

TRANSCRIPT Episode 24 – Friederike Henke

Jonathan Bench: Today I'm joined by Friederike Henke, a corporate M&A partner at Buren in Amsterdam. Raised in Germany and licensed in both Germany and the Netherlands, she heads the German desk of her firm, and she is also involved in the recent launch of her firm's India desk.

After many active years in the International Lawyers Association, AIJA, where we met, she recently joined the International Bar Association. She is also a member of several German lawyer associations and president of DAV Niederlande.

Friederike, thank you so much for being on the podcast today.

Friederike Henke: Thanks for having me.

Jonathan: So we got to know each other quite well while we were planning a very important conference in Washington, DC last year. Unfortunately, I was on one side of the planning, you were on the other, so we haven't been able to spend a lot of time together. I'm really looking forward to this opportunity to get to know you better.

Let's start with your personal and professional background. You were recently ranked in Chambers, so you've achieved some pretty important milestones in your career. And you were noted as a former expert for Germany in corporate M&A—that's the area I practice in as well, so we already speak the same language. Tell me a little bit about your process of getting onto this path of law.

Friederike: Well, where do I start? In high school we did this professional test where you should look at which area you should be going, and "police officer" came out of it.

I really can't imagine myself as a police officer, but I did look into law at an early stage. My parents are not lawyers and no one in my family is, but the first time I got in touch with the law was really as a 15-year-old when I did an internship at a local court—which my father somehow, I don't know how, but he did arrange that for me.

I found it interesting, but also rather boring. But I did continue being interested in the law, and then I started studying at European Law School in Maastricht in the Netherlands. So I grew up in Germany and then moved to the Netherlands because I was always—well, actually always living in both countries.

During those years of studying, I didn't really think about what exactly I would become with that study. I thought, "European Law School—I can do anything with that," and probably also move back to Germany.

It appeared not to really be possible within the European Union to become a lawyer in Germany while having studied in the Netherlands at the time. So I stayed in the Netherlands and then I was thinking: becoming a lawyer in practice probably makes most sense. There wasn't really this drive of "Oh, I want to become a litigator" or "I want to save the world." It was just something that—well, I think a lot of people start studying law because they don't know what else to do, and there's some interest in it. It's something where you'll find it interesting thinking about how to do little puzzles and things like that.

Then I worked at a small law firm for 12 and a half years with the same partner who also was like me—or still is—half German, half Dutch. We worked for a lot of German clients already at that time. Then there was a point in time where we had to separate our paths, just because you can't be the associate forever.

At that point, a headhunter called me and asked whether I wanted to head the German desk for Buren. That was seven and a half years ago, and I'm still here.

Jonathan: That's a great question to be asked.

Friederike: Yeah. And I think it was actually on a Monday at 6:37 in the evening—and she had never called me around that time before. So I knew this time was the time she called with something really interesting. Three months later, I was here with Buren.

Jonathan: So what is it about the practice of law that keeps you in the practice now? I think you're similar to me: I ended up here because people told me I would make a good lawyer, and I wanted a graduate degree, and I didn't really know what else to do at the time.

I continued in, and when I got here I discovered a lot of things that I love—especially the practice of M&A law—that fit well with my personality. Some of what you mentioned with puzzles—we're solving puzzles along the way. Our clients trust us because for a lot of them, it's the first time they're in this kind of puzzle. How do they properly motivate their employees? How do they open a new market? Do they make the acquisition or do they sell?

From your end, what is it that keeps you in the practice still today?

Friederike: Helping people in their businesses and achieving their goals. One of our mutual AIJA friends always says, "Your goal, our drive." That's the slogan of our firm. He always says it jokingly, but it is the slogan.

What I really enjoy is—today I was talking with one of our associates about cranes. I was looking out of the window—well it's dark now—but it was about a company that is financing cranes. You learn so many different things about the world by applying the law, and I really enjoy that, especially if it's about an actual product that you see around you every day.

The variety—constantly learning new things—that’s what keeps attracting me. I thought about going in-house ten years ago. I had a lot of conversations with in-house lawyers, with headhunters, with coaches. In the end, what led to the decision to stay in private practice was that you have this variety of clients you can work with.

Jonathan: And what types of clients do you normally work with? Are you usually doing bigger M&A deals, or do you work with what I consider SMEs or mom-and-pop shops? Do you span the range from very new, unsophisticated clients all the way through larger, sophisticated clients?

Friederike: I work a lot with German law firms and lawyers who refer work to me. I work with PEs, and I work with—well, the “S” of SME is generally not in our M&A practice.

Jonathan: Okay. So you’ve built your career helping clients navigate cross-border transactions across Germany, the Netherlands, and beyond. What do you find are some of the most common legal or cultural hurdles that companies underestimate in international deals?

As the American lawyer, I’m always intrigued by how close everything is in Europe. When I’m there traveling, I’m thinking, “We’ve already passed through one country into the next.” I see all of you at our conferences interact very closely. You have a lot of similar history and sometimes language affinity, sometimes not, and you’re spanning borders.

I always tell people it’s very easy to be an international lawyer in Europe. Maybe that’s true. In the U.S., it’s very hard to be an international lawyer because our country is so large and a lot of our businesses are facing inward. I had to really lean in to figure out how to be an international lawyer in the U.S. because there aren’t a lot of firms or mentors—it’s just not a common path for us. With my European friends, it seems more common.

So what are your thoughts on that, and what have you learned about what companies underestimate when they’re doing business across borders?

Friederike: Cultural differences are certainly huge hurdles, and you need to know how to navigate them. In law in particular, the law is a reflection of those differences in culture.

If you look at the differences between Germany and the Netherlands, they are small compared to other countries across the world. But you can see that Germans are generally much more compliant and much more sticking to the rules than the Dutch. That is also reflected in the much higher need for regulation. In German legislation, there are so many more detailed rules than there would be in the Netherlands.

Under Dutch law, a lot of things are regulated by the principle of reasonableness and fairness, and that always leads to a weighing of interests and looking at a case based on

the circumstances of a specific situation. That is a bit more similar to common law, but it's still a civil law system.

In disputes—and you will probably recognize that from the U.S., or maybe I have a different view than you do—you will see that Germans take a much more confrontative approach than the Dutch.

Last year I had feedback from a German client—where I don't generally do disputes, but this case came in and I handled the first weeks. In the end I settled the case, and the German client said, "This was really refreshing to see a lawyer who is looking for the solution instead of adding more confrontation." That is something you wouldn't see as quickly from a Dutch client—this feedback.

Not every case can be settled. Not every case needs to be settled. But in this particular case, it was helpful. And if a case needs to go into litigation, I'm much happier to send it to our litigation team instead of doing it myself, to be honest.

In my transaction practice, I also see this higher level of regulation and compliance when we advise German clients. When a German client wants to buy a Dutch company, they generally expect those companies to have much more policies in place, written down, and minutes documented in writing. That's something we get as questions from our German clients—and a lot of times it's not available because it just doesn't exist.

At the same time, Dutch companies have much more flexibility because they don't have all those policies.

Another striking difference is GDPR—the data privacy regulation within the European Union. In Germany, data privacy has a much higher standard and is much more adhered to. People find it much more important than here in the Netherlands. I think that also has a clear cultural background because part of the country has for years lived in a control state in the DDR.

What's the abbreviation of Eastern Germany in English—DDR?

Jonathan: Sounds right.

Friederike: That was a control state with a secret service surveying people, and that has led—this is my own interpretation—to people finding data privacy so much more important than here in the Netherlands.

Jonathan: That's fascinating. I love hearing your perspective. Of course, you're entitled to have an opinion on how things work in Germany and the Netherlands because you sit in

both worlds. It's fascinating for me because growing up in the U.S., we study history and European history and it's all very academic.

When you start thinking about being only a few generations removed from World War II and how countries and people have continued to adapt—this integration and reintegration after the war—it's so interesting.

Friederike: Actually, both my parents were born in World War II.

Jonathan: Right, so you're not even two generations removed from it. So interesting.

When you're thinking about this concept that the Dutch are more laid back and the Germans are more stringent—that's so interesting to think about. I think in the U.S. we have such a mix; I tend to go client by client.

If I think about California on the regulatory side, it's very stringent. But when I meet Californians—there are 40 million people there—so you have a wide disparity of people. A lot of it is where you grew up and what you gravitate toward.

For instance, I grew up in the Midwest where work ethic was very important and we trusted each other. If someone trusted you to do a job, you did the job. There are other places where people have been burned—where contracts become much more important.

I'm thinking about clients willing to do things on a handshake deal because they've known each other for years, versus those dealing with someone for the first time or coming out of a bad experience. Maybe multiple experiences where they didn't put contracts in place and finally decide: "We've been burned a couple of times. We're ready to hire you. We trust our partners, but we want contracts to back up the promises we've discussed."

Very interesting nuance to hear from you. Do you have any additional thoughts on specifically the use of contracts in your cross-border work?

Friederike: It's something I wouldn't do without because that's part of what we sell, basically. It's not that we sell the contract, but the certainty that comes with it—and that everything is properly documented.

I wouldn't even think of advising a client not to write a contract.

Jonathan: Of course not. But are you shocked—

Friederike: I think we need to call our insurance if we did so.

Jonathan: Right. Do you have clients who come to you and say, "I have a business project. I want you to be light on the contract"? Or is everyone used to the idea that we're hiring you, you're a serious lawyer, and we expect a robust framework for our business relationships?

Friederike: I do have that—people say they don't want it to be super complicated. But if something is complicated from the start, it will lead to the need to put proper documentation in place.

I'm thinking of a transaction I'm currently doing: three shareholders, one wants to get out, and they have thought of a construction because it makes tax-wise a lot of sense. But it is not an ordinary sale—it is a redemption of shares. That leads to additional hurdles. I can't do anything about it but follow the proper steps according to the law.

Or you ditch the tax advice and do it in a regular way—then you could do it with an easy contract indeed.

Jonathan: Great. So your bilingual Dutch-German background gives you a unique perspective on cultural nuance in business. How does this cultural understanding shape how you try to craft a successful M&A or restructuring transaction?

Friederike: Like I said, culture is reflected in the law—not only in that of the lawmakers, but also in that of the professionals applying the law.

We briefly spoke about negotiations, which are to a huge extent influenced by cultural backgrounds. But something that is greatly underestimated by clients—and also by us as professionals—is project management.

You could manage a lot of transactions much more efficiently if the project management is properly done. You can see huge differences in how certain nations or cultures approach it.

If you look at Japan—we have a huge Japan practice at our firm—and I sometimes work with our Japanese colleagues because there are Japanese companies structured through Germany and then to the Netherlands. When I work with them, I see that the Japanese really define a lot of steps up front.

The Germans do that too. But correct me if I'm wrong: in U.S. client work, what I see is that you just get started and don't make a project plan—you get started and figure it out along the way. Of course you will have closing agendas, but not up front.

Understanding those cultural differences is really key for a successful transaction. If you are working with Japanese and you start without a plan, that won't work.

That even more applies to negotiation strategies. In my view, the Dutch are better negotiators than the Germans. You spoke about that in one of your other podcast episodes as well—about the Chinese—that they only start negotiating once a deal is almost finished or has been finished.

Well, that would never happen with the Germans. In Germany, a deal is a deal. When Germans do a take-it-or-leave-it offer, it is a take-it-or-leave-it offer. There's no room for negotiation.

That helps you in mapping negotiation strategy. I did training for that one and a half years ago—not so much based on cultural differences, but thinking about where your own limit is, where the other party's limit is, and the arguments they have for bringing their offers forward. That's a great way of preparing negotiations. Including cultural background in the negotiation strategy helps a lot in getting better results for your clients.

Jonathan: I'm doing a deal right now that involves two European countries. The financial advisor is in one country and the actual client is in another. I got in midstream where they finally decided they needed to hire a U.S. lawyer because it's a U.S. acquisition.

I got in and... no one had done anything. There was a data room and some questions back and forth, but they'd been very lopsided in favor of the financial side because the financial advisor was running diligence.

I came in and thought, "Who's running this? Who's in charge? We need process." For me, if I don't have enough process, I feel like I don't have a handle on the transaction at all.

I felt that when we were working on the AIJA conference last year. We had two co-managers, and both were Germans. That was a new cultural experience for me. I said, "I've never been managed by Germans before." The best word I can describe is: intense. There was always an agenda, always a process. I learned a lot and appreciated it. For me, it felt a little much, but I'm still grateful for the experience because I want to keep learning and increasing my ability to serve.

Do you find that your project management skills come into play as the lawyer? Do your clients look to you to bring the project management structure to the transaction? Or is it often something clients already have prepared and they just plug you into what they've planned?

Friederike: It's both. It really depends on the dynamics of a transaction. A lot of times it's also corporate finance that is involved and takes care of it. In PE, it's often the investment manager. So it depends what type of transaction it is.

Jonathan: So let's turn to India, because my biggest deal last year was from India. I'm very curious: now that you have an India desk at Buren, what is that looking like?

What started that process? You've been involved—how did that come about? And what are the important steps you put in place to make that work?

Friederike: We are in the building phase—we only launched it in August/October. The idea actually came because we have the Japan practice, but we also—Japan doesn't have a lot to do with India in our current setup. The initiative came from one of our China partners.

She saw that a lot of activity between the Netherlands and China also now spreads to India.

My personal interest in it was because I lived in India after my studies and I worked there.

Jonathan: I forgot about that. Tell me more about your time in India.

Friederike: I worked at an NGO in India after my studies as a research associate for an NGO called Lok Satta. That NGO was started by a former high civil servant who worked in Delhi. He got sick and tired of the corruption, decided to drop out, and started this NGO with the goal to ultimately fight corruption.

So that was more the idealist part of the law that I worked in for those eight months. At that time I never really had an interest in India—this has been 20 years now—but I truly fell in love with the country. I went back a couple of times since, but I never really incorporated it in my work.

I don't know—maybe I worked for five clients in the past 20 years, which is not really a lot. When I heard about this initiative, I really wanted to join in.

So we started in October and we are basically building a network of professionals that we can work with—both here in the Netherlands and in Europe, and in India itself.

Next to that, we're trying to look at it as a firm with a broader approach: which practice areas make sense to involve, and which Indian clients do we actually have? It appears we have so much more than we thought we had.

Meanwhile, since October, there has already been a lot of development from a global perspective. The European Union and India have entered into a free trade arrangement agreement, which we expect will lead to much more business.

Actually, the Netherlands is the European number one partner for India—which, to be fair to the statistics, is also caused by the fact that they're probably based on holding companies. For tax reasons, a lot of European structures have a Dutch holding company. But still, there is a lot of business between the two, and we've seen increased interest from European companies investing into India. We thought October was the right time to do it, also because it was just before the IBA conference started in the first week of November in Toronto last year.

Jonathan: Perfect. So is the Netherlands a lot like Delaware in the United States, where a lot of companies choose it as their headquarters for specific legal reasons—or maybe cultural reasons?

That's not something I had heard before, but I'm curious if that's a trend. From the U.S. side, we hear a lot about Ireland as a good entry point to the EU. Should people in the United States be looking more closely at the Netherlands for that?

Friederike: The Netherlands are known for that as well. Ireland has the benefit that everyone is a native speaker, but in the Netherlands—if you look at a non-native-speaking country—the English level is, I think, the best.

That helps a lot. The Netherlands have always been very welcoming to foreign investors. It's actually the way the country became big—by always trading, always entering into bilateral trade agreements, tax treaties, those aspects.

It has become less so under pressure of the OECD, so the Netherlands doesn't want to be a tax haven anymore. But it is still a very friendly business environment.

Jonathan: We have just a couple of minutes left and I have two questions for you. One is a bit selfish because you and I met in AIJA, and now you've gone on to IBA. I know you're involved in other professional associations too.

How would you say these international legal networks contribute to better global collaboration and professional growth among lawyers? It's something that resonates deeply with me because I feel like I've grown so much being exposed to the network through AIJA.

But since you've stepped into IBA and you're in other networks as well, I'm really interested in what you feel like these have contributed to your professional and personal growth.

Friederike: We can indeed thank AIJA that we met through AIJA. Actually, the first time we met in person was in Belgrade of all places.

I've been an AIJA member for 12 years—really active for the past, I would say, seven. It was one of the best business—if you can call it a business decision—that I've taken.

I was already active in German lawyer associations before, but having this additional network all around the world—with not only people focusing on Germany or the Netherlands, but from anywhere—that is a bonus in my professional life.

Having someone you can call anywhere in the world is a great feeling. It's so different from having to find someone on the internet not knowing whether that's a good person.

Jonathan: Such an advantage.

Friederike: It's not the same. And now I've moved on to the International Bar Association, and having the AIJA network as a basis is super helpful.

What did it teach me, other than having this network? The business reason is to get referrals—let's be clear about that.

Jonathan: That's right. We want to do business together.

Friederike: Exactly. And that has happened—otherwise I wouldn't have continued doing it, probably. But I've learned so many other things: organizing a congress together, being on a webinar, being on a podcast.

Raising sponsorship, working together in an organizing committee—I have more than once based the decision whether I would refer work to another lawyer on the way I cooperated with them on an organizing committee. It says a lot about how you work. I've also decided not to refer work to people based on working with them on the “noisy” side of that.

Being a mentor is something I also did for the first time with AIJA. I learned a lot from that.

One of the best side effects is that you get to exchange with people from all over the world. I hadn't expected 12 years ago that I would make such great friends through it. That was the most wonderful side effect.

Jonathan: I love it. Okay, final question. I didn't prep you for this.

Friederike: Oh no.

Jonathan: I know—it's going to make you nervous, I know. But hopefully it's an easy question.

If you were not practicing law right now and money were no object in your life, what would you be doing?

Friederike: I would have a flower shop.

Jonathan: Really?

Friederike: Yes.

Jonathan: Fantastic. Where would you base the flower shop?

Friederike: Doesn't matter. You mean in the Netherlands or in Germany?

Jonathan: Yeah.

Friederike: In the Netherlands. I have my family here. I live here, so I would stay.

Jonathan: Flower shop—I did not expect that. Tell me a little bit more about why, because you jumped right to that.

Friederike: I mentioned before there was this professional test in high school that led to “police officer,” but you know those friendship books in primary school? I always entered “flower ranger.” My aunt did that work as well. My mother had a love for flowers—so that’s it.

We spoke about it before—we didn’t want to go really into the personal level, but maybe just a little bit. I had to think very recently about what I would do if I couldn’t be a lawyer anymore. I had long COVID for 16 months. During that period I really had to think—I couldn’t think properly anymore. It’s over now; it’s all good. I recovered one and a half years ago, but it took me a long time.

I really seriously had to think about what I would be doing, and at that time I also thought: okay, that’s what I’m going to do. I’ll open a flower shop if being a lawyer isn’t it anymore.

Jonathan: Thank you for reminding me of that and for sharing. I look forward to talking to you more about the personal side of what we deal with in the law because it always bears reminding that we are real humans.

I think lawyers, by and large, are very high performing humans, but it means that things hit us—and if we’re focused on other things, it can hit us and really take us down to our knees for a while.

It’s been lovely having you on the podcast. Thank you so much for taking the time. It’s fun to reconnect and to dig deeper into your background, and I hope that we can do it again.

Friederike: Yeah, thank you so much—and thanks for the questions.