



SUMMARY REPORT OF THE MEETING HELD BY
THE EUROPEAN ASSOCIATION OF JUDGES - REGIONAL GROUP OF THE I.A.J.

JERUSALEM (Israel), 22 May 2016

In attendance were the EAJ President, Mr. Christophe Régnard, the Vice Presidents Mr. José Manuel Igreja Matos and Mr. Đuro Sessa, the Honorary Presidents Mr. Jose Maria Bento Company, Mr. Ernst Markel, Mr. Gerhard Reissner and Mr. Günter Woratsch, the Secretary-General Mr. Giacomo Oberto, the Deputy Secretaries General Mr. Lucio Aschettino, Mr. Galileo D'Agostino and Mr. Raffaele Gargiulo, as well as the following delegates, representing their respective association, which are members of the International Association of Judges and of the European Association of Judges:

ALBANIA	Mr. Civici, Mr. Nuni
ARMENIA	Mr. Yengibaryan, Mr. Sargsyan
AUSTRIA	Ms. Matejka
AZERBAIJAN	Mr. Ayubov, Mr. Jafarov
BELGIUM	Proxy to Israel
BOSNIA AND HERZEGOWINA	Ms. Dević, Mr. Smailović
BULGARIA	Mr. Atanasov
CROATIA	Mr. Kontrec
CYPRUS	Mr. Stavrou
CZECH REPUBLIC	Proxy to Austria
DENMARK	Ms. Sigvardt, Mr. Sjoberg
ESTONIA	Mr. Melis (WG), Mr. Jokis, Mr. Pallin
FINLAND	Mr. Jaakkola, Ms. Judström
FRANCE	Ms. Duval, Ms. Parisot
GEORGIA	Mr. Goginashvili, Mr. Mamiseishvili
GERMANY	Mr. Gnisa, Mr. Schneiderhan
GREECE	Mr. Alikakos, Mr. Almpouras
HUNGARY	Ms. Halasz
ICELAND	Mr. Magnusson
IRELAND	Mr. Edwards
ISRAEL	Ms. Barkai, Mr. Tamir, Ms. Zfat
ITALY	Ms. Marzagalli, Mr. Zuccarelli
LATVIA	Ms. Ruke
LIECHTENSTEIN	Mr. Nagel
LITHUANIA	Ms. Miliuviene, Mr. Sagatys, Mr. Valancius
LUXEMBOURG	Mr. Everling
MOLDOVA	Mr. Spoiala, Mr. Clima, Mr. Dulghieru
NETHERLANDS	Ms. Kaptein, Ms. Jansen
NORWAY	Mr. Storhaug Larssen, Ms. Thune
PORTUGAL	Ms. Pauperio, Ms. Viegas
SERBIA	Ms. Boljeivic

SLOVENIA	Ms. Roblek
SPAIN	Mr. Silla Sanchis
SWEDEN	Ms. Bergendhal
SWITZERLAND	Mr. Gass, Ms. Lichti Aschwanden
UKRAINE	Ms. Yevtushenko
UNITED KINGDOM	Mr. Flaux, Mr. Mackay

The Secretary-General Oberto carried out a check on votes and proxies: 37 members were present. There were two proxies (from Belgium to Israel and from Czech Republic to Austria).

President Régnard welcomed the attendants and thanked the Israeli Association for organizing the meeting that took place for the first time in Israel.

He then invited Ms. Zfat to say some words and she presented a video to give an overview of the country to those delegates who will not have time to visit the country.

1. Approval of the minutes of the Barcelona Meeting

President Régnard asked whether there were any remarks on the minutes of the meeting held in Barcelona and, having received negative answer, established it as approved.

2. Report of the President

President Régnard asked whether there were any remarks on his report and, having received negative answer, established it as approved. He announced that most of the issues dealt with in his report will be addressed specifically under the following points of the agenda.

As decided in Barcelona, President Régnard addressed a letter to the authorities of Montenegro but did not receive an answer so far.

On the contrary, President Régnard received an answer from the Vice-President of the European Commission, to whom he wrote a letter concerning the salary of judges in Croatia. This reply was forwarded to the Croatian Association.

President Régnard received a letter from Mr. Harabin (Slovakia) but, after consulting the Slovak Associations and together with the EAJ Board, he decided not to reply.

An important topic concerns the European Commission for the Efficiency of Justice and another one, more important, is the relationship between the EAJ and different organisms of the Council of Europe. President Régnard insisted over the necessity to improve EAJ cooperation with these bodies.

President Régnard then pointed out that Mr. Durmaz, delegate of the Turkish Association YARSAV, was not authorized by the Turkish Council of the Judiciary, to leave the country to attend the EAJ meeting in Israel.

3. Working Group “Ways to Brussels”

- Report of the President

The President of the Working Group, Mr. Schneiderhan, pointed out that there were no relevant news because the EU Commission had not issued any new legislation of peculiar interest for the EAJ.

Among the recent activities of the European Union, Mr. Schneiderhan mentioned the introduction of legal instruments to fight terrorism.

Mr. Schneiderhan mentioned also a major topic in Germany and some other European countries, which is the TTIP negotiates. The WG might debate also this theme and possibly have some papers ready in summer, to be presented in Mexico.

Mr. Schneiderhan then referred to the high-level conference of Justice Ministers of the Council of Europe (CoE) member states held in Sofia (Bulgaria) in April, where an action plan was discussed on strengthening judicial independence and impartiality.

President Régnard informed the Assembly that he will attend a meeting of ENCJ in June and he added that this year the Network discussed three topics: quality and independence; projects; composition of the High Councils of the Judiciary with particular focus on lay members.

4. Working Group on the Situation of the EAJ’s Member Associations

- Report of the President

Mr. Gass, Chairman of the Group, referred to his report, specifying that there were few more pieces of information to be given to the Assembly.

The Group received a letter from the Greek Association saying that the austerity measures imposed by the EU would cause infringements to judicial independence in the country. The request could not be dealt properly by the WG because it was too general and it was not clearly specified what the WG was supposed to be in its respect. Therefore, the WG sent a letter to the Greek Association asking a more detailed report and a more precise request. The Group received no answer up to the date of the meeting in Jerusalem. Mr. Gass asked to add the WG's letter to the minutes and President Régnard agreed.

Mr. Gass then referred to the high level Conference of Justice Ministers in Sofia and to the Plan of action approved there, which contains a complete set of instruments. It must be noted that only members of the Government and officials and no magistrates composed some delegations.

The Council of Europe has worked hardly on instruments to enforce judicial independence, but in the EAJ experience, it is well known that there are still several infringements. This gave the idea to look for a better instrument, that could be (out of resolutions, recommendations, etc.) creating a binding law (a new convention or an additional protocol to European Convention on Human Rights) concerning the independence of the judiciary. The Swiss Association made a request to the WG to consider this problem and start working on a draft text of a binding law.

Hopefully, the draft prepared by the WG could be presented to the Assembly of the EAJ.

Mr. Almpouras (Greece) took the floor to announce that his Association will send a new letter to the WG to explain in a better way what the problems and the needs of the Association are.

Honorary President Reissner took the floor to express his support to the proposal of the Swiss Association. Nevertheless, he underlined that it will be a hard work because governments hesitate to adopt binding commitments for their countries regarding judiciary. The idea of an additional protocol to the Convention seems more feasible because it could be considered a sort of by-law to article 6 and each State would put it into force step by step. In addition, Honorary President Reissner stressed the importance of adopting such an instrument at the level of the Council of Europe since it will extend to other European countries not belonging to European Union.

Mr. Pallin (Estonia) took the floor to express support to the proposal of an additional protocol, stressing at the same time that the CCEJ gives many recommendations that are respected; therefore, the EAJ could work on both sides. He then asked news on the project, announced in Barcelona, of consolidating or amending the Universal Charter of Judges.

President Régnard said that works on the project are in progress but they met some delay because of his professional commitments. The first outcomes will be presented in Mexico City.

Mr. Reissner underlined that the EAJ can cooperate more easily with the CCEJ now that Vice-President Sessa is its Vice-President. He then highlighted that there is a strong division of jurisdictions between the CoE bodies pointed out that the drafting of conventions is not a duty of the CCEJ.

President Régnard recalled that in his report he proposed to set up a permanent WG charged to keep contacts with the various bodies of the Council of Europe.

Ms. Marzagalli (Italy) took the floor to stress the important work done by the CEPEJ and the wide resonance of its biennial report; the Italian Association usually prepares a little dossier to summarize the most important topics dealt with by the CEPEJ and to underline the outcomes of the report concerning the administration of justice in Italy. She therefore supported President Régnard's proposal to establish a permanent WG to follow more closely the activities of the CoE and the CEPEJ.

Ms. Boljevic (Serbia) also agreed on the proposal, welcoming the idea of a mighty tool to strengthen the rule of law. She suggested not to wait for a formal initiative by the Council of Europe but to study within the EAJ a possible text and to propose it to the competent organs of the Council.

Vice-President Igreja Matos said that the best solution was to approve a resolution to endorse the position of the WG, to give it a clear mandate regarding the draft proposal.

The assembly approved the proposition.

President Régnard charged the WG on Associations to work on the draft resolution that will be later approved by mail, since there will not be enough time today to write down a complete and well-balanced text.

Mr. Reissner took the floor to say that the mandate given to the WG should concern on one side the content of the document and on the other the procedure to follow to present it to the Council of Europe.

The assembly approved the proposition to give mandate to the WG on the two topics.

5. Situation of the judiciary in Turkey and actions undertaken by EAJ

President Régnard briefly summarized the situation in the country. The delegate of YARSAV, Mr. Murat Durmaz had the duty to ask the President of his Court the permit to leave and he obtained it. Nevertheless, the Council of the Judiciary, in charge of validating this permit did not give its authorization. Mr. Durmaz said that if he had asked the permit for another destination he would have not met such a refusal. President Régnard pointed out that this was an action against the EAJ.

Ms. Zfat read a message she received from Mr. Durmaz.

Secretary-General Oberto added that Mr. Durmaz sent some documents that will be distributed to the Assembly.

President Régnard said that this is the last event of an impressive series, started right after the EAJ meeting in Barcelona: the President of YARSAV was discharged from his functions at the Constitutional Court, two judges are still in jail and under trial, each week the EAJ and some national associations receive letters from Turkish colleagues explaining how the situation is worsening. President Régnard recalled the various letters that were sent to Turkish authorities and underlined that the present geo-political situation seems somehow facilitate the initiatives of President Erdogan. Following the announcement of the reopening of negotiations to admit Turkey in the European Union there has been a reaction movement by associations fighting for human rights. Maybe this is the right way and path to foster human rights, among which there is the protection of judicial independence.

Vice-President Sessa said that he went twice in Ankara. The situation is complicated. Attempts are made by the Council of Europe and other organizations to establish the principle of judicial independence. Authorities are accepting these contacts but, at the same time, they are very active in establishing bilateral agreements with European countries and in doing so they promote another association than YARSAV. Then the dilemma is whether to cooperate whatever the costs or ignore this association. Mr. Sessa said that in his opinion in a short while the IAJ would have to cope with an application for membership by the other association.

Ms. Boljevic (Serbia) underlined that the EAJ tried many times, in vain, to dialogue with the Turkish Government and the EAJ will not be able to issue any other resolution of better impact. The EAJ should then emphasize how dangerous is to support those who violate the rule of law and to ignore those who are suffering for the rule of law and should involve in its concerns the EU institutions.

Mr. Reissner said that the EAJ contacted several times EU institutions but there was no change in their attitude towards Turkey. Nevertheless, this time there was a very new element that is the intervention of the Council for the Judiciary and its denial of permit to the Turkish delegate to travel to attend the EAJ meeting. Therefore, the WG could be entrusted to write a harsh document to the Council, focusing on the right of judges to establish and belong to associations. The letter could then be forwarded to EU institutions.

President Régnard said that he received a letter by the new association, describing in enthusiastic words the good situation of the judiciary in the country. He proposed to reply asking whether it considered it normal that the High Council prohibits to a judge to attend an EAJ meeting.

Mr. Zuccarelli (Italy) also underlined that, apparently, the EAJ counterpart was the High Council that prevented Mr. Durmaz to attend the meeting. Since the reasons for this decision are unknown, the EAJ Assembly may suppose that the EAJ is not considering an independent organization committed to protect the independence of judiciary. It would be interesting to know the opinion of the High Council on the EAJ and the association should ask on which grounds the High Council decided not to give permit to Mr. Durmaz to travel to join the meeting. Mr. Zuccarelli added that just a couple of days before the meeting in Jerusalem the Council of Europe sent a mail asking for consultants to arrange a code of conduct for Turkish judges. His proposal was not to be involved as a reaction to the ban imposed over Mr. Durmaz and to consider informing the Turkish government about this decision.

President Régnard said that asking the High Council the reasons for its behavior might put in danger Mr. Durmaz as the Council will find explanations concerning personal and professional qualities of Mr. Durmaz. Concerning the code of ethics, the proposal came from a body of the Council of Europe, the European Committee on Legal Co-operation (CDCJ). The EAJ could reply with a formal letter explaining that participating in this project would have no meaning considering the way in which judges are treated in their country and the continuous attacks against the independence of the judiciary. The

letter could be published on the IAJ website and be forwarded to the Secretary-General of the Council of Europe.

Mr. Sessa said that, although this proposal is seductive, the EAJ should not ignore the chance to spread out the ideals it is fighting for. It is quite common that similar projects involved countries with problems and the EAJ should not leave space to other organizations that might not do a good job and simply follow the flow.

Ms. Costeira (Portugal) suggested to ask Mr. Durmaz more information and Mr. Tamir (Israel) proposed to ask Mr. Durmaz what type of intervention from the EAJ would he welcome that would not endanger him.

Ms. Thine (Norway) agreed with Mr. Sessa on the cooperation with the project and added that each EAJ member association could address the Government to ask the respect of judicial independence and contact the Turkish Ambassador to inform him about EAJ's concerns.

Mr. Igreja Matos underlined that the EAJ must be ready to adopt different approaches based on concrete cases, and deliver concrete case to EU institutions. In addition, he stressed the importance of being present at the hearings concerning Turkish colleagues.

President Régnard summarized the outcomes of the debate: the EAJ will address a letter to the Turkish Council for the Judiciary protesting against the absence of Mr. Durmaz but without asking explanations, underlining the right of judges to form associations and recalling international standards. This letter will be widely publicized.

In addition, the EAJ could ask YARSAV its opinion on the EAJ participation to the drafting of the code of ethics and if YARSAV thinks that this participation is fruitful for Turkish judges the EAJ could address a letter to the Directorate General communicating who is going to draft this document.

Mr. Gass said that the WG was available to draft the letter to the High Council.

Mr. Sjoberg (Denmark) invited the member associations to write to the respective Ministry of Foreign affairs explaining EAJ's concerns and that the case is very serious as to the respect of rule of law.

6. Situation of the judiciary in other countries

President Régnard informed the Assembly that he did not receive requests from other Associations.

He wrote to the colleagues in Poland due to the situation in the country after the Presidential elections to know whether it wished to inform the EAJ or to ask its support but he did not receive any answer.

He asked whether any delegates had more information.

Mr. Reissner took the floor to tell that Mr. Pjebiak was appointed Vice-Minister of Justice.

The crisis concerning the Constitutional Court started before the elections with the appointment of some Constitutional judges by the outgoing Parliament: two of the newly appointed judges were supposed to replace judges whose terms were going to expire soon after the election. After the elections, the new Government claimed these appointments as illegal and the judges were replaced, thus causing international and national protests that are still undergoing.

Ms. Halasz (Hungary) took the floor to inform the Assembly about the report drafted by the International Bar Association on the independence of the judiciary and the rule of law in Hungary. She then asked Vice-President Igreja Matos to say some words in his capacity as member of the commission charged to draft the report.

Mr. Igreja Matos briefly summarized the document that is available at the following webpage:

<http://www.ibanet.org/Article/Detail.aspx?ArticleUid=93e2c33c-71e5-4ab5-89a7-299f5c5752ce>

Honorary President Woratsch then took the floor to say some word on the situation in Austria, where the Minister of Justice does not always respect the independence of the judiciary and frequently attacks the President of the national association or criticizes the decisions taken by the High Council for the Judiciary on matters relating personnel. Mr. Woratsch sent a letter to the Minister, in his capacity as Honorary President of the IAJ and announced him the intention to inform the EAJ and IAJ about his behavior.

Ms. Matejka (Austria) added that, as regards the appointment of judges, the commission of judges (*Personal Senat*) made a short list and the Minister did not follow that list. This happened several times, probably for political reasons. At present, reforms to make the Senat more influent are under examination.

President Régnaud then mentioned the questionnaires disseminated by the Associations of Azerbaijan and Slovenia and Ms. Roblek (Slovenia) took the floor to thank the associations that had answered. Mr. Jafarov (Azerbaijan) took the floor to summarize the reasons for the questionnaire. In Azerbaijan, anyone can file a case in front of a civil court without needing technical assistance by a professional lawyer. The association asked the Parliament to amend the law and therefore was interested in knowing how things go in other countries. Their wish is that the procedure is no more managed by totally incompetent people but at least by a person who has studied law, even if not a professional lawyer. Secretary-General Oberto said that the second Study Commission dealt with this issue in 2013 and invited the association to consult also the national reports prepared for that meeting and the conclusions of the Commission.

Mr. Magnusson (Iceland) mentioned the proposal by the Government of his country aimed at increasing the influence of the Ministry in the appointment of judges and evaluation procedure, and at reducing the number of judges. At present, the political situation in the country is very uncertain and it is not sure whether the reform will pass.

7. Information on the monitoring procedure of the members associations

Mr. Igreja Matos, Chairman of the ad hoc Commission, thanked the European members of the group, Mr. Almpouras and Mr. Zuccarelli, and then summarized the major outcomes. 40 European Associations out of 44 answered the questionnaire.

The main problems underlined by the majority of them were insufficient budget, excessive workload, bad working conditions, external and internal judicial independence, lack of confidence in the judiciary by the population. Little significance had the concerns about salaries and pensions.

As to the question whether in the opinion of the associations the situation improved or worsened in the last years, while the African associations are optimistic and IBA and ANAO also quite confident, the EAJ members are not: more than 45% of them think that the situation worsened with the elapsing of time.

President Régnaud thanked Mr. Igreja Matos, the Commission and the associations that cooperated and announced that in Mexico the IAJ will have to decide the measures to adopt with respect to the associations that did not participate in the survey.

Ms. Kaptein (Netherlands) asked whether the report was available on the IAJ website and Secretary-General Oberto answered that the Presidency Committee will take a decision on the issue in its meeting in Rome, at the end of June.

8. Procedures for the submission of draft resolutions to the Regional Groups and to the Central Council

President Régnaud explained that he added this point of the agenda because it was included also in the agenda of the Ibero-American meeting. Since there is nothing new to add, it must be considered as canceled.

9. Debates on "EAJ intervention concept"

President Régnaud explained the Assembly that the document is the outcome of the debate in Barcelona. Mr. Stadelmann (Switzerland) was in charge to draft the text. He then gave the floor to Mr. Gass, because Mr. Stadelmann was not attending the meeting and Mr. Gass said that the document and its annexes were distributed to the European associations and no one sent any remark.

President Régnaud took note that the Assembly had no comments and established the papers as approved.

10. Cooperation with Council of Europe (CDCJ, CEPEJ, Venice Commission, CCJE, CCPE ...)

President Régnaud underlined that this topic had already been discussed and referred the debate to the meeting in Mexico, after the WG will have prepared draft documents.

11. Elections IAJ presidency committee 2016

President Régnard recalled that at the end of the meeting in Barcelona some associations mentioned the need to amend the EAJ Statute in the part concerning the election of its President and he said that he had not received any concrete proposal till now.

President Régnard then recalled that in Mexico the meeting of the EAJ will precede that of the Central Council and that the candidatures for the posts of IAJ Vice-Presidents might be presented during the meeting of the Group and the first session of the CC. Secretary-General Oberto added that the General Secretariat will send a letter to all IAJ member associations explaining the rules to present a candidacy.

President Régnard recalled that in Foz do Iguaçu there were six European candidates and that according to some people they were too many. In the other Regional Groups a preliminary reflection takes place to find a consensus and the EAJ could consider something similar.

12. Budget of the European Association of Judges

Secretary-General Oberto informed the Assembly about the budget, where there are funds available for about 25,800 euro.

As to the annual contributions there were no arrears and only 12 associations still had to pay their 2016 membership fee. President Régnard invited all of them to settle their dues before the start of the Central Council.

13. Future meetings: IAJ 2016 and EAJ 2017

President Régnard summarised the events concerning the cancellation and then confirmation of the 2016 meeting of the IAJ in Mexico City. In Mexico the Central Council will decide the venue of the 2017 meeting and there is still space for candidatures, that must be officialised in written one month before the meeting in Mexico.

As to the 2017 springtime meeting of the EAJ, there is already the candidature, approved, of the Association of Moldova. The Association of Malta expressed some interest for organising the meeting in 2018 but it did not send its delegates and therefore there is no confirmation of the proposal.

The Moldovan delegation then presented a video about the country and announced that the meeting will take place from 18 to 21 May 2017.

14. Miscellaneous

Mr. Alikakos (Greece) took the floor to illustrate to the Assembly the European Programme for Human Rights Education for Legal Professionals (HELP), which supports the Council of Europe member states in implementing the European Convention on Human Rights at the national level.

Mr. Pallin (Estonia) said that it would be useful to systematize the constitutional decisions issued in European countries on relevant topics for the judiciary. The idea is to set up a database of all judgements done in Europe about some issues like salaries, working conditions and social security, to see whether there is a sort of consensus. The Study Commissions could be the appropriate bodies for such a survey.

Mr. Reissner pointed out that there might be a problem with the translation of these documents but maybe the respective association could translate them itself. The EAJ could ask if there are such judgements, ask for a brief summary of them and then find a way to translate. The Presidency Committee and the 1st Study Commission could consider this issue.

President Régnard added that this project could be extended to world level because associations in Latin America and Africa may face similar problems. The PC will deal with this issue and then will eventually inform the 1st Study Commission that this survey was recommended as a topic for next years.

Ms. Matejka (Austria) suggested that, since the IAJ has lots of savings and taking into consideration the difficulties experienced by the Mexican Association in coping with its financial restrictions, the Presidency Committee could evaluate possible financial contributions to those associations unable to cover all the costs for the organization of an annual meeting (for instance, costs related to the international conference or to translations).

Vice-President Igreja Matos said that the IAJ is already financing conferences on corruption and warned about the risk of establishing a risky precedent in financing the annual meeting.

President Régnard informed the Assembly about his meeting with representatives of the Association of Yemen. He was ready to propose the Assembly to adopt a resolution like the one approved by the IBA Group in its meeting in Lima, last April, but the situation slightly changed. He met a delegation of Yemenite judges in Paris in April, he also received a report by New Zealand colleagues explaining the difficulties and threats to which the Yemenite were daily confronted. Based on the information President Régnard proposed, and the IBA Group approved, a resolution asking the Yemenite Government to take necessary measures to protect judges. Unfortunately, after coming back to Europe, President Régnard found out that the Yemenite colleague had used the correspondence exchanged with the IAJ Board and the document adopted by the IBA Group to ask political asylum in France for himself and his family. President Régnard decided to abstain from encouraging the EAJ to adopt another document of support and assured the Assembly that he will not take any step, in his capacity as EAJ President, to facilitate the request of asylum.

After a short break at lunchtime, the delegates convened again to examine the draft letter to the Turkish High Council for the Judiciary drafted by the WG chaired by Mr. Gass.

The assembly approved the text unanimously

Mr. Igreja Matos suggested adding a paragraph clarifying that the text was decided and approved by the EAJ Assembly.

President Régnard added that the EAJ would answer to the European Committee on Legal Cooperation (CDCJ) explaining that the EAJ will participate in the drafting of the Turkish Code of Ethics if Yarsav is consulted too. Mr. Reissner added that all international instruments underline that documents concerning ethics should be drafted with the contribution of judges.

Mr. Zuccarelli (Italy) proposed to spread this letter among the national associations and President Régnard agreed.

The meeting was closed at 14.15.

Christophe Régnard
President of the EAJ

Giacomo Oberto
Secretary-General

Enclosures:

- Budget from 1st October 2015 to 17th May 2016
- EAJ intervention concept
- Draft letter to the Turkish High Council for the Judiciary
- Letter of the Greek Association and answer of the Working Group