



**MINUTES
OF THE MEETING OF THE
EUROPEAN ASSOCIATION OF JUDGES
Porto (Portugal), 29th of April 2022
(10.30 a.m. – 5.00 p.m.)**

The meeting started at 10.15 a.m.

In attendance were:

- the IAJ President, Mr. José Manuel Igreja Matos;
- the EAJ President, Mr. Đuro Sessa;
- the Vice Presidents Ms. Sabine Matejka and Mr. Mikael Sjoberg;
- the Honorary Presidents Mr. Gerhard Reissner, Mrs. Maja Tratnik and Mr. Günter Woratsch;
- the Deputy Secretaries General, Mr. Lucio Aschettino and Mr. Galileo d'Agostino;
- the delegates of the following associations, which are members of the International Association of Judges and of the European Association of Judges:

ARMENIA	LATVIA
AUSTRIA	LIECHTENSTEIN
AZERBAIJAN	LITHUANIA
BOSNIA AND HERZEGOVINA	LUXEMBOURG
CROATIA	NETHERLANDS
CYPRUS	NORWAY
CZECH REPUBLIC	POLAND
DENMARK	PORTUGAL
ESTONIA	ROMANIA
FINLAND	SERBIA
FRANCE	SLOVAKIA
GEORGIA	SLOVENIA
GERMANY	SPAIN
GREECE	SWEDEN
HUNGARY	SWITZERLAND
ICELAND	TURKEY
IRELAND	UKRAINE
ISRAEL	UNITED KINGDOM
ITALY	

The Assistant to the Secretary-General carried out a check on votes and proxies: 37 members were present.

The President of the Portuguese Association, Mr. Manuel Soares, greeted the Assembly and thanked the member associations for their participation to the fund-raising for Ukrainian judges launched by his association.

The President of the International Association of Judges, Mr. José Manuel Igreja Matos, welcomed everyone to the city where he chairs the Court of Appeal, rejoicing of the possibility to gather again in person. The priority of the IAJ Presidency Committee were the meetings and finally all the Regional Groups, except ANAO that will convene via video-conference, scheduled their sessions in presence in springtime. The IAJ kept alive its relationships with similar organisations, such as the International Association of Women Judges. There were also close contacts with the Afghan Association's President. Mr. Igreja Matos mentioned the event on climate change that will take place in Stockholm at the beginning of June, where representatives of the IAJ will take the floor to speak about judicial independence in the context of implementation of environmental law. The President highlighted the strong commitment with the Turkish colleagues and the constant effort to keep contacts with Mehmet Tank and Murat Arslan, the former President of Yarsav. He then read a letter of Mr. Arslan.

The Assembly unanimously approved the agenda of the meeting.

1. Approval of the minutes of December 3rd 2021.

The Assembly unanimously approved the minutes of the meeting held by video-conference on December 3rd, 2021.

2. Report of the President

First of all, President Sessa thanked the Portuguese Association for organizing the meeting, the first after the pandemic, and thanked the General Secretariat for its constant support.

Mr. Sessa underlined the importance of protecting the independence of the judiciary since there is a risk that some states may misuse the emergency powers covid-correlated to consolidate executive authority at the expense of the rule of law, suppressing and undermining democratic institutions. The distribution of emergency aid can be fertile ground for corruption and, without an effective justice system that ensures transparency, accountability and oversight, much of it will not reach intended beneficiaries. From time to time, every nation has an emergency of one kind or another to face and very occasionally it also tests a commitment to the Rule of Law. The President referred then to the aggression against Ukraine, a case in which judges, courts and court administration have to face the challenges how to ensure proper functioning of courts and how to ensure protections of citizens' rights. Member Associations are often alone and this is why the solidarity of the IAJ and the EAJ is so important. The EAJ Board meets regularly and is always keen to listen to members' needs, although it is not possible to meet them all. This is why, in choosing which events attend, the priority is given to those situations in which the EAJ experience can be of help, renouncing to attend events in which the presence of members of the Board would only have protocol relevance.

3. Situation of judiciary in Member Countries;

Poland. Ms. Dorota Zabudivska, member of the Board of Iustitia, referred to the written report sent by her association. The situation in the country remains unchanged: as to the election of a new National Judicial Council, notwithstanding the sentences of the EU Court of Justice and of the European Court for Human Rights, the Government does not want to modify the system, which involves a great role for the Parliament in the appointment of the members of the Council. Recently, on the internet, several posts mentioned the activities of groups of judges connected with politics who were trying to weaken the position of their fellow judges by means of disciplinary accusations. The language and the scale of the event was shocking. On a more general ground, it is the Constitution itself that is challenged, not only as regard the role and position of judges but also with regard to the rights of citizens, that were violated during the pandemic.

Slovakia. Mr. Frantisek Mozner, President of the Slovak Association, thanked the EAJ for its constant support, since the first resolution issued in 2011 concerning legislative changes in Slovakia. The Slovak Association is dealing with a corruption scandal, which also affects several judges, and, on one hand, it is engaged in contributing to the effective fight against corruption while, on the other hand, it is ready to react to every attempt by the legislature and the executive to limit, in the name of the fight against corruption, the

existing guarantees of independence of the Slovak judiciary. As to the resolution of 2011, unfortunately neither the Ministry of Justice neither the Slovak Judicial Council dealt with it. Unfortunately, as envisaged by the resolution, the introduction of a vaguely formulated new criminal offense of bending the law is resulting in the limitation of the functional immunity of judges and the police have started to investigate whenever a judicial decision does not meet the expectations of the public or the media. Mr. Mozner added that the President, Vice-President and Members of the Slovak Judicial Council can be removed at any time before the end of their term and without giving reasons: this jeopardizes the independence of the Judicial Council in a moment when the Council got new enhanced competences concerning the assessing of judicial competence. Finally, Mr. Mozner mentioned the fact that the legislative process in Slovakia is still largely behind closed doors and the involvement of the stakeholders, including the national association of judges, is often only formal. He concluded his speech asking the EAJ to continue to monitor the situation in Slovakia.

Greece. Mr. Michail Tsefas, delegate of the Greek Association, thanked the EAJ and its President, Mr. Sessa, for the support given in December. The Greek government tried to introduce an external evaluation of judges through examinations. The letter sent by Mr. Sessa had an impact and the Government withdrawn this specific provision from the legislation. The help by the EAJ would have not been necessary if the Government had accepted the participation of the association in the legislative process. At present, the new legislation on the status of judges and the organization of the courts is pending in the Parliament.

Italy. Mr. Dario Scaletta, delegate of the Italian Association, illustrated to the Assembly the content of a reform affecting the judiciary that should come into force in the next weeks. The reform introduces a hierarchical system, contrary to constitutional dictate; definitively establishes the substantial separation of careers between judges and prosecutors (even if the existing rules already make it extremely complex to switch from one function to another); creates the personal performance dossier, based on the verification of the tightness of the decisions in the subsequent degrees of judgment. All the attempts of the Italian Association to help drafting a better law failed and the reform, while pretending to be aimed at ensuring greater efficiency, in reality aims to entrench the belief that all inefficiencies are caused by judges. The Italian Association was ready to demonstrate, even with a strike, its opposition to the reform.

Ukraine. Mr. Mykola Korotun, delegate of the Ukrainian Association, informed the Assembly on the functioning of the judicial system during the ongoing war: 119 courts were closed due to the aggression of the Russian Federation. 47 courts were located in uncontrolled territory and 32 court buildings were destroyed. Judges and court staff were involved in activities such as helping refugees, buying first aid kits, donating to charitable foundations and supporting the Territorial Defense Force. On April 21st, by order of the Chairman of the Supreme Court, the territorial jurisdiction of some courts in regions affected by the war was restored. Lastly, Mr. Korotun asked the EAJ to adopt a resolution in support of the appeal of the Ukrainian Association of Judges to the UN Security Council to establish a special investigation team which will collect evidence of crimes committed by Russian troops on the territory of Ukraine against civilians of Ukraine.

President Sessa asked the Assembly whether it agreed on supporting the appeal of the Ukrainian Association and, after a debate, the Assembly decided also to extend the EAJ resolution on this issue to the other Regional Groups, asking for their endorsement.

4. Working Group on the Situation of the EAJ's Member Associations - Report of the President.

Mr. Gass, Chairman of the WG, summarized his written report.

Mr. Peter Schneiderhan took the floor to greet the Assembly since he was no longer member of the German Association. He recalled the project for a Judges Convention by the Council of Europe, highlighting that a Lawyers Convention was going to be approved. Mr. Schneiderhan noted that a possible mistake by the EAJ might have been the idea that it could draft alone the text of the Convention and then simply ask the Council to adopt it. The right path should have been, instead, to solicit at political level the start of a reflection and

then offer to participate in the works. Mr. Schneiderhan was available to explore the possibility of this initiative and asked the support of the EAJ. President Sessa invited the delegates to reflect on the issue.

The WG on member associations presented the draft of a resolution on Poland and the Assembly approved it unanimously.

5. Working Group “Ways to Brussels” – Report of the President.

Ms. Parisot took the floor and summarized her report highlighting that, in the two years of pandemic, the EU Commission substantially neglected the topic of justice.

7. Budget of EAJ

The Assistant to the IAJ Treasurer informed the assembly about the finances of the EAJ. The budget is enclosed to these minutes.

8. Report on activities of Provident Fund of the European Association of Judges.

President Sessa recalled that the Assembly adopted in its meeting on line a resolution to keep the Fund working until 2023. He thanked the national associations for their financial support and underlined that the Fund collected, since its establishment, about 250.000 euro and already spent about 208.000 to sustain the families of Turkish judges arrested or dismissed. In some cases, it was necessary to help the same family with a further amount of money. The EAJ can take pride of this initiative.

Mr. Simon Picken (UK) was delighted with the results achieved and, taking into consideration the present war in Ukraine, suggested to expand the scope of the Fund or to establish a new fund to help judges in other countries. Honorary President Reissner recalled that the Fund had been established not only for the Turkish judges but for all judges at risk of being deprived of their functions and of losing their ability to maintain themselves and their families. The situation in Ukraine did not entail yet the loss of financial means for judges and, should it be the case in the future, the Provident Fund would apply. A debate followed: Mr. Gass noted that the Fund was established for judges in need of help in any country and, therefore, it could be used for Ukrainian judges too. Mr. Novosad (Czechia) and Mr. Kempfle (Germany) noted that up today the fund-raising campaign was explicitly finalized to the support to Turkish judges and it would be unfair towards the donors to change the destination of the money without their consent. Ms. Parisot (France) underlined that the Ukrainian association, unlike the Turkish one, still existed and worked and Ms. Ciuca (Romania) noted that in several countries, like hers, there were already in place fund-raising campaigns, for instance for Afghan refugee judges.

President Sessa suggested a further brainstorming on the issue, noting that the expansion of the scope of the Fund could weaken it and, in any case, would involve a change in the organization. The EAJ Board will analyse the issue, not as a means to postpone the decision, but to be ready for a well-informed decision-making that takes into consideration either the existing regulation of the Fund either the mission and scope of the EAJ and the IAJ: the support to individuals who are persecuted because of what they are (the judges) is a different theme than the solidarity towards an entire population for the tragic adversities that befall it.

President Sessa and the IAJ President, Mr. Igreja Matos, undertook to talk about this issue during the forthcoming meeting of the Presidency Committee.

Mr. Soares took the floor to inform the assembly that the fund-raising campaign for Ukrainian judges launched by the Portuguese Association collected 83.000 euro.

6. Working Group of assistance to judges - Report of the President.

Mr. Nicholas Blake, Chairman of the WG, took the floor and recalled the reasons behind the establishment of the WG. He noted that within the IAJ there is not awareness about the activities of the European WGs, in particular the one devoted to the situation of member association and pointed out that similar bodies could be established also within the other Regional Groups. He therefore proposed that his WG could encourage the establishment of these organs and then coordinate their activities in support of possible global

initiative of the Presidency Committee on peculiar national issues (as was the case for the opinion drafted by his WG on disciplinary proceedings against Polish judges for their *bona fide* decisions). Mr. Blake explained that the challenges ahead were the increasing of membership of African and ANAO colleagues and asked whether other European colleagues were interested to join. Ms. Parisot (France) and Mr. Melis (Estonia) volunteered.

The Assembly then examined the draft notice on the reform of the Italian justice system. Upon request of the delegate from Azerbaijan, Mr. Jafarov, who wanted to better understand the hierarchical implications of the reform, Mr. Scaletta explained that the head of each court must annually set the individual judge's targets. The target is set by directive, and failure to meet the target is taken into account in the professional assessment of the judge. Since the law does not specify parameters for setting the target, the head of the court will *de facto* limit the autonomy of individual judges in each court. After a debate on the wording, the Assembly unanimously approved the text of the notice on the reform.

The Assembly also unanimously approved a resolution supporting the request of the Ukrainian Association of Judges to the United Nations to establish an investigative team to gather and record evidence of war crimes and decided to forward it to the other IAJ Regional Groups.

8. Cooperation EAJ/ENCJ.

President Sessa recalled the role and activities of the ENCJ and its cooperative relationship with the EAJ. He participated in its last meeting in Vilnius, where he gave a speech on the situation of the Polish judiciary, and he was also invited to attend the next meeting, due to take place in Athens, Greece. He invited the delegates to visit the website of the Network, to read the statements adopted by this organ.

9. Miscellaneous.

President Sessa recalled that from time to time member associations disseminate questionnaires among the other members about various issues of national interest. Since, in reality, the topics appear to have also a general interest to the international community of judges, President Sessa exhorted the associations to prepare a summary report of the answers received and to send it to the IAJ Secretariat for its publication on the IAJ website, to the common benefit of all members. This praxis would also simplify the activities of the national associations, since it happens that similar questionnaires are disseminated by different associations, because they do not know the results of the previous survey.

President Sessa mentioned the cooperation with the European Law Academy (ERA), the contacts with which are entrusted to Vice President Matejka, who informed the Assembly about its activities and, in particular, the establishment of a forum for legal professionals.

Ms. Alessandra Decina, Assistant to the Secretary-General, presented the new website created by the General Secretariat for the EAJ, that will be soon online.

President Sessa proposed to task the WG on the situation of member associations to try and find the best path to restart the project for a CoE Convention on the status of judges. Mr. Schneiderhan will join the group and will be specifically in charge of this task. The Assembly unanimously approved the proposal.

10. Future meetings.

Mr. George Kasimis took the floor and confirmed the commitment of the Greek Association to host the 2023 meeting from 11 to 13 May in Athens.

Mr. Yaron Levy took the floor to introduce the next meeting of the Central Council of the IAJ and the Regional Groups in Tel Aviv, Israel.

The President closed the meeting at 15.20.