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Shaping Expertise across European Justice Systems

EGLE Plenary Conference – Rome – 29 May 2015 Italian Court of Cassation

Address by Jean Raymond Lemaire, President of the EEEI

The EEEI, European Expertise and Expert Institute is 10 years old.

The reason we chose the name «Institute» for our organisation was precisely to mark its position as a «research centre» which would be independent at the European level, and to distinguish it from any activity aiming to promote private or group interests: its mission is to promote legal security and efficiency of expertise for all Europeans who are subject to the jurisdiction of the courts.

It is already 10 years since the idea emerged in 2005. Its statutes were filed a year later, in October 2006, and since then it has undergone controlled but constant development and achieved an important initial success in the form of a large European project, «EUREXPERTISE», concluded by the Brussels conference in March 2012. This first success formed the basis of the second large project co-financed with CE and EGLE, and of which the conference now ending is the penultimate stage.

The Institute's objectives thus fit perfectly with that construction of Europe which my generation, although perhaps not its initiators, were most certainly among its prime movers and its first beneficiaries.

- What a pleasure, what a joy and how proud I have been to take part in the working meetings that have enabled the EGLE project to take shape – to hear the differences in analysis and culture and to see that these are accepted with respect and esteem by others. The simplicity of the exchanges within groups that are very mixed in terms of their activity and nationality is proof of the common desire to help establish a justice of quality in Europe – and this has, since its creation, been the most fundamental asset in the Institute's success.
- This project is the recognition of the importance of legal expertise in numerous disputes; it is recognition of the expert's contribution to resolving many of these disputes; and it is recognition of the «honest man» (and to satisfy Madame le Bâtonnier Féral-Schuhl, the «honest woman» too) in the person of the legal expert, who is there to serve his neighbours and the work of Justice.

Expertise is not and cannot nowadays be a profession since disciplines and practices are so diverse and far-removed one from another. Expertise is therefore an activity, and most often an occasional one.

What do the expert architect and the expert on bells have in common? Or the doctor and the financier? The jurist and the environmental specialist? It would appear there is nothing if not that one essential thing, the desire to put their knowledge, completely independently,

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at the service of the Judge and of their neighbour or neighbours, in order to play a part in achieving Justice, the foundation of all democracy.

Ten years ago, a few people, who were quickly joined by many others, decided to disregard the differences between the legal systems in European countries and, as regards the expertise contributing to judicial proceedings:

- to increase confidence in the way expertise operates in other countries than one's own;
- to increase the quality of the way expertise operates in all countries, particularly those of the European Union;
- to seek for excellence in the operation of expertise.

It was a dream, a challenge – but ten years later we now know that it is only a question of time, of months, or years ... It has become possible, probable – if not inevitable.

The EGLE Project, European Guide for Legal Expertise.

The idea, which emerged clearly from the EUREXPERTISE project, was to construct a consensual framework of expert practices for civil justice in the European Union (framework demanded/imposed by DG Justice).

The expected outcome was to be a guide to good practice, even an official report with recommendations as regards legal expertise and experts; without prejudice or discrimination, completely open-minded and free of any political process, with the aim of finding common ground.

To this end, it was decided to organise a consensus conference; this method is regularly used in the medical world, and the title explains its basis, which is namely to seek a consensus.

It forms a unique opportunity, in which the contribution of each and every individual is important for furthering the collective endeavour.

In order to bring this about, the Institute was inspired by two experiences.

- A consensus conference organised by the French Court of Cassation in 2006, whose purpose was, for the judiciary involved, to identify good practice in appointing experts, proposing expertise assignments and monitoring the progress of expertise in operation. This consensus conference was led by Alain Nuée, who is now one of the principal leaders of the EGLE project.
- A second consensus conference, organised in 2010 by the CNEJ (Conseil National des experts judiciaires belges) [National Council of Belgian Legal Experts] in Malines, on the theme of the expert's status in Belgium, and this was in the context of the EUREXPERTISE project.

The EGLE project, prior to today's conference, has involved:

- 15 months of work to date;
- 60 people (judiciary, lawyers, experts and academics) engaged in the work preceding this meeting;
- dozens of meetings organised in various large European cities: Milan, Barcelona, Gand, Brussels, Paris, Delphi, Cologne, Utrecht ...
- a study group for harmonising texts;
- setting up a Jury of more than ten European personalities;
- ...



- The Rome plenary conference:
 - over 150 participants;
 - participants from more than 22 countries;
 - 12 Supreme Courts represented;
 - an expectation, some recommendations; a summing up.
- A guide to good practice.

This will be drafted by the Jury after all the work done by the working groups has been analysed and summarised and discussions have taken place with you all throughout today.

It is essential for this Guide to be disseminated as widely as possible and the Institute is counting on you to assist in this task either by offering distribution lists or by taking charge of this distribution yourselves. «We have something to share». «We need you to disseminate the result of your work».

The EEEI will contact you over the coming weeks in order to do this.

The guide will of course be widely publicised by means of the Institute's website, through the journal Experts and through all our members and contacts, but we must make sure we gain as wide an audience as possible.

We will also disseminate it to the various European authorities:

- the Supreme Courts;
- the Bars;
- the Associations of experts ;
- the European Commission;
- the e-justice Group of the European Union;
- the European Parliament;
- the Council of Europe, the CEPEJ;
- the OECD;
- the World Bank;
- ...

2. It is essential to give deep thought to the means of implementing this good practice. This reflection will vary in accordance with the main lines of thinking you have been working on today.
 - A European list, national and regional lists of experts.
 - Control and monitoring of expertise in operation.
 - The independence of experts.
 - Training of experts as regards procedure, evolvement of their occupations.
 - A structuring of experts, the creation of representative associations.

The EGLE project will end on 31/12/2015, and the Institute will carry on its work. The task is immense due to the sheer numbers of projects.

The EEEI projects.

- Criminal expertise.
- The training of experts.
- Exchanges between European experts, financing of research work, facilitating contacts.



The future of the EEEI.

- A more substantial and durable financial base.
- Regular development. About fifty institutions are now EEEI members. We need to double this number rapidly.
- A permanent exchange forum.
- A skills matrix, by profession/activity and by country.

Thanks

On behalf of the Institute, I would like to thank the First President of the Italian Court of Cassation, Giorgio Santacroce, who agreed to host the work of the EEEI, in particular the plenary conference organised today in the context of the consensus conference of the EGLE project.

This is a concrete demonstration of his interest in our work, by which we are extremely touched. It is also an expression of his great loyalty; Mr Santacroce, in his role as First President of the Rome Court of Appeal, became a member of the EEEI in 2011.

My very warm thanks also go to Mr Pasquale Ciccolo, Principal Legal Adviser to the Court of Cassation, for his welcome and encouragement.

Others whom I would like to include in my thanks are:

- the staff of the Court of Cassation,
- all the volunteers who have worked on the project and those who, by their permanent contributions, enable the EEEI to move forward day by day,
- and most particularly, the team that has been the mainspring of this conference, creating the excellent conditions in which the project has been able to take place.

I also want to mention our Italian partners, who are very well represented here today

- the Venice Court of Appeal;
- the Venice bar;
- the Brescia Court of Appeal;
- the Rome Court of Appeal;
- the Milan Court of Appeal;
- the Palermo Court of Appeal, which we hope to welcome as a member soon;
- the Rome order of lawyers, whose President has just spoken and to whom I suggested, in your hearing, that they become a member of the EEEI.

Finally, I must emphasise the great interest shown by the supreme courts of several countries in improving the quality of expertise in the European justice system; and also the confidence placed in us over the past few years by the European Commission through the Directorate-General for Justice, which has supported our projects. The Institute expresses its very sincere thanks to all of them.

Thank you.