



THE MEANING OF AN EMPTY CHAIR



The international judicial family has been deeply shocked by the events that have been taking place in Turkey since mid-July. The news reports state that around 2,700 judges and prosecutors have been removed from duty and many have been arrested. YARSAV President Murat Arslan, was detained with his wife on 15th July, 2016 (but later released). Many of our other colleagues are still detained and we have been informed that some of them have undergone brutal treatment while in detention.

We have wonderful recollections of the meeting in Istanbul in 2011 which was extremely well organised by our YARSAV friends. A photo of the event is shown above. We are all aware of the remarkable contribution provided by our YARSAV fellow colleagues to the life and works of the I.A.J., in its Central Council, European Association of Judges and Study Commissions.

As soon as the crackdown on Turkish judges and prosecutors was announced by the press on July 16th, the IAJ was the first judicial organisation to react in the strongest possible way. For this reason the Presidency Committee has authorised the E.A.J., together with other international judges' organisations, to take an unprecedented initiative, by promoting the creation of a "Platform for an Independent Judiciary in Turkey."

We have dedicated part of this newsletter to the numerous expressions of solidarity from all over the world to YARSAV and more generally to the Turkish judges and prosecutors. Since July 16th, the IAJ has gathered all initiatives and declarations that show empathy and provide concrete support to our colleagues. A sample of what is set out on the IAJ website is included in this issue of our newsletter.

The I.A.J. and the E.A.J. have been trying to exert a maximum amount of pressure on international organisations. We hope that the Office of the UN Special Rapporteur on the independence of judges and lawyers will accept our invitation to the I.A.J. Mexico City annual meeting, in order to be able to better co-ordinate international activities in this field, under the aegis of UN. The I.A.J. have also put pressure on the Council of Europe, to which Turkey is party, in order to convince its official representatives to take all necessary steps at different levels (we have in mind the field of legal co-operation with Turkey in all the possible domains of justice: from efficiency and CEPEJ to quality of judicial decisions, from rule of law to judicial ethics, from judicial training to procedural reforms, and so on).

Further initiatives must be thought, possibly involving organisms such as the Venice Commission and the European Court of Human Rights. Let me add at this point that personally (without in any way being the official view of the I.A.J.) I feel particularly disturbed that a representative of "this" current Turkey sits in a Court whose task is that of checking and assessing the compliance of long-time democratic legal systems in Europe with ECHR principles.

As a sign of solidarity to our Turkish colleagues, the Presidency Committee has decided that a place will be reserved for Turkey at the meetings in Mexico, as if they were in attendance. This empty place will be, first of all, a tribute to the resilience of YARSAV members, as well as a sign of affection and compassion to our Turkish colleagues and friends. It will also constitute a silent reminder of the risks and perils that confront judicial independence in any place in the world, and a silent reminder that this precious cornerstone of the rule of law should never be considered a permanent "acquis," but as a conquest we have to fight for the whole of our professional life.

Giacomo Oberto
Secretary-General of the IAJ

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2016 MONITORING PROCEDURE REPORT

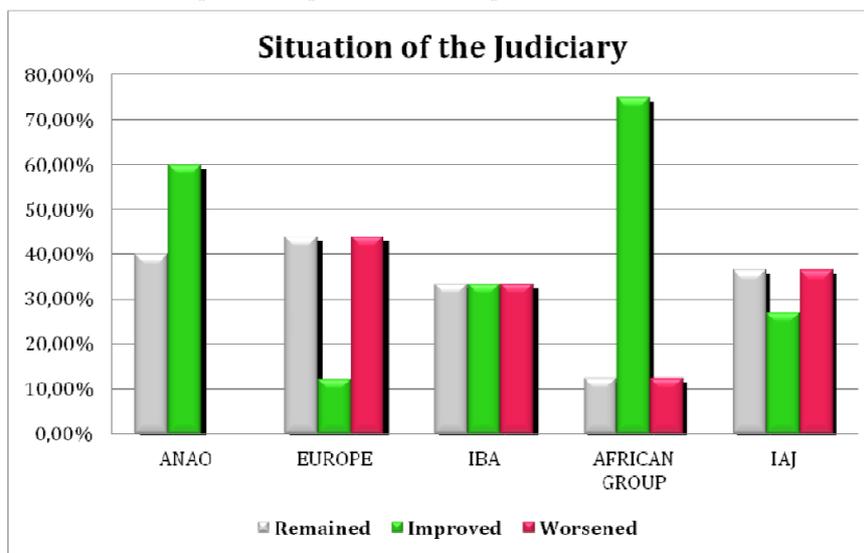
According to the decision taken by the Presidency Committee during its meeting on 24th and 25th June 2016 in Rome, the final report on the 2016 Monitoring Procedure, drafted by Vice-President José Igreja Matos, has been spread among IAJ Member Associations and published in our web site on Monday, July 4th 2016.

The Presidency Committee and the Secretariat-General reiterate their warmest thanks to the Associations which complied with the deadlines in replying to the questionnaire, as well as to the *ad hoc* Commission (composed of representatives of all four IAJ Regional Groups) and to its chairperson, Vice-President José Manuel Igreja Matos, for the excellent, informative and exhaustive work done.

This important work, which represents an updated “snapshot” of the current situation of the judiciaries and judicial associations all around the world, is composed of three parts (chapters). The first one was elaborated only for internal purposes and tries to detail on the procedures that took place in order to accomplish the task taken by the commission; it gives also notice about the participation of the different national associations, particularizing those who have not responded to the questionnaire. The second chapter assesses the data obtained in all the 63 answers received from associations worldwide providing a comprehensive and objective framework of the present situation of the members of IAJ, collecting different data from each national association to obtain a clearer picture about the dimension, characteristics and structure, not only of our members, but especially of IAJ as a whole. Finally, a third chapter contemplates the questions related with the problems/challenges faced by each national association pointing out the major challenges for national judiciaries in view of facilitating future resolutions of IAJ about respective strategic plans and intended activities.

The document is available at the following web address:

<http://www.iaj-uim.org/iuw/wp-content/uploads/2016/07/Report-Monitoring-Procedure-June-2016.pdf>



MEETING OF THE PRESIDENCY COMMITTEE – ROME



The Presidency Committee of the IAJ met in Rome, as usual, in the premises of the Italian Association of Judges (located within the historical building of the Supreme Court of Cassation) on 24th-25th June, 2016; we give here a short summary of the main points on the agenda.

1. Reports by the President, the Secretary-General and the Presidents of the four Regional Groups

As it is customary in this kind of meetings, the works were opened by commentaries and explanations on the written reports previously sent to the Presidency Committee members by the President, the Secretary-General and the Presidents of the four Regional Groups. In particular, President Crespo informed the PC members that, as concerns the organization of the 2016 Central Council meeting, she received an invitation to a conference (“Judicial dialogues”) concerning the “legality control of

international standard in Latin America and immigration problems,” which will take place in Mexico at the end of September. This event will offer the chance to check how the organization of the IAJ meeting is going on. She then mentioned her meeting in Montevideo with the UN Special Rapporteur on the Independence of Judges and Lawyers, Ms. Monica Pinto, and the meeting with representatives of the International Bar Association, which is currently engaged on establishing indicators of judicial independence. President Crespo also attended the conference on corruption held in Recife (Brazil) on February, and then the IBA Group meeting in Peru, on April: both events were successful. She congratulated Vice-President Igreja Matos for the monitoring process and the work done by the *ad hoc* Commission he presides over. Secretary-General Oberto made some commentaries on the day-to-day activities within the Secretariat-General, explaining how organisational work of the next meeting in Mexico City were going on. He also pointed out that 2016 will be an electoral year for IAJ: therefore the President will have to send a letter to all National Associations (actually this occurred in July), summarizing voting procedures and the rules to present the candidatures for the posts of Officials within the IAJ. Then it was the turn of the Presidents of the Regional Groups, who explained contents and results of the works within the regional springtime meetings: in Lima (April) for the Ibero-American Group, in Jerusalem (May) for the EAJ and in Kinshasa (June) for the African Group, whereas the ANAO Group organised in April a web-based meeting. Reports about such activities have been provided in the previous issue of our newsletter (1-2016).

2. Monitoring procedure (Article 13, § 9 of I.A.J. Regulations)

Vice-President Igreja Matos summarized the outcomes of the monitoring process, explaining the contents of the final report drafted by him as Chairperson of the *ad hoc* Commission. The Group is composed of the following members:

- President: José Igreja Matos (Vice Presidente of IAJ)
- Africa: Mr. Aidouni Djamel (Algeria) and Mr. Nazeem Joemath (SouthAfrica)
- ANAO: Mr. Peter Hall (U.S.A) and Ms. Roslyn Atkinson (Australia)
- Europe: Mr. Fausto Zuccarelli (Italy) and Mr. George Alampouras (Greece)
- Ibero-America: Ms. Monica Bortoli and Mr. Leopoldo Llanos.

Mr Igreja Matos commented the various reasons for which some associations did not answer: some of them interrupted their relationship with the IAJ, whereas some others are formally members (they pay the annual contribution) but do not participate any more in any meeting, thus preventing other national associations from the same country to become IAJ members. There are also some incomprehensible cases, concerning active and cooperative associations that, nevertheless, decided not to answer to the monitoring process questionnaire. After a thorough debate, the Presidency Committee decided to distribute the report among Member Associations and to publish it in our web site (a special information is also provided further on, in this newsletter). It decided also that those associations which have not answered the questionnaire will be reported to the respective Regional Groups in order to consider if the Regional Group agrees to start the process foreseen in articles 13 (with reference to art. 12, paragraph 2).

3. Meeting in Mexico. Invitation of Ms. Pinto. Int.I conference on corruption

Secretary-General Oberto informed the Presidency Committee that the Mexican Association had promised to assure simultaneous interpretation also for the works of the Study Commissions. The Presidency Committee decided to invite UN Special Rapporteur on the Independence of Judges and Lawyers, Ms. Pinto, to deliver her speech during the first session of the Central Council, on October 17th, 2016. Should she not be able to travel to Mexico City, the Secretariat-General, in agreement with the Mexican Association, will organise a web conference, in which Ms. Pinto will be able to take the floor in order to explain her initiatives for the safeguard of judicial independence in this very delicate moment worldwide. She will also take questions and suggestions from our part. On October 19th, 2016, an international conference on the theme of corruption within the judiciary will take place. The Presidency Committee debated in Rome the organization of such conference, stressing the importance of involving in its planning the Mexican colleagues, who should provide the names of national experts, the necessity of simultaneous translations for the panels, and the opportunity to invite other organizations involved in the fight against corruption. Also, it would be a success if the IAJ could be ready to formulate concrete proposals and not only listen to the contributions by scholars and experts. The agenda of this conference is joined to this newsletter as an annex.

4. Future Annual Meetings

Secretary-General Oberto informed the Presidency Committee that so far no formal applications for the organisation of next annual meetings had been sent to the Secretariat-General. Therefore the Committee charged him to send a letter to all National Associations, reminding about the rules to apply for the organization of an IAJ annual meeting. This was done in July, with a letter slightly modified when compared to previous ones of the same kind. Actually the message asked for a declaration of availability not only for 2017, but also for following years, in case some interested associations were not yet ready for 2017. So far no such availability has been expressed, therefore we invite again National Associations to send their candidatures to the Secretariat-General as soon as possible.

5. Applications for membership

The Presidency Committee examined and discussed the reports about the applications for membership of Mauritania and Sao Tomé and Príncipe. It expressed favourable advice on both applications and charged the Secretariat-General to spread the reports among Member Associations. As for other pending applications (and remarkably those from East Timor, Guinea Bissau, Honduras, Liberia and Palestine) the procedure is still going on and we'll provide information in the next issues of this newsletter. The application of Yemen is still in a situation of suspension, taken into account the current situation of state of war in the country.

6. Priorities for the work of the Presidency Committee and IAJ for the next years

President Crespo recalled the activities carried out to fight corruption. Vice-President Igreja Matos proposed to remind national associations that they can ask the Presidency Committee any support for the organization of cultural initiative on subjects whatsoever (in particular, but not only, corruption): the Presidency Committee will prepare a document on this regard.

President Crespo then mentioned the enlargement issue and highlighted that, despite several contacts, for the ANAO Group it is difficult to receive serious commitments by the judiciaries of that area. President Crespo announced the establishment of some contacts with the judges of Lebanon, whereas Vice-President Sessa suggested cooperating with the international institutions acting in some countries (USAID, World Bank, European Union) asking them to help IAJ convey the ideal of judicial associationism.

As far as the update of the Universal Charter of the Judge is concerned, First Vice-President Regnard explained the main structure of the draft revised Charter, where he not only wrote some new articles, but also drafted an introduction and included references to international instruments. The new articles concern irremovability, the High Councils for the Judiciary, the resources for justice and administration of courts, the security of judges, the respect of decisions by politicians, judicial ethics, efficiency of justice and the workload of judges. During the summer the French document has been translated into English, in order to be discussed among the *ad hoc* Working Group. This panel is composed of following members:

- Christophe Régnard, President of the EAJ and First Vice President of the IAJ (France), President of the Working Group
- Giacomo Oberto, Secretary-General of the IAJ (Italy)
- Janja Roblek (Slovenia)
- Julie Dutil (Canada)
- Alyson Duncan (USA)
- Walter Barone (Brazil)
- Mario Morales (Puerto Rico)
- Marie Odile Thiakane (Senegal)
- Scheik Kone (Mali)

The idea is to finalize the text before the springtime meetings of the Regional Groups and to adopt the new Charter during the Central Council meeting in 2017.

SOLIDARITY TO YARSAV FROM ALL AROUND THE WORLD



As explained in the editorial, expressions of solidarity to YARSAV have been sent from all the world. Just to have an idea, you can have a look simply accessing the “Last News” (<http://www.iaj-uim.org/>) and “News and Events” (<http://www.iaj-uim.org/news/>) sections of our web site. A special news, constantly updated, gathers most of the messages we received and conveyed to our Turkish colleagues (see: <http://www.iaj-uim.org/news/more-reactions-from-the-whole-world-on-the-situation-of-the-judiciary-in-turkey/>).

Also on the side of the concrete initiatives IAJ has taken the lead. We can mention the messages sent by the Presidency Committee and the Secretariat-

General already on the very day in which the purge against YARSAV members started (16th July, 2016) see :

- <http://www.iaj-uim.org/news/solidarity-to-the-turkish-association-of-judges-and-prosecutors-yarsav/> and
- <http://www.iaj-uim.org/news/official-statement-of-the-iaj-on-the-massive-dismissal-of-judges-in-turkey/>.

In the very first days of August, after intense consultations with other international judges organisations, IAJ and EAJ decided to set up a “Platform for an Independent Judiciary in Turkey,” together with the Association of European Administrative Judges (AEAJ), “Judges for Judges and “Magistrats Européens pour la Démocratie et les Libertés” (MEDEL), in an unprecedented effort aiming at uniting efforts and energies around the idea of saving the principle of judicial independence in Turkey.

On 5th August, the EAJ’s President Mr Christophe Régnard signed, together with the other members of the “Platform for an Independent Judiciary in Turkey,” two letters: to the Secretary-General and to the President of the Parliamentary Assembly of the Council of Europe.

- In the letters, the Platform urged the Council of Europe
- to establish, within the Parliamentary Assembly, an Independent Investigation Commission, composed by experts in Human Rights, on the situation of the independence of the Judiciary in Turkey, to gather the arguments of the Turkish authorities for their activities against the judiciary and the factual basis of these activities,
- to remind Turkey of the European values and standards,
- to send high ranking observers to Turkey to watch the situation of the detained judges and prosecutors.
- The above mentioned letters are available at the following links:
- <http://www.iaj-uim.org/iuw/wp-content/uploads/2016/08/Platform-Letter-Council-Europe-1-8-2016-4SGFinal.pdf>
- <http://www.iaj-uim.org/iuw/wp-content/uploads/2016/08/Platform-Letter-Council-Europe-1-8-2016-4PACEFinal-1.pdf>

On 16th August the “Platform” sent a letter to Turkish High Council of Judges as regards the removal and dismissal of 3500 judges and in that Country. The letter is available under the following link:

<http://www.iaj-uim.org/iuw/wp-content/uploads/2016/08/Letter-Platform-to-HSYK-16-aug-2016.pdf>.

More and more initiatives are currently under way, thanks to the efforts of the “Platform,” on one side, but also of the Working Group on the situation of Member Associations of EAJ, under the lead of our Swiss colleague Stephan Gass, with the help of the Swiss Association and in particular of Thomas Stadelmann. Many of these actions are to remain confidential, for obvious reasons.

The Approval in Jerusalem by EAJ of the “EAJ Intervention Concept”



In the last edition of our Newsletter we provided information about the approval in Jerusalem (May 2016), by the European Association of Judges – Regional Group of the IAJ, of the “EAJ intervention concept,” drafted by our Swiss colleagues Thomas Stadelmann and Stephan Gass.

Aim of the paper is to provide concrete guidelines about EAJ interventions in case of problems of the judiciary in EAJ Member Countries. The idea is to improve the results of interventions for Member Associations and to foster independence, quality of justice and the rule of law in European countries.

In order to achieve this goal, political communications from EAJ with different actors or stakeholders – representatives of the executive and the legislative branch as well as of the judiciary (for example members of High Judicial Councils) and of the media – will be planned and established in a

conceptual way on national and international level. Actors are EAJ and its organs (Presidency, Working Groups), as well as the different National Associations. The task of National Associations will be to establish and cultivate connections to other stakeholders on national level and to national representatives of the other stakeholders in international institutions.

EAJ provides National Associations with the tools to perform this task (see Appendix to the “Concept”), but the main work – planning, establishing, institutionalizing and cultivating the connections – will be in the hands of the respective National Associations. For EAJ it is important to know, whether there is a possibility to get in touch with national stakeholders and which possibilities there are to get in touch with actors in international institutions. Therefore, the respective National Associations should provide EAJ with information: a) about the fact, that it has established connections to stakeholders on the national level (and what kind of stakeholders), b) about data on stakeholders on the international level which can be contacted via the respective national associations. This information should be kept up to date and sent to EAJ on a regular basis. The paper at hand describes the framework of the “EAJ Intervention-Concept.” At present time, the most important part of it for Member Association is Par. 4.2.3 “Instruments” and tools in the Appendix: Member Associations should begin to set up their respective communication networks and to document them as soon as possible.

The document has been distributed to all European National Associations and published in the open area of our web site, at the following addresses:

“EAJ Intervention Concept”:

- http://www.iaj-uim.org/iuw/wp-content/uploads/2016/02/EAJ_intervention-concept_V2016.pdf

“EAJ Intervention Concept” Annexes:

- <http://www.iaj-uim.org/iuw/wp-content/uploads/2016/02/Appedix-0-9.pdf>

ANNEX**CONFERENCE
“CORRUPTION IN THE JUDICIARY”**

*Mexico City
in the Framework of the 59th IAJ Annual Meeting
Wednesday 19 October 2016
(9h00/12h30m)*

PROVISIONAL PROGRAMME***Protocol OPENING TABLE***

Mexican Host Authorities, President of IBA (International Bar Association), President of IAJ, Four Presidents of Regional Groups of IAJ.

0910 – 0930 Introduction and welcome remarks

Mexican Host
Cristina Crespo – President of IAJ
(10 minutes each)

0930 – 0950 Keynote speaker

Justice Ortiz Mayagoitia – Former Supreme Court President of Mexico
(20 minutes maximum)

0950 – 1040 – SESSION ONE

Corruption in Latin American Judiciary: Challenges and Achievements

Moderator

José Igreja Matos – Vice President of IAJ

Panellists

Luis Ocampo/ Ricardo Lorenzetti (ARGENTINA)

Roberto MacLean (PERU)/ URUGUAY , BRAZIL, MEXICO expert

Debate

1040- 1100 Coffee Break***1100 – 1145 SESSION TWO***

Fighting Corruption within Judiciary: Studies and Findings. Building Best Practices.

Moderator

Christophe Regnard – President of EAJ and 1st. Vice President of IAJ

Panellists

David W. Rivkin – President of International Bar Association

Duro Sessa – Vice President of IAJ and GRECO (CoE) Expert

Mexican Expert

(10 minutes each)

1145-1230 Panel Three

Fight Against Corruption: Guidelines and Possible Solutions

Moderator – Gerhard Reissner – Honorary President of IAJ

Mark Pieth – Expert from IBA /Basel Institute

Peter Hall – President of First Study Commission IAJ

Key Note Speaker

Debate

(10/15 minutes each)

End of Conference