



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

FOZ DO IGUAÇU (BRAZIL)

Session of Sunday 8<sup>th</sup> November 2014

The meeting was chaired by Mr. Christophe Regnard, Vice President of the IAJ and President of the European Association of Judges – Regional Group of the IAJ. In attendance were the IAJ President, Mr. Gerhard Reissner, the Vice President Mr. José Manuel Igreja Matos, the Honorary Presidents Mr. José Maria Bento Company, Mr. Ernst Markel and Mr. Günter Woratsch, the Secretary-General Mr. Giacomo Oberto, the Deputy Secretary-General Mr. Lucio Aschettino, 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:

ARMENIA - Proxy to Georgia	ITALY
AUSTRIA	LIECHTENSTEIN
AZERBAIJAN	LITHUANIA
BELGIUM	LUXEMBOURG
BOSNIA AND ERZEGOVINA	MOLDOVA
CROATIA	NETHERLANDS
CZECHIA - Proxy to Austria	NORWAY
DENMARK	POLAND
ESTONIA	PORTUGAL
FINLAND	SERBIA
FRANCE	SLOVAKIA - Proxy to Hungary
GEORGIA	SLOVENIA
GERMANY	SPAIN
GREECE	SWEDEN
HUNGARY	SWITZERLAND
ICELAND	TURKEY
IRELAND	UKRAINE
ISRAEL	UNITED KINGDOM

The EAJ President, Mr. Christophe Regnard, opened the meeting of the EAJ at 9.00 a.m..

**1. Approval of the minutes of the Limassol Meeting**

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

**2. Report of the President**

President Regnard referred to his written report, which had been distributed, in English and French, to all member associations, underlining that many of the topics will be discussed under other items of the agenda. He briefly mentioned the relationships between the EAJ and the European institutions and informed the Assembly about the enforcement of the decisions taken in Cyprus. Finally, he cited his travel to Turkey with Mr. Van Iseghem, his participation in the congress of the Portuguese association and in the Presidency Committee's springtime meeting.

He asked whether there were comments or remarks on his report and, having received a negative answer, passed onto the following point of the agenda.

### **3. Working Group “Ways to Brussels”**

#### **- Report of the Chairman of the Working Group**

#### **- Discussion and adoption of documents relating to the European public prosecutor and the UE Justice program 2014-2020**

Mr. Schneiderhan, Chairman of the WG, took the floor and informed the Assembly about the fact that the WG had not received any comment on the documents presented in Limassol. The paper on the European Public Prosecutor may, therefore, be adopted during the present meeting, with some small changes already communicated to the EAJ President and consequent to some amendments occurred in the meantime.

As to the justice agenda, Mr. Schneiderhan suggested to observe the new structure of the Commission where a delegation for justice and consumer protection has been established.

Mr. Regnard said that the documents drafted by the WG will be distributed among the delegates for their examination in the afternoon.

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

#### **- Report of the Chairman of the Working Group**

#### **- Information about the situation in different countries (Turkey, Slovakia...)**

Slovakia: Mr. Gass summarized his written report. He said that recently the WG was contacted by the association of Slovakia which asked for an opinion on the amendment to the Constitution approved by the Parliament in June this year, interfering with the independence of the judiciary. Since the association did not send its delegates to the meeting, Mr. Gass proposed to adjourn the definition of the question until the EAJ will be able to know if the association needs a resolution. President Regnard underlined that the situation is urgent and asked whether there was any recent news.

Honorary President Woratsch said that a new President of the Slovak Supreme Court was recently appointed and that, in the next weeks, elections for the High Council of the Judiciary will be held and the former Court’s President will run for membership in the Council.

President Reissner added that the amendment was under examination before the Constitutional Court and added that, in his opinion, there were reasons for optimism about the results. He said that, taking into consideration this information, there was no need to wait before adopting a resolution.

Vice-President Igreja Matos noticed that the question concerned the application of international standards about which an international institution (the CCJE) already gave its advice. There were grounds, therefore, for an intervention of the EAJ.

Mr. Gass said that the WG will prepare a short opinion along the CCJE’s advice and President Regnard proposed to discuss the document on Thursday morning, after the election of the EAJ board and of the members of the WG.

Turkey: Mr. Gass then referred to the situation in Turkey and to the letter addressed by the Under-Secretary of State to the EAJ President. The WG proposed to answer the letter without going into the matter of each statement but underlining the major threats to the independence and stressing the international standards about it.

President Regnard then gave the floor to Mr. Van Iseghem, who reported on the mission they made to Turkey. They were received by the President of the Constitutional Court who, although not being member of Yarsav, admitted that the irregular procedures denounced by the association had taken place. Mr. Van Iseghem and President Regnard met also other judges and prosecutors and received the same information. They asked to meet governmental authorities but were not received. They gave a press conference and the news concerning the travel of EAJ representatives was relayed in the country.

President Regnard then added some words on the elections for the High Council. The governmental candidates had means for their campaign and direct access to the mobile phones of judges (through the Ministry of Justice) to make their propaganda. Also, the Government

promised, should its candidates have been elected, an increase of 30% in the salary and the annulment of disciplinary proceedings. The scrutiny itself was a problem: Yarsav had proposed to count the votes at least at level of Courts of appeal but votes were instead counted in each tribunal and, as a consequence, in small courts it was possible to know who had voted each candidate.

Mr. Aslan (Turkey) took the floor to explain the situation and he underlined that for the Turkish association it was important to attend the EAJ meeting and to have the chance to share their concerns with European colleagues. He thanked President Regnard and the WG for their visit to the country on the occasion of the elections and expressed his appreciation for the idea of sending a letter to the Minister of Justice. He underlined that the communication sent by the Under-Secretary to the EAJ President about the efficacy of recent amendments to the Constitution was contradicted by international institutions and NGOs. He added that prosecutors investigating on corruption among government members were referred to the High Council and that the High Council, controlled by the government, appoints the presidents of courts. Finally, he underlined that in the country there is a serious problem with the freedom of the press and the access to information and that the population cannot accede to genuine news.

Mr. Zuccarelli (Italy) underlined that the fact that the Under-Secretary had considered necessary to answer the letter of the EAJ President was an excellent result for the EAJ. As to best form to reply, he suggested that the right addressee was the Minister and not the Under-Secretary.

President Regnard underlined the relevance of this first mission in loco, which proved to be a useful tool to deal with this kind of problems. He then thanked the Turkish colleagues for their welcome and for their fight to protect the independence of the judiciary, core of the EAJ mission.

President Regnard added that he had contacted EU and CoE authorities to ask which measures had been taken towards Turkish government and the answer had been that they were monitoring the respect of European standards. He also met the French ambassador who explained that the reason why the EU is not opening negotiations on chapters 23 and 24 (concerning justice) is linked to the dispute between Turkey and Cyprus on the non-enforcement of the ECHR's decision on the compensations due to Northern Cypriots.

Mr. Schneiderhan noted that Turkey is not an EU member and therefore art. 6 of the Treaty does not apply. The people responsible of the accession procedure do not feel responsible for the situation of justice in the country. The EAJ could consider involving the European Parliament.

Mr. Sessa said that involving the EU Parliament would be useful only if Turkey was really interested to accede to the Union, which is not sure at all.

President Regnard noted that this could be an occasion for the two permanent WGs of the EAJ ("Ways to Brussels" and "situation of member associations") to cooperate sharing contacts and contents.

Vice-President Igreja Matos proposed to adopt a resolution of support stating that the European associations sustain their Turkish colleagues in the struggle for the independence of the judiciary.

President Regnard, having taken note that there were several proposals about how to deal with the situation in Turkey (addressing a letter to the Minister of Justice, involving the European Parliament and the Council of Europe, drafting a resolution, encouraging actions by the other national associations) decided to charge the WG to make a proposal, on Thursday morning, on the best attitude to be adopted by the EAJ.

Greece: Mr. Gass then dealt with the situation in Greece referring to his written report. The association requested support about the salary question at the end of October and the WG could not deal properly with the issue before the meeting in Foz.

Ms. Thanou-Christofilou explained the Assembly that the salary of judges were reduced of about the 20% for three times in the last three years and announced that the Greek association would appreciate a resolution.

Mr. Gass underlined that the main issue was the problem of the enforcement of law and that the right approach would have been to draft a letter of this tenor.

Mr. Almpouras replied that the issue at stake was not the enforcement of a law but the retroactive drawing on judges' salaries for a substantial amount and he added that the Greek executive power does not respect the Constitution and the judges.

President Regnard noted that when the EAJ adopts a resolution it usually makes reference to international principles and standards and he suggested to draft a letter recalling constitutional principles and the importance of the respect, by State authorities, of Constitutional Court's decisions.

Ms. Boljevic (Serbia), although stressing the importance of EAJ praxis, suggested to take into consideration what is considered more effective by the local association and she therefore proposed to draft a resolution.

Mr. Almpouras wondered what would happen if the government does not answer to a letter and he stressed again that the core question was the role of judges in the society and not the concrete sum of money. He added that the question was urgent because at the end of November the Parliament will vote the financial act.

Ms. Murphy (Ireland) proposed to draft a letter to Greek authorities mentioning the possibility of a further intervention of the EAJ in the form of a resolution if the situation will not improve.

President Regnard, having taken note that besides a resolution the EAJ would not have other more powerful instruments, proposed to draft a letter inviting the authorities to respect the decision of the Constitutional Court. The Assembly approved.

Portugal and East Timor: President Regnard then gave the floor to Ms. Costeira (Portugal) who informed the Assembly about the situation in East Timor. The country, a former Portuguese colony later occupied by Indonesia, is independent since 2002. The official language is Portuguese and since the independence the government asked to Portuguese speaking countries to provide support sending officers in courts, prosecutors and judges. At present, Portuguese judges teach in the school for the magistracy and work in local courts. East Timor's Constitution envisages the separation of powers and there is a High Council of the Judiciary which appoints and removes judges and has disciplinary power. Some months ago some proceedings were started concerning politicians and, as a consequence, fifteen days ago the Parliament decided to suspend the international cooperation and to expel about 50 persons involved in the treatment of these cases, among which 7 Portuguese judges. It was opinion of the Portuguese association that the Parliament had not the power to adopt such a measure and to decide that Portuguese judges were not qualified enough to treat these cases. The association therefore asked for a statement by the EAJ and the IAJ.

After a debate to which took part Mr. Edwards (Ireland), Ms. Van de Schepop (the Netherlands), Mr. Gass, Mr. Zuccarelli (Italy) and Lord Eassie (UK), the Assembly decided that the issue fell under the competence of the IAJ Central Council and that the EAJ could put at its disposal the skills of the WG on the situation of national associations.

## **5 . Information on the monitoring procedure of the members associations**

President Regnard summarized the provisions of the IAJ Constitution concerning the periodic monitoring procedure and underlined that the ad hoc questionnaire must be mandatorily filled by IAJ member associations which, otherwise, risk losing their membership. President Regnard informed the Assembly about the calendar of the monitoring and the rules of procedure for the monitoring Commission established by the Presidency Committee and distributed to member associations.

## **6. Elections of EAJ members of the special commission in charge of the monitoring of members associations**

President Regnard asked the Assembly to appoint two of the members of the monitoring Commission who will seat on behalf of the EAJ and informed the delegates that the Chairman will be designated by the Presidency Committee after the elections.

Mr. Juenemann (Germany) said that after the amendment to art. 7.4 of the EAJ Statute adopted in Limassol there could be incompatibility between the membership in EAJ WGs and in IAJ WGs.

President Regnard noted that the provision ex art. 7.4 refers to “official functions within the EAJ” and the monitoring Commission is not a WG of the EAJ. He then added that in his opinion it would nevertheless be inappropriate that the members of the Commission belong also to a WG.

He then asked the delegates whether there was any candidature to be member of the Commission: Mr. George Almpouras (Greece) and Mr. Fausto Zuccarelli (Italy) declared their availability and they were elected by acclamation representatives of the EAJ within the monitoring Commission.

President Regnard then passed onto point 8 of the agenda.

### **8. Debates on the proposed modifications of IAJ statutes**

President Regnard gave the floor to Secretary-General Oberto, who illustrated the scope and content of the proposed amendments.

President Regnard, after having noted that the General Secretariat received no comments so far, asked the delegates whether they had any remarks.

Honorary President Woratsch expressed his concern about the possibility that the same delegate receives two proxies, saying that it might cause, on one side, a reduction of interest in the participation to IAJ meetings and, on the other, too powerful delegates.

President Regnard answered that these concerns were examined by the PC, which considered of the utmost importance to facilitate the participation of member associations in the life of the IAJ and believed that the multiplication of proxies could be a useful step in this direction. The main problem, in fact, is that delegates to annual meetings have the tendency to leave before the last session of the Central Council, therefore diminishing the number of IAJ members represented in the Central Council and causing problems in reaching the requested quorum for the approval of deliberations.

President Regnard then added some words on the standard form report for the periodic monitoring of associations, which is inspired to the questionnaire for applicant associations. There are some slight linguistic changes to be made in the French version but they will not change the meaning of the text.

### **7. Discussion and adoption of documents relating to the EAJ questionnaire “What situation for Justice in Europe ?”**

President Regnard recalled the establishment of a WG charged to report on the situation of justice in Europe and to draft a final document to be approved during the present meeting in Foz. Unfortunately there were no final documents ready for adoption because the WG received few answers to the questionnaire. At the same time, postponing the adoption to the 2015 spring meeting in Poland would not have any sense, because the report refers to 2014.

President Regnard proposed to ask the WG to finish its work by the end of November – first days of December. The draft will then be distributed by email to EAJ members, which will make their comments. Then the report will be approved by the Board of the EAJ.

The Assembly approved.

### **9. Debates on the four topics chosen by the IAJ-PC as central working areas for the period 2015 to 2017**

President Regnard informed the Assembly that the auspice of the IAJ President was to increase the visibility of the IAJ on the international scene and that the Presidency Committee would appreciate to receive the feedback of the Regional Groups on the draft working program.

### **10. Preparation of the elections of the IAJ Presidency Committee**

President Regnard underlined that the issue of candidature for the Vice-Presidency of the IAJ is a delicate one: in the last occasion, in Washington, the EAJ presented six candidates for three posts available. This was an asset in a democratic perspective, although perhaps not pertinent in practice. President Regnard recalled that the deadline to present the candidatures was fixed on the following day and asked the interested people to prepare the relevant papers. He finally

informed the Assembly about two candidatures - his own and that of Vice-President Igreja Matos.

He recalled that Vice-President Valancius, having reached the limit number of four mandates, will not propose his candidature and thanked him for the work done as member of the IAJ Presidency Committee and former President of the EAJ.

Honorary President Merkel took the floor to underline that the EAJ should do any effort to keep its position in the IAJ and should express a candidate for the post of First Vice-President of the IAJ. Mr. Juenemann (Germany) took the floor to say that instead of running for the First Vice-President the EAJ should give a chance to the ANAO Group.

Ms. Zila Zfat (Israel) announced her candidature.

Mr. Đuro Sessa (Croatia) announced his candidature.

Ms. Judstrom (Finland) nominated Mr. Mikael Sjoberg (Denmark).

### **11.Future meetings: EAJ – Poland 2015**

Ms. Marszalkowska (Poland) took the floor to announce that the 2015 spring meeting of the EAJ will be organized in Gdansk from 14 to 17 May. President Regnard thanked her recalling the perfect outcome of the meeting held in Cracow in 2009.

President Regnard gave the floor to Mr. Oleg Prizianjuk (Ukraine) to report on the situation in his country. Mr. Prizianjuk thanked the EAJ for its support and for the statement adopted in Limassol. He added that the situation in his country was not improving and that the Government paid no attention to the problems of justice and, on the contrary, revoked several decisions adopted by Ukrainian courts, among which the sentence condemning the killer of a judge. Mr. Prizianjuk asked the Assembly to consider the opportunity of sending a mission to his country to ascertain the situation and possibly adopt, during the next meeting, a resolution on well grounded basis.

President Regnard said that the WG on the associations will study the case and will consider a travel to the country. He expressed also his personal availability to participate in the mission, in case he will be re-elected.

President Regnard then referred to national questionnaires disseminated among EAJ members and gave the floor to Ms. Roblek (Slovenia) asking her to refer on the outcomes of the research on insurance for civilian liability. Ms. Roblek thanked the associations which had answered as well as Mr. Gass and Mr. Stadelmann who cooperated in the drafting of the report. The document was also published in the restricted area of the IAJ's website.

President Regnard exhorted EAJ members to answer national questionnaires because they represent an opportunity to make surveys on issues of common interest.

He then gave the floor to Ms. Zfat (Israel) who summarized the answers received so far to the questionnaire on the assistants to judges.

President Regnard then passed to the issue of the manual on human rights. He gave the floor to the assistant to the UN Special Rapporteur, Ms. Luisa Teixeira, who illustrated scope and guiding principles of the initiative, explaining that the questions are linked to specific chapters of the draft manual and underlining that the judges' perspective is really needed to suit the manual to its final users, the judges.

President Regnard then asked whether there was a delegate willing to be member of the commission charged to write the conclusions of the international conference on the environment. Mr. George Almpouras (Greece) declared himself available.

Secretary-General Oberto then illustrated the content of the IAJ website and its functions. Honorary President Woratsch asked whether there was a page dedicated to the Council of Honorary Presidents and Mr. Oberto answered that it will be created as soon as there will be documents to upload.

President Regnard announced that during the next session on Thursday the Assembly will be called to adopt the resolution on Slovakia and the letter to Greek authorities, to reflect on the strategy to cope with the situation in Turkey, to elect the EAJ President and the Chairmen and members of the WGs.

He then gave the floor to Mr. Schneiderhan who thanked the WG for the work done to ameliorate the texts.

He then commented the document on the “justice agenda” that was distributed at the beginning of the session and only needed a slight linguistic revision. President Regnard asked whether there was any remark and, having received a negative answer, proposed the Assembly to adopt it. The Assembly unanimously approved.

Mr. Schneiderhan then commented the document on the European Prosecutor explaining that it had been significantly modified in comparison with the version distributed at the beginning of the session. President Regnard therefore decided to disseminate the text and to adopt it during the Thursday’s session.

### **Second session: Thursday, 14<sup>th</sup> November (after the last session of CC meeting)**

The meeting was chaired by Mr. Christophe Regnard, First Vice-President of the IAJ and outgoing President of the European Association of Judges – Regional Group of the IAJ. In attendance were the Vice Presidents Mr. José Manuel Igreja Matos and Mr. Đuro Sessa, the Honorary Presidents M. José Maria Bento Company, Mr. Ernst Markel, Mr. Gerhard Reissner and Mr. Günter Woratsch, the Secretary-General Mr. Giacomo Oberto, the Deputy Secretary-General Mr. Raffaele Gargiulo, as well as the delegates representing the following members of the European Association of Judges:

ARMENIA	ITALY
AUSTRIA	LIECHTENSTEIN
AZERBAIJAN	LITHUANIA
BELGIUM	LUXEMBOURG
BOSNIA AND ERZEGOVINA	MOLDOVA
CROATIA	NETHERLANDS
CZECHIA	NORWAY
DENMARK	POLAND
ESTONIA	PORTUGAL
FINLAND	SERBIA
FRANCE	SLOVAKIA
GEORGIA	SLOVENIA
GERMANY	SPAIN
GREECE	SWEDEN
HUNGARY	SWITZERLAND
ICELAND	TURKEY
IRELAND	UKRAINE
ISRAEL	UNITED KINGDOM

The outgoing EAJ President, Mr. Christophe Regnard, opened the session at 1.40 p.m., congratulating Mr. Igreja Matos and Mr. Sessa for their election as IAJ Vice-Presidents and thanking Ms. Zfat.

### **12. Election of the EAJ president**

Secretary-General Oberto announced that there were no other candidates for the post of EAJ President besides Mr. Regnard. First Vice-President Regnard was elected by acclamation President of the EAJ. He thanked the Assembly for its renewed confidence in him.

President Regnard then noted that according to art. 5, paragraph 3, of the EAJ Statutes he may appoint two other persons, besides the European IAJ Vice-Presidents, to be members of the EAJ Board and he designated Ms. Zila Zfat and Mr. Mikael Sjoberg.  
Mr. Sessa took the floor to thank the Assembly for his election.

### **13. Election of the members and presidents of the working groups**

President Regnard invited the Assembly to elect the members of the permanent WGs established by art. 7 of the Statutes and he underlined that there were no limits as to the number of their components.

The elected members of the WG “Ways to Brussels” were Mr. Peter Schneiderhan, Ms. Viviane Lebe Dessard, Ms. Celine Parisot, Mr. John Edwards, Ms. Dorota Marsalkowska, Mr. Ronald Mckay and Mr. Nicholas Blake. Upon proposal of Mr. Regnard the Assembly unanimously elected Mr. Schneiderhan as Chairman of the WG.

The elected members of the WG on member associations were Mr. Stephan Gass, Mr. Erik Meelis, Mr. Antonio Latas, Mr. Ronald Mckay, Mr. Lothar Juenemann, Ms. Janja Roblek, Mr. Thomas Stadelmann, Mr. Pol Van Iseghem, Mr. Reiner Van Zutphen and Ms. Catherine Murphy. Upon proposal of Mr. Regnard the Assembly unanimously elected Mr. Gass as Chairman of the WG.

President Regnard then mentioned a problem of interpretation of the provision ex art. 7, paragraph 4, of the Statutes aiming at prohibiting multiple appointments. He explained that the scope of the provision was to avoid that members of the Presidency Committee are also members of the WGs. The question now was whether it was possible to be elected members of two WGs. The Assembly decided that the provision should be interpreted in the sense of allowing this possibility.

President Regnard asked whether there were other candidatures and Ms. Lebe Dessard was elected member of the WG on member associations.

President Regnard then asked whether there were comments on the documents drafted by the WG Ways to Brussels. Having received negative answer, he declared the documents adopted.

President Regnard then passed onto the examination of the documents concerning the situation in specific countries.

Mr. Gass took the floor to explain the content of the draft letter to the Turkish Ministry of Justice. Ms. Boljevic (Serbia) suggested sending a copy of the letter to the European Commission and President Regnard said that he will send it to the Council of Europe and to the European Union. Mr. Tank took the floor to thank the WG, the Assembly and the Board of the EAJ.

Mr. Gass then summarized and explained the resolution on the situation of Slovakia. The Assembly unanimously approved the document. Ms. Halasz (Hungary) took the floor to thank the Assembly on behalf of the Slovak association.

Mr. Gass then explained the content of the letter to be addressed to the Greek Prime Minister. The Assembly unanimously approved. Mr. Almpouras (Greece) took the floor to thank the Assembly.

### **14. Miscellaneous**

President Regnard congratulated the association of Azerbaijan which concluded positively its evaluation process.

He then closed the session at 4.20 p.m.