



FENCA 2007
ANNUAL GENERAL MEETING

Welcoming word from Jan Söffing,

**Secretary of the Ministry of Justice of the German state of
North Rhine-Westphalia,**

**at the Annual General Meeting of FENCA, the Federation of
European National Collection Associations,**

in Cologne on 28 September, 2007

F.E.N.C.A.

Reg.: nr 990 133 530, Thor Dahls Gate 1, 3210 Sandefjord, Norway

Mail: Avenue de la Gare 33, 1003 Lausanne/Switzerland

Tel. : +41 21 349 25 55 Fax : +41 21 349 25 56

E-Mail: office@fenca.com

Ladies and gentlemen,

standing in for the Premier, Dr Jürgen Rüttgers, it is my pleasure and privilege to welcome you, on behalf of the State Government, at this year's Annual General Meeting of your organisation.

Given that debt recovery has become an indispensable aspect of business life, both the new Legal Services Act and the 'Legal Counsel Act' it has replaced - as well as the laws of many other countries - contain provisions governing the profession of the debt collector. Anyone seeking to operate a debt recovery business must be registered on a legal services register. Requirements include evidence of good character, reliability and competence. Regulation is certainly warranted because of the need to ensure that shonky operators are kept out of the industry. After all, the business of recovering debts on someone else's behalf is important not only to the client but has a major impact on the debtor as well.

Debt recovery firms play an important role in dispute resolution and help ease the workload of the courts.

To achieve this, however, a proper regulatory framework and a range of accompanying measures are needed to guarantee the quality of individual operators. You, the associations governing the industry, contribute to this in an exemplary fashion by including, in your charter, some guiding principles for the profession. That is something I would like to thank you already very much for.

The courts and banks appreciate the activities of collection firms during formalised debt recovery procedures, both for their role as third-party debtors and because they contribute essentially to smooth, ready-to-automate, management of the procedure. The success of the automated 'dunning' procedure in several German states hints at a promising future for the computerisation of legal transactions in other areas as well. For instance, plans are currently under discussion to create the legal framework for electronic transmission of an application for, say, a garnishment order to the court. The relevant court orders or judgements could then also be e-mailed to third-party debtors. This would enable recipients to process the data much faster, and simplify the entire process.

F.E.N.C.A.

Reg.: nr 990 133 530, Thor Dahls Gate 1, 3210 Sandefjord, Norway

Mail: Avenue de la Gare 33, 1003 Lausanne/Switzerland

Tel. : +41 21 349 25 55 Fax : +41 21 349 25 56

E-Mail: office@fenca.com

Up until now, Germany's rules of civil procedure provide for electronic service of documents only when the service is prescribed by law or the result of a court order. If the service "takes place at the instigation of the parties", the bailiff's order cannot (yet) be served electronically. This system is currently under review, and I look forward to a reform, which would greatly facilitate enforcement of the laws.

Ladies and gentlemen,

let me hazard a peek into the near future of EU legislation: From December, 2008, the new European order for payment procedure created by the Regulation 1896/2006 EC may be opted for in civil and commercial matters in addition to other European or national procedures, provided that 'at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court seised'. I suppose, then, that this will make for a new and interesting field of activity for the debt collection firms that you represent across Europe.

The European order for payment procedure paves the way for faster, cheaper and more efficient enforcement of uncontested cross-border claims. Already in recent years, various EU rules have made it much easier to enforce judgements in other EU member states, and against nationals of other member states. The European order for payment procedure goes a step further and creates an EU-wide title - the European order for payment. This renders unnecessary any recognition

- or exequatur -procedures in the other member state.

Jurisdiction is mainly governed by the 'Brussels I' regulation. If the defendant is a consumer, only the courts in the member state in which the defendant is domiciled shall have jurisdiction.

Similar to the German national procedure, a form is used to apply for a European order for payment. The form contains all the information that is required before a judgement can be issued. It is machine-readable and will be processed electronically by the court. Once all requirements are met, the European order for payment is served on the debtor.

F.E.N.C.A.

Reg.: nr 990 133 530, Thor Dahls Gate 1, 3210 Sandeffjord, Norway

Mail: Avenue de la Gare 33, 1003 Lausanne/Switzerland

Tel. : +41 21 349 25 55 Fax : +41 21 349 25 56

E-Mail: office@fenca.com

The debtor has 30 days to contest the claim. Deviating from German rules of procedure, the time limit starts when the 'statement of opposition' is sent. If the defendant opposes the claim, the proceedings will continue in court. If the defendant does not oppose the claim, or misses the deadline, the European order for payment becomes enforceable.

A taskforce involving the Federal and State justice departments is currently working on plans to centralise processing in Germany of European order for payment procedures at Wedding Local Court in Berlin. This would make the procedure user-friendlier and easier to automate.

Ladies and gentlemen,

well-ordered and efficient administration of justice, for the benefit of the community, requires good co-operation between government and private bodies. May our courts and your debt recovery firms continue to contribute to this with the usual success - even in the face of the occasional dispute when it comes to the issue of reimbursement of recovery costs.

And on that note, I wish you a very successful Annual General Meeting and a pleasant time in Cologne.

Thank you for your attention.

F.E.N.C.A.

Reg.: nr 990 133 530, Thor Dahls Gate 1, 3210 Sandeffjord, Norway

Mail: Avenue de la Gare 33, 1003 Lausanne/Switzerland

Tel. : +41 21 349 25 55 Fax : +41 21 349 25 56

E-Mail: office@fenca.com