

INTERNATIONAL ASSOCIATION OF JUDGES

Minutes of the meetings of the Central Council
Macao, October 23 and 27, 1989

Morning session of October 23

Present: Mr. Tillinger, Honorary President; the President, Mr. Woratsch; the First Vice-President Mr. Christiansen; the Vice-Presidents Mr. Abravanel, Mr. Benabdelghaffar, Mr. Voss; the Secretary General, Mr. Longo, and the Deputy Secretary General, Mr. Bonomo, both assisted by Mrs. Ericsson-Lindeblad and Mrs. Bianchi.

The following delegates represented their respective national associations:

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| AUSTRIA | Mr. Woratsch and Mr. Markel |
| AUSTRALIA | Mr. Samuels |
| BELGIUM | Mr. Delvoie and Mr. Krings |
| BRAZIL | Mr. Guedes and Mr. Silva |
| DENMARK | Mr. Larsen and Mr. Rasmussen |
| FEDERAL REPUBLIC OF GERMANY | Mr. Pelz and Mr. Voss |
| FINLAND | Mr. Aarola and Mr. Kiuru |
| FRANCE | Mr. Riolacci |
| ICELAND | Mr. Björnsson and Mr. Henrysson |
| IRELAND | Mr. Keane and Mr. Murphy |
| ISRAEL | Mr. Lindenstrauss |
| ITALY | Mr. Bruti Liberati and Mr. Caliendo |
| JAPAN | Mr. Yazaki |
| LUXEMBURG | Mr. Bour |
| MOROCCO | Mr. Daudi |
| NORWAY | Mr. Christiansen |
| SENEGAL | Mr. Ba and Mr. Thiam |
| SPAIN | Mr. Gabaldon and Mr. Galan |
| SWEDEN | Mr. Franke and Mr. Palm |
| SWITZERLAND | Mr. Abravanel and Mr. Zeli |
| TANZANIA | Mr. Mchujucko and Mr. Sisya |
| TUNISIA | Mr. Benabdelghaffar and Mr. Benmoussamabrouk |

Mr. Gonthier, Justice of the Supreme Court of Canada, and representative of the Canadian Judges Conference, was also present as observer.

The session was opened at 11.30 a.m.. The President welcomed all the participants and expressed the deepest gratitude of the Association to the organizers, to the Government and the Portuguese judges of Macao for their organizational work and their generous hospitality.

Mr. Woratsch then passed to the items listed in the agenda.

Approval of the minutes of the meeting held in Berlin in 1988.

The President invited the participants to submit their observations on the minutes sent by the Secretariat General to all member-associations.

Mr. Aarola remarked that the 1990 meeting of the Central Council would take place in Finland not in August, as it was reported in the minutes, but in June.

Having ascertained that nobody had any further observation to make, the President declared approved the minutes with the amendment resulting from Mr. Aarola's remark.

Appointment of two auditors responsible for examining the financial report.

The members of the Council unanimously resolved to empower Mr. Bour and Mr. Riolacci to audit the financial report drawn by the Secretary General and to submit their conclusions and proposals during the morning session of October 27.

Report of the President.

Mr. Woratsch informed the Council that the preparation of the Macao Congress brought a lot of work to the Secretariat General and to the President and that he and Mr. Longo went in February to Lisbon in order to have contacts with some representatives of the Portuguese Association and of the Macao Government.

In his capacity as President of the IAJ he was requested by the International Commission of Jurists in Geneva to become member of a "Commission for the investigation on the military tribunals in the territories occupied by Israel" (the other two members were professors of international law from the U.S.A.). He went to Israel from June 25 to July 9, 1989, and contributed to the report of the Commission, which was sent to Geneva in order to be then disseminated by the International Commission of Jurists. His visit to Israel allowed him to contact some representatives of the Israeli Association of Judges.

A meeting of the Presidency Committee was organized in July 1989 by Mr. Abravanel and hosted in Lausanne by the Swiss Association of Judges. The main purpose of the meeting was the preparation of the Congress.

The President and the Secretary General were invited in November 1988 to participate in a Congress of the French Association of Judges on the theme "To be judge in 1992", with regard to the possible commitments of the judiciary vis-a-vis the European integration.

Mr. Woratsch announced also that last year a national association of judges was created in Hungary. It was an historical event, as such association is the first one in the Eastern countries. At the invitation of the Hungarian Association he took part in one of its meeting last September in Budapest.

The President informed then the delegates that a few weeks before he went to Bruxelles with the Secretary General at the invitation of the Legal Affairs Commission of the European Parliament and together with Mr. Van Gerven, President of the

"Section Belge" of the IAJ, they had talks with the President of that Commission about possible future contacts between the IAJ and the European authorities. The discussion was profitable and they accepted an invitation from the European Parliament, which foresaw the participation of one representative of the Judges' Association of each member-country of the EEC in a meeting that would be held in Strasbourg on the 13th and 14th December 1989. He underlined that this was an important step concerning the collaboration of the IAJ with the European Communities.

Report of the Secretary General

Mr. Longo briefly illustrated the financial report, which had been previously circulated to all the members of the Council. The report was in Italian, as usual, because the regulations (art. 5) do not grant the Secretariat much time to translate it into all the official languages of the IAJ. The net balance was 28.051.282 lire against 27.696.224 of the previous year. Also during last year the expenditures were kept within the limits of the income. The increase of the latter was mainly produced by a remarkable contribution from the UNSDRI (now called UNICRI - United Nations Institute for Crime Research and Justice) for the organization of a seminar on "Justice and democratic development in Latin America in comparison with the Italian and European situation". The subject had been chosen by the funding institutions following a proposal made by Mr. Brancaccio, Chief Justice of the Italian Supreme Court. The seminar was being organized in collaboration also with ILANUD (a United Nations Institute for Latin America, based in Costa Rica) and the necessary funds were donated by the Italian Government. The IAJ received prestige from this task, because it acted as an indirect agent of the UN Institutes.

As far as the yearly contributions to the IAJ were concerned, payments for the year 1989 were not yet received from Argentina, Austria, Malta, Morocco, Paraguay, Portugal, Tanzania and Uruguay. However, Austria, Portugal and Morocco gave evidence to have sent the money since long. Greece was not giving its contribution since 1988. Lebanon has been silent for many years.

The delegation of Iceland, while expressing its appreciation for the reports of the President and of the Secretary General, asked however for a translation of the financial report. Mr. Longo answered that, because of the provision mentioned before, usually there is no time enough to translate the report into all the official languages of the IAJ. The possibility will be examined in the future, of providing at least a translation from Italian into one of the other languages.

The Tanzanian delegation thanked for the reports and informed the Council that its contribution had already been sent.

New applications for membership.

Mr. Gonthier, representative of the Canadian Judges Conference, gave some information on the characteristics of that association, which was founded in 1978 as a voluntary

organization, and groups 90% of the state judges. Every judge appointed by the Government of Canada can take part in the association.

Mr. Abravanel said he had gathered evidence that the Canadian Judges Conference is independent and also representative within the meaning of IAJ's statutes. He also illustrated some of the main features of the appointment and structure of the Judiciary in Canada.

The Irish delegation declared, on behalf of Mr. Walsh (who was not able to attend the meeting in Macao owing to a contemporary session of the European Court on Human Rights) that the application of the Canadian Conference met the necessary requirements in every respect.

Mr. Samuels added that in 1987 he took part in a meeting of the Canadian Judges' Conference and that there was no doubt that the organization was independent and representative.

The Canadian observer then withdrew from the meeting and the Central Council unanimously resolved to grant the Canadian Judges' Conference the IAJ membership. The Canadian delegate was then asked to rejoin the members of the Council.

The President informed him of the resolution adopted by the Council, congratulated him and on behalf of the whole assembly expressed the wish for a fruitful and long lasting co-operation.

Afternoon session of October 23

The session started at 2.30 p.m.. The member-associations were represented by the same delegates as in the morning session, apart from the following changes: Belgium was represented by Mr. Delvoie and Mr. Screvens, Brazil was not represented, Canada was represented by Mr. Gonthier and Mr. McWilliam, Iceland by Mr. Björnsson and Mr. Sigurdsson, Luxemburg by Mr. Penning and Mr. Reuter.

Mr. Woratsch informed the assembly that the newly constituted Hungarian Association of Judges would like to participate in the Central Council meetings as an observer. He said he went to Budapest and took part in a meeting of the Hungarian Association and that he was impressed by the recent developments of the situation in Hungary. A new law on the separation of the powers had been passed by the Parliament and some high representatives of the Government spoke about the past by using words like "lies" and "fraud".

A discussion followed on whether it was more convenient to invite a representative of the Hungarian Association of Judges to the Helsinki meeting or to appoint a rapporteur to assess the independence and representativeness of that Association. After Mr. Christiansen withdrew his proposal to appoint a rapporteur, it was resolved to invite an observer; at the same time the Austrian delegation will continue to gather information about the further development of the situation in Hungary.

Mr. Christiansen said that also in Poland new developments were going on. Mr. Woratsch, however, pointed out that up to that moment there was no association of judges in Poland, but only an association of jurists, as in other communist countries, and therefore the situation in Poland could not be compared with that of Hungary. Mr. Tillinger observed that he had contacts with a judges' section operating within the Polish organization of "Solidarnosc".

Mr. Abravanel informed the assembly that he had contacts with judges from New Zealand and said that the Australian colleagues could perhaps collect some information about the independence and representativeness of their national association. He proposed to invite an observer from New Zealand to the Helsinki meeting. Mr. Samuels declared that it would be difficult to find judges more independent than those of New Zealand, but also that he did not know whether they had created an association or not. Anyway he was perfectly willing to contact them, if this was deemed appropriate. Mr. Aarola declared that the Finnish Association might examine the possibility of hosting in Helsinki one colleague from New Zealand, after having ascertained the existence of a judges' association in that country.

Mr. Kiuru then mentioned the Zambian colleagues and asked the Tanzanian delegation whether they knew anything about the situation in Zambia. Mr. Sisy replied that the judges of Zambia and those of Tanzania have a lot in common as the judicial system is similar. He added that the Zambian judges are independent and have a national association. They could inform the Zambian colleagues about the possibility to send an application for IAJ membership. Mr. Aarola said that also the possibility of hosting one colleague from Zambia could be examined, depending on the contacts possibly established with the Zambian association.

Proposal to appoint an organ within the IAJ charged to play a consultative role with the international or supra-national organizations, in particular in Europe.

The written proposal of the Presidency Committee to add to the Regulations for the application of the Statutes of IAJ a new article (n. 12), concerning "Regional cooperation" raised a long discussion, in which different opinions were expressed.

The proposed article of the text was the following:
art. 12

" Regional cooperation
" The Presidency Committee may appoint one of the Vice-Presidents for the cooperation with international organizations established in some regions and for the coordination of interests of the member-associations in these regions.
" The activities of that Vice-President must be carried on in strict cooperation with the President and the General Secretariat. A report about such activities shall be included in the agenda of the Central Council.

Some delegations were in favour of a more structured solution, aimed at the creation of an European section of the IAJ; others preferred avoiding any formal regulation, as the problem of the contacts with the international organizations at a regional level could be dealt with through an informal delegation of the powers of the President.

Mr. Voss underlined that the proposal was a consequence of the conclusions of the Dublin meeting and that it was the last chance to handle the problem within the IAJ. Otherwise, the German Association would have to find a different way to deal with it. He added that the proposed solution could work, if there was a good will.

Mr. Lindenstrauss proposed to add the word "international" in the title of the article and to delete the word "strict" in the second paragraph.

Mr. Woratsch pointed out that the question had been discussed for several years and that it had been difficult in the past to find a solution that could satisfy everybody and at the same time not endanger the unity of the IAJ. But in its last meeting the Presidency Committee considered that it was urgent to give the IAJ a voice that could speak at a very high level to the international organizations acting in a limited region, and in the same time to make provisions for the safeguard of the unity of the whole IAJ.

Some delegations (Belgium, Sweden) proposed to postpone the vote to the Friday meeting.

Mr. Abravanel objected that the postponement would not help to find a better solution, and that the international character of the regional cooperation could be explained in the minutes. He added that the proposal of the Presidency Committee was able to meet two opposite needs: on the one hand, it could give the associations of the European Countries the possibility to carry out a common activity vis-a-vis the European international organizations and, on the other hand, it would avoid the risk of splitting the IAJ.

Eventually, the assembly (with a majority of 25 votes) resolved in favour of an immediate vote. The proposed text was amended through the elimination of the word "strict" before the word "cooperation" in the last part of the article (19 votes for the amendment and 15 against) and then approved (23 votes in favour, no against, the rest of the delegations having abstained). The text of the new article (n. 12) reads as follows:

" Regional cooperation

" The Presidency Committee may appoint one of the Vice-Presidents for the cooperation with international organizations established in some regions and for the coordination of interests of the member-associations in these regions.

" The activities of that Vice-President must be carried on in cooperation with the President and the General Secretariat. A report about such activities shall be included in the agenda of the Central Council.

With reference to the remarks made during the discussion it was agreed that the words "regional cooperation", which formed the title of the article, referred to the cooperation at the international level (consistently with the meaning of the term "regional" in the documents of the United Nations); and that the interests of the member-associations to be coordinated, according to the first paragraph of the article, are those concerning the cooperation with the international organizations.

Mr. Bonomo then shortly commented a document prepared by the Deputy Secretary General, Mr. Meriggiola, on the collaboration of the IAJ with the Council of Europe. It was also distributed a list of the steering committees of the Council of Europe that could be indicated in a possible application of the IAJ for the granting of the status of "observer" in one or more of them. This status would allow the IAJ (which has now only a consultative status) a more effective collaboration to the activities of the Council of Europe, also through the attendance of the meetings of some committees. Mr. Bonomo informed the assembly of the indications received by Mr. Meriggiola from some national associations, concerning the fields in which the contribution of the IAJ to the activities of the Council of Europe was considered more appropriate.

Duration of the period of office, and possible re-election, of the President and of the Vice-Presidents of the IAJ.

Mr. Woratsch informed the assembly that the Presidency Committee had considered the matter, according to the previous decisions of the Central Council. There was no proposal to be discussed at the moment, because no agreement had been found yet.

Morning session of October 27.

The session started at 9.00 a.m.. The member-associations were represented as in the morning session of October 23 apart from the following changes: Brazil was represented only by Mr. Silva, Iceland by Mr. Björnsson and Mr. Sigurdsson, Japan was not represented, Norway was represented by Mr. Christiansen and Mr. Laake, Spain only by Mr. Galan, United Kingdom by Lord Sutherland and Mr. Cox. The Presidents of the three Study Commissions also took part in the session.

Cooperation with the United Nations for the dissemination and implementation of the "Basic principles on the independence of the judiciary".

Mr. Longo informed the assembly of the important role that the IAJ had played in the drafting of those principles and of the rules for their implementation. In this connection, the IAJ Secretariat acted in strict collaboration with the U.N. bureau in Vienna and with UNICRI in Rome. According to the decisions approved by the Economic and Social Council of the United Nations, the U.N. Secretary General shall make a report every five years on the implementation of the principles and their violations. The report will benefit from the information coming from the U.N. bodies and from the N.G.O.s in consultative status

with the United Nations, therefore also from the IAJ.

Report of the auditors responsible for examining the financial statement.

Mr. Bour 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 cost of the functioning of the Secretariat was fairly low, thank to the work of the Secretary General and of his team. They suggested for the future possibly to translate the financial report into English and French and to indicate also in US dollars the amount of assets and liabilities.

Mr. Longo pledged for the future possibly to make a translation of the financial report at least in one of other official languages of the IAJ.

The assembly unanimously approved the balance-sheet 1988-1989 and applauded the Secretary General.

Reports of the Presidents of the Study Commissions, and selection of the themes for 1990.

The President gave the floor successively to Mr. Krings, to Mr. Mosetto and to Mr. Screvens, presidents of the First, of the Second and of the Third Study Commissions respectively, who read the final conclusions of the sessions held in Macao.

No objection was raised concerning those conclusions. Then, after short consultation, the members of the Council approved the new themes proposed by the Presidents of the First, the Second and the Third Study Commission respectively:

- 1.- How to protect judges from external political, economical and social influences and from violence; in particular with regard also to the respect due to the judgements of the courts and to the social status of the judges;
- 2.- Compulsory enforcement of judgments;
- 3.- Accelerated criminal proceedings: current systems and future possibilities.

The President thanked the Presidents and the members of the Study Commissions for the work they had done.

Meeting of the IAJ in the subsequent years.

The Finnish delegation announced that the association of judges of Finland was ready to host in Helsinki from June 17 to 21, 1990, the Central Council and the three Study Commissions. The meetings will be held in the Hotel Kalastajatorppa, located near the sea at about 3 miles from the town.

Mr. Woratsch expressed the gratitude of the assembly for the invitation.

The Swiss delegation stated that the "Association Suisse des Magistrats" was willing to organize the meetings of the Central Council and the Study Commissions in September 1991 in Crans

Montana, Canton of Valais.

Mr. Lindenstrauss told the assembly that the Israeli association was discussing the possibility of hosting one of the future meetings. He will give more information about the matter by letter or during the Helsinki meeting.

Miscellanea.

Mr. Galan drew the attention of the Council on the situation of the judges in Colombia. He told the assembly that a Colombian colleague went recently to Spain and said that more than 100 judges were killed in that country last year. Mr. Galan suggested that the Council should express his deep sympathy to the Colombian colleagues.

Mr. Zeli presented a written motion, which was discussed by the assembly and unanimously approved after some amendments. The motion reads as follows:

"The International Association of Judges, holding its World Conference in Macao, expresses its support and solidarity with Colombian judges in the courageous and dangerous fulfillment of their commitment to law and justice, often at the cost of their life. The International Association of Judges urges the Governments of all Countries to unite in the battle against organized crime, especially drug-dealing and money laundering, by reinforcing international co-operation and giving adequate protection to judges in the performance of their duties."

Some delegates stressed that it was important to make the resolution known in the whole world. It was then decided that the text (in English and French) should be translated into Spanish and sent in the afternoon by telegram to the President of the Republic and to the President of the Supreme Court of Colombia. Mr. Woratsch said that he would also mention the text in an interview he was going to give to the TV and the press.

Mr. Riolacci proposed to send a message of solidarity also to the Lebanese association, one of the oldest member of the IAJ, as there wasn't any news from the Lebanese colleagues, who were being prevented from exercising their functions. The Council resolved to collect first some information about the existence of the Lebanese association of judges; to this end the Secretary General will ask for information the President of the Supreme Court of Lebanon, who had been in Rome some time ago.

Then Mr. Woratsch expressed his gratitude to all the delegates for their contributions to the meetings of the Central Council. The whole audience applauded loudly and the session was closed at 12.30 p.m..

The President

The Secretary General