



**AFRICAN REGIONAL GROUP
INTERNATIONAL ASSOCIATION OF JUDGES**

**SUMMARY REPORT OF THE
NUR SULTAN (KHAZAKHSTAN) MEETING
15 SEPTEMBER 2019**

The meeting was initially chaired by Mr. Tony Pagone, with the participation of the Deputy Secretary General of the IAJ Mr. Raffaele Gargiulo, the former Honorary President of the IAJ Ms. Fatoumata Diakité, and the following delegates, representing their respective national Associations, who are members of the International Association of Judges and of the African Regional Group (see Annex 1):

Ivory Coast	
Liberia	
Mali	
Senegal	
South Africa	

Mr. Tony Pagone informed the meeting at 9.30 a.m. that Mr. Aidouni, President of the African Group, had informed the Secretariat that he could not travel to Astana because he had not been given permission from the Minister of Justice to do so. He also informed delegates of the need to appoint a replacement for the President to lead the meeting. He said that Mr. Aidouni had proposed that Honorary President Diakité chair the meeting of the African Group. Mr. Pagone called for assistance, asking for proposals for new candidates. Mr. Roosevelt, on behalf of the Association of Liberia, announced the candidature of Mr. Thulare. A delegate from Ivory Coast took the floor to announce the candidature of Ms. Diakité. After the vote, the Assembly elected Ms. Diakité, who accepted the office. Mr. Pagone formally invited her to take up the position.

The meeting was subsequently (from 10.00) chaired by Ms. Fatoumata Diakité, Former Honorary President of the IAJ, with the participation of Mr. Tony Pagone, President of the IAJ, Mr. Raffaele Gargiulo, the Deputy Secretary General of the IAJ, and the following delegates, representing their respective national Associations, who are members of the International Association of Judges and of the African Regional Group (see Annex 1):

Ivory Coast	Tunisia
Liberia	
Mali	
Morocco	
Senegal	
South Africa	

1. Opening and Welcome

Mr. Pagone thanked the delegates present for their participation. He reported having been in Cape Town, where there had been a very positive meeting. He stressed that he had been pleased to attend the work of the African Group in South Africa. He also said that during the meeting of the Central Council,

some proposals for the modification of the Statute and Regulations of the IAJ would be discussed. These concerned the possibility of admitting "international Associations or representative groups of judges" to the IAJ, and the procedure of periodic control (monitoring) provided for in Article 13 of the Regulations. He invited countries to contact the UN Rapporteur through Mr. Thulare and to participate in all the meetings of the Group in order to strengthen it. He then gave the floor to Ms. Diakité.

Ms. Diakité thanked the delegates and Mr. Pagone thanked her for agreeing to act as interim chairperson. She stated that she would do her best to lead the meeting.

2. Approval of the summary report of the Group's meeting held in Cape Town

Ms. Diakité went on to examine the points on the agenda of the meeting. She asked whether delegates in attendance had remarks on this subject. No delegation presented an observation. She then asked if there were remarks on the minutes of the meeting of the Group in Cape Town (South Africa), distributed beforehand by the Secretariat. No remark was sent to the Presidency, or the Secretariat.

A delegate from Mali proposed to replace, under item 4, concerning Mali, the words "Mr. Assouma" with "Mr. Cherif Koné", and the words "Mr. Assouma takes the floor" with "With the authorization of Mr. Mahmoudou Kassogué, President of the Syndicat Autonome du Mali (SAM), Mr. Cherif Koné takes the floor". Still with reference to point 4, concerning Tunisia, the President of the Tunisian Association asked that a factual error concerning the members of the Constitutional Court be rectified by replacing the word "five" with the word "four".

With the proposed modifications, the minutes of the last meeting of the African Group in Marrakesh were approved unanimously.

4. African Group Member Associations' reports

Ms. Diakité invited the Associations to highlight the most important aspects of their situations.

Morocco

Mr. Khadraoui said that it had been a great honour to have the African Associations at the meeting in Marrakech. After this meeting there were new elections within the Association with the participation of many colleagues, more than 3000 in fact, including especially young judges. The Association had had a debate about the salary and the financial situation of magistrates. The Association was continuing to fight by pursuing its claims before the Minister of Justice.

Mali

A delegate from Mali said that there was not much to say after the Cape Town meeting. The Association had asked for the improvement of living and working conditions and the revision of the Statute of Judges to guarantee more independence. The Association had presented its demands to the Government and to the President of the High Council for the Judiciary. He underlined that the situation was difficult. There was a security problem related to the independence of judges.

Liberia

Mr. Roosevelt informed the meeting that the Liberian Association (NATJL) and the Judicial Institute had an agreement to conduct quarterly training, called "Judges' Quarterly Training", and this training is conducted after every court term, i.e. four times a year.

During the period under review, in February 2019, the first quarterly training was conducted. The topics included financial crimes, money laundering, the right to a fair trial and the new jury law in Liberia.

With regard to the wellbeing and welfare of its members, the Association had started negotiations with the Chief Justice. These negotiations made it possible to obtain the reassignment of qualified Magistrates to jurisdictions with larger populations and greater caseloads, and to increase their allowances.

With regard to insurance benefits, a committee had been set up, comprising both the Association and the administrative branch of the judiciary. After several meetings, an agreement had been reached to dispense with the services of the current insurance company and choose a new company. Unfortunately, this agreement had not been implemented.

Mr. Roosevelt expressed his Association's thanks to the African Group for the resolution adopted in Marrakech at the 61st Annual Meeting of the International Association of Judges (IAJ). He remembered that during that meeting, the Liberian Association had pointed out that upon their retirement, judges and magistrates were paid less than fifty (50) U.S. dollars in retirement benefits. This amount was clearly insufficient to support them and their families, a fact which might encourage corruption and non-productivity during active service. The African Group's resolution had been distributed to the Chief Justice of Liberia, the President of the Liberian Senate and the Speaker of the House of Representatives for their consideration and subsequent actions. Mr. Roosevelt reported that despite assurances from the Chief Justice of Liberia that a "supreme opinion" would be expressed on the matter, no action had been taken. The Association continued to appeal to the IAJ to partner the Pan-African Parliaments and the United Nations Judiciary Committee in support of this claim. He also informed the meeting that the free movement of government officials, including judges, was restricted.

Roosevelt added that the economy was in free fall, the salaries of judges and security personnel had been delayed for almost two months and unemployment was on the rise. Poverty and crime were therefore also increasing.

Finally, he informed the Group that his Association had contributed to the fund which had been set up to assist Turkish colleagues, in view of the circumstances in which they found themselves.

Ivory Coast

Mr. Ndri Mathurin thanked the Association of South Africa for the perfect organization of the meeting of the Group in Cape Town. With regard to the situation in Ivory Coast, he stressed that in 2016 a new Constitution had been adopted. This Constitution provided for two higher courts, the Supreme Court and the Court of Auditors, instead of three. The Supreme Court had incorporated the Court of Cassation and the Council of State. The law had provided for innovations in the organization and functioning of the Supreme Court as a result of this change. The National Assembly had also approved laws on civil and criminal procedure. In the sphere of the Association, there was nothing significant to report.

South Africa

Mr. Thulare thanked all his colleagues for the friendship shown to the South African Association. He recalled that there had been elections within his Association and a new Executive Board had been elected. Mr. Thulare informed the meeting that he had remained a member of that office but a new President and Secretary had been elected. They were unable to attend the meeting due to previous commitments and he was representing them there.

He highlighted the difficult situation in Lesotho, Swaziland and Botswana, which are small countries with few judges and which have a range of difficulties, including economic problems, with regard to their independence. The Association of South Africa was continuing to support these countries. Mr. Thulare informed the assembly that the Chief Justice of the Supreme Court of Lesotho had been suspended from her office and he wanted to present a draft resolution concerning this situation, so that the rule of law could be respected.

Senegal

Mr. Souleymane Teliko thanked Ms. Diakité for agreeing to conduct the meeting. He also thanked his colleagues from South Africa for their great work on the occasion of the meeting in Cape Town. He reported that an ordinary meeting had elected the Steering Committee of the Association and he had been confirmed as President of the Association. The Association had supported a reform of the High Council for the Judiciary to strengthen its independence. He pointed out that the Association had organized several activities to sensitize civil society on the principles of the independence of the judiciary and the irremovability of judges.

The members of the Association endorsed their Moroccan and Togolese colleagues' good practices regarding the principle of security of tenure. The Association had attempted to obtain the approval of a bill to strengthen this principle, but a discussion with the executive was still ongoing. The Association was in agreement with the President of the Republic regarding the presentation of a draft law, according to which

the appointment of heads of jurisdiction and prosecutors would be made on the basis of the presentation of candidates for all the posts.

The Association fought for the increase of the retirement pension, which did allow judges a decent life. A reflection was made by the Association regarding its financial autonomy and the contribution of the State.

A problem in his country concerns the practice of pardon, which is also granted to defendants who have not received a final sentence. This practice is judged to violate the principle of the independence of the judiciary.

Tunisia

The President of the Association of Tunisia, Mr. Hmedi, thanked his colleagues from Kazakhstan for the good organization of this event and for their hospitality. He expressed, on behalf of his Association, concern for the absence of the President of the African Group and he hoped that his situation would be discussed.

He stressed that the Association of Tunisian Magistrates (AMT), which had more than 1,400 members in 2019, has continued its fight for an independent judiciary in accordance with the principles of the 2014 Constitution and international standards.

The Tunisian Association has worked laboriously for more than 4 years on legal reform to put in place new organic laws organizing justice and guaranteeing the independence of judges. These include, in particular, the law organizing judicial justice, the code of administrative justice and the organic law organizing financial justice.

Starting from a deep conviction that the administrative and financial independence of justice is an essential pillar of the independence of justice in all its dimensions, the Tunisian Association worked on the new organic law of the budget. This law considers a "special mission", among others, "The Superior Council of the Magistracy - The Constitutional Court - The bodies of judicial and administrative and financial justice whose organic laws include the administrative and financial independence" (Art. 19).

The Association contributed to the drafting of the legal reform concerning the statute of the judges. It did this through a national survey addressed to judges, which collected their opinions and contributions, and on the basis of the essential guarantees of the Universal Charter of the Judge approved by the International Association of Judges.

The Association also worked on the law organizing the inspection of judicial affairs, on the basis of their conviction that independence and accountability are two closely linked principles.

The Association continued to work on the reform of the penal code and the code of criminal procedures with the Ministry of Justice, choosing an institutional position to enshrine maximum guarantees from the drafting phase of these reforms.

With regard to the process of the democratic transition of Tunisia, the Association, in particular, was involved in the process of drafting Chapter V of the Constitution relating to the judiciary, the law of the High Council for the Judiciary and its implementation, and all texts guaranteeing the constitutional provisions of an independent judiciary.

The AMT was continuing to promote its institutional relations with Parliament (legislative branch) and with the ARP (Assembly of People's Representatives). It was being constantly heard by parliamentary committees, and its opinions and contributions were generally taken into consideration.

The Association also had an institutional relationship with the President of the Republic, and had periodic hearings at the Presidency of the Republic. Likewise, the members of the Association have succeeded in establishing institutional relations with the President of the Government and the Minister of Justice. This allows them to defend the rights of colleagues and contribute to the legal reforms undertaken by the government, which according to the Constitution, have priority in legislative initiatives before Parliament.

The relationship with the Superior Council of the Magistracy had improved. The Association was beginning to meet with the Council on the occasion of the annual movement of Judges.

With regard to the criteria for promotion and appointment to judicial positions, the High Council for the Judiciary was beginning to establish predetermined and published criteria. The members of the Association were continuing their work to ensure that all the rights of judges to a fair and just professional

career were increased.

Much remained to be done, but the Association was ready to continue its struggle for the independence of justice.

3. African Group President's report

Ms. Diakité thanked all colleagues for their reports and read out the letter sent by Mr. Djamel Ajdouni to the Presidency Committee and to the African Group.

In this letter, President Aidouni announced, among other things, that he was not allowed to participate in the meeting and that he was very sad not to have been able to meet his colleagues. He thanked the colleagues from Kazakhstan for organizing the congress, and those of the African Group for their presence. He invited all the members of the IAJ to be very supportive of the Turkish colleagues who had been sentenced to ten years in prison, and of all the judges who were going through very difficult times in their countries. He also reminded the meeting that the African continent was going through very difficult moments due to changes at the political level that had a direct influence on the judiciary, which was unstable because of these changes. He invited everyone to have a lot of patience, dynamism and courage to strengthen justice in Africa.

The President also read out the report written by Mr. Aidouni.

In this report, the President of the African Group stated, among other things, that since the meeting of the group in Cape Town there had not been much activity. This was because he participated in the meetings of the Presidency Committee, whose members discussed various problems, and the situation of the Associations. Mr. Aidouni pointed out that Gabon had applied for membership of the IAJ and that the President of the Congo Association had travelled to Gabon to draft the report. Now Rwanda and the Kingdom of Eswahili had shown their interest in becoming members of the IAJ. The President said that he had had contact with the Associations of Rwanda, Tanzania, Madagascar, Kenya and Chad. Congo-Brazzaville had been contacted by colleagues from Congo. In the report, the President announced that Mr. Gargiulo would explain the amendments to the Statutes of the IAJ and that Mr. Thulare would be able to explain the work he had been asked to do as representative of the African Group for cooperation with the UN Rapporteur.

The Acting President stated that this year the Central Council would have to vote on the applications for membership from Lebanon and New Zealand.

Mr. Thulare explained that he had sent a questionnaire to the Associations by WhatsApp to obtain reports on the issues he should rise as the representative of the African Group for cooperation with the UN Rapporteur. He had not received any responses from African countries apart from Lesotho, where there are many problems regarding the independence of the judiciary. He had prepared a draft resolution concerning this Association, within the framework of the IAJ. In this draft resolution, which had been sent to the Secretariat of the IAJ, it was pointed out that the principle of irremovability was not respected, the judge appointment system did not seem to protect or strengthen judicial independence, there was a lack of respect and guarantee of the institutional independence of the judiciary, and finally there were poor conditions of service for judicial officers. The draft resolution recommended: i) reforming the procedure for the appointment and removal of judges to ensure and protect the independence of the judiciary; ii) reforming the governance structure of the judiciary to ensure and protect the institutional independence of the judiciary and protect judges from political control; iii) reforming the process of determining judges' salaries and conditions of service, ideally under the leadership of an independent agency; and iv) initiating a mediated dialogue between the judiciary and other branches of government to address an apparent culture of politicians making inappropriate public criticisms of the judiciary.

The Acting President stressed that Mr. Thulare's work was very important because it gave countries the opportunity to illustrate their situation as far as justice was concerned. She said that the fact that many countries did not respond was not related to the absence of problems, but to judges being overloaded with work. She invited Mr. Thulare not to be discouraged, but to give a boost to the initiative, because the habit of responding would develop. She also invited each Association to appoint specialized persons to answer the questions asked by Mr. Thulare.

Mr. Roosevelt asked how funds could be sent to Turkish colleagues and underlined that judges' difficulties in travelling could prevent them from participating in the meetings.

Ms. Diakité pointed out that the Secretariat would provide all African Associations with the number of a "special" bank account to which funds could be sent. With respect to magistrates' difficulties in travelling out of the country to participate in international meetings, she emphasized that this problem should be brought to Mr. Thulare's attention. These difficulties could be included in Mr. Thulare's report to the UN Rapporteur in order to find solutions.

Mr. Thulare agreed with the President. He proposed that the Group clarify its point of view regarding the conditions of judges for participation in the meetings, and express its solidarity with the President of the Group, Mr. Aidouni.

The acting President informed the assembly that she had spoken with Mr. Aidouni and had been told that the Minister of Justice had not been given permission to leave the country. He was due to hold a hearing at the same time and therefore avoided creating problems. She added that the Presidency Committee, which was made aware of the matter by Mr. Aidouni, decided after discussion to send a letter, and that the Secretary General or the President would contact Mr. Aidouni to choose the best procedure to follow to influence the Algerian authorities. It was therefore necessary to give the mandate to the Presidency Committee, which would decide on the matter during subsequent meetings.

There was a wide debate, during which the representatives of the Associations of Senegal, Morocco and Tunisia intervened, expressing the need for the Group to support Mr. Aidouni. The Tunisian delegates stressed that there was a violation of the independence of the judges and that it was necessary to verify whether the Algerian delegates had experienced the same problem of authorization. They added that in Tunisia, after a fight, magistrates had won the right not to require authorization to leave the country.

5. Application of Gabon

With respect to Gabon, Ms. Diakité informed the assembly that its application could not be evaluated by the Central Council because the report was not ready yet. The application of Gabon would be discussed next year.

Mr. Gargiulo pointed out that one of the rapporteurs, Mr. Isofa, from Congo, had travelled to Gabon in July and prepared the draft report, but the final version had yet to be approved by both rapporteurs. In addition, the report should reach the Secretariat by a deadline to be discussed during this Central Council session.

Mr. Khadraoui expressed his hope that in the future the work to allow new members to join the IAJ could be accelerated.

6. Interest shown from Rwanda, Lesotho and Kingdom of Eswatini

Ms. Diakité gave the floor to Mr. Gargiulo.

Mr. Gargiulo informed the meeting that the Secretariat had not received any requests for membership from these countries. The Secretariat had received a letter from the judges from Rwanda, who had expressed their intention of joining the IAJ. The Secretariat had responded, indicating the procedure to be followed, but there were no further developments.

7. Committee of Assistance to the President of the African Group

Ms. Diakité informed the assembly that, before the Marrakech meeting, Mr. Aidouni had told her at Group level that a committee had been created to work on proposals to set up a bureau to assist the President of the Group. The committee had not finished this work.

Mr. Gargiulo took the floor to point out that the Committee was composed of Ms. Ben Belhassem (Tunisia), Mr. Koutou Aka Thomas (Ivory Coast) and Mr. Attivi-Cessi Atéur Céchivi (Togo). They had

prepared a proposal, which should have been sent to the Associations as soon as possible, in English and French, with an explanatory note of its purpose and the criteria chosen, for approval in Astana. However, the Secretariat had not received any report or proposal.

Ms. Diakité read out the part of the minutes of the meeting in South Africa concerning this point.

Ms. Diakité informed the meeting that Mr. Aidouni had received Mr. Benbelhassem's report the night before, but the text was only in French. She proposed that the text be translated into English and sent by the Secretariat to all the Associations three months before the next meeting of the African Group.

Ms. Diakité proposed postponing the examination of the text to the next meeting, in accordance with Mr. Aidouni's wish. The Group agreed with Ms. Diakité's proposal.

8. Statement/s and resolution/s by the Group

The Acting President noted that there were no statements or resolutions to approve.

9. Proposal of amendments of IAJ Statutes

Ms. Diakité briefly explained the proposed amendments to Art. 4 of the Statute and Art. 13 of the Rules, concerning the "monitoring" procedure, which had already been discussed during the African Group meeting in South Africa.

Ms. Diakité pointed out that the amendment to Art. 4 of the Statute proposed by some European Associations, which foresaw the possibility of admitting to the IAJ "regional Associations or groups representing judges from the Caribbean and Pacific Islands", did not consider other areas of the world, such as parts of Southern Africa.

10. Relations with UN Special Rapporteur

Ms. Diakité said that Mr. Thulare had already explained the work he had done (point 3) and she reiterated the invitation to all Associations to respond to the questionnaire as soon as possible, to enable him to draft and send the report to the UN Special Rapporteur.

11. Finance

Ms. Diakité gave the floor to Mr. Gargiulo.

The Deputy Secretary General of the UIM explained to the assembly the situation of the Group's budget: it may count on reserves and an annual assignment for a total amount of more than 16,000 Euros (see Annex No. 2). He added that, for this year, the Presidential Committee had decided to allocate to each Regional Group the regular sum of 3,000 Euros. The budget was approved unanimously.

12. Venue of the next meeting

Ms. Diakité asked if there was any Association willing to host the meeting of the African Regional Group.

Mr. Teliko stated that his association was available to host the next meeting of the Group, but the delegation would confirm this willingness upon its return.

13. Miscellaneous

Mr. Hmedi expressed the need to make contact with members who were not present and with other Associations that were not members in order to strengthen the Group. He underlined the situation of Niger, whose delegates were blocked at the airport. He reaffirmed the need for solidarity with the President of the Group and with African Associations, also from an economic point of view.

Mr. Teliko emphasised the need for African Associations to share their experiences with each other and also expressed his support for resolutions of solidarity.

Ms. Diakité confirmed that the colleagues from Niger had arrived at Nur Sultan airport, but had had problems with their entry visas.

She expressed the need for cohesion and a continuous exchange of information among the Associations in order to develop the Group.

The meeting was closed at 4.00 p.m.

The Deputy Secretary General
Raffaele Gargiulo

The Acting President
Fatoumata Diakité