



**AFRICAN REGIONAL GROUP  
INTERNATIONAL ASSOCIATION OF JUDGES**

**Summary Report of the meeting of the  
AFRICAN REGIONAL GROUP  
Foz de Iguaçu (Brazil), 9 November 2014**

The meeting was chaired by Mr. Musi, President of the African Group, with the participation of the Honorary President of the IAJ, Mrs. Fatoumata Diakité, and of the Deputy Secretary General of the IAJ, Mr. Gargiulo, as well as the following delegates of the member associations of the International Association of Judges and of the African Regional Group:

Algeria	Mr. Haidouni Djamel; Sakhraoui; Lakehal Fathi; Amour Youcet ;
Congo	Mr. Taualya Wa Taway Laurent; Mr. Kambuma Nsula Jean-Marie;
Egypt (observer)	Mr. Sameh Esorrogy; Mr. Mohamed Fouda ;
Ivory Coast	Mrs. Kouassi Affoué Marcelle ; Mrs. Niamien Eugenie Doukron; Mr. Ndri N Guesson Mathurin;
Mozambique	Mr. Eusebio Equas; Mrs. Iudite Abdul; Mr. Olimpio Mujan
Niger	Mr. Garbo Hamani Haranna; Mr. Abdoulaye Goube; Mr. Abdoulaye Ahmed;
Senegal	Mr. El Hadiji Abdou Aziz Seck ;
South Africa	Mr. Nazeem Joemath ; Mrs. Annalene Larsen;
Togo	Mr. Tchiakoura Sanoka Mr. Sogoyou Pawelé
Tunisia	Mr Hmedi Anas; Mrs. Hamdi Noura

1. Opening and Welcome.

Mr. Musi opened the meeting at 9:30, by thanking all the delegates in attendance as well as the observers. He thanked the President of the I.A.J., Mr. Gerhard Reissner, the I.A.J. Honorary President Ms. Fatoumata Diakité and Mr. Max Carette, a friend of the African Group, for their presence. President Musi then warmly thanked the Association of judges of Brazil for the perfect organisation of the meeting and for the cordial reception. He also thanked the Association of Niger for the perfect organisation of the meeting of the African Group in Niamey.

## 2. Approval of summary report of group's meeting held at Niamey

President Musi passed to examine the points on the agenda of the meeting. He asked whether delegates in attendance had remarks on this subject. No delegation presented an observation. He asked if there were remarks on the minutes of the meeting of the Group in Niamey, which was distributed beforehand by the Secretariat. No remark was sent to the Presidency, or to the Secretariat. The minutes of the last meeting of the African Group in Niamey Town were approved unanimously.

## 3. President's report.

President Musi declared that he was very happy that the Association of Tunisia was in attendance.

He recalled that in the meeting in Niamey, a conference was held, whose main theme was: 'The independence of Judges in the struggle against corruption and impunity'. The following three sub-themes were also discussed: 1) Power, capabilities and difficulties in the proceedings and repression; 2) The international judicial cooperation in the struggle against corruption; 3) What is the relation between justice and impunity?. The professors from the University of Niamey and Giacomo Oberto made presentations. After each presentation colleagues engaged with the presenter by asking questions or commenting on the presentation.

The President of the Group added that many of our colleagues were still experiencing extreme challenges from their respective governments and the unstable political climate facilitated the undermining of judicial independence. The Association of Benin embarked on strike action in order to show their discontent with the manner in which judicial officers were treated and obtain better conditions of employment. He announced that he had sent many e-mails asking for further details about the situation, but without any answer. So he made a special appeal to the associations in attendance to contact the delegates of Benin and explain that the African Group was ready to support it.

The colleagues from Mali requested intervention in their dispute with the other powers of the State. Mr. Musi and Mrs. Fatoumata Diakité discussed the Mali issue and because of geographical and practical considerations, they decided that she could cooperate with them.

Mr Musi pointed out that the Association of Cameroun expressed its worries about the terrorist organisations which were at its border and in particular about the dangers coming from Boko Haran. He recalled also the situation of Lesotho, where the new Parliament had not settled yet, and there had been a prorogation of the previous one, but at the end the situation had been normalised and Parliament sat on 19 October 2014. The Judiciary was not affected by the political situation..

The President of the Group announced to have sent letters, in June and in August, to the bodies of the African Union in order to arrange a meeting in order to discuss ways we could cooperate. Unfortunately, due to her busy schedule, the Chairperson of the African Union was not able to meet with him this year. Mr Musi undertook to write another request early next year. Mr Musi stressed the importance for the African Group to play a role in the Regional Associations, in order to highlight the role of the Judiciary compared with the other powers of the State.

He invited all the delegates to use the website in order to share their experiences. Mr Musi thanked the delegates who accepted the appointment as rapporteurs also for countries which were out of Africa. The IAJ could take advantage of their knowledge of Arabic in order to conduct a mission in Arabic speaking countries, which filed an application to become member of the IAJ. In particular he thanked the delegates of Algeria and Morocco. He also thanked all the delegates for their participation and for the work done. He invited Mr Reissner to take the floor.

Mr. Reissner thanked Mr Musi and all the delegates for giving him the opportunity to speak in front of them. He had chosen to devote more time to the African Group in order to listen directly to the problems of the African Associations. He wished good work to the Group.

Ms Diakité took the floor and welcomed all the delegates in attendance and in particular the delegates of the Tunisian Association, which came back to the IAJ family. She thanked President Reissner, who was a great friend of the African group and also Mr. Carette who had been always interested in the problems of the African group. She recalled that the Association of Mali had expressed its problems in the occasion of the meeting of Niamey, asking for help. With the authorisation of Mr. Musi, Ms Diakité, on behalf of the African Group, went to Mali, where she had contacts with the members of the steering Committee of the Association and with the President of the Supreme Court. She couldn't meet the Ministry of Justice, who was on a trip. The disagreements inside the Steering Committee of the Association came to an end. They had bad relations with the Minister of Justice. She hoped to meet this Minister in the next visit to Mali. Also the Association of Guinea asked for her help. She sent some documentation concerning the salaries to this Association, which showed it to the Minister of Justice. On the basis of this documentation, the Minister of Justice prepared a bill of reform in favour of the Judges. Also the Association of Benin asked for her help. She had expressed her availability to go there, but the Association has not communicated her a possible date for the meeting, yet. She had met the President of the Supreme Court of Benin, who was in Foz de Iguacu to participate in the Conference on the Environment. She hoped to have a contact with the Association through his help.

#### 5. Challenges in Benin, Mali and South Africa.

Having already spoken about the situation of Benin and Mali, which were not in attendance, as concerns the Association of South Africa, Mr. Musi gave the floor to Mr. Joemath in order to explain the problems of this country. He thanked the assembly for the opportunity to explain the situation of South Africa.

Mr. Joemath pointed out that the Judicial Officers Association of South Africa (JOASA) as a voluntary Association of Judicial Officers was recognized in regulation 14 of the Regulations for Judicial Officers in the Lower Courts, 1993. The Lower Court Judiciary in South Africa embarked on industrial action in order to promote a single independent judiciary and for better terms and conditions of employment. JOASA as the main representative of the Lower Court Judiciary coordinated the industrial action. Subsequently the president and the National Secretary of the Association were charged for communicating with the members of the Association and for highlighting the frustrations of the Lower Court Judiciary to the media. The National Secretary kept all the records of the Association and liaises between the Association and its members. She was charged for communicating the resolutions of the National Executive Committee of the Association to the members. In the reply to further particulars, the Magistrates Commission acknowledged that at all relevant times, they were National Office bearers of JOASA. This served as confirmation that the misconduct hearings were nothing other than an attack on the autonomy of JOASA as an Association but, more importantly, it was in total conflict with Constitution of South Africa which promoted and protected the freedom of expression and association. In terms of par 8 of the Basic Principles on the Independence of the Judiciary which was adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan in 1985 and endorsed by General Assembly Resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985 "members of the judiciary are like other citizens entitled to freedom of expression, belief, association and assembly; provided, however, that in exercising such rights, judges conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary". In par. 9 it was stated that judges shall be free to form and join associations of judges or other organisations to represent their interest, to promote their professional training and to protect their judicial independence.

Mr Joemath pointed out that JOASA was a voluntary Association of Judicial Officers with its own Constitution. It was independent from the Government. Member paid their own membership subscriptions. The Association did not receive any contribution from the Government. The charges were

an affront to judicial independence, freedom of expression and association. The Association requested a resolution in its favour.

Mr Musi invited the President of the African Association to write a resolution, translated into French, which could be discussed inside the Central Council.

#### 4. Situation of: i. Lesotho and Egypt.

President Musi informed the Assembly that the reports on Egypt and Lesotho had already been prepared, sent to the Associations and evaluated by the Presidency Committee. They will be submitted to the Central Council for the vote on the applications. So he invited the delegates to read the reports concerning these associations and support them in the Central Council.

#### ii Cape Verde

Mr Musi invited M. Seck to explain the situation of Cape Verde.

Mr. Seck took the floor to point out that a contact was established with the President of the Association of Cape Verde in order to organise a visit in that country, but, according to an e-mail of the Secretariat of the IAJ, the procedure was under suspension, because this Association has not yet paid the administration fee, provided in the Statute of the IAJ in order to start the procedure of admission.

President Musi informed the assembly that the procedure of admission provided that an association which presented an application for membership had to pay an administrative fee in order that the procedure could start.

#### iii Burundi

Mrs. Kouassi from Ivory Coast, appointed as Rapporteur for Burundi, took the floor to explain that having received a letter from the IAJ Secretariat saying that Burundi had not yet paid the administration fee, the procedure was under suspension.

#### iiii Sao Tome e Principe.

Mr. Musi informed the Assembly that Mr. Momblé Messey, appointed as Rapporteur, who was not in attendance, had sent some e-mails to the Association in order to organise a visit, but he had received no answer and the Association had not yet paid the administrative fee.

### 6. Member's reports.

#### Algeria.

The President of the Algerian Association took the floor in order to thank all the delegates. He declared that he was very happy about the presence of the Tunisian colleagues. In Algeria not much had happened since the last meeting. The Association is currently engaged in submitting to the Government the amendments to the Constitutions concerning the Judiciary and the High Council for the Judiciary. According to the current provision, the High Council for the Judiciary was presided over by the President of the Republic and the Minister of Justice was the Vice-President. The Association proposed that the High Council for the Judiciary was presided over by the President of the Parliament or by the President of the Supreme Court and to exclude the Minister of Justice from it. The Association also requested that the budget of the Judiciary could be amended by the High Council for the Judiciary or by the Parliament. Another demand concerned the inquiries concerning the evaluation of judges that had to be led by the High Council for the Judiciary instead of the administrative bodies of the Presidency. The Association also wanted the High Council for the Judiciary, instead of the Minister of Finance, to decide on the salary of judges and, at the same time, requested the revision of the salaries and the indemnities of the Judges.

Mr. Haidouni added that the President of the Commission of the Human Rights had attacked the judges in the media for abuse of provisional detention, but according to the statistics the percentage of these cases was less than 10 %. Mr. Haidouni, as President of the Association, answered these attacks in the media by defending the judges.

Before coming to Brazil, Mr. Haidouni had a meeting with the Minister of Justice, who expressed his intention to solve the problems raised by the judges. He added that in Algeria there was, for the first time, the designation of a woman as General Prosecutor at the Supreme Court and the appointment of a woman as President of the Council of State.

He expressed his support to all the African associations and above all to those that are having problems.

#### Ivory Coast

The President of the Association of Ivory Coast thanked first of all the colleagues from Niger for the perfect organization of the meeting of the African Group in June. He said that there were no important things to signal concerning the functioning of the Justice in Ivory Coast. There was a bill of reform under way concerning the High jurisdictions, with the creation of the Supreme Court, the Council of State and the Court of Accounts. As concerns the Association, the UNAMACI would have celebrated its 40<sup>th</sup> anniversary, but for some internal problems, the event was postponed to the next year.

#### Mozambique.

A delegate of the Association said that the independence of the judiciary was a process under way. The judges didn't have their own budget. The Association sent a letter to the Prime Minister in order to obtain the improvement of the Statute of the Judges and of the salary. After the murder of a judge, the Association organised meetings of judges in all the Provinces where they had discussed the issue of judges' independence, judges' security and the relationship with the Executive power. After these meetings the Association submitted a document to the Government, to the President of the Republic and to the Republic Assembly. After a meeting with the Prime Minister there were some results as concerns the economical requests. In Mozambique there was a general election and the judges were charged to deal with the electoral disputes.

#### Niger

Mr. Abdoulaye Goube, Deputy Secretary General of the Association, on behalf of the President and of all the judges of Niger, expressed his satisfaction for having hosted the IAJ's African Group meeting. He said that the Association was involved in applying the conclusions and the recommendations of the general assembly on the problems of justice held in 2012. The Association was debating a new plan concerning the career of the judges in order to develop the independence of judges. Some weeks ago there was the adoption of a bill of reform which gave economic benefits and more protection to judges involved in the struggle against terrorism. The Association requested that the Government guarantee predefined conditions to regulate the assignments of judges and also to charge expenses of transport in these cases. The Association supported the judges who dealt with dossiers concerning political persons. On the 29 and 30 November the Congress of the Association will be held with the election of a new steering Committee.

#### Senegal

Mr. Seck, President of the Senegalese Association first of all thanked the Brazilian colleagues for the perfect organisation and also the colleagues of Niger for the meeting in Niger. He said that, currently, there were no problems for the Association. It had a good relationship with the Executive Power. The Association obtained an increase of the salary and a tax exempt indemnity. The Association requested

some amendments to the functioning of the High Council for the Judiciary. The bill of reform was under way and he hoped that it could be approved as soon as possible.

#### South Africa

Mr. Joemath said that there was nothing to add to what he had already declared.

#### Togo

Mr. Sogoyou Pawelé, Vice President of the Association of Togo, on behalf of the President Mr. Kouassi, thanked the Association of Niger for the perfect organization of the meeting and also the colleagues from Brazil. He said that there were not important things to signal after the meeting of Niamey. He underlined that the High Council for the Judiciary of Togo was presided over by the President of the Supreme Court. It consisted of 9 members, one elected by the National Assembly, one appointed by the Chief of the State, and other members elected by their peers in the Supreme Court, in the Appeal Courts and in the first instance Courts. The Secretary General also was a judge. He said that in the countries where the President of the Republic presided over the High Council for the Judiciary there could be a disequilibrium in case of disciplinary affairs. A bill of reform, aiming at revision of the Statute of the Judges of the Supreme Court, taking into account their real responsibilities, was under way. The association led by Mr Kouassi, member of the Supreme Court, was involved in this bill of reform. The Association hoped that it could be approved, because there was a good relationship between the Judiciary and the Executive power.

#### Tunisia.

Mrs. Hamdi Nour thanked the President of the IAJ, the Honorary President and the President of the Group and all the colleagues for the warm reception in the meeting. Mr. Hmedi Hanas took the floor in order to explain the situation of the Association. The Association of Tunisian judges has been trying to create an independent judiciary. The main point of this process happened in 2004, when the Steering Committee tried to carry on a program of reform of the Judiciary to ensure an independent power, an High Council for Judiciary elected by their peers, and organic laws aiming to protect the career of judges. In August 2005 the High Council for the Judiciary began to transfer all the members of the Legitimate Steering Committee. On December 2005 during an extraordinary congress a new steering committee was elected. The Legitimate Steering Committee asked for the help of the IAJ, but their members were removed from their places of work, were prevented from travelling out of Tunisia, in order to participate in the meeting of the IAJ, and from obtaining promotions. The freedom of expression and of attending meeting were restricted for judges. After the trigger of the Revolution, the Prime Minister Ghannouchi, on the 19 January 2011, ensured the Association of Judges of Tunisia to act in all the territory of the country in liberty and autonomy. On the 29 and 30 October 2011 there was an extraordinary congress of judges in an atmosphere of freedom and independence. There was, also, the setting up of the Transitional High Council for the Judiciary. The National Constituent Assembly approved the organic law concerning the Judiciary, ensuring the independence of the judiciary. On the 7, July 2013 the first elective High Council for the Judiciary of the history of Tunisian Justice took place. The structure was composed of 20 members, whose 10 judges elected by their peers, five judges appointed ex qualities, and five members elected by the National Constituent Assembly among university professors and lawyers.

The Association of Tunisian judges participated in the redaction of the part of the Constitution concerning the Judiciary, which was recognized as independent from the other powers. It was established the principle of the irremovability of judges, the setting up of an High Council of Judges composed of judges elected by their peers, of judges ex qualities, and of persons known for their independence and

integrity. This Council will deal with all the questions connected to the careers of judges. The Constitution provides also the creation of a Constitutional Court.

The Association will participate to the redaction of the organic law concerning the Judiciary with the new Parliament elected on the 26 October 2014 and will be vigilant that no violation of the Constitution and the Independence of the Judiciary could happen.

#### 8. Nomination of two members to be part of Commission engaged in monitoring 2015 art. 13 sub 9 of Regulations

Mr. Musi pointed out that according the provisions of the I.A.J. Regulations, every five years and for first time in 2015, all the member associations have to deliver a summary report on their situation. To receive and analyze these reports a commission will have to be established within the Central Council. This Commission chaired by one of the Vice-Presidents of IAJ appointed by the Presidency Committee shall consist of two representatives of every Regional Group elected within these Groups. At the end of its work the Commission will send a written report to the Presidency Committee. This report will be spread to all the member associations. President Musi informed the Assembly that two members had to be appointed for the African Group. The Assembly elected unanimously Mr. Haidouni and Mr. Joemath.

Mr Musi also invited the Group to appoint a member who will assist to the Conference on the environment, take notes and, after the meeting, could participate in the drafting of a resuming document of the works. The group unanimously appointed Mr. Olimpio Mujan

#### 7. Participation of IAJ in drafting a Human Rights Manual for Judges.

Mr. Musi invited all the delegates to complete the questionnaire, prepared by the United Nation's Special Rapporteur for the Independence of Judges and Lawyers for a training manual for judges, and to send it to the Special Rapporteur. After a debate, the Group expressed the idea to participate in the drafting of the Human Rights Manual.

#### 9. Finance

Mr. Gargiulo, Deputy Secretary General of the IAJ explained the document prepared on this subject by the Secretariat-General, according to which the availability on 31st, October 2014 was of 12761,42 euro (the document is annexed to this report as enclosure N. 1). Mr Gargiulo added on this subject that each year the Secretariat-General places at the disposal of the Group (as well of the other Regional Groups) the sum of 3000 euros. The financial report was unanimously accepted by the assembly.

As regards the contribution, Mr. Gargiulo specified that the Secretariat-General had prepared the list of associations which are in arrears. He added that he would not cite the names of these countries, but that concerned delegations should make all possible means to pay their dues as fast as possible, in order to avoid the sanctions envisaged by the statutes of the I.A.J. Finally he stressed the need for Associations which are in a situation of arrears to pay their contributions at the latest before the first session of the Central Council. Mr. Gargiulo remarked that, according to our Statutes, association in arrears for over one year cannot vote and associations in arrear for over than three years will lose their membership.

#### 10 Streamlining of CC meetings.

President Musi recalled that according to the advice of many members, the Central Council decided to dedicate more time to substantial subjects instead of formal ones. That is the reason for which the current meeting of the Central Council, for the first time, incorporated a Conference about the environment. Considering the other meetings of the Central Council and the traditional excursion the congress lasted more time.

He therefore invited all the members to observe what was happening and reflect about the structure of the meeting in order to discuss in the next meeting what could be the best way to organise it.

A colleague from Egypt proposed that every Association could submit to the others a report on its country and in this way they could concentrate on the important points to discuss.

Mr. Musi said that it could be a good proposal also for the African Group.

#### 11. The venue of next meeting Group

Mr. Musi recalled that in Niamey the Assembly had decided to accept the invitation to Algeria for the year 2015, under confirmation in Foz do Iguaçu. Mr. Haidouni confirmed the intention of Algeria to organise the meeting in a date from April to June. Mr. Musi invited the Algerian colleagues to choose the topic. Mr. Haidouni invited all the colleagues to propose a subject. Mr. Musi also invited consideration of the themes proposed by Mr. Reissner in the plan of the IAJ from 2014 to 2018, as the independence of Judges' Association, death penalty, corruption. Mr Haidouni invited all the members of the African Group, the President of the Group and the members of the Presidency Committee to come to Algiers .

#### Miscellaneous.

Mrs. Diakité explained that in her country the President of the Republic presided over the High Council for the Judiciary in case of questions concerning the independence of the judiciary, while the President of the Supreme Court presided over in case of disciplinary affairs.

Mr. Musi invited the members of the Association of Congo, just arrived, to speak about their situation. A delegate of this Association said that there were not great things to signal. A group of judges and prosecutors had begun a spontaneous strike without consulting the Association of judges. They managed to block the functioning of the Courts and of the judges of peace. They protested against the fact that the President of the Republic had promised three years ago to increase the salary of the judges, without implementing this proposal.

Mr. Musi said that the Association of Egypt had the intention to propose its candidature in order to host the annual meeting in 2015. A delegate of the Association said that, in the event that the Association becomes full member of the IAJ, they would host the meeting in October in Sharm El Sheikh

Mr. Musi concluded the meeting by thanking the Brazilian colleagues, Mrs. Diakité and the Secretary General for their assistance.

The meeting finished at 14:00

The Deputy Secretary General  
Raffaele Gargiulo

The President  
Cagney Musi

**P.J:**

Budget 2013-2014 and expenses from 28th September to 31st October 2014





INTERNATIONAL ASSOCIATION OF JUDGES  
UNION INTERNATIONALE DES MAGISTRATS  
UNIÓN INTERNACIONAL DE MAGISTRADOS  
INTERNATIONALE VEREINIGUNG DER RICHTER  
UNIONE INTERNAZIONALE DEI MAGISTRATI

PALAZZO DI GIUSTIZIA - PIAZZA CAVOUR - 00193 ROMA - ITALY

AFR budget Foz

## AFRICAN GROUP Regional Group of the I.A.J.

### **BUDGET 2013-2014** **and** **EXPENSES FROM 28<sup>th</sup> SEPTEMBER 2013 TO 31 OCTOBER 2014**

(in EURO)

		<b>total</b>
A) Reserves	+ 13,414.51	
B) Contribution from the IAJ for the year 2013-14	+ 3,000.00	
C) Total availability for the year 2013-14 [A+B]		16,414.51
D) Travel expenses of President Musi (CC Yalta, Presidency Committee meeting in Rome, meeting in Niamey)	- 3,649.06	- 3,649.06
<b>Availability on 31 October 2014 [C-D]</b>		<b>+ 12,765.45</b>