



SEMINAR: “Quality and effectiveness in the organization of the judicial system in Council of Europe countries. The contribution of rechtspflegers/greffiers/court clerks”

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Mr Chairman, honourable Judges, dear colleagues, ladies and gentlemen,

first of all, let me thank our Rumanian colleagues for organizing this Seminar in Bucharest, pursuant to our request, to celebrate together the recent accession of Rumania into the European Union. We are fully aware of the difficulties they had to overcome in order to succeed in organizing this event, and we shall be glad to support their application to become part of E.U.R. during the next Congress in Stockholm.

I would like to open the works of this seminar by proposing three topics to be discussed: two of them are inspired by the Italian social context and, in my opinion, can offer a special key to interpret the “Justice system” and be the basis for a more effective Justice.

The first topic can be introduced by quoting a phrase pronounced some time ago by one of the organisers of the Peace March that takes place every year in Assisi: “There is no peace without justice”. This might sound like a truism but, in the current historical context, in which the judicial authorities are the object of uncounted diatribes, it might be interesting to observe that Justice is not an optional, nor is it something that can be outsourced or to be evaluated in exclusively economic terms!!

We are speaking, of course, of human justice, of that framework of rules that allow people to live in a democracy; a justice that, being human, can make mistakes, be amended and reformed, but that is always essential for the functioning of society.

Indeed, it is quite significant that, in this period that sees a delegitimisation of the judiciary, judges are asked to decide on the most varied topics: from sports, to finance, to tenders, to public examinations.

The glorification of the free market and the exasperation of competition with the sole intent of gaining a profit, indeed, lead to a violation of the rules and thus to a massive recourse to the judiciary by those who feel they have been unjustly excluded or wrongly perceived.

Therefore, we, the judiciary operators, must help the institution we work for and believe in regain its proper role.

Of course, such a role is not guaranteed by law; it cannot be awarded by the European institutions. In order to regain our credibility, we need to interact with users, citizens, with those who are daily visitors in our Courts. These are the people that must consider us useful and, more than this, even necessary, and these are the people we need to justify our existence to. An effective and people-oriented justice can thus become an instrument to promote social peace.

My second topic shall be “Ferrari”. In an article published some time ago in a magazine, on the prestigious Italian car maker, I read some things that I would like to summarise here briefly: “... honest words. They summarise the respect and consideration shown by Ferrari to its workers. In order to win on the Formula One racecourse and in the global market, Michael and Rubens are not enough, we also need Stefania and Massimo, Ermanno and Luca, Carlo, Marco and Giovanna: that is, technicians, operators, designers, robot operators, skilled technicians with several years’ experience and young apprentices. The success of the Maranello team starts with them. From the great driver to the top manager, from the engineer to the errand-boy, everybody is busy with the performance of grand prix that are not less important, only less well-known, than those of Monza, Interlagos and Hockenheim: they strive to improve engines, calibrate machinery, paint the chassis to perfection, design streamlined profiles, cut and sew the

leather for the seats and upholstery. These are difficult competitions, as the finishing line is constantly being moved onwards. In the endless run towards innovation and the search for excellence. In this special competition, product quality is based on work quality. This is an inseparable pair. That exists only if a context is created where everybody gives their all...". (taken from Ventiquattro, magazine of IISole24ore - December 2004).

This is a way of working that is quite difficult to find in our Courts. In Italy, a research on the organisation of the judiciary, carried out by Prof. Stefano Zan of the University of Bologna showed how a "trial" is an event that is not "supervised" by anybody, even though the judge, the clerk and the bailiff each absolve their tasks perfectly often there is no awareness or recognition that all these professional are working towards a common goal: answer the justice requirements of the citizens.

And, finally, as Chairman of E.U.R., I would like to speak to you about Europe.

It is not easy to speak of Europe today. Indeed, it cannot be denied that the results of the referendum for the adoption of the European Constitution in France and the Netherlands show a clear unease on the part of the Citizens of the Union.

I believe that this result is not a criticism towards the contents of the European Constitution as such, but a clear request by the citizens for the Institutions to go from a bureaucratic view of the Union to a true Citizens' Europe.

In order to create a Citizens' Europe, the essential thing is not to determine, through detailed regulations, how big fish may be or how strong the wine, and the adoption of the Euro is not enough either, indeed, it is often considered a cause of the current economic instability.

I believe that, in order to create a Citizens' Europe, it is necessary to give new impulse to judicial co-operation, both in civil and in criminal matters, between the countries of the Union; In some Countries, and not only in Italy, the image of the judiciary is tarnished and public opinion considers it a useless burden, not an essential basis for human society.

In order to co-operate it is necessary, first of all, to know each other; it is necessary to overcome the distrust that each of us feels towards the judicial system of our

neighbours, it is also necessary to find, as soon as possible, the common fundamental principles upon which to build a true European Justice.

So, the natural conclusion of all this is, in my opinion, that the “European Court Clerk”, as it was defined in Spain, in the 1995 E.U.R. Congress, is an essential figure. Today, after twelve years, that model is still viable.

It would therefore be appropriate to wonder what will the professional figure of judges, Rechtspfleger, courts clerks and bailiffs be in the next few years and in this new, enlarged social context. Maybe it would be better if the individual Countries took into account the need, for the European citizen, to deal with a judiciary that, if cannot be uniform, is at least organised on the basis of common principles.

This is therefore, in my opinion, the path that judges, court clerks and attorneys shall have to follow together,

A common project, to be developed using the tools made available by the Committee for the effectiveness of justice and to be disseminated throughout our judicial structures: this is our goal, so that our function shall increasingly acquire the weight it deserves, and so that the European citizens shall regain their faith in the work of the courts.

Thank you for your attention.