



WISHES FROM THE NEW IAJ PRESIDENT

Dear Colleagues,

It is a great personal pleasure for me to be writing in this newsletter as President of the IAJ. I follow in that role from Christophe Regnard whose work as President occurred at a time of particular difficulty for the independence of the judiciary. Those times continue to be difficult and there are many indications that the difficulties may spread. The shoes of Christophe are hard to fill and the organisation has few resources to do such important work.

A bright spot on the horizon was the congress of the IAJ in Marrakesh. It was the second time we assembled in that city and were greeted with warmth and generous hospitality. We thank again our hosts for their efforts and hospitality. Seventy-two associations, from seventy-two countries, were present at the congress, and the admission of new members has brought our total membership to ninety. There remain some notable omissions from our membership but the IAJ is the largest judicial association run by judges to advance the important pillars of a just society,

namely, the rule of law and the independence of a judiciary. Rule by law guarantees equality of justice to all by ensuring freedom from arbitrary action against individuals. An independent judiciary ensures that disputes between individuals will be resolved by reference to impartial rules applied without third party interference from governments or elsewhere. These principles are not upheld for the personal benefit of judges but for the fundamental enjoyment of the public which the judges serve.

The IAJ has new active applications from new associations to join. They include places as diverse as Lebanon, Gabon, Yemen and New Zealand. It is a fundamental strength of the IAJ, and of its depth, that its members are from so many different places with so many different traditions and so many different circumstances. No two systems are alike and the differences between all are profound and significant. What binds them all together is a commitment to the rule of law and to ensuring that the public is served by a judiciary which is independent from external interference.

These themes were taken up at the international Conference which formed part of the congress in Marrakesh. It had the benefit of speakers from outside of the judiciary which informed and deepened our understanding of the issues around such matters as judicial accountability and its relationship with judicial independence. The papers presented at the conference, and my summary of those papers, can be read on the IAJ website. Each of the study commissions also met as did each regional group, and their respective conclusions and minutes have been recorded in the member's section in the website.

The work of the IAJ continues between congresses and is undertaken by a dedicated voluntary Presidency Committee with the assistance of a small and overworked secretariat. The work increases over time but the resources available to do that work has not increased commensurately. The IAJ owes an extraordinary debt to the secretariat headed by Secretary-General Giacomo Oberto and supported by Barbara Scolart and Daniela De Vincentis. I wish publicly to acknowledge their efforts and to thank them for their hard work on behalf of the whole organisation.

We are now all looking forward to, and busily preparing for, our next conference which is to take place in Astana Kazakhstan. It will be the first time that the IAJ will have visited Kazakhstan and for many of us it may be the only time we visit that country. It will provide an important opportunity for us to learn from another of our members and see how others deal with the same problems which we all have. I look forward to seeing many of you there and for us to have a successful conference in Astana.

In the meantime, may I wish you all the best for the festive season and for the commencement of 2019.



*Tony Pagone
President of the IAJ*

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MEETING OF THE IAJ CENTRAL COUNCIL IN MARRAKESH (OCTOBER 2018)



1. Introduction – Institutional life of the IAJ

The Central Council of the International Association of Judges held its 61st annual meeting in Marrakesh (Morocco), with the co-operation of the Moroccan Association of Judges (*Amicale Hassania des Magistrats du Maroc*), on 15, 16 and 18 October, 2018. Besides the Presidency Committee and the Secretariat-General, 72 member associations were present (in attendance or by proxy), as well as delegates from observer countries and IAJ representatives before International Bodies and Institutions.

President Régnard warmly thanked the Italian *Associazione Nazionale Magistrati* for its constant and fundamental financial contribution for the functioning of the General Secretariat. He then mentioned the important role played by Mr. Fausto Zuccarelli, for 20 years a delegate of the Italian Association, who had the idea, in a moment of crisis for the IAJ, of a special support by his Association. Mr. Zuccarelli, now retired, was not attending the meeting and President Régnard asked the Italian delegation to deliver him a message of gratitude of the IAJ. The Assembly applauded.

After the presentation and approval of reports by the President, the Secretary-General and the Presidents of the Regional Groups, the Assembly discussed and finally approved an important resolution (on the basis of the resolutions already adopted by the Regional Groups, published in a previous issue of this newsletter), calling for an updating of the 1985 UN Basic Principles on the

Independence of the Judiciary.

Four new countries were unanimously admitted as members, namely: Angola, Bolivia, Ecuador and Guatemala, Lesotho, however, ceased its membership for non-compliance with statutory rules on the payment of annual membership fees. The current number of member associations is therefore of 90 (ninety).

As for the vote on the proposed amendment of the Constitution and Regulations, President Pagone recalled the precedent of the proposed amendments: in 2012 when the Constitution was amended to permit a monitoring procedure every 5 years. The first round was finished and the next monitoring would start in 2020. The Presidency Committee discussed the possibility of cancelling the need for a monitoring procedure (as lengthy, time consuming and ineffective) and the feasibility of admitting as IAJ “affiliate” members international associations of judges and of judicial associations. After a debate, the Central Council decided unanimously to postpone the examination of the draft amendments to the Constitution.

As to the meetings of the IAJ in the next years, Mr. Balken (Kazakhstan) took the floor to propose his country as venue for the 2019 IAJ meeting (Astana, 22-26 September, 2019). The Assembly unanimously approved the candidature. The President warmly thanked the delegation of Kazakhstan for their availability.

2. Elections

The Assembly held elections of the IAJ officials. The elections were introduced by a farewell speech by President Regnard. He pointed out that he had started in 2006 as delegate of the French Association; in the following years he worked within the 1st Study Commission, chaired the Working Groups on the amendment of the IAJ Constitution and on the updating of the Universal Charter of the Judge, was rapporteur on the application of the Algerian Association. President Régnard also mentioned the other colleagues leaving the Presidency Committee: Mr. Musi, who did a remarkable job as President of the African Group for 8 years, and Ms. Crespo, who was very engaged as President of the Ibero-American Group and of the IAJ. President Régnard mentioned the admission of 27 Associations since 2006 and stressed that the welcoming ceremonies were among his dearest and touching souvenir. Among the saddest moments, he recalled the arrest of the Mr. Murat Arslan and underlined that the IAJ is a fundamental stronghold for the fostering of judicial independence.

Secretary-General Oberto took the floor to celebrate the work done by Mr. Régnard as thirtieth President of the IAJ and, before, as President of EAJ and delegate of the French Association. He fought and won several battles for the independence of the judiciary, from the abolition of the extraordinary membership, to the engagement for Turkish colleagues arrested and the delivery of the Vaclav Havel Prize to Mr. Arslan.

Mr. Tony Pagone was then unanimously elected by acclamation as President of the IAJ. The same happened for the election of the member of the Secretariat General: Mr. Oberto was elected by acclamation Secretary-General, Mr. D’Agostino, Mr. Gargiulo, Mr. Aschettino were unanimously elected Deputy Secretaries-General. The Assembly then unanimously elected Mr. Djamel Aidouni (Algeria), Mr. Rafael De Menezes (Brazil), Ms. Allyson Duncan (USA), Mr. José Igreja Matos (Portugal), Mr. Đuro Sessa (Croatia) and Mr. Mikael Sjoberg (Denmark) as Vice Presidents.

Mr. José Igreja Matos was then acclaimed First Vice-President.

Mr. Régnard was acclaimed Honorary President, upon proposal by President Pagone.



3. Priorities for the work of the Presidency Committee and IAJ for the triennium 2018-2020

Vice President Igreja Matos took the floor to inform the Assembly about the activities concerning corruption. He stressed the importance to cooperate with UNODC on its five projects on social media, judicial ethics training tools, review of the Bangalore Principles, investigation on judicial misconduct and selection and appointment of judges. He recalled the various conferences held in Latin America on the theme of corruption.

Vice President De Menezes stressed that there cannot be independent judiciary without judicial education and encouraged the participation of the IAJ members in the works of the Study Commissions. He also informed the Assembly about the scheduled meeting, in the late afternoon of that day, of the WG on judicial education that will propose to the Presidency Committee ideas and projects for conferences and for the fostering of the works of the Study Commissions.

Vice President Sjoberg told the Assembly that the WG on the establishment of associations of judges recently started its activities and was eager to learn important lessons also from the creation of the Association of New Zealand, recently established.

4. Reports by the Presidents of the Study-Commissions. Selection of the new subjects

President Pagone called on the Presidents of the four Study Commissions to report on the conclusions of the Commissions on their respective subjects:

- 1st Study Commission - Ms. Roslyn Atkinson: “The trend of public criticism towards judges and judicial decisions in a disrespectful manner by other state powers, the media and in social media”;
- 2nd Study Commission - Mr. Thomas Cyr: “Strategies for effective case management”;
- 3rd Study Commission - Mr. Chuck Simpson: “A. Treatment of witnesses, including children, protected witnesses and sexually abused victims. B. Trial Procedures. C. Mandatory sentences”;
- 4th Study Commission - Mr. Philippe Bron: “Rights and obligations of refugees: a risk of modern slavery?”.

The Presidents also proposed the subjects to be dealt with by the Study Commissions in 2019:

- 1st Study Commission: “Social media and the judiciary: 1) how best to respond to unfair comments about judges made on social media; 2) use of social media by judges and courts: opportunity or danger”;
- 2nd Study Commission: “Problems, large and small, in the financing of litigation”;
- 3rd Study Commission: “The Media in Criminal Cases: Protecting the Integrity of the Proceedings and Communications with the Media”;
- 4th Study Commission: “Harassment, in a broad sense—moral and sexual— and its consequences on labour relations”.

The Presidents announced the composition of the Boards for the next two-years term:

- 1st Study Commission: President: Mr. Walter Barone (Brazil); Vice-Presidents: Mrs Marilyn Huff (USA), Mr. Roland Kempfle (Germany), Mr. Mohamed Khadraoui (Morocco); Secretary: Mr. Michael Tamir (Israel);
- 2nd Study Commission: President: Mr. Thomas Cyr (Canada); Vice-Presidents: Mr. John Edwards (Ireland), Mrs. Mette Soegaard Vammen (Denmark), Mrs. Flávia da Costa Viana (Brazil);
- 3rd Study Commission: Co-Presidents: Mrs. Lene Sigvardt (Denmark) and Mr. Dieter Freiburghaus (Switzerland); Vice-President: Mrs. Sally Cahill (UK);
- 4th Study Commission: President: Mrs. Julie Dutil (Canada); Vice-Presidents: Mrs. Margaret McKeown (USA) and Mr. John Wilson (Australia).

The Central Council approved the conclusions as well as the proposed topics for 2019.

President Pagone thanked Ms. Atkinson, Mr. Bron and Mr. Simpson for their service as Chairpersons of the Study Commissions.

As usual, all documents of the four IAJ Study Commissions are available in our web site:

<https://www.iaj-uim.org/study-commissions/>

5. Resolutions

Resolutions adopted by the IAJ Central Council in Marrakesh, as well as all other IAJ resolutions, are available in our web site; just click on the following link:

- <https://www.iaj-uim.org/?document-argument=&document-author=central-council&document-year=&document-type=resolutions-and-declarations&document-nation=>
- <http://www.iaj-uim.org/news/five-resolutions-adopted-by-the-eaj-on-25th-may-2018-in-berlin/>




IAJ INTERNATIONAL CONFERENCE IN MARRAKESH (17TH OCTOBER, 2018)

On 17th October, 2018, in the framework of the 61st IAJ Annual Meeting, an International Conference took place, organised by the IAJ, on the following subject: “Judicial Independence and the Implementation of the New Universal Charter of the Judge.” All presentations are available in our web site, under the following URL:

<https://www.iaj-uim.org/international-conference-marrakesh-2018/>

INTERNATIONAL CONFERENCE – MARRAKESH 2018



IAJ·UIM

**JUDICIAL INDEPENDENCE
AND THE IMPLEMENTATION OF THE NEW
UNIVERSAL CHARTER OF THE JUDGE**

International Conference

Marrakesh (Morocco) – Wednesday, October 17, 2018
In the framework of the 61st Meeting of the International Association of Judges

- UNIVERSAL CHARTER OF THE JUDGE – 2017- .Pdf Booklet in five languages
- THE UNIVERSAL CHARTER OF THE JUDGE – 2017 (OTHER LANGUAGES)

• Programme

- Régnard – Introduction à la conférence
- Oberto – The Issue of Internal Independence
- Stolpe – Judicial Integrity – IAJ and UNODC
- Daubney – Judicial Integrity – IAJ Charter in Common Law Countries
- Cule – Independence of Prosecutors and IAJ Universal Charter of the Judge
- Hinestroza – Lawyers’ Role in Judicial Independence
- Ruiz – Role of Women Judges and Judicial Independence
- Pagone – Conclusions

MEETING OF THE NEW PRESIDENCY COMMITTEE IN MARRAKESH (17TH OCTOBER, 2018)



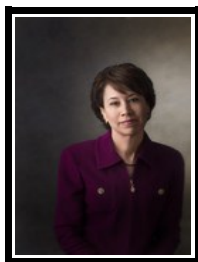
The IAJ Presidency Committee held several meetings in Marrakesh, in order to prepare the debates and the decisions of the Central Council.

After the elections, a special meeting was devoted to the start of the activities of the Presidency Committee in its new composition. President Pagone welcomed, in particular, the two new members: Ms. Duncan, President of the ANAO Group and Mr. Aidouni, President of the African Group.

The Presidency Committee, then, dealt with the application of Honduras, taking into consideration that the association already paid the administrative fee. Honorary President Crespo will attend the meeting of FLAM which will be held in the country and will then be able to meet relevant people for the report.

The Presidency Committee examined the request of support by the Yemeni Association: an official statement by the IAJ or the ANAO Group is impossible for procedural rules (the association is not member and the request had come too late). Honorary President Régnaud added that the Yemeni judges would be grateful if the IAJ President or the ANAO President could write a letter that, following the statement adopted in 2015, shows that the IAJ is conscious of the difficulties of the judiciary in the country. The Yemeni Association would prepare a draft letter and would send it to Mr. Pagone and Ms. Duncan. After the meeting a letter was sent, in accordance with the decision with the Presidency Committee.

Vice President Duncan added that Mr. Carter continued to be willing to be the rapporteur on the application of the Yemeni Association and found some funding. He could travel to the country at the beginning of the year together with Mr. Jeff Apperson, representative of IACA. The Presidency Committee agreed, since it was irrelevant who are the people accompanying Mr. Carter, who is a judge.



Ms Allyson Duncan,
new President of the ANAO Group



Mr. Djamel Aidouni,
new President of the African Group

MEETINGS OF THE IAJ REGIONAL GROUPS – MARRAKESH (14TH OCTOBER, 2018)

As for the **European Association of Judges** – European Regional Group of the IAJ, a large part of the debate was devoted to the situation of the judiciary in some member countries (Poland, Turkey, Hungary, Montenegro, Azerbaijan, etc.).

On this item the President of the Working Group on the situation of Member Associations, Mr. Stephan Gass (Switzerland), submitted his report, replying to questions raised by the assembly. Mr. Peter Schneiderhan, President of the “Ways to Brussels” Working Group, took then the floor to illustrate the most recent initiatives within the EU in the field of the judiciary. After the elections held in the Central Council, on October 17th the EAJ re-elected by acclamation as its President IAJ First Vice-President Mr. José Igreja Matos. The Assembly elected as well the members of the EAJ Presidential Committee, welcoming the offer of Denmark to host the 2019 springtime meeting in Copenhagen.

During the Marrakesh meeting the EAJ adopted following resolution concerning Poland:

https://www.iaj-uim.org/iuw/wp-content/uploads/2018/10/EAJ-resolution-on-Poland_MArrakech-2018.pdf



The four IAJ Regional Groups met in Marrakesh on October 14th.



The **Ibero-American Regional Group** discussed first of all the relations with the International Judges Association of Portuguese speaking countries, with the International Association of Women Judges and the Institute of Human Rights of the International Bar Association. Information was provided as well on the seminar on the fight against corruption, held in Bogotá in September 2018. The Group discussed as well the situation of some member associations (Chile, Costa Rica, Peru and Porto Rico), approving resolutions and motions. The President informed the Group about a seminar held in November in Porto Alegre (Brazil) with the

attendance of judges from eight Portuguese speaking countries, as well as of the President of the European association of judges, Mr. José Igreja Matos. During the seminar, the following subjects were dealt with: legal education and training of judges, setting up judicial associations, fight against corruption, fight against violent gender crimes.

The Group confirmed Mr. Rafael De Menezes as its President.

The IBA Group adopted in Marrakesh following statements (in Spanish):

- <https://www.iaj-uim.org/iuw/wp-content/uploads/2018/10/CHILE.pdf>
- <https://www.iaj-uim.org/iuw/wp-content/uploads/2018/10/Peru.pdf>

The **African Regional Group** discussed the written report submitted by President Cagney Musi and heard the reports presented by all national associations attending the meeting. President Musi informed then the Assembly about the situation of the application of Angola, to be discussed by the Central Council (which subsequently admitted such association as member). He then explained that associations from Burkina Faso, Gabon and Uganda had expressed their interest in possibly joining the IAJ (actually the association of Gabon sent after the meeting a formal application for membership).

During its Marrakesh meeting the African Group adopted following resolutions, available in our web site:

- https://www.iaj-uim.org/iuw/wp-content/uploads/2018/10/AFR_Liberia-resolution_Oct-2018-EN_FR.pdf
- https://www.iaj-uim.org/iuw/wp-content/uploads/2018/10/AFR-resolution-MALI-EN_FR-4.pdf



The **ANAO Regional Group** discussed President Pagone's activity report and elected Judge Allyson Duncan (USA) as its new President. It discussed as well the report about the CEPEJ Plenary Meeting and the proposal of the Presidency Committee to revise monitoring procedures.

Then the issue of the UNODC Judicial Integrity Launch was dealt with and the Group heard comments about the question of violations of judicial independence in Yemen. The ANAO Group discussed as well procedures and location for future annual meetings and assemblies, as well as proposals for topics for discussion and presenters for 2019 ANAO meeting and requests for responses, including a presentation on judicial stress by Josh Wilson.



Delegates of member associations submitted their reports on the situation of the judiciary in their respective countries, discussed the new applications for membership and heard a speech by Mr. Jeff Apperson, representative of the International Association of Court Administrators – IACA (introduction by the Hon. Allyson Duncan). The Assembly focused also on the Declaration of Judicial Training Principles and, in its Plenary Session, discussed the issue of judicial security, under the chairmanship of the Hon. Robert Blair, having as speaker the Hon. Allyson Duncan and as Panel Commentators: The Hon. Jennifer Davies, Hon. Yin-Lun Lin (Grace), and Hon. Elsie Ochoa in attendance whereas the Hon. Tsogt Tsend had prepared a written response.



MEETING WITH THE UN SPECIAL RAPPOREUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS – ROME (19TH NOVEMBER, 2018)



UN SPECIAL RAPPOREUR AND IAJ SG RECEIVED BY THE ITALIAN GENERAL PROSECUTOR

On Monday, 19th November, 2018 the UN Special Rapporteur on the Independence of Judges and Lawyers, Mr. Diego Garcia-Sayan was received by the IAJ Secretariat-General in the premises of the Secretariat-General Offices in the Rome Supreme Court of Cassation Palace of Justice.

In attendance were the IAJ Secretary-General Mr. Giacomo Oberto, Deputies Secretaries-General Lucio Aschettino and Raffaele Gargiulo, as well as the S-G Assistant Ms. Daniela de Vincentiis.

Mr. Garcia-Sayan was also received by the Prosecutor General of the Supreme Court of Cassation Mr. Riccardo Fuzio. During the visit a long Skype phone call session was made with IAJ President Tony Pagone.

Matters of common interest were discussed such as:

1. Participation of UN Special Rapporteur in IAJ meetings
2. Availability to address special issues concerning judicial independence with IAJ Central Council and Regional Groups
3. Updating of 1985 UN Basic Principles on the Independence of the Judiciary
4. Transmission of resolutions and declarations adopted by IAJ and its Regional Groups
5. Organisation of joint events at worldwide and regional level

HONORARY DOCTORATE TO SWISS FEDERAL JUDGE THOMAS STADELMANN - BASEL (1ST DECEMBER, 2018)

The Faculty of Law of the Basel University presented its honorary doctorate to Swiss Federal Judge Thomas Stadelmann. For many years, Stadelmann, one of the Swiss Judges Association delegates to the IAJ, has worked tirelessly to promote judicial independence, the separation of powers, and access to justice in European states where the rule of law is under threat. In particular, he has been critical of the judicial situation in Turkey and has fought courageously on behalf of persecuted and imprisoned judges and public prosecutors and their relatives.

For the whole news see here:
<https://www.unibas.ch/en/news-events/news/uni-info/dies-academicus-2018-of-the-university-of-basel.html>



DEMOCRACY FALLING APART – A BOOK EDITED BY THOMAS STADELMANN AND SUPPORTED BY THE EAJ

In November 2018 a book has been edited by our colleague and Swiss delegate Mr. Thomas Stadelmann under the following title: “Democracy Falling Apart – Role and Function of Judicial Independence, Separation of Powers and the Rule of Law in a Constitutional Democracy – The Turkish Judiciary in 2018.” The essay includes as well contributions by Mr. Oberto, Mr. Gass, Mr. Edwards, Mr. Régnard, Mr. Schneirderhan, Ms. Kaptein and Mr. Igreja Matos. The Turkish authors wrote under pseudonym for security reasons, what demonstrates the scale of freedom of expression in that country. The book was printed with the support of an association grouping European law publishers that accepted to sell the book at a reduced price because the aim of the publication was not profit but raising awareness about the situation in Turkey.

The book is on the market; it has been officially presented at the Book Fair in Frankfurt and at the IAJ 2018 annual meeting in Marrakesh.

Link to the publishing company for those who would like buying the book:

<https://www.staempfliverlag.com/detail/ISBN-9783727226540>

Excerpt available here:

<https://www.iaj-uim.org/iuw/wp-content/uploads/2018/08/DemocracyFallingApart.pdf>

