



MINUTES
MEETING OF THE EUROPEAN ASSOCIATION OF JUDGES
Nur Sultan – 15 September 2019
(9.00 - 16.00)

The meeting started at 9.30 a.m.

In attendance were:

- the EAJ President, Mr. José Manuel Igreja Matos;
- the Vice Presidents Mr. Đuro Sessa and Mr. Mikael Sjoberg;
- the Honorary Presidents, Mr. Gerhard Reissner and Mr. Günter Woratsch;
- the Secretary General, Mr. Giacomo Oberto;
- the Deputy Secretary General, Mr. Lucio Aschettino;
- the delegates of the following associations, which are members of the International Association of Judges and of the European Association of Judges:

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

Secretary-General Oberto carried out a check on votes and proxies: 33 members were present.

President Igreja Matos welcomed the delegates and invited the colleagues attending the meeting for the first time to introduce themselves to the Assembly.

1. Approval of the minutes of the Copenhagen meeting.

The assembly unanimously approved the minutes of the meeting in Copenhagen.

2. EAJ and our Institutional Partners.

President Igreja Matos said that the EAJ was very close with international partners in Europe, particularly to ones committed with it on the independence of the judiciary. For this reason, the EAJ invited to the meeting the Baroness Helena Kennedy, President of the Human Rights Foundation of the International Bar Association, who unfortunately had to decline the invitation due to health reasons.

Another very special guest was the President of CEPEJ, an institution that has strong impact on judges' activity. Mr. Ramin Gurbanov (AZ) then took the floor to illustrate the activities of CEPEJ.

3. Report of the President.

President Igreja Matos referred to his written report and announced that the meeting would focus on Poland, Moldavia, Hungary and Romania. Then he mentioned different things that happened few days ago. He started recalling that the EAJ has a non-political, institutional approach and explained a project enhanced by EAJ and ENCJ to draft a letter asking for an urgent meeting with the new president of the EU Commission, Ms. Ursula Von der Leyen, to inform her on the situation of the judiciary in Poland. There were ongoing contacts with the European Network of Supreme Court Presidents to involve it in the project, to try to influence all together the European decision makers.

President Igreja Matos added that the EAJ was involved in the works to update the Bangalore Principles and that he had been appointed in the advisory board charged of updating the Kiev Recommendations issued by OSCE ten years ago.

4. Situation of the judiciary in Poland.

President Igreja Matos said that he travelled to Poland with the President of ENCJ and that he heard very emotional testimony of the colleagues, who were suffering an aggressive campaign on social media, showing the clear involvement of the Government with the use of personal private data to attack judges. Mr. Bogdan Yedris took then the floor to illustrate the situation in his country (presentation annexed to these minutes).

President Igreja Matos highlighted the usefulness of the institutional approach of the EAJ, the ENCJ and the Network of Presidents of European Supreme Courts. He was also confident in the decision that will be taken by ENCJ after the opinion of the advocate general.

The President then formulated two proposals: first, to start thinking about a financial support for judges under disciplinary proceedings, because they need the support of lawyers. One could envisage a partnership with Bar Associations to organize a support for judges in Poland. Second, it would be wise to send observers to the disciplinary hearings, with the help of Polish colleagues available to act as interpreters.

President Igreja Matos then gave the floor to the IAJ President Pagone who highlighted the dimension of the Group, its engagement against threat to judicial independence and its concrete actions towards associations in difficulty.

Mr. Larssen (Norway) suggested evaluating some sort of cooperation with the International Commission of Jurists and organizing a group to be present at the disciplinary hearings. Also, he said that his association was ready to grant a financial support to Polish colleagues.

Mr. Gnisa (Germany) said that concrete measures were a good idea, that the German association endorsed. He proposed to form a network of judges who speak Polish and might serve as observers. He added that the financial support was a good idea and that one might think about establishing a Fund for these situations to enable the EAJ providing a quick support.

Honorary President Reissner noted that the Fund already existed, even if until now was used only for the support to Turkish colleagues.

Mr. Sevastidis (Greece) suggested that the national associations issued press releases to inform the public opinion on what was going on in Poland and added that the time had come to bring the Polish case at IAJ level and discuss it within the Central Council.

Mr. Edwards (Ireland) stressed also that the Provident Fund was meant to help judges of any European country and highlighted that in a recent case the grounds for condemning a Turkish judge were mainly based on his receiving financial support from the Fund and the fact that the Fund was considered as subversive in nature. Therefore, proving that the Fund is used to help judges in other countries also, would make new charges like these impossible.

Other delegates underlined that the Provident Fund was general in scope and that using an already existing tool would make quicker the reaction of the EAJ.

President Igreja Matos summarized the proposals emerged in the debate: 1. The EAJ would issue a resolution drafted by the WG with the help of Mr. Yedris; 2. There was a consensus on providing

financial support and using the Fund to this purpose, therefore Mr. Yedris could disseminate this information among Polish judges; 3. The EAJ was eager to help with international observers; 4. National initiatives to bring awareness on the situation in Poland and also in Hungary were welcomed.

Ms. Costiniu (Romania) underlined that the politics' fight against justice was a recurrent problem in Europe and should be addressed also in a more strong institutional way, through a concrete cooperation with European institutions (Parliament and Commission). Mr. Mazgalov (Bulgaria) expressed support to this view.

Vice-President Sessa said that the Universal Charter was an effective instrument and suggested to take any occasion to use it.

5. Situation of judiciary in Member Countries

Mr. Clima (Moldova) took the floor to illustrate the situation in his country and the draft law reforming the Supreme Court. He asked the EAJ's support in the fight against this draft law.

President Igreja Matos said that he and the Vice-President Sessa and Sjoberg already explained the impossibility of approving a resolution in this meeting because there was not enough time to assess the situation due to complexity of the reform. Nevertheless, Mr. Sessa was President of the CCJE and from the translation of the draft law it was possible to assess at least 3-4 clear violations. There was already an opinion of the CCJE on the issue of evaluation of judges stating that it should be made primarily by judges, while the intervention of the Minister or external bodies should be avoided. The proposal of the EAJ Board was therefore that the EAJ President sends a letter to Moldovan authorities recalling general principles and international standards and inviting them to act according to this recommendation. In few months, with further information, it will be possible to take further steps.

Mr. Sessa added that the Venice Commission was due to travel to Moldova on 19-20 September and warned against the Moldovan case becoming a new episode of the vetting procedure.

Ms. Boljevic (Serbia) agreed and proposed adding a reference to the un-appealability of the decisions. She said that the EAJ could adopt a statement in between its sessions should there emerge other clear violations and the need for an urgent reaction.

Honorary President Reissner suggested starting a reflection on a general statement on vetting procedure, at IAJ level, possibly involving the 1st Study Commission.

President Igreja Matos said that there was already a commitment to send a letter signed by him, reminding international standards. As to the statement on vetting, a draft could be examined in Porto.

Ms. Halasz (Hungary) took the floor to illustrate the activities of the President of the National Judicial Office, in various ways jeopardizing the independence of the Hungarian judiciary. Honorary President Woratsch underlined that political authorities were acting in Hungary in a worse but more subtle way than in Poland, daily undermining the independence of judges. He pointed out also that in a decision made few days ago, the Hungarian Supreme Court accepted the reasoning put forth by Prosecutor General in his appeal against a court order requesting a preliminary ruling from the European Court of Justice concerning the state of judicial independence in Hungary, deeming the request unlawful. The decision could have a possible chilling effect on judges.

5.1 - Working Group on the Situation of the EAJ's Member Associations

The President of the WG referred to his written report, mostly devoted to the situation in Poland and Hungary, already dealt with by the Assembly.

Ms. Ciuca, Romania, took the floor to inform the Assembly on the draft law envisaging a drastic decrease of the amount of the retirement pensions of magistrates, contrary to the provision of article 8 of the Universal Charter.

President Igreja Matos stressed the importance of highlighting the content of the Charter also in the part dealing with remuneration.

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

Ms. Parisot, chairman of the WG, referred to her written report and underlined that the working group hadn't been very active after the Copenhagen meeting, since the terms of the EU Commission and Parliament were soon over and the works in the field of Justice stopped.

7. EAJ and IAJ

7.1 Change of Statutes of IAJ

Secretary-General Oberto summarized the proposals of amendment to the Constitution and the Regulations.

Vice-President Sessa explained the rationale for the new formulation of article 4 of the Constitution, aimed at facilitating the inclusion of the judiciaries of small countries, and of article 13 of the Regulations, aimed at solving criticalities and weaknesses emerged in the first application of the monitoring procedure and at encouraging the participation in the process.

Ms. Kaptein (Netherlands) and Mr. Tamir (Israel) proposed some terminological changes.

Upon request of Honorary President Reissner, the Secretary-General explained that the Central Council would be called to vote first on the new proposals for amendment. Should they be rejected, it will vote on the original proposals submitted by the Presidency Committee in 2018.

Honorary President Woratsch took the floor to illustrate the proposals made by the Council of Honorary Presidents with reference to art. 13 of the Regulations, aiming at envisaging a sanction for those associations not submitting their national reports and at lowering the number of member association who should activate the procedure for the ad hoc monitoring. Also, he disagreed with the new formulation of art. 4 of the Constitution, envisaging a sort of special status for Caribbean and Pacific islands.

Mr. Picken (UK) took the floor to explain the rationale of the proposed sub-amendments to art. 4, but Mr. Woratsch insisted that there was no reason to make a specific reference to a given geographic region in the Constitution, that should be general in character. Mr. Picken replied that the exception was justified by the really tiny dimension of the countries in those two regions and Vice-President Sessa added that the interest of the IAJ was to enlarge its composition in order to include as many realities as possible in the promotion of its values.

Ms. Parisot (France) stressed the importance of some sort of sanctions for associations not respecting their monitoring duties and the Italian delegate (Mr. Scaletta) supported this opinion.

Honorary President Reissner took the floor stressing that the IAJ wanted to include the judiciaries of small countries and the new art. 4 went in that direction. He added that the introduction of sanctions for non-compliance with art. 13 would require a new amendment for which there was no time and stressed the importance of a compact vote by the EAJ on the new art. 4 to prevent the old proposal by the PC from being approved instead.

Mr. Woratsch pointed out the difficulty in making reports for the admission of an association of small countries, with no local references, no unique judiciary and set of norms to evaluate. He remarked also the risk of opening the door to the admission in the IAJ of more than one association per country.

President Igreja Matos pointed out that it was impossible to propose new amendments, although interesting, because they were not received by the deadline envisaged by the Constitution. He recalled also that the Central Council would vote first on the new proposals drafted within the EAJ and if they will not be accepted in will vote on the original ones, drafted by the PC, which the European associations disliked.

8. Budget of IAJ/EAJ.

President Igreja Matos underlined that the annual allocation granted by the IAJ was small compared to the activities to be financed by the Group: this year, the expenses for the salary of the assistant to the Fund Committee consumed the entire annual allocation. Then there were the missions in Hungary, the meetings of the Provident Fund Committee, the activities of the WG “Ways to Brussels”. The President tried to limit his professional engagements only to events in which the travel and lodging expenses were covered by the hosting organizations, but that was not always easy. He asked the Assembly to recommend the IAJ Presidency Committee an increase in the annual budget and the Assembly approved.

9. Situation of the judiciary in Turkey; Provident Fund of the European Association of Judges.

President Igreja Matos gave some information on the Provident Fund: it already financed support for Turkish colleagues for about 115,000 euro and has 20,000 available on the bank account in Rome. Mr. Edwards explained the Assembly the functioning of the mechanism of support and the criteria adopted.

10. Future meetings

Mr. Manuel Soares confirmed the dates of the meeting (14-16 May 2020) and announced the sending of preliminary information by October.

President Igreja Matos encouraged member associations to propose for the 2021 meeting.

11. Miscellaneous

President Igreja Matos convened a new session on Thursday 19, at 8.30 for the approval of the draft documents discussed today.

The session was closed at 13.50

Session of September 19, 2019

The meeting started at 8.30 a.m.

In attendance were:

- the EAJ President, Mr. José Manuel Igreja Matos;
- the Vice Presidents Mr. Đuro Sessa and Mr. Mikael Sjoberg;
- the Honorary Presidents, Mr. Gerhard Reissner and Mr. Günter Woratsch;
- the Secretary General, Mr. Giacomo Oberto;
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GREECE	SERBIA
HUNGARY	SLOVAKIA (PROXY TO HUNGARY)
ICELAND	SLOVENIA
IRELAND	SPAIN
ISRAEL	SWITZERLAND
ITALY	UNITED KINGDOM

After the roll-call the President stated that there was the quorum (32 presents out of 44 members) for the adoption of decisions by the Assembly.

The Assembly examined the draft resolution on Poland and unanimously approved it.

The Assembly examined the draft letter to Moldovan authorities and unanimously approved it.

The Assembly examined the draft letter to Hungarian authorities and unanimously approved it.

The Assembly examined the draft letter to Romanian authorities and unanimously approved it.

The EAJ President then asked delegates to volunteer to be member of the monitoring commission: the board of the EAJ will choose among candidates according to criteria such as gender balance, membership in the WG that drafted the proposal for the new monitoring procedure, seniority and the final decision will be taken during the meeting in Porto, on May 2020.

The President thanked the Assembly and closed the meeting at 9.15.

The President
José Manuel Igreja Matos

the Secretary-General
Giacomo Oberto

Enclosures:

- Presentation of Mr. Yedris;
- Budget;
- Resolution on Poland;
- Letter to Moldovan authorities;
- Letter to Hungarian authorities;
- Letter to Romanian authorities.