



**The President**

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**Report of the President of the European Association of Judges  
June – October 2014**

**1 – General**

This report covers a short 5-month period which also includes the summer holidays. The period was therefore less active than the previous one.

The decisions adopted in Limassol have been implemented. The resolutions have been sent to the relevant national authorities (Ukraine) and, in the case of Turkey, to the European authorities (see below).

As contemplated, letters have been sent to the Minister of Justice of Luxembourg, to the Slovak authorities and to the representatives of the Polish association.

I attended the ASJP congress from October 2 to October 4, 2014 in Troia (Portugal) and delivered a presentation on “*the creation of a status for the European Judge*”.

## **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)

Exceptionally, the CEPEJ held its plenary meeting on July 3 and 4, 2014 in Baku (Azerbaijan). Having been informed tardily that the meeting would not take place as usual in Strasbourg, I was not able to attend. No other member of the EAJ's Bureau was available either.

On the basis of the minutes of the meeting (see links below), the meeting mainly focused on the future publication of the biannual report on the evaluation of the legal systems, which should be published in early October.

[https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2014\)11&Language=lanFrench&Ver=original&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2014)11&Language=lanFrench&Ver=original&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679)

[https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ\(2014\)11&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679](https://wcd.coe.int/ViewDoc.jsp?Ref=CEPEJ(2014)11&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=B9BDEE&BackColorIntranet=FFCD4F&BackColorLogged=FFC679)

#### 2.1.2 – Consultative Council of European Judges (CCJE)

The CCJE will soon deliver its 17th opinion on the evaluation of the work of judges, the quality of Justice, and respect for the independence of judges.

The draft opinion was sent to me in early September for my information and comments. The text was of such quality that I did not make any comments whatsoever.

The next meeting of the CCJE will be from October 22 to October 24, 2014. In order to avoid multiple expenses, the EAJ will be represented by Gerhard Reissner, President of the IAJ.

### 2.2 – European Union

#### 2.2.1. “Ways to Brussels” working group

In Limassol, the EAJ 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 finalisation of the written remarks to be submitted to the EAJ's Presidency Committee prior to their distribution.

As of the date of this report, work was still in progress. Discussions will take place during the meeting in Foz do Iguacu.

#### 2.2.2. European Forum for Restorative Justice (EFRJ)

The EAJ has been contacted by the EFRJ to participate in a number of events as experts.

The first event took place in Brussels on June 2 and 3, 2014. The EAJ was represented by Anne Freson, Vice-President of the Belgian section of the IAJ.

You may log in to the following link to be informed of the work of this organisation:

<http://www.euforumrj.org/home>

### **3. Working group on the status of member associations**

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

#### **- Slovakia**

A political and media campaign against judges was recently launched in Slovakia.

The Slovak representatives have also explained that a new constitutional reform has been contemplated regarding the designation/election of the members of the High Council of the Judiciary and the possibility for the National Security Authority, which is part of the executive, to interfere, on the basis of vague and unclear rules, with the process giving judges the opportunity to keep on discharging their duties.

As contemplated in Limassol, and jointly with the Slovak association, a letter was sent to the President of the Slovak Republic, the Prime Minister and the Minister of Justice of Slovakia, to let them know that the EAJ was concerned about developments which are not compliant with the European standards.

The Minister of Justice of the Slovak Republic, Mr. Tomas BOREC, answered me in early July 2014 and explained that the reform had been submitted by members of parliament, including MPs belonging to the opposition, not by the Slovak government, and that he considered that the contemplated developments were not in contradiction with international requirements.

For information purposes, the letter was forwarded to the Slovak association and to the working group on the status of member associations.

The working group has for that matter been entrusted with a detailed review of the statutory and constitutional developments in Slovakia.

This issue will be on the agenda of the meeting in Foz de Iguazu and, on the basis of the working group's report, supporting decisions may be made.

### **4. Difficulties encountered in various European countries**

#### **- Turkey**

A resolution supporting the Turkish judges was adopted in Limassol.

It was sent to the same European and international authorities as previously.

The cover letter specified that the EAJ had decided to create a special commission in charge of making sure that the future electoral operations would be properly carried out.

The said resolution was sent with a cover letter to the European authorities and to the UN officials in charge of judicial matters. On that occasion, they were asked about the concrete measures which had been adopted over the past 6 months to put an end to a situation which has kept on deteriorating.

I have received various answers:

- from the cabinet of the President of the European Council, Mr. Von Rompuy, who took note of the information provided and expressed interest;
- from the European Commissioner for Enlargement, Mr. Stefan Fule, who said that he also considered that the next elections should be freely organized and that he had been in touch with the Turkish authorities to introduce an independent and impartial justice.
- from the President-in-office of the OSCE, Mr. Didier Burkhalter, who referred to his previous answer dated March 27,
- from the Secretary General of the Council of Europe, Mr. Thorbjorn Jagland, who informed me of his various contacts with the Turkish authorities and of the actions undertaken by the Venice Commission, the CCJE and the CCPE.

The representatives of the Turkish association YARSAV have frequently informed the ad hoc working group and myself of the developments occurring in their country.

I went to Ankara with Pol Van Iseghem from September 8 to September 10. We met the President of the Constitutional Court, the President of the Turkish Bar Association, the French Ambassador and many colleagues (YARSAV members and non-members) acting as court judges or prosecutors at courts of first instance or the Supreme Court. Press conferences were organized.

It was not possible to meet the Turkish governmental authorities or the persons in charge of organizing the elections to the high council of judges and prosecutors.

A detailed report will be made during the meeting in Foz do Iguacu.

#### - 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.

It was sent to the acting President of Ukraine. No answer has been received.

#### - 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.

The letter has remained unanswered.

## - Poland

The representatives of the Polish association have informed us of the difficulties encountered in Poland regarding the remuneration of judges.

At their request, a letter was sent to the President of the association to share the concerns of the EAJ about developments which are not compliant with European standards and which the EAJ has already underlined in several resolutions (in particular the resolution adopted in Krakow in 2009).

Via a message to all member associations, the Polish association expressed its concern about a reform project which would make the judges' declarations of assets public. They wanted to know if such a system, which is dangerous for judges, existed in other countries.

I have not been informed of the number of answers received, but I let the representatives of the Polish association know that a compilation of data on the subject had been done in Europe by Duro Cessa in 2013.

## - Other countries

In July, in a message to the member associations, the representatives of the Croatian association informed us of a highly positive decision of the Croatian Constitutional Court ruling for the association and censuring the bill on wages and salaries on the basis of the opinion no. 1 of the CCJE and of the IAJ's Taipei declaration.

In September, the representatives of the Slovenian association prepared and circulated with my approval a questionnaire on the circumstances in which the accountability of judges could be raised and on the means available to protect them against that type of actions. Discussions on that matter will take place during the meeting in Foz do Iguacu.

## **5. The EAJ's organization and actions**

### 5.1 - EAJ questionnaire on the situation of Justice in Europe

During the Yalta meeting, it had been decided to send a questionnaire to all of the EAJ's member associations, to be used as the basis of a conference or at any rate of a publication intended to showcase the main difficulties encountered in Europe by the Judiciary and to explain our demands.

Despite several reminders sent by email, only 19 out of the 44 associations had replied before the Limassol meeting. On that occasion, the importance of that action was stressed. The associations who had not answered yet were encouraged to do so quickly.

After the Limassol meeting, no further reply to the questionnaire was received.

A task force has been put in place to synthesize the answers and submit an overall report which will be discussed during the meeting in Foz de Iguazu.

## 5.2 – Database

In my previous report, the principle of the creation of a database containing the details of the European and national authorities was dwelt upon in order to facilitate the distribution of the EAJ documents (resolutions and letters) by the Secretariat General.

While such details have been collected at European level, this has not been the case for those of the national authorities. The table will be circulated again during the meeting in Foz de Iguazu.

## **6. The EAJ budget**

Since the updated report on the budget was not available on the date of the preparation of this report, the matter will be discussed during the meeting in Brazil.

One association only is in arrears for the payment of dues for the years 2013 and 2014. I have invited it to settle the matter.

## **7 – The EAJ within the International Association of Judges**

### 7-1 – Meeting of the Presidency Committee

The IAJ's Presidency Committee met on June 27 and 28, 2014 in Rome.

Thought was given to:

- a few amendments to and clarifications of the articles of association and rules of procedure of the IAJ;
- the questionnaires for the admission of new members and the monitoring of associations.

Lastly, on the suggestion of the IAJ's President, it was decided to implement a long- and medium-term strategy for the IAJ's actions. The topics which could be dealt with in that context will be discussed in Brazil.

### 7.2 – Website: spaces dedicated to the actions of member associations

The Secretariat General has dedicated a page on the IAJ's website to "news and facts" from National Associations, available at: <http://www.iaj-uim.org/fr/news-and-facts-by-national-associations-5/>

I therefore invite all associations to kindly forward to the Secretariat General any articles and information they would like to make public.

### 7.3 – Situation of former extraordinary members

In Europe, two associations only were still concerned by the procedure put in place in Washington D.C. further to the modification of the IAJ's articles of association: Bosnia-Herzegovina and Azerbaijan.

Immediately after the Limassol meeting, the dossier on the association of Bosnia-Herzegovina could be completed. A positive report by Duro Cessa (rapporteur) enabled the Presidency Committee, during its meeting in Rome, to consider that the association of Bosnia-Herzegovina met all the criteria for being a full-fledged member of the IAJ.

Regarding Azerbaijan, two reports were filed in September 2013 and May 2014. The Presidency Committee reviewed the situation during the meeting in Rome. The matter will be on the agenda of the meeting in Foz do Iguacu.

#### 7.4 - Situation of associations wanting to join the IAJ

In Europe, the Russian association alone was concerned by the membership process further to an application to join filed in 2012.

Virgilijus Valancius and Robert Blair had been appointed as rapporteurs.

The Russian association and the High Council of Justice of Russia had planned to organize a conference in May in Moscow, which I had agreed to attend (with V. Valancius, R. Blair and G. Reissner) on the independence of Justice.

As a result of the events occurring in Ukraine, the conference was eventually cancelled. The association has informed us that they want to suspend the procedure for joining the IAJ.

#### 7.5 – United Nations questionnaire on the training of judges in human rights matters

The questionnaire was sent to the member associations by the Presidency Committee.

It was discussed during the Limassol meeting and, later on, during the Presidency Committee's meeting.

The questionnaire and the related action have not met a consensus and few answers have been received by Mrs. Knaul.

#### 7.6 – Letter of support to Mrs. Afiuni

Participants to the convention of the IBA Group in Santo Domingo (Dominican Republic) discussed at length of the situation of our colleague from Venezuela, Mrs. Afiuni, sued in criminal courts (and incarcerated for a long time before being placed under house arrest).

Several organizations (FLAM, IBA and the American Bar Association) have supported this colleague who has been unfairly targeted. In order to express our solidarity, I have sent, on behalf of the EAJ, a letter of support to Cristina Crespo in which I stressed the fact that the said letter could be circulated.

Christophe Régnard