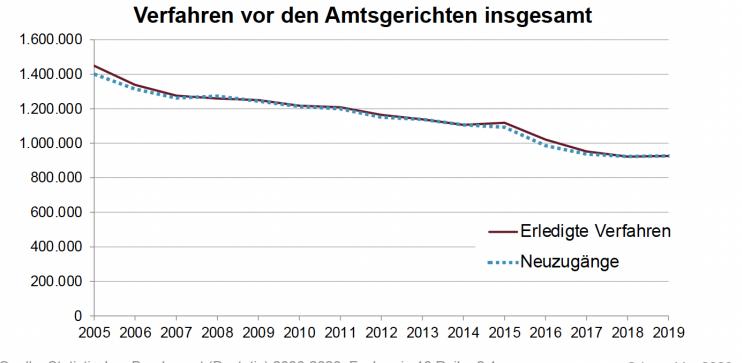
Current Problems and Alternatives to Civil Procedure

9. Decline in Case Filings at Civil Courts and their Causes (1)

Decline in Case Filings at Civil Courts





Quelle: Statistisches Bundesamt (Destatis) 2006-2020, Fachserie 10 Reihe 2.1

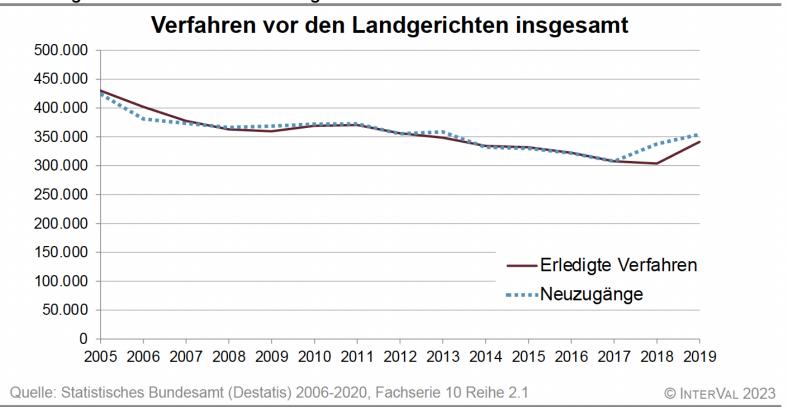
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→ Filings in First Instance (local courts) declined approx. 36%

9. Decline in Case Filings at Civil Courts and their Causes (2)

Decline in Case Filings at Civil Courts

Abbildung 2: Verfahren vor den Landgerichten in erster Instanz



→ Filings in First Instance (regional courts) declined approx. 20,6%

9. Decline in Case Filings at Civil Courts and their Causes (3)

Causes

- "Meller-Hannich-Study", mandated by the Federal Ministry of Justice
 - Ekert/Meller-Hannich/Nöhre/Höland/Gelbrich/Poel/Hundertmark/Moser, Erforschung der Ursachen des Rückgangs der Eingangszahlen bei den Zivilgerichten, 2023
- Statistical analysis
- Representative surveys of private individuals, surveys of companies and legal professionals, judges, etc.

FORSCHUNGSKONSORTIUM zur Untersuchung des "Rückgangs der Eingangszahlen bei den Zivilgerichten"



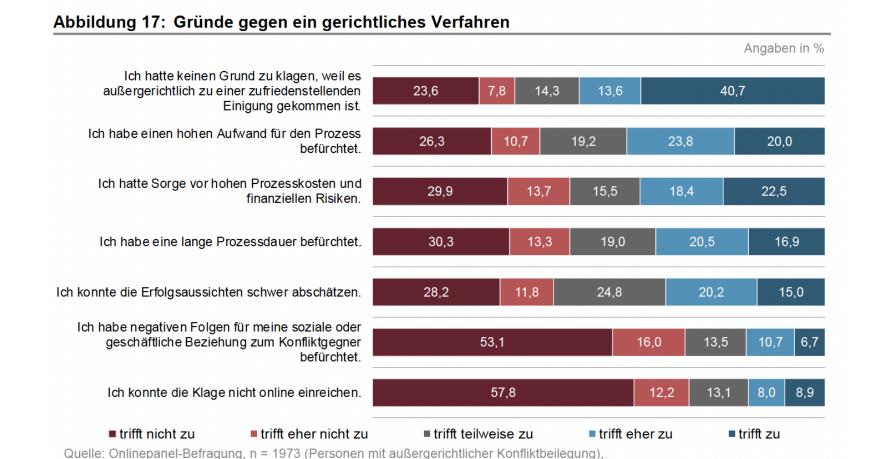
Prof. Dr. Caroline Meller-Hannich Prof. Dr. Armin Höland Monika Nöhre Präsidentin des Kammergerichts a.D.

Abschlussbericht zum Forschungsvorhaben

"Erforschung der Ursachen des Rückgangs der Eingangszahlen bei den Zivilgerichten"

9. Decline in Case Filings at Civil Courts and their Causes (4)

Questionnaire for private individuals

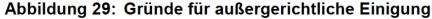


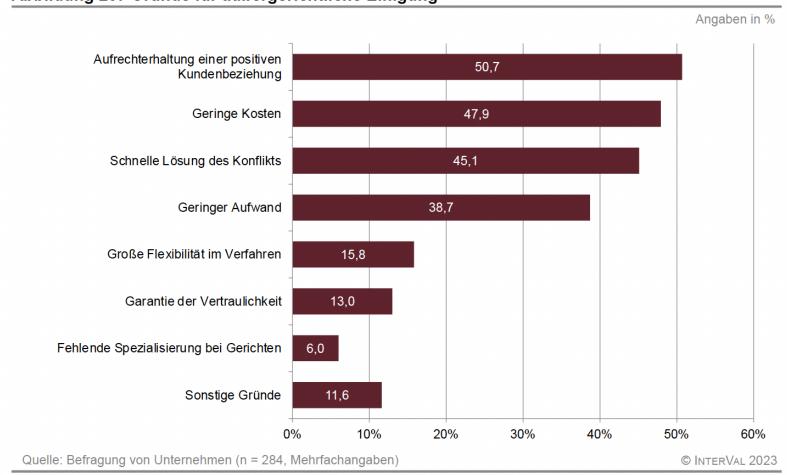
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Werte < 4 % sind nicht ausgewiesen

9. Decline in Case Filings at Civil Courts and their Causes (5)

Questionnaire for Companies





9. Decline in Case Filings at Civil Courts and their Causes (6)

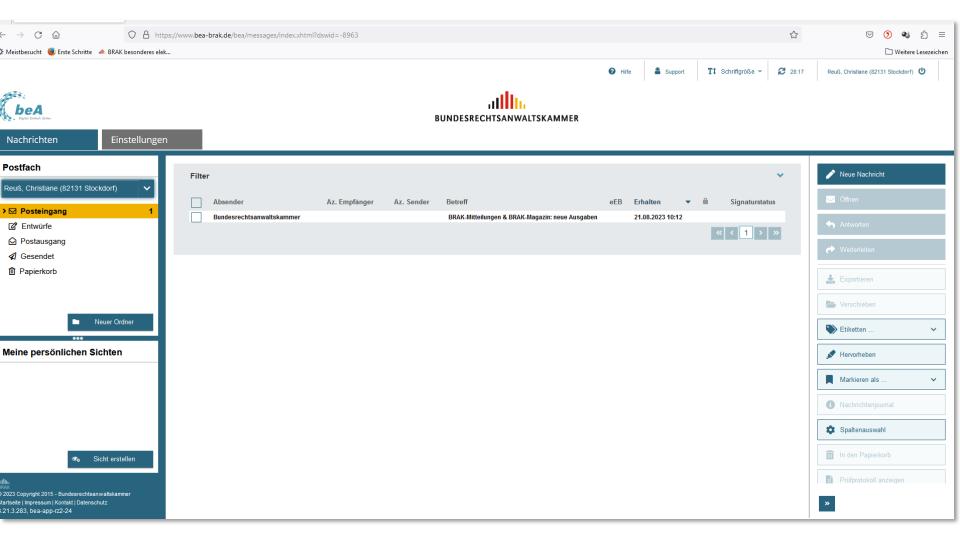
Survey findings

- Various causes for the decline in filings, especially:
 - Cost-benefit analysis
 - Duration of Litigation
 - Changed business environment (conflict avoidance)
 - → Contract drafting (Terms and Conditions)
 - → internal complaint management and dispute resolution
 - → predefined reimbursement strategies (Legal Tech)
 - Lack of reforms

"Therefore, the problem is not primarily a negative change in the judiciary, but rather the widespread lack of developments in the judiciary in contrast to the strong transformation of the economy and the legal profession." see Study, P. 322.

- No causes are:
 - Decline and therefore lack of disputes(!)
 - Move towards other options for dispute resolution
 - → only partially

9. Decline in Case Filings at Civil Courts and their Causes (7)



9. Decline in Case Filings at Civil Courts and their Causes (8)



Orts- und Gerichtsverzeichnis

Bekanntmachungen

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Formulare Verzeichnisse Broschüren Kontakt elektronische Kostenmarke Erklärung der Barrierefreiheit Aktuelles

Zivilprozess

Antrag auf Erlass einer richterlichen Durchsuchungsanordnung (PDF, 0,36 MB) Antrag nach § 758a Abs 1 ZPO

Formblatt A (PDF, 0,3 MB)

Art. 3 Abs. 1 der VO (EG) Nr. 861/2007 des Europäischen Parlaments und des Rates zur Einführung eines europäischen Verfahrens für geringfügige Forderungen. Das Formblatt ist auch abrufbar im Europäischer Gerichtsatlas für Zivilsachen.

Zurück zur Übersicht

10. Alternatives to Civil Procedure (1)

State Instruments

- Mediation- and Conciliation Office ("Schlichtungs- und Gütestelle", conciliation, Sec. 15a ICPC)
- Conciliation Judge, Sec. 278 Para. 5 CPO
- Commercial Courts (introduced 2024)

Private Instruments

- Arbitration, Sec. 1025 ff. CPO
- Mediation
- Dispute resolution procedure by companies (Paypal, eBay)
- Legal-Tech and debt-collectors (Factoring, Litigation funding)

10. Alternatives to Civil Procedure (2)



10. Alternatives to Civil Procedure (3)

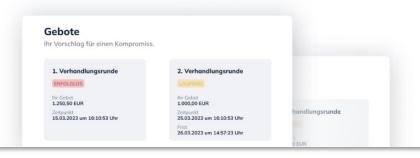
Problem

Gerichtsverfahren sind langwierig, komplex und kostspielig.

Verfahren vor den Amtsgerichten dauern im Schnitt fünf Monate; vor den Landgerichten sind es zehn Monate. Verbunden mit Auslagen für Rechtsanwälte und Sachverständige setzen Menschen heute unter 3.683€ Ihre Rechte nicht mehr gerichtlich durch.



- Durchschnittliche Verfahrendauer vor dem Amtsgericht.
- Menschen ist der Aufwand eines Gerichtsverfahrens zu groß.
- Menschen haben Sorge, einen Teil der Prozesskosten tragen zu müssen.

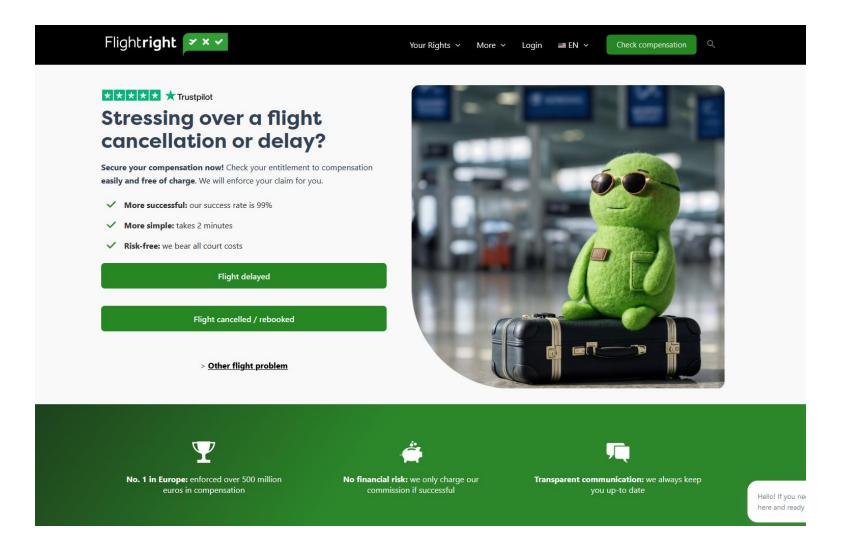


Lösung

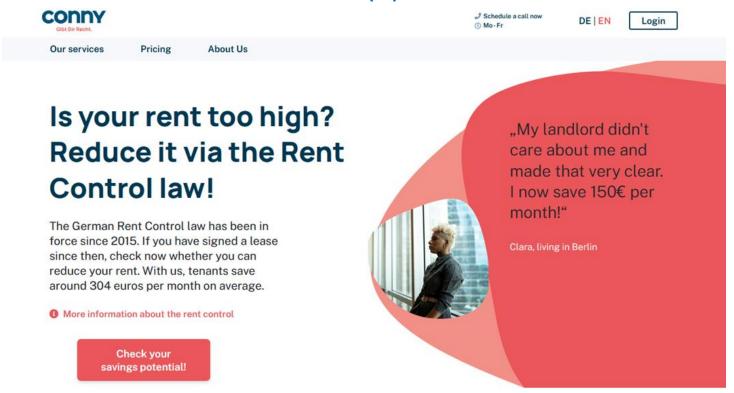
Gebote abgeben, Vergleich schließen.

Suitcase hat das beste Ergebnis für beide Seiten im Blick. Wir bieten einen einzigartigen Mechanismus, um eine faire Lösung zwischen den Parteien zu finden. Wenn eine Einigung erzielt wird, wird automatisch ein Vergleichsvertrag generiert und der Rechtsstreit verbindlich beigelegt.

10. Alternatives to Civil Procedure (4)



10. Alternatives to Civil Procedure (5)



Lower rent simply & comfortably

Leases from 2015 onwards are subject to rent control.

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11. Future Perspectives (1)

- Purposes and objectives of Civil Procedure
 - Mechanism for orderly and effective dispute resolution
 - Providing of individual legal protection (protection of subjective rights through Civil Procedure)
 - Validation of objective law and development of the law
- No objective: High market share in the dispute resolution market
 - The federal state is not in competition for as many disputes as possible
- No objective: pushing private providers of dispute resolution mechanisms out of the market

11. Future Perspectives (2)

- Indispensability of an effective federal civil dispute resolution mechanism
 - State monopoly on the enforcement of the law requires effective dispute resolution
 - Law-bound nature of dispute resolution is particularly characteristic for state civil proceedings
 - Judicial protection of individual rights and enforcement of the law
 - Judicial development of the law is only possible within the federal dispute resolution system
 - Loss of legal protection due to fee arrangements in the private sector
- Constitutional demand for effective civil dispute resolution
 - Access to justice, Art. 20 III GG i.V.m. Art. 2 I GG, Art. 6 I EMRK, Art. 47 GRCh
 - > Access to Court, BVerfGE 54, 277, 292f.
 - Right to effective legal protection

German Constitutional Court: BVerfGE 112, 185, 208ff.

- b) The guarantee of effective legal protection is also directed at the judge applying the Rules of Procedure (see BVerfGE 97, 298 [315]). The **court may not render a legal remedy** opened up by the Rules of Procedure **ineffective and allow it to "run dry"** [...]
 - Equality before the Law, Art. 3 I GG, Art. 6 I EMRK, Art. 47 GRCh
 - Due Process/Fair Trial, Art. 6 EMRK, Art. 20 III GG

11. Future Perspectives (3)

- Required reforms for a sustainable civil procedure that meets social requirements
 - Expansion of hearings by video conference (fully virtual) via uniform federal standards
 - Accelerated online procedure using AI-based template
 - Al supported judicial decision-making, e.g. "MAKI" project
 - Structuring of party submissions for example a standard base document
 - Ideally with integrated AI
 - Standardized online platform for user-friendly access to justice
 - Specialization in certain courts (concentration of certain areas of expertise) in order to provide a cost-effective state service alongside arbitration
 - Expansion of electronic legal transmission to a user-friendly level

Summary

- Decline in Case Filings and Causes
- Alternatives to Civil Procedure
- Future Perspectives