



## NEWSLETTER – September 2010

### A Word from the President

#### The UIHJ partner of the European institutions...

Dear colleagues,

For a long time, the destiny of our profession is no longer only rooted inside national representative entities.

States gather and federate. They create supranational, regional, continental bodies or organizations, which govern our future.

This is the price of harmonization, of globalization.

This cannot be avoided.

For the UIHJ the importance of the representation of our profession inside various regional authorities or organizations has always been a credo.

The fifty or so events in which the UIHJ takes part or which it organizes each year shows its constant presence on the international scene.

In the continuity of the actions carried out during fifteen years by my predecessor, Jacques Isnard, and during which the UIHJ moved from around twenty to seventy three countries today, the board that I chair has for first mission to offer a total coherence in the measurements decided by you, judicial officers, to defend the interests of the profession, to ensure its promotion and to directly contribute to its expansion and its lasting quality at national, continental and world levels.

In Europe, as of the fall of the Berlin Wall and the collapse of the Soviet bloc, the UIHJ was on the ground to convince, make contacts, federate and finally succeed in the achievement of setting at European Union level the “French-Benelux” model of judicial officer, adopted by nearly all the states which joined the European Union since 2004<sup>1</sup>.

This is why I chose to begin this review of the actions of the UIHJ with Europe. But you will see shortly that our organization also positions on the other continents to contribute in the destiny of our profession.

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<sup>1</sup> Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, Romania



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I believe that it is also necessary to underline here the necessary and inevitable interaction between regional institutions: indeed the organization and the regulation of enforcement in Europe will have effects on the enforcement in Africa and vice versa.

Enforcements standards are set to become transcontinental. This is something we have acknowledged for several years since we launched the idea of the world code of enforcement (International congress of judicial officers in Washington in 2006) and that this concept is today one of the “work in progress” of the UIHJ.

Our organization is the only one to occupy positions which I can describe as decision-maker within the international institutions where it is known and recognized.

Who better than the UIHJ can work best for the interests of our profession with a full and clear view of the situation? Who better than the UIHJ is capable to draw up an international portrait of our profession? Who, consequently, can propose and defend the solutions most adapted for the greatest number and work thus towards the harmonization of our profession, which is the base of its perennality and its force?

For a long time, the UIHJ engaged in this direction, for you, and today I suggest that you discover (or re-discover) our action and our place within European institutions with this newsletter.

And to begin with, we will be focusing on the collaboration between the UIHJ and the CEPEJ.

I wish you a good reading.

Yours sincerely

Leo Netten

President of the UIHJ



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### **History...**

#### **Creation**

Since its creation in 1949, the Council of Europe has been a strong supporter of the efficiency and the equity of justice, pillars of the law and the respect of the basic rights of citizens.

There is indeed no Rule of law without an independent and impartial, but also accessible justice, understood and accepted by the citizens.

The Council of Europe was aware of the fact that that establishment and the implementation of these two parameters could not exist and improve without the precise knowledge of the legal systems and the various tools existing in the European countries.

Indeed, only a practical apprehension could make it possible to pinpoint the difficulties and to help solving problems.

This is why on December 18th, 2002, the Council of Ministers adopted a resolution (resolution RES (2002)12) creating the European Commission for the Efficiency of Justice (CEPEJ).

This commission has thus as main objective to propose solutions for the improvement of equity, quality and efficiency of justice in the European countries.

#### **Composition**

It is made up of experts of the 47 Member States of the Council of Europe and admits observers.

When you consult the CEPEJ Website (<http://www.coe.int/t/dghl/cooperation/cepej/>), you will find the list of the organizations associated with its work, among which bodies of the European Union (the Council, the European Commission), the World Bank, the Hague Conference on Private International Law, organizations representing lawyers, judges, Rechtspfleger, and naturally the UIHJ.

Close ties between the CEPEJ and the UIHJ developed at early stage, soon after its creation at the beginning of 2003 where the UIHJ took part in the preparation of the recommendation Rec (2003)17 of September 9th, 2003 on execution, presented by the CEPEJ.

The UIHJ is an observer member of the CEPEJ since 2003 and a permanent observer member since December 2007. In 2009, it was in the middle of a working group on enforcement



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(CEPEJ-GT-EXE) charged to facilitate the implementation of the relevant standards of the Council of Europe on enforcement in civil, commercial and administrative matter at national level.

This collaboration is close and regular, since every year the UIHJ actively participates in the two plenary meetings organized by the CEPEJ.

### **Present and future...**

#### **Objectives and missions**

We usually say that a good judgment is useless if it cannot be carried out.

La CEPEJ not only has integrated the idea of the right TO enforcement of judgments but also adds the concept of quality while focusing in the processes, the mechanisms and the actors of the lawsuit, as underlined by its President, Fausto de Santis.

To achieve these objectives, it addresses itself both to state decision makers and experts (as we are) and it reflects on their views and proposals to establish suitable indicators to draw up a portrait of justice and of its execution in Europe in order to improve it to shape it into a perfect model.

The assessment of the functioning of legal systems, the improvement of quality of justice and of the situation of the judicial time management or the promotion of measures facilitating the access to the judge, are as many means implemented by the CEPEJ, its experts and its professional networks to contribute to it.

La CEPEJ thus has the role of:

- to analyze the results of the judicial systems;
- to identify the difficulties they meet;
- to define concrete ways to improve, on the one hand, the evaluation of their results, and, on the other hand the functioning of these systems;
- to provide assistance to the member States, at their request;
- to propose to the competent instances of the Council of Europe the fields where it would be desirable to elaborate a new legal instrument.



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### Focus ...

In the beginning and initially, the preparation of Recommendation Rec (2003) 17 of September 9th, 2003 on enforcement had given place to the hearing of a delegation of the board of the UIHJ, composed of Jacques Isnard, President, Leo Netten, 1st Vice-President, and Bernard Menut, Secretary of the board, on May 20th, 2002.

Then, the CEPEJ decided to prepare some guide lines intended to facilitate the application of the principles contained in these recommendations of the Council of Europe.

One can then say that the UIHJ, as an observer member, was in the middle of the process since it was charged to write the parts concerning the statute of enforcements agents and the service of documents.

The UIHJ had the opportunity to give its point of view and to defend the interests of the profession throughout the whole creative process. It is no secret to say that this task was somewhat facilitated by the fact that several members of the work group were also close to our organization. They thus largely helped us to give life to the many proposals which we formulated. A beautiful proof of trust and integration because, ultimately, the guide lines constitute a close image of the position of the UIHJ on all the fields approached.

This is to say the major importance of our participation within this commission.

Today, the European Parliament invites the European Union to become member of the CEPEJ.

But, obviously the influence of the work of the CEPEJ is not stopped by the boundaries of Europe.

The other continents are concerned by the European productions and our profession is an example of the exchanges existing between continents which, by their richness, will bring us to the harmonization of these standards.

And it is precisely the role of the UIHJ to work endlessly so that these standards can live up to your expectations and demands.

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<sup>2</sup> UIHJ Website- Focus-Institutions-Council of Europe