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**MINUTES OF THE MEETING OF THE  
EUROPEAN ASSOCIATION OF JUDGES  
(Marrakech – October 2018)**

**Session of October 14<sup>th</sup> 2018  
(9.00 - 16.00h)**

The meeting started at 9.45 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 delegates of the following associations, which are members of the International Association of Judges and of the European Association of Judges:

AUSTRIA	LATVIA
BELGIUM	LIECHTENSTEIN
BOSNIA AND HERZEGOVINA	LITHUANIA
BULGARIA	LUXEMBOURG
CROATIA	MOLDOVA
CZECH REPUBLIC (PROXY TO AUSTRIA)	MONTENEGRO
DENMARK	NETHERLANDS
ESTONIA	NORWAY
FINLAND	POLAND
FRANCE	PORTUGAL
GERMANY	SERBIA
GREECE	SLOVAKIA
HUNGARY	SLOVENIA
ICELAND	SPAIN
IRELAND	SWEDEN
ISRAEL	SWITZERLAND
ITALY	UKRAINE
	UNITED KINGDOM

Secretary-General Oberto carried out a check on votes and proxies: 35 members were present.

### **1. Approval of the minutes of the Berlin meeting**

The assembly unanimously approved the minutes of the Berlin meeting.

President Igreja Matos congratulated the German Association for the success of the event, which saw the participation of 40 Associations out of 44 and of very relevant international institutions.

### **2. Report of the President**

President Igreja Matos informed the Assembly about two events occurred after the meeting in Berlin.

He attended the congress of the French *Union Syndicale de la Magistrature*, which was an excellent event, with the participation of many judges and vivid debates. The participants showed a great interest for the EAJ and the IAJ and their activities in favor of judiciaries in difficulty.

The President attended also the Frankfurt book fair where it was presented the book “Democracy Falling Apart. Role and Function of Judicial Independence, Separation of Powers and the Rule of Law in a Constitutional Democracy – The Turkish Judiciary in 2018”. The book is written in English and German and the President was contacted by some associations (Portugal and Greece) interested in translating and publishing it in their own countries. During the book fair, Mr. Igreja Matos participated in a public presentation of the book included in a panel with well-known journalists of Germany.

### **3. EAJ and UNODC – Presentation of Representative of UNODC**

President Igreja Matos informed the Assembly that Mr. Stolpe was not arrived yet but he will intervene in a different moment of IAJ’s event; in any case, he would brief the Assembly on the item.

The Network for judicial integrity is a major project of the United Nations, its biggest project concerning justice, with the participation of around 140 countries and 48 Presidents of Supreme Courts were involved in the launch of the project in Vienna. Honorary President Reissner is the coordinator of the activities of the EAJ with respect to the following five projects of the Network:

1. guidelines for judges on use of social media: this is a project already ongoing;
2. development of judicial ethic training tools;
3. support to judicial integrity group in the review of the Bangalore principles and commentaries;
4. due process and good practice on investigation on judicial misconduct;
5. good practice guidelines on selection and appointment of judges.

President Igreja Matos exhorted Member Associations to participate and get involved at different levels.

### **4. Situation of the judiciary in Poland**

President Igreja Matos highlighted that several decision from European institutions affirmed that the situation in the country was jeopardizing the independence of the judiciary and that many professional associations expressed their concerns as well. The question therefore was how could the EAJ provide the best assistance to Polish colleagues. President Igreja Matos travelled to Poland and established strict links with the local association “Iustitia” and its representative at the EAJ, Mr. Bogdan Jedris. The President added that the situation was having repercussions also on the administration of justice, for instance as concerns the extradition to Poland after a preliminary ruling of High Court of Ireland to the European Union Court of Justice.

Vice-President Sjoberg gave information on the meeting of the Nordic Council, which adopted a resolution that was forwarded to the Ministries of External Affairs. He underlined that the countries represented in the Council were all members of the European union as well, except Norway.

Mr. Jedris took the floor and illustrated the process of legislative reforms undergoing in his country and concerning the judiciary.

President Igreja Matos proposed two lines of action. The first was to disseminate the power point presentation prepared by Mr. Jedris among the EAJ member association, to have them fully informed about the issue. The second was to approve a document which was being prepared by the Working Group on Member Associations: President Igreja Matos proposed the Assembly to meet again on Wednesday, right after the Central Council meeting, to evaluate and approve the paper on Poland and to elect the new President of EAJ.

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

President Igreja Matos informed the Assembly about the fact that Mr. Stadelmann and Mr. Schneiderhan were under accusation of terrorism because of their activities for Turkish colleagues. An NGO named “Fair Trials” was giving advice on how to manage this situation, affecting also the freedom of movement of the two colleagues. The President summarized the initiatives taken and to be taken to give relevance to the event in view to have the threat well known by European authorities and to take proper precautions.

President Igreja Matos then gave the floor to Mr. Stadelmann and his assistant, Mr. T. K. who recapitulated the main aspects about the selection of applicants to the provident Fund, the importance of the support, new developments (decrease of applications for fear of the consequences, loss of interest because of the lengthiness of the procedures, progressive getting used to the situation, which is not temporary). Mr. Stadelmann provided some financial data: there were 459 applications and 138 were considered well-grounded; the total amount spent was € 87.941 and there were still 42.565 € available. Mr. Stadelmann announced that the Committee would meet at the beginning of the year to evaluate possible line of actions and then the EAJ Assembly will take its decision during the meeting in Copenhagen.

Ms. Boljievic (Serbia) said that she had concerns about the security of Turkish colleagues in their contacts with the EAJ. Mr. Stadelmann explained that the system had been renovated and ameliorated after the transactions through Western Union were used by Turkish authorities for their investigations. For security reasons he did not provide further details.

Finally, Mr. Stadelmann gave some information on the book “Democracy Falling Apart. Role and Function of Judicial Independence, Separation of Powers and the Rule of Law in a Constitutional Democracy – The Turkish Judiciary in 2018” and how to buy it.

## **9. Budget**

Secretary-General Oberto summarized the main aspects of the European budget (enclosed to these minutes).

## **6. Situation of judiciary in Member Countries**

### **6.1. Working Group on the Situation of the EAJ’s Member Associations. Report of the President;**

Mr. Gass, Chairman of the WG, invited the delegates to ask questions on his report.

He added that in the last days the Group received requests for support from the Associations of Montenegro, Poland and Hungary: the WG was preparing letters and resolutions to be presented in the next session of the EAJ meeting.

President Igreja Matos announced that he discussed with Vice-Presidents Sessa and Sjoberg possible ways to enhance the existing structures. This evolution was necessary because the UN Special Rapporteur needed to receive periodical reports on the situation of the judiciary in Europe, the OSCE asked support to face the problems arising in Poland and Hungary, the CCJE asked the EAJ’s contribution for its ongoing projects, such as the one concerning corruption in the judiciary. Although the existing procedure was working very well, these new scenarios asked for a different organization to cope with the different questions arising. The Board of the EAJ would empower the WG if and when the questions arrive. The response would be by the WG, that must therefore be ready to react and have people ready to answer.

Honorary President Reissner underlined that the problem was that the requests for intervention arrived too close to the meeting and therefore was impossible to study them timely and deeply. When, in the past, a quick reactions seemed essential in terms of efficacy, it was the EAJ President who wrote a letter to the local authorities and not the WG. The WG could increase the support to these letters but the approval of resolutions should be kept in the competence of the Assembly.

Mr. Stadelmann underlined that the WG was working well, checking the facts and preparing the resolutions.

Vice-President Sessa stressed that the EAJ and its WG worked on a six month basis, which was not efficient in comparison with other international organizations that have permanent bodies, and suggested both to create similar instruments and to find ways to better use the papers drafted by the WG.

## **7. Working Group “Ways to Brussels” - Report of the President**

Mr. Schneiderhan apologized for not having prepared a written report. He said that not much happened since the meeting in Berlin and that the Group was reflecting on possible ways to improve its works and increase the frequency of its meetings.

Mr. Gass added that if the WG were allowed to gather four times a year, there would be no risk of late statements. Nevertheless, the main problem would remain, that the draft documents proposed by the WGs must be approved by the Assembly and this latter meets only twice a year. Mr. Sessa said that what was really necessary was to have somebody with the legitimacy to speak on behalf of the EAJ in the period from one meeting to the other. The natural spokesperson of the EAJ is its President and the WGs could be his/her advisors. It would make no concrete difference for the relevance of a document if it is issued by the President or adopted by the Assembly. The true difference is represented by the rapidity of the intervention and rapidity is obtained by a constant activity of study and monitoring.

Mr. Schneiderhan said that maybe a formal procedure was not necessary and the President could simply ask the support of the WG in relation to any single, urgent, case.

President Igreja Matos said that for the future he would use the same good procedure already used in the case of Bulgaria and he would ask support from the WGs when questions should be technical.

The President nevertheless underlined that OSCE and the UN Special Rapporteur were hoping for increased cooperation and the Special Rapporteur asked also periodical reports, therefore an efficient solution should be found anyway.

## **8. Information about the situation in Member States. Hungary; Azerbaijan**

Ms. Halasz took the floor and gave a presentation on the situation of the judiciary in Hungary where there are anomalies in the functioning of the relationship between the two constitutional institutions which take part in the central administration of the Hungarian judicial organization, namely the National Office for the Judiciary (OBH) and the National Judicial Council (OBT). The power to appoint, to promote and to transfer judges and the power to appoint court presidents lies with the President of the OBH. But if the President of OBH wishes to deviate from the proposal of the local judicial councils the President is required to consult the OBT.

President Igreja Matos added that he received a letter from a professor of law concerning the same issue. The main difficulty for the EAJ was that there was not a formal request of intervention from the Board of the Association. The EAJ President sent a letter to the President of the Hungarian Association explaining that the EAJ could not take any initiative without the request of the concerned association. The President of the Hungarian Association replied not opposing to an EAJ intervention.

Mr. Hadžiomerović (Serbia) said that there were questions, like the situation in Hungary, going beyond the national level and deserving in-depth engagement. He proposed to address a letter to the Hungarian Association expressing the consciousness by the EAJ of the problems faced by the judiciary in the country and asking whether the Association considers problematic the situation too. After the reply of the local association the EAJ would be able to take proper initiatives.

Ms. Matejka (Austria) added that there were no news in the media about what was happening in Hungary, therefore the EAJ should give the situation appropriate attention. She underlined also that in extraordinary cases, like Hungary was, the EAJ should act in original ways, i.e. without waiting for a formal request of support.

President Igreja Matos then passed onto the issue of the formal complaint against the Association of Azerbaijan lodged by an NGO named Netherlands Helsinki Committee (NHC). The organization asked the IAJ to start a procedure to evaluate the membership of the Azerbaijani Association and the Presidency Committee decided not to give any follow-up to such a request, since it came from an entity which was not member of the IAJ. Also the Dutch Association asked whether the IAJ was considering to act on this issue and the reply was that the IAJ Constitution does not envisage any role for the NGOs in the internal matters of the Association and that the Dutch Association remained free to start by herself a formal procedure against Azerbaijan.

Secretary-General recalled the Assembly the rules codified under art. 13, para. 2, of the Regulations under the IAJ Constitution.

Ms. Kaptein (the Netherlands) took the floor saying that she was informed that in Azerbaijan there was no rule of law and no fair trial. She added that she had not seen the Azerbaijani delegation attending the last meetings of the IAJ and the EAJ.

President Igreja Matos said that there were no Azerbaijani delegates at this meeting but underlined that they attended all the events in the last years.

Ms. Kaptein said that her Association wanted the EAJ to address a letter to the Azerbaijani Association asking it to confute the well documented report of the NHC; secondly, she proposed to adopt a resolution by which the EAJ would ask the IAJ to start the procedure ex art. 13. President Igreja Matos replied that the Dutch Association should have asked the resolution to the Working Group on the situation of Member Associations, while the text of the letter could be discussed and approved by the Assembly during this meeting.

Honorary President Tratnik took the floor exhorting the Assembly to show respect to one of its members. The Azerbaijani Association regularly attended the EAJ and IAJ meetings and the EAJ should respect the ideals on fair trial granting it the right to defend itself. Ms. Tratnik therefore proposed to address the Azerbaijani Association a kind, not inquisitorial, letter, asking its opinion on the contents of NHC's report. After the Association's reply, the EAJ would be able to decide further steps.

President Igreja Matos endorsed Ms. Tratnik's proposal.

Vice-President Sessa warned the Assembly about the risk of seeing, in the future, other NGOs insisting on actions by the IAJ towards its own Members. He said that the EAJ and IAJ should consider news from abroad only if judges from the concerned country ask for intervention or support.

Ms. Matejka (Austria) asked whether the accusations from NHC were against the association or the judiciary and President Igreja Matos replied that NHC contended that the Azerbaijani Association did not qualify as IAJ Member under art. 4 of the IAJ Constitution.

President Régnard added that he met the representatives of NHC and already explained them that the IAJ has its own rules and that nobody from outside could compel it to take any action whatsoever or was entitled to cover for its bodies in the protection of its fundamental values, but they insisted asking the expulsion of the Azerbaijani Association.

The Assembly decided with the support of the Netherlands Association to address the Azerbaijani Association a letter, asking its comments on the contents of NHC's report.

President Igreja Matos then informed the Assembly that the two permanent WGs should be renewed and exhorted interested people to express his/her availability to the actual Presidents of the Groups to continue being member or to be admitted as member.

Finally President Igreja Matos informed the Assembly about the Portuguese Association's proposal to add Portuguese as official language of the IAJ. The proposal could not be examined because of the lack of formal requirements but the Presidency Committee established a Working Group, presided over by the Deputy Secretary-General D'Agostino, to study the issue and evaluate the practical consequences of the amendment.

## **10. Elections for IAJ's Presidency Committee; election for President of the EAJ**

President Igreja Matos announced that he was candidate as Vice-President and First Vice-President of the IAJ. He added that Mr. Pagone, present First Vice-President, was candidate as IAJ President and that Mr. Sessa and Mr. Sjoberg, present Vice-Presidents, were also candidates for a new term.

Mr. Igreja Matos informed the Assembly that the African Group chose as its candidate for a post of Vice-President Mr. Djamel Aidouni (Algeria) and Ms. Kaptein (the Netherlands) took the floor to encourage female candidacies.

## **11. Future meetings: EAJ 2019 (Denmark)**

Vice-President Sjoberg announced that the meeting would take place on 10 May 2019 in Copenhagen.

President Igreja Matos announced that he received the Portuguese Association's proposal to host the meeting in 2020.

## **12. Miscellaneous**

Honorary President Tratnik took the floor referring again to point 3 of agenda and suggesting that it would have been better that initiatives for UN programs were taken not only by the EAJ but by the IAJ as a whole.

President Igreja Matos replies that the other Regional Groups were considering the same issues.

The President closed the session at 15.30

### Session of 17 October 2018

The President opened the session at 15.00.

In attendance were:

- the IAJ Honorary President, Mr. Christophe Régnard;
- the Vice Presidents Mr. Đuro Sessa and Mr. Mikael Sjoberg;
- the Honorary Presidents Mr. Gerhard Reissner, Mrs. Maja Tratnik and Mr. Günter Woratsch;
- the Secretary General, Mr. Giacomo Oberto;
- the delegates of the following associations, which are members of the International Association of Judges and of the European Association of Judges:

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CROATIA	NETHERLANDS
CZECH REPUBLIC (PROXY TO AUSTRIA)	NORWAY
DENMARK	POLAND
ESTONIA	PORTUGAL
FINLAND	ROMANIA
FRANCE	SERBIA
GERMANY	SLOVAKIA (PROXY TO HUNGARY)
GREECE	SLOVENIA
HUNGARY	SPAIN
ICELAND	SWEDEN
IRELAND	SWITZERLAND
ISRAEL	UKRAINE
ITALY	UNITED KINGDOM

The Assembly unanimously approved a resolution on the situation of the judiciary in Poland, a draft letter addressed to the Hungarian National Judicial Council and a draft letter addressed to the Association of judges of Montenegro.

President Igreja Matos recalled the results of the elections, where he, Mr. Sessa and Mr. Sjoberg were confirmed for a new two-years term. He informed the Assembly that he was the only candidate for the post of EAJ President and the Assembly unanimously re-elected him as such.

President Igreja Matos then announced the composition of the two permanent EAJ's Working Groups. The WG "Ways to Brussels" will be chaired by Ms. Celine Parisot (France) and its members will be Mr. John Edwards (Ireland), Vice president, Mr. Dieter Freiburghaus (Switzerland), Mr. Roland Mackay (UK), Mr. Simon Picken (UK), Ms. Janja Roblek (Slovenia), Mr. Peter Schneiderhan (Germany) and Mr. Matheus Van Osch (the Netherlands).

The WG on the situation of Member Associations will be presided over by Mr. Stephan Gass (Switzerland) and its members will be Mr. John Edwards (Ireland), Mr. Bogdan Jedrys (Poland), Mr. Roland Kaempfle (Germany), Ms. Nathalie Leclerc Garret (France), Mr. Roland Mackay (UK), Mr. Eerik Meelis (Estonia), Honorary President Gerhard Reissner (Austria), Ms. Janja Roblek (Slovenia), Mr. Peter Schneiderhan (Germany) and Ms. Eleonora Viegas (Portugal).

The Assembly unanimously approved the composition of the WGs.

The EAJ President exhorted the delegates to take contacts with the Honorary President Reissner, who was also IAJ representative at the UN seat in Vienna, in case they were interested in UN projects.

President Igreja Matos then addressed the issue of the proposed amendments to the IAJ Constitution. Several associations disagreed on the proposals and would suggest some changes. He added that it was very important to have a large debate on the issue and that he was in favor of postponing the debate since this was the will of different European members. The Presidency Committee examined this possibility and President Pagone asked for a formal reasoned statement by some members that could be voted by the Central Council. President Igreja Matos asked whether there were delegations still willing to ask the postponement of the vote on the amendment to the IAJ Constitution and Honorary President Woratsch and the delegations of Austria, Bulgaria, Germany, the Netherlands and Switzerland declared their willingness to make the proposal.

Mr. Picken took the floor to inform the Assembly that the Polish High Council for the Judiciary was suspended from ENCJ.

The President then announced the arrival of the colleagues from Azerbaijan and invited the President, Mr. Jafarov to comment the complaint of the Netherlands Helsinki Committee and of the Dutch Association. Mr. Jafarov explained that his association joined the IAJ in 2009 and since then made many efforts to foster the independence of the judiciary in the country. Azerbaijan is a former soviet country and a very young democracy, still confronted with violations of the rule of law and engaged since several years in judicial reforms. Nevertheless, the members of the association are working well and nobody ever accused them of unfair conducts. Mr. Jafarov expressed the wish to continue to fruitfully cooperate with the EAJ and its Members.

President Igreja Matos closed the meeting at 15.30.

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Mr. José Manuel Igreja Matos  
EAJ President

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Mr. Giacomo Oberto  
IAJ Secretary-General