

CEHJ news- letter

The Judicial Officers of the European Union



n°2 - 2012

Ivo GOEYENS

President of the CEHJ, President of the National Chamber of judicial officers of Belgium.

A word from the president

It is with emotion and enthusiasm that members of the European Chamber of Judicial Officers (which french acronym is "CEHJ"), and myself, have had the pleasure to welcome representatives of the European institutions during the launch conference of our structure held last September 25, at the European Parliament in Brussels .

Our European initiative was welcomed by both the European authorities and the other legal professionals (notaries, lawyers) that have committed to work with us in the European projects and in the drafting of legislation applied by judicial officers in their daily practice.

The determination of members of the CEHJ in the construction of a European area of justice founded on legal professionals highly qualified, is flawless.

For this reason, we welcome the success that have just won four founding members of the CEHJ (*the National Chamber of Judicial Officers of Belgium, the Chamber of Judicial Officers of the Grand Duchy of Luxembourg, the National Chamber of Judicial officers of France, Associazione Ufficiali Giudiziari in Europa (Italy)*) and their partners (*the National Chamber of the Judicial Officers of Poland, the French National School of Procedure, with the support of the French National School of Magistracy*) who will benefit from the co-funding of the European Commission, for 2 years as from the 1st of January 2013, for the implementation of the E JL project (European Judicial Officers' E-learning). The E JL project, which aims to provide an interactive e-learning training on European instruments to all the judicial officers of the 27 Member States, was submitted to the European Commission last March, i.e. a few weeks before the creation of the CEHJ (see "News" section below). It is now part of the twenty projects funded by the European Union under the program "Civil Justice".

To conclude, I am pleased to announce that the CEHJ pursues its vocation to bring together all the European judicial officers since the representative bodies of the judicial officers in Scotland (*Society of Messengers-at-Arms and Sheriff Officers*) and in Hungary (*Magyar Birosgaji Vegrehajtoikamara*) have just joined our organization. We will very soon be able to work together, within working groups and in a concerted manner, on the European legislation in development (*European account preservation order, transparency of debtor's assets*) or revision (*Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters*).

n° 2 - 2012

CEHJ Newsletter
Newsletter of the CHAMBRE
EUROPÉENNE DES HUISSIERS DE JUSTICE
(European Chamber of Judicial officers)
93 Avenue Henri Jaspar
1060 Bruxelles (Belgium)
Tel. (+32) 25 38 00 92
Fax (+32) 25 39 41 11
Email : cehj@cehj.eu

Page layout:
Géraldine Delplanque

Photo credit:
EJT, CEHJ, Fotolia

Publishing company
Editor – realization
Editions juridiques et techniques
73, boulevard de Clichy
75009 Paris - Tel. : 01 45 26 41 61
French limited liability corporation
(SARL) with a capital of 405 950
Director: Thierry BARY

Printing:
Imprimerie France-Quercy
ZA Les Grands Camps
46090 Mercues

Copyright - It is forbidden to reproduce, in whole or in part, on any format whatsoever this publication (article L122-4 and L122-5 of the Code of intellectual property) without the prior consent of the publisher or of the Centre d'exploitation du droit de copie (CFC) 20 rue des Grands Augustins – 75006 Paris.

■ Presentation by the CEHJ to the EU institutions

The President and the counsellors of the CEHJ had the opportunity of meeting the permanent representatives from Hungary, Ireland, Portugal, Austria, Lithuania, France and Luxembourg on 24- 25 September and 23 October.

The discussion with György Kozma (Director of the legal department - Hungarian permanent representation), together with the vice-chairman of the Hungarian chamber of judicial officers (Csaszti Ferenc), allowed us to recall the important/substantial involvement of Hungarian judicial officers in the EJE project, especially in respect of the integration of their annual directory via a webservice into the European directory of judicial officers.

György Kozma indicated that the priorities defined by the members of the CEHJ, namely training and *e-justice*, were also at the heart of current initiatives underway in Hungary.

Ivo Goeyens (President of the CEHJ) expressed the wish of CEHJ members to pool their experience and skills in order to define “best practices” to recommend to the European institutions. The expertise of the Hungarian chamber of judicial officers regarding the dematerialization had been of major assistance in creating the EJE European directory, and would likewise be of much use in developing future CEHJ *e-justice* projects.

Geraldine MOORE (Legal and internal affairs counsellor - permanent representation of Ireland) presented an outline of the enforcement agent profession in Ireland, State officials whose skills depend



From left to right: Géraldine Cavallé, György Kozma, Chairssa Voet, Céline Briébon, Csaszti Ferenc, Ivo Goeyens, Thierry Bary.



From left to right: Ivo Goeyens, Géraldine Moore and Thierry Bay.

on the legal area in which they work (civil and criminal law enforcement procedures, recovery procedures for tax and duties).

Asked about Ireland's priorities for their upcoming Presidency of the Council of the European Union (January-July 2013) she mentioned a few topics: evidence or asset freezing, and confiscation of the proceeds of crime, the European evidence warrant, protection of personal data, recovery of debts ... while making it clear that this list could change depending on the progress made on the topics currently being handled by the Cypriot presidency.

Francisco Gonçalo Andre (Justice and internal affairs adviser – Legal cooperation in criminal matters - permanent representation of Portugal) told members of the CEHJ about the reorganisation of enforcement procedures in Portugal, and stressed on the fact that his country was interested in carrying out a comparison of the various legislations to learn about the “best practices” found out by the European enforcement professionals within the CEHJ.

As *e-justice* is one of the issues to which Portugal intends to turn its attention, Mr Andre was very interested in the European projects being carried out by the profession in this area (EJE, EJS).

So was Maciej Lewandowski who welcomed the initiatives taken in the *e-justice*, as well as the joint position adopted by the EJE partners on the draft of the European account preservation order, and underlined on the importance of practitioner opinions in the elaboration of European legal provisions.

In what concerns the permanent representations from Austria (Richard Winkelhofer - Director of the legal department) and Lithuania (Vita Sliede - Counsellor for justice and internal affairs), they also insisted on the need for training of their enforcement agents, State officials and independent ministerial officers respectively, about European enforcement measures.

Jean-Daniel Lachkar pointed out, in this respect, that the National chambers of judicial officers in Belgium, France, Italy, Luxembourg and Poland, together with the National Procedural School and with the support of the National School for Magistrates presented a proposal for an *e-learning* program to the European Commission.

Michèle Dubrocard (Counsellor for justice- permanent representation of France) and Robert Bever (Counsellor - Civil law cooperation, fundamental rights - permanent representation of Luxembourg) in turn applauded the initiative held by their National chambers of judicial officers to create this European structure, which has clear legitimacy and was clearly needed, and which follows the examples of the other legal professions represented at European level (CNUE, CCBE).

Finally, Karin Rammo (Justice Counsellor-Permanent Representation of Estonia) stated that the practical overview of European judicial officer in the elaboration of technical documents, such as the European account preservation order, would be of great value for the institutions.

In this respect, reference should be made to the conversation held with Clarisse MARTINS (Secretary General of the CNUE) at the end of which it became appropriate to set up joint working groups (with both judicial officers and notaries) on some common European tools to the two professions.

■ Launch conference of the CEHJ at the European Parliament

The launch conference of the CEHJ was held on 25 September at the European Parliament in Brussels, on the theme of “The role of judicial officers in the construction a European area of justice”.

Luigi Berlinguer (MEP, member of the Legal Affairs Committee of the European Parliament), Anna Marcoulli (Counsellor - Legal affairs, permanent representation of Cyprus to the European Council, Presidency of the Council of the European Union), Evangelos Tsouroulis, Vice-Chairman of the Council of Bars and Law Societies of Europe (CCBE), along with other European representatives and the Presidents of the CEHJ, reiterated the assumption that the effectiveness of European justice necessarily requires improvements in cross-border enforcement of court judgements, which presupposes a high level of involvement of judicial officers in the coordination of national procedures and in the application of European instruments.

Ivo Goeyens (President of the CEHJ and of the Chamber of judicial officers in Belgium) opened the conference with a brief introduction of the CEHJ organisation, explaining that it is made up of National professional bodies, represented by legal enforcement officers elected by their peers who therefore have a legitimate mandate to act on their behalf. He then expressed his gratitude to the European institutions for the opportunity they had offered to enforcement agents to serve justice and all European citizens, then gave the floor to Mr. Michel Debacq (Diplomatic counsellor to the French Ministry of Justice).

He reminded that judicial officers had already proven their ability to take initiative and join together to carry out European projects, such as the EJE project which was *“a combination of the inventiveness and the dynamic of European judicial officers on the one hand, and the wish of the European Union to provide concrete tools to European citizens on the other hand”*.

He welcomed the active participation of French enforcement officers in the European judicial network for civil and commercial matters (EJNCC), and in the collaborative judicial program between judicial professionals which aim at removing the practical obstacles that often prevent the principle of free movement of persons and of their acts in daily lives.

Therefore, for the French Ministry of Justice, the creation of the CEHJ is an extremely important aim, namely *“the aim of promoting the activities of legal enforcement offices or their equivalents in Europe, in order to enable all those who see the European area of justice as a place of discussion, of shared experience and of collaboration between all parties involved in administering justice. For the Ministry, the magistrates and the permanent representatives in Brussels, there can be no doubt that the contribution made by judicial officers will be of major importance in the process of creating the European area of justice”*.

Mr Jean-Daniel Lachkar (Vice-president of the European Chamber of Judicial Officers and President of the National Chamber of Judicial Officers in France) opened up the topic of *“Judicial officers in the European area of justice”* by describing the current “fragmented legal landscape” faced by European states, whatever their own legal systems and traditions, and the need to establish clear and effective rules and procedures:



From left to right: Luigi Berlinguer, Fernando Paulino Pereira, Jean-Daniel Lachkar and Salla Saastamoinen.

“To deal with this “fragmented legal landscape”, the European area of justice needs clear and effective rules and procedures (which is exactly what the European institutions committed to under the Stockholm program); but it also needs legal professionals who are capable of implementing these instruments.

[...] Never, as nowadays, our society had such an urgent need for legal certainty.

We believe that legal certainty is an essential factor, which will help to enable us to climb out of the current crisis.

It will allow economic operators and individuals to regain their confidence, while providing concrete sense to the principles contained in the European Charter of Fundamental Rights. I am thinking in particular of the right to a fair trial, which also encompasses the right to effective enforcement of justice, according to the case law of the European Court of Human Rights.

As a measure of true justice, legal certainty takes on a new significance with the growth of the digital economy. Let us think of the need for this growth to be accompanied by fundamental guarantees, including the area of data protection, or adapting justice to be able to deal with this new environment. There are many examples which reinforce our wish to place e-Justice at the heart of our actions” for example the EJE and EJS projects designed and implemented by members of the profession.

Ms Salla Saastamoinen (Head of Unit, Civil justice policy, Directorate General for Justice, European Commission) also portrayed enforcement as a pillar of effective justice, and as a vector to move forward out of the economic crisis: *“There cannot be effective justice without all parties being effectively informed of their rights, and without subsequent enforcement of the legal decisions. A disputed case is not truly closed when a judgement is ruled. The case is closed when the parties have recovered what is due to them under the judgement, and this step is the job of the judicial enforcement officers.* This is all the more relevant in these difficult economic times, when effective justice can make a contribution to restarting economic growth for the benefit of all, people and companies, and where the



Michel Debaq (right) beside Ivo Goeyens (center) upon opening of the event.

important role of judicial officers is to maintain the balance between debtors and creditors, because both are working within a single market.”

In addition, she confirmed that the European Commission intends to work with the CEHJ on a variety of subjects, both on the European projects/program and also on developing and evaluating European instruments relating to cross-border disputes. In fact *“judicial officers know the European and national enforcement instruments with which they work on a daily basis. They guarantee the respect of the Charter of Fundamental Rights”*.

Fernando Paulino Pereira (Head of Unit for “Legal civil cooperation” - General secretariat of the Council of the European Union) summed up the current legal problem area in these terms: *“Justice where documents are not served, justice without enforcement, is incomplete justice. It is justice without a sword that fails to impose justice”*. He told the assembly that the text revising the Brussels I regulation is currently under scrutiny with the Parliament and that discussions should be completed by the end of the year. This new regulation provides for the suppression of the exequatur procedure, which would allow the enforcement of judicial and extra-judicial documents to be speed up in all Member States, and would strengthen the role of judicial officers in Europe.

Mr Yves Behets Wydemans (Belgian Notary, representing the Council of the Notariats of the European Union) speaking on *“legal enforcement officers alongside the other legal professions”* congratulated the founding members of the CEHJ on their initiative, which allows the profession of judicial enforcement officer to join the organisations of other legal professions who have created permanent representations to the European institutions. Then he stated that *“the organisation of legal professions at a European level is a necessary obligation. The number of citizens who create links with citizens in other States for professional or family reasons just keeps growing. And one of the fundamental aims of the European Union is to offer European families a single area of justice, freedom and security without internal frontiers”*.

Hearing of the CEHJ during the meeting of the *e-justice* group at the Council of the European Union

President Ivo Goeyens and his two Vice-Presidents Jean-Daniel Lachkar and Carlos Calvo, were honoured to be able to present the European projects carried out by the profession and by the CEHJ, on 3 October, to the members of the *e-justice* group of the Council of the European Union.

The meeting was chaired by Fernando Paulino Pereira, accompanied by Tomas Debski (Legal advisor - European Commission) and Dimitri Politis (representing the Cypriot presidency of the Council of the European Union) and provided an opportunity to present the initial European projects implemented by judicial officers with co-funding of the European Union, which are:

The EJE project (European Judicial Enforcement):

A project, co-funded by the European Union from June 2010 to June 2012, which aims to improve the information available to citizens, companies and legal professionals on the mechanisms of enforcement in any other Member State (applicable law, procedures, parties involved ...) but which also expects to strengthen mutual trust and cooperation between judicial officers.

The EJE project, which created two essential tools:

- A website: the EJE portal (www.europe-eje.eu), which provides European citizens and legal professionals with information about the procedures necessary to enforce a court decision in each of the Member States in of partnership (information sheets about the preliminary measures for enforcement, attachment measures, the parties involved in enforcement and their powers, seizure of movable assets, seizure of real estate assets...);
- an electronic directory of judicial officers in Europe: which provides the contact details of judicial officers who are authorised to act in the country or region where a judgment needs to be enforced.

European EJS project (*e-justice* service of documents):

Project, co-funded by the European Union from November 2011 to November 2012, which is a key part of the development of European *e-justice* in order to improve legal certainty.

The EJS project includes the creation of a platform for secure document exchange between judicial officers, classified as transmitting agencies and receiving agencies *under regulation 1393/2007 (EC) on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters*.

EJL project:

A European project which was awaiting confirmation by the European Commission for a two years co-funding, at that date (see "News" section below).

The European Chamber of Judicial Officers:

The President of the CEHJ reminded that these European projects are at the origin of the will of judicial officers to create together a European association, aiming to include enforcement professionals from all the Member States, to represent them to the European institutions, to ensure that existing European projects were continued, and also to start new projects in the areas of training and *e-justice*.

This is why the CEHJ was created on 24 April 2012 by the National professional bodies in Belgium, France, Italy and Luxembourg. The Scottish judicial officers (*Society of Messengers-at-Arms and Sheriff Officers*), members of the EJE consortium, joined the organisation in September 2012.

The CEHJ is now responsible for continuing the EJE project and is currently considering how best to improve the website (now available via the CEHJ portal: www.cehj.eu) and to expand the European directory to include all enforcement officers within the European Union.

Fernando Paulino Pereira wound up the meeting of the *e-justice* group by thanking Mr Calvo, Mr Goeys and Mr Lachkar for their “well organised and committed” presentation which showed the involvement of officers in charge of the enforcement of judicial decisions in the *e-justice* projects, which are a priority for the European institutions.

He invited the CEHJ members to return regularly to update the working group on the progress of its European projects and to present new initiatives it had instigated.

Finally, he mentioned that this presentation by the Presidency of the CEHJ to the delegations of the 27 Member States was a first step in the process of recognition of the CEHJ by the Council of the European Union.



3 questions to Françoise Castex

MEP, vice President of the Committee
on Legal Affairs
of the European Parliament.

1. Professionals in charge for the execution of judgments in Europe are brought together in the CEHJ, representative body before the European institutions. What do you think is the place of this structure in the construction of the European area of justice?

The CEHJ, following the example of CCBE and CNUJ, registered as the representative body of the judicial officers at the European level and unique and legitimate interlocutor of the European institutions, including the European Parliament. In this regard, its members will be requested in the development of European instruments, as experts of the enforcement of judicial decisions. It is therefore a central role in the construction of this area of justice that the Parliament calls of these vows.

2. As Vice-President of the Committee on Legal Affairs, which are the priorities you identify for the CEHJ ?

For judicial officers, I suppose that the priorities should include: to guarantee an efficient cross-border enforcement system, transparent and reactive, but also to strengthen the legal certainty of citizens and businesses, in particular for debt recovery (under a judicial decision or with any other enforcement title). These objectives will be implemented respectfully to the protection of personal data, which is fundamental to strengthen our democracies.

3. The CEHJ is involved in issues related to *e-justice*, mainly in the context of the continuity and development of the EJE project. What do you think are the challenges for an efficient *e-justice*?

An efficient *e-justice* would increase the rapidity of enforcement of the court decisions in Europe and enhance the safety of the transfer of acts in the everyday life of citizens and European companies (dematerialized service of documents, dematerialized European order for payment procedure...).

In addition, *e-justice* would provide facilities for the training of judicial professionals in Europe, priority expressed by the European Commission in its 2013-2015 program. Thus, the CEHJ should contribute to the idea according to which "*e-justice*" is the laboratory of on-line justice of tomorrow.

European news

EJL European Project (e-learning training of the European judicial officers) - Co-funding of the European Commission (October 30st 2012)

The European Commission has granted, in the context of the call for proposals Civil Justice (JUST/2011-2012/JCIV/AG), a co-funding for a period of two years to the EJL project (*European Judicial officers' E-learning*) which aims at creating an e-learning platform for all the judicial officers / enforcement officers of the 27 Member States of the European Union.

The EJL partnership (composed of the national representative bodies of Belgium, France, Italy, Luxembourg, Poland, but also of the French National School of Procedure with the support of French National School of Magistracy) will create training interactive modules about the European instruments used by judicial officers in their daily practice, namely:

1. Introduction to European private law court;
2. The jurisdiction (Brussels I Regulation, Brussels II, Brussels II bis);
3. The service of documents in Europe (Regulation 1393/2007);
4. The procedure of European Account Preservation Order ;
5. The enforcement of judgments (the Brussels I Regulation, European Enforcement);
6. European order for payment/Small claims;
7. Regulation on maintenance obligations.

More precisely, each module would be set in two parts:

- the general part, translated into all the languages of the European Union, in order to explain the impact of European regulations in the bailiffs/judicial officers' activities;
- the specific part, in which each Member State partner would complete the general part by specifying the types of implementation in domestic law / national specificities for each rule.

The EJL project fits with the priorities "Justice" of the European Union, as defined by the Stockholm Program for 2010-2014¹ and the Commission Communication of 13 September 2011 "*Building trust in EU-wide Justice- a new dimension to European judicial training*"².

The objective set by the European Commission is to "*To train half of the legal practitioners in the European Union by 2020 is a shared challenge. It will best be tackled by building on the strengths and experience of existing structures, actors and networks whether national or European.*" The philosophy of the EJL project meets with this logic, since it aims at pooling expertise of different partners to develop practical modules responding to the needs of professionals of enforcement.

1. Stockholm Program dated May 4th, 2010 (2010/C 115/01) adopted by the Council of Europe : "1.2.6. *E-learning programmes and common training materials must also be developed to train professionals in the European mechanisms*". (<http://eurex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0171:FIN:EN:PDF>).

2. Commission COM(2011) 551 final. This Communication sets out the European judicial training as a priority, in line with the Action Plan implementing the Stockholm Program (see also the "EU Citizenship Report 2010 *Dismantling the obstacles to EU citizens' rights*" COM(2010) 603, October 27, 2010).

Work program for the year 2013 of the European Commission / Communication (October 23rd 2012)

The European Commission published on 23 October, a paper entitled “Work Program of the Commission for the year 2013.” Among its priorities, the Commission wishes to strengthen the economic union and monetary union through a banking and budget fully operational, but also boost competitiveness through the single market, industrial policy ... Finally, the Commission intends to provide more security and justice for Europe’s citizens by continuing the implementation of the Stockholm Program. This program is accompanied by a list of texts to be studied by the Commission for the year 2013³.

Cross-border monetary claims / payment procedure / e-Justice / New online tool (25 October 2012)

The European Commission published, last 25 October, during the European Day of Civil Justice, a new tool online via the *e-Justice* portal set up under *1896/2006/CE Council Regulation creating a European order for payment*.

This new tool provides, to citizens or companies entitled of cross-border pecuniary claims, information on the procedure and forms for the European order for payment to be filled directly online.

As a reminder, the European order for payment is a simplified procedure applicable to cross-border pecuniary claims non-contested by the defendant, which is based on the use of standard forms available in all languages⁴.

E-conference in Quebec- “In the era of new technologies, bringing the experience of other countries to contribute to advance Quebec justice” (22 October 2012).

Jean-Daniel Lachkar (Vice-President of the CEHJ and President of the CNHJ) and Ferenc Csaszti (Vice-President of the Hungarian *Magyar Birosgaji Vegrehajtoikamara* and member of the CEHJ) attended this conference on dematerialization and new technologies where they had the opportunity to share their experiences on European *e-justice* with their Quebec counterparts.

This conference was held under the chairmanship of André Wery (ACJ in the Superior Court of Quebec) in the presence of Christophe Bernasconi (First Secretary, Hague Conference), Jean-François De Rico (Canadian Lawyer specialized in IT and information law) and Dominic Jaar (Council on information management and administration of electronic evidence-KPMG Canada) who intervene on the state of justice in the area of technology and information within the world.

3. See communication COM (2012) 69 FINAL QBF-Europe in brief n° 650.

4. (https://e-justice.europa.eu/content_european_payment_order-41-fr.do.) QBF-Europe in brief n° 650.



**EUROPEAN CHAMBER
OF JUDICIAL OFFICERS**

93 Avenue Henri Jaspar - 1060 Brussels (Belgium)

Tel. (+32) 25 38 00 92 - Fax (+32) 25 39 41 11

Email : cehj@cehj.eu