

**Honourable President of Supreme Court of Republic of Azerbejdjan,**

**Honourable Minister of Justice,**

**Honourable President of Association of Judges,**

Your Excellences,

Dear Colleagues,

It is for me great honour to be invited to this Conference and to represent International Association of Judges together with Secretary General of IAJ Mr. Giacomo Oberto, today, here before you.

In my address, please allow me to say a few words about Organization I have honour to represent and lead for time being, and to say couple of sentences about topic of this Conference, or better to say about new position of national judges after milestone “Klimaseniorenn Case”.

The International Association of Judges was founded in Salzburg (Austria) in 1953. It is a professional, non-political, international organization, bringing together national associations of judges, not individual judges, approved by the Central Council for admission to the Association.

The main aim of the Association is to safeguard the independence of the judiciary, which is an essential requirement of the judicial function, guaranteeing human rights and freedom.

The organization currently encompasses 92 such national associations or representative groups, from five continents.

The Central Council of the IAJ is its central body empowered by our statute to decide on all mayor decisions concerning our work, our internal issues and our mission. Each member association has

two representatives in the Council but right to vote goes to delegation as a whole without right for individual vote. The Central Council meets annually, preferably in a different country every year.

Executive body of our Association is Presidency Committee composed of 8 members where one member is always president of IAJ from previous mandate.

Of course, our work would be impossible without our Secretariat led by wizard of organization and efficiency Giacomo Oberto.

The work IAJ pays great attention to is work of our four Study Commissions, First devoted to independence of justice and status of judges, Second to civil substantive and procedural law issues, Third to issues of penal law and Fourth to issues of labour law. Significance and value of this work are not only final conclusions on different topics but also all preparatory work including answers to well prepared questionnaires which are crucial source for any cooperative analysis on the given subject.

IAJ has consultative status with the United Nations (with specific reference to the International Labour Office and the U.N. Economic and Social Council) and with the Council of Europe.

It is also worth mentioning that IAJ has four regional groups, EAJ, ANAO, Ibero American Group and African Group, composed of Member Associations which geographically belong to the one of four regions.

Largest regional group is EAJ with 48 Members.

Each regional group has large autonomy in its goals, actions and focus of interest and each group has its own president who are also members of IAJ Presidency Committee.

Environmental Law and role of judges in protecting our environment is for some years in focus of our interest and it started at our Meeting in Foz de Iguazu -Brazil in 2014. when we as organization

decided to work on this issue and participate in any available meeting where this topic will be discussed. More about it you will hear from IAJ Secretary General Mr. Giacomo Oberto.

Please let me say something about recent developments on the issue of environmental law which in my opinion brings environment protection and role of courts and judges on another level.

Judgment of European Court of Human Rights (ECtHR -Strasbourg Court) caused earthquake in the legal community both in approval but also in expressing some serious concerns about direction Court in Strasbourg is going to.

In “KlimaSeniorinnen”, delivered by the Grand Chamber of the ECtHR, special consideration was given to associations to ensure their right of access to justice when defending an objective of significant societal relevance: in that case, climate change. According to the ECtHR, climate change “is one of the most pressing issues of our times”, resulting in consequences for the environment, but also for human communities and individuals. Because of the broad scope of the issues emerging from the challenges posed by climate change, the ECtHR ruled that it is not adequate nor appropriate to follow an approach focused on the existing environmental law. Therefore, it found it necessary “to adopt an approach which both acknowledges and takes into account the particularities of climate change and is tailored to addressing its specific characteristics”.

The judgment in KlimaSeniorinnen not only confers victim status to associations whose purpose is the protection of rights against the threats arising from climate change. It also concludes that the Swiss courts breached Article 6 of the Convention, as a result of the absence of any review of the merits of the actions brought forward by the applicant association. As a result, the judgment confirms the standing of associations in proceedings before the ECtHR, but also in proceedings in the national courts of the signatory States.

Finally, the judgment in *KlimaSeniorinnen* has introduced a new standard of protection of procedural rights of associations in judicial proceedings under the Convention, particularly in the case of associations whose purpose is the protection of rights against the threats arising from developments of seminal societal importance. The ECtHR defined climate change as “one of the most pressing issues of our times”, thus justifying the role of associations whose aim is to prevent the negative effects that such a development can have on the rights of individuals, particularly of the most vulnerable as well as the rights of future generations.

In other hand, what raises some concerns is as follows:

1. in this case each of the national instances did not act on the complaints of the climate seniors and their association. Even if one wanted to agree with the ECtHR and concede that this failure to intervene violated the ECHR, the ECtHR's only reaction should have been to refer the case back to national court so that it could/should treat the case.

2. it was established that the individual climate seniors had no victim status. Then, however, a new right of appeal was recognized for the association they had founded specifically for this procedure. This is not provided for in the ECHR. Although Art. 34 also provides for organizations or groups of persons to be entitled to complain, it requires that they must claim that a right recognized by the Convention or an additional protocol has been violated. This was not the case here.

- 3 In addition, the ECtHR created a legal remedy for association within the national law, which is not provided for anywhere in the European Convention on Human Rights.

4. Finally, the ECtHR invented a human right to climate protection derived from Art. 8, protection of private life. Supporters of the judgment argue that this is merely a further development of previous case law. However, this is not quite accurate, as up to now only complaints about specific health risks or environmental damage against the specific parties causing the damage were

recognized, and only by those directly affected. In addition, the Committee of Ministers in its CM/Rec(2022)20 called on member states to seriously consider recognizing the right to a clean, healthy and sustainable environment as a human right at the national level. The fact that it is calling on the member states to create such a human right clearly shows that the CoM assumed that such a human right did not yet exist; in particular, it could therefore not arise from the ECHR according to the understanding prevailing at the time.

Also, what is not approved by some writers is that ECtHR disregarded the principles of interpretation of the Vienna Convention on the Law of Treaties. The ECHR is a treaty under international law and its interpretation is about finding out what the contracting parties agreed, what rights they wanted to create, is climate protection one of it is future to answer.

I am personally, of course not taking sides, but as somebody representing judges all over the world, I thought that our thoughts from both sides of a spectre should be heard, and there is no better place than this important conference today.

Thank you for your attention.