



**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

Wien (Austria), 9 November 2003

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 President of the I.A.J., Mr. Ernst Markel, of the Honorary President of the I.A.J., Mr. Tarek Bennour and of the Deputy Secretary General of the I.A.J., Mr. Raffaele Gargiulo, as well as the following delegates of the national associations member of the International Association of Judges and of the African Regional Group:

Ivory Coast	Mrs. Fatoumata Diakite, Mr. Kouassi N'wessan Bernard, Mr. Kouassi Brou Bertin
Niger	Mr. Aladoua Saadou
Senegal	Mr. Serigne Bassiou Grèye, Mr. Iha Samba Yoro Diop
South Africa	Mr. Desmond Nair, Mr. Abida Motlekar, Mr. Zeemat Careise, Mr. Motlatsi Moleele, Mr. Cagney Musy, Mr. Mohannes Ramotholo, Mrs. Judith Freda Van Schawyk
Togo	Mr. Assouma Aboudou
Tunisia	Mr. Tarek Bennour

Mr. Mansour Sy opened the meeting at 16h30 thanking all the delegates for their participation. He thanked also the Austrian Association of Judges for the perfect organisation of the meeting. The President of the African Group then gave the floor to Mr. Markel. The President of the I.A.J. expressed his regret for having not been able to take part in the meeting of the African Regional Group in Johannesburg because of a strike of Air France, in spite of his desire to contribute to the works of the Group. He took the occasion to introduce himself to the African delegates and pointed out that he had worked for long years for the Austrian Association of Judges and that he had started, in his capacity as President of this association, an active co-operation at the international level. Mr. Markel explained that the national associations of judges – in spite of the differences among them, concerning the language, the culture and the legal system of each country – must be united to achieve their common goals, namely the development, at the regional and international levels, of the fundamental principles on the independence of the judiciary, adopted by the United Nations. He thanked all the delegates for their work within the I.A.J. and within the Regional Group and assured all his assistance to the Group to face its problems. Mr. Markel assured also the assembly that he would go to Africa for the next meeting of the Group.

Mr. Sy warmly thanked the President of the I.A.J. for his intervention. Then he passed to examine the points on the agenda and proposed a modification, by removing point no. 3 ("Presentation from the President and subsequent debate on the theme: "The IAJ - structures and evolution."). He underlined that there will be a symposium on occasion of the fiftieth anniversary of the I.A.J., where this topic will be treated. He proposed to replace this point with that concerning the research of a common candidature of the African Group for the Prize "Justice in the World". He added that the topics of the modification of the Statute and of the organisation of the next meeting of the African Group will be dealt with under the heading of "Miscellaneous".

1. Approval of the summary report of the last meeting in Johannesburg.

Mr. Sy asked whether the delegates had remarks and observations on the report. The minutes of the last meeting of the African Group in Johannesburg were unanimously approved.

2. Activity Report of the President.

Mr. Sy referred to his written report on the activities of the African Group. He asked Mr. Gargiulo to summarise in English what he would say concerning this report, whose French version is the only available.

The President of the Group explained that the topic of the symposium in Madrid (3-5 June 2003), organised by the Foundation "Justice in the World", was: "Foreigners and Immigration". All the associations were invited to send one delegate. Important conclusions were approved there. It was also the occasion for the delivery of the Prize of the Foundation to Maître Dato Param Cumaraswamy, U.N. Special Rapporteur on the Independence of Judges and Lawyers. Mr. Sy seized the occasion to deplore the absence of certain associations.

Mr. Sy added that the meeting of the African Group was held from 13 to 15 June 2003 in Johannesburg. He once again thanked the colleagues from South Africa, and, in particular, the President Mr. Musy and the Secretary-General Mrs. Connie Molwantwa, for the efforts they made. Three subjects were discussed during the meeting: "Judicial Backlogs and their solutions in your Countries"; "Transformation of the Judiciary"; "Excision". The conclusions of these works will be published in the review "Africa Judges". He stressed that the review is not simply an instrument of connection, but also a true review, for the number and especially for the quality of the articles.

Mr. Sy once again thanked the Moroccan colleagues, particularly Mr. Fourkhet Mohamed, for their determination to publish this review. He expressed also his gratitude to Mr. M'hamed Drissi, Director of the Administration of Social Activities of Judges and Senior Officials of Justice of Morocco. The publication of the review costs approximately 57.000 Euros. He thanked also Mr. Drissi and the Moroccan colleagues for allowing the magistrates belonging to the I.A.J to stay in the leisure centres of the Moroccan association to the same fares applied to Moroccan judges (approximately 10 Euros per day per person). He added that this unselfish act deserved a detailed attention because it was the expression of a real solidarity between magistrates from all over the world.

The President of the Group underlined that he received some invitations from the Presidents of the other regional groups to attend their annual meetings, but his working duties did not allow him to participate. He renewed on this occasion all his excuses. Mr. Sy informed the assembly that, following a call launched by the colleagues of Burundi and in accordance with the decision taken by the Presidency Committee and by the African Group, he addressed a letter to them, expressing the commiseration and solidarity for the unfair conduct of the Executive Power towards them, regretting not to be able to act differently.

Concerning the relation with the African Union, he underlined that he will send a new letter to the Secretary General when the new organs of the organisation and their chairpersons will be appointed. As regards the Democratic Republic of Congo he informed that the magistrates were mobilised and that they were on strike to ask a revaluation of their salaries (about 30 Euros per month). He invited the delegates to decide some means to express the support of the Group, whatever can be the issue of their struggle.

The President of the Group then informed the delegates that the candidature of Morocco to host the annual meeting of the I.A.J in 2005 was confirmed in Johannesburg. The Moroccan colleagues made significant efforts for the organisation of this meeting, which will be the fourth of the kind in Africa, after Tunis (twice) and Dakar. Mr. Sy invited the members of the Group to support this candidature.

Then, Mr. Sy noted the quasi-permanent absence of two associations, those of Tanzania and Niger. He also noted that certain associations were not up-to-date with their contributions. He invited Niger, which was attending the meeting, to settle its contributions.

Finally, the President of the Group renewed his thanks, in the name of the entire Group, to the Deputy Secretary General in charge of the African Group, Mr. Giacomo Oberto, who had never spared the least effort so that all the meetings were successful. After having thanked Mr. Tarek

Bennour, Honorary President of the I.A.J., for his presence to the meeting, Mr. Sy invited the delegates to ask questions about the different topics of the report.

The delegate of Niger asked why the Group contented itself with sending only one letter to Burundi, without adopting more incisive measures. He informed also the colleagues that since some years the Association of Niger was having problems related to the delayed payment of the magistrates' salaries. In October the Association of Niger sent to the I.A.J.'s General Secretariat a proposal concerning the contributions; then, at the end of October, sent 500 Euros and committed itself to settle the payment of its contributions by March.

Mr. Sy said that he always referred to problems with the salaries to justify the absence of the Association of Niger and the delayed payment of its contributions. He took note of the proposal made by the Association to settle its arrears. He recalled that the associations which were not up-to-date with the contributions could not take part in the vote within the Central Council. For this reason the General Secretariat listed in the report the associations which were late with the payment of their contributions. As regards Burundi, Mr. Sy stressed that the Association of Burundi required the I.A.J. to apply to the European Union so that this organisation put pressure on the Burundian Executive and Legislative Power in favour of the magistrates of this country. This request exceeded the competence of the I.A.J., as determined by its Constitution. Moreover, being not the Association of Burundi a member of the I.A.J., Mr. Sy had no legal means to approach the authorities of the European Union. For these reasons, during the meetings of the Presidency Committee and of the African Group in Johannesburg it was decided to send only a letter of support. Moreover, in Johannesburg, the Group decided to send a letter of protest to the Secretary of the African Union to sensitise him on the situation of our colleagues of Burundi. Mr. Sy pointed out also that, in the past, the African Group adopted other forms of solidarity, as for Congo Brazzaville, when it was decided to pour contributions to help the colleagues tracked by the Government.

The Honorary President of the I.A.J., Mr. Bennour, took then the floor to thank the President of the Group and the members of the African Group. He recalled that this year was the tenth anniversary of the birth of the African Group, which was created in 1993 in Sao Paulo (Brazil). The first meeting of the Group was held in Tunis in 1994. The Group developed by contacting several associations. He ensured all his support to the Group to become stronger. Mr. Sy thanked the Honorary President for having recalled the anniversary of the Group and underlined his evolution and his achievements.

Mr. Assouma thanked Mr. Sy for his report, short but very rich. With regard to the concrete cases pointed out, he asked the President of the Group to specify which were the means of information used by him and, in particular, whether he had contacts with the Government, made any investigations and had personal and direct contacts, or got news through the media or the internet. A colleague of the Ivory Coast asked whether there were any measures to be taken for Guinea-Bissau, where a change in the Government had taken place.

As regards Guinea-Bissau, Mr. Sy explained that he was in permanent contact with the colleagues of this country, where he wanted to go before the end of August. The events which happened thereafter prevented his voyage. A coup d'état intervened, but he maintained contacts with the President of the Association, who suggested him to wait until the situation improved. By answering to Mr. Assouma, the President underlined that he had had news on the situation in Congo Brazzaville firstly from the colleagues of that country and from the media, then through the embassies and, finally, through some Belgian colleagues who were in contact with judges of that country. Mr. Sy said that it was necessary not only to follow but also to evaluate the situation, in order to adopt without delay support measures for the colleagues. He added that the colleagues of Congo, and in particular the Public prosecutor, who was restored in his functions, thanked him and the Group, by telephone, for this mark of effective solidarity.

3. Annual contributions:

a. Associations in arrears of their membership contributions;

b. Proposals to increase annual membership contribution.

Mr. Sy informed the Group about a proposal to increase the amount of the contributions. He stressed that the contributions were already high and that a further increase could create great difficulties to

many associations. Thus in his opinion an increase in the amount of the annual contribution was not necessary; he will discuss the question with the President of the I.A.J.. Mr. Sy added that Cameroon had settled the payment of its annual contributions. He underlined that there was a list of the countries which were not up-to-date with their contributions and recalled that the countries which had not paid their member's subscription for two years could not take part in the vote and could be exposed to other sanctions.

4. Applications for IAJ membership: Burkina Faso - Cameroon; problems of associations in their relationship with State powers.

Mr. Sy informed that the Association of Burkina-Faso made an application for membership to the I.A.J.. He travelled to that country and prepared a report. In Burkina-Faso there were three associations of judges. The one which presented the application for membership organised a strike. Through this strike it could be seen that the association gathered the most part of the magistrates of the country. The President of the Group noticed that the association shared the same ideals of the I.A.J. with regard to the independence of the Judicial Power. He exhorted the Group to support within the Central Council the candidature of Burkina-Faso.

He added that last year the Presidency Committee raised the question of the apolitical character of this association. He could ensure that, under the terms of article 3 of its Statute, the Association was apolitical. The Secretary of this Association confirmed, by letter, that, according to the provisions of the Statute and according to its praxis and various acts, the Association had an apolitical character.

As regards Cameroon, Mr. Sy stressed that some proposals of amendments of the Statute of the Association were made by the I.A.J.. He noticed that when these modifications will intervene Cameroon could be admitted as an ordinary member. He added also that it was essential to travel to Cameroon and to prepare a report, as requested by the Presidency Committee. He stressed that, because of the transfer of the president of the Association of Cameroon to the Ministry for Justice, it was not possible for him to organise his mission to Cameroon in August. Mr. Sy hoped to go there after the congress.

5. Miscellaneous.

With regard to the next meeting of the I.A.J and to the topic to be treated, Mr. Sy invited the delegates to make proposals. Mr. Bennour noticed that unfortunately the Tunisian colleagues were not present, but he said that they were arriving and that he believed that they would formalise in the following days the candidature of the Tunisian Association and the topic to be treated. As regards the Prize of the Foundation "Justice in the World", he invited the associations to present, by December 10, some candidatures, either persons or associations. He recalled that in the past there were rather remarkable candidatures.

This year the Prize was delivered to the Special Rapporteur of the United Nations on the Independence of the Judges and Lawyers. He underlined that some African candidates had been proposed, but without success until this moment. Mr. Musy invited the members to choose a common candidate. Mr. Bennour stressed that, having considered the candidates of the preceding editions, this year, if the African Regional Group proposed a valid candidate, there were good chances that he could be retained. He proposed the person of Mr. Nelson Mandela. He invited the President of the Group and the magistrates of South Africa to contact him. Mr. Sy agreed with this proposal. He pointed out that he had already proposed him as member of the Jury of the Foundation, but the proposal had no follow-up because of some difficulties in the correspondence with a colleague of the South African Association. Mr. Musy confirmed the candidature of Nelson Mandela.

Mr. Sy asked whether the delegates had remarks and observations on this candidature. The candidature was approved unanimously. Mr. Sy explained that he and Mr. Bennour would present the candidature of Nelson Mandela to the President of the jury the following day. He invited the colleagues of South Africa to contact him and to ask whether he accepts the candidature and, moreover, to send

as soon as possible, either to him or to the Foundation, the documents and the curriculum vitae necessary to support this candidature.

As regards the modifications of the I.A.J.'s Constitution, Mr. Sy stressed that, five years ago, a commission had been created to study possible amendments concerning the candidatures for the Presidency of the I.A.J. and for the Vice-Presidents. The working group drafted a proposal of amendment, which was retained and which will be voted by the Central Council. The President, noting that only today the delegates received the French texts of the proposal, suggested to postpone the discussion on this topic to the following days, to allow the delegates to examine them.

Mr. Bennour said that he attended the meeting of the African Group in Johannesburg. This meeting was held coinciding with that of the Association of South Africa. The topics dealt with did not arouse the interest of all the members of the Group. The I.A.J. was considered just as an Association invited to the meeting of the South African Association. He observed that, when the I.A.J.'s Regional Groups meet, it is the President of the Group who must open the meeting and direct the debates, while the Secretariat prepares the report. He added that the purpose of his remarks was only to avoid that such mistakes recur in future, while realizing that the colleagues of South Africa had not much experience in this respect. Mr. Bennour, taking into account the events occurred during the Central Council in Alicante, invited the African associations to present a common candidate for the charge of Vice-president in the future, so to gain the consensus of the assembly. He invited also the associations to discuss their problems within the African Group and not within the Central Council.

A long debate followed the remarks of the delegates of Senegal concerning the conditions to be elected to the charge of Vice-president and, in particular, concerning the necessity that the respective national Association introduced each candidate to this charge. Mr. Bennour explained that the members of the Presidency Committee didn't need to be presented by their respective national Associations. A frank exchange of views took place, especially between Mrs. Diakite and Mr. Sy, on the events within the African Group after the cancellation of the meeting in Ivory Coast. At the end of the discussion Mrs. Fatoumata and Mr. Sy expressed their wish that, apart from personal problems, the African Group could become stronger. Mr. Sy closed the meeting by thanking all the delegates for their contributions to the works. The session was closed at 19h00.

The Deputy Secretary-General
Raffaele Gargiulo

The President
Mansour Sy