



IAP EXECUTIVE COMMITTEE MEETING KIEV, 5 SEPTEMBER 2009

Minutes

Members present:

Francois Falletti, President [FF], Henk Marquart Scholtz, Secretary-General [SG] Elizabeth Howe, General Counsel [GC], Retha Meintjes, Ye Feng, Carlos Donoso Castex, James Hamilton, Wendy Stephen, Richard Buteera, Nicholas Cowdery, Basile Elombat, Alasdair Fraser, Siri Frigaard, I Grenville Cross, Gerhard Jarosch, Michael Kennedy, Fikrat Mammadov, Josaia Naigulevu, Stephen Pallaras, Richard Rogers, Oleksandr Shynalskyi, Jørgen Sørensen, Raija Toiviainen,

Also present:

Janne Holst Hübner, Communication Manager [CM], Jorge Chocair Lahsen, Marko Magdic, Agnes Diófási, Cheol Kyu Hwang, Jinwoo Jung, Sirisak Tiyanpan, Vitalyi Kasko

1. Opening

The President opened the meeting and offered his thanks on behalf of the Committee to Oleksandr Shynalskyi, The Ukrainian Association of Prosecutors and the General Prosecutors Office of Ukraine for providing such a splendid venue for the Executive Committee and the 14th Annual Conference and General Meeting of the IAP.

A “tour de table” then followed.

2. Apologies for absence

Apologies had been received from Joon Gyu Kim, Martin Herschorn, Sabas Chahuan Sarras, Vinette Graham Allen and Laszlo Venczl.

On behalf of the Executive Committee, the President congratulated Mr. Kim [in absentia] upon his new position as Prosecutor General of Korea.

3. Adoption of the minutes of the previous meeting

Minutes of the previous meeting of the Executive Committee Meeting in Yaoundé, Cameroon, were agreed as an accurate record subject to an amendment to item 15 with reference to the bid from Buenos Aires to host a Regional Conference. It being a firm bid the word ‘potential’ should be removed. This was agreed

4. Matters arising from the minutes [GC]



Essay Competition: Two essays have been received from Serbia and South Africa; neither of which was considered, by the Judges, to be of a high enough standard to win, but both authors had been congratulated and given a copy of the revised edition of the Human Rights Manual.

The future of the Essay Competition was discussed and **it was agreed** to continue with the project for one more year with increased energy from all members to promote the project within their organisation.
ACTION; All members

Spanish Translation: Translation had as agreed been provided for the Kiev conference. GC drew attention to the fact that albeit several Spanish speaking participants had registered for the conference, it was disappointing that there were not more.

Business Plan: New layout of BP will be published on Members Only Area of the IAP website immediately after Ex. Co Meeting.

Barry Hancock; had been written to by SG re claim for back funding which had been refused..

Judicial Rapid Response: as agreed the IAP were not actively participating as the initiative seemed to be aimed at Law Enforcement, but a watching brief was being maintained.

Senate Meeting: SG had written to all members and had received a few positive reactions about meeting up— an ongoing process!

5. Admission of Organisational Members

SG pointed out that it has been a good year!

The following organisational members had been admitted; Director of Public Prosecutions Office, South Australia, Office of the Attorney General of UK, Office of the Attorney General of the Maldives, Directeur des poursuites criminelles et pénales du Québec and the Department of Work and Pension from UK (30 prosecutors dealing with benefit fraud).

Applications/negotiations; Chinese Taipei/Taiwan Prosecutor's Association; Due to a newly received report from PRC, the President suggested that this item should be dealt with later during the conference, to give the President and officers time to discuss the issue thoroughly with Ye Feng and Ms. Wen-Chi Chen. It was agreed to defer the matter to a special meeting of Ex Co to be held on Tuesday afternoon after the General Meeting.[At the deferred meeting the Ex Co were advised that the applicants had agreed to resubmit their application under the name 'Chinese Taipei Prosecution Association' and this appeared agreeable to all. The IAP had signed an MOU with the PRC and this would be circulated to Ex Co members **ACTION: SG**]

6. Composition of the Executive Committee

As agreed during the Yaoundé meeting **it was confirmed** that the nomination of **Raija Toiviainen** and **Barbara Brezigar**, Prosecutor General, Slovenia should be placed before the General Meeting on Tuesday 8 September 2009.



7. Renewal/Nominations Executive Committee memberships

SG advised that there will be 13 terms expiring in 2010 [President, Secretary-General, 3 Vice-Presidents and 8 ordinary memberships]. All members, whose terms expire in 2010, have by SG been asked to indicate whether they wish to resign or continue. Only three members have done so; **Richard Buteera** has indicated he is prepared to step aside, **Carlos Donoso Castex** and **Oleksandr Shynalskyi** have both indicated their wish to serve a further term.

During the meeting **Mike Kennedy** expressed a wish to continue on the Committee with the support of the committee. **Retha Meintjes** advised that she expects to resign as member in 2010 after nominating a new suitable candidate.

Nick Cowdery has informed that after serving several years in the committee as a member, President, Immediate Past-President and lately in a supernumerary position in subrogation for Henning Fode as Past President, he has decided that his term must come to an end finally!

Regarding the President's position; **FF** advised that he has served as member of the Executive Committee since 1999 [Vice-President since 2005 and President since 2007]. During this period, especially the last two years as President, he had dedicated much time and energy, and would be prepared to serve another term if that served the best interests of the association and if he had the support of the Ex. Co. He added that whilst change can be a good thing, given the fact that 2 officers had changed within 3 years, it might be a good idea to reduce the risks by keeping some level of stability in the Committee

It was agreed that those members whose terms ends in 2010 and who had not signified their views, should let the SG know about their decision before the end of January **ACTION: members.**

It was further agreed that advance notice of forthcoming vacancies should be posted on the website and in the IAP Newsletter so any aspiring committee members had time to commend themselves, or others to the Executive Committee as Ex. Com. Nominees. **ACTION: SG, GC and CM.**

8. Succession of the SG

The SG Job Announcement had given rise to only two expressions of interests, one from UK [Tim O'Sullivan] and one from The Netherlands [Derk Kuipers]. During the Yaoundé meeting it was agreed to proceed with only one of the applicants, Mr. Derk Kuipers as the more favourable candidate.

Derk Kuipers had been called for a 1 ½ hour's job interview in The Hague with Mike Kennedy and Jørgen Sørensen in April 2009. **Michael Kennedy** informed the members that Derk Kuipers was considered to be a very experienced prosecutor and very confident. He did not appear to know a great deal about the IAP and had never attended any Annual or Regional Conferences. His language knowledge was considered adequate and overall he was considered to be a suitable candidate. **Jørgen Sørensen** referred to the paper that had been circulated among the members.



An explanation was sought and given about the way the post had been advertised with some concern as to the limitations of the candidate pool.

On behalf of Mr. Kim, **Mr. Cheol Jyu Hwang** used the opportunity to thank Henk for the professional and devoted way he had run the IAP during the last 15 years and to express support for the nomination of Derk Kuipers as his successor.

GC made reference to her outline Business Plan for 2010 which included the suggestion that Henk should remain as a resource to the IAP in some kind of ‘special advisor’ position to assist with the transition. Some concerns were expressed that such an arrangement might lead to some practical difficulties and should be handled sensitively.

Derk Kuipers was then invited to join the meeting:

He gave a short presentation, a hard copy of which was distributed to members, following which members were offered the opportunity to question Mr. Kuipers. **Thereafter the Committee agreed by a strong majority to present Derk Kuipers to the General Meeting as the prospective new Secretary General.**

9. Recommendations for IAP Awards

The Secretary-General reminded the Committee of the nominees;

Medal of Honour:

Justice Richard Goldstone. The medal was presented during a ceremony in The Hague a recording of which will be shown during the opening committee. The Ukrainians had arranged a press release.

Certificate of Merit:

- Office of the Attorney General of Singapore [for hosting the 13th Annual Conference 2008]
- Chief Prosecutor of Lviv, Mr. Oleksyi Baganets [for hosting the 4th Regional conference for Central and Eastern European and Central Asia 2008]
- Ministry of Justice of Cameroon [for hosting the Executive Committee in March 2009]
- Knut Kallerud, Chair of working group [Human Rights Training Package]
- Alasdair Fraser and James Hamilton, Chairs Working Group [Standards for Protection of Prosecutors]
- Laszlo Venczl [resigning Ex. Com. Member].

Thank you certificate: Evie Sardeman.

Basile Elombat suggested returning to the previous tradition of presenting Certificates of Merit to resigning members during the opening ceremony. It was thought that this would take too long and seems self congratulatory and so **it was agreed** to present the Certificates of Merit to retiring members during the General Meeting, when electing new members, and only announce the names during the Opening Ceremony.

10. Report on the activities (of the Bureau) of the Secretary-General and on the affairs of the Association



The President referred to his report which had only recently been circulated and developed it further. It was agreed that the report should be posted on the member's part of the IAP website. **ACTION: CM**

The Secretary-General presented his activity report with the following remarks;

- 1) The number of organisational members has increased to 135
- 2) The General Procurator's Office of the Republic of Kazakhstan has after 7 years as a "sleeping member" paid arrears of 7 years which had brought the IAP an income of US\$ 35,000.

SG referred to the Annual Report which offers a full account of the activities of the last year.

The Communication Manager presented her report.

The President stressed the importance of the other language "Sister Sites" and the opening of the new French website, which should be prioritized.

The Secretary-General thanked the Danish Director of Public Prosecutions for his support re; the IAP website and the work done by the Communication Officer. He also thanked the Dutch government for its continuing support, the Crown Prosecution Service of England and Wales for its support in seconding Elizabeth Howe as General Counsel, the Public Prosecution Service of Canada and the Prosecutors Office of Azerbaijan Republic for continuing support to the French and Russian websites and the Ukrainian colleagues for the translation of IAP publication into Ukrainian.

11. Financial Report

The Secretary-General presented the draft budget for 2010, and financial statements and balance sheet for 2008, drawn up by Ernst & Young Accounts.

Regarding the financial statement and balance sheet for 2008;

Retha Meintjes and **Jørgen Steen Sørensen** asked **SG** to clarify the expenses of 11,584 EUR covering the Special Advisor fee. **SG** advised that Barry Hancock has worked on a consultancy basis as a special advisor since the Hong Kong conference and had completed some work and projects on behalf of the association. There was some unease amongst members about this arrangement and the finances involved.

Mike Kennedy suggested more transparency when using a special consultant, especially when payments are being made to previous members of the Committee. It was agreed that any similar arrangements for the future would need approval from the Committee.

Stephen Pallaras asked the Secretary-General to clarify the process behind the buying/selling of stocks. **SG** referred to John Balcombe's Report.

Marko Magdic suggested **SG** to submit a more detailed financial report. **SG** responded that Ernst & Young already looks through all invoices, vouchers in order to produce the report submitted to the Committee.



Steven Pallaras expressed his support to the way the financial report is given.

Grenville Cross asked about the proposal in next year's outline plan that Henk Marquart Scholtz replaces Barry as special adviser and **it was agreed** to place this on the agenda for the Prague meeting when discussing the implementation of the planning and budget arrangements recommended by John Balcombe.

Draft budget for 2010:

SG pointed out that the expenses will be reduced further compared with the current budget submitted to the Committee since the SG salary after September 2010 will be covered by the Dutch Government and the Special Advisers' fees will be reduced.

Wendy Stephen asked SG to explain the combination of expenses re; Apartment in the Hague and per diem allowance. **SG** clarified that per diem post covers expenses related to a second household [living away from family].

2010 Budget was agreed

Granting Programme:

SG thanked Irish aid, OIF, the Commonwealth Secretariat and Gordon Lerve for their support to the Granting Programme.

Danish proposal; Payment of salary to Communication Manager.

Jørgen Sørensen briefly explained the background for this proposal, being the number of working hours, particularly at peak times, that's becoming an increasing problem in relation to Danish labour law and tradition

Retha Meintjes asked Jørgen to specify the work done, the number of extra hours, and to explain how an extra payment can counterbalance the extra work. **Jørgen Sørensen** explained that if a special contract between the IAP and Janne Holst Hübner was executed, Janne would be considered as an employee performing two jobs for two separate employers, and so the labour law provisions would not be engaged.

It was agreed that 20.000 EUR p.a. should be paid to Janne by the IAP. Mike Kennedy suggested that a document confirming the financial agreement should be produced and submitted to the Executive Committee and this was agreed. **ACTION: SG and Jørgen Sørensen**

John Balcombe's Report;

The President offered his thanks on behalf of the Committee to the Crown Prosecution Service and Mike Kennedy, for allowing one of their accountants, Mr. John Balcombe, to come to The Hague to review the financial condition of the IAP, which he found to be in good shape and congratulated Henk as 'an accountant's dream'.

There followed a short debate regarding the 4 recommendations of Mr. Balcombe.

Mike Kennedy confirmed the CPS offer of an accountant for 5 days p.a. to assist with the implementation of the recommendations and develop the transparency of the financial husbandry. The salary would be paid by



the CPS but the IAP would need to cover travel and accommodation expenses. **This was agreed** and SG asked that the gratitude of the Executive Committee be passed to Mr. Balcombe and the CPS.

After discussion: **All the recommendations made by John Balcombe were accepted and would be incorporated into a new protocol to be produced for the meeting in Prague, with the exception of the final recommendation [appointment of an assistant as second cheque signatory] in respect of which, it was agreed to seek further clarification and bring back to meeting in Prague ACTION SG GC MK**

12. Report from General Counsel

The General Counsel presented her report with following supplementary comments;

IAP Business Plan; John Balcombe recommended in his report [item B,1] that the Business plan should be more closely aligned to the Annual Budget and where applicable budgeted expenditure should be expressed in detail under the various aims and objectives of the organisation. **It was agreed that GC should work closely with Balcombe to implement his recommendation in the Business Plan.**

The War Crimes Committee; the special interest meeting to be held during the Conference would debate the issue of establishing a forum within the framework of the IAP and how this could be achieved.

World Summit; GC referred to the meeting to be held during the Kiev conference comprising representatives from Romania [World Summit Secretariat], Chile, UNODC and IAP to start planning the shape and content of the next Summit in Chile in 2011.

GPEN; First training event has just taken place at Bermuda hosted by Rory Field with great success. The Training event was financially supported by the Commonwealth Secretariat and the IAP using some of the Cisco money received last year for GPEN. **GC proposed Esther George for a Certificate of Merit in 2010** to acknowledge all her endeavours around GPEN.

Analysis of Evaluation Sheets from Singapore Conference; Only 11 % had responded by completing the sheets and generally speaking, they were positive. In order to encourage the completion of more 'happy sheets' it was agreed to announce more reminders during the conference. **ACTION: GC**

Regional Conference in Dubai; GC advised that the host had very generously offered to pay for the accommodation of two delegates from each country in the region. Travel would also be covered for speakers selected for the conference.

13. Business Plan, vision statement and future work plan

GC presented the current Business Plan which included a review of progress to date and an outline of the future work plan. She had following supplementary comments;

Current Business Plan re; object 7; Referring to the benefit leaflet. It was agreed to translate the leaflet into other languages. **ACTION: GC/CM**

Proposed outlined business plan for 2009/2010:



This was agreed

Essay Competition and Awards need to be inserted under Object 7 ACTION GC

14. Report from Benefits Committee

Wendy Stephen reported as follows;

Dealing with prosecutors in difficulties; The Committee concluded it was very difficult to come up with a final solution. One of the worries is how to assure accuracy of information.

Jørgen Sørensen informed that his office had investigated this issue further and that it appears that the International Bar Association already has some kind of system. He offered to assist by drafting a suggestion to be provided to the Ex. Co. for the Prague meeting. **It was agreed to let Jørgen progress with this project and explore all possibilities. ACTION JS, WS and RM.**

15. Tim O’Sullivan’s Proposal for Constitutional Amendment

Mr. O’Sullivan’s proposal [agenda item 15 [1]] was outlined by **GC** and discussed thoroughly as well as his request to use the Secretariat to address his proposal together with a 1000 word written statement to all members of the IAP.

GC advised that this had not been done as 1) It had been decided to wait for the views of the Committee and 2) the announced 1000 words written statements has never been received.

Wendy Stephen pointed out that some of these issues already has been discussed and considered at the Kampala meeting.

GC pointed out, that it had been agreed at the Yaoundé meeting to place more information in the newsletter and on the website to encourage members to participate more actively in IAP- this had already been done.

There was a general feeling that the route to membership of the Executive Committee should be more democratic and that the apparent barriers should be minimised

It was agreed; That **GC** should draft a response to Tim O’Sullivan referring to the current access arrangements under the Constitution. **It was also agreed to set up a Constitution Committee** to take a close look at the matter. The following members were appointed; **Alasdair Fraser, Wendy Stephen, Jim Hamilton, Carlos Donoso Castex, who should report back to the Prague meeting ACTION.**

16. Information Package for Executive Committee Members

This was now available for all members, old and new and is a comprehensive collection of all relevant material about the IAP.

GC informed that the sponsorship protocol is not included in the Information Package and needs to be reviewed as it has not been complied with.



Michael Kennedy, Gerhard Jarosch, Richard Rogers and SG agreed to go through the protocol and submit a new draft version at the next meeting of the Executive Committee in Prague. **ACTION**

It was also agreed that the Roll of Honour should be expanded with descriptors and made more widely available **ACTION SG**

17. IAP Publications

SG advised that the second edition of the Human Rights Manual and the Training Manual which will be available (free) for members of the Executive Committee and will be available for participants at the conference for only 25 EUR.

18. Annual Conferences

Vitalyi Kasko gave an extensive and impressive presentation of all practical issues regarding the 14th Annual Conference.

SG reported on the on progress of “The 15th Annual Conference” to be held 5 – 9 September 2010 in The Hague, Netherlands.

19. Regional Conferences and other future events

SG reported briefly on the outcome of the 9th European Regional conference and the programme [War Crimes] of 10th Regional Conference in The Hague 3 – 5 March 2010. He referred to the presentations that will take place during the conference relating to the 6th MEAP Conference, 14 – 16 November in Dubai and the 3rd Regional Conference of Latin America, Buenos Aires 21 – 23 April 2010

20. The date and venue of the next meeting of the Executive Committee

SG reminded the members of the **next meeting of the Committee that will take place 18 – 20 March in Prague, Czech Republic**. He stressed that members who wished to take advantage of the very generous offer from Ambassador Zlata Husa should make reservations before 20 September 2009.