



**INTERNATIONAL ASSOCIATION OF JUDGES  
UNION INTERNATIONALE DES MAGISTRATS  
UNIÓN INTERNACIONAL DE MAGISTRADOS  
INTERNATIONALE VEREINIGUNG DER RICHTER  
UNIONE INTERNAZIONALE DEI MAGISTRATI**

**PALAZZO DI GIUSTIZIA - PIAZZA CAVOUR - 00193 ROMA - ITALY**

## **INTERNATIONAL ASSOCIATION OF JUDGES**

### ***Minutes of the meetings of the Central Council***

MEETINGS OF THE CENTRAL COUNCIL – MARRAKECH

12<sup>th</sup> October 2009 (14.30 – 16.30)

14<sup>th</sup> October 2009 (14.00 – 20.30)

Session of 12<sup>th</sup> October

Present: the President Mr José Maria Bento Company, the First Vice-President Mrs. Fatoumata Diakite, the Vice-Presidents Mrs. Cristina Crespo, Mr Gerhard Reissner, Mrs. Joanna Seybert, Mr Bjorn Solbakken, Mr Virgilijus Valancius; the Honorary Presidents Mrs. Maja Tratnik, Mr Sidnei Beneti, Mrs. Paquerette Girard, Mr Ernst Markel and Mr Günter Woratsch; the Secretary-General, Mr Antonio Mura; the Deputy Secretaries-General, Mr Giacomo Oberto, Mr Galileo D'Agostino, Mr Raffaello Gargiulo and Mr Lucio Aschettino, as well as the following national associations, represented by the delegates whose names are on the list attached to these minutes (see enclosure No. 1):

ALBANIA (OBSERVER)	KAZAKHSTAN (E.M.)
ALGERIA (E.M.)	LATVIA
ARGENTINA	LIECHTENSTEIN
ARMENIA	LITHUANIA
AUSTRALIA	LUXEMBOURG
AUSTRIA	MALI
AZERBAIJAN (OBSERVER)	MOLDOVA
BELGIUM	NETHERLANDS
BERMUDA (OBSERVER)	NICARAGUA
BOLIVIA	NIGER
BENIN (E.M.)	NORWAY
BURKINA FASO	PANAMA
BRAZIL	PARAGUAY
CANADA	POLAND
CONGO (DEM. REP.) (E.M.)	PORTUGAL
CROATIA	PUERTO RICO
CYPRUS	REP. OF CHINA (TAIWAN)
CZECH REPUBLIC	ROMANIA
DENMARK	SERBIA (E.M.)
EL SALVADOR	SLOVENIA
ESTONIA	SOUTH AFRICA
FINLAND	SPAIN
FRANCE	SWEDEN
GEORGIA	SWITZERLAND
GERMANY	TOGO
HUNGARY	TUNISIA
ICELAND	TURKEY (OBSERVER)
IRELAND	UKRAINE (E.M.)
ISRAEL	UNITED KINGDOM
ITALY	UNITED STATES OF AMERICA
IVORY COAST	URUGUAY
JAPAN	

The official inauguration ceremony took place at 10.00 a.m. During this event the President of the Moroccan Association of Judges, Mr Farès, the Minister of Justice of Morocco, the President of the Supreme Court of Morocco, the Chief Prosecutor of the Supreme Court of Morocco and the President of the IAJ Mr Bento Company took the floor. After this ceremony, President Bento Company opened the meeting at 2.40 p.m., by welcoming all present. He expressed the deepest gratitude of the IAJ to the local Authorities as well as to the Moroccan association of judges for the perfect organization of the meeting and for their generous hospitality.

Mr. Bento Company, on a personal basis, as well as in the name of the Presidency Committee commemorated then the figure of Mr. Massimo Bonomo, former Secretary-General and Honorary President of the I.A.J., by underlining the exceptional work done by him for the I.A.J. with an extreme competence and scruple. He invited all the participants to observe one minute of silence to the memory of the Colleague. The Assembly rose, following the invitation of the President. After this the Deputy Secretary-General Mr. Oberto commemorated before the Assembly the figure of Mr. Bonomo.

President Bento Company presented thereafter to the Assembly Mr. Mario Miccoli, Italian notary, President of the Commission for European Affairs of the International Union of Notaries, which was invited by the Presidency Committee to attend the meeting in Marrakech. Mr. Miccoli thanked and presented the wishes of the International Union of Notaries. The President then passed to the examination of the points on the agenda.

1. Approval of the minutes of the meeting held in Yerevan (documentation: letter of 20th November 2008);

President Bento Company pointed out that on November 20, 2008 the minutes of the meeting of Yerevan had been sent to all national associations and that no remarks had been raised within one month. In the absence of any objections by the Assembly, the President declared the minutes of the meeting in Yerevan as unanimously approved.

2. Appointment of auditors to examine the accounts and the financial report and to report;

The Assembly unanimously appointed Mr. Dosio (South Africa) and Mr. Pagone (Australia) as auditors to examine the accounts and the financial report, and to report to the Central Council.

3. Report by the President of the IAJ and of the Foundation "Justice in the World";

The President of the I.A.J. Bento Company took the floor referring to his written report sent to all national associations before the meeting. He mentioned first of all his participation in the congress of the Portuguese Association from 20 to 22 November, 2008, in Póvoa de Varzim, which was held under the title: "Judiciary in a Democracy: Dissatisfactions, Stakes and Modernization of Justice." He evoked thereafter his participation in the mission to Tunisia, in which also took part the President of the African Group, First Vice-President of the I.A.J. Mrs. Diakité and the Deputy Secretary-General Mr. Oberto. He pointed out the activities done for the Foundation "Justice in the World" and added information on the bank accounts of the I.A.J.

Mr. Bento Company mentioned his participation in the meetings of the Ibero-American and African Regional Groups as well as in the meeting of the E.A.J., as stated in his written report. He added that he also took part in the meeting of the General Council of the International Union of Notaries, which took place in London. In June he was invited to take part, with the Secretary-General and the President of the E.A.J., in the ceremony which was held in Rome to mark the hundredth anniversary of the National Association of Judges of Italy. As well in June he took part in the conference of Vienna organized by the Austrian Association of Judges, on the new means of Monitoring and Protection of the Basic rights. As it had happened last year, the Management of the Summer Course of the University "Complutense" of Madrid and the Association of Spanish Judges invited the President of the I.A.J. to take part in the closing session of the summer course organized by the aforementioned University, on August 7, 2009.

The Assembly unanimously approved the report of the President.

#### 4. Report by the Secretary-General:

The Secretary-General Mr. Mura took the floor. He invited the Assembly to the reading of his written report, that he had prepared for the meeting and which had been sent to all National Associations. He stressed in particular the importance of the organisational effort by the General Secretariat for the preparation of the meeting in Marrakech, having regard to the huge number of associations and participants. Within the framework of these activities, the General Secretariat was all the time in contact with the Moroccan colleagues. A few days before the beginning of the meeting the new Web site of the I.A.J. had been finalized and put on line. It contains not only a new graphic design, but also some new useful documents for Member Associations. It is a relevant presentation tool for our organization to the international community of judges and lawyers. Mr. Mura added that some other issues treated by his report dealt with other points on the agenda. They would thus be treated thereafter. He added that, as always, the General Secretariat was ready to give explanations on its activities and glad to receive any kind of suggestions.

The Assembly approved unanimously the report of the Secretary-General.

#### 5. Reports by the Vice-Presidents responsible of the Regional Groups:

Vice-President Solbakken took the floor to explain the contents of his written report on the E.A.J. He mentioned the questions discussed during the meeting of Cracow, which was held during the month of May. At the time of this event the E.A.J. treated inter alia relationships to the Council of Europe (in particular with the European Commission for the Efficiency of Justice and the Consultative Council of European Judges), the problem of the reduction of wages of judges in certain European countries and the structure of the E.A.J. As for the question of the structure of the E.A.J., Mr. Solbakken recapitulated the history of the discussions since the meeting of Turku, by adding information on the document approved by the working group chaired by Mr. Aikens and the relative clauses for the amendments of the statutes of the E.A.J. He informed the Assembly that such proposals for amendment had been rejected by the Assembly of the E.A.J. in Marrakech. Mr. Solbakken informed also the Assembly on his participation in the congresses of German and Italian Associations, which celebrated the hundred years of their foundations.

Vice-President Crespo took the floor to explain the contents of her written report on the Ibero-American Group. She initially mentioned the meeting of the Group in Salvador in April 2009. The organization of the event had been ensured by the Association of Magistrates and Judges of El Salvador with the support of the Supreme Court of Justice and the Council of the Judiciary of that Country. She then informed on the continuation of works on the declaration of Campeche, which contains the Minimal Principles on the independence of the Judicial Powers and Judges of Latin America. The statement was made with an aim of leading to a multilateral treaty establishing basic guarantees for the independence of the Judiciary. Colleague Claudio Maciel of Brazil, with the support of the Association of Brazilian Judges, had a discussion with the Minister of Justice of Brazil on this subject. In fact, it was decided that the government of Brazil will promote the signature of this international document. Within this framework, Mr. Abel Fleming (Argentina) and the President of the Group were invited to Brasilia on July 12 and 13, where they were received by the Under-Secretary of the Ministry of Justice and her assistant during a meeting in which the President of the Association of the Brazilian Judges also took part. Another meeting will be held on November 9 and 10 in Rio de Janeiro. Since the idea to sign this document came from the I.A.J., our organization will be regarded as the organizing entity of this event.

Mrs. Crespo also mentioned the creation of a Strategic Commission for Planning devoted to the defence of the Judiciary and policies of association. Working groups were created to return visit or establish contacts with the judges who live and work in situations of difficulty. The delegation of Spain proposed to seek the means of harmonizing the various legal systems and,

particularly, of bringing closer the civil laws between them and with the European Union. The President of the I.A.J. suggested that this subject be proposed as subject for work for the Study Commissions of the I.A.J., and this proposal was approved by all present. Finally the Vice-President Crespo provided information on the situation of certain Member States, mentioned in her written report.

First Vice-President of the I.A.J. and President of the African Group Mrs. Diakit  took the floor thereafter, also referring to her written report. She explained that her activities, after the last meeting of the Presidency Committee, developed around some essential points which were: the participation in the meetings of Regional Groups; relationships to associations which had arrears in payment of their fees; the support to the Association of Senegal for its candidature for the organization of the Congress of 2010.

On the first point Mrs. Diakit  explained that she had travelled to San Salvador (El Salvador) to participate in the annual meeting of the Ibero-American Group, which was held in that city. She regretted on the other hand not having been able to take part in the meeting of the E.A.J. in Cracow. She then took part in the meeting of the African Group which was held from the 27 to 30 June 2009 in Algiers. This meeting, which had as a subject "Media and Justice," had been a great success. As regards the relationships to Associations having arrears in the payments of their fees, Mrs. Diakit  underlined the efforts carried out with associations of Burkina Faso, Senegal and Cameroun. She pointed out that the problem with Senegal had been only the effect of an error made in the execution of the credit transfer; this error had been rectified.

Mrs. Diakit  stressed that during the meeting of the African Group in Algiers, Mr. B , President of the Union of Senegalese Judges, had announced the wish of his association to organize the meeting of the I.A.J. for the year 2010. Taking into account the fact that the Association has a new steering committee, which does not have great experience about the meetings of the I.A.J., she committed herself remaining in contact with them for the preparation of their candidature. Within this framework, she had several written exchanges and telephone calls with the colleagues of Senegal to guide them in the preparation of their candidature. Finally Mrs. Diakit  informs the Assembly to have sent to Egyptian Association – by the means of the ambassador of Egypt to Ivory Coast – a message prepared by the General Secretariat aiming at contacting the new President of that Association, which wished to re-establish contacts with us.

President Bento Company gave finally the floor to the Vice-President Mrs. Seybert, President of the ANAO Group, who also referred to her written report and the annexed documents. She informed the Assembly on the changes in the delegations of the Countries of the Group and evoked the work undertaken on the topic of the initial training of judges and on judicial mentoring of newly appointed judges by more experienced ones, on the basis of an idea launched by the Australian colleague Mr. Teague. The Group continued to maintain its relations and links among its members by the means of the exchange of newsletters, which are now open to all Member Associations of the I.A.J. She finally added that she continued her co-operation with the project of the Avon Foundation.

President Bento Company thanked the Presidents of the four Regional Groups and the Assembly approved their reports.

#### 6. Reports by the Executive-President of the Foundation and by the Director of the publications service of the Foundation;

The Executive President of the Foundation took the floor to explain his written report, sent to all National Associations. He referred first of all to the international "Justice in the World" award, by specifying that the recent reorganization of the cabinet of the Regional Government of Madrid determined the need for the Foundation to find new contacts with the person charged with this issue, i.e. the Minister of Interior Department. This one decided that he would continue to finance the Foundation, but with a reduced amount of contribution. The date of November 3<sup>rd</sup> was fixed for the delivering of the price, which was awarded this time to the Consultative Council of European Judges.

As regards the review of the Foundation, issues No. 17 and No. 18 were printed and distributed, thanks to the support of the Spanish Ministry of Justice. The subsidy for the year 2009 was reduced to 10,000 Euros, which was not sufficient to cover the expenses. In that moment the funds were sufficient for issue No. 19, but a problem aroused for the year 2010.

Executive President of the Foundation also referred to the part of his report on the Web page of the Foundation, which is on line thanks to the assistance of the Spanish Ministry of Justice. The Foundation was also finding a new sponsorship by the *Banco de Santander*.

The annual meeting of the Steering Committee will take place the day before day of the delivery of the price, in Madrid, on November 3<sup>rd</sup>, during the morning. The seat of the Foundation remained located in the same premises of that of Spanish Association, because the new premises for law courts of Madrid were not carried out, as an effect of the current economic crisis. Mr. Ruben Jiménez evoked the activities deployed in 2009 by the Foundation and he concluded his intervention by mentioning the efforts carried out for the improvement of the financial situation and the reduction of the debts; he specified that the total amount of the debts, which was into 2007 of 147,000 Euros, had been reduced to 61,900 Euros. Finally, the situation at the end of 2009 was practically identical to that of the same period of 2008.

President Bento Company thanked the Executive President of the Foundation and gave the floor to the Director of the Publications Service of the Foundation.

Mr. Reis Figueira took the floor explaining that he had received no invitation to present a written report and stresses that he was in Marrakech as a Portuguese delegate. He explained that he regretted that the Web page of the Foundation was not carried out any more in Portugal, under his control, as it had been done before. He added that the issue No. 19 of the review was already ready since the end of 2008, but it had not been distributed because of the lack of financing. He regretted that after the printing texts had been realized, other articles were sent for publication, among which a text, whose contents he did not approve. The issue in question will be ready in a few weeks.

President Bento Company thanked the Director of the Publications Service of the Foundation.

## 7. Reports by IAJ's Representatives at the United Nations;

I.A.J. Representative at the United Nations offices of New York, Mrs. Louise Mailhot, took the floor referring to her written report. She mentioned in particular the 62<sup>nd</sup> Annual Conference of NGOs accredited at the United Nations, which took place in Mexico City from 9 to 11 September 2009. The topic of the conference was: "For peace and Development: Disarmament Now!" The written report of Mrs. Mailhot contained also the Web address of the conference. Next year the conference will take place in Melbourne. For this event she also referred to the report sent by the other I.A.J. Representative, Vice-President Mrs. Seybert.

Mr. Zappelli, Representative of the I.A.J. at the United Nations offices in Geneva also referred to his written report. He evoked the relations to NOGs members of CONGO and the meetings in which he took part. In this context he mentioned his participation in the meeting organized in Switzerland by the NOG "DTA Fourth World." He talked then about the initiatives carried out in order to contact the current High Commissioner for Humans Rights, Mrs. Navi Pillay, explaining that a meeting should take place soon. He added that he had been contacted in June 2009 by Mr. Despouy, who proposed him to associate the I.A.J. to the work aiming at the adoption by the United Nations of guiding principles on the independence of the Judiciary. In this framework Mr. Zappelli will have to set up an intense co-operation with the successor of Mr. Despouy, Mrs. Gabriela Carina Knauf de Albuquerque e Silva (Brazil). Mr. Zappelli finally mentioned his participation in the meeting of the African Regional Group in Algiers.

The Honorary President Mr. Woratsch, representative of the I.A.J. at the United Nations offices in Vienna, took the floor referring to the written report sent to national associations. He specified that he had taken part in the 18<sup>th</sup> session of the Commission on Crime Prevention and Penal Justice, together with Honorary President Mr. Markel. The conference took place in Vienna from the 16 to 24 April 2009; he himself and Honorary President Markel took part in

some of the meetings which took place within the framework of that international conference. The other event of interest for the I.A.J. was the fourth plenary meeting of the Conference of the Parts to United Nations Convention against transnational organized crime. The event took place in Vienna from 8 to 17 October 2008 and Honorary President of the I.A.J. Mr. Markel took part in the name of the I.A.J.

President Bento Company thanked all I.A.J. representatives and the Assembly unanimously approved their reports.

The meeting was closed at 4.40 p.m.

#### Session of 14<sup>th</sup> October

Present: the President Mr José Maria Bento Company, the First Vice-President Mrs. Fatoumata Diakite, the Vice-Presidents Mrs. Cristina Crespo, Mr Gerhard Reissner, Mrs. Joanna Seybert, Mr Bjorn Solbakken, Mr Virgilijus Valancius; the Honorary Presidents Mrs. Maja Tratnik, Mr Sidnei Beneti, Mrs. Paquerette Girard, Mr Ernst Markel and Mr Günter Woratsch; the Secretary-General, Mr Antonio Mura; the Deputy Secretaries-General, Mr Giacomo Oberto, Mr Galileo D'Agostino, Mr Raffaello Gargiulo and Mr Lucio Aschettino, as well as the following national associations, represented by the delegates whose names are on the list attached to these minutes (see enclosure No. 2):

ALBANIA (OBSERVER)	JAPAN
ALGERIA (E.M.)	KAZAKHSTAN (E.M.)
ARGENTINA	LATVIA
ARMENIA	LIECHTENSTEIN
AUSTRALIA	LITHUANIA
AUSTRIA	LUXEMBOURG
AZERBAIJAN (OBSERVER)	MALI
BELGIUM	MOLDOVA
BERMUDA (OBSERVER)	NETHERLANDS
BOLIVIA	NICARAGUA
BENIN (E.M.)	NIGER
BURKINA FASO	NORWAY
BRAZIL	PANAMA
CANADA	PARAGUAY
CONGO (DEM. REP.) (E.M.)	POLAND
CROATIA	PORTUGAL
CYPRUS	PUERTO RICO
CZECH REPUBLIC	REP. OF CHINA (TAIWAN)
DENMARK	ROMANIA
EL SALVADOR	SERBIA (E.M.)
ESTONIA	SLOVENIA
FINLAND	SOUTH AFRICA
FRANCE	SPAIN
GEORGIA	SWEDEN
GERMANY	SWITZERLAND
HUNGARY	TOGO
ICELAND	TUNISIA
IRELAND	TURKEY (OBSERVER)
ISRAEL	UKRAINE (E.M.)
ITALY	UNITED KINGDOM
IVORY COAST	UNITED STATES OF AMERICA
	URUGUAY

The President opened the meeting at 2.00 p.m. by reading a letter of the Honorary President Mr. Rodriguez Arribas, announcing his impossibility to take part in the meeting because of his professional obligations at the Constitutional Court of his Country.

Honorary President Mr. Beneti took then the floor.

He presented initially the initiative of the Brazilian Foundation “Innovare.” It is about a project aiming at delivering prizes in money for projects and practical initiatives in the field of the administration of justice. He distributed also a booklet illustrating the activities and the goals of this initiative and asked delegates to visit the Web site of this foundation.

The second information related to the series of books of the I.A.J. He stressed that when he was I.A.J. President he had concluded an agreement with his Brazilian editor for the publication of a series of volumes dedicated to the I.A.J. The first book (on the history of the I.A.J.) had been prepared under the direction of the former Vice-President Mailhot and it had been published. The two other books, which are already ready for a long time, are a volume (realized under the direction of the Deputy Secretary-General Mr Oberto) on the independence of the judicial power, containing the reports and the interventions presented at the international conference held in Togo in 2006; the other work is a collection of texts on the topic “Justice and Human Right,” under the direction of Honorary President Mr Markel. Following some problems which have occurred in the relationship with his editor, Mr Beneti could obtain on behalf of this one the proposal to carry out the publication of these two works under the condition that the I.A.J. buys 300 specimens for each of the two books. The price would be of 4,500 US\$ approx. for each of the two works. He added that Presidency Committee had approved the proposal he had just illustrated, concerning the project of the Publisher “Editora Forense,” for the publication of the two volumes, under the condition that the Publisher authorizes the publication of some parts of the contents of such books (as well as of the volume already printed) in the Web site of the I.A.J.

Following the proposal of President Bento Company, the Assembly authorized the General Secretariat to carry out the payment of the sum required by the Publisher (approx. 9,000 US\$ on the whole for the two books), by authorizing the necessary variation of the budget of the I.A.J. for financing this initiative and the use of the IAJ’s reserves to cover these expenses.

The Deputy Secretary-General carried then out the checking of associations present at the meeting. 44 National Associations having voting rights were in attendance.

#### 8. Associations which have not paid their contributions for several years;

Secretary-General Mura took the floor to explain the situation of the payment of contributions. He specified that the document distributed by the Secretariat contained the indication of Associations having arrears in the payment of their contributions, adding that, since the drafting of this document, the Associations of Panama and of Puerto Rico had cleared their debts. He explained then the situation of the contributions of Burkina Faso (which did not pay since 2004), of Bolivia and Peru (which did not pay since 2006). He explained thereafter what were the Countries without voting right in accordance with the provisions of the IAJ statute concerning arrears in the contributions; those Countries were the three above-mentioned, in addition to Cameroun, The Former Yugoslav Republic of Macedonia and Niger.

President Bento Company introduced the debate on the subject, by saying that the case of Bolivia was different from that of the other two countries which had an arrear since more than three years (Burkina Faso and Peru). The President of the Ibero-American Group Mrs. Crespo stressed that the Association of Bolivia was currently experiencing serious difficulties related to the situation of the delicate relationships to the local government. The non-payment of the contributions was due to the fact that the government blocked the bank account of association; moreover a delegation of that Country was in attendance of the meeting in Marrakech and the President of the Supreme Court was among its members. The Ibero-American Group was trying to have at least a part of the arrears paid; moreover Argentina, Brazil and Mexico guaranteed for the payment of the rest.

President Mr. Bento Company then gave the floor to the President of the Supreme Court of Bolivia and, subsequently, to another delegate of the Association of that same Country. Both explained the difficult situation of the relationship with the executive power of Bolivia and the difficulties encountered on the financial level by their Association.

The delegate of Portugal submitted a motion to the Assembly aiming at expressing the support of the I.A.J. to the Association of Bolivia, and to preventing the loss by Bolivia for this year of its membership in the I.A.J., as an effect of the non-payment of its contributions.

The Secretary-General Mr. Mura read the text of subparagraph 9 of art. 4 of the Statute of the I.A.J., under the terms of which “If the payment of a member's subscription is in arrears of over three years, that member shall cease to belong to the Association unless the Central Council decides to the contrary.” He added that the Portuguese proposal aimed at avoiding that Bolivia ceased being member for this year.

President Bento Company gave the floor to the Presidents of the Groups to which belonged the two other Associations concerned with the aforementioned provision of the Statute.

The President of the Ibero-American Group Mrs. Crespo announced that, as regards Peru, this country had an arrear dating back to 2007. No delegate of that association was attending the meeting of Marrakech and the steering committee of the association had expressed their wish to again set in motion the procedure for admission to the I.A.J.

The First Vice-president, President of the African Group, Mrs. Diakité, explained the attempts which she had carried out on several occasions to convince the colleagues of Burkina Faso to settle their fees, also illustrating the contents of the decision already adopted in Yerevan by the Central Council. In spite of the insurances given by the association of Burkina Faso, it did not pay its contributions any more since 2004. The delegation of Burkina Faso was not either present at Marrakech.

After this, the delegate of Argentina declared the availability of his Association to pay one year of the contributions of Bolivia.

President Bento Company then asked for a vote on the non-exclusion of the Association of Bolivia for this year and, on the other hand, on the application of the provision of article 4, subparagraph 9 of the Statutes to Burkina Faso and Peru. This proposal was unanimously approved by the Assembly.

The delegate of Portugal specified that his proposal aimed not only at the non application for this year of art. 4, subparagraph 9, of the statutes of the I.A.J. to Bolivia, but also intended to express a support for this Association vis-à-vis the threats to the independence of the judiciary in that Country.

A long discussion took place thereafter, during which the Honorary President Mr. Markel and the delegates of Argentina, Croatia, Germany, Portugal and United Kingdom took the floor. In particular the Argentine delegate Mr. Abel Fleming explained the results of the mission that the Ibero-American Group organized to Bolivia; he added that the delegates of the Group taking part in that mission (of which he was one of the members) could note that the complaints of the Bolivian colleagues were founded.

After these explanations the Assembly unanimously approved the proposal of the President to postpone the vote on the motion of Portugal, in the part referring to the support by the I.A.J. to the national Association of Judges of Bolivia, after the text will have been drafted in English.

The delegate of Germany asked for a formal voting on the non-exclusion of Bolivia for this year. The non exclusion of Bolivia for this year was unanimously approved by the Assembly.

The President informed the Assembly that the voting on the proposal of Portugal would take place under item 16 of the agenda.

## 9. Possible amendments to the Constitution or Regulations of the IAJ concerning the timing for payment of subscription arrears: letter of the IAJ President and report of the ad hoc Commission;

President Bento Company introduced the subject by stressing that the delegates already received documentation relating to this topic. After a recapitulation of previous discussions about the problem, he stressed that the Presidency Committee, during its last meeting in Rome, on April 17<sup>th</sup> and 18<sup>th</sup>, 2009, adopted the following opinion:

“1) The Presidency Committee of the I.A.J. is not of the opinion to change the provisions of the Statutes of the I.A.J. concerning the payment of the subscriptions and consequences of non payment.

2) The Committee recommends that the provisional interpretation of the rules of the Statute concerning this subject adopted by the Central Council in Yerevan is adopted as final, without any change.

3) The only possible amendment could concern the provision of a penalty onto Associations which settle their debts after January 31<sup>st</sup>. This last point should be left open to the decision by the Central Council, which could establish the amount of a penalty to be paid by the each association whose payment is made after January 31<sup>st</sup>.”

After an explanation requested by the Italian delegate Mr. Zuccarelli, the President pointed out that there were no proposals for an amendment of the Statutes.

## 10. Budget of the International Association of Judges;

See enclosure No. 3.

Secretary-General Mura explained that the documents distributed by the General Secretariat referred to the situation at the date of September 5<sup>th</sup>, 2009. He added that, after the drafting of the financial statement, Niger had paid its contribution for the year 2008 and Mali for 2009; he specified that Niger did not have the right to vote, because, according to the interpretation of the statutes proposed by the Presidency Committee and approved by the Central Council, only a payment “in full” of arrears before the beginning of the first meeting of the Central Council allows to Associations their voting rights. Mr. Mura stressed that there were only two excesses of items, respectively, at the heading 2.g. because of the expenses concerning the creation of the new Web site of the I.A.J., as well as under heading 2.h., for the expenses concerning funerals of the former Secretary-General and Honorary President Mr. Bonomo.

The budget for the year 2009-2010 did not take account of the modifications determined by the exclusion of certain associations and the admission of others that could be decided in the Marrakech meeting. He informed therefore the Assembly that the Presidency Committee decided that, if the Central Council would admit new members, the contribution paid by these associations should be indicated in the headings which will be determined by the Secretary-General according to needs. On the occasion, the budget will be also amended taking account of associations which could cease being members of the I.A.J. For any other question Mr. Mura referred to his written report, stressing that – to cope with the financial crisis of the banks worldwide – the funds of the I.A.J. had been placed on two accounts in two different banks.

Upon the proposal of the President, the Assembly unanimously approved the draft budget for the year 2009-2010.

## 11. Report by the auditors;

After the report of the auditors, who had been charged with examining the accounts (Mr. Dosio and Mr. Pagone), the Assembly unanimously approved the financial report and the budget for the year 2008-2009 and discharged the Secretary-General of any responsibility in this respect.

12. Applications for membership in the IAJ: Associations of Judges from Azerbaijan (rapporteurs Mr Lothar Juenemann and Mr Paul Magnuson); Bermuda (rapporteurs Mrs. Louise Mailhot and Mr Thed Adelswärd), Turkey (rapporteurs Mr Bjorn Solbakken and Ms. Yuli Chen):

After the presentation of the report by Mr. Juenemann, also on behalf of Mr. Magnuson, and the intervention of the Italian delegate Mr. Zuccarelli, the Association of Azerbaijan was admitted as an extraordinary member with an abstention. The delegation of that Country was thereafter admitted in the room of the meetings and the delegate of Azerbaijan took the floor to thank the Assembly.

The former Vice-President Mailhot took the floor thereafter to present her report on the application of Bermuda, also on behalf of Mr. Adelswärd. The Italian delegate Mr. Zuccarelli stressed that, according to the report, in Bermuda there is no Association of judges. Mrs. Mailhot replied that under art. 2 of the statutes of the I.A.J., also “National representative groups” can be admitted by Central Council decision as members of the I.A.J. The judges of the Country are in all 13, of which 10 are the members of this representative grouping; this group has no written statute.

The delegate of South Africa asked for explanations on the immunity of magistrates of the concerned Country, while the delegate of the United Kingdom Mr. Aikens stressed that the independence of the judiciary is certain and it explained why he supported the candidature of Bermuda as an ordinary member. The French delegate Mr. Regnard noticed a certain discontinuity compared to the decisions adopted last year in Yerevan, when several countries were admitted as extraordinary members, although the reports concluded for their admission as ordinary members. In this connection, several delegates had stressed that the first admission of a new member could not be as ordinary member. He concluded his intervention by stressing that there cannot be double standards. The Swiss delegate Mr. Gass declared that under the terms of our Statutes the admission of each new member can be either as ordinary or extraordinary member, and he was favourable to the first solution with regard to Bermuda. The delegate of Sweden Mr. Adelswärd expressed his agreement with Mr. Gass.; the delegates of Ivory Coast, Mr. Mombley, and of Togo, Mr. Assouma, expressed their agreement with Mr. Regnard. Mrs. Mailhot stressed that the IAJ statute does not require that applicant Associations have a formal statute in writing.

Secretary-General Mura informed the Assembly that the General Secretariat received at 6.46 p.m., October 14<sup>th</sup> an email from Mr. Abalo Petchelebia, President of the Association of Togo, having the following content: “The Association of Judges of Togo (APMT) gives proxy to the delegation of South Africa to take all decisions and to proceed to any vote in its place during the meeting of Marrakech, which will take place from 11 to 15 October 2009.” Asked whether he was the delegate of the Association of Togo, Mr. Assouma answered affirmatively in front of the Central Council. President Bento Company explained that, therefore, the aforesaid message of M. Petchelebia would not be held into account.

The Italian delegate Mr. Zuccarelli noticed that he considered embarrassing to vote initially on the admission of an applicant association or group as ordinary member and then as extraordinary member. He proposed to consider the proposal for the admission of Bermuda as extraordinary member as an amendment, so that it could be voted before the proposal for admission as ordinary member. The German delegate Mr. Juenemann declared himself contrary to Mr. Zuccarelli’s proposal and President Bento Company noticed that the proposal aimed at the admission of Bermuda as ordinary member and that the proposal for admission as extraordinary member was a different proposal which could not be regarded as an amendment to the first one. President Bento Company then asked for an open voting on the proposal for the admission of the national group of Bermuda as an ordinary member, according to the proposal of the rapporteurs. The proposal was approved with 36 votes in favour, 4 against and 8 abstentions out of 48 Associations having expressed their votes. The President noted that the number of 36 constituted the three quarters of 48. The national group of Bermuda was thus admitted as an ordinary member of the I.A.J.

The representative of Bermuda was admitted in the room and took the floor to thank the Assembly for the admission.

The rapporteur on the Turkish application, Vice-President Bjorn Solbakken, took the floor also on behalf of Mrs. Yuli Chen to present the report on this Association. Questions and interventions were presented thereafter on this report by the delegates of Netherlands (Mr. Steenbeek) and Italy (Mr. Balsamo). The President of the Association of Senegal, Mr. Ba, requested which are the criteria for the admission as an ordinary or extraordinary member and President Bento Company explained that this distinction is envisaged by the statutes of the I.A.J.

The Secretary-General announced that the delegation of Hungary gave proxy to the delegation of Austria. President Bento Company asked for an open vote on the proposal for the admission of the Turkish Association as an extraordinary member and it was admitted as such with 6 abstentions.

The representative of the Association of Turkey entered the meeting room and took the floor to thank the Assembly for the admission.

### 13. Application of the Association of Kazakhstan for ordinary membership (rapporteurs Mr Paul Magnuson and Mr Virgiljus Valancius):

Secretary-General Mura informed the Assembly that the delegation of the Republic of China (Taiwan) gave proxy to the delegation of Switzerland. After the presentation of the report by Mr. Magnuson, also in the name of Vice-President Valancius, a long discussion took place on the proposal of the rapporteurs to admit the Association of Kazakhstan as ordinary member. During this debate the delegates of Belgium, Croatia, Germany, Sweden, Switzerland and the United Kingdom declared themselves contrary to this proposal, by referring to reports of international NGOs, such as Amnesty International, and they questioned the independence of the judiciary in Kazakhstan.

The delegate of Argentina noticed that in his opinion several interventions tended to confuse the situation of Countries with that of the Associations and that the discussion should, on the other hand, have for object the Associations and the fight they carry out for the safeguard of the independence of the judiciary.

The delegate of Italy asked whether there was the possibility for the extraordinary membership to be prolonged after five years.

Another debate followed this question, during which the delegates of Australia, Congo, South Africa and Sweden took the floor, also to underline the need for encouraging Associations which fight for the independence of the judiciary. The Swedish delegate proposed a prolongation of the duration of the extraordinary membership of Kazakhstan. The Italian delegate proposed an alternative voting on either the ordinary membership or the prolongation of the extraordinary membership. President Bento Company explained that the proposal was only that of admission as an ordinary member.

Five national Associations required a scrutiny by secret vote. The Secretary-General announced that the delegation of Poland gave proxy to the delegation of Sweden. Mr. Daniel (U.S.A.), Mr. Kouassi (Ivory Coast) and Mr. Steenbeek (Netherlands) were appointed auditors to count ballots. After a secret scrutiny, the proposal for admission of the Association of Kazakhstan as an ordinary member was rejected with 32 votes against, 15 in favour and 3 abstentions.

Secretary-General Mura informed that the delegation of Liechtenstein gave proxy to the Association of Germany. President Bento Company asked whether the Assembly agreed that the position of extraordinary member of Kazakhstan was prolonged for five additional years. The proposal was approved with one abstention.

### 14. Reports by the Presidents of the Study-Commissions. Selection of the new subjects:

President Bento Company called on the Presidents of the four Study Commissions to report on the conclusions of the commissions. These commissions considered the following subjects: "Ways to identify and classify criteria, objective and subjective, by reference to which

the independence of the judiciary may be assessed” (1<sup>st</sup> Study Commission: Mr. Christophe Regnard); “The treatment of commercial disputes” (2<sup>nd</sup> Study Commission: Mr. Robert Blair); “Interception of communications and its impact on privacy rights” (3<sup>rd</sup> Study Commission: Mrs. Mary Moreau); “Equal opportunity in employment for disabled and older persons” (4<sup>th</sup> Study Commission: Mr. Gerhard Kuras).

The Presidents also proposed the subjects for the Study Commissions for 2010. The Central Council approved the conclusions as well as the proposals of the commissions on the following topics for 2010: “Ways to identify and classify criteria, objective and subjective, by reference to which the independence of the judiciary may be assessed” (1st Study Commission); “Civil Issues Respecting the Protection of Privacy” (2nd Study Commission); “Human Trafficking” (3rd Study Commission); “Aspects of data protection in employment relationship” (4th Study Commission).

#### 15. Meetings of the IAJ in the next years. Possible host-countries:

President Bento Company thanked the two associations which gave their availability (Kazakhstan and Senegal) and presented their candidatures for the organization of the next meeting. He specified that the Presidency Committee had decided that the President would meet the two delegations to try to find a solution. Indeed the President, with the assistance of Secretary-General Mura and of Deputy Secretary-General Oberto, met both Associations, but he was not able to reach an agreement on the proposals.

The representative of Senegal took the floor to illustrate the candidature of Senegal. He specified that the dates would be from 7 to 11 November 11, 2010 and venue Dakar (five stars Hotel Méridien President; there will be also two other less expensive hotels with buses available to reach Hotel Meridian for the meetings).

After this intervention the President of ANAO Group took the floor to announce that the delegation of Kazakhstan decided that it appeared convenient to withdraw their candidature for the organization of the next meeting. Thereafter the delegate of Kazakhstan took the floor to explain that his Association accepted the Central Council’s decision in connection with the application for admission as an ordinary member and withdrew the candidature for the organization of the next meeting of the I.A.J. The Assembly unanimously accepted the candidature of Senegal for the organization of the meeting in 2010 and the representative of the Senegalese Association Mr. Ba took the floor to thank the Assembly and to thank the colleagues of Kazakhstan.

#### 16. Miscellanea.

The Portuguese delegate Mr. Igreja Matos presented his motion for a resolution on Bolivia. The Honorary President Mrs. Tratnik proposed to add in the seventh line the following sentence: “during its 52<sup>nd</sup> meeting held in Marrakech from 11 to 15 October 2009.”

The President of the Ibero-American Group Mrs. Crespo announced that the Associations of Paraguay and Panama would wish that the Assembly approve the same resolution for their Countries.

Secretary-General Mura informed that the Association of Israel gave a proxy to the delegation of Italy.

The delegate of Australia said he was contrary to the extension of the proposal to Associations of Paraguay and Panama, as no information was available about them.

The proposal concerning Bolivia was approved following an open vote with 3 abstentions. The text is annexed to these minutes (see enclosure No. 4).

The Assembly unanimously authorized the General Secretariat to carry out a purely linguistic revision of the text of the resolution.

The President of the French Association, Mr. Regnard, took the floor to underline the dissatisfaction of a part of the delegations, which perceived the treatment applied to the Associations admitted as extraordinary members to the I.A.J. in Yerevan last year as discriminatory, if compared to the treatment applied to the Associations admitted as ordinary

members. He expressed the wish to start a reflexion on the criteria for the admission to the I.A.J. of new member Associations. He added that it was also necessary to avoid regarding the political problems of a country as problems of the candidate Association.

The Assembly unanimously approved a proposal of the Honorary President Mrs. Tratnik aimed at instituting a working group chaired by Mr. Regnard, to focus on the problem mentioned by the French delegation, in order to possibly draft proposals for amendment of the Statutes on this subject. The other members of this group will be representatives of the associations of Argentina, Australia, Portugal, Senegal and South Africa. The group will send its report before the end of March 2010.

President Bento Company closed the meeting at 8.30 p.m. by expressing again his thanks to all the participants, as well as to the hosting association for the perfect organization of the meeting and the cordial hospitality.

The President  
José Maria BENTO COMPANY

The Secretary-General  
Antonio MURA

Enclosures:

1. List of the delegates to the session of 12<sup>th</sup> October of the Central Council;
2. List of the delegates to the session of 14<sup>th</sup> October of the Central Council;
3. Budget and financial report;
4. Resolution concerning Bolivia.

## RESOLUTION CONCERNING BOLIVIA

Considering the report about the present situation of the Judiciary, including judges and magistrates, in the *Estado Plurinacional de Bolivia*, caused by the interference and undue pressures exercised by the executive power of the State contrary to judicial independence (a situation observed personally by the delegation of the Iberoamerican Group last July )

the International Association of Judges,

during its 52<sup>nd</sup> meeting held in Marrakech from 11<sup>th</sup> to 15<sup>th</sup> October 2009, expresses its great concern for, and its solidarity with, the Bolivian judiciary with respect to the difficulties they are facing while seeking to enforce for the citizens of Bolivia their rights and having judicial decisions obeyed, with full independence and in accordance with the rule of law.

Therefore:

The International Association of Judges urges the government of the *Estado Plurinacional de Bolivia* to make every effort to maintain the proper balance of power concerning and respecting the rule of law, guaranteeing the independence of the Judiciary and taking care that any judicial action can rely upon due respect and support of the other Powers of the State.