



## 15th Anniversary of the Profession of Liberal Judicial Officer in Poland

The President of the UIHJ, Leo Netten, Participated From 29 to 31 May 2012 to Celebrate the 15th Anniversary of the Profession of Liberal Judicial Officer in Karpacz, Poland, in the Presence of Rafal Fronczek, President of the National Chamber of Judicial officers of Poland, and Over 1,200 Judicial Officers From Across the Country.

### The Result of a Long Journey

The celebration of the 15th anniversary of the Polish law on the status of independent judicial officer took place in the beautiful town of Karpacz (Poland), near the Czech border, at the foot of the Giants Mountains, from 29 to 31 May 2012, along with a training seminar. More than 1200 colleagues were enrolled in this event.

Many personalities took the floor during the opening ceremony.

First and foremost, the president of the Polish National Chamber, Rafal Fronczek, having welcomed all the delegations present, recalled the many problems and pitfalls that the Polish colleagues have faced. He emphasized the unwavering determination that enabled them to overcome and find solutions. *"Our current status is the result of a long journey,"* he said.

The UIHJ was thanked for its actions. Indeed, as recalled later by President Netten, the UIHJ has always stood for Poland. It helped our Polish colleagues to reach the status of judicial independence. It showed full support to the Polish National Chamber whenever necessary.

President Fronczek went on to say that the level of access to the profession had been raised to that of lawyers and notaries. The question now is to enable bridges between these professions.

The Polish judicial officers are now focusing on new technologies. This is not a choice but a necessity, as he said.

Tomasz Banach, Polish judicial officer, then took up to the floor to tell the story of the creation of the National Chamber of Judicial Officers associated with that of "Currenda" a Polish Ltd Cie run by the National Council of Judicial officers of Poland (NCJOP) and which is responsible for the publication of journals and professional magazines as well as software, including some for the use of the profession.

He was followed by Iwona Karpiuk Suchecka, former President of the Polish National Chamber Polish who was pleased to remember that the Polish judicial officers fought on all fronts and progressed step by step.

Grzegorz Sikorski then launched into a comparison between the different legal professions, emphasizing their need and level of independence, their limits.

The president of the UIHJ, Leo Netten, then took the floor to remind that the 21st international congress had been held in Cape Town (South Africa) early May 2012. 450 participants from fifty countries had made the trip to discover the judicial officer of the 21st century. The main organizations and European institutions were represented and participated. Early work on the Global Code of execution that UIHJ initiated was presented.

The UIHJ is ambitious, said president Netten. *"It is ambitious for the profession of judicial officer, this noble profession that the European Court of Human Rights has elevated to an essential element of the rule of law"*.

He concluded by portraying the judicial officer of the 21st century, as drawn by the work of the last



Congress. President Netten's speech is reproduced below.

Finally, Françoise Andrieux, general secretary of the UIHJ, developed the benefits and need for training. She advocated an implementation of a true professional culture around a harmonized training.

The two following days were devoted to the training seminar on communication and management as part of the continuing education of the Polish judicial officers.

## **Prospects and Development of the Profession of Judicial Officer in the World**

By Leo Netten  
President of the UIHJ

Dear colleagues, ladies and gentlemen,

The International Union of Judicial Officers recently held its 21st international congress in Cape Town early May 2012. 450 participants from fifty countries had made the trip to discover the judicial officer of the 21st century. The main European organizations and institutions were represented and participated. We also presented the initial work on the Global Code of Enforcement that the UIHJ initiated. This was probably our most ambitious conference to date. For the International Union has always been ambitious. It is ambitious for the profession of judicial officer, this noble profession that the European Court of Human Rights has elevated to an "*essential element of the Rule of law.*" But the International Union also seems endowed with visionary powers which time and history have always comforted. You will judge for yourself.

Fifteen years ago, the profession of judicial officer in Poland had just completed its most fundamental reform. This reform was carried out with the support and the help of the International Union. The least we can say is that before the fall of the Berlin Wall and the collapse of the Soviet bloc, the profession of judicial officer in Central and Eastern Europe was reduced to its simplest expression. Countries wishing to join the European Union shared the same desire: to develop a market economy and social progress. This perspective has led our organization, led by Presidents Baudouin Gielen and then by Jacques Isnard to visit Hungary and Poland from 1992 onward, and then all countries of the region to meet the authorities and our colleagues. The objective was to share our experience and vision of the enforcement of court decisions and of the profession of judicial officer in Europe. Economic development and growth are based on investment, trust and credit. Speedy, efficient and secure justice is essential. Otherwise, no growth is possible. It was therefore necessary to transform the profession of judicial officer to give it the status that you know today. Fifteen years ago, you left the restraints of the civil servant status that prevented you to develop and play a leading role at the service of justice and citizens.

I would like to salute our colleague Dariusz Potkanski, the first president of your national chamber, a great man. He was the first to understand the stakes. Dariusz Potkanski gave full support to the International Union for the great plan of reform of the profession that all of you, my dear Polish colleagues, can enjoy today. The results were dazzling. Within a few years in Poland, the effectiveness of your profession has increased tenfold! I mean tenfold. You have created your national chamber. You created your publishing company, Currenda, which prints the magazine of the International Union. You also have your magazine, Currenda. I can assure you that without the language barrier, I'd be an avid Currenda reader. Your profession has created a computer system for the judicial officers of Poland. This is unique. In this, you are envied by all judicial officers of the world. You were the first country to make continuing professional training compulsory. And it's always a great pleasure to participate in your seminars and to show our support for your actions.



This vision and ambition that the judicial officers carry are conveyed by the International Union. Other countries have benefited from that in Europe. In fact, all countries that joined the EU since 2004, except Cyprus and Malta, had previously made similar reforms of the profession of judicial officer. So today, 19 of the 27 Member States of the European Union have a liberal judicial officer based on the French and the Benelux model. Other European countries have already taken the plunge and set up a model of liberal judicial officer with the help of the International Union and its experts. I think of Albania, the Former Yugoslav Republic of Macedonia or more recently Serbia. Other countries are following and are committed to the path of reform. Each time, the International Union is present and accompanies the reforms. But the International Union maintains strong ties and daily contact with institutions and international organizations, especially at European level.

In 2003, the International Union participated in the development of the Recommendation of 9 September 2003 of the Council of Europe on enforcement of judgments, called Recommendation 17. In 2009, the International Union was part of a working group of the European Commission on the Efficiency of Justice of the Council of Europe, the CEPEJ. The working group's mission was to develop guidelines for better implementation of Recommendation 17. The guidelines of the CEPEJ were unanimously adopted on 17 December 2009 by the Ministers of Justice of the 47 member states of the Council of Europe, and therefore by Poland. All the ideas promoted by the UIHO for many years are found in the CEPEJ guidelines on execution and on the profession of judicial officer. They include in particular the full program of a multi-field profession presented at the 2006 International Congress of judicial officers in Washington.

The CEPEJ guidelines constitute undoubtedly THE roadmap for the profession of judicial officer in Europe. But this roadmap also concerns other continents. The CEPEJ guidelines were adopted by the Council of Europe. So they comply with the European Convention on Human Rights. They are a model for the world. Before presenting some aspects of this fundamental document for the profession, let us briefly consider the situation in other parts of the world.

Africa first. Africa has hosted two international conferences: Tunis in 2003 and Cape Town in 2012. 26 African states are members of our organization. They are found in all parts of Africa. On 17 October 1993, sixteen states of Western and Central Africa signed the Treaty of OHADA. The treaty is intended to ensure the harmonization of business law in Africa, to create a new development centre at continental level, a true African economic community. Regulations, called uniform acts, have been developed. They are directly applicable in member countries. One of these uniform acts concerns civil enforcement procedures. The OHADA Treaty gave an opportunity for the International Union from 1997 to bring together colleagues from many countries. The Maghreb countries are not left out, as well as the countries of Southern Africa.

In America, we have historical ties with our colleagues from Quebec as well as with our Process Servers friends in the United States and more recently with the Sheriffs. We develop relationships over the past twenty years with Brazil, Argentina and Chile. Most recently, we have implemented a program to move closer to countries in the Caribbean area. In Asia, our relations are mainly with Thailand, Kazakhstan and Vietnam. We intend to strengthen and develop our cooperation in the near future with specific actions.

Our Union and our approach are global. But we know that the large Europe, the one of the 47 member states of the Council of Europe, is at the heart of the issues. It is a laboratory which is a legal source of inspiration for other continents.



It is these ideas that we developed at our congress in Cape Town. Who will this judicial officer of the 21st century be? What are the prospects of development of the profession in the world? And finally how can we achieve this development? The CEPEJ Guidelines provide clear answers.

First, the judicial officer of the 21st century will be a professional who is of a standard and training commensurate with the complexity of his tasks. It will be required to follow compulsory continuing high quality training. This training will include the following subjects:

- the principles and objectives of enforcement;
- professional conduct and ethics;
- stages in the enforcement process;
- the appropriateness, organization and implementation of enforcement measures;
- the legal framework;
- role-playing and practical exercises as appropriate;
- assessment of trainees' knowledge;
- international enforcement of judicial decisions and other enforceable titles.

The profession of judicial officer will include a professional body representing the entire profession. The membership of judicial officers to these professional bodies will be compulsory.

Regarding the status, it will be clearly defined by the states. It will aim to provide potential parties to enforcement procedures a professional who is impartial, qualified, accountable, available, motivated and efficient.

The judicial officers will be responsible for the conduct of enforcement. They will have sole competent for:

- enforcement of judicial decisions and other enforceable titles or documents, and
- implementation of all the enforcement procedures provided for by the law of the state in which they operate.

The judicial officers will also carry out secondary activities compatible with their role, tending to safeguard and secure recognition of parties' rights and aimed at expediting the judicial process or reducing the workload of courts, including:

- debt recovery;
- voluntary sale of moveable or immovable property at public auction;
- seizure of goods;
- recording and reporting of evidence;
- serving as court ushers;
- provision of legal advice;
- bankruptcy procedures;
- performing tasks assigned to them by the courts;
- representing parties in the courts;
- drawing up private deeds and documents;
- teaching.

Judicial officers will deposit the funds collected on behalf of clients on a specific non-attachable account.

They will be required to take out professional and civil liability insurance.

They will be eligible for social insurance cover.

They will be subject to clearly stated rules of ethic, grouped in codes of ethics. These codes of ethics will inter alia contain professional standards regarding:

- information to be given to parties by enforcement agents concerning the enforcement procedure (grounds of action, transparency and clarity of costs, etc.)



- the rules governing the formulation of notices to parties (enforcement agents' social role, duty of advice, etc.)
- professional ethics (behavior, professional secrecy, ethical criteria governing the choice of actions, etc.)
- smooth enforcement (predictability and proportionality of costs and lead-times, co-operation between enforcement services, etc.)
- procedural flexibility (autonomy of enforcement agents, etc.)

The judicial officer will be subject to a control of his activities. He will be exposed to disciplinary, civil and criminal sanctions, for failure to comply with his legal, regulatory or ethical obligations, even outside the scope of his professional activities.

It will be subject to a tariff. He will be exposed to sanctions for noncompliance.

To carry out his missions, the judicial officer will have a fast, direct and secure access to information on the defendant's assets. States will establish a unique database on the debtor's property. All state bodies which administer databases with information for efficient enforcement will provide the information to the judicial officer.

In short, the judicial officer of the 21st century is an independent professional. He has a high level of legal training. He is subject to a compulsory permanent training. He is controlled and is submitted to a tariff and ethical rules. He carries out all enforcement measures. He has direct and secure access to information on debtors. Finally, he carries out additional functions compatible with his role and tending to safeguard and secure recognition of parties' rights and aimed at expediting the judicial process or reducing the workload of the courts.

Here are, in brief, the prospects for development of the profession of judicial officer in the world: a high-level, responsible, harmonized and multi-field professional.

These objectives are particularly ambitious. Yet they are clearly stated in the CEPEJ guidelines. How can these objectives be reached?

It is your responsibility at national level, with your national chamber, to claim the skills that were recognized by the Council of Europe. Remember that your authorities have voted for these skills. On our side, with the new board of the UIHJ, we will implement the program developed by our European Council of Presidents which met in Brussels in March 2012. Our goal is to ensure that the CEPEJ guidelines become a reality in all countries. For this, we will work with all representatives of our organization within working groups, to harmonize procedures and our competences. Several topics were identified:

- Seizure and sale of immovable;
- Service of documents
- Transparency of assets
- Statements of facts
- Training

Others topics will be approached. We will partner with the professors of our Scientific Council. We will also share our work with European and international institutions and organizations. We will work with committees through regional conferences. Best practices will be identified. We will develop models based on these best practices. These models will serve as a basis for the harmonization of the profession.

In other words, we, judicial officers, have to take our destiny in our hands, not only to master, but also to shape the profession according to our will: a judicial officer of the 21st century at the service of Justice, economic stakeholders and citizens.



It is within this ambitious but very real and exciting perspective that you are celebrating your fifteenth birthday.

I therefore wish you all a very happy birthday. A great future awaits us with multiple opportunities for development.

The Union is on your side from the beginning.

We were there yesterday.

We are here today.

We will be there tomorrow.

You can count on us.

Long live the profession of judicial officer in Poland.

Long live the profession of judicial officer.

Long live the International Union of Judicial officers.