



NEWSLETTER

A Word from the President

Dear colleagues,

For most of us spring is coming: a season full of promises. The flowers of spring are winter's dreams...

We see the buds forming from what has been sown long ago and one begins to hope that the harvest will meet our aspirations and the care that was given to setting seed.

For the International Union of Judicial Officers, and for you all, spring is here!
In the following pages, you will find the result of much effort, patience, belief and work.

This newsletter will be about budding and flowering, and premises of maturation, in three parts:

A hope: Chile. The UIHJ has established relations with Chile for many years, a country emblematic of South America in the hope of seeing our profession hatch. Today, the country has plunged into a judicial reform in which we find our place.

An opening: the reform of Brussels I (Council Regulation (EC) No 44/2001 of 22 December 2000 on Jurisdiction and the recognition and enforcement of judgments in civil and commercial matter).

An opening: European states are engaging in a new step: the suppression of the exequatur, i.e. the full free circulation of judgments within the EU. This cannot happen without guarantees. Judicial officers are the professionals able to secure this circulation.

A Recognition: the attachment of bank accounts. The UIHJ was sought by the Justice Directorate of the European Commission to integrate a group of experts working on the seizure of bank accounts. The competence and expertise of our organization are once again recognized.

As you can see, our work is bearing its fruits and encourages us to carry on sowing together...

Yours,

Leo Netten
President



A HOPE

A limited delegation of the UIHJ composed of its president Leo Netten and its treasurer, Dominique Abadie, visited Chile last February with a representative of the French National Chamber, Patrick Sannino.

For many years, the links are established with this country, a member of our organization since November 2007 through the Association of Legal Receivers (Receptores).

The European Commission has developed the “Eurosocial program”, a technical cooperation program to promote social cohesion in Latin America through the exchange of experiences between public administrations in charge of justice.

For Chile, one of the main themes was precisely the enforcement of judgments in civil matters.

The conference's closing program was held in Paris on 29 March 2010, and the UIHJ was invited and represented by its president Leo Netten.

The reform of civil procedures which started in Chile is based on this program. It is now time to choose a professional model for the enforcement of court decisions: public or private. In accordance with its statutes it belongs naturally to our organization to promote the status of liberal and independent judicial officer.

The trip to Chile gave this opportunity.

At the time of making choices, the UIHJ delegation took position exposing the particular status of the judicial officer, its responsibilities, accountability, and training. Leo Netten particularly emphasized on the UIHJ, its role, activities, support missions and its links with international organizations.

The current reform is especially important for the future of our organization in South America as Chile is a country with high growth potential and a pioneer in many areas throughout Latin America. It may be recalled that in 1981, Chile has transformed its public pension system, then followed by Peru, Argentina, Colombia, Bolivia, Mexico, El Salvador and Uruguay...

The issue is important and filled with hope...



AN OPENING

An area of freedom, security and justice...

Brussels I Regulation, I (Council Regulation (EC) No 44/2001 of 22 December 2000 on Jurisdiction and the recognition and enforcement of judgments in civil and commercial matter) is one of the pillars, a cornerstone, of this area. Through a so-called simplified procedure, it allows for court decisions to circulate within the European states on the principle of mutual recognition and legitimate trust between states.

Niboyet, a French lawyer specializing in international private law, expected the reduction of what he called the phenomenon of borders. This is precisely one of the objectives of this regulation.

But today, another step is about to be reached: the total elimination of the exequatur procedure under the political mandate given by the European Council in Tampere (1999) and The Hague (2004). In practice, this would apply mainly to disputed claims. Obviously this deletion should be accompanied by guarantees, especially to protect the rights of the defence of the party against whom enforcement is sought.

It is expected that the defendant would have at his/her disposal three major remedies to prevent, in exceptional circumstances, a decision in one Member State to take effect in another Member State: first, he could challenge the ruling in Member State of origin when was not properly informed of the proceedings in that State.

Here are what Article 28 mentions of the proposed regulation:

"Where a defendant is sued in a court of Member State and does not enter an appearance, the court shall stay the proceedings so long as it is established that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end."

So we will have a justice free from any border hindrance.

This naturally calls for a remark about the applicability of the reform: the freedom of movement can be achieved without the legal security ensured by the judicial officer in his mission when he brings information¹. We could go beyond in the enforcement stage of the judgment and recall the need for harmonization of enforcement proceedings under the applicable European without obstacles of judicial decisions of member states and then find ourselves directly facing Recommendation 17 and the CEPEJ guidelines...

We will have the opportunity to come back to the reform of this regulation of primary interest to our profession.

¹ See, the works of the Sibiu colloquium (May 2009) on the document initiating proceedings



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RECOGNITION

The International Union of Judicial Officers has now long been heavily involved in European bodies and organizations. It is a member of the CEPEJ, it participates in the work of the Hague Conference on Private International Law, it regularly presents its positions in position papers², it is represented in a working group leading thoughts on training within the European Commission and most recently it was honoured to be asked to be part of a working group on the freezing of bank accounts.

Our colleague Roger Dujardin, vice president of the UIHJ, integrated this team of experts. Their task is to evaluate the effects of the measure and to provide solutions to issues raised.

"I want to make the recovery of cross-border debts as easy as recovering debts domestically. Trust is the currency of our single market," Commissioner Reding said.

The Commission believes that too many cross-border debts are not recovered because of legal uncertainty due to the fact that creditors are faced with completely different laws and enforcement systems.

The participation of UIHJ in this type of grouping and sharing of reflection is essential. It allows on the one hand presenting and on the other hand having the positions of the profession accepted not only in Europe but worldwide, giving weight and values to its orientations.

Its knowledge of enforcement procedures and systems in countries around the world makes of the UIHJ a partner impossible to circumvent.

That's why our organization, known and recognized at all levels is now sought to make its voice heard, to make YOUR voice heard!

² See the position papers on our web site.