

Czech Republic

Date: 23 September 2005

Location: Faculty of Law, Charles University, Prague

Organized by: Monika Pauknerova (Czech national correspondent) and T.M.C. Asser Instituut

Number of experts invited: 23

Number of experts present: 18

1. Experts present:

- Prof. Dr. Alexander Belohlavek - attorney
- JUDr. Petr Briza – Ministry of Justice, PhD. student of Prof. Pauknerova
- JUDr. Jan Brodec – attorney, PhD. student of Prof. Pauknerova
- Mgr. Tomas Cihula – attorney, PhD. student of Prof. Pauknerova
- JUDr. Petr Dobias – West Bohemian University Pilsen, PhD. student of Doc. Ruzicka
- Mgr. Zuzana Fiserova – Ministry of Justice
- Mgr. Miluse Hrcirikova – Palacky University Olomouc
- JUDr. Elena Judova – University Banska Bystrica, Slovakia
- JUDr. Zdenek Kapitan – Masaryk University Brno
- JUDr. Milos Levrinc - University Banska Bystrica, Slovakia
- JUDr. Milan Muller - West Bohemian University Pilsen, attorney
- Prof. Dr. Monika Pauknerova (national correspondent) – Charles University Prague, West Bohemian University Pilsen, Institute of State and Law Czech Academy of Sciences
- Mgr. Lukas Poddany– attorney, PhD. student of Prof. Pauknerova
- Mgr. Alena Rozkosna - attorney, PhD. student of Prof. Pauknerova
- Doc. JUDr. Kvetoslav Ruzicka - Charles University Prague, West Bohemian University Pilsen
- Doc. JUDr. Nadezda Siskova - Palacky University Olomouc
- Doc. JUDr. Vladimir Tyc - Masaryk University Brno
- JUDr. Jiri Valdhans- Masaryk University Brno, PhD. student of Prof. Rozehnalova

Present on behalf of the project was: Dr. G. Schmidt.

Dr. Schmidt presided the meeting.

2. Agenda:

1. Opening
2. Introductions
 - ? Who are you?
 - ? Do you participate in existing European Networks and projects and other forms of cooperation
 - ? What is your impression of the objectives of the project
3. Possible scenario's for a European Network
 - ? What would be your expectations of a European Network
 - ? What would make you participate in such a Network
4. Participants in the Network
 - ? Who should participate in the Network
 - ? How can active and enduring participation be secured
5. Possible formats of the Network
 - ? What would be your preferred format
 - ? Which turnkey projects would be interesting for you
6. Participants in the feasibility study
 - ? Can you identify persons and organizations we should involve in the study
7. Closing

Report on the meeting

Following a short presentation of the project by Dr. Schmidt (see the attached presentation, sheets 1-8) the participants introduced themselves stating their profession, relationship to Private International Law, membership of relevant societies and their experience in cross border research and international projects:

Memberships to existing networks among the participants include:

- Working groups of the EU Council or Commission (Ministry of Justice – Briza, Fiserova, Zavadilova)
- GEDIP (Pauknerova)
- European Judicial Network and Internal Judicial Network in the Czech Republic (Fiserova, Zavadilova, Pauknerova)
- Asser College (Balas)

Experience in cross-boarder research and international cooperation included:

- Seminars within the framework of TAIEX training projects e.g. on international procedural law
- Seminars within the framework of ERA (Academy on European Law)

In the reaction to introduction of Dr. Schmidt many participants welcomed the idea of setting-up some form of a network and their general interest in the feasibility study. During the following discussion, this idea of a network, that could be perhaps later developed in some form of an association, arouse above all positive but also some negative assessments.

1. Database of bibliography and exchange of information

Many participants acknowledged use of a database of bibliography and exchange of information in general, also regarding the sources of law and practical experience in other EU Member States. In many areas, in particular in practice, there is still lack of information, for example, in courts and among practitioners. Also universities should be linked to some source of information concentrated on the very topics of European private (international) law, as concerns for example the overview of seminars and conferences that take place in other European countries and/or are organized within the EU, or some common projects in which also Czech participants could be engaged, etc.

In this connection the problem of translations and communication in foreign languages in general has been mentioned. Research publications in the Czech Republic are mostly written in Czech, sometimes with a summary in German, English or French. Papers of Czech authors published in foreign languages are mostly only of an informative nature, while research papers or papers discussing the practice of Czech courts or experience of Czech practitioners are mostly written only in Czech. This problem has been mentioned several times during the discussion.

2. Necessity to exchange views and experience

Another aspect of creating a network in European private international law follows from the necessity to exchange views and experience, in various fields of activity, in particular in research, in

legal practice, in judicial practice where a special network has been created recently. There is some experience with internet (email) discussions which take place among lawyers e.g. regarding re-codification of the private law in the Czech Republic, or within the Internal Judicial Network. Some participants expressed opinion that the exchange of experience among lawyers from various Member States could also positively influence the legislation of the individual Member States.

Other participants stressed the necessity for the practising lawyers to be informed about the application of common EC instruments (EC Regulations) in various Member States, to have access to this type of information. Seminars and meetings should be organized which would more concentrate on practical issues and which would enable their participants to discuss practical problems.

Besides, EC authorities should be informed about perhaps different views regarding a particular topic, for example different views of the Commission and of the academics, as concerns proposal of the Regulation Rome II. Some participants, however, were rather sceptical in this respect.

Exchange of views in an international network is also connected with good command of foreign languages. In this connection, many participants expressed their doubts about the concrete benefit of such an exchange of views: The benefits must be mutual, reciprocal. Czech lawyers interested in participation in a PIL Network are mostly very, very busy and, for example, preparing answers on Czech law for foreign colleagues would be time consuming. Besides, information of this kind cannot be provided for free, without any remuneration.

The “output” and usefulness of the results must be mutual for both sides.

3. Need for a real network

The third aspect consists in the need for a real network: the system should work in various directions:

- First, information from the “centre”, the EU Commission and EU Parliament to the individual participants.
- Second, information from the “opposite” side – that is, from participants in various EU member states to European authorities; and
- Third, very important should also be relations between the individual participants.

Also in this respect the requirement of reciprocity plays an important role.

Such a network could be realised in a form of an Association as the individual activities should be coordinated (the lack of coordination is now felt heavily): various activities are overlapping. The network should also clearly define the persons and topics on which it intends to concentrate. Most probably, the persons included by the network should be specialists. The question remains how to involve the practitioners.

With this aspect, the question of a membership to such an association is closely connected. A website could be launched for all those interested persons but the personal data of the members should be closed, the access to the personal dates should be limited only to the members. As regards the membership in general, both institutions and individuals could participate in the network. Geographically, all EU Member States should participate in the network and in every state there should be contact persons.

Questions were also raised about the financing of the network and its operating, unfortunately, Czech Universities have neither financial resources nor capacity to support such an association.

The discussion has been relatively rich and stimulating but some participants at the same time have expressed their doubts about practical output of such a network under existing conditions. The discussion continued informally after the closing of the meeting, an initiative to create a publicly

accessible information portal for European PIL in Czech language for Czech addressees already appeared.

Prague, October 2005

Monika Pauknerova