



The President

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**Report of the President of the European Association of Judges
November 2014 – April 2015**

1 – General

The decisions adopted in Foz de Iguacu have been implemented. The resolutions have been sent to the relevant national authorities (Greece, Slovakia, Turkey) and, in the case of Slovakia and Turkey, to the European authorities (see below).

The minutes of the EAJ's meeting in Brazil were distributed to all member associations in February 2015.

Immediately following the convention in Foz, a joint work proposal was submitted by the Secretary General of MEDEL. In pursuance of the decisions adopted in July 2014 by the Presidency Committee of the IAJ, the proposal was not considered any further.

I also sent emails to express our solidarity to our colleagues from Tunisia, Italy and Turkey after the terrorist attack in Tunis and the murders of prosecutors in Italy and Turkey.

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 December 11 and 12, 2014, I attended the 24th plenary session of the CEPEJ in Strasbourg.

The CEPEJ is well known for its report on the legal systems of Europe, which is published every other year. Its last report based on figures from 2012 was published in October 2014. It is available on:

http://www.coe.int/t/dghl/cooperation/cepej/evaluation/default_fr.asp

The report was commented on the occasion of the Strasbourg meeting. The coverage and media repercussions in the various countries were also discussed at length.

The CEPEJ also adopted several documents which lay down guidelines for “the organization and accessibility of court buildings”, “the role of experts” or “the management of judicial time”. This last document which was till then mainly dedicated to judges, has been updated to introduce provisions on the judicial time of prosecutors and incorporate the specificities of criminal procedure.

At the request of the European Association of Clerks and Rechtspfleger (EUR), some thought is being given 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.

The CEPEJ also works together with the European Union. Work is currently under way with the Fundamental Rights Agency of the European Union regarding the drafting of a “Manual on access to Justice in Europe”. The CEPEJ also contributes to the “Justice scoreboard” which should be published by the European Union and will give an overview of Justice and its main difficulties in the 28 Member States.

2.1.2 – The Consultative Council of European Judges (CCJE) and the Consultative Council of European Prosecutors (CCPE)

The Consultative Council of European Prosecutors (CCPE) has carried on with its work on the preparation of European standards aiming at ensuring the prosecutors’ independence and creating a “magna carta” of Prosecutors just like the Consultative Council of European Judges (CCJE) did in 2010.

After publishing its last opinion on the evaluation of judges, the CCJE undertook to update its opinion no. 1 on relations between the executive, legislative and judicial powers in a democracy.

The EAJ continues to be invited to the meetings of the CCJE as an observer. To avoid increasing expenses, the EAJ is represented by Gerhard Reissner, President of the IAJ.

2.1.3 – 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.

Over the past 6 months, I have received many emails and invitations to conferences, but once again without any relation to judicial problems.

I have therefore not attended. Like last year, we have not given any positive answer to the request for subsidy.

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However, I have replied to the new President of the Conference, Mrs. Anna Rurka, who would like to be informed of the priority issues dealt with by our organization, of the themes on which we would like to work with the Conference, and also of the actions which, in our opinion, should be undertaken. I have insisted on the judicial issues (independence, funding, access to law, ...) and on the matters related to the action plan adopted by the IAJ in Foz de Iguazu (environmental law and corruption).

2.2 – European Union

2.2.1. “Ways to Brussels” working group

In Limassol, the EAJ had adopted a statement which laid down the general framework of our concerns regarding two topics (the European public prosecutor and the 2014-2020 EU program), and entrusted the working group with the finalization of the written remarks to be submitted to the EAJ’s Presidency Committee prior to their distribution.

The documents were finalized during the meeting in Brazil and adopted by the General Meeting. They were circulated to the European Authorities and are available on the IAJ’s website.

2.2.2. The European Networks of Councils for the Judiciary (RECJ) and the French-speaking Network of Councils for the Judiciary (RFCMJ)

The EAJ is an observer at the RECJ, but over the past few years our organization has been infrequently approached by the network.

I was recently elected to the French Supreme Council of the Judiciary and as such I can now attend the meetings of the European Network of Councils for the Judiciary. The RECJ met on several occasions (in Bucarest, Madrid, Lisbon, Brussels) and the next plenary meeting will take place in The Hague in early June.

The network is currently working on the independence and responsibility of Justice. It consists, in 17 Member States of the network, in assessing both notions via indicators created by the very network and in conducting opinion polls among judges. The ultimate goal is to propose a methodology for discussion with Member States where the results of the surveys have highlighted shortcomings. Another issue is that of standards regarding disciplinary sanctions against judges. The purpose is to define minimum standards regarding good practices and to create relevant indicators to assess them.

Simultaneously, a French-speaking network of councils for the judiciary was created at the initiative of the Supreme Councils for the Judiciary of France, Quebec, Lebanon and Senegal. The network, which is currently comprised of some twelve members including several European countries, will organize a conference in Paris in November on the composition and powers of Supreme Councils for the Judiciary.

2.3 – The European Court of Human Rights (ECHR)

On January 30, 2015 in Strasbourg I attended the official opening of the year at the European Court of Human Rights. Prior to the ceremony, European stakeholders gathered for a seminar on “Subsidiarity: a two-sided coin?”

3. Working group on the status of member associations

Since the previous meeting of the EAJ in Foz, I have referred to the working group regarding the situation in:

- Montenegro

On January 28, 2015, the President of the Association of Judges of Montenegro informed the member associations of a bill on wages and salaries in the public sector, which induced consequences for judges.

After getting directly in touch with colleagues in Montenegro, I referred to the working group on February 5, 2015 in order that a draft letter to the authorities of Montenegro may be contemplated to convey our concern regarding international standards and in order that a more comprehensive study of the situation may be undertaken.

A report on the situation will be submitted during the convention in Gdansk in order that decisions may be adopted.

4. Difficulties encountered in various European countries

- Slovakia

The situation of Justice in Slovakia has already been considered on several occasions over the past few years (see the previous reports).

A resolution was adopted in Foz and sent to the Slovak Authorities and to the European institutions.

I have received an answer from the Venice Commission informing me that the resolution had been forwarded to the persons in charge of the situation in Slovakia. Mrs. Knaul, the UN representative and Mr. Bart Van Lierop, the President of the CCJE, have extended their thanks for the EAJ's work.

- Turkey

Further to the report on the mission conducted in Ankara by Pol Van Iseghem and myself, it was decided in Foz to send a letter to the Minister of Justice of Turkey in reply to the letter sent by the Under Secretary of State for Justice.

The above letter was also sent to the European authorities. The President of the ECHR has replied, expressed his concern and stressed the need to conduct more comprehensive investigations in order to better capture the reality of difficulties in Turkey. The President of the Venice Commission has shared with me that he very closely follows the developments in Turkey.

The letters prepared in Brazil have also been sent to the new members of the High Council of Judges and Prosecutors. In March, I received 13 letters signed by 12 members of the High Council and by the undersecretary minister of Justice (member ex officio of the Council). They were all on the same model. Only the signature was different. These letters clearly shows the dependence of a majority of the members of the High Council vis-à-vis the Turkish government.

The situation in Turkey seems to have kept on deteriorating since the beginning of 2015. According to a recent communication from the President of YARSAV, a new bill seems to

transfer part of the prosecutors' duties to the police. The situation will be considered again in Gdansk.

- Ukraine

A resolution supporting the Ukrainian judges was adopted in Limassol. It stressed the fact that, in conformity with European and international standards, the security and safety of judges must be maintained and are instrumental to the independence of Justice.

In December 2014, the Venice Commission submitted an interim report which was very critical of the lustration laws adopted in April and October of 2014.

In conformity with the decisions adopted in Foz de Iguacu and in the continuation of the report, a mission comprised of Stephan Gass, Meelis Eerick and myself went to Kiev from March 22 to March 24, 2015.

We had the opportunity to meet the President of the Supreme Court, Mr. Yaroslav Romaniuk, and many judges of the various hierarchical levels, then Mr. Ruslan Kniazevych, President of the parliamentary committee in charge of law, police and justice matters. We were also received at the Ministry of Justice where we met Mr. Gia Getsadze, Vice-Minister of Justice, and Mrs. Tetiana Kozachenko, Director of the lustration department. Finally a press conference was organized.

A detailed report will be prepared and discussed during the convention in Gdansk.

- Luxembourg

In Limassol, the representatives of Luxembourg informed us of difficulties pertaining to the existence of an act bearing prejudice to the principle of irremovability.

A letter was sent to the Minister of Justice of Luxembourg in order that such legislative anomaly should be remedied.

I received an answer at the end of November. It merely indicates that the matter is under the responsibility of the Parliament. Concomitantly, the Consultative Council of European Judges, to whom the matter had been referred by the Luxembourg judges, prepared and circulated an opinion by which it was desirable before any reassignment to require the consent of the judge concerned and to give the reasons for and the foreseeable length of the reassignment.

On November 26, 2014, I wrote again to the Minister of Justice and to the President of the Chamber of Deputies to ask for a quick amendment on the basis of the opinion of the CCJE. I have not received any answer to any of these mails.

- Greece

The letter prepared in Foz and asking the Greek authorities to implement the decisions of the Constitutional Court regarding the issues related to the salaries of judges has been sent. I have not received any answer.

In February 2015, I received a letter from the President of the Greek association in which she asked for the EAJ's support to the newly elected Greek administration. A letter sent by our Greek colleagues to the President of the European Commission and explaining the major difficulties encountered by the people of Greece was appended to that request.

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Further to discussions within the EAJ's Presidency Committee, we did not believe it was possible to give a positive answer to the said request which was rather political than judicial and seemed to be foreign to judicial issues and therefore to the EAJ's object, without any prior discussion of the matter between all the member associations on the occasion of a plenary session.

- Other countries

On November 27, 2014, the Norwegian association contacted the member associations regarding rules and practices enabling to deal with all aspects of serious incidents pertaining to the safety and security of judges and their families.

On March 11, 2005, the association of the Republic of Armenia contacted the member associations regarding their experience, in their own countries, of the development of mediation measures, such system having been recently implemented in Armenia.

Both issues can be discussed during the next meeting in Gdansk.

5. EAJ questionnaire on the situation of Justice in Europe

During the convention in Yalta, it was decided to send a questionnaire to all the member associations of the EAJ, to be used as a basis for a conference or at least for a publication, and intended to present the major problems encountered by Justice in Europe and express our claims.

Despite several reminders by email, only 19 of the 44 associations had answered prior to the meeting in Limassol. On that occasion, the importance of the action was stressed and the associations who had not replied yet were induced to do so quickly.

A working group was created to summarize the answers and submit an overall report which was circulated by email to the member associations in early March. The member associations can ask for modifications till April 1.

This work will be sent to the European authorities, and national associations are kindly invited to see to its circulation in their respective countries.

6. The EAJ budget

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

The smallness of the EAJ's annual operating budget (3,000 Euros only) is still a matter of concern now that travels in Europe have multiplied and therefore caused our expenses to increase and now that the French association can no longer provide any funding since I am no longer its President.

7 – The EAJ within the International Association of Judges

7-1. Launching of the 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.

The commission created in Foz, chaired by Vice President Igreja Matos and comprised of two representatives of each regional group (Fausto Zuccarelli and George Almpouras for the EAJ) is to receive the national reports and inform the Presidency Committee of any major difficulty. The national associations must send their reports by April 30, 2015 in any of the 5 official languages of the IAJ. The commission will then draft a general report which will be sent to the Presidency Committee 4 weeks at least before the meeting in Barcelona.

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 to the members of the commission.

7-2. Implementation of the 2015-2018 program

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

The Presidency Committee has considered it in order to implement the various themes. It will be discussed at length during the meeting of the Presidency Committee in Rome in June 12 and 13 of this year.

8 – Next meetings

8-1. Meeting of the regional groups (Spring of 2015)

The IBA Group met in Mexico in mid-April. For timing reasons, I was not able to attend. The EAJ was represented by Vice President Igreja Matos. The African group will meet in Algiers in early June. I have planned to attend. The meeting of the ANAO group which was initially supposed to take place in Taiwan has been cancelled.

8-2. Annual meeting of the IAJ – Barcelona October 2015

The program of the meeting in Barcelona has been circulated by the secretariat general. It is recommended to member associations to register promptly.

8-3 – Next meetings of the EAJ

The association of Israel has offered to host our meeting in 2016. Precisions will be given during the meeting in Gdansk. The association of Moldavia has offered to host our meeting in 2017.

Christophe Régnard