



HIGHLIGHTS OF IAJ IN 2020



Dear Colleagues,

2020 will be another crucial year for IAJ. While celebrating our 67th anniversary and before holding our 63rd annual world meeting in San José (Costa Rica) we'll be focusing on a number of activities both at regional and global level.

Let me recall here some of the challenges we are going to face in the upcoming year.

Three working groups have to be set up and start working in 2020, according to the decisions taken in Nur-Sultan last September by the Central Council.

a) The first one deals with the new monitoring procedure. Very soon I'll send a letter to the first group of 31 associations that will be scrutinized. The procedure approved

by the Central Council is rather complex and needs a maximum of co-operation by national Associations. The relevant WG will be presided over by IAJ Vice-President Mikael Sjoberg; Regional Groups will have to elect two members for any Group during their spring meetings (Arlington, Asuncion, Dakar and Porto).

b) The second WG will deal with possible statutory reforms of the rules of voting. It will be presided over by IAJ President Tony Pagone and will include me as one of its members. Additionally, each of the Regional Groups Presidents will have to designate very soon two members, representing the same Groups. The works will be started by the Presidency Committee during its next meeting in Verona (Italy) in June this year.

c) The third WG will study the problem of offering and organising assistance to individual judges who find themselves in difficult positions because of their role as judges. The IAJ PC designated as President of such Group Sir Nicholas Blake (UK) and the composition has already been approved by the same PC. It has already started its work.

Of course more information on this activity is available both in this newsletter and in the official documents of our Organisation: minutes of the meetings, acts of conferences, resolutions, declarations, recommendations, etc., all available in our web site (<https://www.iaj-uim.org>).

As far as the Regional Groups are concerned, they will be respectively meeting as follows:

- a) IBA: Asuncion (Paraguay), in April 2020;
- b) African RG: Dakar (Senegal), on 14-17 April, 2020;
- c) EAJ: Porto (Portugal), on 14-16 May, 2020;
- d) ANAO: Arlington (USA), on 18-19 May, 2020.

As usual, on the agendas of the Regional Groups we'll find national and continental problems affecting judicial independence, draft resolutions and other initiatives of that kind. A special attention will be devoted to the three above mentioned Working Groups, instituted by votes of the Central Council in Nur-Sultan.

The Presidency Committee will be meeting in Verona (Italy) on 5-7 June, 2020.

Very soon you'll receive the four questionnaires of the Study Commissions. As usual I ask you to kindly comply with the deadlines that will be set by the SC Presidents for sending the national reports and replies. In the part of this newsletter dedicated to the Central Council meeting in Nur-Sultan you may find the titles of the subjects to be dealt with during this year.

In the meantime, may I wish you all the best for this 2020, hoping that it will be full of achievements in our neverending fight for the Rule of Law and the protection of Judicial Independence all over the world.



Giacomo Oberto
Secretary-General of the IAJ

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**MEETING OF THE IAJ CENTRAL COUNCIL IN NUR-SULTAN
(SEPTEMBER 2019)**



1. Introduction – Institutional life of the IAJ

The Central Council of the International Association of Judges held its 62nd annual meeting in Nur-Sultan (Kazakhstan), with the co-operation of the Kazakh Association of Judges, on 16, 17 and 19 September, 2019. Besides the Presidency Committee and the Secretariat-General, 62 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 Pagone warmly thanked the hosting Association and submitted his report. The Assembly heard and discussed as well the reports by the Secretary-General and the Presidents of the four Regional Groups.

Two new member Associations were admitted by the Central Council: Lebanon and New Zealand.

As far as the IAJ Constitution is concerned, the Assembly rejected two proposals for amendments concerning, respectively, the possibility to admit in the IAJ “regional associations or groups representing judges from the Caribbean and Pacific Islands” and the possibility to admit as affiliate members “international associations or representative groups of judges.”

A substantial reform was approved as to the monitoring procedure envisaged by article 13 of the Regulations. The new procedure for the regular monitoring of all member associations and the annexed questionnaire are now available in our web site in all IAJ official languages (for the English version see: <https://www.iaj-uim.org/statute/>). Very soon the Secretariat-General will contact the first group of 31 associations which have to comply with the new complex procedures approved by the Central Council in

Nur-Sultan.

2. Reports by the Presidents of the Study-Commissions. Selection of the new subjects for 2020

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

- 4th Study Commission - Mrs. Julie Dutil: “Harassment, in a broad sense –moral and sexual– and its consequences on labour relations”
- 1st Study Commission - Mr. Walter Barone: “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 - Mr. Thomas Cyr: “Problems, large and small, in the financing of litigation”;
- 3rd Study Commission – Vice-President Mr. Dieter Freiburghaus: “The Media in Criminal Cases: Protecting the Integrity of the Proceedings and Communications with the Media”.

The Presidents also proposed the subjects to be dealt with by the Study Commissions in 2020:

- 1st Study Commission: “Disciplinary proceedings and judicial independence”;
- 2nd Study Commission: “How data protection rules are impacting on civil litigation”;
- 3rd Study Commission: “Communication in criminal court rooms”;
- 4th Study Commission: “Corruption in the workplace: How does it affect employees?”.

The Central Council approved the conclusions as well as the proposed topics for 2020.

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

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



3. Creation of New Working Groups

The Central Council decided in Nur-Sultan to mandate the Presidency Committee to set up three different Working Groups.

The first one is the Group which is statutorily charged to inquire into the replies to the questionnaires of the new Regular Monitoring Procedure, according to Article 13 of the IAJ Regulations. Its composition will be finalised during the meetings of the four Regional Groups (see above).

The second WG will study possible statutory changes on the rules of voting. Actually, the voting procedures in Kazakhstan showed that there was disagreement between common law and civil law countries in matter of interpretation, what should be avoided. The WG could limit its work to the voting only and it should be composed of more than one person speaking English but above all by people representing the two legal traditions. Honorary President Woratsch said that the Council of Honorary Presidents was just evaluating whether the Constitution needed some amendments, not only with reference to the voting system but also concerning the admission procedure and the sanctions for non-compliance with statutory duties. The composition and definition of tasks and working methods will be finalised during the next meeting of the PC in Verona, in June 2020.

The third WG is about the problem of offering assistance to individual judges who find themselves in difficult positions because of their role, keeping in mind that the IAJ cannot give legal assistance but may arrange some form of referral to pertinent contact points. This WG has already started working under the presidency of Sir Nicholas Blake (UK).



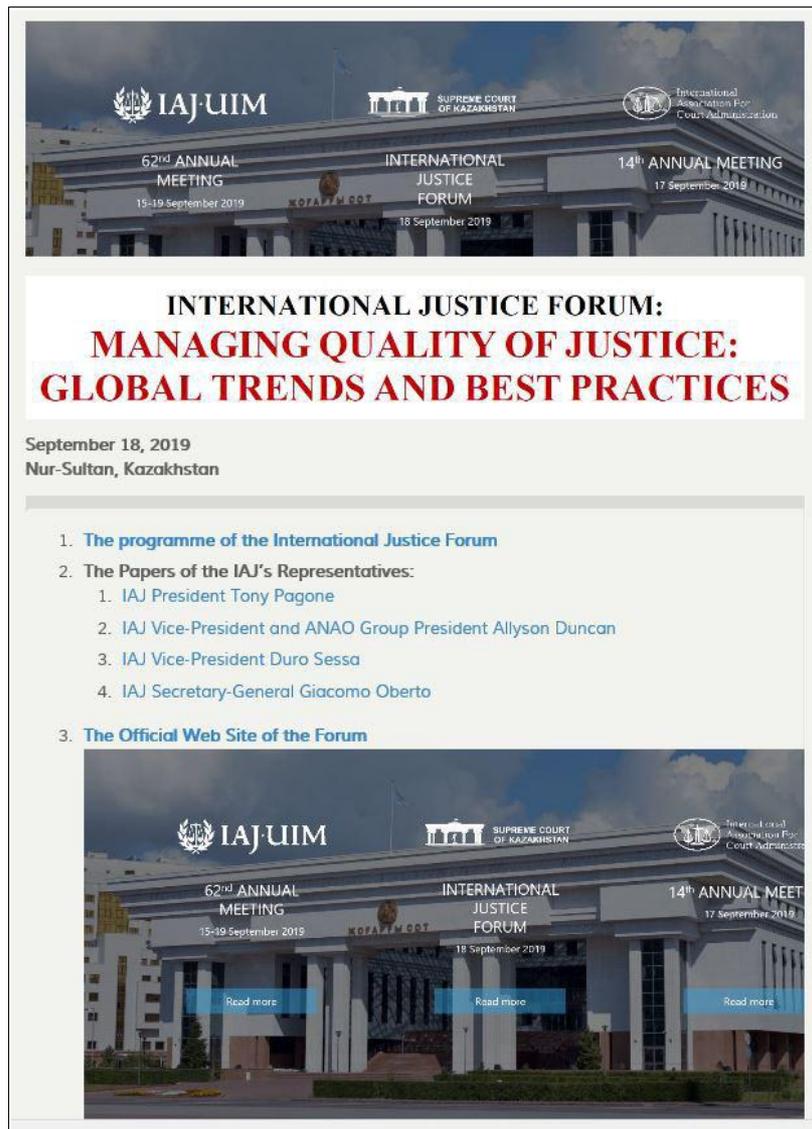
4. Pictures of the Event in Nur-Sultan

A set of pictures taken during the different IAJ meetings in Nur-Sultan (september 2019) has been made available by our Kazach colleagues and are available at the following web address:

<https://www.iaj-uim.org/news/iaj-annual-meeting-in-nur-pictures/>.

IAJ AND IACA INTERNATIONAL JUSTICE FORUM IN NUR-SULTAN (18TH SEPTEMBER, 2019)

On 18th September, 2019, in the framework of the 62nd IAJ Annual Meeting held in Nur-Sultan (Kazakhstan), an International Justice Forum took place, jointly organised by the IAJ and the IACA (International Association for Court Administration), on the following subject: “Managing Quality of Justice. Global Trends and Best Practices.” Presentations are available in our web site, under the following URL: <https://www.iaj-uim.org/news/international-justice-forum-in-nur-sultan-kazakhstan-18th-september-2019-managing-quality-of-justice/>.



**INTERNATIONAL JUSTICE FORUM:
MANAGING QUALITY OF JUSTICE:
GLOBAL TRENDS AND BEST PRACTICES**

September 18, 2019
Nur-Sultan, Kazakhstan

1. [The programme of the International Justice Forum](#)
2. [The Papers of the IAJ's Representatives:](#)
 1. [IAJ President Tony Pagone](#)
 2. [IAJ Vice-President and ANAO Group President Allyson Duncan](#)
 3. [IAJ Vice-President Duro Sessa](#)
 4. [IAJ Secretary-General Giacomo Oberto](#)
3. [The Official Web Site of the Forum](#)

**“ARTIFICIAL INTELLIGENCE AND HUMAN RIGHTS” INTERNATIONAL
CONFERENCE IN BAKU (AZERBAIJAN)
(15TH NOVEMBER, 2019)**

On November 15th, 2019 an International Conference on the subject of “Artificial Intelligence and Human Rights” was held in Baku (Azerbaijan), under the organisation of the CEPEJ (*Commission Européenne pour l’efficacité de la justice* – European Commission for the Efficiency of Justice) of the Council of Europe. IAJ Secretary-General Giacomo Oberto, in his capacity of President of the SATURN Centre for Judicial Time Management of the CEPEJ submitted a presentation, available under the following link:

- JudicialTime Management – Tools Developed by CEPEJ SATURN Centre to Prevent Violations of Article 6 of ECHR -



https://www.giacomooberto.com/Oberto_Baku_Presentation.htm.

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE ITALIAN ASSOCIATION OF JUDGES (ANM)
AND THE ARGENTINEAN ASSOCIATION OF JUDGES (FAM)
(19TH SEPTEMBER, 2019)**



In Nur-Sultan (Kazakhstan), on the occasion of the 62nd annual meeting of the International Association of Judges, on 19th September, 2019, the National Association of Judges and Prosecutors of Italy (A.N.M.), represented by Mr. Giuliano Caputo, Secretary General, and the Argentinean Association *Federacion Argentina de la Magistratura y de la función judicial (FAM)*, represented by its President Mr. Ariel Ariza, signed a memorandum of understanding with the aim of promoting, between the two organizations, cooperation and cultural and scientific confrontation in different sectors, with particular reference to the values of associations, to training and specialization of judges and improvement of the judicial function.

- See the memorandum of understanding between ANM and FAM (Italian):
<https://www.iaj-uim.org/iuw/wp-content/uploads/2019/10/protocollo-intesa-tra-anm-e-federazione-argentina-magistrati-19sett19.pdf>.
- Ver convenio marco de cooperacion between ANM and FAM (Spanish):
<https://www.iaj-uim.org/iuw/wp-content/uploads/2019/10/convenio-marco-de-cooperacion-tra-anm-e-federacion-argentina-de-la-magistratura-19sett19.pdf>.
- Information provided in the web site of the Italian Association:
<http://www.associazionemagistrati.it/doc/3231/protocollo-dintesa-tra-lassociazione-nazionale-magistrati-e-la-federacion-argentina-de-la-magistratura-y-de-la-funcion-judicial.htm>.

EU LAW TRAINING IN ENGLISH LANGUAGE FOR EUROPEAN NOTARIES AND JUDGES



Training and Research Project

EU law training in English language: blended and integrated content and language training for European notaries and judges

Italy, Bulgaria, Hungary, 03 September 2018 - 02 September 2020

Presentation

EULawInEN is a project co-funded by the European Commission's DG Justice and Consumers, Justice Programme.

The **general objective** of the project is to contribute to the effective and coherent application of EU civil law by covering training needs' gaps. The more **specific objective** instead is to develop cross-border training activities and tools for legal practitioners and trainers from different countries to capacitate them in EU law in English as to replicate the training methodology in other EU countries.

The **partners** in the project are the Fondazione Italiana del Notariato (Coordinator), the Cassa Nazionale del Notariato, the International Association of Judges and the Notary Chambers of Bulgaria and Hungary.

The **planned activities** last 24 months. Among these are the following:

1 **Project management** is foreseen for all partners under the guidance of the Fondazione Italiana del Notariato, Coordinator under the project.

2 EU law blended training in English

- a. launch of a public call for the selection of 12 trainers, as well as entry and final test assessments b. preparatory activities for trainers (webinar of 2h and preparatory online materials)
- c. 1 Train of Trainers (ToT) course of 20h in EU law (family and succession related EC Regulations – 650/2012, 1103/2016, 1104/2016 – and issues) in English – adopting the Content and Language Integrated Learning (CLIL) methodology in Rome to capacitate 12 trainers (6 judges and 6 notaries – 2 per category per country) as multipliers in 3 EU countries (Italy, Bulgaria and Hungary)
- d. 3 seminars and 3 exchange of best practice of 1 ½ days each (national breakout groups supported by linguistic components in Bulgaria, Hungary, Italy) to apply what they learnt at ToT

3 EU law training tools in English

- a. 1 e-learning serious game of 2h for legal practitioners in the 3 countries
- b. 1 e-learning course of around 20h as self-learning tool to be published on MOOC
- c. 1 Handbook with EU law content and terminology in English to publish online

4 **External Evaluation** with the draft of a Mid-Term and a Final Report is also envisaged to be assigned to an external organisation.

Expected results are for the target group (456 EU notaries and judges) to be trained in EU law in English and better equipped and networked to collaborate with counterparts. EU law coherent and correct application is also fostered by the training materials and tools created by the project for further replication that shall benefit 10.000 EU legal practitioners

Presentation
Logo of the Project
Partners
Working group
ToT course and related activities
Call for applicants
Newsletter
Seminar one: Italy, Rome 9-10 April 2019
Seminar two: Hungary, Budapest 8-9 July 2019
Seminar three: Bulgaria, Plovdiv 25-26 October 2019
Seminar four: Hungary, Budapest 27-28 January 2020
E-learning
Publications
Useful links

Fondazione Italiana del Notariato

Via Flaminia, 150
00196 Roma
Tel. +39 06/36209408
Fax +39 06/3220479
fondazioneinnotariato@notariato.it

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The project “EULawInEN” , co-funded by the European Commission’s DG Justice and Consumers, Justice Programme, has started in 2019 its activities, which will continue in 2020. The International Association of Judges (IAJ), which is partner together with the *Fondazione Italiana del Notariato* (Coordinator), the *Cassa Nazionale del Notariato* and the Notary Chambers of Bulgaria and Hungary, following a selection procedure, has guaranteed the participation of 2 judges in each of the 3 participating countries: Bulgaria, Hungary and Italy, to training courses held in the concerned Countries.

In 2020 a seminar on the subject of “Succession and Family law in practice” will take place on January 27-28th, 2020, in Budapest (Hungary).

For more information on the project, please visit the website: www.eulawinen.eu). Newsletter: https://www.iaj-uim.org/iuw/wp-content/uploads/2019/03/Newsletter-Nr.2_28.03.2019_.pdf.

IAJ AND EAJ AT THE 34TH NATIONAL CONGRESS OF THE ITALIAN ASSOCIATION (GENOA – ITALY, 30TH NOVEMBER, 2019)



During the 34th National Congress of the Italian Association of Judges and Prosecutors (*Associazione Nazionale Magistrati – ANM*) in Genoa, Italy, the IAJ and the EAJ was represented by the Secretary-General Giacomo Oberto and the Polish Delegate Bogdan Jędrzys.

Both took the floor to convey the wishes of our Organisation and to submit official presentations.

- The Web Site of the Congress: <https://www.congressoanm2019.it/>
- The Programme of the Congress: <https://www.associazionemagistrati.it/allegati/programma-definitivo.pdf>
- Bogdan JĘDRYS, *The Current Situation of the Judiciary in Poland*: <https://www.iaj-uim.org/iuw/wp-content/uploads/2019/11/Presentation-Genova-November-2018-do-wys%C5%82ania-1.pdf>
- Giacomo OBERTO, *La separazione dei poteri e l’ordinamento giudiziario*: https://www.giacomooberto.com/Oberto_La_separazione_dei_poteri_e_l_ordinamento_giudiziario.pdf
- Speeches of Giacomo Oberto and Bogdan Jedrys: <https://www.radioradicale.it/scheda/591456/xxxiv-congresso-nazionale-dellassociazione-nazionale-magistrati-in-nome-del-popolo>.

IAJ AND EAJ RECENT INITIATIVES CONCERNING POLAND

On 16th October 2019, Mr. Tony Pagone, as President of the IAJ, wrote and addressed an open letter to the President of Poland, Mr Andrzej Duda, as regards the IAJ concerns about the threats to the independence of the judiciary and to the Rule of Law. The text of the letter is available here:

<https://www.iaj-uim.org/iuw/wp-content/uploads/2019/10/IAJ-Ltr-to-President-Poland--161019.pdf>.



INTERNATIONAL ASSOCIATION OF JUDGES
UNION INTERNATIONALE DES MAGISTRATS
UNIÓN INTERNACIONAL DE MAGISTRADOS
INTERNATIONALE VEREINIGUNG DER RICHTER
UNIONE INTERNAZIONALE DEI MAGISTRATI
PALAZZO DI GIUSTIZIA - PIAZZA CAVOUR - 00193 ROMA - ITALY

*The President
The Hon. Tony PAGONE
Owen Dixon Chambers, 205 William Street, Melbourne Vic 3000, Australia
Phone: +61 3 9225 7879, Fax: +61 3 9225 7870, E-mail: eupagone@pagone.com.au*

President Andrzej Duda
The President of Poland

16 October 2019

OPEN LETTER TO THE PRESIDENT OF POLAND

Dear President Duda,

I write to you in my capacity as President of the International Association of Judges ("IAJ") to add to the many deep expressions of concern which others have expressed about threats to the independence of the judiciary and to the Rule of Law in Poland.

Both the Rule of Law and the independence of those who must decide disputes are essential to the proper functioning of every government. A country and its people cannot function effectively unless it is organised by rules which are respected and which are applied fairly to all who come within its terms. The adjudication of disputes by Judges who are impartial in the outcome and who apply objective rules is essential to the confidence of the people of any country. It is therefore of fundamental importance that the institutions of every country maintain a clear and open respect for the Rule of Law and for the independence of those who are compelled by duty to enforce the law.

Judges are sometimes faced with the difficult task of having to apply the rules in a way which a government may not like. It is a clear sign of the strength of any country that it is able to accept adverse decisions by a judiciary which applies objective rules without fear or favour. The people of every country can feel confident that the judiciary is above corruption and improper influence if it can make decisions which at times are unpopular with the government of the day. Governments, however, gain strength by acceptance of decisions against its wishes. Accepting decisions that it does not like is evidence of a mature and robust society.

The only thing which Judges have to defend themselves are the reasons by which they reach decisions. Those reasons must always be given by reference to objective rules which are known in advance and

without external interference. The judicial system in Poland, like other countries, includes mechanisms for appeal and legislative procedures for legal reform when rules are found to require amendment.

The IAJ joins with other voices in expressing concern that the Rule of Law and judicial independence may be threatened in Poland. We urge your government to support strongly the Rule of Law and its Judges in their robust application of the Rule of Law even when that requires decisions adverse to government or others with power and influence. We urge that you are seen publicly to support your Judges as they do their work as the independent servants of justice.

Yours faithfully,



The Hon G T Pagone QC
President, International Association of Judges

On 20th December, 2019, Mr. Igreja José Matos, President of the European Association of Judges, Regional Group of the IAJ, sent a letter sent to the attention of the President of the European Commission, Mrs. Ursula von der Leyen, as regards the very serious situation of judiciary in Poland.

The text of the letter is available here:

https://www.iaj-uim.org/iuw/wp-content/uploads/2019/12/Letter-Poland_-EU-Commission_December-2019.pdf.

Association Européenne des Magistrats
Groupe Régional de l'Union
Internationale des Magistrats



European Association of Judges
Regional Group of the International
Association of Judges

Palazzo di Giustizia - Piazza Cavour - 00193 Roma - Italia

Rec: Last call to save independence of judiciary in Poland

Distinguished Madam President,

On three occasions the European Commission has initiated procedures at the European Court of Justice to stop the infringement of the rule of law by the Polish government. In two of those cases the Court ruled that there had been an infringement. The third case, where the European Commission claims that how the Polish judicial disciplinary system is framed represents an egregious attack on the independence of the judges and the rule of law, is still pending. Despite the bringing of these proceedings, the Polish government persists in its attempts to destroy the independence of the judiciary and to eliminate all judges who are not willing to submit to this undue influence of the executive branch over them.

The European Association of Judges (EAJ) has recently been informed that in an urgent procedure a new draft law was presented in parliament, which again violates fundamental principles of European Law and which would - if adopted - have a final disastrous effect on the judiciary. This draft law, if enacted, would manifestly undermine the consequences of the ruling of the ECJ of 19.11.2019.

It is proposed, inter alia, that:

- New disciplinary offences are defined e.g. failing to apply a legal provision, save where the Constitutional Court has deemed it unconstitutional; the taking of any action which might hamper the work of the justice system; questioning the status of judges, or participating in any sort of political engagement. To take but one of these examples, the consequence of questioning the status of a judge might be dismissal from one's office.
- To introduce a legal definition which provides that being nominated by the President of the State for the position of a judge, is sufficient in itself to constitute a person as a judge. It would be precluded that the Supreme Court assesses the status of a judge.
- It shall be forbidden for Judges of the Polish courts meeting in general assembly to adopt political statements. Resolutions must be taken by public vote, and a list of voters has to

be annexed. Membership of a Judges' Association will have to be declared and judges will have to forward a list of their social media accounts.

- The current arrangement whereby the judiciary is self-governing bodies at the courts are composed of court presidents and other judges should be altered so as that participation of others than presidents of courts, who are appointed by the Minister of Justice, will be reduced.
- In future appointments of the President of the Supreme Court each single justice of the Supreme Court will have the right to nominate a candidate.

It is evident that the proposed amendments infringe fundamental rights, including freedom of expression and freedom of association, as well as threatening the independence of the Polish judiciary, and failing to respect the balance of powers.

Even without these envisaged additional threats the Polish judges are being treated intolerably and have their backs to the wall because of deliberate attempts by the executive branch of the Polish government to undermine them, and which undermining attempts continue. Disciplinary procedures which are politically motivated are being initiated increasingly, with new procedures being opened on pretexts that are more and more arbitrary. The Disciplinary Chamber of the Supreme Court acts in spite of its questionable legal status. More and more judges are under threat. The National Council of Judiciary nominates judges and acts notwithstanding that its legal entitlement to do so is unclear. The parliament refuses to publish the documents relevant to individual appointments (the list of supporters) ignoring a decision of the Supreme Administrative Court, which had ordered such documents should be published

To summarize: there is strong evidence that recent developments in Poland may lead to a judiciary in that country which will have lost its independence and subjugated to the executive branch of the Polish government. It appears that the Polish government is intent on speeding up this process and that it is endeavouring to create a fait accompli. We believe that immediate action requires to be taken otherwise this plan to destroy the judiciary will succeed, despite efforts by the majority of Polish judges to bravely defend their independence.

We consider that support from the European Union is absolutely necessary. As president of the European Association of Judges, representing Judges' Associations in 44 countries, I urgently ask both you, Madam President, and the European Commission at large:

- To use all possible means to convince and urge the Polish authorities to stop its undermining of the independence of the judiciary and to re-establish the principles of the rule of law;
- To urge them to refrain from the intended legal amendments, and that if they should persist notwithstanding your representations, that the Commission would commence a new infringement procedure at the European Court of Justice;
- To file a motion before the European Court of Justice to apply interim measures in the infringement case Commission vs. Poland C 791/19 in order to help to stop ongoing misuse of the existing Polish judicial disciplinary system in spite of the unclear framework within which it currently operates; without such measures irreparable damage may be done to the Polish judiciary,

At the inaugural session of the new European Parliament the European Commission expressed its strong commitment to foster and defend the rule of law across the Union. The EAJ took note of this promise with great appreciation. I am convinced that you share our concerns and that you will do your best to meet our requests.

Thank you and best regards

Faithfully



Igreja José Matos

President of the European Association of Judges