

**Support of the Republic of Serbia to the initiative of the Republic of Slovenia
related to accession of West Balkan Countries to Lugano Convention and other
regional initiatives**

At the regional Ministerial Conference held on 15.04.2011, in Brdo near Kranj, in Slovenia, at the Third Panel “Other regional initiatives for closer co-operation”, the Republic of Slovenia has made an initiative that the countries of West Balkan region should consider the possibility of joint accession to Lugano Convention, i.e. to make the regional convention that would adopt principles and instruments of Lugano Convention (**The Lugano Convention on Jurisdiction and Recognition and Enforcement of Judgments in Civil and Commercial Matters from 1988, amended in 2007, and entered into effect on 1st January 2010**).

Regarding the mentioned initiative, but also with the central topic of the Ministerial Conference, we consider that for successful struggle against organized crime and generally as well, judicial cooperation in area of civil and commercial law is very important, as well as successful development of this area of law.

Organized crime is using all weaknesses of legal system of certain countries, in order to achieve its objectives. The money gained by crime is changing its form very quickly and enters into legal transactions through civil legal activities, especially in area of trade of real estates, investing in construction of buildings, banking operations etc. Differences in legal systems related to efficiency of judicial system and judicial cooperation in civil and commercial matters, in area of private international law, and especially in area of recognition and enforcement of foreign judgments may suit to criminal activities but also to alienation of property gained by crime from the justice.

Therefore, but in general as well, it is important that the standards applied in EU, related to judicial cooperation in area of civil and commercial right, get closer to countries in the region through its soon application.

By Treaty of Amsterdam from 10th November 1997, judicial cooperation in civil and commercial matters was moved to so called first pillar of European Union, which has enabled issuing of regulations that have supranational character and that directly oblige legal persons to which they refer to, without mediation of national legislations.

Regarding the recognition and enforcement of foreign judgments in area of civil and commercial right, the initiative of the Republic of Slovenia is useful for the Republic of Serbia and Ministry of Justice, because we consider that it would be very useful for the region to accept principles and instruments of Lugano Convention. We consider that it is easy to recognize interests of countries in the region, because it would mean application of this convention in the future united judicial area of the region, where judgments in area of civil and commercial law would be mutually and almost automatically recognized (in the final outcome together with EU countries, the judicial area for application of the convention could include more than 30 states of Europe).

Efficiency of national judgments abroad – at broad European area – is in interest of all citizens in the region and EU who are having business, investing, trading and traveling. Implementation of Lugano Convention would have strong effect on

economy relations, since it would contribute to improvement and better realization of the Agreement of CEFTA countries (Central European Free Trade Agreement), acceded by the majority of countries in the region.

Adoption of principles and instruments of Lugano Convention would replace application of modest number (about 10) of concluded bilateral contracts and agreements on recognition and enforcement of judgments in the region, many of them concluded more than 20 years ago.

For the countries expecting the status of candidate, but also for countries of the region which already got the candidate status (and for those which are very close to EU) this would be very useful, since by entering in EU those countries would be anyway in obligation to apply Lugano Convention. If they would start with implementation in the region earlier, then until they enter into EU, this area of application of this convention would be broader for them, since it would be related to area of EU but also area of west Balkan region (south east Europe). Therefore the soonest beginning of application of Lugano Convention in the region is in direct interest of member states of EU.

Therefore, we consider that initially both options for achievement of that objective should be simultaneously accepted:

1. joint accession of countries of the region to Lugano Convention, or
2. preparation of regional convention that would implement principles and instruments of Lugano Convention,

and in time we shall be in position to make the final choice, depending on development of circumstances in the region, level of improvement of mutual confidence in judicial systems in the region and on attitude of European Commission regarding this issue.

Starting from the same reasons and interests, we support the second initiative as well, related to joint work by the same model (regional Lugano Convention), on preparation of **regional convention on mutual legal assistance**, that would be related to presentation of evidences, access to courts and delivery of judicial and extrajudicial documents abroad, to information on foreign law in civil and commercial matters based on principles from the existing documents *acquis communautaire*.

Ministry of Justice of the Republic of Serbia has already established the working team for preparation of rough draft of the text of regional convention related to presentation of evidences, access to courts and service of judicial and extrajudicial documents abroad that will include principles from the **Regulation No 1393/2007 of the European Parliament and Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters**, as well as from **Regulation of the EU Council No 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters**, and it will inform you soon about the results of its work.

Apart from this, establishing of the Regional judicial network and Regional judicial map (in imitation of **Decision on establishing a European Judicial Network in civil and commercial matters, No 470/2001**,

Regional Enforcement Order for uncontested claims, in imitation of European Parliament and Council Regulation No 805/2004 on creating of Enforcement Order for uncontested claims,

Regional Order for Payment Procedure, **in imitation of European Parliament and Council Regulation No 1896/2006 on creating of European Order for Payment Procedure**, affirmation and promotion of various forms of expert cooperation in the region and implementation of uniform technologies and joint developing of certain software, we also propose as topics that might create other regional initiatives for consideration at future joint gatherings in the region.

Each form of promotion of judicial and legal cooperation in the region and in this area will be useful to all countries of the region and its citizens and in that way it will accelerate process of integration and bring them closer to EU.

The Republic of Serbia will try to be open and cooperative to all initiatives that have interest for countries in the region and their citizens.

Minister of Justice
Snezana Malovic

Belgrade, April 2011

END OF TRANSLATION

Belgrade, 04.05.2011.
Doc.No.383/11

I CERTIFY HEREWITH, that the above document is a true translation of the original which was submitted to me in Serbian language.

PREDRAG MOMIROVIĆ
Sworn Court Interpreter for English and Arabic
Ilije Garasanina 7a, 11000 Belgrade

Appointed by the Decision of the Minister of Justice of Republic of Serbia, No. 740-06-298/2003-04