Judicial officers in the middle of e-Justice

Position Paper

The International Union of Judicial Officers (UIHJ) was created in 1952. It gathers 70 countries today. The purpose of the organization is to represent its members to international organizations and ensure a good 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.

The UIHJ is a member of the Economic and Social Council of the United Nations. The UIHJ is involved in the work of the Hague Conference on Private International Law, specifically in the planning of conventions relating to the service of documents and enforcement. It is a permanent observer member of the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe and took an active part for this reason in the development of its Guide Lines of December 17th, 2009 on execution of legal decisions[1]. It took part in the work which led to the update of (EC) Regulation n°1348/2000 of May 29th, 2000 on the service of judicial and extrajudicial documents in civil and commercial matters. It also participated in the reflections aiming at opening the European Judicial Network in civil and commercial matters of the European commission to legal professions. Furthermore, it currently takes part in the work of the Forum Justice group set up by the European Commission as well as its e-Justice project.

The UIHJ is presently working on a n ambitious project aiming at creating a World Code of Enforcement, in co-operation with law professionals and professors of universities from the whole world.

The European Court of Human Rights established that the execution of a judgment given by any court must be regarded as an integral part of the "trial" for the purposes of Article 6 of the European Convention of Human Rights[2].

The same court recognized that judicial officers work in the interest of a good administration of justice, which makes them an essential element of the Rule of law[3].

In a global world largely dominated by economy, it matters that lawyers fulfill their role by reinforcing the presence and the prestige of the law. As regards enforcement law, the UIHJ intends to use its wide experience and its influence to ensure the efficiency of enforcement of legal decisions everywhere where that will be possible.

This action fits the idea of a triple necessity to improve access to justice, co-operation between legal authorities and effectiveness of justice on which is based the European strategy on e-Justice[4].

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[1] Guide Lines for a better implementation of the existing recommendations on execution (CEPEJ(2009)11REV).
[2] Hornsby v. Greece case, ECHR, 13 March 1997.
[3] Pini v. Romania case, ECHR, 22 June 2004.

How can judicial officers improve access to justice through e-Justice?

1. By becoming the trusted third party for the dematerialized exchanges in the legal and extra-judicial field

There are a great number of certification authorities, which makes the use of electronic signature difficult. At the end of 2009, the UIHJ created within its structure an e-Justice group. One of its objectives is to make the UIHJ the root certification authority for the dematerialized exchanges in the legal and extra-judicial field. That would allow the simplification and the security of these exchanges.

2. By joining the creation of the Wide European e-Justice Portal

On the level of information and communication technologies (ICT), the creation of a European area of justice is faced with many technical and linguistics constraints. It is important for citizens and businesses that these constraints (incompatibility of technical standards, linguistics incomprehension, specificity of the legal field), are no longer a curb on access to justice. The idea of a wide European portal launched by the Council of the European Union must become a reality in spite of the great complexity of this task.
The UIHJ and the whole of its members are ready to take up this challenge at the sides of the European Union.

How can judicial officers improve the co-operation between legal authorities through e-Justice?

1. By creating an electronic database on the occupation of judicial officer

The great diversity of the activities of judicial officers in the world contributes to give a fuzzy and distorted image of this profession both near the public and the authorities. The UIHJ has worked for several years to set up an electronic database on judicial officers. This database will initially make it possible to draw up a general inventory of fixtures of the profession and in the second time to be used as a base for its harmonization at international level.

2. By setting up a worldwide network of judicial officers

The UIHJ supports the creation of a worldwide network of judicial officers within the framework of a cooperative project in the field of the service of judicial and extra-judicial documents and debt collecting. This implies the development of an electronic tool that the judicial officers of all countries could use in cases of cross-border debt collecting. Citizens would be also informed of the activities of judicial officers.

3. By taking part in the work of international organizations

Today, it is established that law professionals should be associated with all work which aims at improving the efficiency of justice. In their capacity as expert, the experience of these law professionals is essential within the framework of the development of the legislative corpus.

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[4] Communication of the Commission to the Council, the European parliament and the European Social and Economic Committee "Towards an European Strategy on e-Justice of 30 May 2008" (COM(2008)329)

The UIHJ is very present on the international legal arena and shows daily that its expertise and its experience are major assets in the creation of a European area of justice and, beyond, a worldwide area of justice.

How can judicial officers improve the efficiency of justice through e-Justice?

1. By harmonizing the documents initiating proceedings

The great disparity of the modes of initiating court proceedings and in the world is a source of confusion and constitutes a barrier for the comprehension and thus for the efficiency of legal procedures. On this basis and upon a study which it carried out in the near total of the European Union States, the UIHJ prepared in 2009 a draft European directive creating a harmonized document initiating proceedings. This project, which includes the dematerialized introduction of court proceedings made safe by the judicial officers, has a true international purpose.

2. By securing electronic exchanges between citizens

The question of the security of electronic exchanges is related to that of the proof of their good routing between citizens. By the trust conferred to them by the authorities and by means of made safe electronic protocols, the judicial officers are able to ensure the good transmission of electronic exchanges between citizens and to ensure their proof.

3. By reinforcing the efficiency of enforcement through ICT

A secure access to information concerning the inheritance of the defendant should be generalized for the judicial officers, and all state bodies which administer databases with information required for efficient enforcement should have a duty to provide the information to the judicial officer, in accordance with the wishes of the CEPEJ Guide lines as regards execution[5]. This access to information is essential for the improvement of the efficiency of enforcement procedures.

Whenever possible the UIHJ also encourages the implementation of dematerialized enforcement procedures by judicial officers: attachment on salaries, seizures of banking assets, attachment of shares, movable and immovable auctions on the Internet, …

Contact:
UIHJ
43 rue de Douai
75009 Paris - France
Such: +33 (0) 1 49 70 12 87
Fax: +33 (0) 1 49 70 15 87
http://www.uihj.com
uihj@uihj.com

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[5] Items 40 et 43 of the Guide Lines.