



MEETING OF THE EUROPEAN ASSOCIATION OF JUDGES
(Berlin – 25 May 2018)

The meeting started at 9.05 a.m.

In attendance were:

- the IAJ President, Mr. Christophe Régnard;
- the EAJ President, Mr. José Manuel Igreja Matos;
- the Vice Presidents Mr. Đuro Sessa and Mr. Mikael Sjöberg;
- the Honorary Presidents Mr. Gerhard Reissner, Mrs. Maja Tratnik and Mr. Günter Woratsch;
- the Secretary General, Mr. Giacomo Oberto;
- the Deputy Secretaries General, Mr. Lucio Aschettino, Mr. Galileo D'Agostino and Mr. Raffaele Gargiulo;
- the delegates of the following associations, which are members of the International Association of Judges and of the European Association of Judges:

ALBANIA	ITALY
ARMENIA	LATVIA
AUSTRIA	LIECHTENSTEIN
AZERBAIJAN	LITHUANIA
BELGIUM	LUXEMBOURG
BOSNIA AND HERZEGOVINA	MALTA
BULGARIA	MOLDOVA
CROATIA	NETHERLANDS
CYPRUS	NORWAY
CZECH REPUBLIC	POLAND
DENMARK	PORTUGAL
ESTONIA	ROMANIA
FINLAND	SERBIA
FRANCE	SLOVAKIA
GERMANY	SLOVENIA
GREECE	SPAIN
HUNGARY	SWEDEN
ICELAND	SWITZERLAND
IRELAND	UKRAINE
ISRAEL	UNITED KINGDOM

President Igreja Matos gave the floor to Prof. Winfried Bausback, Bavarian State Minister of Justice, who addressed the assembly a speech on the independence of the judiciary.

Secretary-General Oberto carried out a check on votes and proxies: 40 members were present.

President Igreja Matos welcomed the IAJ President, Mr. Regnard, and the Honorary Presidents, Mrs. Tratnik and Mr. Reissner, who were all in the past was President of the EAJ, thanking them for their presence, the historical memory they represented and their expertise, crucial to the Association's work. He also added that the President of the IBA Group, Mr. De Menezes, was honoring the meeting with his participation. Mr. De Menezes thanked the EAJ President and greeted the Assembly underlining the importance of meetings like this, that give the chance to interact and establish better connections between associations and individual judges and invited anybody interested to attend the IBA meetings.

President Igreja Matos finally thanked the Vice-Presidents and the General Secretariat for their constant support.

1. Approval of the minutes of the Santiago Meeting.

The assembly unanimously approved the minutes of the Santiago meeting.

2. Report of the President.

President Igreja Matos stressed that in the present world media and communications are essential and highlighted the introductions of a new item in the agenda of the meeting. The German Association proposed a resolution to the WG on member associations concerning the art. 2 of the Treaty on European Union. Mr. Gass, Chairman of the WG, may give clarification if needed. President Igreja Matos underlined the establishment of an independent standing committee, foreseen by the last paragraph of the resolution, which was the very core of the resolution. The Assembly unanimously approved the resolution.

President Igreja Matos then mentioned the part of his report dedicated to the judicial decisions taken recently at national and international level (for instance, the decision of the European Court of Justice delivered in the “Associação Sindical dos Juizes Portugueses” case concerning the principle of judicial independence in the EU legal system).

The President then informed the Assembly about the IAJ partnership with the UN and the Special Rapporteur Garcia Sayan, with whom he, President Regnard and Secretary-General Oberto had a meeting. Mr. Sayan will attend the IAJ meeting in Marrakech: he will deliver a speech during the Conference on Wednesday and will take part to the works of the Central Council. He is very interested in getting news and information on the situation of justice in member countries of the IAJ, therefore delegates could address him directly to express their concerns. The Associations interested should prepare a brief report on the topic they want to discuss and address a request to the IAJ General Secretariat. The EAJ President stressed the importance that credible information have for the United Nations. Mr. Sayan has great trust in IAJ assessments on the situation in member countries. Within the WG, there will be someone in charge of communication to Mr. Sayan, who will prepare brief reports three times a year to be reported to the Special Rapporteur. Therefore, if a member Association is facing a concrete problem in its country, it may have it known to the Special Rapporteur through the WG. Associations are free to choose the language they prefer among English, French or Spanish.

President Igreja Matos then mentioned two decisions (dated 14 February 2017) of the EFTA Court (downloadable from the website) regarding the independence of the judiciary.

He added some information on the Judicial Integrity Network, a UNODC project, officially launched in April in Vienna, with the biggest conference of the judiciary in the history of United Nations. The website of the project is www.unodc.org/ji, which may be surfed by countries and by topic, after registration. President Igreja Matos and Vice-President Sessa are members of the Advisory Board. There are three main topics to follow. First, supporting the review and revision of the Bangalore Principles of Judicial Conduct and/or their commentary, and revising and densifying the UN basic principles on independence of the judiciary, according to the EAJ resolution. Second, promoting good practice guidelines in judicial appointments, especially as concerns superior courts. Third, adopting guidelines for the use of social media by judges.

As to the relationships with other bodies, the President mentioned two interesting resolutions approved by the African Group and underlined that the presence of French-, English-, and Portuguese-speaking countries in the Group allows possible closer contacts with African Associations.

He then mentioned the case of Guatemala, where the Associations of Norway and Sweden are doing a fantastic job. There is high corruption in the country, also in the judiciary, and there are serious security issues. EAJ is committed in helping the local judges. The IBA Group President took the floor to thank those European Associations that were helping Guatemala, among which the Norwegian Association, that paid the admission fee.

Mr. Kempfle (Germany) took the floor to give some information on his meeting with the President of the Association of Guatemala, whom he met in Costa Rica (he is second rapporteur on the application for membership submitted by the association): in the country, there are strong networks of corruption. Judges affirm publicly that the rule of law must prevail and run serious

dangers because of their views. Ms. Adriana Orocu travelled to Guatemala and learnt that the Association lost the support of the USA and now reckons on the help of the Europeans. Should these loud voices be silenced, there will not be other judges brave enough to stand against corruption in the future

Ms. Thune (Norway) took the floor adding that rich countries should support other countries. Norwegian Association paid the administration fee and the flight ticket for the delegates of Guatemala to allow their participation in the meeting of Marrakech. She invited other Associations to take similar initiatives, which represent a little effort but for the supported Association are a fundamental sustain.

Finally, President Igreja Matos thanked the General Secretariat for its tremendous work: in 2017, it received 2867 emails. This year they may reach 4000: 70% of this work is originated by the EAJ. This is why the cooperation of EAJ Members is precious.

3. EAJ and OSCE – Presentation of Representative of OSCE

President Igreja Matos introduced Ms Andrea Huber, whom he met in Warsaw when he was invited by the OSCE in December for a meeting. The situation in Poland is quite complex and the OSCE Office for Democratic Institutions and Human Rights is willing to cooperate with the EAJ.

Ms. Huber took the floor and delivered a speech on the ongoing reforms in Poland, which undermine the principles of rule of law and separation of powers. The problem is that the attitude of the present Government and President of the Republic might be a dangerous virus for Europe as a whole, also as concern the method adopted (laws approved by night, no circulation of project, no public debates). ODIHR wondered how to monitor the impact of these changes in the laws on the judiciary and would appreciate the cooperation with EAJ.

President Igreja Matos said that the EAJ had some ideas on this issue and would apply them not only to the case of Poland but also to Turkey.

Honorary President Reissner asked some information on these possible ways to cooperate. Ms. Huber replied suggesting close contacts with the Venice Commission, round tables, and monitoring procedures.

4. Situation of the judiciary in Poland

Mr. Bogdan Jedrys (Polish Association) took the floor to explain the situation in his country. He prepared a report (enclosed to these minutes).

Ms. Huber added some information on the amendments adopted by the Government, which were presented as being a compromise with the requests of the EU, while this is not true.

Mr. Picken (UK) took the floor to underline that Polish Government is trying to endorse the thesis that its reforms are coincident with what already exists in other European countries. The point is that this assertion is true with reference to some specific aspects in some specific countries but it does not consider the final and global outcome of the sum of all these similitudes.

Mr. Soares (Portugal) asked whether there was any possible useful initiative to take at national level to help the Polish Association in its fight.

Mr. Jedrys thanked him and said that he would not ask political intervention through embassies and pressures on his Government: the best attitude was reacting through resolutions of the EAJ.

Ms. Matejka (Austria) added that with an opinion on the white paper it could be possible to interest the Austrian Minister of Justice so that he deals with the issue at the meeting of Ministers on July. Honorary President Reissner invited the Assembly to draft a very short opinion that the Austrians might use.

Ms. Ciuca (Romania) asked whether the assemblies of judges had been consulted on the last amendments and which their answer was. In Romania, where there are also ongoing reforms of the judiciary, judges were consulted three times, in accordance with the decision of the European Court of Human Rights obliging States to hear the magistracies when making laws concerning the judiciary. Mr. Jedrys answered that the Government heard only few members of the new National Council of Judges, chosen among the supporters of the Government. The assemblies of judges gave a negative advice.

Mr. Picken added that in Poland judges were consulted without giving them the time to study the project while in Romania the consultation envisaged an adequate lapse of time and the willingness to listen.

President Igreja Matos asked the WG on member association to prepare a short statement to be shared by national associations. He added that in the EAJ seated several representative of ENCJ, who could imagine some initiatives towards the new Polish Council for the Judiciary, whose 15 member out of 18 are appointed by the Government, taking into consideration that it has no reference to the rule of law and the independence of the judiciary. Mr. Picken said that there will be a meeting of ENCJ next week in Lisbon and the new Polish Council will attend it. The Network will ask some clarifications. He proposed also to improve the first paragraph of the resolution on art. 2 TEU. Honorary President Reissner highlighted that the resolution could not be modified because already distributed to the media. Vice-President Sessa suggested noting in the minutes that EAJ member associations will use it also in connection with the Polish case. Ms. Matejka (Austria) said that the EAJ should adopt a concrete and strong document dealing specifically with Poland, because the resolution was too general in character.

5. Situation of the judiciary in Turkey and actions undertaken by EAJ; Provident Fund of the European Association of Judges.

President Igreja Matos gave the floor to Mr. Thomas Stadelmann, who manages the procedures for the functioning of the Provident Fund. Mr. Stadelmann introduced the Assembly his assistant, a Turkish lawyer whose father was condemned to 7 and half years of imprisonment on specious accusation of being a member of Gulem Movement. Mr. T.K. then gave a presentation on the situation in Turkey.

Mr. Stadelmann added some words on the fact that Turkish authorities consider the EAJ members and the Fund Committee as terrorists. He then passed to illustrate figures showing that the resources were almost finished and underlined that if the EAJ wants to keep providing support, it is necessary to increase the donations.

President Igreja Matos underlined that the EAJ donated about 115,000 euro, supporting 96 families (20% of the requests received). He stressed the need for a second wave of donations and announced the drafting of a letter to invite national associations to a new effort. He encouraged the assembly to stay focused on the situation of the Turkish colleagues.

Ms. Huber said that OSCE received the letter from EAJ asking whether trial monitoring was possible for the organization. OSCE replied that it monitors thematic cases and not individual cases. Moreover, it needs an agreement with the Country and this is the main problem with Turkey. Turkish authorities set up a “Commission of inquiry” as a national remedy upon suggestion of the Council of Europe and the ECHR stated that it was impossible to adhere the Court unless the Commission was heard as national remedy.

Honorary President Reissner noticed that an effort to contact the Commission would prove useless since the system was established rightly to prevent from filing cases before the Court. Against the decisions of the Commission, one must appeal to administrative courts and to the Supreme Administrative Tribunal. Mr. Reisser underlined also that the focus in the media was principally on cases concerning journalists.

Mr. Picken (UK) took the floor and invited the EAJ members to consider the message sent to Turkish authorities and media by individual judges going to Turkey at individual title.

President Igreja Matos agreed and exhorted European associations to warn their members against the risk of manipulation.

Ms. Thune (Norway) told the Assembly that a Norwegian judge was involved in a cooperation project of the Council of Europe and that the Norwegian Human Rights Committee traveled to Turkey for trial observation.

President Igreja Matos added that also the EAJ was cooperating trial observation: it supported Mr. Van Der Molen participation in the process of Mr. Tank, whose outcome unfortunately was awful, as Mr. Tank was condemned.

Mr. Schneiderhan (Germany) took the floor underlining that Turkish authorities were trying to create a network in Europe and that the EAJ should make clear that the Turkish judiciary was represented only by YARSAV and not by other organizations.

Mr. Kasimis (Greece) recalled the dispute between his country and Turkey about the concession of asylum to eight Turkish Army officers. After the decision of the Greek Supreme Court to grant the asylum, the Turkish Government reacted accusing the Court of protecting terrorists.

Mr. Hoxha (Albania) took the floor and told the Assembly that he was invited to the congress of the new association of judges established in Turkey, but he refused to go. Unfortunately, his country has strict ties with Turkey, circumstance shown also in the context of the Balkan and Euro-Mediterranean Network of Councils for the Judiciary, where Albanian delegates, together with representatives of other countries, refused to impede the participation of Turkish representatives.

Ms. Marzagalli (Italy) took the floor to inform the Assembly about the strong commitment of Italy in supporting the independence of judges in Turkey. The Italian High Council of the Judiciary, as a member of the Euro-Mediterranean Network, suggested suspending the Turkish Council from the Network. Unfortunately, the Network's Board refused to include this proposal in the agenda of the meeting held in Bulgaria last year. Therefore, the Italian Council suspended itself from the Network until the Board will put in the agenda the issue of the suspension of Turkish Council from the Network. Moreover, the Italian High Council did not take part in the elections of the Network's Board as a protest against the unfair Board's behavior.

President Igreja Matos expressed the appreciation and support of the EAJ for the position taken by the Italian High Council of the Judiciary and instructed the General Secretariat to record in the minutes this statement.

6. Universal Charter of Judges.

The IAJ President, Mr. Régnard, delivered a printed copy of the Universal Charter of the Judge to each national association represented in the meeting and to the Honorary Presidents.

President Igreja Matos announced that the Moldovan Association prepared a number of its review dedicated to the EAJ Meeting in Chisinau, last year.

7. Situation of judiciary in Member Countries

7.1 - Working Group on the Situation of the EAJ's Member Associations. Report of the President

7.2 - Debates on the draft ECHR-Protocol on judicial independence

Mr. Gass, Chairman of the Working Group, took the floor and summarized the content of his written report.

Ms. Boljević (Serbia) took the floor to explain the consequences of the proposed amendments to the Constitution of the Republic of Serbia and proposed some changes to the text of the resolution. Mr. Picken opposed to modify the proposed text of the resolution where a strong reference was made to CCJE position. Mr. Sessa added that the Bureau of the CCJE took the decision and not the plenary and that other bodies such as GRECO and Venice Commission will evaluate the opinion. The EAJ could nevertheless add some reference to the transfer of judges as Ms. Boljević requested. Mr. Picken said that, in principle, there is nothing wrong in the transfer of judges, therefore a too strong opposition to it could be misunderstood. Ms. Boljević said that Serbian judges would only preserve the same right they had before, their right to consent to the transfer. President Igreja Matos encouraged the Assembly to add a reference to the Universal Charter and the principle concerning transfers. The resolution was modified accordingly and unanimously approved.

President Igreja Matos then put to the vote the resolution on UN principles.

Honorary President Tratnik asked why it was not an initiative of the IAJ but only of the EAJ. President Regnard replied that it was an agreement with the Special Rapporteur to start the process and that the other Regional Groups already voted the same text. The Central Council in Marrakech will adopt a global resolution.

The Assembly unanimously approved the resolution.

After the distribution of a questionnaire of the Portuguese Association concerning the European Arrest Warrant, Honorary President Tratnik recalled the Assembly that when member

Associations disseminate a questionnaire on a topic whatsoever, they should then prepare a short summary report and share it with all the members.

President Igreja Matos then put to the vote the resolution on Turkey.

After a short debate concerning some linguistic aspects, the Assembly unanimously approved the resolution.

President Igreja Matos then put to the vote the Memorandum on the situation of the judiciary in Poland and the Assembly unanimously approved it.

8. Information about the situation in Member States

Mr. Hoxha (Albania) took the floor to update the Assembly on the ongoing reforms of the Constitution in his country and about the vetting and lustration law. He asked to send a mission in loco and warned the Assembly against the risk of a spreading of the vetting system to all Balkan countries.

Mr. Atanasov (Bulgaria) told the Assembly that the Bulgarian authorities ignored the EAJ resolution adopted in Santiago and the statement of the Bureau of the CCEJ of November 2017 regarding the amendments to the Judiciary System Act that introduced an obligation to judges and prosecutors to declare their membership in professional organizations. The Bulgarian Association filed a case before the European Court of Human Rights for violation of Art. 11 of the ECHR in light of Art. 10 of the Convention.

Mr. Soares (Portugal) informed the Assembly that the Council of Ministers approved the draft law amending the Statute of Judges, adapting it to the new law on the organization of the judicial system.

Ms. Halasz (Hungary) informed the Assembly about the outcomes of the recent elections in her country, which gave a strong majority in Parliament to the new Government. There are rumors about the intention to change the law on retirement of judges and about the project to abolish the Office for the Judiciary, transferring its powers to the Ministry of Justice

President Igreja Matos recalled the procedural rule according to which Associations should present their requests for resolutions well in advance to allow the WG to work on them and to add the issue in the Report on the situation in member countries, thus facilitating the understanding by the Assembly. He also asked the Albanian delegate to present a written request for a mission in loco.

9. Working Group “Ways to Brussels” - Report of the President

Mr. Schneiderhan, President of the WG, took the floor and informed the assembly, in particular, about two topics dealt with in his report: the Regulation on the protection of the Union's budget in case of generalized deficiencies as regards the rule of law in the Member States and the Regulation on European Production and Preservation Orders for electronic evidence in criminal matters.

10. WG Encouraging the creation of associations of judges

Vice President Sjöberg invited the delegates to cooperate with the WG in terms of a “consultative help” besides the official membership.

11. Budget of EAJ

President Igreja Matos informed the Assembly about the EAJ budget. He added that he receives many invitations and that he always asks whether the organizers of the events cover the expenses.

12. Elections IAJ/EAJ

President Igreja Matos informed the Assembly about the email sent by the Norwegian Association related with gender issue, which is an actual issue in many IGO/NGO.

Honorary President Tratnik strongly supported the initiative of Scandinavian countries: the IAJ needs to be more liberal and more progressive. It is more than sixty years old and the EAJ is 22 years old. Only twice the first Vice President was not a male. The Association should encourage clever and engaged women.

Ms. Thune (Norway) recalled that in the last five elections only three women were elected.
Mr. Larssen (Norway) explain that the Norwegian Association has an election committee and stressed that gender representation makes stronger the association.
President Regnard said that it was true that the IAJ had only four women Presidents in its history but the true point was the number of female candidacies.
Ms. Viegas (Portugal) said that if the true problem was the lack of female candidacy, therefore there was the need to look for a solution, even in the form of an election committee.
Ms. Summer (Austria) underlined that it was a responsibility of national associations to include more women in their delegations and to choose women interested in undertaking key roles and not only in participating to the meetings.
President Igreja Matos said that, in the meanwhile that the IAJ Statutes are amended, the Association should look for informal solutions and women should engage themselves.
Vice President Sessa suggested dealing with this topic within the Central Council, since it is not a European issue but a general one.

13. Future meetings. EAJ 2018 (Marrakech – Morocco); EAJ 2019 (Denmark)

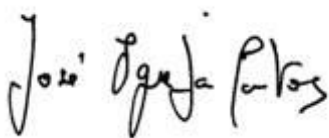
President Igreja Matos recalled the Assembly the schedule for the next EAJ meetings: in October in Marrakech and in springtime 2019 in Denmark. As to the 2019 meeting, he gave the floor to Vice-President Sjöberg, who said that the meeting would take place in May or June.
Mr. Soares (Portugal) took the floor to invite the EAJ to hold its springtime 2020 meeting in Porto.
Secretary-General Oberto gave some information on the meeting in Marrakech and encouraged to register for the meeting since the deadline was approaching.

12. Miscellanea

The EAJ President highlighted that the General Secretariat received very few answers to the “intervention concept” and stressed the importance of having one person in charge of communication per association.
He then gave the floor to Mr. Gass to inform the Assembly about the Protocol to the ECHR.
Mr. Gass explained why there was hardly any chance to get the Council of Europe adopt a protocol to the ECHR and said that it seemed however possible to go ahead with a convention based on recommendation 12/2010. The EAJ could choose the way the Council of Bars and Law Societies of Europe had taken and try to get the support of the Parliamentary Assembly of the Council of Europe (PACE). Mr. Gass exhorted those delegates having relationships with a Parliamentarian to get involved in the project.
Vice President Sjöberg informed the Assembly that Nordic countries agreed to set up a working group to help Polish colleagues: the group would meet in August, with the participation of Mr. Jedrys, to decide a line of action.

Honorary President Woratsch took the floor and recalled that, thirty years ago, in 1988, he was elected President of the IAJ. The world was different, Europe and Berlin were still divided, Regional Groups did not exist and the idea of establishing them was a divisive one, since many delegates feared that Regional Groups could jeopardize and weaken the IAJ. This did not happen and, thanks to the Regional Groups (and the EAJ in particular), the IAJ could, in the following years, establish contacts with European institutions.

President Igreja Matos closed the meeting at 17.30.



The EAJ President
José Manuel Igreja Matos



the IAJ Secretary-General
Giacomo Oberto