



GOVERNING COUNCIL
89st session
Rome, 10-12 May 2010

UNIDROIT 2010
C.D. (89) 7 Add. 6
Original: French
March 2010

Item No. 8 on the agenda: Triennial Work Programme of the Organisation (2009-2011) –

(e) Proposal to establish a UNIDROIT Centre for e-research

(Memorandum prepared by Professor Ioannis Voulgaris)

<i>Summary</i>	<i>Review of a proposal to create a UNIDROIT Centre for e-research</i>
<i>Action to be taken</i>	<i>Future work</i>
<i>Mandate</i>	<i>Establishment of the future Work Programme</i>
<i>Priority level</i>	<i>To be determined</i>
<i>Status</i>	<i>/</i>
<i>Related documents</i>	<i>/</i>

PROPOSAL TO CREATE A UNIDROIT CENTRE FOR E-RESEARCH

I. This *proposal was first submitted by Professor Ioannis Voulgaris last year* (see his letter of 30 March 2009 addressed to the President of the Institute, Professor Bernardino Libonati, annexed to this document in the original French together with an English translation prepared by the UNIDROIT Secretariat), but it was not discussed at the 88th session of the Governing Council due to the sudden and unexpected departure of its author following an accident.

II. *Before developing this proposal in more detail*, it is worth looking at **why it came about**. In essence, the proposal aims at making the rich scientific and documentary resources held by the UNIDROIT Library as well as the contents of the Institute's archives available to as wide as possible a public. These resources comprise a vast number of books, studies, articles and other legal texts in the field of uniform law as well as comparative, international, private and public law. The Institute's archives likewise contain a wealth of material of great interest to practitioners and scholars alike, covering as they do the drafting history of the various texts prepared under the Institute's auspices over the years to further the unification of law across national borders.

Lawyers from different countries, both member and non member States of the Institute, have conducted research based on these rich bibliographical and documentary assets, whether for scholarly purposes or with a more practical focus in mind. The former category typically includes the writing of doctoral theses and other scholarly works, whereas the second group might be involved in preparing legislative reforms at home through the adoption of UNIDROIT instruments or their incorporation into national law; in this regard, the provision of information with a view to the application, by national authorities, of uniform law texts based on work done by the Institute is also of considerable importance.

So far, all this work has been carried out by researchers who have either paid for their trip to Rome and their stay there out of their own pockets or who have received small grants from the Institute or other institutions to cover part of the cost. UNIDROIT grants, small though they be, have been of assistance in particular to lawyers from developing countries or countries in economic transition who have come to Rome to study these texts and related documents as a contribution to legislative reforms in their own countries, thereby aiding these countries' economic development by smoothing their entry into international trade and facilitating the trade and economic relations flowing therefrom.

Yet this method, which relies on the candidates' physical presence in Rome, is not always effective in achieving our aim of reaching a wider public nor in helping to extend uniform law especially to those countries that need it most, that is to say, developing countries and countries in economic transition. Not all these countries have the resources needed to send their nationals to Rome, and the candidates themselves are not always able to pay their own way. Likewise, the Institute's own budget enabling it to award research grants and thus to promote legal co-operation with these countries, is very tight indeed.

All these obstacles have perforce restricted access to our documentary wealth. Now, however, we are in a position to remedy this and to give a greater number of potential beneficiaries with good research projects but no funds an opportunity to share in this wealth. The *computerisation of the greater part of the Institute's archives and of an – admittedly smaller – part of the UNIDROIT Library holdings could be instrumental in ensuring their wider dissemination*; indeed, a great many readers and researchers already have access to this material via the Institute's Internet website.

The UNILEX site and database are likewise operational, under the supervision of Professor M.J. Bonell, as are those of UNCITRAL and its offshoots (CLOUD, etc.). But research carried out in this area requires assistance and direction, focus and guidance. Researchers need to be informed of the existing bibliography and materials in respect of each subject and of the way in which these may be used.

III. This is where a **"Centre for E-research"** *could make a worthwhile contribution and give a greater number of researchers an opportunity to share these materials*, with very precise goals in mind: *candidates would be required to undertake a thorough investigation of a particular uniform law or comparative law topic under the guidance of qualified experts in the relevant field, who would set up a research programme for the chosen topic.*

This *programme would set out the different issues involved* (drafting history of the text, the text itself and the principal solutions it proposes as well as their justification, its legislative implementation and its application by the courts – other issues of a practical order, etc.) together with bibliographical references and where to locate them online; a small number of these references might even be provided *in textu*, with others simply being mentioned (but these details would have to be decided and finalised by the research supervisors).

The research topics would be selected by the Secretariat and its proposals submitted to the Governing Council, which would also have the final say in choosing the research supervisors, who would launch the project and supervise it thereafter. Preferably, there should be two supervisors to each project, one English-speaking and one French-speaking, except in those very rare cases where one supervisor could take on both tasks. The supervisors would be people thoroughly familiar with either legal practice or legal theory or, better still, with both (academics, international civil servants, private sector practitioners, with experience in drafting uniform law texts or in promoting and applying them, or with scholarly and practical experience in the subject-matter). In selecting the research topics, account would also have to be taken of the Institute's Work Programme, in particular in the case of research that might lead to unification or harmonisation in an area of interest to certain sectors or regions, etc., and the feasibility of which the Institute may be investigating.

Thought might also be given to the possibility of awarding a certificate to those taking part in the research and of publishing its results either on paper or in electronic form, or both.

The project would need to be properly planned and **technical back-up** provided for; in particular, the Institute's website may need to be adjusted to provide for extra keywords (or a new subdivision of existing keywords). A programme would no doubt have to be written each time a new research project was launched. A short preliminary study might be undertaken by those in the UNIDROIT Secretariat with computer expertise, in collaboration with a member of the Library staff.

E-learning and *e-researching* programmes already exist and are operational in various universities, research centres and vocational training establishments, and some of these might be suitable to be adapted to the Institute's requirements.

IV. While this is only a proposal and far from complete, it could be the **start of a much more ambitious and detailed study** that would focus primarily on the *technical* (computer), *financial* (estimating the cost of buying a computer programme and adapting it to our needs as well as other expenditure, and indicating possible sources of funding in the private or public sector), and even institutional aspects (possible co-operation with other International Organisations and especially with UNCITRAL).

Should the Institute's governing bodies be interested in this idea, its author would be willing to cooperate with other members of the Council and the Secretariat with a view to preparing a more comprehensive and detailed study and project.

Athens, 26 February 2010

Pr. Ioannis Voulgaris

ANNEX**Letter addressed by Mr VOULGARIS to the President of UNIDROIT**

Athens, 30 March 2009

Dear President,

These are just a few lines to set out some of my thoughts regarding the work of the Institute.

First of all, I note that work on the UNILAW database is now well advanced and that the database is turning into an important and efficient working tool for practitioners, researchers and students active in the field of uniform law; a tool that is well-matched by the easy-access, methodical and functional presentation of the Institute's work on the UNIDROIT Internet website. I should like to express my warmest congratulations on this result, both to yourself and to all those who contributed to it, in particular the Secretariat staff.

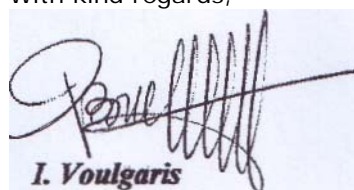
I also note evidence of growing interest in the Institute, particularly in the developing world and in countries in economic transition. No small credit for reaching this new "public" must go to the legal co-operation programme, in that it focuses on the promotion of uniform law and the harmonisation of legal texts and practices, thereby facilitating trade and international relations, and in that it enables a very wide range of countries to share in this fairly and effectively. The legal co-operation programme has made a significant contribution in this respect despite the very tight budget at its disposal. This lack of financial resources has been more than offset by the commendable and devoted efforts of the organs and staff of the Institute.

I feel, however, in view of its success to date, that this co-operation could be further extended in the future. The lack of financial resources might be overcome by using a valuable asset already available to UNIDROIT in the shape of its computerised data on uniform law and the work of the Institute, which could be used to reach a wider public and to enhance the development of uniform law and legal harmonisation, in that they are presented methodically and clearly to potential users, of which there are a great number worldwide. More precisely, we might consider setting up a Research Centre on uniform law and the unification of law. Such a Centre might organise research projects on uniform law (methods and subjects) that would be launched by one or two research supervisors (in English and French) and in which young lawyers from various countries could take part. These participants would be selected on the basis of their qualifications and interests as set out in their formal applications. Such projects could be supervised electronically (e-learning), using a special programme as well as the computerised information already available at the Institute. We might even consider the possibility of co-operating with Professor Bonell's "Centre for Comparative and Foreign Law Studies" and with UNCITRAL. In addition to promoting uniform law through the dissemination of the participants' research results and their possible application in legal reforms, it would enable the Institute to obtain information on the state of the law in the different systems with regard to certain matters, which might subsequently become the subject of unification. A certificate or diploma might be issued to participants in the projects run by this proposed Centre.

This is, of course, no more than an idea at this stage, not a fully-fledged proposal, but I am submitting it to you anyhow so as to see whether it might constitute a proposal for the future work of the Institute. I should also very much welcome the views of the Secretary-General, who has great experience in this field and to whom this letter is also addressed.

I am at your full disposal for any matters concerning the upcoming session of the Governing Council and remain,

With kind regards,



I. Voulgaris