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Civil Justice between Efficiency and Quality: From Ius Commune to the CEPEJ

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FOREWORD

As Vice President of the European Commission for the Efficiency of Justice (CEPEJ) I was very pleased and honoured to be invited to participate in the 2007 Public and Private Justice event in Dubrovnik. It was particularly exciting to see that the contribution of the CEPEJ as an instrument for reform in the field of justice across Europe was the focus of the event.

The papers that make up this publication, when presented in Dubrovnik, stimulated some very thought-provoking debate and I believe this was due to a number of factors deliberately created by the principal course directors, Alan Uzelac and Remco van Rhee. The participants, although all from the field of justice, were from diverse backgrounds including academics, judges, court administrators, lawyers and students, and demonstrated that they shared one common aim; to improve access to and the quality of justice while drawn together to share experiences and learn from one another.

It would be impossible to avoid mentioning some of the authors of this publication; this in no way undervalues the contributions of those I will not mention. First I must mention an exceptional servant of the CEPEJ, Pim Albers; he provided details of the evaluation exercise organised and published by the CEPEJ. This evaluation is probably the single most important publication evaluating judicial systems across Europe and has become a model for other parts of the world. Anyone intent on conducting research into judicial systems will find Pim's work an essential point of reference.

The contribution by Alan Uzelac on the vexed issue of the judiciary and time management is a subject dear to my heart as I share Alan's opinion that proactive case management by the judiciary is one of the most important factors in creating effective time frames and eliminating unnecessary delay from judicial proceedings. Alan and I have spent the last few years working together, first on the CEPEJ Task Force on effective timeframes and more recently as part of the Saturn Centre where the Time Management Checklist and the Compendium of Best Practices were produced.

It was the use of this checklist in the Commercial Court of Zagreb that illustrated the value of the CEPEJ in producing practical tools for judicial systems to utilise. The experiences of Jonathan Radway in his work to improve the court's case

progression demonstrated this to good effect. He has clearly shown what can be achieved in the way of reducing delay by introducing sound management practices in the conduct of litigation.

In these current times, no event would be complete without a debate on the merits and developments in ADR. Here you will find an insight into the direction that ADR is taking across Europe and identifies some of the benefits to be obtained from avoiding determination of the dispute by the court. The differing features of court- and non-court-based ADR are revealed in a number of contributions. Also, the work of the CEPEJ in producing guidance in this area indicates to states what is achievable. It indirectly goes a long way to show the value of the CEPEJ as a commission of national experts, which is not subject to any national agenda. The European Community, in contrast, has invested a lot of time and effort in developing the Mediation Directive and the end result falls far short of what the CEPEJ believes is achievable. This is not a criticism of the EC, but merely that the freedom the CEPEJ has allowed them to identify what is possible and what should be aimed for, and recognises that states would have to work with differing timetables to achieve this, and that this freedom is a luxury not possible when working within the EC.

J. Stacey
Vice President of the European Commission for the Efficiency of Justice

London, March 2008

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