Guest editors' note

The second issue of this special edition dedicated to the world of mixed jurisdictions continues our discussions with five contributions that promise to take the reader along for an exciting comparative law journey.

Philip J. Thomas (Professor emeritus, University of Pretoria, Republic of South Africa) and *Anton D. Rudokvas* (Professor of Law, St. Petersburg State University) start with diagnostics and dynamics surrounding the confluence of different legal traditions in the Republic of South Africa. As civil law, common law, human rights law and international legal instruments are the constituent ingredients the essay places emphasis on the underlying administration of justice. The pervasive influence of the Bill of Rights into private law and the slow creep of Anglo-American inspired international instruments are also addressed.

Polina V. Kornilina (Senior consultant, Constitutional Court of the Russian Federation) moves the visor to the operations of a particular legal doctrine. The author shows how the evolution of the doctrine of error in two different jurisdictions has spawned idiosyncrasies in South African law ("material error" and *justus error*) and Scotland ("essential error" (*error in substantialibus*) and "but for"). Also in their own way, both mixed jurisdictions have been absorbing English doctrine regarding "mistake" and "misrepresentation".

Arthur A. Khuzziatov (Director of the Legal Department of the Distressed Assets Department (Public joint-stock company BANK URALSIB) discusses open contracts — those used when the parties have not yet reached a final agreement on all aspects of their deal. The author explains that in Scotland, contracts with open terms are concluded in practice, yet concealed under several different names ("agreement to agree"). These agreements then are reviewed through the prisms of the permissible degree of contractual uncertainty and the intention of the parties to create legal relations. The author enriches his analysis with references to the dispositions offered in this vein by the UNIDROIT Principles and contemporary Russian civil law.

Elena N. Trikoz (Associate Professor of the International Law Faculty of the Moscow State Institute of International Relations of the Ministry of Foreign Affairs of the Russian Federation; Associate Professor of the Law Institute of the Peoples' Friendship University of Russia) illustrates how Japanese law moved slowly from the family of Confucian-Chinese and traditional Shinto law to the Germanic branch of the Roman law family before turning into a somewhat "gray" legal space — one that is situated at the crossroads of the Western and East Asian legal realms. In this sense, Japan could also be understood as a mixed legal system.

Our final piece rounding out the panorama of mixed jurisdictions is the first translation into Russian by *Mikhail B. Zhuzhzhalov* (Senior Associate, Tomashevskaya & Partners) of Rudolf von Jhering's *Das Schuldmoment im römischen Privatrecht* (The element of fault in Roman private law). As a classic conceptualization of the Roman *culpa*, this work has remained highly relevant for contemporary Roman-Dutch doctrine in South Africa and Roman-Scottish doctrine in Scotland.

Guest editors:
Philip J. Thomas, Professor emeritus,
University of Pretoria (Republic of South Africa)

Markus G. Puder, The Honorable Herbert W. Christenberry Distinguished
Professor of Law and Faculty Director for LL. M. Programs,
Loyola University (New Orleans), Louisiana (United States of America)