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THE INTERNATIONAL ASSOCIATION OF JUDGES AND ITS COMMITMENT IN THE FIELD OF ENVIRONMENTAL LAW

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1. The Role of the International Association of Judges (IAJ) in the Process of Internationalization of Principles on the Independence of the Judiciary.

In the framework of the internationalization of the principles concerning the independence of the judiciary, an increasingly active role is played by the International Association of Judges (IAJ) [1]. This body, of which I have the honour of being the Secretary-General, was created in 1953, after the end of the Second World War, to establish a better understanding between the judicial systems of the member countries. It currently includes representatives from 92 member countries from all the five Continents. The IAJ is a non-governmental organization that admits as members not individuals, but only national associations of judges. Each country cannot be represented by more than one association: this applies to those States in which (for example, France, Spain, Portugal, etc.) there are several judicial associations. The associations must be associations of judges: which means that in those countries where prosecutors are part of the judiciary (as in Italy, in France and in many French-speaking legal systems) they can participate as well, because of their membership of their respective associations, in the life of the IAJ. The same is true in those Countries where public prosecutors are not part of the judiciary *stricto sensu*, but their associations belong to a wider federation of associations, gathering judges and prosecutors (it is the case, for instance, of the German *Deutscher Rictherbund*).

More precisely, IAJ member associations must be associations or representative groups of judges in their respective countries formed freely by their members and not subject to government or outside control. Where several associations exist in a given country, it should be the most representative. The question does not arise in countries like Italy, given that the local association (*Associazione Nazionale Magistrati* – A.N.M.) constitutes the only association of judges (and prosecutors) existing today, although within this body different "wings" or sections express divergent "political" ideas on how to be a judge today.

This very issue is dealt with elsewhere in a different way. For instance, in France, Spain, Portugal, Belgium, Romania, just to mention some cases, ideological divides within the judiciary are played out and vented not through "wings," of an association, but through the setting up different and separate associations. Therefore, in those systems, judges (and prosecutors, where they are part of the same system) are divided into "pro-government" or "anti-government" associations, only to shuffle the cards when the government changes colour. Let us take the example of France, where the historic and proverbial rivalry between the *Union Syndicale des Magistrats* (traditionally close to right-wing governments) and the *Syndicat de la Magistrature* (close to left-wing ideas) for "years and years" has materialized in a real, deep and personal hatred among colleagues, resulting

(1) *See* https://www.iaj-uim.org.

in very unedifying episodes, such as the infamous case of the "mur des cons" [2]. However, in recent times, the two associations have moved closer, as an effect of the political reshuffling taking place in that country, which has generated the need to make a common front against resurgent neo-fascists and "sovereigntist" movements. On the other hand, we should also mention the beneficial action of the IAJ, which, in agreement with other European associations, has given rise to joint activities, in support of important international initiatives, such as helping Turkish or Polish or Afghan, or Ukrainian colleagues [3].

Just to return to the topic of membership in the IAJ, the member associations must demonstrate (at the time of admission and every three years thereafter, within a special monitoring procedure) that the judicial system in that country ensures a true independence of the judiciary, or that, if this is not the case, that at least the associations in question are fighting for the achievement of such independence.

The main purpose of the IAJ is to contribute to strengthening the independence of the judiciary, as an essential attribute of the judicial function, as well as the protection of the constitutional and moral status of the judiciary and of the guarantee of fundamental rights and freedoms [4]. In this context, between 1993 and 1995, the various regional components of the IAJ adopted Charters on the statute of the judge:

- the "Judges' Charter in Europe," adopted by the European Association of Judges – European Regional Group of the IAJ in 1993 [5];
- the "Statute of the Ibero-American Judge" (*Estatuto del Juez Iberoamericano*), adopted in 1995 by the Ibero-American Group of the IAJ [6];
- the "Judges Statute in Africa," adopted in 1995 by the African Group of the IAJ [7].

A few years later, in 1999, after a long process of reflection, the Central Council of the IAJ, during its annual meeting, held in Taiwan, adopted a Universal Charter of the Judge, subsequently revised, integrated and updated in Santiago de Chile, in 2017 [8].

([2]) *See* e.g. https://www.lejdd.fr/Societe/Justice/quest-ce-que-le-mur-des-cons-4009067, https://fr.wikipedia.org/wiki/Affaire_du_%C2%AB_Mur_des_cons_%C2%BB. A book has been written on this *affaire*: *see* BILGER, *Le Mur des cons*, Paris, 2019.

([3]) *See* https://www.iaj-uim.org/solidarity-news-and-documents-about-poland/; https://www.iaj-uim.org/platform-for-an-independent-judiciary-in-turkey/, where information is provided on various initiatives taken together with *MEDEL* (*Magistrats Européens pour la Démocratie et les Libertés*), an international group which gathers some European, traditionally "left-wing oriented," judges and judicial associations.

([4]) The IAJ is directed by its Central Council, composed of the delegates of member associations, as well as by the Presidency Committee, which is the administrative body, headed by a president elected every two years, flanked by six Vice-Presidents and the last former President (Honorary President) for a period of two years. The Association comprises four Study Commissions, whose task is to study a different subject every year in different sectors: - The first has the task of studying the judiciary, the independence of the judiciary, the judicial organization and protection of individual freedoms. - The second commission deals with civil law and civil procedure. - The third commission studies criminal law and criminal procedure. - The fourth commission deals with public and social law. During IAJ meetings and congresses member associations try to get a better knowledge of the country in which these conferences are held, of its judicial system and of the problems faced by the judges. Petitions and recommendations are issued at the conclusion of each meeting and congress. The IAJ periodically develops multi-year action plans, such as those for the fight against corruption (in connection with the UNODC of the United Nations), or those on environmental law (in collaboration with the Environmental Judicial Global Institute), or the plans for the drafting of guidelines on establishment of associations of judges in countries that do not have them yet. Likewise, it organizes periodic international thematic conferences (as in 2013 in Yalta on the Councils of Justice, in 2014 in Foz do Iguaçu on Environmental law, in 2016 in Mexico City on Corruption issues, in 2017 in Santiago de Chile on the Independence of the judiciary and the self-government of judges, in 2018 in Marrakech on the Independence of the judiciary and the implementation of the Universal Charter of the Judge and in 2019 in Nur-Sultan on the Quality and efficiency of justice, in 2022 in Tel Aviv on "Law, Technology and Social Good"). Within the IAJ there are also four Regional Groups, whose purpose is to closely follow the specific issues concerning the judiciary in different parts of the world: (a) the European Association of Judges - European Regional Group of the IAJ (EAJ); (b) The Ibero-American Regional Group; (c) The African Regional Group; (d) The "ANAO" Regional Group (North America, Asia and Oceania).

([5]) *See* https://www.iaj-uim.org/iuw/wp-content/uploads/2013/01/Statuto-Giudice-EAJ.pdf.

([6]) *See* https://www.iaj-uim.org/iuw/wp-content/uploads/2013/01/Estatuto-del-juez-iberoamericano.pdf.

([7]) *See* https://www.iaj-uim.org/iuw/wp-content/uploads/2013/06/Statuto-Giudice-AFR.pdf.

([8]) *See* https://www.iaj-uim.org/universal-charter-of-the-judges/. For a commentary on this point see OBERTO, U*n nuovo statuto per un nuovo giudice*, since 15th November, 2017, available under the following URL:

Starting, therefore, from 1999 and since the adoption of the Universal Charter, the IAJ has conducted long and intense work on the minimum standards for guaranteeing the independence of the judiciary [9]. In addition, the various Regional Groups and the Central Council of the IAJ have adopted numerous resolutions that refer to these standards, gradually creating, in this way, a *corpus* of specific rules for this organization. This, obviously, also in the wake of the approval, in the last few decades, of various international documents, many of which promulgated under the aegis of the Council of Europe: from the European Charter on the Statute for Judges, launched in 1998, to the Recommendation N°. R 2010/12, to the various opinions of the Consultative Council of European Judges (CCJE) and the Magna Charta issued by that body in 2010, to the reports and works of the European Commission on the Efficiency of Justice (CEPEJ) [10].

A reference should be also made to the effective contribution that the IAJ has provided to the Council of Europe since the end of the nineties of the last century, in the activity of assistance to the countries of Central and Eastern Europe, to assist them, with various study and support missions, in the drafting of new regulatory instruments, as well as in launching related initiatives of initial and continuing training of judges, also by effectively contributing to the creation of schools, academies, institutes and training centres for the judiciary in step with the times and compliant with international standards on the independence of the judiciary.

2. Modus operandi *of the International Association of Judges (IAJ) in Critical Situations.*

The first way in which the IAJ operates in crisis situations, and which is typical of the IAJ, is its constant presence, as an observer, at various international organizations. The IAJ enjoys consultative status at the United Nations ("Economic and Social Council" and "International Labour Organization"), at the United Nations Global Judicial Integrity Network of the UNODC and has permanent representatives at the UN offices in Geneva, New York and Vienna. It works relentlessly by providing assistance to the Office of the United Nations Special Rapporteur on the independence of judges and lawyers, based in Geneva.

The IAJ also has observer status in various Council of Europe bodies (CEPEJ, Venice Commission, and CCJE) and maintains regular contacts with various offices of the EU Commission. Specifically to participate better in the debates concerning justice in the various European offices, the EAJ (European Association of Judges, being the IAJ European Regional Group) has created its own working group, called "Ways to Brussels." Contacts are also being established with the Inter-American Court for Human Rights (where the IAJ Ibero-American Group obtained the status of *amicus curiae*, in relation to such situations as, for example, in Venezuela, where assistance was provided to a colleague unjustly put under process for her ideas).

Over the years, the IAJ has developed a series of partnership activities with various international organizations representing different professional groups active in the justice sector, more precisely with the following:

- CMJA-Commonwealth Magistrates and Judges Association;
- International Association of Women Judges;
- FLAM-*Federación Latinoamericana de Magistrados*;

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https://www.giacomooberto.com/Oberto_Un_nuovo_statuto_per_un_nuovo_giudice_2017.htm; .pdf version available under the following URL: http://www.iaj-uim.org/iuw/wp-content/uploads/2017/12/Oberto_Un_nuovo_statuto_per_un_nuovo_giudice_2017.pdf. The article has also been published in *Contratto e impresa / Europa*, 2019, 49 ff. A shortened version of this article has been published under the title *Lo Statuto Universale del Giudice approvato a Santiago del Cile dall'Unione Internazionale Magistrati*, in *La Magistratura*, 2018, 1, Gennaio – Marzo 2018, 18 ff.; this document is also available in .pdf format under the following URL: https://www.giacomooberto.com/Oberto_Lo_statuto_universale_del_giudice.pdf.

([9]) This is true, in particular, for the work done within the First Study Commission of the IAJ, which many times treated of this particular issue. Related documents are available under following URLs: https://www.iaj-uim.org/general-reports-and-conclusions-by-the-1st-study-commission/ and https://www.iajuim.org/answers-to-the-questionnaires-of-the-1st-study-commission/.

([10]) For a complete list *see* OBERTO, U*n nuovo statuto per un nuovo giudice*, cit., § 3.

- UIJLP-*União Internacional de Juízes de Língua Portuguesa*;
- *Rechters voor Rechters*-Judges for judges;
- AEAJ-Association of European Administrative Judges;
- MEDEL-*Magistrats Européens pour la Démocratie et les Libertés*;
- IAP-International Association of Prosecutors;
- International Union of Notaries;
- IBA-International bar Association;
- ICJ-International Commission of Jurists;
- American Bar Association – Rule of Law Initiative (ABA – ROLI);
- *Konrad Adenauer Stiftung*;
- United Nations Special Rapporteur on the Independence of Judges and Lawyers;
- United Nations Office on Drugs and Crime;
- United Nations Global Judicial Integrity Network.

Beyond this close network of institutional relationships, there is concrete, constant work of support and aid to associations in difficulty. In this context, we can first of all mention the IAJ initiative, aimed at promoting the creation of associations of judges in countries where none of them yet exist ([11]).

For countries where such associations already exist, and are part of the IAJ, the issues relating to safeguarding the independence of the judiciary are essentially addressed by the four Regional Groups. With regard in particular to the EAJ, European Regional Group [12], a special permanent working group was created to monitor the situation of associations that report problems and to coordinate the actions to be taken with them. These initiatives take place on different levels. The first level is what we could define as "denunciation"; in other words the IAJ, through its Regional Groups, "speaks up," issuing declarations and resolutions and contacting other international organizations, in order to focus on a given problem affecting judicial independence. In such cases, contacts are made, debates are conducted within the relevant Regional Group, and possibly within the Central Council of the IAJ, resolutions are adopted, and, if necessary, on-site missions are also arranged [13].

Another level is that of lobbying and use of media. Of course, the IAJ and its Regional Groups make use of all modern means of communication: the website—and in particular the "News & Events" section [14]—Twitter accounts and relations with media and journalists.

In this context, the relationship, already mentioned, with the office of the United Nations Special Rapporteur on the independence of judges and lawyers is particularly close [15]. The IAJ and its Regional Groups therefore keep in constant contact with this office (as well as, on a continental level, with the Council of Europe, the European Union, the African Union, etc.), in order to report violations of the aforementioned international standards wherever they occur and consequently IAJ requests to the Rapporteur official stands, declarations, reports, on-site visits, etc.

([11]) *See* https://www.iaj-uim.org/iuw/#flipbook-df_138473/1/.

([12]) *See* https://eaj.iaj-uim.org.

([13]) Just to mention some of the less remote cases, it can be pointed out that, for example, on-site missions were carried out: - in 2013 in Greece, to report to the competent political and administrative authorities the need to intervene, in order to stop the reduction of judicial wages and pay the sums due, which the government refused to give to the judges; - in 2014 and 2016 in Ukraine, to limit, before Parliament and Government, the effects of the law which provided for the lustration of a very high number of judges; - in 2014 in Turkey, to verify the regular conduct of electoral operations for the Council of Justice (which made it possible to verify serious anomalies, which in fact favoured the subsequent deterioration of the situation). For more missions to Turkey, Poland, Hungary and other countries, *see* the site https://www.iaj-uim.org, in the "news" section, simply by putting the name of the concerned country in the query template.

([14]) *See* https://www.iaj-uim.org/news/.

([15]) The Special Rapporteur on the Independence of Judges and Lawyers "is part of what is known as the Special Procedures of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms that address either specific country situations or thematic issues in all parts of the world. Special Procedures' experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organization and serve in their individual capacity." *See* https://independence-judges-lawyers.org/.

A worrying series of cases concerning judges who have been prosecuted because of their "too independent" attitudes and, starting from 16th July 2016, the explosion of the real tragedy of the Turkish judiciary, have pushed the IAJ to play an even more concrete role of help and relief to the victims of abuses against the independence of the judiciary in the world. Several years ago the IAJ intervened to help the Venezuelan judge Maria Lourdes Afiuni, imprisoned for her critical attitude towards the government of her country, assisting her before and after the trial she suffered (16). The same was done in 2015 in relation to the first two Turkish judges (Baser and Öczelik) who were tried and imprisoned for their views against the subjugation of the judiciary to political power. In that case the IAJ ensured, together with the Dutch association "Judges for Judges," a constant attendance at the various hearings of the trial. No one could have imagined that, just a year later, this type of attack would be multiplied by several thousand judges and prosecutors, making it impossible to continue this type of attendance. In order to overcome this kind of difficulty, the IAJ created in 2016 a special fund, to financially support the Turkish judges detained or otherwise prosecuted and their families, as well as to provide help in the defence, in the context of the proceedings against them.

Again, it will be necessary to recall the case of the aid given to the judiciary of Tunisia, in the face of the freedom-destroying initiatives taken during the last years by the President of the Republic of that country, who not only abolished, by presidential decree, the local High Council for the Judiciary, but also proceeded, with the same method, to dismiss about fifty "inconvenient judges." Here, too, the IAJ, through the activities of its African Regional Group, proceeded to organize a series of local initiatives, establishing a solid network of contacts with international and national organizations, as well as with the UN Special Rapporteur (17).

3. IAJ and Environmental Problems: The Charter of Brasilia.

Coming now to the subject of environmental protection, IAJ has always shown the greatest interest in the legal issues relating to this theme.

It may be of interest to know that, already more than half a century ago, The IAJ dedicated its 14th annual meeting, held in Rio de Janeiro and Brasilia from 16th to 21st August, 1971, to the subjects of the protection of environment. At the end of that event a resolution was approved, called "La Charte de Brasilia," which we published in the historical section of our web site (18).

This charter praised, among other things, the provisions of the Brazilian civil code, which enshrined in the very definition of property (see Article 1228) that the right of ownership has to comply with the duty to preserve "flora, fauna, natural beauties, ecological equlibrium, historical and artistic heritage," and has to "avoid pollution of air and waters" (19).

We must also underline that, among other things, the Charter of Brasilia remarked that the division of competencies and powers among courts belonging to different States does not allow a satisfactory repression of environmental crimes committed in the high seas (20). Therefore it whished the establishment of an international environmental jurisdiction, together with international guarantee funds. National jurisdictions should also try to coordinate their action; national and

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(16) *See* documents available under the following URL: https://www.iajuim.org/documents/?post_types=document&s=afiuni.

(17) For an overview of the situation and of the solidarity initiatives towards the Tunisian judiciary, *see* https://ag.iaj-uim.org/solidarity-news-and-statement-about-tunisia/.

(18) *See* https://www.iaj-uim.org/iuw/documents/la-charte-de-brasilia-1971/?wpdmdl=150785&refresh=669b91a70333a1721471399.

(19) "Art. 1.228 –O proprietário tem a faculdade de usar, gozar e dispor da coisa, e o direito de reavê-la do poder de quem quer que injustamente a possua ou detenha. § 1o O direito de propriedade deve ser exercido em consonância com as suas finalidades econômicas e sociais e de modo que sejam preservados, de conformidade com o estabelecido em lei especial, a flora, a fauna, as belezas naturais, o equilíbrio ecológico e o patrimônio histórico e artístico, bem como evitada a poluição do ar e das águas."

(20) "Sur le plan judiciaire, il apparaît que le fractionnement des compétences entre les divers Etats ne permet pas d'assurer de façon satisfaisante la répression de certaines infractions, notamment celles commises en haute mer, ni une réparation efficace des dommages qui en résultent. "

international case-laws on this matter should as well be made available and retrieved in centralised way ([21]).

4. IAJ and Environmental Problems: The Works of the Second and Third Study Commissions.

In the year 2014 the IAJ annual meeting was again mainly dedicated to this delicate issue. Actually, the IAJ took the unprecedented decision to devote the themes of two of its four Study Commissions to the matter of environmental law. Therefore, the Second Commission dealt with the subject "Challenges for Civil Environmental Law", whereas the Third Commission tackled with the theme: "Environmental Pollution: is Criminal Law a Good Instrument?".

More precisely, as far as the Second Commission's conclusions are concerned, they raised following six points for discussion:

1.) Is there a need for specialist courts to handle environmental cases?
2.) The processes for enabling multiple parties to bring their claims for compensation against the polluter;
3.) The difficulties in proving causation;
4.) Limitation periods;
5.) Consumer protection;
6.) The "polluter pays" principle.

The Commission ascertained that in many countries specific laws are made to protect the environment: in the areas of water (pollution), mining, forest and fauna protection, waste management, air pollution, soil contamination and radioactive waste.

In many countries also, regulatory authorities are invested with the power to oversee environmental protection and enforcement. In most countries regulatory powers are given to the relevant ministries of government. Nevertheless in some others we see that specific public authorities are created by primary law. Some of these regulators have the power to bring cases before the courts. It is important for the effective enforcement of environmental laws that regulatory authorities can operate and act independently from government.

In most jurisdictions it seems that environmental cases are not treated as some special category requiring specialist courts or specialist training of judges but rather are dealt with under the usual court processes that apply to cases in the civil or administrative field.

The Commission took note of the fact that there was a lot of discussion about class/collective actions and representative proceedings, where those procedures are available which is in some common law jurisdictions. In those jurisdictions where these actions are not available other instruments have been developed.

A common theme whatever the jurisdiction is proving causation. The normal rules generally apply which means that the burden falls upon the claimant and requires expert evidence which makes the litigation very costly and very complex. In some jurisdictions they have reversed the *onus probandi*, in order to assist to overcome these kinds of difficulties.

Recognizing that environmental damage is often not discovered until after limitation periods have expired many jurisdictions have specific legislation that commences the limitation period from the time that the damage is discovered not from when it occurred.

As far as the consumer protection is concerned, the s.c. "polluter pays" principle is generally recognized in the jurisdictions belonging to the IAJ. Landmark cases are cited in many responses. Most of them underline that the "polluter pays" principle is recognized as a general principal of law.

Coming now to the conclusions of the Third Study Commission (which, as already explained, deals with criminal law and procedure), it must be said that the purpose of the questionnaire distributed to member countries for the preparation of the meeting was to explore the

([21]) "L'avenir révélera sans aucune doute l'absolue nécessité d'instituer d'une part une juridiction internationale et des juridictions plurinationales, d'autre part un fonds international de garantie.

En attendant, il serait souhaitable que les juridictions nationales s'efforcent de coordonner leur action et que notamment soit organisée dans le cadre de l'institution internationale spécialisée à créer ou, à défaut, d'une institution déjà existante, une centralisation de la jurisprudence élaborée par les tribunaux internationaux."

extent to which member countries had implemented criminal legislation with regard to environmental pollution and if such laws is a good and effective instrument in addressing these offences.

All member countries that participated in the questionnaire have adopted measures to ensure that criminal law can be a good instrument in order to prevent, control and punish infringement in environmental pollution.

The consensus of the members was however that effective measures through civil law and administrative law should have preference. It was thought that by using these instruments private persons, enterprises, and governmental organizations would be more willing to participate actively in restoring the environment and taking measures to prevent new environmental damage.

Only when it comes to serious offences, repeated or egregious conduct is criminal law an effective instrument (here the case of the oil spillage on the coast of France by the vessel Erika was mentioned). All agreed that the possibility of criminal sanctions is necessary to promote respect and compliance with environmental laws and regulations.

As far as the agencies that are involved in investigating violations of environmental law there is the existing difference between federal states (e.g. Australia and Belgium) and states like Sweden and France. Of course there is also the existing difference between the two mainstream legal systems, common law and civil law.

Most countries have a great variety of programs and legislation aimed at prevention and seeking viable alternatives to penal sanctions.

In discussion came different options available to have specialized judges dealing with environmental issues. Also he use of experts – brought forward by the parties or on initiative of the court – is generally accepted and is often necessary due to the complexity of the technical issues.

Some members of the Commission felt that specialized courts were needed and appropriate, especially where there are many cases. The U.S.A has a specialized court dealing with import/export issues including contraband: the US Court of International Trade. However, most thought that there were not yet enough cases to justify a specialized court. All felt the need for resources and better advice/opinion on technical matters that come up in environmental cases. The ability of the court to appoint its own experts or to have staff experts was very beneficial. Netherlands, for example, has staff experts to provide advice to its courts on scientific matters.

There was a consensus also on the fact that the conventions play an important role in saving the environment, in other words to save the planet. Most important in this sense is the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES and its annexes). In addition to that, the European Union has a great number of directives to enforce the protection of the environment.

The responses to the questionnaire reflected almost universally that it is of the upmost importance to find a balance between the economic interests and environmental harms that can be a result of an economic activity. The members joined Canada in the opinion that while economic growth is considered to be extremely important, is should not come at a detrimental cost to the environment. However, the question arises how far it falls within the scope of the role of the Judiciary in the country. Several countries believe that the balance between economic growth and environmental protection is within the competence of the legislative and executive branches of the government rather than the judiciary.

The delegation from Ireland came with the idea that the most likely form of effective international legal framework for dealing with environmental issues would be some form of international organization like the World Trade Organization. All the members present at the meeting, in the end, fully accepted the *adagium*: “In dubio pro natura,” as presented at the International Conference on Environmental International Law.

We must also add at this point that in the IAJ web site are as well available all the preparatory works of the above mentioned conclusions, which are mainly represented by the

national reports from member associations which responded to the questionnaire sent by each President of the respective Study Commission ([22]).

5. IAJ and Environmental Problems: The International Conference in Foz do Iguaçu.

On that very occasion of the 57th IAJ annual meeting in Foz do Iguaçu, the International Association of Judges, in co-operation with the Brazilian Association of Judges (AMB), organised an international conference on the subject of "Environmental Law," held in Foz do Iguaçu on November 12th, 2014.

The Conference issued and approved following conclusions:

1.) The Conference was successful in that it helped to widen the horizon on environmental law with an international perspective.
2.) Environmental rights are fundamental rights along with other fundamental rights and must be balanced with the others accordingly.
3.) Judges must assure that this balance is achieved in accordance with domestic and applicable international law.
4.) Although environmental law is a special field of law, rule of law and access to justice must be guaranteed here like in every field of law.
5.) When interpreting national environmental law, international treaties, even if they have not been ratified, and the case law of other countries may inspire judges.
6.) Education of jurists on environmental law must not only be encouraged but also achieved.
7.) IAJ encourages international exchanges in the field of environmental law.
8.) IAJ is available to co-operate with bodies of the UN in this field and with other international and national authorities if they so wish.

6. IAJ and Environmental Problems: The Follow-up Work of the Conference in Foz do Iguaçu.

During the years that followed the 2014 Conference in Foz do Iguaçu the IAJ continued on its way towards a growing world wide awareness about environmental issues.

Therefore, in September 2015, under the aegis of the IAJ the Mozambican Judges Association organized an International Conference about Human Rights and Environmental Law. All the associations of Portuguese speaking countries were present: Brazil, Angola, Guinea-Bissau, Sao Tomé e Principe, East Timor, Cabo Verde, Mozambique and of course Portugal. Due to different and happy circumstances, 3 Vice Presidents of IAJ participate at the meeting, from 3 different Regional Groups. Mr. Cagney Musi from the African Group, Mr. Rafael de Menezes from IBA and Mr. Manuel José Igreja Matos from Europe.

In 2016 it was the turn of the World Environmental Law Congress, in Rio de Janeiro (Brazil), on the subject: "Environmental Rule of Law, Justice and Planetary Sustainability," under the auspices of International Union for Conservation of Nature (IUCN) and in collaboration with UN Environment Programme (UNEP). The congress was organized by the Brazilian Association of Judges (AMB), the Supreme Court of the State of Rio de Janeiro, the Brazilian National Judicial School (ENM), and the Association of Judges of the State of Rio de Janeiro (AMAERJ), in cooperation with several international organisations, among which the International Association of Judges (IAJ). IAJ's President, Mrs Cristina Crespo, chaired the session of Thursday 28th of April, in which there was a presentation of Justice Shen Deyong of People's Supreme court, China, together with Chief Justice supreme Court of Argentina, Justice Ricardo Lorenzetti.

([22]) The national reports concerning the Second Study Commission on the subject of environmental protection (civil law) are available here: https://www.iaj-uim.org/iuw/2nd-study-commission-2010-2019/, whereas the national reports of the Third Study Commission on the same subject (criminal law) are available here: https://www.iaj-uim.org/iuw/3rd-study-commission-2010-2019/.

Finally, in 2021 the High-Level Judicial Segment of the 2nd IUCN WCEL World Environmental Law Congress on the "The Role of Judges: Environmental Law 2030 and Beyond", took place in Rio de Janeiro, Brazil.

IUCN WCEL (World Commission on Environmental Law of the International Union for Conservation of Nature) organized the judicial segment, in cooperation with the United Nations Environment Programme (UNEP), the Global Judicial Institute on the Environment (GJIE), the International Association of Judges (IAJ), the Asian Development Bank (ADB) as well as several other international and national institutions. Over 350 people, mostly judges and academics, registered to participate in the event.

The President of the IAJ, Mr. José Igreja Matos and the Vice President Walter Barone, attended the event. The International Association of Judges was in this way present in this High-Level event, reaffirming the commitment of judges regarding the crucial topic of protection of our Planet. The event restated, further developed, and advanced the 2016 IUCN World Declaration on the Environmental Rule of Law and the 2018 Brasilia Judicial Declaration on Water Justice, in light of the Marseille Manifesto and outcomes of the 2021 IUCN World Conservation Congress (September 2021). It restated the recognition of a right to a clean, healthy and sustainable environment by the United Nations Human Rights Council (October 2021), the Kunming Declaration of CBD COP 15 (October 2021), and the outcomes of UNFCCC COP26 in Glasgow (November 2021).

The High-Level Judicial Event discussed the following topics:

- Climate Change, Biodiversity and the Environmental Rule of Law.
- The Water Crisis and the 2018 Brasilia Declaration of Judges on Water Justice.
- Judicial Education on Climate Change and Biodiversity Law.

The importance of judicial independence in the context of Protection of Nature was also a key topic during this World Congress.