



N E W S L E T T E R

President's greetings



In my capacity as President of the International Association of Judges, I wish to express my satisfaction at the birth of a media that provides a major means of diffusion of what amounts to the essence of a unique worldwide organisation of Judges.

Thanks to the work performed, we will be able to hear of its projects, activities, initiatives, resolutions and reports, as well as view a graphic report of its different Meetings. This clearly fulfils the objectives the International Association of Judges has always intended, that are specifically explained in Article 3 of its Charter.

It is important for our Organisation to respond to the challenges that present day society presents it with, for it to be willing to adopt measures when this is necessary to handle situations of attack on or forgetfulness of judicial independence.

However, in order for this to be respected and even

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appreciated, it is necessary for it to be known, and that is our task. By generating channels for communication, intensifying and improving the culture and training of Magistrates and Judges on the five continents and, what constitutes the essence of our Association, continuous contact with the judicial cultures of all countries and with their respective juridical orders.

The effect our organisation may have on promotion of international co-operation in the field of justice is manifest as it is formed by associations from seventy six countries in the world, with a number near to one hundred thousand judges and magistrates on all the continents. When the International Association of Judges was formed in Salzburg in 1953, it was difficult to consider that fifty six years later, this International Federation of Judges could have that same number of member countries.

I am also convinced that, through this new media, we will be able to obtain better knowledge of the situation in countries in which judicial independence is not respected, as by swiftly detecting the problems, we may all act together to seek the appropriate solutions.

Once more, my most cordial congratulations for the birth follow this electronic forum and I express my appreciation, in advance, for the work that is to be carried out, and that will require collaboration by all.

*José María Bento Company
Chairman of the International Association of Judges*

ORGANISATIONAL CHART**President**

Mr. José Maria BENTO COMPANYY
Judge of the "Registro Civil Único" of Madrid

First Vice-President

Mrs. Fatoumata DIAKITE
Judge of the Supreme Court of Ivory Coast,
President of the African Regional Group of the IAJ

Vice-Presidents:

Mrs. Cristina CRESPO
Judge of the Civil Court of Montevideo (Uruguay), President of the Ibero American Regional Group of the IAJ



Mr. Gerhard REISSNER
President of the district court of Floridsdorf, Vienna (Austria)



Mrs. Joanna SEYBERT
United States District Judge (Eastern District of New York), President of the Asian, North American and Oceanian Regional Group of the IAJ



Mr. Bjorn SOLBAKKEN
President of the Gulating Court of Appeal (Norway), President of the European Association of Judges - Regional Group of the IAJ



Mr. Virgilius VALANCIUS
President of the Supreme Administrative Court of Lithuania

Honorary President

Mrs. Maja TRATNIK, Judge of the Supreme Court of the Republic of Slovenia

Secretary General

Mr. Antonio MURA, Court of Cassation Judge, "Sostituto Procuratore Generale" of the Supreme Court of Italy

ORGANISATIONAL CHART**Deputy Secretaries General:**

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Judge of the first instance Court of Turin
(Italy)



Mr. Lucio ASCHETTINO
Judge of the Criminal Court of Naples (Italy)



Mr. Galileo D'AGOSTINO
Liaison Magistrate in Spain



Mr. Raffaele GARGIULO
Judge of the first instance Court of Rome (Italy)



Mr. Marcello MARINARI
President of the Court of Montepulciano
(Italy)

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Secretary:
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IAJ Representatives at the UN Headquarter in New York:

Mrs. Joanna SEYBERT
United States District Judge (Eastern
District of New York), President of the
Asian, North American and Oceanian
Regional Group of the IAJ



Mrs. Louise MAILHOT
Justice of the Court of Appeal of Québec,
Canada

IAJ Representatives at the UN seat in Geneva:

Mr. Pierre ZAPPELLI
Justice of the Swiss Federal Tribunal



Mrs. Louise MAILHOT
Justice of the Court of Appeal of Québec,
Canada

AJ Representatives at the UN seat in Vienna:

Mr. Gunter WORATSCH
Honorary President of the IAJ



Mr. Ernst MARKEL, Honorary President of
the IAJ

MESSAGE FROM THE EDITOR OF THE NEWSLETTER

In order for the newsletter to be a success the presidents of the various regions are encouraged to ask the delegates from their respective countries to please submit articles of interest and photographs to the e-mail address: DDosio@justice.gov.za.



Mr Dario Dosio
Regional Magistrate
Soweto, South Africa

FUTURE EVENTS

53rd ANNUAL MEETING OF THE INTERNATIONAL ASSOCIATION OF JUDGES – SENEGAL (DAKAR) – 7-11th November 2010



Abdoulaye Ba, President of the Union of Judges of Senegal, welcomes all the delegates attending. The meeting will take place at the Hotel Meridien President in Dakar. We wish you a safe travel to Dakar.

Next Regional Meetings:

1. Next European Association of Judges meeting will be from 6-7 May 2011 in Malta
2. Next African Regional meeting of the International Association of Judges will be held in Mali. Date to still be announced.

REGIONAL MEETINGS

Meeting of the European Association of Judges – Bordeaux - France

The meeting of the European Association of Judges, (the Regional Group) took place in Bordeaux, France from the 7th of May. The meeting was chaired by Mr. Bjørn Solbakken, Vice President of the IAJ and President of the European Association of Judges–Regional Group of the IAJ. In attendance were the IAJ President Mr José Maria Bento Company, the First Vice-President Mrs. Fatoumata Diakité, the Honorary Presidents Mrs. Maja Tratnik, Mr. Ernst Markel and Mr. Günter Woratsch, Vice Presidents Mr. Gerhard Reissner and Virgilijus Valancius, the Deputy Secretaries-Generals Mr. Giacomo Oberto, Mr. Leo D’Agostino, Mr. Raffaele Gargiulo and Mr. Lucio Aschettino, as well as delegates representing associations from Armenia, Austria, Azerbaijan, Belgium, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, and the United Kingdom.

The official opening took place on the evening of the 6th of May.

During the address of the President’s report, President Slobakken addressed the problem of disciplinary proceedings being undertaken in respect to the Judiciary which is limiting judicial independence. An example of the Ibero American Group, where a Venezuelan colleague was jailed simply for doing her job was of serious concern. The delegate from Portugal later expanded on this matter and illustrated the contents of the declaration supported by the Ibero American Group , which included the countries of Argentina, Bolivia, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, Porto Rico and Uruguay. The E. A.J unanimously expressed their approval and support to the declaration in respect to the Venezuelan judge, Maria Lourdes Afíuni Mora.

The situation in Slovakia concerning improper use of disciplinary procedures against Judges was discussed. It was resolved that the EAJ would continue to monitor the situation as there was dissatisfaction with the way the media had reported on the meeting between the EAJ commission and Mr Harabin.

In regard to the CEPEJ it was resolved that the Executive Committee of the E.A.J. deals with this issue, deciding whether it will be expedient to address the Committee of Ministers before their decision on the new draft Recommendation.

In respect to the EAJ’s member associations the following were discussed:

The issue of problems in respect to Iceland were discussed and it was resolved that the President

Solbakken would send a letter to the Prime Minister of Iceland. The issue of the Bulgarian judiciary and the strong attack from the Executive in Bulgaria was discussed. The situation in Turkey whereby the association was being attacked by politicians and the Minister of Justice was discussed and it was emphasized that the Minister of Justice was in breach of the fundamental principle enshrined in official documents pertaining to the Council of Europe which safeguards the rights of judges to form free associations. The problem in Serbia, whereby Serbian Judges had to undergo a process of re-appointment was discussed. It was agreed that a declaration by the E.A.J was urgently required to address the situation in Serbia and that a working party would draft a recommendation in this regard.

The situation of Bulgaria whereby the Local Council for the Judiciary does not protect Bulgarian judges from attacks by the Executive power was discussed. It was resolved that these problems pertaining to the internal independence of the judiciary would receive attention.



Photos of the delegates who attended the European Association of Judges conference



REGIONAL MEETINGS

Meeting of the Federal Judges Association of the USA



The Federal Association of Judges had their quadrennial conference from 23-25 May 2010 in Washington. There was a cocktail on Sunday 23 May, and a visit to the White house on Monday 24 May. There was an opening address by Eric holder Jr., US Attorney General, followed by a workshop entitled “Understanding the Role of the Judge in Delivering Justice”. The moderator was Professor Charles Ogletree, and the panelists were Judge Deanell Tacha, Judge Reggie Walton, Jan Crawford of ABC News and Eugene Robinson of the Washington Post. On Tuesday 25 May the general session included remarks by James Duff, AO Director and Lawrence Baca, FBA President. This was followed by a panel session entitled “The Dance of Legislation and Statutory Interpretation “ . The panelists were Judge Nancy Gertner, Judge Robert Henry, and Kathleen Sullivan of Quinn Emanuel. This was followed by a discussion on Judicial Philosphy by Justices Breyer and Scalia. Concluding remarks were made by FJA President Wiley Daniel and FJA Counsel Jon Yarowsky.



Photos of delegates who attended the conference:



REGIONAL MEETINGS

The African Regional Meeting of the IAJ

This was held in Cotonou, Benin from July 22nd until July 24th.

The theme of the conference was “The Judicial time and the emergency”. The conference was held at the Benin Marina Hotel. The conference opened on Thursday 22 July with an address from the National President of the Association of Magistrates from Benin, Mr Madoda Gerard Onesime. He addressed the concerns arising from long delays incurred in the courts before cases are finalized.

Fatoumata Diakite, the President of the African Regional Group and the first Vice President then addressed the group by thanking his excellency, the President of the country for having accepted to host the meeting and also for the kind sponsorship. She briefly outlined the history of the meetings of the IAJ namely, that the meeting in 2005 in Niger.

June 2006, in Yaounde, Cameroon, the theme was “The penal law in Africa”

April 2007 in Abidjan, in the Ivory Coast, the theme was “Justice and economic development”

March 2008, in Algiers, Algeria, the theme was “Justice and the media”

July 2010, in Cotonou, Benin the theme was “The Judicial time and emergency”.

José María Bento Company, the president of the International Group, thanked everyone who was involved in the planning of the conference.

The President of the Supreme Court of Appeal of Benin, also spoke about the slowness of the Judicial systems and ways in which this could be addressed.

The Minister of Justice, Legislation and Human Rights then addressed the group.

Various papers were then presented.

The first paper was by Giacomo Oberto.

The next paper was from Togo, Mr Wiyao Swana, General secretary of the General Prosecutor.

The next paper presented was by South Africa, Justice Musi.



Mr Onésime Gérard Madode, President of the National Association of Judges of Benin



The President of the Supreme Court of Appeal of Benin



The Minister of Justice, legislation and Human Rights of Benin



Fatoumata Diakite, the President of the African Regional Group



José María Bento Company



Delegates from South Africa
Ms Colleen Collis (Magistrate Johannesburg and National Treasurer of JOASA), Ms Thule Tu Tonjeni (Chief Magistrate Wynberg), Justice Cagney Musi (Ambassador to the IAJ)

Delegates who attended the conference.



Below please find report from the ambassador of JOASA, Justice Cagney Musi.

“The African Regional Group of the IAJ held its 15th annual meeting from the 22nd to the 24th of July 2010 at Benin.

The theme of the meeting – which is always held with a conference – was “judicial delays and urgency in the finalization of cases”. The conference was held on the 22nd and the meeting on the 23rd and 24th. The minutes of the meeting forms part of this newsletter.

The Minister of Justice and Human Rights who is also the keeper of the Seal of Benin gave the keynote address. He pointed out that Benin attained its independence on 1 August 1960. It

was therefore celebrating its 50th year of independence.

He pointed out that all societies denounce slow justice and demand swift justice. However swiftness is not a mayor preoccupation of those who administer justice. He stated that quality decisions can still be reached in a framework of swift justice. He then highlighted the following:

- Rules and procedures must be adapted towards the speedy finalisation of cases.
- Trials must be equitable.
- Vigilance needed to ensure that the rights of parties are respected.
- Quality decisions are important for confidence in the judiciary.
- Court time must be used efficiently.
- Courts must better organise themselves in order to eliminate time wasting
- Justice and the truth must be sought and found within a reasonable time
- Rural communities must be made part of the mainstream and justice in those areas should be the same as in urban areas. The system has an urban bias.
- The Benin government established an access to justice program, which seeks to overhaul and improve civil procedure in order to achieve access to justice and fight judicial tardiness.

The President of the Supreme Court of Benin emphasised that:

- The law functions in a global sphere.
- Countries should not only be concerned with justice within their borders but also with justice that affects those outside their boundaries.
- If justice is delayed citizens will doubt the capacity and ability of courts to carry out their duty.
- Economic interest and social rights may be negatively affected if justice is delayed.

- If justice is not rendered within a reasonable time the whole system is compromised.

Mr Oberto, the assistant secretary of the IAJ, pointed out that urgency is a process that is managed by the judicial officer. He made the following points:

- Urgency is very important in the Italian judicial system.
- If proceedings take too long the creditor is prejudiced and may lose his right to claim.
- In Italy they have a provisional seizure procedure. In terms of this procedure the plaintiff applies to court to provisionally seize assets which are the subjects of the dispute and which he thinks the defendant might hide or alienate. The provisional seizure measures can be revoked by a judge on application. If at the end of the trial it is clear that the application for provisional seizure was vexatious the defendant has a right of recourse against the plaintiff.
- The court may also grant part of the damages pending the final determination of the damages.
- He also pointed out that in terms of Article 6 of the European Charter of Human Right cases should be finalised within a reasonable time.

Colleagues from Togo, South Africa and Benin delivered short papers on the subject. The papers are available from the secretariat.”

Ms Fatoumata Diakite, the current president of the African Regional Group, and who is also currently the first vice president of the IAJ, will



Mr Wiyao Swana

be finishing her term as President of the African Group at the next world conference on the IAJ which is to be held in Senegal in November 2010.

The African Regional Group proposed Justice Cagney Musi as candidate for the position of the President of the African Group. There was a second candidate, namely Judge Fares Moustapha from Morocco who arranged the African IAJ conference in Morocco in 2008 and also arranged the world IAJ conference in Morocco in 2009.

He did not stand down and will present himself to the Central Council in Senegal in November 2010.

The countries that participated in the African Regional Meeting were Algeria, Benin, Democratic Republic of Congo, Ivory Coast, Mali, Morocco, Mozambique, Niger, South Africa, Senegal, Togo and Tunisia.



Giacomo Oberto - Deputy Secretary General of the IAL



Justice Cagney Musi

REGIONAL MEETINGS*Meeting of the Asian, North American and Oceania Regional Group of the International Association of Judges*

President of the ANAO, Vice President Presidency Committee, the Honorary Joanna Seybert reports as follows:

“News from Associations:

The newsletters from our associations have been previously distributed. The Japanese Judges report that the progress of jury reform continues. Colleagues from the FJA, Judges Phil Pro and David Carter report that their involvement in the implementation of the jury system in the Republic of Georgia has gone quite well.

The Canadian Superior Judges Association publication indicated the many issues that our Canadian colleagues are dealing with.

Justice Norma Wade Miller shared news of the official opening of the Commercial Court facility in Bermuda which will no doubt serve as a venue for international businesses to resolve their disputes.

Congratulations to our Bermudian colleagues. Justice Wade Miller continues as President of the Commonwealth of Judges and Magistrates Associations which is an association of 60 judicial associations from some 52 countries that is devoted to judicial independence.

The Taiwanese judiciary continues to serve the public with convenient methods for payment of judgments as they reported in their newsletter.

The Federal Judges Association “FJA” has filed an amicus brief (friend of the court) in a lawsuit regarding the calculation of the cost of living allowances (“COLA”) and currently the matter is before the Supreme Court for a determination as to whether the Supreme Court will grant certiorari. The FJA was honored to invite President Jose Maria Bento Company and Secretary General Antonio Mura and the members of the Presidency Committee to its Quadrennial Conference in Washington, D.C.

The highlight of this conference is the White House reception and meeting with the President. President Bento and the other IAJ guests were delighted with the debate between Supreme Court Justices, the practical programs and social events that were held.”