

1. What is the main activity of the IAJ?

A: The main aim of IAJ comes from our main documents, our Statute and Charter of a Judge amended and finally adopted at IAJ Annual Meeting of 2017 in Santiago de Chile. In short IAJ as biggest world association of association of judges have the same role as every national association as our member, 92 for the moment.

We as judges are deeply aware that independence of justice system, the independence of each national judge is essential to any democratic state based and run by principle of rule of law.

It goes hand in hand and these two principles which cannot exist separately, only together. From IAJ Charter it is transparent what IAJ sees as principles and requirements which should be followed in any State to have real independent judiciary.

So, we are first of all forum where we monitor infringements of principles in various our members and we raise protests, resolutions, declarations urging authorities in certain State but also alarming international organizations and community about unfortunate developments in our Member States.

As organization which has observer status in UN, Council of Europe with contacts in EU we try to internationalize the issue. In this sense we assist national associations but also to oppose changes to the system which diminish principles of independent judges.

We are trying to give assistance to individual judges, for example judges in Afghanistan or Turkey.

To conclude in our Statute Article 3. It is stated and I quote:

“(a) to safeguard the independence of the judicial authority, as an essential requirement of the judicial function and guarantee of human rights and freedom.

(b) to safeguard the constitutional and moral standing of the judicial authority.

(c) to increase and perfect the knowledge and the understanding of Judges by putting them in touch with Judges of other countries, and by enabling them to become familiar with the nature and functioning of foreign organizations, with foreign laws and, in particular, with how those laws operate in practice.

(d) to study together judicial problems, whether these are of regional, national or universal interest, and to arrive at better solutions to them.”

All of us, each Member Association each official of IAJ has obligation to do as it is stated in the Statute, which we all freely adopted or joined latter on.

2. Why is it important for the associated judiciary to have moments of discussion and exchange?

A: It is of utmost importance. Exchanging views, we learn from each other, so our meetings even they are not directly devoted to learning in narrow sense of this term, actually widen our views and knowledge, give us wider perspective on comparative solutions on diverse range of topics, from fundamental ones to particular ones connected with specific areas of law.

I must mention our Four Study Commissions which are point where information and views are gathered and where we learn about best practices of our respective judicial systems and recommend what should be done to improve our legal systems.

Also work of our four Regional Groups is very important because they meet twice a year and discuss about many problems which are specific for their regions and look for best solutions how to address them on the base of our declared standards.

3. What will be the three main challenges – at a global level – for those who exercise judicial functions in the coming years?

A: If I would be short, I could name them as follows:

First, changes to Constitutions and Laws of highest level where changes are introduced or proposed with an aim to narrow independence of judiciary mostly through changing the composition of Councils of Judiciary or giving more powers to other branches of power in appointing, evaluating, discipline or promoting judges.

Second would be economic status of judges, their remuneration, social security, pensions which in most countries eroded in past years significantly.

Third would be low trust of society on judges caused with negative media campaigns against judges and decision they deliver, populist politicians which raises also question of security of judges.

4. Which of these challenges, if any, poses the greatest risk to the independence of the judiciary?

A: I would say the first one, because independent judge is only one who is aware that he or she is not dependent to any person or any political party and that parties before a judge are aware of that fact.

Best guaranty for this is if judges are elected by Councils for Judiciary where judges will have majority and other members would be independent professions in the field of law like professors, attorneys and notaries.

5. What are your thoughts on the upcoming reforms in Italy, in addition to those already approved?

A: As I am informed, from the work of our Association it is quite obvious that the constitutional reform project presented by the Italian government reveals a plan for an overall weakening of the judiciary, primarily achieved through the separation and fragmentation of the unified judicial order and the creation of two different Superior Councils of the Judiciary, one for judges and the other for public prosecutors. These bodies would be subtly directed by the politically appointed members, with a direct draw selection process applied only to the judicial members.

The provision for drawing the judicial members of the judiciary's self-governing body directly conflicts with standards and principles of the rule of law within the EU. According to European regulations, specifically Recommendation CM/Rec (2010)12 of the Committee of Ministers of the Council of Europe, point 27, the members of Judicial Councils should be judges elected by their peers.

I believe this is a point of EU as well.

Furthermore, if the planned reform is approved, the self-governing body of the judiciary will be split into two Councils, each having jurisdiction over a specific part of the judiciary, either judging or prosecuting.

In Europe in some States there is same solution to have separate bodies for appointment judges and prosecutors but if this occurs same principles should apply. Of course it depends also what is the position in judicial system, but if they are individually independent, and that should be ideal situation, then we need same principles of appointment and promotion regardless is it authority of one or two different bodies.

There is simple rule: "If it is not broken don't fix it "

So, if there are not serious needs do reform the system, because it functions for decades it would be wiser not to reform it.

Also, in our opinion if both the Councils for judges and prosecutors will be stripped of a key power: disciplinary authority, which is generally present in the judiciary's self-governing bodies within the EU.

This authority is always in the hands Councils for Judiciary because it oversees the proper functioning of the judicial system, with discipline playing a functional role in ensuring full protection for individual citizens.

The IAJ will continue monitoring the development of the Italian situation and to investigate in depth the reported friction profiles of the governmental draft with the union principles on safeguarding the rule of law

6. Another theme this year is artificial intelligence: what are the major dangers and, conversely, the opportunities for the exercise of jurisdiction?

A: At this year IAJ Annual Meeting of IAJ we chose AI as our topic of discussion at the Conference because it is really topic of all topic for judiciaries around the World.

In one hand it is inevitably going to change work of each judge but what we think and that was unanimous conclusion at Conference that AI must stay as a tool, for better and efficient work of

courts and judges, but never can or should replace human judge because only human judge can see specifics of each case. We all know that there is no such thing as identical case, so only human judge can give proper and just decision taking in consideration all circumstances.

It is very dangerous to promote idea that machines can replace judges, because this is direct danger for human rights, namely right to a natural judge, right to a fair trial or right of transparency of judicial procedures.

We sincerely thank you for this important exchange of views.

Maria Merlino for Italian delegates