



## ***Strong Justice for a Strong Europe: A European Rechtspfleger***

**By Thomas Kappl, Guest Editorial**

As the nations of Europe have increased their international relationships with each other in banking and monetary affairs, immigration, and transportation, Europe has developed many laudable efficiencies. There is one area, however, in which Europeans continue to suffer disconnection: Obtaining justice in uncontested legal matters that cross national borders. In this regard, Europe has become difficult. Europe needs a strong push toward a unified solution. The solution must be transparent, accessible to the average citizen, and responsive to the needs of that citizen's daily life. Europe needs strong, independent court officers with jurisdiction to handle cross-border criminal and civil judgment enforcement and uncontested legal matters. It needs European Rechtspflegers.

In the United States and many other countries, the Rechtspfleger might be unfamiliar. One might analogize the Rechtspfleger to a senior court officer who in some European countries replaces the judge in limited areas of the law, but with wide ranging functions. For example, in the area of family law, the Rechtspfleger might appoint legal guardians, acknowledge paternity, grant marriage licenses, and approve adoptions. In the area of civil law, he might handle probate matters, formally establish business associations, grant professional licenses, and award citizenship. In criminal matters, he might also be responsible for enforcing prison sentences and court restitution orders. Other uncontested matters that a Rechtspfleger might have authority over include mortgage payoffs, lien releases, assessments of attorney fees and costs, and voter registration.

In the European context, imagine a Spanish citizen wishing to establish a trading company in Sweden to help corporations to develop overseas markets. Imagine as well an Austrian retiree purchasing his retirement home in Sicily. Further, imagine a French citizen inheriting real estate in Romania that she wishes to decline. Navigating the laws from one European country to another to accomplish these uncontested needs, often proves to be complicated, time consuming and expensive. These citizens should be able to "Live Europe" by invoking the European Rechtspfleger in their own hometowns to expertly resolve these legal matters efficiently and swiftly. The European Rechtspfleger in Spain might register the trading company in a European commercial register; or in Austria, register title to the retirement home in a European land register; or in France, file appropriate papers to decline inherited property abroad.

During my term as President of the European Union of Rechtspfleger (EUR), the EUR issued a Green Paper for a European Rechtspfleger to initiate discussion among the Justice Ministries of 17 European countries, including Austria, Belgium, Croatia, Denmark, Estonia, Finland, France, Germany, Italy, Luxembourg, Netherlands, Norway, Portugal, Romania, Slovenia, Spain and Sweden; and two non-European countries, Japan and South Korea. The European Rechtspfleger proposal has been discussed by many in the legal profession, including the European Commission for Efficiency of Justice (CEPEJ) at the Council of Europe in Strasbourg, France. CEPEJ included the discussion of a European Rechtspfleger in its report, "European Judicial Systems – 2014 Edition." The EUR has warned that due to the financial and economic crisis now challenging Europe, courts are facing burgeoning backlogs relating to unresolved payment orders, forced sales, and mounting numbers of insolvency proceedings.

The EUR supports the European Union's efforts to harmonize laws and procedures in civil, criminal, and uncontested matters, including providing for European inheritance certificates, a European commercial registry, and a European land registry. Accordingly, the time to "Live Europe" is now.

The current EUR President, selected in 2013, is a colleague of mine from France, Mr. Jean-Jacques Kuster. He presented the EUR Green Paper to the Legal Committee of the European Parliament for discussion. Although the EUR Green Paper is still the basis of public and professional debate, the next step is to draft an EUR White Paper with concrete proposals for the creation of a Rechtspfleger for Europe.

