

Minutes of the meeting held by the Central Council in Oslo,  
Norway, on June 17 and 19, 1985.

Morning Session of June 17.

Present: Mr.Bröll, Mr.Decker, Mr.de Vreese, Mr.De Mattia, Mr. Saied and Mr.Tillinger, Honorary Presidents; the President, Mr.de Miranda Rosa; the First Vice-President, Mr.Woratsch; the Vice-Presidents Mr.Christiansen, Mr.Ndiaye, Mr.Sa'Nogueira and Mr.Walsh; the Secretary General, Mr.Longo and the Deputy Secretary General, Mr.Meriggiola, with the assistance of Mrs. Ericsson-Lindeblad.

The following delegates represented their respective national associations:

AUSTRIA	Mr.Woratsch
BELGIUM	Mr.Bonbled and Mr.Verougstraete
BRASIL	Mr.Davis and Mr.Dalmo Silva
DENMARK	Mr.Warring and Mr.Rosenmeier
FINLAND	Mr.Aarola and Mr.Kiuru
FRANCE	Mr.Gomez and Mr.Desjardins
GERMANY	Mr.Leonardy and Mr.Voss
ICELAND	Mr.Snaevarr
IRELAND	Mr.Walsh
ISRAEL	Mr.Wallach and Mr.Natan
ITALY	Mr.Mosetto
IVORY-COAST	Mr.Kablan
JAPAN	Mr.Isamu Tsuchida
LIECHTENSTEIN	Mr.Stotter and Mr.Rederer
LUXEMBURG	Mr.Penning and Mr.Reuter
MOROCCO	Mr.Daoudi Montasser
NETHERLANDS	Mr.Van Raalte and Mr.Manschot
NORWAY	Mr.Christiansen
PORTUGAL	Mr.Sa'Nogueira and Mr.Teixeira Martins
SENEGAL	Mr.Ndiaye and Mr.Diene
SPAIN	Mr.Gabaldon Lopez and Mr.Menendez
SWEDEN	Mr.Litzén and Mr.Lenter
SWITZERLAND	Mr.Abravanel and Mr.Balscheit
TUNISIA	Mr.Mahjoub and Mr.Abdelghaffar
UNITED KINGDOM	Sir J.P.Warner and Mr.Douglas-Hughes

The session was opened at 10.30 a.m..

The President greeted all delegates and, also on their behalf, thanked the Association of Norwegian Judges for its warm hospitality and the admirable organization of the meeting. He wished all participants a pleasant stay in Oslo. He then expressed to the Honorary Presidents the deepest gratitude for the continuing, invaluable contribution given by them to the activity and development of IAJ.

Approval of the minutes of the meeting held in Liechtenstein in 1984.

Having ascertained that none had any comments to make on the minutes of the meeting duly sent by the Secretariate General to all member associations, the President declared them approved.

Appointment of two auditors responsible for examining the financial report.

After a brief consultation, the participants decided to empower Mr. Douglas-Hughes and Mr. Stotter to audit the financial report drawn up by the Secretary General, with a view to the submission of their conclusions at the session of June 19.

The President's report.

Mr. de Miranda Rosa informed the Council that he had had exploratory interviews, when in Chicago, with some members of the Judicial Division of the American Bar Association. Although a project of adhesion to IAJ of a United States association or representative group of judges does not seem susceptible of being put into effect soon, the conversations he has had with the American colleagues open good prospects for a future achievement of this common aim.

On the occasion of personal meetings which are likely to occur again in the future, the President of the Argentine association, which was dissolved in 1975, manifested him the confident hope to be able to restore the association and have it resume its participation in the activities of IAJ.

The President stated that he was very pleased with IAJ stepping from the "roster" stage into the second class of non-governmental organizations having consultative status with the United Nations. It is but a just recognition of the work performed by the International Association, and a diplomatic success to be due mainly to Mr. Christiansen and Mr. Longo. Prior to the passing of the resolution by ECOSOC, they alternated in New York, where they engaged in a clever and effective promotional action pursuing the accredited delegations' endorsement.

Now, in order to intensify the existing programme of co-operation, which was already being carried out for some years, IAJ has appointed Mr. Edwin Kassoff (justice of the Supreme Court of the State of New York) as its permanent representative with the United Nations, to act as an alternate of Miss Sommerich, who temporarily moved to California for a period of rest.

Concerning the Greek Association of Judges, Mr. De Miranda Rosa reported that he continues to keep in touch with the President of the Greek Supreme Court in order to revive the Greek particip-



ation ,and make the association of that country Recover soon its place among the other members.It is hoped that the Greek Government shall be more favourably disposed towards the problems of the judiciary. The present President of the Republic had stubbornly opposed, when he was a judge, the Colonels' regime, and was even put in prison with other colleagues.

In 1971, during the Council's meeting, held in the frame of the Congress of Rio de Janeiro, Mr.Pascalino and Mr.De Mattia, who were then respectively performing the duties of Secretary General and Deputy Secretary General, were asked by the Council to inquire on the spot into the imprisonment measures adopted in Greece against some judges: however, these latter were soon discharged, so that the inquiry eventually became unnecessary.

The President ended his report by assuring the audience that he was determined to make any possible effort in the following months to renew the former friendly co-operation with the Greek colleagues

#### The Secretary General's report.

First, Mr.Longo incidentally specified that Mr.Kassoff, mentioned by the President as being the American judge newly appointed IAJ's representative with the United Nations, shall sift the possibility of forming an associative group of U.S. judges with a view to join the International Association. To this end , he has already tried to interest in the project some judges of the high american jurisdictions.

The Secretary General then submitted the Council his report on the financial position, stressing the fact that every endeavour had been used to limit expenditure. Telephone costs, in particular, had recently increased, both because of a solid rise in the rates, and the need of quick exchanges of opinions and information with the member associations -- whose number, on the other hand, has lately grown as well --, which cannot certainly be satisfied by the mail, too slow and unreliable.

Thanks to Mr.Meriggiola's effective action, a contribution of 8,000 French francs has been granted by the "Comité Directeur" for human rights of the Council of Europe as a subsidy for IAJ's studies on the protection of human rights.

The Deputy Secretary General was congratulated by the Council, and the President invited him to express the gratitude of IAJ to said "Comité Directeur" as well as to the Director of the Division for Human Rights of the Council of Europe.

At the request of Mr. Bonbled, Mr. Longo explained to the participants that IAJ's funds are partly invested every year, with the President's consent, in the purchase of State bonds at short and even very short maturity -- three or six months --, which bear slightly higher interests than those yielded by the bank.

After Mr. Verougstraete had intervened to inform the audience that the "Section Belge" had been given assurance by some Canadian Judges with whom it is in contact, of their intention to strive after the fulfilment of the preliminary conditions indispensable to the admission to IAJ of a Canadian representative group, and the President had exhorted him to keep such contact since it is an initiative certainly deserving to be encouraged and firmly supported, Mr. Longo resumed the floor to focus the question of the Spanish judiciary.

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According to the information submitted by Association of Spanish Judges, a bill was laid before Parliament by the Government in 1984, which provides that ~~another~~ one vacancy out of four be filled by a new judge appointed by the executive on the mere ground of his qualifications, while the competitive examination is traditionally regarded in the country as the fundamental guarantee for objectiveness. Hence -- in the opinion of that association --, the risk of arbitrary interferences of the Government, which the possibility of evading selection will thus offer a chance to appoint judges by political or convenience standards.

Furthermore, the bill also provides for a reduction of seven years in the age limit for retirement. Besides any other remarks, the first consequence of such a provision would be that approximately five hundred people should be forced to quit their posts simultaneously -- and, obviously, in a proportionally larger measure those belonging to the higher jurisdictions -- and be replaced by the recruitment of a corresponding number of new judges partly consisting of persons appointed by the executive, in compliance with the system envisaged by the draft.

The bill finally proposes a tangible restriction of the functions that have so far been the apanage of the General Council of the Judiciary -- "Consejo General del Poder Judicial" -- in favour of the Minister of Justice, as well as the adoption of a new principle governing the appointment of the Council, whose members should be no longer elected by the judges, but by the Parliament.

The Spanish Association, fearing that the approval of the new law might politicize the judiciary, filed a "recurso previo"



with the Constitutional Court, but a law having in the meantime suppressed this kind of preventive remedy, the action has therefore been declared extinguished. The bill is now under examination by the Parliament, which is discussing the terms of the reduction in the age limit and the transitional provisions on the matter, while the General Council of the Judiciary, in its turn, has applied to the Constitutional Court by a "recurso de conflicto".

On behalf of Mr. de Miranda Rosa, Vice-President Walsh, who was due to visit Spain, directly inquired into the situation of the judiciary in Spain and examined the bill under consideration; he then condensed the results of his survey into a report which has been circulated among all national associations.

Likewise, the Secretary General went to Spain last spring and paid the Minister of Justice a visit in order to draw his attention to the reasons put forward by the Spanish judges to oppose the bill. On the occasion of a seminar on penitentiary studies held in Italy a few weeks later, he met the Minister again and pointed out to him once more the worries fostered by the Spanish Association of Judges and the fact that IAJ was anxious to be informed about the developments of the conflict between that Association and the Government.

Yesterday --concluded Mr. Longo -- the Presidency Committee listened to both the judge come to Oslo as representative of the Spanish Minister and the two colleagues of the association of that country, and then debated the case, entrusting Mr. Woratsch with the task of reporting to the Central Council.

The First Vice-President gave a summary account of the salient points of the debate, which resulted in the Presidency Committee's proposal to wait for the settlement of the controversy by the Constitutional Court.

The Spanish delegation thanked the colleagues of the Central Council for their interest, looking forward to further possible interventions of the Council in favour of the Judiciary in Spain.

Following an exchange of opinions, the Council decided by majority -- 35 votes in favour and 6 against -- to forbear from moving any step until the outcome of the proceedings instituted by the General Council of the Judiciary is made known. Commenting on the resolution, the President assured that he would not have failed to keep up to date about the evolution of the question, and, in case, to consult by mail the member associations.

The session was adjourned at 12.30 p.m..

#### Afternoon session of June 17

The session resumed at 2.15 p.m., attended by the same persons as

had taken part in the morning session, and, in addition, Mr. Kassoff, IAJ's representative with the United Nations,

Delegates' interventions on the activities of the Association.

The President gave the floor to the American judge, who confirmed his intention -- as anticipated by Mr. Longo -- to examine the possibilities of constituting an association or group of judges in his country, representative on the national level.

The results of his contacts were hitherto satisfactory and some of his colleagues had already agreed to his proposal, expressing their unconditional consensus to IAJ's statutes. However, in his opinion, the straightest route of exploration goes through the American Bar Association, and, more precisely, its Judicial Section, although it is to be expected that the way to reach the goal be long and progress slow.

The Judicial Section of the American Bar Association -- he explained answering to the British delegates and Mr. de Vreese's questions -- divides into four sub-sections according to the activity carried out by its members, among which he counts himself, and is open to whoever officiates as judge. In the United States there are, indeed, also other associations of judges and lawyers, but ABA is undoubtedly the one which enjoys the highest credit, also because it can rely on the widest spreading network.

Mr. Kassoff thanked the Norwegian Association for its kind hospitality and took leave of the Council.

Mr. Ndiaye then informed the audience that he has learnt from several reliable sources that some colleagues of Bourkina Fasso -- former Upper Volta -- , members of an autonomous Association of judges constituted in that country a few years ago, had been removed from their posts, or dismissed, and some of them punished and even imprisoned for having asserted their liberty of thought and the independence of the judiciary vis-à-vis the executive power.

Mr. Gomez added that according to some lawyers of that country on business trip in Paris, their government uses to amend the law by means of mere circulars published by the Committee for the Defence of the Revolution. Furthermore, the judges are systematically bereft of their independence, and the lawyers themselves often meet with unexpected difficulties when exerting their right of defence.

Any intervention directed to the safeguard of the menaced freedom would therefore be more than appropriate, but, at the same time, the utmost discretion should be used in order to avoid running the risk of a reaction having opposite effect.



Bourkina Fasso was a democratic country with free elections and an independent judiciary until the recent coup d'état, which established popular courts trying political infringers with entire disregard of the fundamental rights of man. Even the classes of the international section of the Ecole de la Magistrature de Bordeaux -- Mr. Gomez pointed out -- have not been attended by judges of this country for more than two years.

After an ample exchange of views, the Council resolved to charge the Presidency Committee to appoint a reporter and ask him to submit the results of his inquiries to the Council itself, in order to be able to arrive at the most suitable decision.

The Council then admitted Mr. Rostad, representative of UNSDRI -- United Nations Social Defence Institute --, who took the floor to illustrate the programme of the Institute, drawing the audience's attention to the importance of the studies and researches carried out on the treatment of offenders and on possible remedies in replacement of detention, which are now recognized as the most qualified to re-educate.

All different aspects of the problem of crime prevention will be exhaustively treated during the world congress organized by the United Nations -- such congresses are held every five years --, that is going to take place in Milan at the end of August. The preference has been given to this town because it is a European metropolis and it belongs, as well, to a country which is particularly concerned with the question of delinquency. The programme of the Congress includes, among other things, the discussion and, possibly, the approval of a declaration on the independence of judges.

Mr. Rostad concluded his report by presenting the book published by UNSDRI with the co-operation of IAJ, which he defined "a message to the whole world on the problems of justice".

The President then gave the floor to the delegate of the Tunisian Association, Mr. Mahjoub, who acquainted the Council with the fact that the association founded by the Tunisian Young Judges some time ago was dissolved at the beginning of the year by a decree of the Minister of Justice on account of its governing body's decision to go on a two-day strike while negotiations for the granting of salary rises were pending.

The reasonableness of such an initiative was at least questionable since right at that moment a possibility of composition was looming on the horizon: as a matter of fact, a salary increase of 40 per cent would have been allowed a few weeks later.

As the Tunisian law prohibits whatever stoppage of public services, eighteen judges, who going on strike had discontinued the work of important judicial offices for two days, have undergone

the judgment of the Disciplinary Council. Against the sentence of expulsion from the judiciary passed on the ground of insubordination, they have appealed to the Administrative Court, and the case is now pending.

Whereas a judicial proceeding was still pending, after a circumstantial discussion the Council adhered to the President's proposal to abstain from adopting any resolution until rendition of final judgment by the Administrative Court.

#### Session of June 19.

The works resumed at 3 p.m.. Mr. Gabaldon Lopez and Mr. Galan took part in the meeting as delegates for Spain, Mr. Beck for Luxemburg, and Mr. Davis and Mr. Sarmento for Brasil, while the composition of the other delegations had remained unchanged.

Mr. Longo read a message from the French Union Syndicale des Magistrats informing that an association of European judges was constituted in Nice in 1984 to take the place of a former Mediterranean association, which consisted of judges of the law-courts of Nice, Monaco and Sanremo. While the latter was a deserving initiative, the present association actually is nothing but the creature of one person only, a deputy Public Prosecutor of Nice, who is essentially acting on his own account, and does in fact represent no institution or social group of any importance. Several judges of the court of Nice have deserted the association, which practically includes mainly politicians, registrars, employees of the court and of the prisons, as well as retired judges and officials.

Last May, it held a congress on informatics in Nice, seemingly organized with the financial support of private enterprises.

In the opinion of the French colleagues -- added Mr. Longo --, IAJ ought to warn its members against any contact with the new association, either direct or indirect, individual or collective, in consideration of the ambiguous nature of its activities and aims.

First Vice-President Woratsch then intervened to let the audience know that being in possession of a copy of the association's by-laws, he would have sent it to the Secretariate General to be placed at the disposal of all those interested in examining it.

The participants in the Central Council, after having briefly consulted each other, unanimously decided to charge the Presidency Committee to keep on investigating and to follow with an active and constant eye the developments in the situation, acquainting the national associations with whatever new event which might emerge and serve to the purpose of enlightening them better.



Participation of IAJ in the 7th UN International Congress on Crime Prevention and Treatment of Offenders. Milan, 1985.

Mr. Longo took the floor again to say that he intended possibly to send all associations a circular containing the list of topics to be treated during the International Congress organized by the United Nations, which -- as already mentioned by Mr. Rostad -- will take place in Milan, from August 26 to September 6.

IAJ will take part in the debate on the themes of juvenile delinquency and independence of the judiciary, and will be represented by Mr. Woratsch and himself, whose stay in Milan, however, shall not be at the expense of the Association.

Several delegates stressed the importance of the conference, and expressed the wish that IAJ's participation would be fruitful and effective.

Report of the auditors responsible for examining the financial statement

Mr. Douglas-Hughes and Mr. Stotter both proclaimed they were satisfied with the financial report they had meanwhile examined. It appeared from the statement of accounts that the expenses are on the increase mainly because of the higher postage and telephone costs. The Secretary General has attended to his administrative duties with wisdom and deep care, and, as a matter of fact, it is impossible -- in the auditors' opinion -- to cut down certain charges when services essential for the existence of the Association are involved.

Mr. Stotter exhorted the member associations to be punctual in the payment of their subscription rates, and wondered whether it would not have been advisable to raise the annual dues, in order to render the task of the Secretariate General somewhat easier. Likewise, it would be suitable, perhaps, to publish every year a brochure comprehending a detailed account of IAJ's activities, for the sake of making the reader familiar with the work carried out by the Secretariate, the Presidency Committee, and the Central Council, as well as with the studies and researches accomplished by the Study-Commissions.

After a brief discussion, the Council decided an increase of 10 per cent in the yearly amounts to be paid by the associations sticking to the ECU as the standard adopted in Dakar.

Sir J.P. Warner approved the initiative observing that since today all currencies are subject to rather substantial fluctuations in the money market, the fixing of a yardstick hardly influenced by the effects of the variations in the rate of exchange is indeed a better choice than any other.

Reports of the Presidents of the Study Commissions. Proposal and selection of the new subjects.

The Presidents of the Study Commissions, Mr. Krings, Mr. Mosetto, and Mr. Screvens read out their reports about the conclusions adopted by the Commissions on the studies they have dealt with, and suggested <sup>that</sup> the following topics be respectively treated next year:

by the First Commission: "The use of computers to keep judges informed in respect of legislation, court decisions and legal writings";

by the Second Commission: "In what circumstances may a case be reopened after the final decision has been reached by a Court";

by the Third Commission: "The penal judge in relation to addiction: punishment and/or treatment".

After a certain number of remarks, all in favour, had been made by its members, the Council unanimously approved the selected themes.

Forthcoming meetings of the Central Council and Study Commissions.

Vice-President Sa'Nogueira informed the audience that the Portuguese Association considered organizing a meeting of the Central Council and the three Commissions in Macao, sometime in autumn, either in 1986 or in 1987.

Mr. Douglas-Hughes also announced his intention to examine the possibility that a meeting be held in England in 1986.

The Council expressed its deep appreciation to both delegates, and agreed to the President's proposal that actual programmes be sent to the Secretariate General prior to the end of September, in order to be able to take a decision.

Protection of human rights. Drawing up of a list of judges willing to take part in international commissions of inquiry.

The President recalled to the audience that the list of judges -- two for each national association, -- willing to man the commissions set up by the United Nations or other international organizations to inquire into alleged violations of human rights, should be completed as soon as possible.

He then manifested to the Council his blame on the hijacking of an American plane occurred in Greece, and the holding of several tens of innocent passengers as hostages, which is, indeed, a serious violation of human rights.

Conclusion.

The Council rejoiced at the good news that Mr. Leonardy has been appointed President of the Saar Landgericht, Mr. Screvens President of the Belgian Court of Cassation, Mr. Sa'Nogueira Counsellor



of the Court of Appeal of Lisbon, and Mr.Ndiaye Counsellor of the Senegalese Court of Cassation and warmly congratulated them.

Finally, the President, also on behalf of the Central Council and the Study Commissions expressed to the Norwegian colleagues all the gratitude of the Association for their generous hospitality and for the splendid organization which has allowed the meeting to be a success.

The audience applauded enthusiastically and heartily complimented Mr.Christiansen.

The President  
(Felippe A.de Miranda Rosa)

The Secretary General  
(Giovanni E.Longo)