



**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

INTERNATIONAL ASSOCIATION OF JUDGES

Summary Report of the Meeting of the AFRICAN REGIONAL GROUP

Ouagadougou (Burkina Faso), 14th - 16th June 2004

SESSION OF 14th JUNE 2004

The meeting was chaired by Mr. Mansour Sy, Vice-President of the I.A.J., President of the African Regional Group, with the participation of the Vice President of the I.A.J. Mr. Louis Denecker, the Deputy Secretary-General of the I.A.J., Mr. Giacomo Oberto, as well as the following delegates of member associations of the International Association of Judges and of the African Regional Group:

Burkina Faso	Mr. Guy Hervé Rommel Kam, Mr. Tankoano Mathias, Mrs. Lompo Christine, Mrs. Zabre Louise, Mr. Ouedraogo Seidou, Mr. Sory Moussa Stéphane, Mrs. Meda Honorine, Mrs. Bdo/Some Elisabeth, Mrs. Bayili Véronique, Mr. Traore Somkinda, Mrs. Ouedraogo Brigitte, Mrs. Hien Eudoxie, Mrs. Ouedraogo Adma, Mr. Silga Valery Jean Prosper, Mrs. Zorome Rakéta, Mr. Rapademanba B. Sebastien, Mr. Da Mwinzié Eric, Mr. Poda Laurent, Mr. Bamouni Pascal, Mr. Compaoré Pascal, Mr. Somda A. Herman, Mr. Some N. Constantin, Mrs. Somda/Soulama Jeanne, Mrs. Some Kambou Berthe, Mrs. Ouedraogo Bibata, Mrs. Kima Florentine, Mr. Hien Didier, Mrs. Djiguimde Anastasie Flore, Mr. Bagoro Bessolé René, Mr. Sanogo Mahamoudou, Mrs. Sanou/Toure Fatimata, Mr. Sawadogo Tounsida Clément, Mr. Ilboudo Wenceslas, Mr. Tall Cheick Mamadou, Mrs. Merindol/Ouoba Clarisse, Mr. Coulibaly Dihizou, Mr. Sawdogo Désiré, Mr. Bambara Paulin, Mrs. Anago Clarisse, Mrs. Ouedraogo/Kibora Victoria, Mrs. Kabore Jacqueline, Mrs. Sawadogo Maria Goretti, Mrs. Compaoré/Sere Me Maiza, Mrs. Sawadogo Daouda, Mrs. Tapsoba Katia, Mrs. Kompaore née Tiendrebeogo Christine, Mrs. Fayama Issa, Mrs. Dembele Adélaide,
Cameroon	Mr. N'Soa Philippe René
Ivory Coast	Mrs. Fatoumata Diakite, Mr. Momblé Messey, Mr. Kouassi Brou Bertin, Kouassi Bernard, Mr. Bobby Gbaza, Mrs. Coulibaly Olga, Mrs. Kouassi Marcelle, Mr. Alain Zunon
Mali	Mr. Fodié Touré, Mr. Hamet Sam, Mr. Boya Dembele
Niger	Mr. Aladoua Saadou, Mr. Montari Abdou
Senegal	Mr. Chérif Sydou Cissé, Mr. Koliba Dansokho
Togo	Mr. Aboudou Assouma, Mr. Tekoe Têê, Mr. Dabré Gbandjaba, Mr. Adboulaye Yaya
Tunisia	Mr. Dermech Neji, Mrs. Kennou Kelthoum

The opening ceremony took place on June 14th, 2004 at 9.00 a.m. On this occasion the Secretary-General of the Judges Association of Burkina Faso (*S.B.M.*), Mr. Guy Hervé Rommel Kam, the President of the African Group, Mr. Mamadou Sy, the Vice-President of the I.A.J., Mr. Louis Denecker and the Minister of Justice of Burkina Faso, Mr. Boureima Badini took the floor. During this ceremony Mr. Denecker informed the assembly that the President of the I.A.J., Mr. Markel had sent a letter to explain the events which had prevented him from taking part in the meeting, in spite of his desire to contribute to the Group proceedings. The First Vice-President, Mr. Beneti and the Vice-President, Mrs. Maja Tratnik, President of the European Group could not attend the meeting either. Mr. Oberto read the French version of the letters by Mr. Markel and Mrs. Tratnik.

1. Discussion and approval of the summary report of the Group's last meeting in Vienna.

The President of the Group opened the meeting at 10.30 a.m., firstly, by thanking the delegates present. He thanked the *S.B.M.* for the organization of the meeting and the cordial reception. He also thanked the mayor of the town of Ouagadougou for placing the premises of the town hall at the disposal of the African Group. Mr. Sy then went on to examine the points on the agenda. He asked whether the delegates had any comments on the summary report of the last meeting, which had been distributed by the Secretariat. The minutes of the last meeting of the African Group in Vienna were approved unanimously.

2. Report by the President of the African Group.

3. Application of Cameroon for IAJ ordinary membership.

Mr. Sy then submitted his report. He began by informing the assembly first of all that he had visited Cameroon in order to examine its application for ordinary membership of the I.A.J. Following this visit he wrote a written report, which was submitted to the Presidency Committee at its last meeting in Rome. He added that the amendments, recently introduced into the statutes of that association, made them entirely compliant with the statutes of the I.A.J. Consequently, he concluded that this country should be admitted as an ordinary member. In Rome, the Presidency Committee had expressed a favourable opinion of Mr. Sy's proposal. The subject will be put on the agenda of the meeting of the Central Council in Valle de Bravo (Mexico). President Sy informed the assembly that the Presidency Committee has decided that in future it will apply more strict criteria for the admission of associations resulting from newly democratic countries, admitting them initially as extraordinary members.

Mr. Sy then mentioned the letter that he had received from the association of the Ivory Coast, as well as the letter which he had sent to the local Minister for Justice. He added that the events mentioned in the letter took place on March 9th, 2004. He informed the assembly that the Presidency Committee had decided to instruct the Vice-Presidents attending the meeting of Ouagadougou, to report on the current situation in the Ivory Coast for the next meeting in Valle de Bravo.

The President of the Group referred to the amendments to the I.A.J. statutes and the regulations approved in Vienna, and pointed out the way in which henceforth the candidatures for the posts of the I.A.J. will have to be submitted to the Central Council.

Mr. Sy added that the Presidency Committee had decided to invite to the meeting of Valle de Bravo the new UNO special rapporteur on the independence of judges and lawyers, Mr. Leandro Despouy, a career diplomat from Argentina. Mr. Despouy, who has never been a judge, is the successor of Mr. Param Kumaraswamy, the last prize winner of the "Justice in World" award.

By a letter of April 19th, 2004, the Executive President of the Foundation "Justice in the World" Foundation, Honorary President Mr. Ramon Rodriguez Arribas, informed the President of the I.A.J. that the General Council of the Judicial Power of Spain had proposed to the Head of the State his appointment to the Constitutional Court of Spain (which consists of twelve members). This position is incompatible with any function within associations or foundations. Consequently, by a letter of April 26th, 2004, the Honorary President Mr. Rodriguez Arribas announced his resignation from his post as Executive President of the Foundation. The Presidency Committee decided to approve the proposal by President Markel to appoint Mr. Ruben Jimenez Fernandez as the new Executive President of the "Justice in the World" Foundation.

The Presidency Committee also considered ways of improving coordination between the work of the Foundation and that of the I.A.J. On this subject, President Markel invited all the members of the Committee to reflect on the means by which relations between the I.A.J. and the Foundation could be improved.

The International Commission of Jurists (ICJ) contacted the Secretariat-General of the I.A.J. This organization is apparently interested to know the I.A.J. procedures regarding applications for membership. The Secretary-General explained by letter the criteria followed by the I.A.J. The ICJ then sent its own questionnaire on attacks against the independence of justice, requesting our opinion on the text. President Markel noted the need for establishing a link with the ICJ and following that the

Secretary-General asked for the opinions of Mr. Gass, Mr. Reissner and Mr. Murray (President and Vice-Presidents) of the First Study Commission, on the draft questionnaire of the ICJ.

By a letter of March 10th, 2004 Mr. Mohamed Fourket, President of the Moroccan Judges Association, member of the I.A.J., confirmed that his association was willing to organize the annual I.A.J. meeting in 2005, in Morocco. No candidature was advanced for the organization of the meeting in 2006. It would be desirable that Africa submit a proposal on this subject.

President Sy highlighted the decision of the Presidency Committee of the I.A.J. to install a permanent Consultative Committee on corruption, chaired by Mr. Ernst Markel, President of the I.A.J., and composed of eminent judges from all the continents: Mr. Aboudou Assouma of Togo, Mr. Claudio Baldino Maciel of Brazil, Mr. Francesco Favara of Italy, Mr. Gerald Edward Fitzgerald of Australia, Mr. Rainer Voss of Germany and Mr. Micha Lindenstrauss of Israel. The Committee is charged with the task of delivering its opinion to member associations of the I.A.J., as well as to governments and international institutions, on questions related to the problem of corruption in the judiciary. All associations are invited to spread the news about the existence, the competences and the role of the permanent Consultative Committee on corruption. On this subject, for the purposes of the meeting in Ouagadougou, Mr. Sy had requested associations to forward a summary table on the legislation of their countries as regards corruption.

Mr. Sy then informed the assembly that, at its last meeting in Naples, the E.A.J. had approved a resolution on the establishment of a new scheme regarding the remuneration of judges in France. The E.A.J. had rejected this system, which consists of the allowance of performance bonuses related to the productivity of judges.

The President invited all African associations to send articles to the Director of the publications service of the Foundation, Mr. Alvaro Reis Figueira, to be published in the review "Justice in the World".

The Algerian Association of Judges has submitted its application for membership of the I.A.J., but the Secretariat-General is still awaiting the requested documents. The President expressed his regret that the colleagues of that country could not attend the meeting in Ouagadougou. He informed the assembly that the colleagues of Guinea Bissau and Benin had also given their assurance that they would attend, but they did not travel to Burkina.

5. Problems of member associations and possible solutions.

Mr. Sy firstly announced that a letter had just been received from the association of Niger. The subject will be therefore be submitted to the assembly during the meeting in Ouagadougou. He then gave the floor to the representative of the Association of the Ivory Coast.

Mrs. Diakite informed the assembly that the colleagues from South Africa had notified her that it would not be possible for them to travel to Burkina for the meeting of the Group.

She then referred to the events which took place in her country in March 2004, and which had prompted the letter that Mr. Sy had just mentioned. She added that, following the aggression experienced by judges, at the time of swearing-in the First President of the Court of Appeal of Abidjan (whose nomination had been disputed by others), all the judges of the Ivory Coast, even those who are not members of the U.NA.MA.C.I., suspended their services, which finally led to an improvement in the situation. Mrs. Diakite thanked the African Group and its President for its support on this occasion. She explained that the resilient attitude of the judges of the Ivory Coast, supported by the I.A.J., brought the Government not only to ensure increased protection for judges, but also to consult their association on the drafting of some new reforms concerning judicial status, the Higher Council of the Judiciary and the National School for the Judiciary. Thanks to the action of the U.NA.MA.C.I. all the claims by the judges of the Ivory Coast were accepted; in particular, the Government accepted that the National School of the Judiciary is no longer a part of the National School of Administration. The President of the Republic, President of the Higher Council for the Judiciary, assured colleagues that judges will henceforth be involved in all work aimed at reforming the Higher Council for the Judiciary and the status of judges.

President Sy thanked Mrs. Diakite and declared himself prepared to go to Abidjan if necessary. He referred to the results achieved by the association of judges from Senegal during a confrontation with the Government of that country.

Mr. Dembélé, delegate of Mali, informed the assembly that, at the time of a conference in Porto Novo (Benin), the delegates approved a motion of support in favour of the colleagues of the Ivory Coast. Mrs. Diakite confirmed that she had received this motion.

As regards the relationship with Benin, the delegate of Togo, Mr. Assouma, explained that it is very difficult to contact the colleagues of that country, as demonstrated by the fact that although they were invited to Ouagadougou, they did not come. Mr. Sy added that the same applies to Guinea Konakry and Guinea Bissau, as well as to Mauritania.

Addressing the problem of Niger, Mr. Sy mentioned the letter sent by this country's association (S.A.MA.N.), referring to the questions of the contractualisation of some higher judicial posts and the confessional oath. The letter was distributed to all the delegates present at Ouagadougou. Mr. Sy then gave the floor to Mr. Saadou of Niger, who explained the contents of his letter.

Following the speech by Mr. Saadou, a long discussion took place, during which the delegates from all associations respectively, took the floor, expressing their support for the position of the colleagues of Niger, who are against the contractualisation of higher judicial posts, which is currently taking place in Niger, as well as for the project to introduce a confessional oath for judges. Upon conclusion of the debate, the assembly decided to follow the proposal by Mr. Assouma, who suggested sending a letter to the President of Niger, in his capacity as President of the Higher Council of the Judiciary, asking him for an audience for a delegation composed of Mr. Assouma and the President of the Group, Mr. Sy. A more robust action would only be possible if this attempt should fail. President Sy added that in the event of a failed attempt, it would be possible to address the special rapporteur of the United Nations who will be attending the meeting of the I.A.J. in Valle de Bravo.

SESSION OF JUNE 15th 2004

The meeting was opened by the President at 4.00 p.m., in the presence of the same delegates who attended the meeting of June 14th. A working group was formed to study the topic "the African Court of Human Rights and Peoples". The group was composed of the following delegates: Mrs. Kennou Kelthoum (Tunisia), Mrs. Merindol Owoba Clarisse (Burkina Faso), Mr. Hamet Sam (Mali), Mr. Montari Abdou (Niger), Mr. Momble Messey (Ivory Coast), Mr. Abdoulaye Yaya (Togo), Mr. Soa Philippe Rene (Cameroon), Mr. Coulibaly Dihizou (Burkina Faso) and Mr. Chérif Sydou Cissé (Senegal).

At the beginning of meeting, President Sy gave the floor to Mr. Assouma, who read the draft letter to be addressed to the President of Niger, explaining that he himself and the President of the Group, Mr. Sy, were prepared to travel to Niger as mediators with regard to the aforementioned problems of contractualisation of high judicial posts and the confessional oath for judges. The assembly approved this proposal. The assembly discussed and approved the draft letter, bringing in some amendments. Mr. Sy and Mr. Assouma will ask for an audience with the President of Niger to be fixed, preferably during July 2004.

4. Applications for the next meeting of the African Group; proposals for subject to be dealt with.

The meeting of the Group in 2005 will take place in Niger. The delegation of Niger will confirm its candidature during the meeting of the Group in Valle de Bravo. The delegate from Cameroon announced his intention to present his country's candidature for the organization of the meeting in 2006. The assembly will also decide in Valle de Bravo the topic to be dealt with during the meeting in Niger.

6. Miscellaneous.

Mrs. Diakite outlined the proposal by the association of the Ivory Coast entitled "Organization and redynamisation of the African Regional Group of the International Association of Judges (I.A.J.)". She emphasised the need for the Group to assume the denomination of African Association of Judges,

in order to be able to support its application before the African Union. She added that her association had taken as a starting point the example of the E.A.J. The draft statute was also inspired by the new statutes of the E.A.J., as well as those of the I.A.J. After a long discussion, the assembly decided to set up a commission, charged with the task of considering the question and of working out a draft statute to be submitted to the assembly at the time of its meeting of June 16th, 2004. The working group is composed of the following delegates: Mr. Gbaza Boby (Ivory Coast), Mr. Dembelé Boya (Mali), Mr. Dermech Néji (Tunisia), Mr. Koliba Dansokho (Senegal), Mr. Aladoua Sadou (Niger), Mr. Armand Ouedraogo (Burkina Faso), Mr. Abdoulaye Yaya (Togo), and Mr. Philippe Soa (Cameroon).

After the session had ended, and the proceedings had been officially closed, the delegate of Togo, Mr. Assouma, asked that the heads of the delegations return to the room. In the presence of the heads of the delegations of Burkina Faso, Cameroon, Ivory Coast, Mali, Niger, Senegal, Togo and Tunisia, Mr. Assouma proposed the candidature of Mrs. Fatoumata Diakite as President of the African Group and Vice-President of the I.A.J. Certain colleagues said that they had not received a mandate for such a question. The delegates took note of this candidature. President Sy recalled the new statutory provisions for this election and pointed out that it will only be during their meeting in Valle de Bravo, the day before the meeting of the Central Council, that the groups will be able to designate their candidates.

SESSION OF JUNE 16th 2004

The meeting was opened by the President at 10.00 a.m., in the presence of the same delegates who attended the meetings of the 14th and 15th June.

Mr. Dembélé read out before the assembly the conclusions of the Commission which had studied the draft statutes of the A.A.J. Following a long discussion, given that a consensus could not be reached on the text of the statutes, the assembly decided, upon a proposal by the President, that the Commission will continue its work by means of electronic mail and that it will prepare a draft statute to be submitted to the assembly during the next meeting in Valle de Bravo. Members of the Commission will have to send their reports to the President of the Commission, Mr. Boby. The Vice-President of the I.A.J., Mr. Denecker, took the floor to emphasise the risk that a division of the Group into zones may jeopardize the unity of the Group. The President of the Commission, Mr. Boby, stressed that such a division was aimed at achieving a rotation of the Presidency of the Group.

Approaching the matter of the Commission, which studied the topic "The African Court of Human Rights and Peoples", Mr. Momble Messey read the resolution, which is annexed to this summary report as an enclosure. This resolution was approved unanimously by the assembly.

The assembly also unanimously approved a motion of thanks to the authorities of Burkina Faso, and to the colleagues who organized the meeting of Ouagadougou.

The closing ceremony took place at 11.30 a.m.

During this event, Mr. Yaya took the floor to read the contents of the resolution on the topic: "The African Court of Human Rights and Peoples", which was unanimously approved by the assembly. Mr. Kuassi Bernard read the motion of thanks. President Sy concluded the proceedings by thanking once again, the Judges Association of Burkina Faso, as well as all the colleagues, for the perfect organization of the meeting, their hospitality, and the excellent working conditions during the meeting. Mr. Sy also thanked the Secretariat-General, particularly Deputy Secretary-General Giacomo Oberto, for his assistance both before and during the preparation of the meeting.

In conclusion, the Secretary-General of the Ministry for Justice of Burkina Faso declared closed the proceedings of the 9th meeting in the African Continent of the African Group of the I.A.J.

Deputy Secretary-General
Giacomo Oberto

President
Mamadou Mansour Sy

Enclosure: "Resolution of the Commission relating to the African Court of Human Rights and Peoples".

Resolution of the Commission relating to the African Court of Human Rights and Peoples

The above-mentioned Commission met on Tuesday June 15th, 2004 at 4.00 p.m. in the Town Hall of Ouagadougou after its composition had been approved by the plenary session of the meeting of the African Group on June 14, 2004 under the control of the Presidency of the Group.

On opening the meeting, the President of the Commission in the person of Mr Yaya Bawa ABDOULAYE, Secretary-General of the Association of Judges of Togo (APMT), Delegation of Togo, proposed a working plan to the members of the Commission which decided in favour, with an additional proposal on organisation.

The proceedings were directed by the President, assisted by a Vice-President as well as by a Rapporteur.

Finally, it was decided as follows:

Firstly, the Commission expressed its approval of the choice of the subject to be examined, concerning the establishment of the African Court of Human Rights and Peoples, which is a decisive step amid the general drive of many young States towards socio-political stability, which constitutes the prelude to efficient and democratic evolution.

After this, the delegates from each of the participating countries read out their respective reports. A debate ensued in which the following points were considered:

- 1° Selection of Judges
- 2° Access to the Court
- 3° Enforcement of decisions
- 4° Existence and Role of a Prosecution Office
- 5° Court Proceedings

Expanding upon these points, the Commission estimated that:

As far as the selection of judges is concerned, the Court should be mainly composed of professional judges who, in addition to their recognised competence, should be specialised in the field of human rights.

Regarding access to the Court, two major aspects deserve special attention: namely, access should be granted unconditionally to any individual citizen of the Member States of the African Union and party to the charter. In addition, there should be a procedure which can overcome the problem of "the exhaustion of appeals before domestic jurisdictions", without overwhelming the Court's offices with inopportune or whimsical requests.

As to the enforcement of the decisions of the Court, it is necessary to seriously consider coercive measures against States which refuse to comply with unfavourable decisions.

A procedural system should be devised for the Prosecution Office, with special regard to methods in following up and investigating crimes, whereby delays and slow progress can be avoided.

Lastly, concerning court proceedings and the statutory position of judges, these should be permanent judges, sitting and domiciled in the place where the jurisdiction is located.

Made in Ouagadougou, June 15th, 2004

The Commission