



The President

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**Report of the President of the European Association of Judges
April-September 2015**

First of all, I would like to pay a tribute to our colleague and friend, Lothar Jünemann, who tragically and abruptly passed away on July 29.

On behalf of the IAJ and EAJ, Cristina Crespo, Giacomo Oberto and I immediately sent a message of condolences to our German colleagues. On August 12, I went to Berlin to attend his funerals and to assure his wife, children, relatives, friends and colleagues, on behalf of the IAJ and EAJ, of our sadness and solidarity during this considerable hardship. Gerhard Reissner, Pol Van Iseghem and Thomas Stadelmann were also present.

For many years, Lothar had been a very active member in our association. He will be greatly missed for his expertise, the subtlety of his analyses, and his constant fight for the independence of the judiciary. We will pay him a tribute in Barcelona.

1 – General

The time period between the Gdansk convention (in May) and the Barcelona meeting (in October) being brief, this report will necessarily be shorter than the previous one.

For health reasons, I was not able to attend the spring meeting in Gdansk, but I read with much interest the minutes of this highly fruitful meeting. I take this opportunity to extend my warmest thanks to our Polish colleagues for hosting the convention and to Jose Igreja Matos for chairing the meeting in my absence with much competence and efficiency.

The resolutions adopted in Gdansk and the mails prepared for the various national and European authorities have been circulated with the exception of the one for Montenegro for lack of having obtained the recipients' details.

On July 9, 2015, I also received a letter from the President of the Greek Supreme Court and President of the Greek Association of Judges, by which many authorities in Europe, including the President of the EAJ, were informed of the economic difficulties faced by Greece and which requested the expression of a public support to the Greek government. After due consideration by the Presidency Committee of the EAJ, it was decided not to take any public stand. Even though the situation of Greek Justice is extremely difficult, as the EAJ has previously had the opportunity to deplore, we did not believe it was possible for us to take a stand in a mainly political controversy between the administration of the European Union country and the European authorities, especially since the issues at stake were not directly related to judicial issues.

2 – Participation of the EAJ in the work of the European institutions

2.1. Council of Europe

2.1.1 - European Commission for the Efficiency of Justice (CEPEJ)

On July 2 and 3, 2015, I attended the 25th plenary session of the CEPEJ in Strasbourg.

The CEPEJ launched a new report on the legal systems of Europe, which is published every other year. The next report which will be published in 2016 will have a different presentation. It will be comprised of a general report with a set of essential data and comments (key facts and figures) enabling to assess the situation of the legal systems and their related developments, a

specific report dedicated, in each edition, to a topical issue (the topic for 2016 has not been definitely determined yet), and a dynamic data base including all of the information collected during the reporting cycle.

The CEPEJ also plans to circulate guidelines for the promotion of e-justice and a guide of good practices for the enforcement of court decisions. To that effect, the International Union of Judicial Officers (IUJO) presented a “Global Code of Enforcement” it has prepared with the support of the CEPEJ. The IAJ could find some inspiration in this code as to its form for the revision of its universal charter on the statute for judges.

Consideration keeps on being given to the length of court actions, in particular with respect to appeals to appeal courts and supreme courts, and to the optimisation of the operation of courts with constant resources and no recruiting.

At the request of the European Association of Clerks and Rechtspfleger (EUR), some work was initiated for the purpose of amending Recommendation R86(12) “concerning measures to prevent and reduce the excessive workloads in the courts”. Such amended recommendation could induce the States to divert cases from the normal judicial process and in particular to transfer to other stakeholders such as clerks tasks which are normally the responsibility of judges.

At the end of the meeting, I took the floor to give information on the work done by the EAJ. In particular, I mentioned the report on the situation of Justice in Europe and the work undertaken for the next three years by the IAJ, including but not limited to work on corruption and on the revision of the universal charter on the statute for judges.

I concluded by saying that the EAJ was open to any cooperation with the CEPEJ. Quite recently I resumed contact with the CEPEJ’s secretary general in order to know the practical terms of a possible contribution of the EAJ to the revision of Recommendation R86(12).

The CEPEJ has become a very important body within the Council of Europe. I believe it is necessary to think about a more lasting participation in the various task forces, following the

example of the IUJO and Association of Rechtspfleger. The creation of an *ad hoc* task force in the form of the “Ways to Brussels” group could be discussed.

2.1.2 – Conference of INGOs of the Council of Europe

Two years ago, the EAJ had agreed in principle to resume contact with the Conference of INGOs of the Council of Europe. Vice-President Igreja Matos attended a plenary meeting in Strasbourg in early 2014. We came to the conclusion that the issues dealt with were fairly different from our concerns.

I have received an invitation for the next plenary meeting to be held in Strasbourg in October 2015. Given the themes which will be dealt with (defense of children in a period of austerity, and fight against the increase in the number of poor women), I have passed.

2.1.3 – Conference of the Balkan and Euro-Mediterranean Network of the Council for the Judiciary

The 10th annual conference of this organisation took place in Tirana (Albania) from May 27 to May 29, 2015. Like for the previous years, it is the honorary president of the IAJ, Gunter Woratsch, who represented the EAJ and I thank him for doing so.

His report is appended hereto.

2.2 – European Union: “Ways to Brussels” working group

The statement adopted in Gdansk on the “presumption of innocence” directive has been circulated. The group keeps on working on the European prosecutor on the basis of the most recent developments which are hardly compliant with the wishes expressed by the EAJ in 2014, and on the judicial scoreboard.

Documents should be presented, discussed and adopted during the meeting in Barcelona.

2.3 – The European Court of Human Rights (ECHR)

I was invited by the President of the European Court of Human Rights to attend a religious ceremony to be held on the edge of the Saint Yves conference (Luxembourg association of Catholic Jurists). Further to discussions within the Presidency Committee of the EAJ, I passed on this invitation.

3. Working group on the status of member associations

Since the EAJ's previous meeting in Foz, I was informed by the President of the **Croatian** Association of difficulties arising out of a bill on the recruitment and promotion of judges. The bill provides for the interference of the secret services in the recruitment and promotion process.

I referred the matter to the working group on the situation of member associations who, given the state of emergency and the comprehensiveness of the data sent by the Croatian association, suggested that a letter should be sent to the Croatian authorities to express our concern about a bill which is not compliant with European standards.

Such letter was sent to the Croatian authorities in mid-July. During the summer, I received an answer from the Croatian authorities in which they stated that the procedure put in place did not violate international standards and that the same procedure existed in other European countries including Denmark, Estonia, Latvia, Lithuania and Slovakia. A message was sent to the associations of the above countries to obtain further details. The issue will be discussed in Barcelona.

The working group has also kept on working on judicial issues in **TURKEY** (see below).

4. Difficulties encountered in various European countries

- Turkey

The EAJ has been monitoring the situation in Turkey for almost two years. Despite letters sent to the Turkish and European authorities and the visit of a delegation of the EAJ to Turkey, the situation has not improved.

In Gdansk, another support resolution was voted for the release of detained judges. It was decided that all member associations should publish the said resolution on the same day (May 29) in their respective countries via the domestic media and, if possible, their own governments.

Synthesis documents in 5 languages were prepared and sent to the member associations on May 28, 2015. They are available of the IAJ's website in the "General IAJ news" section.

An EAJ-AEM Twitter account (@eaj_aem_erv) was created. All member associations have been invited to follow it and, if possible, to retweet all messages sent. The issue of the practical use of that account (in particular the name of the person who will be authorised to communicate on this social network on behalf of the EAJ) will be discussed soon.

The working group on the situation of member associations has launched an impact survey for that purpose. The matter will be discussed in Barcelona.

Further to the foregoing actions, the EAJ received messages of thanks from one of the attorneys of one of the incarcerated judges and from the judge's wife. Answers were sent in due time.

Independent Turkish media relayed the position of the EAJ.

This is how I was contacted in early June by the columnist of the newspaper "Al Monitor", who was preparing an article on the "World Justice project 2015" report which shows that Turkey has dropped 21 places in the ranking. I was asked for the analysis of the EAJ on the reasons of Turkey's major drop regarding its requirements for independent and impartial justice. Thanks to the help of Vice-President Igreja Matos, I could send the journalist a position paper. Due to publishing constraints, it was not possible to include the above information in the article, but a verbatim publication of the text, both in English and translated into Turkish, on the "Grihat" website was proposed to me. After verifying the seriousness of the website and with the consent of our Yarsav colleagues, I accepted the publication of the text which was widely relayed on the social networks.

Despite these actions and an insistent support to the judges, new problems appeared in early July 2015. The HCJP transferred over one thousand judges and prosecutors without their consent, including a number of Yarsav leaders. In August, the President of the Constitutional Court dismissed Judge Murat Arslan, the President of Yarsav.

The EAJ's Presidency Committee has contemplated various means of action, including the organisation of a press conference comprised of representatives of the Turkish civil society (in particular attorneys) and of Turkish and European judges standing next to representatives of the EAJ, in order to denounce the situation. Due to the summer period which is not favourable for the media coverage of issues of that nature, and to organisational problems, we had to postpone implementing that strategy.

However, informal contacts are currently taking place with officers of the Turkish Ministry of Justice thanks to the help of German colleagues.

Letters summarising the situation and requesting a meeting in September were sent in July to Mrs. Monica Pinto, the new special UN rapporteur on the independence of judges and lawyers, to Mr. Martin Schultz, President of the European Parliament, and to Mrs. Anne Brasseur, President of the Parliamentary Assembly of the Council of Europe.

Finally, I was invited in late August to the first plenary session of a new association of Turkish judges named "Association of Judicial Unity" (YBD). The meeting should take place on September 12 in Ankara. The creation of that structure has been announced by our Yarsav colleagues. It is under that label that the candidates backed by the Turkish government had campaigned for elections to the higher council of judges and prosecutors in the fall of 2014. Its dependence on the Turkish government is unquestionable.

The EAJ's Presidency Committee decided not to attend the plenary session but acknowledged receipt of the invitation, reminded them that our by-laws only allow for membership of one single association once the association has shown that it is totally independent of the executive and legislative powers of its country, clarified our actions and those of Yarsav for an independent justice in Turkey, and induced the new association to promote international standards in Turkey.

Such letter, to which the last resolutions adopted by the EAJ over the past two years were appended, was passed on to our Yarsav colleagues for circulation in the Turkish media.

The situation in Turkey will be widely discussed during the meeting in Barcelona.

- Ukraine

The resolution adopted in Gdansk was sent to the European authorities.

The situation of Justice does not seem to have improved in Ukraine and the concerns which have already been expressed are still valid.

We will take stock of the situation again during the meeting in Barcelona.

It cannot be but noted that using traditional modes of action can be insufficient whether in Turkey or Ukraine. During the meeting in Barcelona, the working group on the situation of member associations is to make a series of proposals aiming at drafting an alternative action strategy in the event, as is nowadays frequent, the national governments fail to take into account the warnings sent by the various European bodies, including the EAJ.

- Belgium

The mails to the Belgian authorities, adopted in Gdansk, have been sent. I have not received any official answer yet.

However, I had the opportunity to discuss the problems of Justice in **BELGIUM** on the occasion of the visit of a Belgian delegation, chaired by the Belgian Minister of Justice himself, to the French Higher Council of the Judiciary.

To prepare this visit, I was in close contact with our colleagues of the Belgian association who have sent me several helpful synthesis documents.

- Other countries

On June 25, 2015, the **German** association contacted the member associations on the organisation of courts and on how to justify staff needs to the ministry of finance and the parliament. Such survey raises the issue of the normal workload of judges.

A summary report on the various questions asked was circulated on July 17, 2015.

This can be discussed during the next meeting in Barcelona.

5. EAJ questionnaire on the situation of Justice in Europe

The final report discussed in Gdansk has been sent to the European bodies. I have received a letter of thanks from the office of Mr. Donald Tusk, President of the European Council and Director General of the European Commissioner for Justice, Mrs. Jourova. He has offered to meet me in Brussels during my next trip.

6. The EAJ budget

This matter will be discussed during the convention in Barcelona since we do not have as of the date hereof any updated report on the budget.

Several European associations have not paid their annual dues for 2015 yet and I invite them to do so as soon as possible.

In my previous reports, I have often stressed the smallness of the EAJ's annual operating budget (3,000 Euros only).

The IAJ's Presidency Committee who met on June 12 and 13 in Rome has discussed the matter on the recommendation of the secretariat general. It was decided on an exceptional basis to give regional groups the authorisation to use, for the period 2015-2016, a total of 8,000 Euros (and not only 3,000 Euros), which will be transferred from the reserves. More thorough and comprehensive thought is to be given to the matter during the meeting in Barcelona.

7 – The EAJ within the International Association of Judges

On June 12 and 13, 2015 in Rome I attended the meeting of the IAJ's Presidency Committee. Many issues were considered, only three of them are developed below.

7-1. Monitoring procedure

By an email dated November 26, 2014, the secretariat general reiterated the procedure for monitoring associations as implemented on the occasion of the reform of the IAJ's Articles of Association adopted in Washington D.C.

It was stressed during the meeting of the Presidency Committee in Rome that less than one half of the member associations have replied to the questionnaire within the deadline initially set, even though the response rate was higher in Europe than on the average in the world. As a result thereof, it has been impossible for the *ad hoc* commission chaired by Vice President Igreja Matos to draft a comprehensive and detailed report which should have been presented during the meeting in Barcelona.

On the basis of the new by-laws which specify that the monitoring procedure must be implemented by 2015, the Presidency Committee considered that the associations could fulfill their duty to answer the questionnaire till December 31, 2015. It was also decided to allow the associations to avoid having to answer all questions, provided they could give reasons why they could not answer a few of them.

However, I would like to draw the attention of the member associations to the fact that it is necessary to complete such document and to send it as soon as possible and at any rate by the end of this year to the members of the commission.

7-2. Implementation of the 2015-2018 plan

In Foz de Iguacu, the Central Board adopted the IAJ's draft plan for the period 2015-2018.

The work plan is being gradually implemented. A report will be made during the meeting in Barcelona.

7-3. Ongoing considerations

Further to the meeting in Foz do Iguacu, it was decided to give some thought to a new procedure, broadly inspired by European practices, in order to allow for the adoption of resolutions by the Central Board in good conditions. A position paper adopted by the Presidency Committee will be presented in Barcelona.

Finally, noting that an increasingly reduced number of answers is given to questionnaires of the study commissions, a discussion took place on how to improve the operation of the commissions in order to make them more attractive and to better circulate their results. The discussion will be resumed in Barcelona with the presidents of the various commissions.

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