



Position Paper

Assaults on judicial officers and assistance of the State Authorities in enforcement proceedings
October 2019

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Presented by the International Union of Judicial Officers
October 2019

Created in 1952, the purpose of the UIHJ is to represent its members to international organisations and ensure collaboration with national professional bodies. It works to improve national procedural law and international treaties and makes every effort to promote ideas, projects and initiatives which help to move forward and elevate the independent status of judicial officers.

No one should do justice oneself. To this end, the primary mission of the judicial officer is to ensure the enforcement of court decisions and other enforceable titles on behalf of the creditor. This is why the Guidelines of 17 December 2019 on Enforcement of the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe encourage States to ensure that enforcement agents are the sole competent authorities in this field and that they implement all enforcement procedures (paragraph 33).

It is not without reason that the European Court of Human Rights consider that enforcement agents *“work to ensure the proper administration of justice and thus represent a vital component of the rule of law”*¹

This essential task of enforcing court decisions is not without danger, far from it. In all countries, too many judicial officers are victims of verbal or physical violence. Some are incapacitating, others lead to irreversible disability, and others are unfortunately lethal.

The CEPEJ Guidelines on Enforcement (paragraph 16) consider that *“All of the stakeholders that are likely to be involved in enforcement processes (police, experts, translators, interpreters, local authorities, risk insurers, child care experts, etc.) should have sufficient legal status to help the enforcement agent and should be promptly available, in case their help is necessary for the enforcement of a judgment.”*

¹ Pini and others v. Romania, 22 June 2004, 78028/01, 78030/01



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Article 13 of the Global Code of Enforcement provides that *"Each state should, under its responsibility, guarantee within a reasonable time the assistance of the public force to the judicial officers or enforcement agents responsible for enforcing enforceable titles on request."*

The European court of Human Rights ruled in numerous cases that the State is responsible for the well-functioning and efficiency of the enforcement system. Such responsibility also implies the assistance of the public authorities, when necessary. Forces of public order should be placed at the disposal of the judicial officer and should guarantee the safety of the judicial officer.²

Aggression and the use of violence against persons representing State authority, including judicial officers, despite these principles and despite the opinions of the European Court of Human Rights, in some countries still causes problems. Furthermore, the assistance of the police force in several countries is weak or insufficient.

A well-functioning system of enforcement can be considered a human right under, for example, article 6 of the Human Convention on Human Rights. The enforcement as carried out by the judicial officer is essential for the well-functioning of our society. Every breach of the integrity of a judicial officer in the implementation of his duties, whether verbal or physical, is an attack on the rule of law and should be severely fought and punished.

In the framework of a good administration of justice, it is essential that the judicial officers who so request, obtain without delay the assistance of the police to ensure not only their protection but also that of the parties to enforcement and a normal implementation of enforcement measures.

In this respect, the UIHJ considers that:

- Aggression and violence against judicial officers should never be tolerated;
- Acts of aggression and violence against judicial officers should result in prosecution of the offender. In case the offender has violated the norms of good behavior, the police, the prosecutor and the Judiciary should act consistently;
- The State is responsible for the protection of the judicial officers while carrying out their official duties;

² See for example the case Pini and Bertani and Atripaldi v. Romania (22 June 2004, applications 78028/01 and 78030/01) in which case the Court concluded: *"The Court considers that such conduct towards bailiffs, who work to ensure the proper administration of justice and thus represent a vital component of the rule of law, is incompatible with their position as law-enforcement officers and that action should be taken against those responsible. In this connection, it is for the State to take all the necessary steps to enable bailiffs to carry out the task they have been assigned, particularly by ensuring the effective participation of other authorities that may assist enforcement where the circumstances so require, failing which the guarantees enjoyed by a litigant during the judicial phase of the proceedings will be rendered devoid of purpose"*.



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- Sustainable assistance by the State authorities (including police) should be guaranteed;
- When necessary, in case aggression of violence against a judicial officer is to be expected, State authorities (including the police) should provide preventive assistance to the judicial officer;
- State authorities should pay special attention preventing violence and aggression against judicial officers, for example by using (legal) instruments of local authorities in the preventive sphere or by joint consultation between the judicial officer and the authorities.

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