



**MINUTES OF THE  
MEETING OF THE EUROPEAN ASSOCIATION OF JUDGES  
(Chisinau – May 2017)**

**Session: Saturday 19<sup>th</sup> May 2017**

The meeting started at 10.00 a.m.

In attendance were the IAJ President, Mr. Christophe Régnard, the EAJ President, Mr. José Manuel Igreja Matos, the Vice Presidents Mr. Đuro Sessa and Mr. Mikael Sjoberg, the Honorary Presidents Mr. Gerhard Reissner, Mrs. Maja Tratnik and Mr. Günter Woratsch, the Deputy Secretaries General Mr. Galileo D'Agostino and Mr. Raffaele Gargiulo, as well as the delegates of the following associations, which are members of the International Association of Judges and of the European Association of Judges:

ARMENIA	ITALY
AUSTRIA	LATVIA
AZERBAIJAN	LIECHTENSTEIN
BELGIUM	LITHUANIA
BULGARIA	LUXEMBOURG
CROATIA	MOLDOVA
CYPRUS	NETHERLANDS
CZECH REPUBLIC - Proxy to Hon. Pres. Woratsch	NORWAY
DENMARK	POLAND
ESTONIA	PORTUGAL
FINLAND	SERBIA - Proxy to Slovenia
FRANCE	SLOVAKIA - Proxy to Hungary
GEORGIA	SLOVENIA
GERMANY	SPAIN
GREECE	SWEDEN
HUNGARY	SWITZERLAND
ICELAND	UKRAINE
IRELAND	UNITED KINGDOM
ISRAEL	

The Deputy Secretary-General Gargiulo carried out a check on votes and proxies: 37 members were present (in attendance or by proxy). There were three proxies: from the association of Czechia to the Honorary President Woratsch; from the association of Serbia to the association of Slovenia; from the association of Slovakia to the association of Hungary.

The EAJ President, Mr. Igreja Matos, thanked the Honorary Presidents and the President of the IAJ for their participation in the meeting and then gave the floor to Mr. Régnard.

The IAJ President shared his happiness in being again with the European Group of the IAJ and thanked the Moldovan Association for having offered such an occasion to know this beautiful country.

## **1. Approval of the minutes of the Mexico City Meeting**

President Igreja Matos asked whether there were any remarks on the minutes of the meeting held in Mexico City and, having received negative answer, established it as approved unanimously.

## **2. Report of the President**

President Igreja Matos referred to his written report and announced that he would address specifically only few points.

One of the main issues in the past months was dealing with the situation of Turkish judges and prosecutors. In this respect, the President underlined the unresponsiveness of many European institutions, the unexpected lack of cooperation from other legal professions – especially lawyers – to organize a network of legal aid and the problems in organizing a network for humanitarian support in Turkey because of the repression and fear of retaliations. The efforts to help Turkish colleagues were based on three pillars. The first was raising international awareness. In the report are listed several examples of this kind of initiatives. The second was the implementation of the Provident Fund, about which there is a specific item in the agenda. The third one was the support of EAJ to national association interested in taking initiatives to support Turkish Judiciary. In this regard, the Norwegian association was involved in a concrete project and EAJ tried to provide assistance and cooperation.

President Igreja Matos added that Greece formulated a specific request of support, on which the Assembly will focus later during the meeting.

He added that he delivered a speech in the second Congress of Iberian Judicial Associations held in Madrid, with a lecture on the theme of International Arbitration.

He also participated in a seminar organized by the Bulgarian Association with the support and cooperation of Dutch Association of Judges where he delivered a speech on “The role of EAJ in promoting judicial independence”.

President Igreja Matos then mentioned the activities carried out in the context of the project “Judges against corruption” approved by the Central Council in Foz do Iguaçu: the IAJ organized several seminars, mostly in Latin America. The President also announced the presence of Mr. Oliver Stolpe, Senior Program Officer of UNODC in charge of the Global Judicial Integrity Network.

President Igreja Matos then congratulated the European Associations for having completed the monitoring process and told the Assembly that he re-activated the twitter account of the EAJ besides creating his own account as President of EAJ.

The President then underlined that since the meeting in Mexico City in October 2016 the activities of EAJ had been many and very intensive although for some unhappy reasons and he stressed the need of support by, and personal involvement of, all delegates. Threats to the independence of the judiciary are not a problem of the single country concerned, but of the judiciary worldwide.

Finally, he thanked the IAJ General Secretariat for its constant support as well as some colleagues and the members of the Committee for the Provident Fund and then gave the floor to Mr. Thomas Stadelmann to inform the Assembly about points 3 and 4 of the agenda.

## **3. Situation of the judiciary in Turkey and actions undertaken by EAJ**

### **4. Provident Fund of the European Association of Judges**

Mr. Stadelmann informed the Assembly about the main data of the situation of the judiciary in Turkey and about the activities carried out by the Committee of the Fund and by the ONG established in Switzerland to execute the payments (power point presentation enclosed to these minutes).

He recalled the main provisions concerning the aims of the Fund: covering costs for legal assistance and for the maintenance of the families of arrested judges and prosecutors.

The main challenge was the huge quantity of demands from Turkey, amounting to more than 670 email. The Committee created a form in internet where the applicants must answer many questions finalized to ascertain the situation.

As to the expenses for legal assistance, the Committee noted that there were only few available lawyers in Turkey, who were, as a consequence, very expensive, and that there was not an independent judiciary in the country. Therefore, it decided to focus the efforts on the support to families and it fixed some rules to verify that the applicant is one of the judges and prosecutors in the list drafted by the Turkish Government and that his/her family is really in need of financial support. The Fund finances the family with 300 Euro per 3 months. Up to the present day, 17 families were helped, spending about 17,000 Euro. The total amount of donations received up to the meeting in Chisinau was about 86,000 but the Fund should be furtherly implemented with more donations.

President Igreja Matos then gave the floor to the IAJ Treasurer, Mr. Galileo D'Agostino, who informed the assembly about the opening of a special bank account to collect the donations and about the available sum on this account, after the transfer of part of the donations to the ONG.

Honorary President Woratsch took the floor to express his concerns about the true final destination of the money.

Honorary President Reissner read a postcard sent on Christmas by Mr. Mehmet Tank and arrived only few days ago and underlined that the risk that the sums given through the Fund were misused did not justify, in his view, that the EAJ abandoned the Turkish colleagues. He had regular contacts with University professors and other professionals and he knew that it was very difficult to find good lawyers available to take on the defense.

Mr. Schneiderhan (Germany) took the floor to underline that it was important to help Mr. Stadelmann, who could no more manage all alone the huge amount of requests arriving every day. He also stressed the importance of sustaining the families of Turkish judges, obviously not forever and not for unnecessary goods.

President Regnard highlighted the courage of Turkish colleagues, who were put in jail because they dared defending the independence of the judiciary. He said that the grounds for the support to the families of arrested judges could be found in the IAJ Constitution, whose art. 3, par. 1.b, lists, among the aims of the Association, the safeguarding of the "moral standing of the judicial authority", while par. 2.e says that this aim may be pursued "in any other way approved by the Central Council".

Mr. Edwards, in his capacity as member of the Committee of the Fund, took the floor to inform the Assembly about the way of working of the Committee. It applied due diligence in verifying the applications, to be sure that they were genuine and that the funds were used for the purpose for which they were provided. It was a "reasonable" due diligence, not perfect, because of the circumstances. The Committee could rely on public records about the judges involved and on an unofficial network that provided it with information, it requested supporting documentation and received good documents (identity documents, birth certificate of children, rent receipts...).

Honorary President Woratsch underlined that the IAJ Central Council authorized the EAJ to establish the Provident Fund, but art. 2 of the Regulation of the Fund does not mention, among the aims of the Fund, the economic support to families.

President Igreja Matos said that the Committee was aware of the criticalities mentioned by Mr. Woratsch, but underlined that at present only the EAJ was trying to give some kind of support to the Turkish arrested colleagues. He said that while the Committee must use the utmost attention in choosing the beneficiaries, the members of the EAJ should improve their efforts and increase the amount of donations.

He then made the Assembly two proposals.

The first one concerned an assistant for Mr. Stadelmann and the Fund Committee. Mr. Stadelmann already found a person available, who is Turkish and therefore able to help with translations. An aid was necessary because the Committee suspended its activities because of the huge amount of requests and documents to deal with. President Igreja Matos asked the Assembly to give mandate to the Committee to find a solution for the financing of this hiring.

The second proposal concerned the proposition made by some Austrian colleagues to help the Committee on a very preliminary assessment of the requests. These people would cooperate with the Fund Committee, without becoming members of it.

The assembly approved the two proposals unanimously.

### **5. Universal Charter of Judges - Debate about Final Drafting**

President Igreja Matos gave the floor to the IAJ President, Mr. Christophe Régnard, in his capacity as Chairman of the working group in charge of the updating of the Charter. Mr. Régnard summarized the work done and briefly presented the project. He then asked whether there were objections or proposals of amendment of the text and, having received a negative answer, announced that the draft will be discussed and voted by the IAJ Central Council in its meeting in Santiago de Chile, in November this year.

### **9. Monitoring Procedure**

President Igreja Matos told the Assembly that all the 43 active Member Associations of the EAJ filled in the monitoring report and congratulated the EAJ for the result.

### **10. Cooperation with Council of Europe (CEPEJ)**

President Igreja Matos announced to the Assembly that unfortunately Ms. Duval, who represented the EAJ in the meetings of CEPEJ, could not come to Chisinau due to health reasons, but her report was distributed to all member associations.

He stressed the conclusions of her written report, where she underlined the importance of participating and coordinating with the work of the members of CEPEJ who are also involved in the IAJ. President Igreja Matos then encouraged other delegates to get involved in following the works of CEPEJ.

### **12. Participation of EAJ Delegates in European Institutions**

Vice-President Sessa said that even if CEPEJ discusses mostly technical arguments there is still space to examine principle questions, but its works are misused by European and national authorities. Many persons are involved in other international institutions dealing with the judiciary and it is important to share information.

Mr. Schneiderhan took the floor referring to the CEPEJ report titled “quality of justice”, which is based on lots of statistics while quality of justice has nothing to do with statistics.

Mr. Simon Picken (UK) took the floor in his capacity as UK representative in ENCJ to emphasize that the Network does not consider statistical data but establishes standards and principles about the way of performing the job of judges, with a judge-led approach. He also offered to represent the EAJ in the Network.

Mr. Sessa then informed the Assembly about the fact that the Secretary-General of the Council of Europe was finalizing his report on the state of justice in the European countries. He suggested the national associations to prepare a short report on their respective countries that the EAJ could collect in a document for the Council.

President Igreja Matos encouraged the largest participation possible taking into account the time constraints (there was only a week remaining).

### **7. Working Group “Ways to Brussels” - Report of the President**

Mr. Schneiderhan told the Assembly that professional commitments prevented him to take more initiatives in the last months. He pointed out that among the major issues there were the future legal relationships with the UK, after Brexit, and the ongoing discussion on the quality of justice.

Honorary President Reissner added that it was difficult to be updated on the latest version of the documents under discussion in Brussels. He then focused on the development of the jurisdiction of the EU with respect to that of member States and proposed this as a topic for debate in the next sessions of the EAJ.

After the lunch break (from 13:00 to 14:00), the Secretary-General Mr. Oberto joined the meeting and President Igreja Matos introduced the representative of UNODC, Mr. Oliver Stolpe, to the Assembly.

## **8. Cooperation with UNODC: Global Judicial Integrity Network**

Mr. Stolpe expressed his deep gratitude to Mr. Druta for hosting the meeting and to President Régnard and President Igreja Matos for having invited him.

He then delivered a speech about the “Judicial integrity” project (power point presentation enclosed to these minutes).

President Igreja Matos thanked Mr. Stolpe for his precious intervention.

## **6. Working Group on the Situation of the EAJ’s Member Associations**

### **6.1 - Report of the President**

### **6.2 - Situation of the judiciary in different countries**

### **6.3 - Debates on the draft ECHR-Protocol on judicial independence**

### **6.4 - Criticism against Judicial Decisions: the “Hate Speech”**

President Igreja Matos read the draft letter addressed to the Prime Minister of Slovenia. Vice-President Sessa said that the matter was not clear and suggested adding few lines to contextualize the letter, especially for those reading it on the IAJ web site. President Igreja Matos replied that the letter would only be sent to the authority in Slovenia and not be published in the website.

The Assembly approved unanimously the document (enclosed to these minutes).

President Igreja Matos then gave the floor to Mr. Kasimis (Greece), who explained the Assembly that the Greek Supreme Court had turned down a Turkish demand to extradite eight military officers who fled in the aftermath of the coup attempt of July 2016. The court ruled against the extradition of any of them, because of possible violations of human rights if they were sent home. The Turkish Government protested the decision, saying that it weakened the fight against terrorism and had been taken with a political motive. Mr. Kasimis added that the Turkish statement explicitly mentioned the consequences for Greece as regards the issue of refugees.

President Igreja Matos then read the draft of the resolution on this case, which described the facts, quoted the wording of the Turkish Government and alluded to the risks of political retaliations from Turkey over Greece. A debate started within the Assembly and Honorary Presidents Reissner and Tratnik said that the document had a strong political content, while the goal of the EAJ was to give support to a national judiciary and not to condemn other countries.

The IAJ President, Mr. Regnard, stressed that there was no more rule of law in Turkey and that local judges would have decided under threats to their personal integrity. Turkish threats to Greece were just an example of what will happen in the future in similar cases to other countries hosting Turkish fugitives. The Greek Supreme Court just reaffirmed the European standard that prohibits extraditing people to countries where there is the death penalty. The resolution was a sort of warning both to Greece and to Turkey not to use the immigration problem as a justification for undue pressures over jurisdictions.

President Igreja Matos said that during the coffee break the WG would redraft the resolution and gave the floor to Mr. Gass to illustrate the draft Protocol to the European Convention on human rights, enclosed to his written report.

Honorary President Reissner congratulated the WG for the project but asked to consider also an important issue that is the vetting of judges in some countries whenever the government changes. After the coffee break, President Igreja Matos read the new version of the resolution on Greece. Answering a question of Honorary President Tratnik, Mr. Kasimis explained that there were no internal criticisms on the Supreme Court’s judgements. Lord Eassie and Mr. Picken (UK) expressed some perplexity on the usefulness of the new resolution, since it did not affirm anything in particular and did not explicitly refer to Turkey. Mr. Edwards (Ireland) added that there was no

need to express support to the Greek Supreme Court, since it ruled with no constraints. Mr. Stadelmann pointed out that there had been not enough time to study the issue and prepare an adequate text. The Greek delegate insisted in the importance of this resolution.

After the debate President Igreja Matos called for an open vote: there were five contrary votes (Azerbaijan, Czech Republic, Ireland, Netherlands, UK) and two abstentions: Slovenia and Switzerland. A clear majority approved the resolution (enclosed to these minutes).

### **11. Future meetings: EAJ 2018 (Berlin – Germany)**

Mr. Schneiderhan (Germany) took the floor to briefly illustrate the Assembly about the preparation for the 2018 springtime meeting of the EAJ, that will take place in Berlin from 24 to 26 May 2018.

### **13. Miscellaneous**

Mr. Thomas Stadelmann took the floor to remind the European Associations their duties under the project “Intervention concept”, underlining the importance of communicating to the EAJ Presidency the contact details of national stakeholders.

Mr. Druta, President of the Moldovan Association, took the floor to thank the staff and the interpreters who guaranteed an efficient support to the Presidency, the Secretariat and the Assembly.

The Polish delegate, Mr. Bogolan Isdry, took the floor to illustrate the situation in his country and initiatives like the proposal for a scattered constitutional control, according to which judges who disagree with the rulings of the Constitutional Court would not implement the sentence, and for a shadow council of the judiciary.

President Igreja Matos offered the support and collaboration of the EAJ.

President Igreja Matos then thanked the Moldovan Association for the perfect organization of the event and closed the meeting at 17.00.