



## TWO MAIN EVENTS IN THE LIFE OF THE IAJ



IAJ President Christophe Régnard in Prague for the Václav Havel prize award ceremony  
on the 11<sup>th</sup> of October 2017

Dear colleagues,

2017 has been a hectic year in IAJ's long life. Among the numerous activities which occurred during these twelve months, I would like to refer to two main events, which will crucially impact the history of our Association.

The first one, is the bestowing of the Václav Havel Prize to Murat Arslan, President and co-founder of YARSAV, who has been in detention since October the 19<sup>th</sup>, 2016. The IAJ meticulously prepared the dossier and submitted his candidature during last spring to the Parliamentary Assembly of the Council of Europe, which awarded Murat the prize on the 9<sup>th</sup> of October. Subsequent to this, our President Christophe Régnard presented an official speech during the conference held in Prague on the 11<sup>th</sup> of October 2017 in respect to the Václav Havel prize award ceremony (see: <http://www.iaj-uim.org/news/president-regnard-in-prague-for-the-vaclav-havel-price-awarded-to-murat-arslan/>; President Régnard's speech is also annexed as an enclosure to this newsletter).

In addition, numerous letters, official statements, declarations and resolutions were passed and sent to the international authorities pertaining to the situation of the judicial system in Turkey. These are all available on the official web site of the IAJ (see: <http://www.iaj-uim.org/solidarity-news-and-documents-about-yarsav/>).

The second great success of our Association is the approval in Santiago de Chile of the new version of the Universal Charter of the Judge (see <http://www.iaj-uim.org/universal-charter-of-the-judge-2017/>).

The document is composed of nine articles, dealing, with the following subjects: (1) General Principles; (2) External Independence; (3) Internal Independence; (4) Recruitment and Training; (5) Appointment, Promotion and Assessment; (6) Ethics; (7) Discipline; (8) Remuneration, Social Protection and Retirement; (9) Applicability of the Charter.

The main new features of the 2017 Charter, when compared to its 1999 version, may be summarized as follows:

- Devoting a whole new chapter to the aspect of Internal Independence;
- Recognizing and emphasising the role played by Councils for the Judiciary;
- Focusing on the principles of tenure and security of office;
- Banning the so-called “reappointment procedures”;
- Recognizing the pivotal role played by initial and on service training activities;
- Emphasising the role of judicial efficiency;
- Creating a series of autonomous principles of judicial ethics, underlying the role of “Judicial Codes of Conduct”;
- Recognizing the applicability of the main rules of the Charter not only to all persons exercising judicial functions, including non-professional judges, but also to members of the public prosecution service.

A printed version of the new Charter in the five official languages of our Organisation will be prepared and distributed very soon. A special part of our web site is devoted to gathering versions in many languages of this document (see: <http://www.iaj-uim.org/universal-charter-other-languages/>). We are asking colleagues who are proficient in other languages—which are not yet included in this page—to volunteer and send us as many versions as possible (we still require e.g. Arabic, Russian, Chinese, Hindi, Dutch, etc.).

Other relevant events occurred in Santiago de Chile: we refer here to them by presenting an abridged version of the protocols of the meetings held there.

Warm thanks also to our Italian colleague Cristina Marzagalli who sent an article, which we have published as an annexure to this issue of our newsletter.

The whole IAJ Secretariat-General wishes you all a wonderful 2018



*Giacomo Oberto*  
*Secretary-General of the IAJ*

## INDEX

• MEETING OF THE CENTRAL COUNCIL – SANTIAGO DE CHILE .....	3
• MEETING OF THE PRESIDENCY COMMITTEE- SANTIAGO DE CHILE.....	6
• MEETING OF THE EUROPEAN ASSOCIATION OF JUDGE – SANTIAGO DE CHILE.....	7
• MEETING OF THE AFRICAN GROUP – SANTIAGO DE CHILE .....	8
• MEETING OF THE ANAO REGIONALE GROUP – SANTIAGO DE CHILE.	9
• MEETING OF THE IBA REGIONAL GROUP – SANTIAGO DE CHILE .....	10
• ANNEX I - IAJ President Christophe Régnard Speech for the Václav Havel Prize Award Ceremony.....	11
• ANNEX II - Resolution on Turkey.....	12
• ANNEX III - European Countries: Independence of Judges and Professional Associations (by Cristina Marzagalli).....	14

## MEETING OF THE CENTRAL COUNCIL – SANTIAGO DE CHILE



MEETING OF THE CENTRAL COUNCIL – SANTIAGO DE CHILE (CHILE)  
Monday 13<sup>th</sup>, Tuesday 14<sup>th</sup> and Thursday 16<sup>th</sup> November 2017

### ATTENDANCE

In attendance were the whole Presidency Committee and the Secretariat-General, several Honorary Presidents, delegates from 61 Member Associations and the IAJ representatives at the UN Offices in Geneva, New York and Vienna.

In attendance as IAJ's guests were also the UN Special Rapporteur on the independence of Judges and Lawyers, Mr. Diego Garcia Sayan and representatives of the following organizations:

- Commonwealth Magistrates and Judges Association, Mr. John Lowndes, President;
- Federación Latino-Americana de Magistrados, Mr. Oswaldo Ordonez, President;
- International Union of Portuguese Speaking Judges, Ms. Flavia Viana, President;
- International Association of Prosecutors, Mr. Han Moraal, Secretary General,
- International Bar Association, Ms. Veronica Hiestroza, Senior Programme Lawyer at the IBA's Human Rights Institute;
- Asociación de Mujeres Jueces de Argentina, Mr. Fabian Cardoso, on behalf of the President;
- International Commission of Jurists, Mr. Salinas Rivera, Commissioner.

### REPORTS

**President of the IAJ:** President Régnard underlined the relevance of the Václav Havel Prize which, with the support and engagement of the IAJ, was delivered to Mr. Murat Arslan, President of the Turkish Association of Judges "Yarsav", imprisoned after the failed coup d'état in Turkey. He then mentioned the relationships established with other international associations, such as the FLAM, International Bar Association, International Union of Lawyers. He participated in the annual meeting of the International Association of Prosecutors, whose next year's meeting in Durban will focus on the independence of public prosecutors.

**Secretary-General:** Secretary-General Oberto referred to his written report, underlining the constant presence of the Secretariat by the President and the Presidency Committee and the Regional Groups. He informed the assembly about the structure of the IAJ website and about the new IAJ twitter account.

**Vice-Presidents responsible of the Regional Groups and their reports on the Regional Groups meetings in Santiago de Chile:**

**ANAO:** First Vice-President Pagone explained that the Group lost contacts with one of its members, Iraq. The Association of Japan was not attending the IAJ meeting in the last years, but it pays regularly its annual contribution and participates with its reports in the works of the Study Commissions. The Group published a book dealing with its history, whose editor was Mrs. Louise Mailhot.

**EAJ:** Vice-President Igreja Matos underlined the difficult situation in Europe. Besides the case of Turkey, there are the cases of Bulgaria and Poland and, in several other countries, the threat represented by the raising of populisms. Contact with the various bodies of the Council of Europe are constant and Vice-President Sessa is the new President of the CCJE.

**IBA:** Vice-President De Menezes explained that in February the Association of Peru organized a conference about the rule of law and the fight against corruption, supported and partly financed by IBA Group. The IBA Group is evaluating the setting up of an instrument for financial aid to Latin-American judges, similar to that established by the European Association of Judges.

**AFR:** Vice-President Musi informed the assembly that he attended a preparatory meeting of the Judicial Integrity Network, which resolved that all countries should adopt codes of conduct for judicial officers based formerly on the Bangalore principles and the Commonwealth Latimer House Guidelines. The global network will be launched in April 2018. The Congolese Association informed the Group about the decision of the Government to prohibit judges to be members of associations.

#### INFORMATION ON TURKEY

**Vaclav Havel prize:** President Régnard explained that the IAJ and the EAJ decided to nominate Murat ARSLAN, President of YARSAV, to receive the Vaclav Havel Prize, a prize awarded by the Parliamentary Assembly of the Council of Europe (PACE) in recognition of outstanding actions of the association in the defence of human rights in Europe. The application, prepared by Vice-President Igreja Matos, in collaboration with the Secretariat-General, was co-signed by the IAJ, the EAJ and 14 national associations and sent to the PACE at the beginning of April 2017. As recommended by PACE, the General Secretariat did not publish any information concerning the application on the IAJ website. Amongst the three finalists, Murat Arslan was finally selected as the winner of this prize on 9 October 2017. On the 11<sup>th</sup> of October 2017, President Régnard went to Prague for a conference organized in his honour.

**Annual contribution to the IAJ of YARSAV:** As to the annual contributions due by YARSAV, a Presidential Decree in 2016 dissolved the association. The decision is not definitive because there are pleas pending against it and there is the possibility to file a petition at the European Court for Human Rights. Nevertheless, it is clear that YARSAV cannot pay its contributions and, therefore, risks losing its membership. The issue is important also because a new association of judges was created in Turkey, which is very close to the Government and willing to adhere to the guidelines of the IAJ. At present, the existence of YARSAV as member to the IAJ, represents an obstacle to apply for membership.

The Presidency Committee proposed to the Central Council to annul the arrears of YARSAV for 2016 and 2017. The Central Council unanimously approved the proposal of the Presidency Committee.

The Central Council also approved a resolution in respect to Turkey, proposed by the Presidency Committee through a formal statement, demonstrating the solidarity of the IAJ towards the Turkish colleagues and to react to the accusations of being a terrorist organization. Law.

#### IAJ LIFE AND ACTIVITIES

**Applications for membership:** The judges associations of East Timor, Guinea Bissau and Liberia were unanimously admitted as new members. The Central Council took note that the association of Cameroon had ceased to be a member, according to the provisions of our Statutes due to the outstanding arrears in respect to payment of annual fees.

**Priorities for the work of the Presidency Committee and IAJ for the triennium 2018-2020:** President Régnard recalled the decision to set priorities for the work of the Presidency Committee and the topics dealt with in the triennium 2015-2017: fight against corruption, the revision of the Universal Charter of the Judges and the enlargement of the IAJ.

For the upcoming triennium, 2018-2020, the Presidency Committee decided to continue working on the issue of corruption within the judiciary. Vice-President Igreja Matos will remain coordinator of the project. As second item, it decided to focus on judicial education, with particular attention directed to the issue of independence. Under the same item, the Presidency Committee will continue its activities concerning Environmental Law. The third item will be the promotion of the establishment of associations of judges in countries where there are not. Vice-President Sjoberg will chair the working group charged to draft guidelines and a model statute for new judicial associations.



Opening Ceremony of the 60<sup>th</sup> Annual Meeting of the IAJ in Santiago de Chile on 13<sup>th</sup> of November, 2017

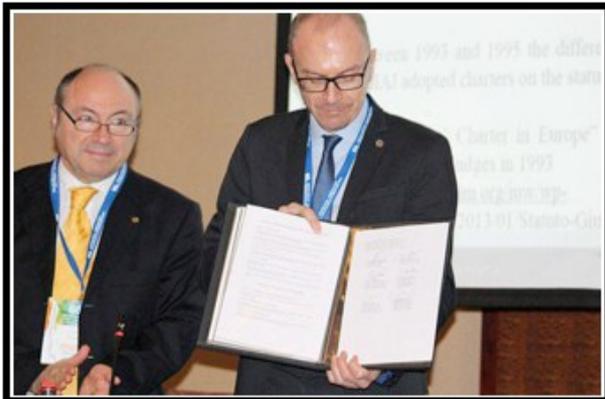
**Monitoring procedure (Article 13, § 9 of IAJ Regulations):** Vice-President Igreja Matos announced that all the members of the IAJ completed the procedure.

**Written reports by IAJ's Representatives at the U.N.O.:** Ms. Louise Mailhot (UN seat in New York), Mr. Pierre Zappelli (UN seat in Geneva) and Mr. Gerhard Reissner (UN seat in Vienna) referred to their written reports adding some information.

**IAJ and others:** President Régnard then invited the guests attending the meeting to take the floor in order to present their respective institution and illustrate their ideas about possible cooperation with the IAJ. Mr. Diego Garcia Sayan, UN Special Rapporteur; then, Mr John Lowndes, President of the Commonwealth Magistrates and Judges Association; Mr. Oswaldo Ordonez, President of the Federación Latino-Americana de Magistrados; Ms. Flavia Viana, President of the International Union of Portuguese Speaking Judges; Mr. Han Moraal, Secretary General of the International Association of Prosecutors; Ms. Veronica Hinestroza, Senior Programme Lawyer at the International Bar Association's Human Rights Institute.

**Universal Charter of the Judge: Official Ceremony for the signature:** President Régnard read out the Charter. He invited the Presidents of the Regional Groups to sign the Charter on behalf of all the national associations. The Universal Charter of the Judges, approved by the Central Council on November 13, was signed by President Christophe Régnard, First Vice-President Tony Pagone, Vice-Presidents Rafael De Menezes, José Manuel Igreja Matos, Cagney Musi and Secretary-General Giacomo Oberto, in Santiago, on 14 November 2017.

**Meetings of the IAJ in the next years:** Mr. Mohamed Khadraoui, Vice President of the *Amicale Hassania des Magistrats* presented to the assembly the proposal of his association for the 2018 meeting, to be held in Marrakech.



Ceremony for the Signature of the new IAJ Universal Charter of the Judge, in Santiago de Chile, on the 14<sup>th</sup> of November, 2017

**Budget of the International Association of Judges:** The assistant to the IAJ Treasurer, Ms. Barbara Scolart, took the floor to explain to the Central Council the financial report, the balance sheet and the budget for next year.

Ms. Scolart underlined that the Italian *Associazione Nazionale Magistrati* by way of special contribution, financed the salary of the assistant to the Secretary-General. President Régnard on behalf of the assembly thanked the Italian Association for this contribution.

**Reports by the Presidents of the Study-Commissions. Selection of the new subjects:** President Régnard called on the Presidents of the four Study Commissions to report on the conclusions of the Commissions on their respective subjects.

The Presidents also proposed the subjects to be dealt with by the Study Commissions in 2018:

- 1<sup>st</sup> Study Commission: "The trend of public criticism towards judges and judicial decisions in a disrespectful manner by other state powers, the media and in social media";
- 2<sup>nd</sup> Study Commission: "Strategies for effective case management";
- 3<sup>rd</sup> Study Commission: "A. Treatment of witnesses, including children, protected witnesses and sexually abused victims. B. Trial Procedures. C. Mandatory sentences";
- 4<sup>th</sup> Study Commission: "Rights and obligations of refugees: a risk of modern slavery?".

**MEETING OF THE PRESIDENCY COMMITTEE – SANTIAGO DE CHILE**

MEETING OF THE PRESIDENCY COMMITTEE  
SANTIAGO DE CHILE  
*Saturday 11<sup>th</sup>, Sunday 12 and Wednesday 15 November 2017*

**Monitoring procedure (Article 13, § 9 of IAJ Regulations):** Vice President Igreja Matos said that the monitoring process was closed and that the next survey will start in 2020. The Presidency Committee decided to set up a Working Group charged to evaluate the issue of the monitoring process. Mr. Igreja Matos will chair the WG with the assistance of the First Vice President Pagone. The Presidents of the Regional Group will designate a member each, in consultation with Mr. Igreja Matos.

**Future Annual Meetings:** President Régnard informed the Committee that the Moroccan Association will communicate the dates of the 2018 meeting after the voting by the Central Council. The IBA Group meeting will take place in Brasilia from the 15<sup>th</sup> to the 19<sup>th</sup> of April and that of the EAJ in Berlin from the 25<sup>th</sup> to the 26<sup>th</sup> of May. The African Group still has to decide the dates of its meeting in Algiers.

**Applications for membership: Honduras, Angola:** Secretary-General Oberto informed the PC that the association of Honduras paid the administration fee and that Honorary President Crespo will visit the country on February 2018. As to the association of Angola, it did not pay the administration fee yet.

**Encouraging the creation of associations of judges; setting up of the *ad hoc* Working Group:** President Régnard recalled the decision taken in Paris this year according to which “The Presidency Committee decided also that among the priorities they would be helping national judiciaries in setting up associations of judges: the Committee will propose to the Central Council the setting up of a Working Group charged to identify criteria and procedures and to draft model statutes for different legal systems”. The Presidency Committee appointed Vice-President Sjoberg as Chairman of the WG. The Presidents of the Regional Group will appoint one member each. The draft guidelines might be ready for the 2018 meetings of the Central Council and of the Presidency Committee in Morocco.

**Fight against corruption in the judiciary:** Vice-President Igreja Matos informed that the Association of Colombia wanted to organize another conference, with the financial support of other stakeholders. The conference should take place in the second week of September, 2018. UNODC will launch the “Global Judicial Integrity Network” in April 2018 in Vienna. The International Bar Association asked the assistance of the IAJ for a judicial integrity initiative in France and in Costa Rica: the French Association already granted its cooperation and there are talks with the Association of Costa Rica.

**New themes for the triennium 2018-2020: a) Encouraging the creation of associations of judges; b) Fight against corruption in the judiciary; c) Environmental Law:** The Presidency Committee decided that the third item will be “training of judges” and environmental law will stay as a subtopic of the training.



UN Special Rapporteur on the Independence of Judges and Lawyers, Mr. Diego Garcia Sayan taking the floor in the framework of the International Seminar on "Judicial Self-Government and Independence of the Judges"

**Miscellaneous :** Honorary President Crespo announced that the Association of Bolivia would apply for membership to the IAJ.

The Presidency Committee decided that its next meeting would take place in Rome on 22<sup>nd</sup> to the 23<sup>rd</sup> of June 2018.

The Presidency Committee examined the budget for next year and after a debate, it decided to confirm paying the special contribution for the translation of the Study Commissions for another year.

Mr. Régnard proposed to invite all national associations to translate the Universal Charter in their respective languages. As to the publication of the Charter, the General Secretariat will conduct a market research and then the Presidency Committee will decide by e-mail how many copies should be printed.

## MEETING OF THE EUROPEAN ASSOCIATION OF JUDGES – SANTIAGO DE CHILE



MEETING OF THE EUROPEAN ASSOCIATION OF JUDGES – SANTIAGO DE CHILE  
*Sunday, 12<sup>th</sup> November 2017*

### Report of the President

President Igreja Matos referred to his written report. He underlined that it was a very busy and difficult year: judicial independence was jeopardized in many countries and institutions like the Council of Europe, the European Union, and the United Nations were concerned about several judiciaries in Europe. The EAJ must cope with these challenges in several domains and managed to be engaged in numerous activities, lobbying in several institutions. One of the most important results was the Václav Havel Prize awarded to Mr. Murat Arslan.

**Situation of the judiciary in Turkey and actions undertaken by EAJ; Provident Fund of the European Association of Judges:** Mr. Stadelmann took the floor to summarize the activities of the Fund: in these first ten months, the Fund received 395 applications, 65 of which were approved by the Committee, for a total amount donated of approximately 40,000 euro. President Igreja Matos said that the beneficiaries of the Fund sent very touching letters to the Committee, in most cases promising the restitution of the sum.

Honorary President Reissner talked about the many initiatives taken in Europe. One of them was the Platform established by the Associations of judges at European level. Since Murat Arslan was arrested there was an increase in the list of people suspected to be a terrorist because of contacts with YARSAV. Mr. Reissner encouraged EAJ Members to show solidarity to Turkish colleagues

and to keep alive the interest of European institutions. The EAJ could act as *amicus curiae* in front of the European Court for Human Rights, but this activity also requires money. Ms. Duval (France) informed the assembly about an initiative taken by the *Union Syndicale des Magistrats* and by MEDEL. Representatives of these Associations met the staff of President Macron, who is the only European leader maintaining regular contacts with the Turkish President Erdogan.

**Situation of the judiciary in Poland:** Mr. Bogdan Jedrys (Polish Association) took the floor to explain the situation in his country, where the government was trying to decrease the independence of judges. He prepared a report, enclosed as an annex to the minutes of the meeting. President Igreja Matos said that the EAJ sent a letter to the European Union and Mr. Junker, President of the Commission, replied that, if these violations do not stop, the EU could start the procedure for infringement of the Treaty of the Union (on the development of the situation see <http://www.iaj-uim.org/news/european-commission-acts-to-defend-judicial-independence-in-poland/>).

**Situation of the judiciary in Bulgaria:** Mr. Atanasov (Bulgarian Association) took the floor to report on the situation in his country, asking for a resolution by the EAJ. The Association was established in 1997 and was very active in defending judicial independence. Problems with the Government started in 2010. The Premier and Vice-Premier were former police officers who blame the judiciary for the problems of criminality in the country. As a result, the Parliament passed an amendment to the Judiciary System Act that provided for the duty to declare before the Supreme Judicial Council whether a judge was a member of a judges' organization. Mr. Gass, Chairman of the Working Group on Member Associations, summarized the actions taken by the EAJ to cope with this issue. He then presented the resolution drafted by the WG and, after a slight language revision, the assembly approved it unanimously.

**Cooperation with Council of Europe (CCJE; CEPEJ):** President Igreja Matos pointed out that the EAJ presented a written report on the situation of the judiciary in Europe and announced that the new President of the CCJE was the IAJ Vice-President Sessa. As to CEPEJ, President Igreja Matos told the assembly that Ms. Virginie Duval (France) was in charge of representing the EAJ, with the help of Ms. Cristina Marzagalli (Italy).

**Future meetings. EAJ 2018 (Berlin – Germany):** Mr. Schneiderhan took the floor to announce that the meeting will start on Thursday 24 May at 3.00 p.m. and will follow on Friday 25 May. On Saturday 26 there will be a touristic event. As to the 2019 meeting, President Igreja Matos gave the floor to Vice-President Sjoberg, who announced that the Association of Denmark would host the meeting in May or June.

## MEETING OF THE AFRICAN REGIONAL GROUP – SANTIAGO DE CHILE



MEETING OF THE AFRICAN GROUP – SANTIAGO DE CHILE  
Sunday, 12<sup>th</sup> November 2017

### TOPICS:

1. Opening and Welcome
2. Approval of summary report of the Group's meeting held in Maputo
3. President's report.
4. African Group member association's reports.
5. Monitoring
6. Presidential Support Committee.
7. The situation of Lesotho and Cameroon.
8. Angola's application.
9. Guinea Bissau and Liberia's applications.
10. Statement/s and resolution/s by group?
11. Finance
12. Venue of the next meeting.
13. Miscellaneous

## MEETING OF THE ANAO REGIONAL GROUP – SANTIAGO DE CHILE



MEETING OF THE ANAO GROUP – SANTIAGO DE CHILE  
Sunday, 12<sup>th</sup> November 2017

### TOPICS:

#### A Business Meeting (9am to 12.30pm)

Welcome and apologies

Approval of Minutes of meeting held by video link on 14 May 2017.

Discussion about the order and timing of the matters for consideration at the meeting.

Correspondence, reports and other matters for noting:

- Minutes and Agenda and any report from the European Group
- Minutes and Agenda and any report from the Latin American Group
- Minutes and Agenda and any report from the African Group
- Report from the CEPEJ Plenary Meeting

President's Report (Oral report and questions)

- General Report and finances
- Proposal to amend the IAJ Statute
- The Intervention Concept
- Turkish and Yarsav (oral report)
- Responding to attacks on the judiciary
- Iraq
- Procedures and location for future annual meetings and assemblies.
- Honduras application for membership

Reports from ANAO Member Associations (Oral reports from ANAO members)

History of ANAO (Hon. Louise Mailhot to report)

Working Group on Recruitment of New ANAO Members (Hon. Tsogt Tsend)

Applications for membership

- Guinea Bissau
- East Timor
- Liberia

IAJ Brochure

Establishment of a Twitter account (Hon. Tsogt Tsend)

Louise Mailhot Medal (Hon. Julie Dutil)

Revised Universal Charter (Hon. Allyson Duncan to report)

UN's Global Judicial Integrity Initiative

John Lowndes, President of Commonwealth Judges and Magistrates Association

International Judicial Relations Committee of the United States Judicial Conference, video presentation (Hon. Allyson Duncan to report)

B Plenary Session: ANAO Conference (2pm to 4pm)

TOPIC:

- Judicial Ex parte Communications – Law and Polices
- Chair: The Hon. Robert Blair
- Speaker: The Hon. Allyson Duncan
- Panel Commentators: The Hon. Yin-Lun Lin (Grace) and Hon. Elsie Ochoa in attendance and the Hon. Tsogt Tsend has prepared a written response.
- Some of the contributions are available in the IAJ web site: see
  - <http://www.iaj-uim.org/news/the-hon-yin-lun-grace-lins-article-on-judicial-ex-parte-communications-published-in-our-web-site/>
  - <http://www.iaj-uim.org/news/hon-circuit-judge-allyson-k-duncans-article-on-judicial-ex-parte-communications-published-in-our-web-site/>

## MEETING OF THE IBA REGIONAL GROUP – SANTIAGO DE CHILE



MEETING OF THE IBA GROUP – SANTIAGO DE CHILE  
Sunday, 12<sup>th</sup> November 2017

TOPICS:

1. Reading and approval of the minutes of the last meeting in Toluca, Mexico.
2. Report of the Deputy Secretary-General of the IAJ
3. Priorities in the works of the IAJ:
  - 3.1. Fight against corruption – Conference of a representative of the UNODOC office, D.ra Roberta Solis and of a representative of the International Association of Lawyers – IBA, D.ra Veronica Hinestroza
  - 3.2. Environmental Law – Conference of a Chilean expert, Dr. Rafael Asenjo
  - 3.3. Contact to other international Organisations – Conference of a representative of the International Association of Women Judges, D.ra Natalia Molina
4. Conclusions of the Monitoring Process of the IAJ Member Associations
5. Universal Charter of the Judge
6. Preparation of the International Conference on the topic: “Judicial Administration, Councils of Justice and Judicial Independence” (“Administración de los Tribunales, Consejos de Justicia e Independencia Judicial”)
7. Setting up a common Fund for assisting judges of the IBA Group in difficult situations, similar to the situation of Turkish colleagues
8. September 2018 Seminar in Colombia: Fight against Corruption, Environmental Law, Anything More?
9. Next IBA meeting in Brasilia, Brazil
10. Information on recent attacks on judicial independence in Spain
11. Miscellanea

More information (in Spanish) available under the following URL: <http://www.iaj-uim.org/boletim-grupo-ibero-americano/>.

**ANNEX I*****IAJ President Christophe Régnard's Speech for the Václav Havel prize award ceremony  
(PRAGUE, 11<sup>TH</sup> OCTOBER 2017)***

Monsieur le Directeur, mesdames messieurs,

Permettez-moi tout d'abord de vous dire combien je suis honoré d'être ici, combien je suis heureux d'y être pour parler de mon ami Murat Arslan, actuellement en prison pour avoir défendu dans son pays, la Turquie, les valeurs de la démocratie et les droits de l'homme. Mais aussi combien je suis triste qu'il ne puisse être présent et combien je suis inquiet pour lui et sa famille de toujours possibles mesures de rétorsion par les autorités turques.

Le prix qui lui a été décerné lundi à Strasbourg récompense des années de lutte pour l'indépendance de la justice, un combat qu'il paye aujourd'hui au prix de sa liberté.

Ce prix, c'est aussi un message d'espoir pour tous ceux, magistrats, mais aussi avocats, journalistes et universitaires qui souffrent en Turquie et aspirent à un retour aux valeurs partagées normalement par tous les pays membres du Conseil de l'Europe.

Puisque je suis à Prague, il y a une citation de Vaclav Havel qui correspond bien à la situation actuelle : *«L'Espoir est un état d'esprit (...) C'est une orientation de l'esprit et du coeur (...) Ce n'est pas la conviction qu'une chose aura une issue favorable, mais la certitude que cette chose a un sens, quoi qu'il advienne»*.

Le remarquable et très fort message de Murat, lu à Strasbourg lundi, démontre le sens du combat qui est le sien.

Ce combat de Murat, et des membres de YARSAV, en Turquie est aussi le nôtre, parce que, comme il l'a écrit en octobre 2016 juste avant d'être incarcéré, *«l'injustice quelque part est une menace pour la Justice partout»*.

Je vous remercie à nouveau, en son nom, et au nom des juges et procureurs du monde entier, pour ce prix, qui constitue une reconnaissance de l'importance de la lutte qu'il mène, et que nous menons à ses côtés, pour défendre l'indépendance de la justice, la séparation des pouvoirs, les droits de l'homme, et en réalité la démocratie.

Je vous remercie

Christophe REGNARD  
Président de l'Union Internationale des Magistrats

Mister Director, Ladies and Gentlemen,

Please allow me first of all to tell you how honoured I am to be here and how very happy I am to speak about my friend Murat Arslan, currently in prison for defending in his country the values of democracy and human rights.

Let me tell you also how sad I am that he cannot be here and worried for him and his family for all possible retaliatory measures by the Turkish authorities.

The prize which was awarded to him last Monday in Strasbourg rewards him for years of fight for the independence of justice, a fight which he is still paying today with his own freedom.

This prize is also a message of hope for all those judges, and also lawyers, journalists and academics, who suffer in Turkey and aspire to a return to the values which are normally shared by all Member States of the Council of Europe.

Since I am in Prague, there is a quotation of Vaclav which corresponds well to the current situation: "the Hope is a state of mind (...) It is an orientation of the spirit and heart (...) It is not the conviction that a thing will have a favourable exit, but the certainty that this thing has a sense, no matter where it occurs".

Murat's remarkable and very strong message, which was read in Strasbourg last Monday, shows the sense and the meaning of his fight.

The fight of Murat and of Yarsav members in Turkey is also our fight, because, as he wrote on October 2016, before being put in jail, *"injustice somewhere is a threat to Justice everywhere"*.

I would like to thank you again, on behalf of him and of all judges and prosecutors the world over, for this prize, which represents a recognition of the importance of the fight that he is carrying out, and that we are carrying out next to him, to defend the independence of justice, the separation of powers, human rights and democracy.

Thank you

Christophe REGNARD  
President of the International Association of Judges

### Photos of the 60th IAJ Annual Meeting in Santiago de Chile

The colleagues of the Chilean Association have made available a number of photos taken during the 60th IAJ Annual Meeting in Santiago, on 12th – 16th November 2017.

They are accessible under the following URL: <https://www.flickr.com/photos/magistradosdechile/albums>



IAJ's Honorary Presidents attending the meeting in Santiago de Chile

## **ANNEX II**

### ***Resolution on Turkey***

#### RESOLUTION OF THE INTERNATIONAL ASSOCIATION OF JUDGES (IAJ)

The International Association of Judges finds:

That 1500 Turkish judges are in detention in Turkey, most of them for more than one year.

One of them is Murat Arslan, whose courageous commitment to democracy, human rights and rule of law in his country, was awarded the Vaclav Havel Human Rights price.

He is accused of being a member of a terrorist organisation, but any evidence of this accusation against an inconvenient critic is not established.

The only independent judges association of Turkey, YARSAV, was dissolved by the government on the basis of an emergency decree and many of the members are among the judges who are detained.

The Turkish High Council of Judges and Prosecutors, instead of protecting the judiciary, turned into an instrument of the government and decided to dismiss the judges and prosecutors without waiting for the result of the criminal procedure, which infringes the presumption of innocence.

That, contrary to this principle, the assets of the judges were seized and their families were deprived of the means for basic necessities,

That the judges and prosecutors who remained in office or have been placed into the positions which have become vacant are held under inappropriate pressure which had led to the disappearance of an independent judiciary in Turkey.

The International Association of Judges urges Turkey:

- to reestablish the rule of law in this country,
- to free those judges , prosecutors , lawyers and others who are detained without due process,
- to provide everyone with a fair trial which upholds international and European standards, and
- to stop the unfounded propaganda that the IAJ is, or supports, a terrorist organisation.

Santiago, Chile 16.11.2017

## RÉSOLUTION DE L'UNION INTERNATIONALE DES MAGISTRATS (UIM)

L'Union internationale des magistrats relève que:

1500 juges et procureurs turcs sont détenus en Turquie, la plupart d'entre eux depuis plus d'un an,

L'un d'entre eux, Murat Arslan, dont l'engagement courageux pour la démocratie, les droits de l'homme et la primauté du droit dans son pays, a été récompensé par le prix Vaclav Havel des droits de l'homme,

Il est accusé d'être membre d'une organisation terroriste, alors qu'aucune preuve de cet état de fait n'a été rapportée,

La seule association de magistrats indépendante en Turquie, YARSAV, a été dissoute par le gouvernement sur la base d'un décret d'urgence, de nombreux membres de cette Association sont actuellement détenus,

Le Haut Conseil supérieur des juges et procureurs, devant normalement protéger le pouvoir judiciaire, s'est transformé en instrument du gouvernement et a décidé du renvoi des juges et des procureurs sans attendre le résultat des procédures pénales en cours portant gravement atteinte à la présomption d'innocence,

En violation de ce principe essentiel, les biens des juges ont été saisis et les familles privées des moyens de subsistance élémentaires et indispensables,

Les juges et les procureurs, qui sont restés en fonction ou ont été récemment nommés aux postes devenus vacants, sont maintenus sous pression.

Il en résulte la disparition d'un pouvoir judiciaire indépendant en Turquie.

L'Union internationale des magistrats exhorte la Turquie à :

- rétablir la primauté du droit dans ce pays,
- libérer les juges, les procureurs, les avocats et les autres personnes indûment détenues,
- fournir à chaque personne une procédure équitable respectant les normes internationales et européennes,
- arrêter sa propagande et retirer l'affirmation indéfendable selon laquelle serait ou soutiendrait une organisation terroriste.

Santiago, Chili 16.11.2017

## RESOLUCIÓN DE LA UNIÓN INTERNACIONAL DE JUECES (UIM)

La Unión Internacional de Magistrados tomó conocimiento que

1500 jueces están detenidos en Turquía, la mayoría de ellos hace más de un año.

Uno de ellos es Murat Arslan, cuyo comprometido compromiso con la democracia, los derechos humanos y el estado de derecho en su país fue galardonado con el Premio Vaclav Havel.

Sigue acusado de ser miembro de una organización terrorista aún que no se ha presentado ninguna evidencia para esta denuncia contra alguien que es un crítico inconveniente

La única asociación de jueces independientes de Turquía YARSAV fue disuelta por el Gobierno sobre la base de un decreto de emergencia y muchos de sus miembros se encuentran aún entre los detenidos,

El Consejo Superior de Jueces y Fiscales, en lugar de proteger al poder judicial, se convirtió en un instrumento del Gobierno y decidió por la exoneración de jueces y fiscales sin esperar el resultado del procedimiento penal lo que claramente infringe la presunción de inocencia, oponiéndose también a este principio, se incautaron todos los bienes de los jueces y se privaron a las familias del mínimo que asegure su subsistencia,

Los jueces y fiscales que permanecieron en el cargo o que han sido puestos recientemente en puestos vacantes autorizados se mantienen bajo una indebida presión pelo que se puede afirmar que no existe más un poder judicial independiente en Turquía.

La Unión Internacional de Magistrados insta a Turquía para que :

- restablezca el estado de derecho en este país,
- libere a los jueces, fiscales, abogados y otras personas que están indebidamente detenidas,
- proporcione a cada uno de estos cuerpos profesionales un procedimiento justo que defienda los estándares internacionales y europeos
- y que no continúe su propaganda retirando la afirmación insostenible que UIM es, o apoya, una organización terrorista.

Santiago, Chile 16.11.2017

## ANNEX III

### EUROPEAN COUNTRIES: COMPARING THE GUARANTEES OF INDEPENDENCE OF JUDGES AND PROFESSIONAL ASSOCIATIONS

The European Association of Judges (AEM-EAJ in English) has recently given the member National Associations a questionnaire named "What is the situation of Justice in Europe?". Based on the feedback, a summary report was written which matches the different judicial systems as far as guarantees of independence of judges and the characteristics of professional associations are concerned. The report has been also dispatched to the European Commission- Directorate General Justice and Consumers - to contribute to a better knowledge of the situation of justice in the member States, considering the role of the Commission in strengthening the independence and the efficiency of the National judicial systems .

The survey was originated by the ongoing worsening of the judiciary in various Countries, as AEM remarked during its activity in the last years.

Before going over the outcome of the questionnaire, it is worth to briefly recall the nature and the role of the European Association of Judges whereof the Italian National Association of Judges (ANM) is one of the founding members. The UIM - Union Internationale des Magistrats- is a body established in Salzburg in 1953, which gathers the national associations of judges from several countries of the world. The main aim of the UIM, as ratified in the statutes, is the safeguard of the independence of the judiciary, which is the essential requirement of the judicial function, guaranteeing human rights and freedom. The Organization currently brings together 87 national associations or representative groups from all the continents, divided in four Regional Groups: the European Association of Judges (EAJ – AEM) – to which 44 national associations belong-, the Iberoamerican Group, the African Group, the Asian Group, the North American and Oceanian Group. Purpose of the Regional Groups is to discuss local problems concerning the Judiciary. The International Association of Judges plays an advisory at the United Nations and at the European Council.

The European Association of Judges (EAJ or AEM) is as an observer at CCJE and CEPEJ.

Since 2010, the European Association of Judges intervened in support of the Turkish judiciary, following the repeated attacks to its independence by the Turkish government. Likewise, the European Group passed a support measure to the Ukrainian judges whose personal safety is at risk because of the ongoing civil war, and also to the Polish judiciary, which risked to be submitted to the executive power by a draft law on July 2017 giving the Ministry of Justice the exclusive power to appoint the judges. The European Association of Judges has adopted several resolutions and organized visits in the concerned countries.

Moving from these and others situations of potential risk to the independence of the judiciary of the member States, the European Association of Judges has decided to carry out a monitoring procedure aimed at having a stocktaking of Justice in Europe to be submitted to the European Institutions.

In addition to the basic aim, the outcome of the questionnaire is a possibility of comparison both of the Italian judiciary and the Italian association with the other European Countries.

#### 1. The guarantees of independence and the situation of judges in each European country.

There are mainly two types of recruitment for judges: one for students and one for people with professional experience.

There is also a third type of recruitment: in Switzerland and in Slovenia the judges are elected.

The necessary conditions are generally the same:

- citizenship
- a minimum of age (30 years in Georgia),
- a law degree or equivalent
- a professional experience of some years to sit for the exam or to be selected

The recruitment of students is generally based on an exam or a competitive exam. In Greece, Italy and Croatia, the only way of being recruited is to pass a competitive exam. By contrast, in the UK and Ireland, students cannot be candidates and the recruitment is limited to those with a minimum number of years professional experience as a lawyer.

For example, in Austria there are both: the candidates either have absolved four years of initial training and passed an exam (written or oral) or they have been lawyers or notaries. Then the candidates (trainee judge) are appointed by the minister of justice. To become a judge, they must do a minimum initial training of 5 months and they have to pass an exam and an interview.

The authority in charge of recruitment also varies and can be judicial: the Supreme Court (Slovenia) or an independent organ such as Judicial Academy (Croatia), Conseil Supérieur de la Justice (Belgium), High Council of Justice (Georgia) Judicial Appointments Commission (England and Wales) or a special committee of another branch of government Evaluation Committee (Iceland), Minister of Justice and Parliamentary committee (Germany).

Initial training is provided either by the dedicated school (France, Italy, Portugal), other body (Judicial College England and Wales or Judicial Institute Scotland), or directly by the judges in court (learning by doing: Germany, Ireland).

In Portugal, there is a school responsible for training judges, since 1980, called Centro de Estudos Judiciários (CEJ); it's based in Lisbon. The main mission of the CEJ is to train judges and public prosecutors. It is therefore, the CEJ's responsibility to provide initial and continuous training for judges (and public prosecutors) for judicial courts and for administrative and tax courts.

In Austria, the initial training for candidates (after finishing university study) is 4 years. Most of the time the candidates are assigned to a judge in different courts with different types of jurisdiction, they are also assigned to prosecutor offices, to a lawyer or notary, to prison service etc. In between these assignments they attend courses. There is not a school for training judges, in the sense of a justice academy like in Bordeaux, Barcelona or Trier, but there are two locations where training is performed.

Continuous training is not always provided (Iceland). It is sometimes limited to one-day seminars or conferences (Ireland, Greece). It is sometimes compulsory (France: 5 days per year) but not always (UK, Greece, Slovenia).

The procedures **for appointment and promotion of judges** are very diverse.

In some countries, there is a special committee. It gives an opinion on which candidate is the best qualified and submits a shortlist to the authority in charge of the appointment (Ireland: Judicial Appointment Advisory Board; Latvia : Judicial Qualification Board ; Iceland : evaluation committee of 5 members). In the UK there is an independent Judicial Appointments Commission (England and Wales) and Judicial Appointments Board (Scotland) that are responsible for advertising vacancies, preparing a short list of candidates, interviewing candidates and making recommendations for appointment.

Where there is a High Council of Justice, this organ is usually in charge of recruiting and promoting the judges (Georgia, Portugal, Spain, Turkey, Belgium). The High Council competence might be shared with other authorities; e. g., in France it's carried out by the High Council with the Minister. In Germany there is not a High Council of Justice, neither a similar body and recruitment of judges is a task of the single federal states.

The final authority in charge of approval of the appointments of judges is either the Minister of Justice (Austria), the High Council of Justice (Georgia), the President of the Republic (Ireland, France, Hungary), the Sovereign in UK who acts on the advice of Ministers.

Promotion is usually granted after some years (Portugal, France, Greece).

According to the National Associations, security tenure is guaranteed to judges in all the countries where judges are not elected, because they are usually appointed for life. In Switzerland, elected judges are not really at risk of losing their post. The judges currently serving are generally re-elected. Nevertheless, it raises the question of political pressures, as the judges have to be presented by a political party in order to compete in the elections. Judges in Slovenia have permanent tenure, which is set in 129 of the Constitution of the Republic of Slovenia. In Slovenia the judges are assessed every three years by the High Council: too frequently, according to the Slovenian Association.

In Germany lifetime tenure is guaranteed to judges, once they are appointed lifetime judges, but this does not mean that salaries can not be reduced on the ground of bad assessment.

A time-limit is sometimes drawn for certain posts as Heads of Courts (Belgium, France). In many countries there is a maximum age for holding judicial office.

There are exceptions to security of tenure: 1) period of probation, during which the judge has no lifetime appointment and tenure (Germany); 2) disciplinary findings or related misconduct can lead to a dismissal or a removal in every country, and the procedures are well-organized to protect the judges from arbitrary decisions. In all countries the judge under investigation benefits from procedural guarantees recognized at European level (assistance by a lawyer or a person of his choice; hearing before decision of the disciplinary organ; written and reasoned decision; appeal). In Turkey, there is no legal remedy against disciplinary sanctions pronounced by the council of justice.

This last remark, together with other feedback to the questionnaire as provided by YARSAV (the Turkish association of judges) before its banning by the government, was a clear indication of how serious the situation of the judiciary was in that Country before the 2016 coup.

## 2. Associations of judges

The right of association is recognized for judges in all the countries having answered the questionnaire.

For the Turkish judges, however, the application of this right is currently difficult, because not only the government but also the High Council of Justice does not recognise these associations and both try to discourage judges from joining them.

The right to form a union is officially recognized in some countries (Belgium, France, Germany, Ireland) even if in fact only Germany and France exercise it.

In Portugal, Iceland, Slovenia, Belgium and Italy, there is only one association. In Germany, Spain, Switzerland and France there are more than two other associations of judges and prosecutors. In United Kingdom: there are associations within the particular level in the hierarchy of the court or tribunal structure.

A general overview shows the wide range of size and activities of the member associations.

All associations show a democratic structure, their representatives as well as their office holders are elected, in most of the times directly, in some larger associations indirectly; the leaders of all the associations are elected, either by the general assembly of members or by a committee. Secondly, all associations are to a large extent if not solely financed by membership fees. The associations of France and Spain receive a subsidy from the ministry of justice related to their representativity based on the elections results. These associations do not deem the subsidy from the ministry as undue interference, because it is granted according to scientific criteria.

Austria, Georgia, Greece, Iceland and Portugal, the representation rate is comprised between 90% and 100% of all active judges.

In Germany, Slovenia, France and Netherlands : between 60% and 75%.  
Spain and Turkey : less than 30%.

There are regional branches or commissions only in Croatia, Austria, France, Germany and Portugal. These local representatives are elected.

The United Kingdom association system is decisively different from the Italian one, therefore deserving a note.

The United Kingdom is in a peculiar situation in many respects. First, it contains three distinct legal systems, which operate independently of each other. Thus in terms of private international law, English law regards Scots law as a foreign legal system and *vice versa*. Northern Ireland is similarly apart. It is consequently not possible for there to be a common United Kingdom national association of judges. It must also be recognized that in each of its separate jurisdictions, the judiciary in the United Kingdom has never been organized in a uniform way, with promotional prospects across the hierarchical arrangements of courts. Consequently such associations as have been formed operate at a particular level in the hierarchy of the court or tribunal structure. Thus in England and Wales there is, at the level of the district courts, the District Judges' Association; at circuit court level, the Circuit Judges' Association; and at High Court level, the High Court Judges' Association. In the UK wide tribunals associations have the same geographic remit and there are some additional associations for non legal members of tribunals. In Scotland, there is the Sheriffs' Association, to which most sheriffs belong. At the higher levels in the court hierarchy the number of judges concerned becomes sufficiently small that there is no apparent need for a formal association. But there are some structures of an informal nature in those higher instance courts.

Regarding the **relation of the association with public administration**, the practices are very different. There are regularly meetings with the Ministry of Justice and the association is consulted on reforms dealing with the judiciary in Austria, Greece, Latvia, Netherlands, Portugal, Spain. Some consultations are even mandatory in France and Germany. The association is sometimes consulted in Croatia, Ireland, Iceland, Slovenia. In Georgia, Belgium, the association is never consulted, neither in Turkey where the attitude of the executive is very hostile. On the contrary, the German association DRB –member of AEM- is recognised by the German government as a top level consultant, so the law making agenda of the government requires the ministries concerned to contact and inform DRB of upcoming laws concerning the judiciary.

There are occasionally **contacts with representatives of the legislature**, more or less on a regular basis. But the association is generally requested to give an opinion on reforms dealing with judiciary matters or issues concerning the judiciary. There are exceptions in countries where no meetings occur and no opinion is required : in Georgia and Ireland.

Regarding the **action undertaken** in the last years, all member associations organize regular meetings of their bodies and events for their members. Professional education/formation plays a major role in some associations. All associations have given their opinion to reforms concerning the status and salaries of judges.

Some produce a magazine (Austria, Germany, Georgia, France), some electronically: Italy, Switzerland, Spain. Almost all provide a website.

Very few organized collective action (Slovenia, Portugal, Greece), in most countries for judges it is forbidden to strike.

What was above mentioned is a summary of the information achieved by the questionnaire, which was selected on the ground of two items of interest for the journal: the guarantees of independence of judges and the characteristics of professional associations.

The survey took into consideration other topics too, such as the resources for justice, the ethical rules of conduct, the salaries and the pensions of the judges (information concerning the amount of revenues are not available), protection of judges. For further information, the summary report by AEM is published on IAJ-UIM website (<https://www.iaj-uim.org>).



*Cristina Marzagalli*  
*Judge in the Court of Varese (Italy)*