



EAJ PRESIDENT REPORT

EAJ meeting, Taiwan

September 17th 2023

This report includes activities between two IAJ Meetings and EAJ Meeting held during IAJ Meeting.¹

After successful and superbly organized IAJ Meeting in Tel Aviv there was some time of inactivity to cope with ordinary judicial duties which I am not relieved even in some percentage at my Court.

Of course, we are still holding our best memories of our Athens meeting and good work we did, inspired with great hospitality we enjoyed from our Greek colleagues accompanied with excellently organized social program.

In points to follow I am reporting on main activity members of the EAJ Board and I had in the name of EAJ

1. Regular on-line Meeting of “Judicial Network” (EAJ, ENCJ, Network of Presidents of Supreme Courts, IACA). - October 10th 2022

In my reports I have already explained nature of this Network and its purpose.

At this Meeting we shared our impressions about meeting we had in Brussels in July 2022 with EU Parliament and Commission and we concluded that we should at least once a year have this meeting with EU bodies with aim to explain our position on main concerns about position of judges and judiciaries in Europe.

President of ENCJ prof. dr. Filippo Donati explained that his mandate comes to the end and that new president of ENCJ will be Ms. Dalia Vesariene – judge of Supreme Court of Lithuania.

ENCJ President informed us that ENCJ delegation is going to pay official visit to Hungary which is significant event when EU Commission is considering to establish milestones to grant funds for recovery program. At next meeting members of the Network will be informed about situation in Hungary as members of ENCJ delegation see it.

2. Czech Association of Judges 32. Annual Meeting – 14th-15th October 2022.

On kind invitation of Czech Association, I attended their regular meeting where I gave speech about role of EAJ and importance on international solidarity among judges who have particular position in the state and separation of powers.

¹ Activities after Athens Meeting are highlighted in this report

Among guests there were also Gunter WORATSCH honorary president of IAJ, representative of MEDEL, CEELI institute Dutch Embassy and representatives of Czech Parliament, Supreme Court and ministry of Justice.

What is mail message from this meeting for me is that many judiciaries in Europe are now facing problems with lack of resources, lack of staff and many are facing the trend that being a judge among lawyers is not so attractive any more.

3. Seminar (on line) after ENCJ delegation to Hungary.

On 25th October I attended Seminar where ENCJ gave their assessment of situation in Hungary after their visit to this Country.

After several members took the floor (Filippo Donati, Tomas Matusik, Jan Mazak, Dalia Vasariene, Andrea Chis) general conclusion could be that president of Curia, Chair of office to Judiciary, Ministry of Justice are denying that there are structural problems in Hungarian Judiciary, that HJC role is problematic because its role should be decisive, not only advisory which means that in front of us are lots of efforts to return this train on the right track.

4. Round Table for members of Serbian Association of Judges- 28th October 2022.

On invitation of Council of Europe and Judges' Association of Serbia I attended as key speaker Round Table of recent draft laws which will govern Serbian judiciary in the future. The focus of this meeting was to comment recent Venice Commission Report on three draft laws implementing constitutional amendments on the judiciary (CDL-AD(2022)030 in the light of other European standards and standards developed in IAJ.

The discussion was open and fruitful with main conclusion that three laws (Law on Organization of the Courts, Law on Judges and Law on High Council for Judiciary) are going in good direction and are big improvement form the situation before.

Newly appointed lady Minister of Justice attended the Meeting.

5. VII International Judicial Conference in Gevgelia Republic of North Macedonia

On invitation of Association of judges of North Macedonia, I attended /via zoom/this Conference organized with cooperation of American Embassy in Skopje and CELLI Institute in Prag where different aspects of accession to EU in regard to Chapter 23. where discussed.

I stressed in my intervention importance to insist on European Standards regarding independence, impartiality, integrity, efficiency of justice and individual judges developed in numerous CoE documents but also in jurisprudence of ECtHR and EU Court.

Judges in this process are essential so I called authorities to involve judges and judges' association to take active part in this process.

There were representatives of our member association from Poland, Montenegro, Rumania, Croatia and Serbia.

6. Meeting of judicial Networks

Regular Meeting of Networks took place on line. We were informed about ENCJ mission in Hungary and their talks with Hungarian authorities.

ENCJ President Filippo Donati is not going to chair ENCJ. Dalia Vasariene judge of Supreme Court of Lithuania will chair ENCJ from December 2022.

<https://www.encj.eu/node/621>

7. Zoom meeting with ODHR about organizing Round table in Hungary

Representatives of ODIHR, Etelka Halasz representing Hungarian Judges' Association, Gerhard Reissner and I representing EAJ attended on line meeting discussing organizational matters in regard to Round table our three organizations will organize in lead in Budapest on the topic of appointing judges from Hungarian and international perspective. Key speakers will be Tamas Matusik - NJC of Hungary and Dalia Vasariane new ENCJ President.

8. Letter - Statement

EAJ Board issued Statement in regard to severe attacks against two NCJ members after they had a meeting with USA Ambassador to Hungary.

Letter is published on our web site, as well respond from Association of Judges.

<https://www.iaj-uim.org/news/eaj-statement-on-hungary/>

9. Participation at Workshop Procedures for Protecting the Rule of Law 21-22 November 2022 Faculty of Law, Lund Sweden.

I was invited to participate in above mentioned workshop which has been organized within the Project Judges Assessing the Independence of Judges.

Historical Foundations and Practical Procedures in Facing the Threats against the Rule of Law in Europe is being carried out at the Faculty of Law, Lund University, Sweden, 2020-2022. Members of the research group are professor Xavier Groussot (EU law), associate professor Martin Sunnqvist (legal history) and assistant professor Lotta Maunsbach (procedural law). The project is financed by Riksbankens Jubileumsfond and administered by the Faculty of Law, Lund University.

At this workshop president of MEDEL Filipe Marquez and I presented jointly main reasons and legal arguments of our Lawsuit against European Council.

This was good opportunity to promote EAJ/IAJ work among legal scholars not only regarding topic of the presentation but also of our organization, role and our goals.

Vice-president Mikael Sjoberg and President of Swedish Association of Judges Ms. Hanna Werth.

10. CCJE Plenary

At CCJE Plenary held from 31st November to 2nd December Opinion 25 has been delivered "Freedom of Speech of Judges with huge impact on the final text from Jose Igreja Matos, Gerhard Reissner and myself.

<https://www.coe.int/en/web/ccje/-/test>

11. Regular Monthly Meeting of Judicial Networks. December 7th 2022.

New president of ENCJ, Lithuanian judge Dalia Vasariane took the ENCJ Chair.

diferent topics were discussed, mainly situation in Poland, Hungary and we agreed to explore in more detail new phenomenon non-attractiveness of becoming a judge among young lawyers. We agreed that salaries are one of mayor factors and that this angle should be explored in more details.

12. Round table “Appointment of Judges and independence of Justice” –Budapest December 12th 2022.

ODIHR, EAJ and Hungarian Association of Judges organized jointly round table with participation of Association of judges, members of Academia, NGO and EAJ (Gerhard Reissner and myself) where it was discussed particular position of Hungarian Council, lack of authority and practice which puts aside involvement of HJC in appointing judges through so called “secondment of judges” phenomenon which allows President of Office for Judiciary to appoint judges without proper procedure and proper evaluation.

hope has been expressed that ODIHR will with EAJ and Hungarian Association of Judges support continue to raise questions of interest in regard to independence of judges in Hungary.

13. Meeting with legal team – January 3rd 2023

Representatives of four European Associations (Zeller-EAAJ, Guglielmi- MEDEL, Trotman-JfJ Sessa-EAJ) had a meeting with Mr. Casten Zatscher and his associates in regard to future actions about our law suit against EU Council.

Court decided to use swift procedure and Poland, Hungary and EU Commission decided to intervene in the case. Unfortunately, EU Parliament Committee with 11 votes to 10 decided not to intervene in this case.

We discussed issues of admissibility and standing with major argument that our member association – Iustitia is affected because judges, members of Iustitia are affected with illegal proceedings against them. It has been also decided to ask for confidentiality on names of judges for obvious reasons.

Hearing is expected in spring this year.

14. International Conference to mark the 5th Anniversary of the Supreme Court “Implementation of the Rule of Law: Role of the Supreme Court in modern conditions”- January 20st 2023

This was high-level on-line conference with participation of Vsevolod Kniaziev, President of the Supreme Court, Ukraine Marija Pejčinović Burić, Secretary General of the Council of Europe (tbc) Síofra O'Leary, President of the European Court of Human Rights Koen Lenaerts, President of the Court of Justice of the European Union.

I was representing EAJ with the topic “Changes in the case law: ensuring relevance through the risk of predictability?”

Conference was followed by more than 300 participants most of them judges in Ukraine.

15. Interview to Spanish Radio Cadena SER – 30.1.23

I was asked and gave interview to journalist Angel Villascusa about developments on judicial reform in Israel and what are risks for rule of law and separation of powers if such changes will come to force. I took the opportunity to compare Israeli situation with other countries where developments are subject of EAJ concerns.

16. Regular Meeting of Presidents of judicial networks in Europe (EAJ, ENCJ, NPSC and IACA)

We discussed regular topics and developments in different judiciaries which constite our membership.

17. EAJ Board Statement on situation in Israel

<https://ej.iaj-uim.org/eaj-board-statement-on-the-situation-in-israel/>

The statement provoked Israeli Public TV journalist based in Berlin Mr. Dov-Gil-Har to ask for the interview which is going to be broadcasted. As I was in Hague at that moment (February 23rd= he arrived and took an interview about EAJ, statements and reasons why we acted in that manner.

18. On line Meeting with representatives of all four European Association of judges and lawyers' team (24.2.23)

We were informed of perspectives of our Lawsuit against European Council and necessity to extend our action with another lawsuit now directed against E. Commission for the reasons as follows:

“1 On 28 August 2022, the Applicants brought proceedings, registered as T-530/22 to T-533/22 and subsequently joined, seeking the annulment of the Council Implementing Decision of 17 June 2022 on the approval of the assessment of the recovery and resilience plan (the “RRP”) for Poland (the “Contested Decision”, not yet published) adopted pursuant to Article 20 of Regulation 2021/241 establishing the Recovery and Resilience Facility (the “RRF Regulation”).

2 In the course of those proceedings, the Council on 13 December 2022 raised a plea of inadmissibility, which was served on the Applicants on 15 December 2022. At paragraph 35 of its plea of inadmissibility, the Council argues that the Contested Decision “by its very nature” cannot affect the Applicants or their members as it in effect – according to the Council – only constitutes a preparatory act for entering into legal commitments with Poland as regards financial commitments and loans. It is – still according to the Council – only the Financing Agreement subsequently entered into between the Commission and Poland pursuant to Article 23(1) of the RRF Regulation (the “Financing Agreement”; Annex A.1) which constitutes “the individual legal commitment within the meaning of the Financial Regulation”. To the extent that financial support is granted through loans rather than non-repayable support, the Applicants understand that line of argument to be applicable in the Council’s view mutatis mutandis to the Loan Agreement entered into between the Commission and Poland pursuant to Article 15(2) of the RRF Regulation (the “Loan Agreement”; Annex A.2).

3 While the Applicants disagree with the Council’s position on this point, they, by way of precaution, should the Council prove correct that the Contested Decision by its nature is incapable of affecting the Applicants, in the present application (the “Application”) seek the annulment of the Financing Agreement and the Loan Agreement (together, the “Contested Agreements”).”

19. Attendance at Annual Assembly of Portuguese Judges (17.-18. March 2023.)

I was invited to participate at impressive and excellent organized annual meeting of Portuguese Judges, where I represented EAJ. President of IAJ and vice-president Barone were there as well.

It was impressive to see how Association is admitted and recognized in the society, politics and judicial hierarchy.

20. CCJE WG Meeting (29.-31. March 2023.)

Together with IAJ President Jose Igreja Matos I was attending first meeting of CCJE WG dealing with next CCJE Opinion on independence of judges and use of new technologies.

21. IUSTITIA Conference “Tribunal establish by Law” (14. April 2023)

On invitation of our Member Association, I have attended this conference and had a chance to present IAJ opinion on appointing of judges and appointing body through our Universal Charter of Judges and all our work behind it.

EAJ was represented also through vice-president Mikael Sjoberg who also had a presentation on appointment of judges in Denmark.

22. Attendance at IUSTITIA Annual Meeting (15. April 2023)

23. “Lunch Seminar” organized the ENCJ (18. April 2023)

Honorary President Gerhard Reissner and I were speakers at this on-line seminar on topic of “Vetting of Judges”.

We were advocating caution on use of this instrument using CCJE and Venice Commission on this issue.

This is topic which should be more in the focus of EAJ in the future.

24. Meeting of the Networks – May 8th 2023.

Regular monthly meeting (on-line) among representatives of four judges’ networks took place. (ENCJ, NPSC, EAJ- IACA was absent). We discussed issue of salaries of judges in EU, possible steps we could take individually or jointly, and president of ENCJ informed us about developments in Hungary where new law on the Council is about to be adopted with some positive changes strengthening autonomy and authority of the Council.

We were also discussing possibility to pay visit to EU Commission, as we did last year and it was decided to try to do so after Commission Report on Rule of Law will be published.

Next meeting is scheduled after our EAJ Assembly in Athens.

25. A TAIEX Workshop on social networks and judicial institutions: using social networks as official channel of communication 15.-16. May 2023.

At this workshop prepared for Bosnia and Herzegovina judged in cooperation with High Judicial Council I was speaking about freedom of speech for judges and so far reached standards in this respect in Europe and the world.

26. EAJ Meeting in Athens 31.5-2.6.2023

Enjoying excellent organization and warm hospitality of Greece Association of Judges 39 Members of EAJ were working over the accepted Agenda. Statements on Lithuania, Croatia, France, Hungary, Romania were adopted.

Ukrainian delegation informed the Assembly about terrible conditions of courts in the part of the country affected with war atrocities and consequences of Russian aggression.

27. IAJ Presidency Committee Meeting, Turin 9.-10. June 2023.

28. Round table in ODIHR organization on state of independence of justice in Poland.

I was asked and presented topic” INTERNATIONAL CONTEXT and PERSPECTIVE” what was opportunity to speak again about our Charter besides all other international instruments.

29. CCJE Working Party Meeting June 21.-23. Strasbourg

Working party which Jose Igreja Matos and I are part of most of two days were working with other members on new Opinion on independence of judges and use of technologies in courts.

30. PACE side event

On 21 June 2023 during PACE session week special event was organized “Revisiting the functioning of democratic institutions and rule of law in Türkiye: Role of judiciary in current situation of Türkiye in honouring the obligations deriving from CoE membership” where presidents of four major European Associations of Judges (EAJ, MEDEL, JfJ and AEAJ) spoke to different members of PACE from different political parties about situation of judges and prosecutors in Türkiye.

More about event, my speech can be found on EAJ WEB page.

Moderator was IAJ President Jose Igreja Matos.

At the end of event Joint statement of the Platform for Türkiye was pronounced.

31. Attendance at European Law Institute in Viena. 6.-8. September 2023.

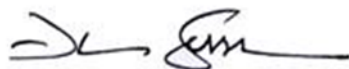
I am invited to attend and take active part to Annual Conference which will be devoted to the ELI-Mount Scopus European Standards of Judicial Independence project builds. Mount Scopus International Standards of Judicial Independence, which were created to apply in a broad range of jurisdictions globally. Its Team aims to review, update and adjust those Standards to the reality of European jurisdictions as well as to current challenges to judicial independence in some European countries. The Standards will provide specific guidance for assessing judicial independence in European legal systems as well as suggestions for legislative change or for the adaptation of current practices. The panel will provide an opportunity to present and discuss the general part of the Report, dealing with fundamental principles relating to the judiciary, and the specific part focused on topics concerning the independence of the justice system.

I will speak about European standards on disciplinary responsibility of judges.

32. Part of Venice Commission Expert Group who did Assessment on The Law on the External Assessment of judges and prosecutors of Republic of Moldova (vetting).

33. Drafting CCJE Burro opinion on situation on judges in Ukraine who lost their position because reorganization of court system took place.

<https://rm.coe.int/2023-ccje-bureau-opinion-on-ukraine-august-2023-final-published/1680ac539c>



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