REPORT

ON PARTICIPATION OF THE NIJ TEAM AT THE THEMIS COMPETION

9-12 JUNE 2015

Rule of Law Institutional Strengthening Program (ROLISP)

USAID Contract No. AID-117-C-12-00002

Prepared by: Luciana Iabangi
Activity Office: USAID/Moldova
COR: Ina Pislaru
14 July 2015

Checchi & Company Consulting, Inc., 27 Armenesca Street, Chisinau, Moldova

Contents

1. INTRODUCTION

The National Institute of Magistracy of Romania (NIM), in cooperation with the Portuguese Judicial Studies Centre (CEJ) and with the support of the Lisbon Network and the European Judicial Training Network (EJTN) has organized the third edition of THEMIS Competition, an international event for trainees of all European magistracy training institutions and schools.

The THEMIS Competition is an event sponsored by the European Judicial Training Network (EJTN). EJTN is the principal platform and promoter for the training and exchange of knowledge of the European judiciary.

NIJ sent a team of 3 trainees from the initial training course and 1 trainer to participate in the Semi-Final C: International Judicial Cooperation in Civil Matters – European Civil procedure that was held at the Parquet Général du Grand-Duché de Luxembourg in Luxembourg from 9 to 12 June, 2015.

The Jury assessed participant's performance according to: a) the quality of the written paper and oral presentation; b) originality; c) reference to the relevant case law of the European Court of Justice and European Court of Human Rights: d) in-depth analysis of the latest European debates on both ethics and EC Law and e) anticipation of future solutions.

The THEMIS Competition comprises five different stages: four semi-finals and a Grand Final. Each semi-final allows a maximum of 11 teams to compete with the winners and runners-up with each one of them competing at the Grand Final.

2. REPORT OF THE NIJ TRAINEE ALEXANDRU MARDARI REGARDING THE PARTICIPATION IN THE THEMIS 2015 CONTEST

During the period 9 – 12 June 2015, the undersigned, has participated in the composition of the RM National Institute Justice in the THEMIS contest, semi-finals C on „International judicial cooperation in civil matters – European civil procedure", which took place in Luxemburg General Prosecutor's Office. The contest organized by EJTN represents an international event for the trainees of all the magistrate schools from Europe and aims to train and exchange knowledge in the area of the European judicial system for the future magistrates, as well as to take over the good practices of the European legal system.

European Judicial Training Network, (EJTN) is the main driver for training and exchanging knowledge in the European judicial system. Being established in 2000, the network focuses on EU law, criminal law, civil law and commercial law. The goal of the EJTN is to help in promoting European common judicial culture. EJTN develops training standards and curricula, coordinates judicial training programs, disseminates training experience and promotes cooperation between the EU institutions of legal training.

Teams from 10 European states were present in the semifinals C: Italy, France, Germany, Republic of Moldova, Greece, Belgium, Bulgaria, Hungary, Czech Republic, and Spain.

As a result of the participation in this contest, I had the chance to get familiarized with the current problems in the civil procedure at the community level, with solutions identified at the national level in every participating state, as well as with the proposals and recommendations made by the future magistrates for avoiding some practical difficulties.

As well I got acquainted with the visions of the colleagues from the EU member states regarding the applicability of some legal principles and institutions in the national judicial system and the positive influence of unifying the legal norms at the European level on the internal law of the member states.

I had the occasion to set a fructuous communication with all the participants attending the event, as well as with Jeannot Nies, Member of the Jury and General Attorney of the General Prosecutor's Office from Luxemburg, who provided an ample presentation of the judicial system from Luxemburg and a critical vision on some problems existing in the judicial system This communication was very important also from the viewpoint that Luxemburg is a founding state of the European Union, with deep democratic traditions at the level of state institutions and legislation.

The members of the other teams succeeded to raise my interest for the problems related to the European Union law, based on the topics that they tackled. I would like to mention, for instance, the report of the French team which has analyzed the problem of evidence in the civil process and acceptance of different evidence means at the national level, as well as the communitarian regulations in the area. The presentation of the team coming from the Czech Republic tackled the competence of the courts in case of litigations involving consumers from the different states of the European Union. The team from Bulgaria treated a topic similar to that of the Republic of Moldova in the area of recognition of arbitrary decisions, and the conclusions formulated by the Bulgarian team were actually reconfirmed by the Moldovan team in the session of questions and answers. The topic of the winning team – Italy – was of special interest for me, as it tackled some problems from the Italian judicial system which are similar to those existing in the judicial system of the Republic of Moldova, and namely the non-observance of reasonable terms for examining cases.

The colleagues from other countries were very interested in the Republic of Moldova and its judicial system, as well as in Moldovan perspectives to join the EU. The topic tackled by the Moldovan team "Exequatur procedure of foreign arbitral awards in the territory of the Republic of Moldova. Risks and Remedies" raised a lot of questions not only from the jury, but also from the other teams, who have overwhelmed us with questions after presenting the report.

The opportunity of the topic and the quality of the presentation were appreciated with the special award from the jury for „Encouraging the understanding of the European values and establishing closer relations between the Republic of Moldova and European Union."

Last but not least, I would like to mention the details provided by the jury members after announcing the results, which showed that we have been evaluated at the highest level by the other participating teams as well, based on the anonymous questionnaire filled in by all the members of all teams. Moreover, the short video clip showed at the opening of our presentation was a surprise for all, and the jury members were delighted to see this additional effort from the team for facilitating the understanding the topic of the report.

We highly admire the effort undertaken by the administration of the NIJ led by Mrs. Director Diana Scobioală to ensure the participation in this year edition of THEMIS contest. The scientific-practical support provided by Mrs. Elena Belei was also highly appreciated due to the topicality of the chosen theme and critical and objective approach to the problems revealed in the report.

Mrs. Luciana Iabangi, the trainer of the team, spent a lot of hours to refine the verbal presentation of the NIJ team and engage the cooperation spirit among the team members, and this had the most important role for ensuring the exact conveying of the message from the written report and winning the sympathy of the jury and other participants. She provided the last corrections for team's oral presentation before the big event and shared with the NIJ trainees the nice experience of participation in this contest.

And last, but not least, I would like to thank the USAID ROLISP Program for making it possible for the NIJ team to participate in this year edition of the THEMIS contest by providing the necessary support for the trip and participation.

I really consider that the experience from this year of the NIJ team will serve as an example for the future generations of trainees to foster them to come up with excellent performance during their studies and to accumulate knowledge to be used in future and which would allow them participating in international contests and competitions.

I will surely use the accumulated experience to share it with other trainees of the NIJ and to encourage the future trainees to participate in different international competitions. As well I will pay special attention to professional development and training in the area of European Union Law which will become a real legal tool for all the practitioners in the law area, as soon as the Association Agreement signed with European Union will start being implemented.

NIJ Trainee
Alexandru MARDARI

3. REPORT OF VICTORIA SANDUTA ON PARTICIPATION OF THE NIJ TEAM IN THE THEMIS CONTEST

Republic of Moldova has participated in the international competition of the European Magistracy School THEMIS, which was held in Luxemburg. The event was organized by the National Institute of Magistracy from Romania (NIM), in collaboration with the Portuguese Center for Magistrates' Studies (CEJ), with the support of the Network of Judicial Professionals from Lisbon and the European Judicial Training Network (EJTN).

The THEMIS contest aims to train and to exchange knowledge in the area of the European judicial system for the future magistrates, as well as to help them to take over the good practices of the European Legal System.

The National Institute of Justice from Moldova (NIJ) has delegated a team of 3 participants to take part in the category on "*Civil International Cooperation in European Civil Procedure Matters"*. NIJ has delegated: Victoria Sanduța, candidate for judge position, Livia Mitrofan, candidate for judge position, and Alexandru Mardari, candidate for judge position. Our team has participated with the following topic "***Exequatur procedure*** **of foreign arbitral awards in the territory of the Republic of Moldova. RISKS and REMEDIES".**

Our presentation had 4 parts and lasted for 90 minutes. In the first part we have presented a 2-minutes animated movie, which was created specially based on our report with NIJ support; the second part included the verbal presentation from the members of our team, lasting for 28 minutes; the third round included our answers to the questions from Belgium team, selected from the participating teams according to the contest regulation, lasting for 15 minutes; and the last stage covered a 45-minutes discussion with the jury members related to our presentation.

By the end, as a result of a considerable effort, we succeeded to convince the jury that the future judges from the Republic of Moldova, the trainees of the National Institute of Justice, do understand the European values, study the European law and the case-law of the European Union Court of Justice and European Court of Human Rights, for the purpose of developing closer relationships with the European Union. The Moldovan team got the special award from the jury for "**Encouraging the understanding of European values and for setting closer relationships between the Republic of Moldova and European Union".** In his final speech, the chair of the jury, the General Attorney of the General Prosecutor's Office from Luxemburg, Jeannot Nies, has mentioned that he really appreciates the courage of the young judges from the Republic of Moldova to tackle the problems and to suggest solutions, which are in line with the European values. And last but not least, we were appreciated for the quality and originality of the presentation, and this made us to be proud of our performance during the contest of European Magistracy Schools, nevertheless being aware of the fact that there is always room for improvement. The most important appreciation was the one from our colleagues, the future magistrates from Europe, who manifested interest for the judicial system from the Republic of Moldova, and who applauded us sincerely when we finished out presentation, as well as when the jury awarded us the diploma. Hence, the most important aspect of this contest is actually the communication with other judges from the

entire Europe, the share of experience among us, as well as the exchange of opinions regarding the possible solutions for the different problems. As a result of this contest, we have exchanged contact data with our colleagues and we have set up a joint network in which we still are active. This communication represents for us the most valuable award that has been obtained during the Themis 2015 contest. 068042977

The contest from this year has included in the Semifinal C teams from 10 European states including Republic of Moldova.

Italy, I AWARD, has participated in the contest with a presentation on "Deactivating the Italian Torpedo". The Italian team tackled the most valuable solutions to avoid the Italian judicial procedures, the so-called "Italian Torpedo", which many times are "launched" by the Italian courts, in parallel with the court procedures from the other states. The assurance of the rapid recognition and execution of court decisions in the European justice system is the goal of cooperation in the European civil and commercial matters. The parallel court procedures between the same parties in different member states could actually undermine this objective, creating risks for emergence of some contradictory decisions. The Italian team came up with a critical analysis of its own legal system, pointing out the problems at the national and European levels in the respective area, but also suggesting solutions. According to the research of the Italian team the threat of parallel procedures was confronted at the EU level by adopting the "primus forum" rules in case of *lis pendens.*

The Italian team also concluded that the rigid and autonomous mechanism of *lis pendens* adopted in the EU justice space could be abused by the party which wishes to delay the decision of the competent court and notifies the court of another member state. Hence, in the case of civil procedures, this part will slow down the process, until obtaining the statement of incompetence from the notified court.

The regulation of a deadline for preliminary and rapid examination of the jurisdictional problem and determination of the competent court, together with consolidation of communication and cooperation between the two courts involved in the parallel judicial procedures, may be the correct way of solving the problem, going thus beyond the recent and partial solutions developed in the Brussels Regulation I RECAST No. 1215/2012, in force on the EU territory since 10.01.2015.

France, II AWARD, has participated in the contest with a presentation on "*Idem Est Non Esse Et Non Probari:* a European Issue". The presentation of the French team was also qualitative and useful for us. From my point of view, the French team has brought to our attention an example of presentation which meets all the criteria set by the jury. The verbal presentation has included a theoretical and practical support, the case-lase of the ECtHR and EUJC. The team has developed an original presentation in Prezi. The message conveyed by the team members was very important, according to which – the nature and the proving value of the "evidence" ("judicial truth") are aspects which need an unified approach at the EU level.

Idem est non esse et non probari [1]is a Latin principle, which points out the fact that way in which a party is allowed to prove the accusations in front of the European judges determines the level of effective enforcement of the law in the European Union (EU). Hence, the admissibility of evidence ensures the observance of the right of access to justice in EU (article 17, CFREU), as well as other fundamental rights guaranteed by the ECHR. Thus, the system of evidence administration represents a significant criterion for the development level of a judicial system and a rule-of-law state. The European Union Court of Justice (EUCJ) tried to provide its own definition of the term "evidence", according to which: the essential function of the evidence is "to establish in a convincing way the merits of an argument". The research of the French colleagues revealed the fact that the admissibility of evidence and obtaining such evidence is important for the national judges, who are examining the trans-border litigations and applying the EU law, as well as for the community judges. The procedural regimes for examining the litigations between the EU member states are considerably divergent. Hence, the EUCJ has accepted the principle of national procedural autonomy. This principle sets forth a systematic reference to the national legislation, in relation to the admissibility and obtaining of evidence in the court procedure, with exceptions established in this matter.

Bulgaria, III AWARD, has participated with a presentation on: "*Anti-suit injunction*", which is aimed to protect the enforcement of the arbitrage clause on review of litigations, representing a remedy against the parallel procedures. The team presents the facts of Gazprom case. The Bulgarian presentation was very useful for us, as it has correlations with our topic "Recognition and execution of foreign arbitral decisions". We also have studied in detail Gazprom case during our research. In conclusion, the *anti-suit injunction* is a court order pronounced against a private party, so as to impede the initiation by the respective party of an action in another forum. If the party ignores the *anti-suit injunction* and continues the foreign action, it will be subject to sanctions for challenging the court order (which may be issued even by the national court). Sanctions may be very high and may vary from confiscation of assets up to imprisonment.

The Bulgarian team has discussed about the issuance of the *anti-suit injunction* by an arbitral tribunal. It seems that the arbiters also have the authority to issue *anti-suit injunctions* within certain premises, whenever it is necessary to protect the arbitral procedure. In this case, the arbitral tribunal will use the arbitral rules, such as the UNCITRAL rules, which provide the power to arbiters to issue interim measures, with effects similar to those of *anti-suit injunction*. The Bulgarian team research shows that the studied arbitral practice confirms the power of the arbiters to issue *anti-suit injunctions.*

In this context, the *anti-suit injunctions* issued by arbiters are considered to be orders provided to one party of the trial, which violates the arbitrage agreement. Hence, the party shall respect its contractual commitment, which has provided competence to the national arbitrage. The *anti-suit injunctions* raise certain problems and discussions. Unlike the English courts, the courts from the countries with continental civil law usually refuse to issue them. Thus, the common law courts as well as the continental law ones have different understanding and approach. This would be one of the questions I brought home and tried to find an answer for. The research of the Bulgarian team

[1] It is the same thing: to not exist and to not be proved.

has raised my interest and provided room for new explorations in the area of doctrine research in the Republic of Moldova.

Czech Republic came with a presentation on "Jurisdiction in litigations against consumers in the European Union". The presentation of the Czech Republic was very original, with elements of theatre performance, including alongside the text presentation three video clips, with the participation of an acting judge, who was simulating a trial. Actually, thanks to these video clips, the Czech team succeeded to get the special award of the jury for originality. Over the last years, the consumption right became a very important right and this legal area got very rapidly developed at the national and European levels. Consumers are protected via material and procedural norms. Thanks to the internal European market, the disputes with international elements became more frequent. Hence, already in 1968, the member states of the European Community have agreed upon the Brussels Convention on jurisdiction and the enforcement of judgments in civil and commercial matters (1968), which also contains provisions regulating the jurisdiction on consumers' contracts. In 2000, the European Council has adopted the Regulation (EC) No. 44/2001 (hereinafter referred to as Brussels I), which replaces the Brussels Convention. Presently the legal framework on jurisdiction over the consumption contracts is provided by the Convention Brussels I (EC) No. 1215/2012 (the so-called Recast) on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters. Taking into account the basic principles from the Brussels Convention and Brussels I Convention are alike, the interpretation of older provisions is also valid for Recast. Thus, the older decisions of the EUCJ are further on applicable. In spite of the Recast Regulation and development of the case-law of the EUCJ regarding this topic, there are still areas which remain to be speculative. The goal of the Czech team's presentation was to review critically the Czech legislation and European regulations from a practical point of view, to verify and to describe the existing difficulties, and to suggest functional solutions. The presentation was based on their professional experience, because the members of the Czech team have the status of internship judges and have participated in examining cases together with a coordinating judge. The presentation of the Czech colleagues has caught my attention due to the comprehensive revision of the problems related to prorogation of competence[2] in the litigations against the consumers of insurance services, as well as regarding the work contracts, the case when the deprived party should be also protected through norms related to competence.

Spain – has participated in the contest with a very instructive presentation for us, entitled **"**Agreements on selecting the Court based on the Regulation Brussels I RECAST." The presentation was well structures and very explicative, and this fact has determined the jury to provide to Spain the special award for clarity of presentation. In the numerous international commercial transactions, the parties use the agreements for selecting the forum, which are necessary to choose the court having the competence to solve any present or future litigation, which may emerge in their special judicial relation. As different tools at the European and international level regulate these clauses, the Spanish team has analyzed the different scenarios, from the perspective of a Spanish judge and a European judge, trying to provide practical guidelines for judges on how to act in different commercial litigations in which the clause for selecting the forum exists.

[2] Prolongation or extension of the competence of a court and over to some applications which usually, according to its normal mandate, it would not be able to settle.

Germany, has participate in the contest with the topic on: "European Civil Procedural Law: a model for potential candidate states from the Western Balkans Region". In this context, the presentation of the German team has raised some controversies among the listeners and juries, as they have come up with a more political proposals and not a civil procedure one. The team suggested to develop a new Western Balkans Convention, for the states from the former Yugoslavia, which would contain similar provisions like the ones from the Lugano Convention and Brussels I RECAST Convention, meaning a harmonization project for the civil procedure legislation for the Western Balkan states, pointing out in their presentation only the benefits of such a Convention, without showing as well the possible risks or problems, which may emerge when adopting such a Convention.

Belgium has participated this year with a presentation dedicated to a very interesting topic "*Revival of Phoenix? Revitalization of the London Convention".* The presentation of the Belgium team was just as creative as the tackled topic.


The London Convention is a natural result within a world in which the transnational trade and over-border trips became a usual thing. Ensuring for its rules not to be interpreted in a wrong manner by foreign courts, the London Convention provides a support framework for the European countries to protect their commercial interests. Hence, the London Convention is a "vehicle" for economic stability. The London Convention has unused potential. As it was discussed during the contest, this is not just the result of missing awareness, but also the result of the gaps in the procedure. I personally consider that a reviewed Convention may become an efficient tool. I also hope that the Council of Europe will initiate an evaluation in this area, which may lead to a revision of the Convention.

Hungary has participated in the contest with a presentation on "Understanding or Misunderstanding. Legal interpretation in the case-law of the European Union Court of Justice (EUCJ)". The team also came up with a very creative presentation as the game "Who wants to become a millionaire?" Hence, the team was divided in one presenter and two players, who were answering the presenter's questions. The verbal presentation covered 10 questions and each of the questions had four answering options. The presentation was accompanied by the sound background specific for these TV shows, which are well-known in the whole world. For more interactivity, the team has involved public's help, and this has created a surprise element. Taking into account the fact that one of the main characteristics of the legal language is its functioning with its own set of

concepts and terms, it is very important for this language to be defined coherently and precisely. A special judicial system is operating in the European Union, hence the legal notions should be interpreted autonomously and uniformly, as much as possible. In its presentation the team has examined some decisions, showed the judicial importance of interpreting the legal terms and the methods used to develop the exact definitions of the terms and concepts in the European Union. The team had a short introduction regarding the institutions of the European Union and regarding the concept of European Judicial Cooperation. Thus, different judicial methods for interpreting the legal norms were described in detail, especially the one regarding the comparison of the different linguistic versions of a legal text. The presentation was accompanied by examples from decisions issued by the EUCJ in different cases.

Greece participated in the contest with the topic: *"*Unifying the procedural law of the EU member states from the perspective of interpretation of the European procedural law". Greece talked about the teleological interpretation of the legal texts. The fundamental idea, included in the Brussels Convention in 1968, as well as in Brussels Regulation 44/2001 (except for Brussels I RECAST 1215/2012), as well as in the original legislative texts of the community states, refers to the principles of "standardizing " and "interpreting autonomously" of legal texts. According to this context, the terms found in the articles of the Brussels Regulation 44/2001 should not be interpreted independently. Thus the authors of the presentation pointed out that on one hand that the devising of a new autonomous norm does not involve a high level of difficulty, and on the other hand, the result of the interpretations provided within the member states may yield different outcomes, depending on the context of the national procedural norms with which they interact. In conclusion, the civil procedural norm should be understood depending on the correctly chosen method of judicial interpretation, as well as depending on the criteria to be applied in the specific case subject to examination.

Conclusions:
In general, we learned that the basis of the European civil procedure is the Brussels I Regulation, and the new Brussels I RECAST No. 1215/2012, which entered into force and started to be enforce since January 10, 2015 on the territory of the European Union. In reality, all the teams participating in the Themis 2015 contest in Semifinal C referred to the Brussels I RECAST Regulation, which is absolutely new for us and needs to be studies and implemented in the national legislation in the current context of RM integration in the EU.

The participation of the NIJ team was possible thanks to the logistical support of the USAID ROLISP Program, and we are very grateful for this. It was a remarkable and unique professional and life experience for us.

SANDUȚA VICTORIA

NIJ trainee, candidate for judge position

4. REPORT OF LIVIA MITROFAN ON THE THEMIS COMPETITION

I would like to mention that in the period from 7 June 2015 to 12 June 2015, together with Victoria Sanduța and Alexandru Mardari, I participated in the European THEMIS contest of Schools of Magistrates, in the semifinal C, dedicated to the cooperation in civil procedure and European civil procedure matters.

As part of the competition we conducted a study on the topic: **"The Exequatur of Foreign Arbitral Awards: Risks and Remedies."** The participation in the competition consisted in writing a paper and making a 30-minute verbal presentation, which included a PowerPoint presentation and a 2.30 minute film on the mentioned topic.

For our presentation the jury awarded to us a special prize for "Encouraging the understanding of European values and for setting closer relationships between the Republic of Moldova and European Union".

Ten teams participated in the semifinal were from: Italy, France, Bulgaria, Greece, Spain, Czech Republic, Hungary, Belgium, Germany and Moldova.

The competition had a positive impact on me from a professional point of view. First of all, the team of the National Institute of Justice managed to promote the NIJ image at the highest level and the other states became convinced that Moldova has a future through the new generation willing to be knowledgeable and to make changes in the judicial system. This exact message was conveyed to us by the jury members: "we have become convinced that in Moldova, in the future, a change will take place in the judicial system." At the same time, although Moldova is currently not an EU member, we managed to convince the jury that we are well-prepared, with a European perspective and approaches and willing to criticize some court judgments in a constructive manner.

We had an exchange of opinions with our colleagues from the EU member states, we established contacts so that to communicate in the future about various legislative and conceptual issues, which may contribute to forming our opinions about certain legal issues.

The most valuable impact on us had the possibility to become acquainted with the European civil procedure system, given that Moldova has the status of associate state and must research and learn about the best practices in this area.

In the contest, the first place was taken by Italy. Therefore, I will refer to the report presented by this country's team. Italy presented a report on the topic: "Deactivate the Italian torpedo," in which they revealed some systemic errors in enforcing the regulatory framework of the EU, especially in enforcing foreign court judgments.

It was very clearly highlighted in **Italy's presentation** that, although the EU had developed a single framework for the substantive and territorial jurisdiction of the court in hearing cases, as provided in the Brussels Regulations, with latest amendments of January 2015, the EU states are currently facing problems related to parallel court proceedings. Accordingly, the Brussels Regulation establishes that each person who has been injured in their rights, regardless of their domicile, can go to a court located in the EU member states. Problems arise due to the fact that the Regulation establishes a number of criteria for filing a complaint in court – by citizenship, domicile, place of signing of the contract, place of execution of the contract, location of the assets etc.

Thus, the parties in ill-faith may file a complaint with the court at their domicile and then may file a complaint with the court at the place of the signing of the contract. Moreover, one of the ways of

establishing the domicile can be the defendant's phone number. As a result, 2 cases will be heard in 2 courts and in 2 different states on the same subject matter and with the same defendant. In regard to this problem, Italy's team presented a number of cases from the caselaw of the Court of Justice of the European Union (CJEU), where this problem is tackled and a solution is offered, expressed through the *lis pendens* principle. In this sense, the EU states have the obligation to take all measures to avoid parallel proceedings. Especially the court where the second complaint is filed must suspend the trial until the first case is settled. Italy's team proposed creating specialized courts that would solve extraneous cases. In the end, I understood from this presentation that parallel proceedings are a problem now in the EU states that is not fully settled by the common European framework and that creates a multitude of litigations related to the enforcement of the second judgment, which cannot be conciliated.

The second place in the completion was taken by **France**, whose team presented a study on the topic "IDEM EST NON ESSE ET NON PROBARI: an European problem." The first part of the title is a Latin expression – "the circumstance that is not proved does not exist". France's team studied an important area in the civil procedure and namely the use of evidence in the EU member states. France's team mentioned that the regulation of the legal regime of evidence has an autonomous character. In this sense, states have the competence to establish internal norms that refer to the use of evidence. Nonetheless, the EU directive establishes general rules in this area at the community level.

The judicial systems of the EU member states are different and this may create situations when a document is considered evidence in a state while in another one is not. In this case, EU judges will apply the "legal advisory opinion" technique that implies that the judge, based on the good faith principle, accepts a piece of evidence to the extent he knows about it. Also, France's team found that it is difficult to align the regulations and practices in this area because probation requires a system of internal norms and procedures that are specific to a given state.

Bulgaria's team won the third prize in the competition. It presented a report on the topic "Anti-suit injunctions issued to protect arbitration agreements – a remedy against parallel proceedings". *Anti-suit injunctions* are issued to protect the arbitration and arbitration agreements and are a remedy for avoiding parallel proceeding in this area. The topic presented by Bulgaria was similar to the topic presented by the Moldovan team. However, the Bulgarian team did not speak about the enforcement of foreign arbitration decisions but about arbitration conventions, as a way to avoid parallel proceedings. In this connection, they spoke about several cases before CJEU, especially about *Gazprom v. Latvia* case.

Germany's team presented a report on the topic "The European civil proceedings – a model for the Balkan states that are not EU members." On this topic, they presented a political rather than a legal problem, as mentioned by the jury members. In this sense, Germany's team mentioned that the European civil proceeding is one that generates many difficulties. The Balkan, non-EU member states were recommended to conclude a multilateral convention that would regulate the enforcement of foreign judgments. The German team was not given a good score by the jury.

The team of Greece made a report on the topic: "Unifying the EU law by interpreting the norms". In this sense, it recommended a correct application of the community norms by using teleological interpretation, which implies interpreting the EU norms by taking into account the reasoning of adopting a concrete norm. In this sense, it would be possible to study the informative notes of draft laws and the studies conducted by the EU, developed to support the adoption of an administrative act.

Spain's team presented a report on the topic "Agreements for establishing jurisdictional competence based on the Brussels Regulation." The topic selected by Spain's team is similar to that of the Czech Republic that made a presentation on "Jurisdictional competence in consumer protection cases". I clarified for myself that EU is now having a non-uniform practice of establishing the jurisdiction of a court and that parallel proceedings that take place lead to the impossibility of enforcing the judgment issued, which cannot be conciliated. In fact, the European community has not yet identified a solution to this problem.

To me it is not clear to which court I should go if I, as a Moldovan citizen, would like to divorce my husband, a EU citizen, and would request a division of our common assets located e.g. in Greece, Italy or the Czech Republic. Also, it remains unclear to me what the EU judge should do if he was informed that I started parallel proceedings in Moldova.

In my opinion, if the community norms do not establish clear rules for establishing the jurisdiction and a way to check if a similar complaint has not been filed with another court in an EU member state, I will not have an answer to this question.

Another team that participated in the competition was **Belgium**, which made a presentation on the topic: "The Phoenix bird: reviving the London Convention." In this connection, Belgium mentioned that London international treaty is a legal tool for protecting trade relations that is not fully applied by the states parties to this Convention. Also, one of the application problems is the fact that only 41 states, out of the 47 states members of the Council of European, have acceded to this Convention.

The Belgian team revealed the problems they found in their research related to the failure to apply the London Convention in civil matters. One of the reasons is the fact that judges do not know this Convention while it offers broad protection to the traders on the CoE market.

Hungary's team presented a report on the topic: "Understanding or not the legal interpretation in the caselaw of CJEU." This team chose an original way to make their presentation, in the form of the TV show "Who wants to be a millionaire?" It discussed about that fact that many languages are spoken in the EU territory and hence non-uniform interpretations of the EU regulatory framework are made. The team members thought it would be appropriate to create a community court that would establish general norms of enforcement of the legislation by courts. It was mentioned in the presentation that this role is partly assured by CJEU; however, national judges, due to the lack of a clarifying jurisprudence of the CJEU, may commit infringements.

In conclusion, I would like to note that my participation in the THEMIS competition was important for building a specific perception and a personal opinion about the functioning of the EU judicial system. I found that EU member states have a permanent process of legislation aligning, and that they, too, are confronted with problems in territorial jurisdiction matters, in probation matters, and in the area of enforcement of foreign judgments. These legal areas are currently vulnerable, since the EU institutions have not established express regulations in these sectors while the unifying of the market has also negative effects, generating impact on the European civil proceedings.

In this connection, I would like to thank USAID ROLISP for the financial support and for organizing the participation of the NIJ team in the completion. To me and to the NIJ team the participation in such a competition was a chance to acquire new knowledge, to make new friends, and I appreciated this very much.

Prepared by Livia MITROFAN, NIJ trainee, judge candidate

5. PHOTOS FROM THE 2015 THEMIS COMPETITION

5.1 NIJ's team oral presentation and discussion with the jury of the research paper


5.2 Award ceremony and photo of the NIJ team with the jury members