



MEETING OF THE EUROPEAN ASSOCIATION OF JUDGES
(zoom, May 28th, 2021, 3 p.m.)

The meeting started at 15.00 a.m.

In attendance by video link were:

- the IAJ President, Mr. Tony Pagone;
- the EAJ President, Mr. José Manuel Igreja Matos;
- the Vice Presidents Mr. Duro Sessa and Mr. Mikael Sjoberg;
- the Honorary Presidents Mr. Gerhard Reissner 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:

ARMENIA	LATVIA
AUSTRIA	LUXEMBOURG
BULGARIA	MALTA
CROATIA	NORTH MACEDONIA
CYPRUS	NETHERLANDS
DENMARK	POLAND
ESTONIA	PORTUGAL
FINLAND	ROMANIA
FRANCE	SERBIA
GERMANY	SLOVAKIA
GREECE	SLOVENIA
HUNGARY	SPAIN
IRELAND	SWEDEN
ISRAEL	SWITZERLAND
ITALY	UNITED KINGDOM

1. Introductory Remarks

Secretary-General Oberto carried out a check on votes and proxies: 30 members were present.

The Secretary General and the EAJ President greeted all delegates. Then Mr. Igreja Matos gave the floor to President Pagone who addressed some salutation words to the assembly. Followed the speeches of the Vice Presidents Sessa and Sjoberg.

2. Cooperation EAJ/ENCJ. Intervention of the President of ENCJ Filippo Donati

The EAJ President then gave the floor to Professor Filippo Donati, President of the European Network of Councils for the Judiciary, who presented the role and activities of the Network and the activities done with the EAJ.

President Igreja Matos then invited the delegates of Finland, France, Israel, Luxembourg, Portugal, Serbia participating for the first time in a meeting of the EAJ to introduce themselves.

3. EAJ Activities

President Igreja Matos informed the delegates that in the last months he participated in 22 public events, thus confirming the role of the EAJ in the debate about justice all over Europe.

He noted that he was coming to the end of his mandate and highlighted that a new Board was going to be elected in September, with people ready and eager to continue promoting the role of the EAJ in assisting its members.

He stressed the visibility of the EAJ in front of European institutions – the EU, the Council of Europe, the ENCJ, the Network of Supreme Administrative Courts. Through these relationships it will always be possible for a national association to “internationalize” an issue dealing with its independence.

He then underlined the remarkable work done by the EAJ Working Groups – on the situation of member associations and “ways to Brussels”.

He noted the importance for the EAJ of being part of a wider network, the International Association of Judges, grouping now 92 members.

He then invited all delegates to regularly check their emails, since the EAJ secretariat was spreading several requests of assistance by member associations as well as requests for experts.

The Secretary-General explained the test activities launched by the General Secretariat to train delegates in the use of Zoom platform and of the voting system on the IAJ website. He listed the topics on which the Central Council will vote – election of the Presidency Committee, amendments to the Constitution and the Regulations of the IAJ, admission of new members, ratification of the decisions taken by the Presidency Committee to deal with the impact of the pandemic on the life of the IAJ. Then he informed the delegates that the Study Commission will not gather in a meeting on line but will share the national reports and the draft general reports via email and will present their conclusions during the CC meeting.

4. Situation of the members of EAJ.

Poland: Mr. Bogdan Yedris informed the Assembly that the Polish Council for Judiciary was suspended from the membership of the ENCJ on the grounds of its lack of independence. Mr Yedris noted that for many years before 2015 the Polish judiciary lived in a sort of isolation from the society in the name of a sophisticated concept of judicial independence. Now that the judiciary is being attacked by the politics, this attitude, combined with mistrust in the judiciary typical of many post-communist societies, significantly diminished the support of public opinion to judges engaged in protecting their independence. He then mentioned the cases of suspension of judges from their duties and reduction of their salaries pending disciplinary proceedings that were purposely slowed down and he thanked the EAJ’s Board and all European associations for their support. Mr. Yedris proposed the organization by the EAJ of an international event in Poland and the recording of speeches of prominent judges belonging to EAJ’s members; to continue presenting to the European authorities EAJ statements regarding significant violations of the independence of Polish judiciary.

President Igreja Matos expressed his support for these proposals. The Assembly unanimously approved these proposals, to be enforced in the future, when the pandemic will be under control.

Croatia: Mr. Đuro Sessa firstly addressed the Assembly in his capacity as former President of the CCJE, and now member of the Bureau underlining that Honorary President Gerhard Reissner was among the drafters of the Opinion n. 23 (2020) “on the role of associations of judges in supporting judicial independence” and informing the Assembly that the Council was elaborating the text of a new Opinion 24 (amending Opinion n. 10) on the Councils for the Judiciary and their role in independent and impartial judicial systems.

As to the situation in Croatia, a crisis started in connection with the procedure for the appointment of the President of the Supreme Court, which is the only position in the judiciary decided uniquely by the politics (the proposal is made by the President of the Republic to the Parliament, which then appoints the President of the Supreme Court). Interested judges meeting the requirements may apply for the position after the State Judicial Council advertises the position; the General Assembly of the Supreme Court and the committee for the judiciary of the Croatian Parliament give their, non-binding, opinions. At the first round the President of the Republic decided not to select any of the applicants and proposed to the Parliament a person who had not applied for the position. The General Assembly of the Supreme Court refused to give its opinion and the procedure died. A second round started and the President of the Republic announced his favorite (a professor of law of the University of Zagreb) regardless the opinions of the General Assembly of the Supreme Court and of the Parliamentary committee. As a consequence, the General Assembly of the Supreme Court decided not to give its opinion on any of the candidates and that is where the procedure stands now. The critical aspect of the case is that it has opened the Pandora's box and the entire judiciary is currently under attack by politicians and the media.

Greece: Mr. George Kasimis informed the Assembly that the new Government (elected in 2019) announced the intention to amend the Code of organization of courts and the status of judges with a view to introduce the evaluation of judges by external bodies based on competitive criteria and inspired to military codes. In 2021 the Minister of Justice expressed his intention not to set up a legislative drafting committee, claiming that the positions of the association of judges were well known since 2018, when a drafting committee was established with reference to another proposal of amendment of the code on the judiciary. More in general, the association of judges was not heard neither with respect to other legislative proposals such as the one reforming the code of civil procedure and the one concerning the national school of judges. Mr. Kasimis noted also that during the pandemic none of the associations of judges were heard about the measures to be taken while other professionals, such as the bar association, were regularly invited to the crisis tables. This was a clear demonstration of the intention of the Government to diminish the role of judges and prosecutors in front of the Greek public opinion.

Ms Katerina Ntoka informed the Assembly more in detail about the initiatives taken to deal with the exclusion of associations of judges from the legislative process.

Mr. Kasimis asked the EAJ to adopt a resolution asking the Greek Government to involve the Greek associations of judges and prosecutors in any legislative process concerning the judiciary and regarding in particular the status of judges and prosecutors.

President Igreja Matos noted that a draft letter in that sense was prepared by the WG chaired by Mr. Gass and set out the relevant international principles in this regard. Mr. Kasimis stressed that the last two paragraphs of the draft letter could be used as the text of the resolution. Honorary President Reissner took the floor to support the idea of a resolution and suggested a slight rephrasing to make the text stronger. President Igreja Matos then asked the Assembly whether it agreed to adopt the resolution and the answer was unanimously affirmative.

Slovakia: Ms. Dana Jelinkova informed the Assembly about the constitutional amendments entered into force in 2020 and about a legislative proposal to change the judicial map in Slovakia. The amendments were made without involving the Slovak Association and were considered questionable by the CCJE also. The first amendment concerns the possibility to remove, at any time before the expiry of their term of office, the President, the Vice-President and members of the judicial council, without the need of any reason. The amendment entails the possibility of direct political influence over the activities of the Council, among whose competences there are the selection of judges, their promotion etc. The second amendment implies that the consent of judges will not be required to transfer judges when changing the system of courts, if this is necessary to ensure the appropriate administration of justice. What is not clear, and therefore worrying, is whether this possibility includes also the transfer of judges to a lower court without their consent. The third problematic issue is the restriction of the functional immunity of judges of general courts (which is the same also for judges of the Constitutional Court and representatives of Parliament): until January it was impossible to prosecute a judge because of his/her decision even after the term of the office and it was necessary the consent of the Constitutional Court to take a judge into custody. Now, the Constitutional Court will no longer be allowed to review and allow pre-trial detention of judges. Furthermore, the new version of the provision on immunity states that it is only granted for a “legal opinion expressed in a decision unless a criminal offence has been committed thereby”. There is also a new crime in the criminal code, named “bending the law” which can be committed only by a judge who ‘arbitrarily applies the law’. Finally, Ms. Jelinkova informed the Assembly about the Judicial Map reform. On behalf of her Association, Ms. Jelinkova asked the EAJ to issue a statement (in the form of a letter, recommendation or resolution) and President Igreja Matos invited her to contact the WG on member associations to decide the best approach.

Honorary President Woratsch added that on mid-June there will be a meeting of the Slovak Association to which he was invited. The event would allow him to have talks with the President of the Association, after which he will report to the President of the EAJ.

Turkey: President Igreja Matos gave the floor to Mr. Stadelmann, who illustrated the figures related to the Provident Fund. Mr. Stadelmann added that the Fund was used to help colleagues in Turkey and refugees in Greece, while those who were refugees in other countries should rely only on the support of the hosting country. Mr. Stadelmann proposed that the associations of judges in the hosting countries give a financial support to those refugee colleagues.

President Igreja Matos then gave the floor to Mr. Roland Kempfle who informed the Assembly about the initiatives taken by the German Association: the judges review published an article of Mr. Igreja Matos to explain the scope of the Fund and the board of the Association, considering the savings due to the pandemic, decided to make larger donations to the Fund. There was also a huge reaction by individual judges who sent money to the Fund.

5. General Assembly of EAJ/IAJ. Preparation. Elections for IAJ/EAJ.

Mr. Oberto noted that the EAJ will need to hold a short meeting after the electoral session of the Central Council to elect its own President. He read also the provision in the EAJ Statute (art. 4) concerning the appointment of an executive committee to assist the EAJ President and the establishment of permanent working groups.

President Igreja Matos gave the floor to the Presidents of the two permanent working groups. Mr. Stephan Gass (WG on the situation of member associations) called for the election this year of the members of the WG and supported the consensus mechanism. Ms. Celine Parisot (WG “Ways to Brussels”) informed that 4 out of 7 of its members confirmed their availability to continue working in the WG and that the Group was in favour of holding elections this year. Ms. Parisot supported the consensus mechanism and suggested that people interested in filling the 3-4 available positions contact her in this respect.

President Igreja Matos summarised the decision: lists of members would be drawn up for approval by consensus and the Chairpersons would be the current Groups’ President.

President Igreja Matos noted that candidatures to the elections in the Presidency Committee might be presented until the beginning of the Central Council but offered colleagues who had already decided to run for election the opportunity to present themselves at the meeting.

The following judges presented their candidatures: Mr. Đuro Sessa, Mr. Mikael Sjöberg, Ms. Sabine Matejka.

6. Miscellanea

Mr. Manuel Soares (Portugal) took the floor to inform the Assembly about the readiness of his association, with short notice, to host an EAJ meeting in Portugal in 2022 as soon as the world situation related to pandemic will make it possible.

Mr. Kasimis informed the Assembly that every even year there are elections of the Greek Association, for which it is therefore impossible to organize an international event at the same time. He therefore announced the availability of his association to host a meeting in 2023.

Mr. Javier Martinez Marfil (Spain) informed the Assembly about recent events in his country concerning the election of the members of the Judicial Council by the Parliament. The Government proposed an amendment that would have allowed the Parliament to elect the components of the Council with a simple majority instead of a reinforced one. After the reaction of the national association of judges, supported by the EAJ, the Government withdraw the proposal.

Mr. Sjöberg thanked Mr. Igreja Matos for the excellent work done in his capacity as President of the European Association of Judges, making the EAJ a protagonist in front of European institutions.

IAJ President, Mr. Pagone, greeted all participants.

President Igreja Matos thanked the delegates for their participation and closed the meeting at 17.45.

The EAJ President
José Manuel Igreja Matos

the IAJ Secretary-General
Giacomo Oberto