

INTERNATIONAL ASSOCIATION OF JUDGES

Minutes of the meetings of the Central Council
Helsinki, June 18 and 20, 1990

Morning session of June 18

Present: Mr. De Vreese, Mr. Tillinger and Mr. Walsh, Honorary Presidents; the President, Mr. Woratsch; the First Vice-President Mr. Christiansen; the Vice-Presidents Mr. Abravanel, Mr. Benabdelghaffar, Mr. Sa'Nogueira, Mr. Voss; the Secretary General, Mr. Longo, and the Deputy Secretaries General, Mr. Meriggiola and Mr. Bonomo, assisted by Mr.s. Ericsson-Lindeblad.

The following delegates represented their respective national associations:

ARGENTINA	Ms. Beiró and Ms. Gatzke de Gauna
AUSTRIA	Mr. Woratsch and Mr. Markel
AUSTRALIA	Mr. Samuels
BELGIUM	Mr. Joachim and Mr. Van Gerven
BRAZIL	Mr. Davis and Mr. Silva
CANADA	Mr. Lysyk and Mr. Nunn
DENMARK	Mr. Larsen and Mr. Rasmussen
FEDERAL REPUBLIC OF GERMANY	Mr. Pelz and Mr. Voss
FINLAND	Mr. Aarola and Mr. Kiuru
FRANCE	Mr. Riolacci
GREECE	Mr. Sergakis and Mr. Tentés
ICELAND	Mr. Björnsson and Mr. Hafstein
IRELAND	Mr. McCarthy and Mr. Walsh
ISRAEL	Mr. Kitai and Mr. Lindenstrauss
ITALY	Mr. Brancaccio and Mr. Caliendo
LIECHTENSTEIN	Mr. Fehr and Mr. Rederer
LUXEMBURG	Mr. Penning and Mr. Reuter
MALTA	Mr. Agius and Mr. Muscat Azzopardi
MOROCCO	Mr. Daoudi
NETHERLANDS	Mr. Broekhoven and Mr. Holthuis
NORWAY	Mr. Christiansen
PORTUGAL	Mr. Payan Texeira Martins and Mr. Sa'Nogueira
SENEGAL	Mr. Ba and Mr. Thiam
SPAIN	Mr. Galan Menéndez and Mr. Rodriguez Arribas
SWEDEN	Mr. Franke and Mr. Palm
SWITZERLAND	Mr. Balscheit and Mr. Zeli
TUNISIA	Mr. Benmoussamabrouk and Mr. Essersi
UNITED KINGDOM	Sir Basil Kelly and Sir Nicholas Phillips

Mr. Kassoff, Presiding Justice of the Appellate Term of the Supreme Court of New York State, and representative of the IAJ at the United Nations, was also present as observer.

The session was opened at 11 a.m.. The President welcomed all the participants and expressed the deepest gratitude of the IAJ to the Finnish Association of Judges for the organizational work and their generous hospitality.

The President then passed to the items listed on the agenda.

Approval of the minutes of the meeting held in Macao in 1989.

Mr. Woratsch pointed out that his presence as president was not reported at the beginning of the German version of the minutes and invited the participants to submit their observations on the minutes sent by the Secretariat General to all member-associations.

Having ascertained that nobody had any further observation to make, the President declared the minutes approved with the amendment resulting from his own remark.

Appointment of two auditors responsible for examining the financial report.

Following a proposal of Mr. Samuels, the members of the Council unanimously resolved to empower Mr. Agius and Mr. Riolacci to audit the financial report drawn up by the Secretary General and to submit their conclusions and proposals during the session of June 20.

Report of the President.

Mr. Woratsch said that after the approval of article 12 of the IAJ Regulations and after the appointment of Mr. Voss as Vice-President charged with the task of dealing with the European affairs, a meeting had been held in Strasbourg on December 13 and 14, 1989, upon the initiative of the Legal Affairs Commission of the European Parliament. A IAJ's Commission consisting of one delegate from each of the 12 associations belonging to the member countries of EEC, and chaired by Mr. Woratsch, took part in the meeting, where the basis of a permanent collaboration with the EEC Parliament was established.

Later in March 1990 the IAJ delegates; each of them coming from one of the twelve countries, met in Bonn under the chairmanship of Mr. Voss. There they decided to set up a "European Association of Judges - Working Group of the International Association of Judges", of which the Presidency Committee was informed at its meeting held in Vienna on March 24, 1990.

Mr. Woratsch went on to say that the collaboration with the United Nations had also improved. He mentioned that the IAJ was invited to participate in the 8th U.N. Congress on crime prevention and treatment of offenders held in Cuba at the end of August and at the beginning of September this year. The President participated in several meetings of the national Associations in Switzerland (November 1989), Italy (December 1989, where he also had the opportunity to talk with a Colombian colleague and to be informed about the situation in his country), and in Spain and Tunisia (1990).

Mr. Woratsch also announced the publication of the final report of the mission sent by the International Commission of Jurists for the "Inquiry into the Israeli Military Court System in the Occupied West Bank and Gaza". A copy of the report, which is the result of the work done by President Woratsch with two professors of international law from the U.S.A., was distributed to each national delegation.

Report of the Secretary General

Mr. Longo briefly illustrated the financial report, which had previously been circulated to all the members of the Council. The net balance shown in the report was 28,401,424 lire against 28,051,282 lire for the previous year. Also during the last year the expenditures were kept within the limits of the income. The decrease in the amount received and also in the amount expended this year can be explained mainly by considering that the fiscal year covered this time scarcely 7 months against more than 14 months of the previous fiscal year. A smaller contribution was given by the United Nations Interregional Institute for Crime Research and Justice - UNICRI (formerly UNSDRI) in Rome, with which the Secretariat continued to collaborate. A seminar on "Justice and democratic development in Latin America in comparison with the Italian and European situation" was organized by the Secretariat of the IAJ in the Dominican Republic in November and December 1989, with the financial help of UNICRI, the organizational support of ILANUD (Latin America Institute of the United Nations for Crime Prevention and Treatment of the Offender) and funds donated by the Italian Government, under the auspices of the Italian Supreme Court of Cassation. University professors, lawyers and judges - among them Mr. Brancaccio, Chief Justice of the Italian Supreme Court of Cassation, and Mr. Abravanel, Vice-President of our Association - participated in this seminar, which enhanced the prestige of the IAJ.

As far as the yearly contributions to the IAJ were concerned, payments for the year 1990 had not been received yet from Japan, Malta, Morocco, Tanzania and Tunisia. However, Malta and Morocco communicated that they had already sent their contributions.

The Associations of Paraguay and Uruguay have not paid their contributions since 1989, and the Greek Association since 1988.

The Lebanese Association has unfortunately been silent for many years, and the Secretariat is investigating in order to know whether this association is still in existence.

The Tunisian delegation thanked the Secretary General for his report and informed the Council that the contribution had already been sent.

Mr. Abravanel emphasized that the Secretariat General had

been too modest in mentioning the works of the two-week seminar in the Dominican Republic. It was an outstanding example of the capacities of the IAJ. The five Latin-american countries that participated in the seminar were well chosen, the reports were thorough and very important, sometimes perhaps a bit too long. Much attention was given to the subject of the independence of the judiciary. Mr. Brancaccio and Mr. Longo should really be thanked for what they did on that occasion.

Report of Vice-President Voss on the European activities and relationships with the judiciary of East European countries.

With reference to what had already been mentioned by President Woratsch, Mr. Voss said that many subjects of interest to all the 12 EEC countries were discussed at the Strasbourg meeting with the Legal Commission of the European Parliament. In particular: 1) the study of Community Law in the member countries; 2) the possibility of simplification and clarification of Community Law; 3) the application of Community Law by the national judges. It was agreed that another meeting would be organized in autumn this year, if possible. Before the new meeting every association of the EEC member countries has to prepare a written report for all the participants in the meeting so that they could avail themselves of a wide basis for the discussion.

Another meeting was held in Bonn, where future activities were also discussed. As already mentioned by President Woratsch, the IAJ participants will work under the name "European Association of Judges - Working Group of the International Association of Judges" and in this way they will present themselves before the EEC Commission in Brussels and the European Parliament, in order to make it clear that they are part of the IAJ.

The day before, there had been a meeting of the delegates of all the European associations. They also discussed how to answer a letter of the Secretary General of the Council of Europe, concerning the organization of seminars and other activities in favour of citizens of East European countries. Teaching East European colleagues what a really independent judge is, was considered one of the most important tasks for the future. Therefore, it was decided to collaborate with the Council of Europe by offering expert manpower. The working group was also ready to disseminate among the members of the European national associations the widest possible information concerning this assistance programme. The colleagues of the East European countries should be informed about the work done by the Study-Commissions of the IAJ (especially by the First Study-Commission) in the fields of the protection of Human rights, fair trial and the independence of the judiciary.

Mr. Woratsch informed the participants about the contacts he had with colleagues coming from East European countries, especially from Hungary, where a completely new association of

judges was created this year. The Hungarian colleagues had been invited to the Helsinki meeting, but they were unable to come. However, they have filed an application to become member of the IAJ, which will be examined by the Central Council next year. They have also sent a copy of their statute in German.

Mr. Woratsch, together with Mr. Markel, had contacts with Czechoslovakian colleagues, who are going to create a national association of judges. It would be better to wait for future developments in this country before encouraging an application for membership in the IAJ.

Mr. Markel said that the Austrian Association met some colleagues from Rumania, too. An organization called "Democratic jurists" exists there for the moment, but the political situation in that country is still unclear. The Austrian Association will organize a meeting in autumn, in which colleagues from Hungary, Czechoslovakia, and also probably from Yugoslavia and Switzerland, will take part. Special attention will be paid to the subject of the independence of the judiciary.

Mr. Christiansen announced that a meeting would take place in Oslo this year on the subject "The Rule of Law and Democracy in the Perestroika Epoch - The Role of Advocates". The meeting is organized by the Norwegian Bar Association. About 40 to 50 lawyers from East European countries, mostly from the Soviet Union (especially from the Baltic States) will participate, and there will also be judges among them. The programme of the conference was distributed to the national delegations. A great deal of the discussions of the Conference will be devoted to Human Rights problems and to fair trial.

Mr. Ba proposed that the IAJ establish contacts with some African countries, situated south of the Sahara, which are on the road to democratic systems. He thought, in particular, about Gabon and Benin.

The President remarked that this could be a task for the Senegalese association, but Mr. Ba answered that they do not have sufficient resources to cope with it. However, they will do what they can.

Mr. Longo asked the Senegalese delegation to give the Secretariat General the names and addresses of some prominent judges of the above-mentioned countries in order to send them some material about the IAJ.

Mr. Abravanel wondered whether the French Association could organize for those countries a seminar similar to the one held in the Dominican Republic. The IAJ and some U.N. agencies could offer their collaboration. This form of technical assistance would be more effective than sending documents.

Mr. Riolacci said that he could not commit the French Association directly, but that something could be arranged, also

in collaboration with the IAJ. The "Ecole Nationale de la Magistrature" is open to judges of the French-speaking African countries, and it could carry on some studies on this point.

Mr. Longo then told the participants about a letter sent by the former Dutch delegate, Mr. Manschot, who wanted to inform the Central Council that he and Mr. Van Raalte, after 10 years of attendance at the IAJ meetings, had to cease their representative office according to the rules of their national association. Mr. Manschot wished success to the work of IAJ and introduced the new representatives of the Dutch Judges' Association, Mr. Broekhoven, President of the first instance Tribunal of Maastricht and Mr. Holthuis, who, beside being a member of the high Judiciary in the country, is also and Deputy Director of the school for judges in Holland.

Application of candidates for membership.

With reference to the application of the Hungarian Association of Judges to become a member of the IAJ, the President proposed to appoint a rapporteur in order to take a decision next year.

Mr. Abravanel proposed Mr. Woratsch himself as rapporteur, and this proposal was unanimously approved.

Morning session of June 20

The session started at 11.30 a.m. The member associations were represented by the same delegates who were present in the previous session, apart from the following changes: Canada was represented by Mr. Boudreault and Mr. Nunn; France by Mr. Joubrel and Mr. Riolacci; Iceland by Mr. Björnsson and Mr. Hafstein; Japan by Mr. Watanabe; Luxembourg by Mr. Bosseler; Portugal by Mr. Martins and Mr. Sa'Nogueira; Senegal by Mr. Ba.

Duration of the functions of the Vice-Presidents and possibility for the President at the expiry of his term to remain two more years as member of the Presidency Committee.

Mr. Woratsch presented the proposal of the Presidency Committee to add to article 5, paragraph 4, of the Statute the following text: "..... The Vice-Presidents can be reelected three times. The past President stays two more years on the Presidency Committee, ex officio." He said that no decision on the amendment could be taken this year, because the proposal had not been submitted within the time limits laid down by article 8 of the Statute; therefore the point should be decided the following year. The Presidency Committee had commented briefly the proposal, underlining that its aim was to ensure more rotation of the Vice-Presidents (who can be reelected now as many times as the Council may wish) and to give the Presidency Committee the possibility of benefiting from the experience gained by the past President.

In the debate that followed, various conflicting opinions were expressed about the necessity or the uselessness of the expression "ex officio" in the English and German versions of the text (Mr. Agius being in favour of keeping it; Mr. Lindenstrauss, Mr. Markel and Mr. Voss against).

A suggestion made by Mr. De Vreese to introduce a provision enabling the Vice-Presidents to be reelected twice instead of three times was withdrawn after the comments made by Mr. Abravanel (firstly, every two years there is a Vice-President's place free since one of the Vice-Presidents is usually elected President; secondly, if the Central Council is not happy with one of the Vice-Presidents, it is up to it not to reelect him; thirdly, if there are several good candidates for the presidency among the Vice-Presidents, there could be the risk that they could in a way jeopardize their possibility of being elected President, having ended their term before the election).

The Central Council, following a proposal initially made by Mr. Lindenstrauss, supported by Mr. Abravanel, eventually decided that for the moment the past President would be invited to take part in the meetings of the Presidency Committee for two years without having the right to vote. The proposal of amendment to the statute will be examined in 1991.

Report of the auditors responsible for examining the financial statement.

Mr. Agius and Mr. Riolacci declared their satisfaction vis-à-vis the correct utilization of the financial resources of the IAJ. The documentation was complete, and the expenses had been kept within reasonable limits considering the widening range of activities of the Association and the ever-increasing contacts being made by the Secretariat.

The assembly unanimously approved the balance-sheet for 1989-1990 and applauded the Secretary General.

Threats to and violations of the independence of the judges in certain countries.

Mr. Voss illustrated the activity carried out by the German Association of Judges in favour of our Colombian Colleagues and thanked the Secretariat General for having translated into the working languages of the Association and distributed at this meeting the report prepared in German by the "Deutscher Richterbund". After the Macao Congress Mr. Voss had met the President of the Association of the Colombian Judges, who asked for help. The German Association decided to collect money for their colleagues and at the same time asked its Government to take any possible steps at the international level. The collection of money had been successful and is still continuing. A private foundation collaborated in order to give help to the Colombian colleagues who had to leave their country for some

time. A place to live abroad was found and also an opportunity to work, whenever possible. Mr. Voss stressed that it would be of great help if other national associations could find in their countries similar support by Governmental agencies or private institutions.

Mr. Christiansen expressed deep appreciation for the action taken by the German colleagues and Mr. Broekhoven said that the Dutch Association was going to give its contribution.

Mr. Sergakis reported that in Greece some judges are the targets for attacks by terrorists and anarchists. One avocat general of the Supreme Court and one public prosecutor of a first instance tribunal had been killed; another colleague had been wounded and many had been threatened. According to Mr. Sergakis the State should pay damages to the families of those victims and he wished that the Central Council would approve the conclusions reached on this point by the 1st Study Commission.

Mr. Riolacci asked the Secretariat General whether there was any news about the Lebanese Judges' Association and Mr. Longo replied that he was expecting some information in a few days from the Italian Foreign Affairs Ministry and from the Italian Embassy in Lebanon.

Meetings of the IAJ in the subsequent years.

The Swiss delegation announced that the Swiss Association of Judges was ready to host the Central Council and the Study Commissions in Crans Montana (Canton of Valais, Switzerland) from September 15 to 19, 1991. It was emphasized that their country will celebrate next year its 700th anniversary.

Mr. Galan proposed Spain for the 1992 meeting. The Spanish Association of Judges was having contacts with the Spanish Government and with the General Council of the Judiciary in order to obtain the financial resources necessary to cover the expenses.

Mr. Davis expressed his hope that the Brazilian Association of Judges would host the meeting of the Central Council and of the Study-Commissions in 1993.

Mr. Sergakis said that owing to financial problems the Greek Association was not in a position to extend an invitation at that moment, but he hoped to be able to do so the following year, in order to have the meeting in Greece in 2 or 3 years.

Mr. Lindenstrauss reminded the participants that in Macao he had already spoken about the possibility of having one of the future meetings in Israel. The initiative had been accepted by the Government and the courts; therefore he hoped to give more precise information the following year.

Afternoon session of June 20

The session started at 3 p.m. The member associations were represented by the same delegates as in the previous session, apart from the following changes: Canada was represented by Mr. Nunn; the Federal Republic of Germany by Mr. Mattik and Mr. Voss; Iceland by Mr. Björnsson and Mr. Hafstein; Japan by Mr. Watanabe; Malta by Mr. Agius, Norway by Mr. Christiansen and Mrs. Haug; Senegal by Mr. Ba; United Kingdom by Sir Basil Kelly and Mr. Babington.

Election of the President, the First Vice-President, the Vice-Presidents, the Secretary General and the Deputy Secretaries General

Mr. Abravanel proposed for the presidency the candidature of Mr. Christiansen, Justice of the Supreme Court of Norway and First Vice-President of the IAJ, who had been playing a very active role in the association for many years.

All the presents applauded and Mr. Woratsch congratulated his successor.

Mr. Abravanel and Mr. Voss were reelected by acclamation Vice-President after having confirmed their candidatures. The Council proceeded to vote for the other positions of Vice-President. As a result, Mr. Aarola, from Finland (47 votes), Mr. Davis, from Brazil (43 votes) and Mr. Rodriguez Arribas, from Spain (39 votes), were elected, while Mr. Riolacci and Mr. Essersi received 28 and 9 votes, respectively.

Mr. Abravanel was then elected by acclamation First Vice-President, at the proposal of Mr. Voss.

By acclamation, the Council confirmed Mr. Longo as Secretary General and Mr. Meriggiola and Mr. Bonomo as Deputy Secretaries General.

Reports of the Presidents of the Study Commissions and selection of the themes for 1991.

The President gave the floor successively to Mr. Krings, to Mr. Mosetto and to Mr. Screvens, president of the 1st, 2nd and 3rd Study Commission respectively, and they read the final conclusions of the Commissions.

After the approval of these conclusions, against which no objections were raised, the Central Council approved also the proposals of the Presidents of the Study-Commissions concerning the following new themes for 1991:

- 1) "The method of elaboration of judicial decision" (1st Commission);
- 2) "The procedure for adoption" (2nd Commission);
- 3) "Community service as punishment" (3rd Commission).

Mr. Mosetto informed the Central Council that, since he was going to retire, Mr.s. Britt-Marie Lindeblad-Ericsson, President of the Regional Rent Tribunal of Göteborg, had been elected president of the 2nd Study-Commission, Mr. Gérard Reuter, Justice of the Court of Appeal in Luxembourg had been elected 1st Vice-President and Mr. Ronan Kean, member of the High Judiciary in Ireland, 2nd Vice-President.

Mr. Woratsch in the name of all the participants warmly thanked Mr. Mosetto for the excellent work done for the IAJ in so many years of his active collaboration.

Mr. Screvens informed the meeting that Sir Nicholas Phillips, High Court Judge in London, had been elected 2nd Vice-President of the 3rd Study-Commission in the place of Mr. Manschot, who will no longer attend the IAJ meetings.

The assembly approved by consensus Mr. Sa'Nogueira's proposal to elect Mr. Woratsch Honorary President of the IAJ.

Mr. Woratsch thanked the assembly and bade farewell to Mr. Sa'Nogueira, to whom expressed in the name of all present his deepest regret that he would no longer participate in the meetings of the IAJ, on account of the principle of rotation of delegates, desired by the Portuguese Association of Judges. He recalled all the activity carried on by Mr. Sa'Nogueira, who organized two highly successful meetings of the IAJ, one in 1982 in Madeira, and the other - a congress - in Macao last year. He also recalled the effective contribution given by Mr. Sa'Nogueira to the work of the Presidency Committee.

Then Mr. Woratsch expressed his gratitude to all the delegates for their active participation in the meetings of the Central Council. Mr. Christiansen thanked Mr. Woratsch for the excellent way he had performed his duties as president of the IAJ and looked forward to enjoy his skill and experience as a non voting member of the new Presidency Committee. All those present applauded loudly and the session was closed at 4.30 p.m..

The Past President

The President

The Secretary General