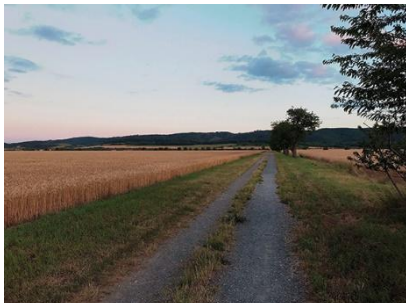


The online magazine **LAIKOS Journal Online**, www.laikos.eu has continued its European tradition and published an article by *Margherita Morelli* in issue 4/2024 on international and European legislative measures to protect against physical, sexual, and psychological violence, especially against women. Thanks to the built-in translation tool, all articles can be read in

nine different languages. Issue 3/2024 analyses the special features of the lay judge elections held in Germany in 2023. The journal is now listed in over 70 academic and general libraries.

In September 2024, the third edition of the **guide** for lay judges in criminal justice, “Lieber/Sens, Fit fürs Schöffengericht” (Fit for the Office of Lay Judge), was published. The two previous volumes have been combined into one volume.

2. Honorary judges in agricultural courts



The participation of farmers in proceedings under agricultural law has been a focus of PariJus' work for many years. This area of jurisdiction falls under civil law and essentially covers issues such as tenancy law, inheritance law and land transactions in agriculture. Between September 2024 and April 2025, seven full-day seminars were held nationwide. The honorary judges in these proceedings are highly valued by professional judges for their agricultural expertise.

3. Legal advice

Once a month, ENALJ member VERM and PariJus advise honorary judges via **video call**. The main difficulties are in compensation and compatibility of the office with working time. Lay judges in particular find that reality of their duties is far from information during the 2023 elections. However,

procedural issues often arise, such as the participation of lay judges in criminal proceedings in so-called plea bargaining, where their involvement is often neglected contra legem.

The individual advice provided by PariJus by **e-mail or telephone** highlights two major problem areas: firstly, how little the German civil society knows about participation in the judiciary, and secondly, that the appreciation of the honorary office is often low in conflicts involving employers, but also in the judiciary.

II. The situation of lay and honorary judges in Germany

1. Judiciary

Conflicts arise within the judiciary when it comes to participation rights. For example, the Kammergericht (Berlin) has decided that lay judges in criminal courts do not have the right to read the written reasons for the judgment by professional judges after the oral hearing. It justified this by stating that, once the court proceedings have been concluded, lay judges are to be treated as private individuals and have no further rights to access the judgment.

The Higher Administrative Court of Baden-Württemberg argues exactly the opposite, having dismissed an honorary judge of the administrative court for breach of confidentiality. The honorary judge had posted a comment on social media about the (publicly announced) judgement of his court before the files from the main hearing had arrived at the court registry. In this case, the court justified the exclusion on the reasons that a lay judge is still subject to special duties even after the hearing, i.e. he or she is not allowed to comment on the judgment while it can still be corrected by the court, unlike a member of the public present in the courtroom.

2. Legal policy

The agreement between the two parties that have formed the government since 7 May 2025 contains several passages that may affect the position of honorary judges in Germany. The parties have agreed that in the various jurisdictions, single professional judges should decide cases even more than a panel of judges. It is to be feared that the number of honorary judges will be reduced in Germany for purely economic reasons.

3. Discussion

A law professor has started a discussion on a legal platform calling for the abolition of lay judges in criminal courts (Schöffen). Among other things, he argues that lay judges cannot contribute to the application of the law (subsumption) and do not have a command of legal language. This demand is frequently voiced in Germany. PariJus has clearly opposed this

(<https://www.lto.de/recht/meinung/m/schoeffen-wichtig-nicht-abschaffen-kommentar-reformen-justiz-strafrecht-ehrenamt>). It argues that it is essential for proceedings and decisions to be comprehensible to those affected, but also for the internal control of case law by persons who are not affected by remuneration and promotion.

The national debate in Germany highlights the need for a European discussion on the participation of civil society in the judiciary. This will be a key focus of PariJus' work in the future.