



## **AFRICAN REGIONAL GROUP INTERNATIONAL ASSOCIATION OF JUDGES**

### **SUMMARY REPORT OF THE MEETING IN MARRAKESH (MOROCCO), 14 OCTOBER 2018**

The meeting was chaired by Mr. Musi, President of the African Group, with the participation of the President of the IAJ, Mr. Christophe Regnard, the Deputy Secretaries General of the IAJ, Mr. Raffaele 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. Aidouni Djamel; Mr. Boussouf Moussa; Messaoudi Said, Measired Saja
Guinea Bissau	Mr. Carlos de Cunha, Mrs. Noemia Nony Cabral Ca' Gomes
Ivory Coast	Mr. Momblé Messey Michel; Mrs. Doukrou Niamien Eugenie, Mr. Ndri Mathurin
Liberia	Mrs. Serena F. Garlawolu; Mr. Lavalah Ben Barco; Mr. Roosevelt Z. Willie; Mr. James E. Jones
Mali	Mr. Cheick Mohamed Cherif Koné; Mr. Dramane Diarra
Mauritania	Mr. Cheikh Khalil Boumenne; Mr. Ahmed Mloaloa
Morocco	Mr. Mohamed Khadraoui; Mr. Barrak Mohamed Abdou, Mr. Hizam Elmalka, Mr. Ayoub Elfraini
Mozambique	Mr. Carlos Mondlane; Mr. Isaias Amus Duvane
Senegal	Mr. Fatori Bintori Cissokhe; Mr. Teliko Souleymane
South Africa	Mr. Cagney Musi; Mr. Daniel Thulare
Togo	Mr. Alljn Kanko; Mrs. Toitre Labekoua; Mr. Baba Yara Affo Lamine
Tunisia	Mrs. Aicha Ben Belhassen; Mr. Anas Hmedi

#### **1. Opening and Welcome.**

President Musi opened the meeting at 10:30 am., by thanking all the delegates in attendance as well as the observers for their presence. He also thanked the Association of Morocco for the perfect organization of the meeting.

#### **2. Approval of summary report of the Group's meeting held in Algeria.**

President Musi went on 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 Algiers (Algeria), 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 Santiago were approved unanimously.

### **3. President's report.**

President Musi recalled the situation of Lesotho. He had already informed the meeting that the Association was experiencing extreme financial difficulties to the extent that it would not be able to pay its subscriptions. He had spoken with some colleagues of Lesotho and also with Mrs. Van Schalkwyk, who was the Rapporteur for Lesotho's admission application. Mr. Musi informed the Group about the special tribunal set up to impeach the Chief Justice of Lesotho. She risked being removed from her position. The Commonwealth Magistrates and Judges's Association, the African Group as well as Amnesty International were invited to intervene at the level of the Authority. A letter was sent to the Government asking that the rule of law be followed in this situation. The Government answered that its intention was to continue the trial against her.

Mr. Musi said that, in August, he also visited Cameroon in his capacity as Chairperson of the Independent Commission for the Remuneration of Public Office Bearers of his country. He spoke with Mrs. Hayatou, a former member of the Association of Cameroon. He verified that there was a conflict between the Judiciary and the Government. The Association was suspended. He then explained that in Cameroon a new association of judges would not be formed since the political climate in the country is against the possibility for judges to form an association. Mrs. Hayatou was added to the Whatsapp Group of the African Group and Mr. Musi had communications with her. She said that as soon as she could form an Association, she would inform the African Group, in order to rejoin it.

President Musi then referred to the proposal by the Portuguese Association to add Portuguese as a further official language. A vote on this proposal by the Central Council would be impossible this year because of procedural reasons. So the Presidency Committee decided to set up a working group to explore the different levels of the introduction of one or more new official languages. The WG would draft a report to be presented at the spring meeting of the Presidency Committee. It shall be presided over by the Deputy Secretary-General Mr. Galileo D'Agostino and be composed of a representative of each Regional Group in such a way as to ensure the participation of judges speaking Portuguese, Arabic, Russian or Chinese and French or Spanish.

Mr. Musi underlined that the African Group should be very interested in this proposal, because among the official languages spoken by its member Associations there are also Portuguese and Arabic. He added the designation of a person, preferably an Arabic speaking person to represent the African Group at this working Group as an Agenda item.

President Musi then informed the African Group that the Presidency Committee had decided to grant all the Regional Groups a one-off payment of € 5.000,00 for the realization in the period 2019-2021 of the three points of the IAJ triennial programme concerning "Encouraging the creation of associations of judges", "The fight against corruption in the judiciary" and "Judicial Education". The Presidency Committee also decided that all the money which shall not have been used for this purpose by the end of the period will be given back the general budget of the IAJ. He added that if a country wanted to organise a conference to deal with one of the indicated subjects, it should contact the President of the Group.

President Musi recalled that the Presidency Committee had also reflected on the engagement of the Group with the Special Rapporteur of the United Nations on Judicial Independence. It decided to appoint a representative from each Regional Group to keep him informed about possible critical situations. The Presidents of the Regional Groups should therefore decide on this possibility and appoint a contact person.

Mr. Musi then recalled the recommendations of the Group taken during the Meeting of Algiers and sent to all the member Associations.

In answer to a question posed by Mr. Roosevelt from Liberia, the President of the Group explained that in the case of a proposal of an association, concerning a Conference to be hosted on one

of the subjects of the IAJ triennial programme, the African Group will decide the amount to give by e-mails. Therefore, Mr. Musi, in answer to a question coming from another delegate of the Association of Liberia, explained that the impeachment proceeding against the Chief Justice was a legal process that the authorities of a State could follow and so it was not possible to interfere with it, because the Constitution provides for the impeachment. In the statement that he called to be signed, the authorities were requested to follow the letter of the law. As regards Cameroon, he recalled the long absence of this Association from the meetings of the IAJ. He underlined that he had invited Mrs. Hayatou to create an Association as soon as possible in order to cooperate with the IAJ. In answer to a further question of a colleague from Guinea-Bissau, Mr. Musi explained that he had been informed of a problem concerning the President of the Supreme Court of Sao Tomé e Prince, but was not sure that this problem regarded the Independence of the Judiciary. In any case he invited Mr. Mondlane to inform the African Group and eventually a resolution could be adopted by the Group.

Mr. Mondlane took the floor and he said that there was a lack of information concerning the situation and it could have been an interference of politics in the Judiciary. So he suggested that the IAJ could send a person to Sao Tomé e Prince in order to make a report.

Mr. Musi proposed to speak about this subject on point n. 7 of the agenda in order to formulate a proposal or resolution if necessary or to decide whether to send someone there.

Mr. Aidouni thanked the Association of Morocco for the perfect reception. He invited colleagues to reflect on the best ways of strengthening the Group and the problems facing the African Associations.

Mr. Musi declared that he shared the opinion of Mr. Aidouni and he underlined that the 5000 euro could also be used to strengthen the African Group. In particular he suggested creating a think-tank concerning the means to keep the Associations in the Group and to help the Group grow.

Delegates from Togo, Tunisia and Ivory Coast took the floor to support the proposals coming from Mr. Aidouni and Mr. Musi and to suggest creating a permanent mechanism or a permanent structure in order to support the Associations which were in difficult situations.

Mr. Musi recalled that three years ago a working group was set up to deal with the creation of a Committee which could assist the President of the Group. There were some challenges concerning the change of the Statute of the African Group, the form of the Committee and its mandate. The working Group has not produced a result yet. He underlined that the African Group should work between meetings, also by e-mail, and that the President could also task some colleagues with specific missions in order to inquire into a situation concerning an Association.

The President of the Association of Mali, Mr. Koné, the President of the Association of Senegal and Mr. Ndri Mathurin from Ivory Coast took the floor to thank the Moroccan colleagues for the organisation of the meeting and to underline the necessity of developing communication between the Associations and the African Group.

Then Mr. Musi gave the floor to the President of the I.A.J. Mr. Regnard, a very good friend of the African Group.

President Regnard said that he was glad to participate, as President of the IAJ, in the work of the Group. He followed the situation in Africa, which was as difficult as in other continents. He recalled that this year there will be the election of the members of the Presidency Committee. He thanked Mr. Musi for the great work done in the Group and in the IAJ. He added that the African Group had become the second most important Group in the IAJ and it could increase. He wished the African Group a successful meeting.

Mr. Musi announced that Mrs. Fatoumata Diakité, Honorary President of the IAJ Honorary President of the IAJ, apologised for not having attended the meeting, because her Court would deal with possible conflicts and contestations concerning the election in her country.

Mr. Musi then gave the floor to Mr. Khadraoui, member of the Association of Morocco.

Mr. Khadraoui declared that he was honoured to participate in the meeting of the African Group. Regarding the proposal concerning the Committee to assist ARG President, he informed the

Group that there was a lack of communication with the other two members of the working group, but he promised that he would be engaged in preparing a report.

Mr. Momblé from Ivory Coast, Mr. Koné from Mali and Mrs. Benbelhassen from Tunisia, as volunteers, were appointed by the Group to assist Mr. Khadraoui in this task.

#### **4. African Group member association's reports.**

Mr. Musi invited the Associations to highlight the most important aspects of their situation.

##### Algeria

Mr. Boussof Moussa took the floor thanking the colleagues of Morocco for the perfect organization of the meeting. The Algerian Association had been engaged in the preparation of the meeting of the African Group in Algiers. There were some attacks against the judges by the press. Concerning a traffic of drug between Algeria and Spain, the press spoke about the involvement of many judges. It was not true. The Association reacted through a press declaration and filed a suit against the newspapers. Also, the members of Parliament exerted pressure on the judges by organizing a sit-in, when a senator had been prosecuted, but the Association underlined that the flagrante delicto procedure had been respected by the judges. The Association had prepared all the reports for the Study Commissions of the IAJ.

##### Guinea-Bissau

A delegate of Guinea – Bissau took the floor to thank the Association of Morocco for the warm reception. There was not much to say after the meeting of Algiers on the Association. The Association had participated in that meeting although it faces financial difficulty. On the national level the Association has been fighting for the approval of a law on the remuneration of judges in order to increase their salaries and ensure their independence. The National Assembly approved the law but they were awaiting the promulgation of the President.

##### Ivory Coast

Mr. Momblé said there was nothing in particular to report. The activity of the Association was “regular” and there were no great problems. He recalled the matter of a judge of Ivory Coast who was removed from the Judiciary for disciplinary reasons. This judge had criticized the removal through social media, saying that it involved the independence of the Judiciary. The Unamaci did not share either the opinion or the method and considered its mission was to safeguard the independence of the Judiciary in order to intervene when there was a real menace. In this regard he recalled that when the Government wanted to approve a Bill concerning the Supreme Court in order to appoint non-judges to that Court, the Association intervened in conformity with its mission and avoided the approval of this reform.

##### Liberia

Mr. Roosevelt took the floor to thank the Association of Morocco for the warm reception. He recalled that Liberia had experienced a civil war that lasted 14 years. In 2006 the International Crisis Group (ICG) conducted a survey and found that the Justice system of which the Judiciary is a part was one of the root causes of the civil war. It listed among others: corruption, interference from the other two branches of the State and low wages. The report concluded with several recommendations concerning the independence of the judiciary and the training of high-level magistrates; and in particular the establishment of a wage regime guaranteeing their independence, and which would be an incentive, able to attract the bar to enter the body of the judiciary. He underlined that most of the ICG's recommendations had been taken into account and so the quality of the lawyers and of the judges had increased. He recalled that the Association had had its national elections and there had been the election of the President, Vice President, the Secretary and the other members of the Steering Committee. The National election had taken place in the country and Mr. Georges Weah was elected as the new President of Liberia. The Association monitored the situation in his country. He remembered

that last year there was an attempt to impeach three members of the Supreme Court Bench, but, also through the intervention of the Association, it was decided to interrupt the impeachment proceeding. There was also the presentation of a Bill concerning the setting up of a Judicial review Committee, but the Chief Justice spoke about it, underlining that this was against the separation of powers and the Constitution. The Association was monitoring the situation and if there were any developments it would inform the African Group.

#### Morocco

A delegate from Morocco took the floor to explain that after the meeting of Algiers the Association had organized some seminars concerning the fight against corruption and the promotion of the judicial power. The Association of Morocco made a declaration against the Secretary of a political party who accused the Moroccan judges of doing political trials. The association underlined that the Constitution criminalized any interference with the Judiciary. The Association filed a complaint against those who try to influence the Judiciary. He added that the Association was very involved in the preparation of the meeting.

#### Mali

Mr. Koné, President of the Association of Mali took the floor to thank the Association of Morocco for the perfect organization of the meeting. He also thanked all the Associations of the African Group for the solidarity expressed with his country for the difficult situation that it had experienced. He informed the Group about a worrying situation in his country. The public service of Justice was troubled by an unlimited strike without the provision of a minimum service begun by some judges of the country on 25<sup>th</sup> July 2018. These judges are members of a different Association, not affiliated to the IAJ, and most of them are young. They aimed at increase of salary scales, a question accepted in principle by the Government. The Groups of judges involved declared that they would continue the strike, despite the advice of the Supreme Court, which considered it illegal. The President of the Supreme Court was attacked and threatened through the press and social networks by these groups of judges, who asked for the resignation of the Prime Minister and of certain members of the Government. Mr. Koné explained that the Association of judges of Mali was worried about the infringement of human rights and remarked that the strikers had to respect the laws and regulations of the country. This strike was also against the principles of the IAJ. He asked for a resolution of the African Group, inviting the judges to respect the laws and regulations of the country and to respect the judgment of the President of the Supreme Court.

Mr. Musi invited Mr. Kone to obtain the decree of the Supreme Court.

#### Mauritania

A delegate of Mauritania said that his association was attending a meeting of the IAJ for the second time. He thanked the President of the African Group and the colleagues. He added that he had nothing in particular to report.

#### Mozambique

Mr. Mondlane, President of the Association of Mozambique, took the floor to thank the Association of Morocco for the perfect organization of the meeting. He informed the Group that the Association had had a General Assembly in February 2018 and planned many activities. The Association was involved in a U.S. program to understand the functioning of justice in Mozambique. The Association organized a seminar in Maputo concerning intellectual property. The Association was also involved in the report concerning the application for membership of Angola. He recalled that on the 8<sup>th</sup> of May 2014 a Judge was killed by the a criminal organization. The Association established that the 8<sup>th</sup> May would be considered the day of the Judge. The Association organized for the Commemoration a project according to which the Tribunal could become open to civil society in order to understand the functioning of Justice. The Association was involved in the process of the reform of criminal justice. In June there was a meeting with the Minister of Justice and the Minister of Finance to

discuss the remuneration of the judges, because there was an important economic crisis in the country. There was also a congress with an organization which defends the freedom of the press. In December 40 years will have passed since the instauration of the popular justice and the Association will discuss of the relations between the Executive and the Judiciary with the President of the Republic

#### South Africa.

Mr. Thulare, President of the JOASA, took the floor referring to his report sent to all the Associations. He informed the Group that the Association of South Africa continued to grow as a legitimate voice of the majority of Judicial Officers in the Republic of South Africa. The Association continued to represent the interest of Judges, to promote professional training and protect judicial independence. He thanked the current President of the African Group for the work done, for being the torchbearer of the vanguard and for leading South African judges and African Judges in an admirable way for ten years. He underlined that according to the Association the South African Judicial Education Institute (SAJEI) should be guided by a judicial officer and not by an administrative and executive officer in order to increase the quality of the training. He informed the assembly that the Association tried to influence the organization of the Judiciary in order to increase its internal independence. He illustrated the bodies that ensure independence of judges, such as The Magistrates Commission and the Judicial Service Commission. He added that the Association worked for the rationalization of Judicial Services. He thanked the Moroccan colleague for hosting the meeting

#### Togo

A delegate from Togo thanked the colleagues of the Association of Morocco for the perfect organization of the meeting. On behalf of the Association he also thanked Mr. Musi for all the work done for the IAJ and for the African Group and for the support to the Association of Togo. As regards the situation in Togo, he said that the problem concerned the working and financial condition of the judges. He added that in Togo the independence of the Judiciary was real. There was the High Council for the Judiciary presided over by a judge, the President of the Supreme Court, member ex officio. seven of the nine members of the body were judges. He recalled that the Electoral Commissions concerning the elections were presided over by judges because of their impartiality.

#### Tunisia

Mr. Hmedi, President of the Tunisian Association, thanked the Moroccan colleagues for the perfect organization of the meeting. He informed the assembly that in February there had been the Congress of the Association and that he was elected President of the Association. The Association contributed to the improvement of the working conditions of the ordinary, administrative and financial judges and to the increase of their salaries by 30%. The Association was involved in the process of the reform of the organic laws concerning the judiciary in order to comply with the new Constitution and the international standards. He added that the relations with the High Council for the Judiciary were not good, because it refused to have contact with the professional organizations and to meet the Tunisian Association. This body had not approved the internal regulation necessary for its functioning. The process to establish the Constitutional trial of Justice begun in 2014 is ongoing in order to safeguard human rights and fair justice. The High Council for the Judiciary is composed of elected judges and non-judges. There were 15 members, ten of whom were judges (six elected and four designed ex officio). A decision of the High Council for the Judiciary obliged a member ex officio, the most Ancient President of the Administrative Section of the Supreme Court, to resign from the Association, even if there was no provision in this sense.

#### **5. The application of Angola.**

Mr. Musi informed the Group that the colleagues from Angola were not in attendance, but probably they will arrive next day. He informed the assembly that this application will be discussed in the Central Council. He invited the members to support the candidature of Angola.

Mr. Roosevelt from Liberia took the floor to speak about the pension benefits for retired judges and Magistrates at the age of seventy. He specified that the retirement pension of the magistrate in Liberia entering retirement at the age of 70 years, constituted only one percent (1%) of all the benefits received during the working life. Such a humiliating pension did not allow the retired judge to lead a decent life, worthy of his former status. Prior knowledge of this humiliating situation will certainly lead the active magistrate to adopt unethical conduct and to compromise the achievements made by the peace process in the country. So he called on the IAJ to intervene so that the Judiciary could continue to uphold the Rule of Law and ensure peace and stability in the country.

Mr. Musi invited Mr. Roosevelt to give further details on this issue in order to adopt a resolution by the African Regional Group.

#### **6. Interest from Burkina Faso, Gabon and Uganda.**

Mr. Musi said that Burkina Faso had been a member of the IAJ but due to problems with finances of the Board and the situation in the country, they had not attended the IAJ meetings. The Statutes laid down that if an Association did not pay the contributions for three consecutive years, it lost its membership. Burkina Faso lost its membership. The Association has recently indicated that they wanted to present an application for membership, but unfortunately it was not in attendance.

Mr. Musi said that the Chairman of the Association of Uganda expressed the intention to present an application for membership. The President of the Group had lost the contacts and so he invited the colleagues in attendance to establish a contact with this Association.

As regards the Association of Gabon, two colleagues participated as observers in the meeting in Algiers, expressing the will to join the IAJ. Unfortunately, they were not in attendance.

#### **7. Statement/s and resolution/s by group.**

Mr. Musi explained that there were the issues of Mali and Liberia to be discussed. He invited the members of the Group to draft the resolutions, after having obtained the necessary documents. He appointed two colleagues Mr. Boussouf Moussa and Mr. Thulare to assist Mr. Roosevelt and Mr. Koné to write the Resolutions in French and in English to be approved by the African Group.

As regards Sao Tome e Principe, Mr. Mondlane took the floor to explain that the Parliament of Sao Tome had suspended the President of the Supreme Court for a judgment taken in a trial. There could be an interference of politics with the Judiciary. He proposed to ask the Association for giving information about the situation in order to decide whether sending a colleague there.

#### **8. Finance.**

Mr. Musi presented to the Assembly the situation of the Group's budget: it may count on reserves and an annual allocation for a total amount of more than 17,000 Euros (enclosure n. 2), without considering the sum of 5000 euro given to the Group after by the decision of the Presidency Committee. He added that, this year, as usual, the Presidency Committee had decided to allocate regularly to each Regional Group the sum of 3,000 Euros. The budget was approved unanimously.

#### **9. Confirmation of the venue of the next meeting.**

Mr. Musi recalled that in the meeting of Algiers the President of the Association of Guinea-Conakry had announced his availability to host the next meeting of the African Group. This Association was not in attendance. Mr. Musi suggested that the Secretary-General would write a letter to the Association in order to ask if it wanted to confirm its intention. If the Association didn't confirm to host the meeting, the Secretary-General would ask the other Associations of the Group.

## **10. Miscellaneous.**

As regards the working group created by the Presidency Committee to explore the different levels of the introduction of one (or more) new official languages, Mr. Musi proposed Mr. Boussouf Moussa from Algeria. He accepted the appointment. The Group approved unanimously.

As regards the representative from each Regional Group to keep the Special Rapporteur of the United Nations on Judicial Independence informed about possible critical situation, Mr. Musi called for the assistance, asking for some proposal of candidatures. Mrs. Benbelhassen from Tunisia, Mr. Momblé from Ivory Coast and Mr. Tulare from South Africa announced their candidatures. A very long discussion subsequently took place, during which all the members of the Group took the floor, intervening on the methods for the choice of the candidate of the Group. At the end of the discussion the Assembly decided to vote by secret ballot.

After the voting the candidate who received the most votes was Mr. Thulare.

Mr. Musi spoke about the problem of Mr. Tarek Bennour, Honorary President of the IAJ. He told the Assembly that the IAJ received a letter from the Tunisian Association asking that he should not invited to the meetings of the IAJ.

Hanas Hmedi, President of the Tunisian Association took the floor to inform the Group that Mr. Bennour had been expelled from the judiciary by a decision of the High Council in 2012 for corruption and having served as Inspector General at the Ministry of Home Affairs during the dictatorship. The Association asked the IAJ to prevent him from assisting to the meeting of the IAJ. The Group decided to support the Association of Tunisia concerning that affair

Mr. Musi thanked the Group for the support that it gave him during his presidency. He will become Honorary President of the Group and he will assist it in the future. He invited the Group to vote in a cohesive way in the Central Council, respecting the decisions taken in Algiers.

The meeting was closed at 15.00 p.m.

The Deputy Secretary General  
Raffaele Gargiulo

the President  
Cagney Musi

Session of 18 October 2018

The meeting was chaired by Mr. Djamel Aidouni, President of the African Group, with the participation of the, the Deputy Secretary-General of the IAJ, Mr. Raffaele Gargiulo, as well as the following member associations of the International Association of Judges and of the African Regional Group: Algeria, Angola, Guinea-Bissau, Liberia, Mali, Morocco, Mozambique, Senegal, South Africa and Tunisia.

The Group unanimously approved the resolutions concerning Mali and Liberia (see enclosure 2 and 3).

The meeting was closed at 13.30 p.m.

The Deputy Secretary General  
Raffaele Gargiulo

the President  
Djamel Aidouni