



N E W S L E T T E R

Message from the Secretary-General



Giacomo OBERTO

The Secretariat-General would like in this issue of the Newsletter to provide National Member Associations with information on the activities of the Presidency Committee and of the four Regional Groups during the first half of the current year. Certain challenges present themselves in respect of the meeting scheduled in Barcelona. Two of the challenges which I would like to underline are: (1) Study Commissions' works; (2) Monitoring Procedure.

In respect to the first issue, I would like to point out that, during the past years, we had intensive talks with the Presidents of the four Study Commissions as to how to improve the work of these crucial bodies of our Organisation. The problem is that, over recent years, the number of national replies to the questionnaires has dwindled and this year the replies are lower than before.

The Presidency Committee approved a proposed plan by the Secretariat-General, consisting of the following:

(i) Prior to the commencement of a meeting of the Study Commissions, the Secretariat-General will request the respective Study Commission Presidents to compile a list of the delegates, who

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will attend the respective Commission meetings, together with their respective e-mail addresses.

(ii) These four lists will at the end of the meeting, be forwarded by the four Presidents to the Secretariat-General (Deputy Secretary-General in charge of relations with the Study Commissions, Mr. Raffaele Gargiulo).

(iii) The lists will be compared by the Secretariat-General with the application forms provided by delegates;

(iv) The Secretariat-General will compose a data base of names and addresses of delegates of each Study Commission.

(v) This will ensure effective communication to delegates the following year, thereby facilitating notification of pending deadlines for replies to the respective countries.

(vi) In the event that the respective Association appoints another person, the former delegate will have to contact the new delegate. In the event that no substitute delegate is appointed, the previous delegate will be morally obliged to answer on behalf of their country, arising from the fact that they participated in the previous meeting.

This is the proposal suggested by the Secretariat-General, in order to ensure

more effective results arising from the works of the Study Commissions. It is to be noted that the abundance of replies forwarded to the various Presidents of the Study Commissions will naturally dictate more interesting and comprehensive final reports as well as conclusions.

In respect to the second issue, as previously mentioned by President Cristina Crespo in the first issue of the newsletter this year, the IAJ is still awaiting many of the National reports. It is important to note that this procedure was approved in Washington as a landmark step in eradicating the distinction between ordinary and extraordinary membership.

The Secretariat-General would like to remind Associations that the questionnaires to be completed can be accessed on the IAJ website, where they are annexed to our Statutes available in each of our five official languages (English, French, German, Italian, and Spanish). The web site address is: <http://www.iaj-uim.org/periodic-monitoring/>

Looking forward to meeting you very soon in Barcelona, I send you my kindest regards,

- Giacomo Oberto -

MEETING OF THE PRESIDENCY COMMITTEE IN ROME

Rome, 12th and 13th of June 2015



Session of the 12th of June:

All the members of the Presidency Committee participated in the meeting, under the presidency of Ms. Cristina Crespo, President of the I.A.J. The Prosecutor General of the Italian Supreme Court of Cassation, Mr. Pasquale Ciccolo, extended his greetings prior to the commencement of this meeting. His office is located in the same premises of the said Court, where the meeting of the Presidency Committee took place. Last year, the IAJ Committee was similarly received by the President of the Court, Mr. Giorgio Santacroce.

After the approval of the minutes of the previous meeting, a debate took place in respect to the written reports submitted by the President of the I.A.J., the Secretary-General, as well as by the respective Vice-Presidents responsible for the various Regional Groups. After this, Vice President José Igreja Matos, Chair of the Commission, responsible to carry on the Monitoring procedure envisaged by Article 13, § 9 of I.A.J. Regulations, reported on the current status of the entire process. He informed the Committee that at present only 37 Associations had replied to the questionnaire. After a debate, the Committee decided to postpone the deadline for receiving answers to the 31st of December. In the interim, members of the Presidency Committee will contemplate possible actions to be taken against Associations who do not comply with the duty to send the requested replies.

The Secretary-General Mr Giacomo Oberto enlightened the Committee in respect to the preparatory work for the upcoming

I.A.J. meeting in Barcelona. He stated that thus far only 43 Associations of the 83 Associations had sent their applications. Constant interactions with the Spanish Association, responsible in hosting the meeting, were taking place.

A general debate ensued in respect of the organisation of future annual meetings. The Presidency Committee decided as a mandatory requirement that the international conference will be organized. The Committee decided that the excursion will be an optional requirement, and will be scheduled on the last day, as per the program followed in Foz do Iguacu in 2014.

The Committee then considered the report compiled by the rapporteurs in respect to the application of Iraq. This issue will be dealt by the Central Council in Barcelona. The report will be circulated to the member Associations in due time. The Secretary-General informed the Committee about the status of other applications for membership.

Session of the 13th of June:

The Committee discussed at length a proposal by the Secretariat-General on possible procedures to be followed for the submission of draft resolutions to the Central Council. The proposal was amended and then approved. It will be submitted to the Regional Groups and to the Central Council in Barcelona.

The Committee then discussed priorities for its future works over the next three years.

The Presidency Committee replaced two delegates of the U.N.O. Offices in Vienna, namely, (Honorary Presidents Günter Wörtsch and Ernst Markel), as per their requests, substituting them with Honorary President Gerhard Reissner.

The Committee took note, according to information provided by Mr Pierre Zappelli's report, that the current U.N. Special Rapporteur on the Independence of Judges and Lawyers, namely, Ms Gabriela Knaul, will be replaced next October. The I.A.J. will contact the new Special Rapporteur, with the aim of organising a meeting of the Presidency Committee in Geneva next June.

The Committee then took note of the report drafted by the Belgian colleague Max Carette on his participation, as representative of the I.A.J., to the works of the Hague International Conference on Private International Law. Vice-President Rafael De Menezes also informed the Committee of the possible co-operation with the U.N. "International Union for Conservation of Nature."

MESSAGE FROM THE EDITOR

Dear colleagues

Please will you send me articles of interest and photos to publish in the newsletter.

If your association is planning any events of interest or conferences please send me this information.

My e-mail address is
DDosio@justice.gov.za .

Pourriez-vous, s'il vous plaît, m'envoyer les photos des événements qui ont eu lieu dans vos pays respectifs, accompagnées d'un bref commentaire.

Le texte peut être rédigé en Français, je me chargerais de le traduire en Anglais.

Veillez également envoyer à mon adresse e-mail les noms des sites Internet de vos différentes associations.

En vous remerciant par avance.

Cordialement.



Editor of the IAJ newsletter

Dario Dosio

DDosio@justice.gov.za

MEETING OF THE EAJ IN GDANSK, POLANDGdansk (Poland), 15th – 16th May 2015

The EAJ meeting was presided over by Mr. Igreja Matos, senior IAJ Vice President, as Mr Régnard was unable to travel to Gdansk for health reasons. The IAJ President, Ms. Cristina Crespo, was also in attendance.

One of the main topics addressed in the meeting dealt with the report of the Working Group (“WG”) “Ways to Brussels.” The WG studied four main subjects: (1) the reform of the European Court of Justice; (2) the presumption of innocence; (3) the Judicial Scoreboard 2015; and (4) the European Prosecutor. On the first issue Mr. Schneiderhan, Chair of the WG, pointed out that since the commencement, in autumn 2014, of the new Commission, there had been no news on the legislative side and, therefore, there had been no need for an intervention by the WG or the EAJ. As to the Judicial Scoreboard, Mr. Schneiderhan noted that it was the basis for the EAJ intervention in the *Assise de la Justice*. As regards the presumption of innocence, the directive under discussion is badly drafted and it was proposed to issue a statement on this. Concerning the European Prosecutor, Mr. Schneiderhan underlined that the main focus of the present debate is on the structure of the office; the idea was to elect “a” prosecutor, but EU Member States seem to favour a national approach that each country should designate its prosecutor on the basis of its own rules.

It was then the turn of the WG on the Situation of EAJ’s Member Associations. Mr. Erik Meelis took the floor on behalf of the Chairman of the WG, Mr. Stephan Gass. The situations of the judiciaries of many European countries were taken into account. In particular, Mr. Meelis referred to the fact that he paid a visit to Ukraine together with President Régnard and Mr. Gass. The problem was in respect to the lustration law, whose scope is to remove judges from their positions if their past behaviour could constitute a threat to the new government. The legal framework is not clear and the law has a political influence. As to the procedures, the decision to lustrate a judge is taken by the Ministry of justice and based on advisory public counsels, which are not independent bodies. Also, the names of the people undergoing a lustration procedure are made public.

The WG on the situation of member Associations then focused on the following countries, namely, Luxembourg, Poland, Montenegro, Turkey, Germany and Slovenia.

In respect to Luxembourg, Mr. Everling informed the Assembly about the approval of a law requesting the consent of a judge before his transfer is effected.

In respect to Poland, Mr. Piebik requested the EAJ to take the position of *Amicus Curiae* in respect to the Constitutional Court of Poland. Over the last four years several amendments to the law on the judiciary provided the Minister of Justice with the right to a very broad oversight, which has been called “administrative oversight”, over different bodies of the judiciary. A recent reform approved in February this year granted the Minister of Justice also the authority to access court files and this right is also delegated to the administrative offices within the Ministry. The Polish association expressed its view that controlling the course of legal proceedings by a representative of the executive constituted a serious violation of the rule of law. It was expressed that the request to access files of a particular case cannot be considered an element of administrative oversight and that it represents a threat to privacy of people and the security of information.

In respect to Montenegro, Vice President Igreja Matos noted that there was no delegate present at the meeting from this association. Vice President Sessa had only a proxy to vote and not to deal with the topic.

Mr. Meelis reported on the conclusions of the WG, namely that the association asks an opinion from the EAJ on a new law pertaining to salaries in the public sector, according to which salaries will depend on budget incomes. This is a draft law and nobody knows how salaries will change. The idea is to write a letter recalling the general principles on independence, burden of work, dignity of the judicial function and then react in a stronger way if the law will be approved.

In respect to Turkey, Mr. Durmaz informed the Assembly that almost one year and a half ago a trial started in Turkey concerning corruption.

The Assembly discussed the CEPEJ 2014 report. In respect to this topic, Mr. Igreja Matos underlined the need for the EAJ to be more present and involved, as the CEPEJ is a body of increasing importance.

The EAJ debated the IAJ pluriannual programme 2015-2018; in particular it addressed the procedure to update the Universal Charter of the Judge (IAJ 1999) and the Judges’ Charter in Europe (EAJ 1993). Mr. Igreja Matos informed the Assembly that President Régnard is coordinating the initiative. Another topic to be addressed in the framework of the pluriannual programme deals with the fight against the corruption in the judiciary.

The Assembly debated the report entitled “What situation for Justice in Europe?”. Mr. Igreja Matos handed over to Mrs. Parisot (France) who summarized the main aspects of the report. The authors were herself, Mrs. Valton (France), Mr. Juenemann (Germany) and Mr. Blake (UK). 19 national Associations answered the questionnaire, consisting of three parts: independence, finances and budget, composition and activities of the national associations. Mr. Blake added that it is possible to find several convergences as to the insufficiency of salaries and budgets and that there is a clear and obvious link between the salary issue and corruption. He mentioned that it is really difficult to set an initial parameter to measure what is a fair remuneration. Mrs. Parisot informed the Assembly that President Régnard suggested forwarding the report to European institutions and to local authorities through the national Associations.

During the meeting in Gdansk the following official documents were approved and annexed to the minutes as enclosures, namely;

1. Resolution on Ukraine;
2. Letter to the authorities of Montenegro;
3. Letters to the authorities of Belgium;
4. Statement on the presumption of innocence;
5. Statement on the Polish law allowing the transfer of judicial files to the Minister of Justice;
6. Resolution on the arrest of two Turkish judges.

All these documents are available on the IAJ official web site.



MEETING OF THE IBA REGIONAL GROUP IN MERIDA, MEXICO

Merida (Mexico), 8th April, 2015



The following topics were addressed by the Assembly during the meeting, under the Presidency of IAJ Vice President Mr. Rafael De Menezes, President of the IBA Group, namely; a) Information from the President of the WG on the protection of the environment; b) Help by the Group to the setting up of new judicial Associations; c) Fight against corruption; d) Information provided by a Lawyer (Mr. Alex Wilkis) about the situation of our colleague Ms. Lourdes Afuni, as well as the state of the judiciary in Venezuela; d) Updating the Universal Charter of the Judge; e) Information about the regular Monitoring process among IAJ member Associations; f) Situation of IAJ's IBA Group member Associations; g) Preparation works of the next general meeting in Barcelona.

President Rafael De Menezes informed the Assembly that the colleague Adriana Orocú from Costa Rica had been invited by the International Commission of Jurists to a forum on judicial independence in Latin America, which took place in Guatemala. President De Menezes spread questionnaires on the issues of corruption (within and outside the judiciary), as well as on some issues related to environmental law.

President De Menezes informed the Assembly that the International Bar Association's Human Rights Institute [Instituto de Derechos Humanos de la Asociación Internacional de Abogados] (IBAHRI) requested from the Venezuelan authorities the immediate liberation of the

lawyer Mr. Tadeo Arrieche Franco.

He remarked this was one of several attacks against the freedom of the legal profession in Venezuela. Further information on the topic is available at the following web site: <http://www.ibanet.org/>.

President De Menezes underlined the need for all Associations to reply in due time to the regular Monitoring questionnaire, which allows the IAJ to have a more precise idea on issues concerning judicial activities and problems all over the world. He pointed out that the Chair of the concerned Commission is our Portuguese colleague, IAJ Vice President Mr. José Manuel Igreja Matos. The IBA Group representatives are the Chilean colleague Mr. Leopoldo Llanos and Ms. Monica Bortoli from Uruguay.

The IBA Group President informed the Assembly that the IAJ is also trying to enlarge its works and efforts towards Associations from Countries which are not yet members of our organization. In particular at this moment special attention is devoted to the English speaking Caribbean judges Associations.

The network of judicial Associations of Portuguese speaking Countries is also very active. The UIJLP (União Internacional de Juizes de Língua Portuguesa) is presided over by Portuguese judge Mr. Nuno Coelho. It will organise next August a meeting in Mozambique, where subjects of the protection of human rights and environmental law will be dealt with.

The IBA Group discussed as well the proposal drafted by the "Asociación Panameña de Magistrados y Jueces" (ASPAMAJ), concerning security for judges. President De Menezes remarked that a judge without security and good working conditions cannot properly perform his/her constitutional duties. Therefore, institutions charged with ensuring the safety of judges should be created and strengthened.

Preemptive measures should be adopted and an *ad hoc* manual should be drafted, containing a list of initiatives to be adopted, such as controls at the entrance of judicial premises, use of metal detectors, setting up of commissions for the security of judges at national and local level.

Intelligence actions should be as well developed in order to protect judges who are threatened.



WEB BASED MEETING OF THE ANAO GROUP19th May, 2015

The web based meeting of the ANAO Group was attended by the following delegates: Justice Robert Blair, Ontario Court of Appeal, Canada, Justice Julie Dutil, Quebec Court of Appeal, Canada, Judge Tsogt Tsend, Administrative Court of Appeal, Mongolia, Serik Zhumabayev, Chairman of the Association of Judges of the Republic of Kazakhstan, Justice Loulou, Chan-li Hung, Taipei District Court, Republic of China, Taiwan, Justice Tony Pagone, Federal Court of Australia (Chair), Australia, Justice Jennifer Davies, Federal Court of Australia, Australia.

Justice Pagone welcomed those who had logged in to the web-meeting and noted apologies from Judge Wiley Daniel, Judge Peter Hall, Judge Bernice Donald, Judge David O. Carter. Justice Pagone also recorded that Justice Duncan was expected to join the meeting.

Report of the New Members Working Group:

Judge Tsogt reported on the activities of the working group in recruiting new members within the ANAO region of the IAJ. He reminded the meeting that the members of the group consisted of himself, and Justices Loulou, Serik and Pagone. Judge Simpson (USA) also assists in the working of the group. Judge Tsend informed the members that there had been letters sent by himself, Judge Loulou and Justice Pagone but, as yet not much by way of concrete response.

Justice Pagone indicated that he received a response from the Chief Justice of New Zealand but it had not progressed to a formal application. The Chief Justice had asked for details of the IAJ, which Justice Pagone supplied. Judge Tsogt said that she had written to judges in India, South Korea and Nepal. The Chief Justice of India had responded indicating that the matter would be left to the incoming Chief Justice to pursue. Judge Tsogt reported that the standard letter of invitation had been translated into Russian to assist the Kazakhstani member of the group to seek additional members, but that to date there had been no success in that avenue. Loulou reported that the position in the Philippines had progressed somewhat but that there was still no likelihood of a membership application.

There was general discussion about the fact that the Japanese delegation had not been as active in recent years as was desirable and it was agreed that Judges Tsogt and Loulou would seek to make contact with our Japanese colleagues to encourage further involvement in the IAJ and the meetings of the ANAO.

Justice Pagone reported on the correspondence he had had

with Judge Adrian Saunders, the Chair of the Caribbean Association of Judges. That association would like to join the IAJ, but was ineligible since it was an association from a number of countries and also because one of the countries (Bermuda) was itself independently a member of the IAJ. The question of how the Caribbean Association might participate in the IAJ would, however, be taken up with the Presidency Committee once, as Judge Saunders had indicated, there was a more formal response from the association.

Agenda for Barcelona:

Justice Pagone invited suggestions for a substantive topic for discussion at the ANAO meeting in Barcelona. After general discussion it was thought desirable that there be discussion on the topic of "the impact of the media, including social media" to be chaired by Justice Blair. Speakers would be drawn from the USA, Canada, Taiwan and Mongolia who would share their experiences and problems associated with the media and social media (including such things as Twitter and Facebook). Justice Pagone agreed to write to Justice Hall to ask for an American judge to speak on the project and other experience of the impact of the media on judicial work.

Monitoring Process:

Justice Pagone reminded the meeting of the need for the reports to be put in for the monitoring program. He indicated that the Secretary-General had expressed some disappointment by the response in complying with the requirement but that the deadline had been extended to 30 June 2015. There was some discussion about the obligation of the associations to disclose their funding position and that some associations would not do so.

Next ANAO Springtime Meeting:

Judge Tsogt raised for discussion the holding of another face-to-face ANAO meeting next year. Judge Tsogt offered to hold the 2016 ANAO meeting in Mongolia if that was acceptable. Justice Pagone reminded those present that Taiwan had also volunteered to hold a meeting this year. It was agreed that Justices Tsogt, Loulou and Pagone form a sub-committee to decide where, and when, to hold an ANAO face-to-face meeting in 2016.



AFRICAN REGIONAL GROUP

Algiers (Algeria), 1st May – 2nd June 2015

The following Associations were in attendance: Algeria, Dem. Rep. of Congo, Guinea, Ivory Coast, Mali, Morocco, Niger, Senegal, South Africa, and Tunisia. The meeting was presided over by IAJ Vice President Cagney Musi, President of the African Group. In attendance were also the IAJ President, Ms. Cristina Crespo, the Secretary-General Mr. Giacomo Oberto, as well as the Belgian delegates Mr. Max Carrette and Pol Van Iseghem. The meeting was closed on June the 2nd by the Minister of Justice. During the meeting, the delegates discussed the topic entitled (“Fight against Terrorism and Protection of Human Rights”). Presentations were given by different Algerian and international participants in the meeting. The meeting was broadcast by means of streaming on the website www.magistratdalgerie.com.

President Musi thanked the Syndicat des Magistrats Algériens for the perfect organization of the meeting and for the choice of the theme of the conference.

He then added that not much happened since the Group’s meeting in Brazil but some issues deserved attention. First of all, another association from Congo, SYMCO, had asked to become a member of the IAJ. President Musi explained that only one association per country can be member of the IAJ and that is SYNAMAC. After several other attempts by SYMCO to be involved in the IAJ activities, he informed the President of SYNAMAC.

In respect to South Africa, approval had been granted by the IAJ Central Council of a motion requesting the IAJ President to address a letter to the Chief Justice and the Chairperson of the Magistrates Commission of South Africa. This letter was part of the disciplinary proceedings against the President and the National Secretary of JOASA who were charged with having called an illegal strike.

President Musi then underlined that the African and Ibero-American Groups won the battle for the elimination of the status of IAJ extraordinary member. Nevertheless, this simplification was accompanied by the introduction of a monitoring and evaluation procedure to verify that national associations are still engaged in the struggle for the independence of the judiciary and they are not part of the executive system. As a consequence, there is the need to periodically fill in a questionnaire. Sadly though, the great majority of the members of the Group did not send their questionnaires yet. The deadline was postponed to June the 30th and President Musi encouraged the African associations to fill in their questionnaires and to send them to the special Commission chaired by Vice-President Igreja Matos, who was charged to evaluate the documents and to report on them to the Central Council.

President Musi underlined that the African Group is still making poor use of information technology with particular reference to the IAJ website. He then informed the Assembly about his contacts with colleagues from Anglophone countries, who, unfortunately, did not show interest in the IAJ, as they were already members of the Commonwealth Magistrates’ and Judges’ Association. He added that the association of Mozambique had regular contacts with the Angolan colleagues and could help them in establishing an

association. He expressed a desire that every African association should be involved in the effort to enlarge the IAJ. As to the examination of the applications for membership, the African delegates are often involved due to their capacity to interact in different languages, and heritage of the colonial era. President Musi encouraged the associations to continue to offer their cooperation in this respect.

President Musi finally mentioned the ongoing project on anti-corruption and invited the African associations, which already dealt with this issue in their meeting in Niger, to stay engaged and to assist and participate as much as possible. He thanked the Algerian colleagues for having chosen the theme of terrorism for the conference, since this is a common issue worldwide and every individual is a potential victim.

The President of the Algerian association, Mr. Djamel Aidouni, thanked the delegates for their participation and proposed that, in those cases where a national association does not have enough resources to send its representatives to the meetings, the IAJ covers the travel expenses for one delegate, to ensure the largest participation possible. The Algerian association will foster this proposal and will be grateful to count on the support of the other African associations. He underlined that in Brazil few African delegations were present and stressed that it is time to look for a solution.

Also he dwelled upon the situation in Arab countries, where there is a serious problem of security: he faced it when he and the US colleague were prevented to travel to Yemen in their capacity as rapporteurs on the application of that association. Yemenite judges are terrified by daily bombings and it seems better to postpone a visit to a time when the country will be again at peace.

Mr. Aidouni underlined that in Arab countries there are few associations for judges and that the Arab-speaking Associations belonging to the IAJ should make an effort to encourage these colleagues to establish national Associations.

President Musi then illustrated his strategy for the IAJ enlargement in Africa. After this Mr. Max Carrette, representative of the IAJ to the Hague Conference on Private International Law (HCCH – www.hcch.net) submitted a report on the HCCH’s “Strategy for Africa”.

After this, oral reports on the situation of the judiciary were submitted by representatives of all African Group member Associations in attendance at the meeting.

President Musi thanked the delegates for their contributions.

