



The President

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Report of the President of the European Association of Judges October 2015-April 2016

1 – General

The minutes of the Barcelona meeting were disseminated to all member associations in December 2015.

The letters to the Montenegro authorities were sent on October 19, 2015 but I have not received any reply.

However, I did receive an answer from the First Vice-President of the European Commission, Mr. Timmermans, further to the letter I had sent him with respect to the situation of judges in Croatia from the viewpoint of their salaries. Of course, his reply was forwarded to the President of the Croatian Association.

I was also contacted on two occasions by Mr. Stefan Harabin, former President of the Slovakian Supreme Court and also former Minister of Justice. Mr. Harabin was seeking the support of the EAJ under a disciplinary procedure instigated against him. In conformity with our practices, we asked for the advice of the Slovakian Association who, after explaining Mr. Harabin's complex situation, concluded that it was advisable to let the competent authorities take the disciplinary decision. Therefore, no action was taken further to such request.

In January 2016, in my capacity as President of the EAJ and successor-in-title to Mr. Gerhard Reissner, I was appointed member of the Board of Trustees of the European Law Academy (ERA).

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)

In early December 2015, I attended the 26th plenary session of the CEPEJ in Strasbourg.

The discussion mainly dealt with the next report on the evaluation of legal systems in Europe, which will be published in the fall of 2016.

A guide of good practices for the enforcement of court decisions (CEPEJ(2015)10), intended to facilitate the implementation of guidelines in this respect, was adopted.

Work aiming at amending Recommendation R86(12) “concerning measures to prevent and reduce the excessive workloads in the courts”, at the request of the European Association of Clerks and Rechtspfleger (EUR), has not been initiated yet. THE CEPEJ has sent an official request to the CDCJ. I reiterated our interest in that work.

We had agreed with the Secretary General of the EUR, Jean Jacques Kuster, that we would meet in June in Strasbourg to discuss any possible and desirable developments. Some thought will be given at the EAJ in order to validate a position.

As I mentioned in my previous report in 2015, 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 the 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. I regularly receive invitations to attend colloquiums and conferences in Strasbourg.

None of the topics dealt with is of concern to us. I have therefore not attended. Like last year, we have not given any positive answer to the request for a financial contribution.

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

The documents prepared by the working group and submitted on the occasion of the meeting in Barcelona regarding the judicial scoreboard and the appointment requirements for judges of the CJEU and the TIPP Court were sent to the member associations for validation purposes on November 3, 2015.

Once they were validated, they were forwarded to the EU authorities. Thanks to Peter Schneiderhann, the EAJ's position on the TIPP Court could be relayed in the German press on February 17, 2016.

The Justice Scoreboard 2016 was made public in April.

http://ec.europa.eu/justice/effective-justice/files/justice_scoreboard_2016_en.pdf

Work on the European prosecutor is continuing and the regulation should be soon adopted.

2.3 – The European Court of Human Rights (ECHR)

In January 2016 in Strasbourg I attended the official opening of the year at the European Court of Human Rights, and the seminar organized prior thereto on “the international and domestic courts confronted with mass violations of human rights”. Part of the seminar was dedicated to issues of terrorism.

2.4 - The European Networks of Councils for the Judiciary (RECJ)

As a member of the French Council for the Judiciary, I now attend the meetings of the RECJ.

Two major topics pertaining, on the one hand, to the means allotted to the judiciary and, on the other hand, to the composition of the councils, more specifically the number and qualities of non-judge members inside those councils, will give rise to reports to be submitted in Warsaw next June.

For your information, the French-speaking Network of Councils for the Judiciary, created in Quebec in 2014, held its second meeting in the form of a conference on “the common values of councils for the judiciary” in mid-April in Paris.

3. Working group on the status of member associations

Since the previous meeting of the EAJ in Barcelona, I have not received any new requests from member associations, with the exception of Turkey (see below).

A report of the working group will be presented in Jerusalem.

4. Difficulties encountered in various European countries

- Turkey

The EAJ has been monitoring the situation in Turkey since 2014. Alas, the situation has kept on deteriorating, which caused the EAJ to mobilize in support of our Yarsav colleagues.

On October 6, 2015, I received a letter from Martin Schultz, President of the European Parliament, in reply to my previous mails in which I informed him of our concern on the face of the constant deterioration of the situation in Turkey and of serious violations of the independence of judges and prosecutors.

On October 21, I received a long letter from the president of the new association of judges and prosecutors of Turkey (YBD), which is obviously an association quite close to the current Turkish government and which was given a quite significant preferential treatment during elections to the higher council of judges and prosecutors in 2014. The letter, which praised the

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merits of the Turkish judicial system and the independence of the association, seemed to prepare for a future application for membership of the IAJ. Given the context and after having refused last year to attend the inauguration conference of that association, the letter was not given any reply.

I learned in early October from our Turkish colleagues that Murat Arslan, president of Yarsay, had been removed from office at the Constitutional Court of Turkey. I therefore sent a letter to the Turkish authorities to let them know about our concern on the face of this regrettable development. On October 27, the Secretary General of the Council answered me to confirm that the laws of Turkey had been complied with.

On January 12, 2016, the first hearing of our two incarcerated colleagues, Baser and Ozelik, took place. The bureau of the EAJ, contacted by our colleagues' lawyers, decided to be represented at the hearings. Gerhard Reissner, Honorary President, went three times to Ankara to attend the hearings. Reports –the second one being prepared jointly with the association “Judges for Judges”- were sent to the European authorities.

We received very encouraging replies from the president of the Parliamentary Assembly of the Council of Europe, the Secretary General of the Council of Europe, and in particular Commissioner Hahn on March 17. All of these documents were published on the website of the IAJ and are accessible at:

http://www.iaj-uim.org/?post_types=page%2Cnews%2Cmediagallery&s=turkey

Concomitantly, in particular in February 2016, we received many emails from Turkish colleagues informing us of their individual situations, of transfers ordered by the high council for the judiciary without the consent of the judges concerned, and of arrests and risks of eviction for hundreds of other judges.

While the European authorities gave a new impetus, under a plan to solve the migration crisis, to the EU accession process of Turkey, we believed it was relevant to draw the attention of the European authorities to the real situation in Turkey and serious violations of the independence of judges.

Simultaneously, several national associations (in particular in Norway, Croatia, Austria and France) referred to their respective governments to make them aware of the above difficulties.

The situation of Turkey will be widely evoked during the Jerusalem meeting.

- Other countries

Given the current situation, the president of the association of the Republic of Armenia expressed in a letter the desire that discussions should take place at the EAJ regarding the issues of refugees, asylum and deportation. Such issues can be dealt with in Jerusalem.

Two associations have asked for information from other member associations:

- The association of Azerbaijan regarding issues of civil procedure and representation at a hearing by other individuals than lawyers;
- The association of Slovenia on the possibility for judges of acting as arbitrators or mediators.

The Polish and Icelandic associations have informed us of the successful initiatives undertaken in their countries and of the resulting improvement of the independence of Justice.

The four above associations will have the opportunity, if they so desire, to develop on such issues during the next meeting.

- Miscellaneous

We have noted over the past few years that traditional means of action can be insufficient.

In Barcelona, working documents entitled “EAJ intervention Concept” were submitted. They were supplemented and distributed to the member associations on February 8, 2016. Discussions on these documents will take place in Jerusalem.

6. The EAJ budget

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

Seven European associations had not paid their dues for 2015 as of January 1, 2016. One of them had not paid its dues for 2014 either.

I invite them to settle the situation as soon as possible.

7 – The EAJ within the International Association of Judges

7-1. Monitoring procedure

The monitoring procedure applicable to member associations, in conformity with the new articles of association adopted in Washington D.C., has been continued under the aegis of Vice-President Igreja Matos. A report was recently filed for the attention of the EAJ’s Presidency Committee.

It appears that several European associations have not answered the questionnaire. Even though the deadline has now expired, I nonetheless invite the European associations who have failed to answer the questionnaire to do so as soon as possible.

7-2. Implementation of the 2015-2018 plan

In Foz de Iguaçu, 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 Jerusalem.

7-3. Applications for membership of the IAJ

Several applications for membership are being examined, in particular from Mauritania, Palestine, Sao Tome and Principe, Guinea Bissau, Liberia and Timor-East.

Regarding the association of Yemen who has been applying since 2013, the process has been frozen as a result of the war waged in that country which has prevented the appointed rapporteurs from travelling. To circumvent such difficulty and support the Yemenite judges, the IAJ's Presidency Committee decided to organize a meeting in Paris with a Yemenite delegation.

Despite many practical and administrative difficulties, I was able to welcome the delegation on April 14, 2016 at the French Supreme Council of the Judiciary. On that occasion, I was given a comprehensive report on the situation of Justice and judges in Yemen, issued by a New-Zealand association. This very peculiar situation which will be examined during the next meeting of the IAJ's Presidency Committee in June in Rome, must receive our utmost attention. The IAJ's actions, in particular the resolution adopted in Foz do Iguacu in 2014, have a very positive effect. The international recognition of the club of judges of Yemen is likely to improve the protection of Yemenite judges.

As far as the association of Russia is concerned, a delegation expressed the desire of meeting Giacomo Oberto in Turin in October 2015. It appears that some thought is being given again at the Russian association for a new application for membership further to the one that was withdrawn in 2014.

7-4 – Meetings of the regional groups

I attended at the end of April the annual meeting of the IBA group in Lima (Peru). On this occasion, the IBA group adopted a resolution supporting the judiciary in Yemen, which could be a model for EAJ.

Unfortunately, I could not attend the meeting of the African Group in early June in Kinshasa (DRC).

THE ANAO group meeting was held via videoconference.

Christophe REGNARD