



INTERNATIONAL ASSOCIATION OF JUDGES

*Minutes of the meetings of the Central Council*

Porto (Portugal), September 1998

Session of 7 September

Present: Mr Tillinger, Mr Woratsch, Mr Christiansen, Mr Abravanel and Mr Voss, Honorary Presidents: the President, Mr Rodriguez Arribas; the First Vice-President, Mrs Girard, the Vice-Presidents, Mr Bennour, Mr Broekhoven, Mr Calandra, Mrs Mailhot and Mr Markel; the Secretary General, Mr Bonomo, and the Deputy Secretaries General, Mr Meriggiola and Mr Oberto; the Assistants to the General Secretariat, Mr D'Agostino and Mr Gargiulo; and the Representative of the IAJ to the United Nations in Geneva, Mr Weber.

The following delegates represented their respective national associations:

ARGENTINA	Mr Dugo and Mr Prack
AUSTRALIA	Mr Spender
AUSTRIA	Mr Reissner
BELGIUM	Mr Deneker and Mrs Prignon
BOLIVIA	Mr Aldayuz Duran
BRAZIL	Mr Baldino Maciel and Mr De Carvalho
CAMEROUN	Mr. Mahdouve
CANADA	Mr Cohen and Mr Deyell
CHILE	Mr Dobra
COSTA RICA	Mr López Mc Adam
CZECH REPUBLIC	Mr Vyklicky
DENMARK	Mr Schioler
ESTON	Mr Joks and Mr Sarnet
FINLAND	Mr Aarola and Mr Heikonen
FRANCE	Mr Kriegk and Mr. Pernollet
F.Y.R.O.M.	Mrs Tsatsa-Nikolovska
GERMANY	Mrs Peters
GREECE	Mr Sergakis
ICELAND	Mrs Jonsson
IRELAND	Mr Keane
ISRAEL	Mr Kitai and Mr Lindenstrauss
ITALY	Mr Abbate, Mr De Nunzio and Mr Mogini
IVORY COAST	Mrs Diakite, Mr Tchimou and Mrs Zakpa
JAPAN	Mr Sakaj, Mr. Takeuci and Mr. Yamaguchi
LETTONIA	Mr Kinis
LIECHTENSTEIN	Mr Fehr and Mr Hagen
LITHUANIA	Mr Valancius
LUXEMBOURG	Mr Santer
MALI (observer)	Mr Mahamadane and Mr Wafi
MALTA	Mr Agius
MOROCCO	Mr Daoudi
NETHERLANDS	Mr Nyenhof
NIGER	Mr Malam Moussa
NORWAY	Mr Eidesen and Mr Elstad
PARAGUAY	Mr Mareco and Mr Rios Avalos
PERU	Mr Garcia Villena and Mr Rojas Troche
PORTO RICO	Mr Mercado Ramos and Mr Santiago

PORTUGAL	Mr Cura Mariano and Mr Reis Figueira
REP. OF CHINA (Taiwan)	Mr Lin and Mr. Shen
RUMANIA	Mrs Costiniu and Mrs Saitos
SENEGAL	Mr Sy
SLOVAKIA	Mr Roharik
SLOVENIA	Mrs Tratnik and Mr. Zalar
SPAIN	Mrs Atienza, Mr Bento Company, and Mr. Martinez-Varez Garcia
SWEDEN	Mr Carrick and Mr Francke
SWITZERLAND	Mr Gass and Mr Zappelli
TUNISIA	Mr Ben Hassine
UNITED KINGDOM	Mr. Allan and Mr. Sutherland
URUGUAY	Mr Brito (by proxy)

After the official ceremony of the inauguration in the presence of the Minister of Justice, the President of the Supreme Court of Justice of Portugal, the President of the Municipal Chamber of Porto and the President of the Portuguese Association of Judges, Mr Rodriguez Arribas, President of the IAJ, opened the meeting at 11.00 a.m. and welcomed all the participants. He expressed the deepest gratitude of the IAJ to the Portuguese Association of Judges for the perfect organisation of the meeting and their generous hospitality. Then the President passed on to the items listed on the agenda.

#### 1. Checking votes and proxies.

The Secretariat General carried out the control of the votes and proxies. Mr Bonomo noted that, apart from the extraordinary members and the guests, only Romania is not in the situation to be able to vote. Mrs Costiniu however ensured that the payment of the late contributions would be carried out in time for the voting. Mr Bonomo added that he had been informed that Chile would represent Uruguay. He requested the Delegation of Chile to give him the proxy in writing. The Delegation of Tanzania did not attend the first meeting of the Central Council.

#### 2. Nomination of delegates to count the votes. Appointment of auditors to examine the accounts and to report.

The President asked the assembly if two delegates would be willing to count the votes and two others would agree to be nominated as auditors. Mr Agius (Malta) and Mr. Prack (Argentina) were unanimously appointed to count the votes. The assembly then nominated Mrs. Peters and Mrs. Tratnik as auditors to examine the accounts and to submit a report to the Central Council.

#### 3. Candidatures for President, six Vice-Presidents, Secretary-General and Deputy Secretaries-General.

Mr. Voss proposed Mrs. Girard as the new President of the IAJ. For the positions of Vice-Presidents, Italy proposed Mr. Reis Figueira; the United States proposed Mrs. Mailhot; Spain proposed Messrs. Bennour, Broekhoven, Calandra, Markel, Reis Figueira and Mrs. Mailhot. Israel proposed Mr. Bennour and requested that the vote be secret. Puerto Rico proposed Mr. Calandra as First Vice-President. Mr. Bonomo said that this candidature can be considered for the moment as the candidature for a post of Vice-President, because the position of First Vice-President is conferred to one of the Vice-Presidents already elected. Argentina, Bolivia, Chile, Costa Rica and Uruguay proposed the re-election of the five Vice-Presidents and also the election of Mr. Reis Figueira. Senegal, in the name of the countries of the African Group, proposed Mr. Bennour; Romania proposed Messrs. Markel and Reis Figueira; Slovenia proposed Mr. Markel; Denmark proposed the candidature of Mr. Francke, also in the name of the five Scandinavian countries; Sweden proposed the candidature of Mr. Broekhoven. Austria and France proposed Mr. Reis Figueira; Greece proposed the re-election of the five Vice-Presidents and also the election of Mr. Reis Figueira; the Czech Republic proposed the election of Messrs. Broekhoven and Markel; Germany proposed the re-election of the five Vice-Presidents and also the election of Mr. Reis Figueira; Belgium proposed the election of Messrs. Broekhoven and Markel.

Mr. Rodriguez Arribas then pointed out that Mr. Sergakis was appointed First President of the Court of Appeal of Athens. He added that a colleague who worked for our Association, Mr. Emile Penning, and also the Honorary President of the IAJ, Mr. Brian Walsch, had died during the last year. He invited those present to observe one minute of silence in memory of these colleagues. The invitation of the President was observed by the assembly which rose.

Finally the President said that the Presidency Committee had decided to give to Mr. Meriggiola a silver plate in recognition of the work accomplished during 25 years as Deputy Secretary-General. The plate is engraved with the following sentence: "The International Association of Judges to Enzo Meriggiola, President of the Chamber of the Supreme Court of Cassation of Italy, as a sign of gratitude for his fruitful and enthusiastic work in his position as Deputy Secretary-General from 1974 to 1998. Porto, 7 September 1998." The declaration is signed by the President himself and by the Secretary-General. The President gave the silver plate to Mr. Meriggiola, who made a speech of thanks.

#### 7. Report of the Secretary-General.

Mr. Bonomo commenced by informing the assembly that the Secretariat had completed the collection of the conclusions of the study commissions for the years 1980-1997. This year, in particular, the collection of the conclusions of the Third Commission was finished and distributed to the delegations. Now all the collections are available on the Internet site of the IAJ at the following address: <<http://www.geocities.com/CollegePark/Classroom/7761>>.

With regard to the financial report, the Secretary-General summarised the contents of the document which had been distributed. He recalled that two colleagues had been named to control the accounts. The General Secretariat is ready to give any information necessary on this subject. He added that the report that had been distributed considers the period up to 24 August 1998. Concerning the contributions which had to be paid, he said that the situation illustrated in the report had changed, since he had received the same day the payment (or the documents referring to the payment) of Belgium, Chile, Malta and Puerto Rico. The Association of Venezuela, which is an extraordinary member, is in arrears for four years. He recalled that under the Statute, associations which are late in payment for more than three years of contributions, are excluded from association, except in the case of a contrary decision of the Central Council. He added that he had tried several times to contact the Association of Venezuela, without any result.

#### 8. Reports of the Presidents of the Regional Groups (First Vice-President Girard, Vice-President Calandra, Vice-President Bennour and Vice-President Mailhot).

Mrs. Girard pointed out that the last meeting of the EAJ was held in March in Ljubljana (Slovenia). It was a very interesting meeting and it was the second meeting in a country of Eastern Europe. Mrs. Girard had the possibility of meeting, with the President of IAJ, several personalities of the country who had shown much interest in our organisation. The IAJ discussed the usual items, i.e. topics of a technical nature concerning the relationship with the European Union and the Council of Europe.

In particular, with regard to the first of these two institutions, Mrs. Girard underlined the progress of the Convention of Brussels on the application of decisions of justice; this is in effect a convention which will probably become a directive and which constitutes a very significant step towards a certain form of harmonisation of the civil procedure. The EAJ could follow month after month the development of this new entity, which is the European legal entity. Mrs. Girard also mentioned the Convention of Amsterdam which has significant consequences in the judicial field and in co-operation in penal matters. Among the other subjects dealt with could also be mentioned the situation of judges in the Czech Republic. Mrs. Girard mentioned that she had sent a number of letters on this matter, and in particular a letter to Mr. Havel, President of the Czech Republic. She said that this approach had been extremely effective because it permitted the struggle of the Czech colleagues to be made known widely.

As regards the activity of the Council of Europe, Mrs. Girard said that the EAJ discussed the draft recommendations on the effectiveness of justice and took part in the projects of the European Charter of the Judge. She mentioned further that all the delegates received the third number of the review Euro Iustitia in Porto. She mentioned the declaration adopted the day before on the need for reinforcement of co-operation in penal matters between judges within Europe. Finally she reminded delegates that the Web

On behalf of the General Secretariat, Mr. Bonomo informed the assembly that Mr. Meriggiola, the Deputy Secretary-General, would not renew his candidature in view of his approaching retirement. Mr. Di Cerbo would also not renew his candidature as he had been appointed a member of the International Office of Patents in Munich. The Secretariat proposed the re-election to the post of Secretary-General of Mr. Bonomo, and to the post of Deputy Secretary-General of Mr. Oberto. It also proposed the election of Mr. D'Agostino and Mr. Gargiulo to the two other posts of Deputy Secretary General.

#### 4. Approval of the minutes of the meeting held in Puerto Rico

The President asked the participants to submit their remarks, if any, on the minutes sent by the General Secretariat to each member association.

Having ascertained that no objections had been raised, he declared the minutes approved.

#### 5. Meetings of the IAJ in the following years. Possible host countries. Proposals for their financing.

The President pointed out that for the moment the only availabilities were the Republic of China, Taiwan (Taipei) for the year 1999 and Brazil (Rio de Janeiro) for the year 2000. Spain proposed the candidature of Madrid for the year 2001; Argentina proposed to organise the meeting of the year 2002 in Buenos Aires or Mar del Plata. The Ivory Coast proposed to organise the meeting for the year 2003. Morocco proposed its candidature for the year 2004. The delegate of Austria said that the Austrian Association would like to organise the meeting of 2003 in Salzburg, which is the place where the IAJ was founded in 1953, and that this would be the best way to celebrate the 50th anniversary of our organisation. The President noted that there was a coincidence between the availability of the Ivory Coast and Austria. The delegation of the Ivory Coast stated that it would be available to organise the meeting of 2002. Mr. Rodriguez Arribas said that the Presidency Committee would deal with the problem caused by the coincidence of dates. He noted that for the following years the problem of financing the meetings is solved.

#### 6. Report of the President

The President explained that certain informations on his activities are contained in the document of the Association which was distributed to all the delegations. He mentioned to begin with the creation, in October 1997, of a special sub-committee to inquire into the situation of the judicial power in Colombia and in Peru. This commission was composed of Messrs. Calandra and Voss with the participation of Mr. Brito (Chile) and other colleagues of the area. It visited the countries concerned in December 1997 and in May 1998. A report had been prepared consisting of two proposals for a declaration which will be submitted to the Central Council.

As regards his activities, after the meeting of Puerto Rico, the President went to Berlin, where he had been invited by the German Association in order to receive a prize for human rights, in the presence of the President of the Republic. The prize was awarded in memory of an assassinated Mexican Judge. A meeting of the Presidency Committee took place in Madrid on 22 February 1998, on the occasion of the handing over of the prize "Justice in the World" to the Italian Magistrate, Adolfo Beria d'Argentine. The prize was presented by the King of Spain. Another meeting of the Presidency Committee took place in Barcelona on 31 May 1998, at the time of the first meeting of the Academic Committee of the Association. As regards the regional groups, Mr. Rodriguez Arribas went in March 1998 to Ljubljana (Slovenia) for the meeting of the European Group and in April to Abidjan (Ivory Coast) for the meeting of the African group. The Presidency Committee also dealt with the question concerning the creation of a Permanent Penal International Court. The IAJ insisted that this Court be composed of professional magistrates and not only of academicians.

The President informed the assembly that thanks to the initiative of the Italian Professor, Mr. Nicola Picardi, a "liber amicorum" is being prepared to celebrate the 70th anniversary of Mr. Longo. He added that he will write an article for this book on the topic of the independence of the judiciary. He also sent a letter to several members of the IAJ to request a contribution of the same kind to this initiative. Mr. Bonomo invited the delegates and associations which wish to register their names in support of this initiative to contact him (the names will be inserted in the "tabula gratulatoria" of the publication).

addresses of the EAJ are the following: a) for general information <<http://space.tin.it/edicola/goberto/>>; b) for the Euro Iustitia magazine <<http://www.droit.umontreal.ca/palais/magistrature/AEM/journalvol1.htm>>. Mr. Oberto is at the disposal of the delegates for any information on this subject.

Mr. Calandra took the floor. He said that the Ibero-American group had held two meetings during the last year. The first took place in Buenos Aires, Argentina, thanks to the organisation of the association in the country and to its President, Mr. Prack. In June an important meeting took place in Macapa, in the Amazonian forest. During this meeting, a second meeting of the group took place. The meeting of Macapa was a great success and had wide press coverage. On the conclusion of this meeting, a document was prepared concerning the defence of the ethnic minorities and the Amazonian forest. He added that in the month of August a congress had taken place in Santiago of Chile to mark the 50th anniversary of the Universal Declaration of Human Rights, with the participation of many associations of the Ibero-American group, which had worked on the program of the congress.

Mr. Calandra also spoke about the visit made by the commission in charge of the enquiry into the situation in Colombia and Peru. This special sub-committee is composed of himself, Mr. Voss, Honorary President of IAJ, and also includes Messrs. Prack and Brito. In particular, Mr. Voss went to Colombia, while Mr. Calandra went to Peru. The commission received a large quantity of documents concerning the topics of the investigation. He explained why the situation in these two countries is very serious. In Peru, which at present is under a dictatorship, the commission had noted serious violations of human rights and of the independence of the judicial power. The situation in Colombia is not very different. The commission proposes a formal communication with the Office of the Secretary-General of the United Nations on the situation; it is also writing a declaration for the Central Council of the IAJ.

Mr. Bennour presented the proposal for a declaration on the independence of the judiciary in Africa, prepared by the African working group and which will be submitted to the Central Council. He recalled that the meeting of the African Group was held on 16-17 April in Abidjan (Ivory Coast) thanks to the organisation of the U.N.A.M.A.C.I., in the presence of the President of the IAJ, the Secretary-General and two observers from the Ibero-American Group. All the countries of Africa had been invited. All the African member associations of IAJ took part (except for Tanzania), and also several observers of countries not forming part of the IAJ (Congo, Ghana, Guinea, Mali, Chad, Togo), of which two (Togo and Mali) presented their candidatures during the meeting. During the work of the meeting, two study commissions were formed: the first to deal with the topic of the relationship between justice and economic development in Africa; the second dealing with the subject of the universal statute of the judge. The group proposed amendments which were presented to the Secretariat by the Tunisian Association, in the name of the group.

Mr. Bennour also said that in December he went to Morocco for the 40th Anniversary of the creation of the Supreme Court of this country. During this celebration he spoke in the name of the IAJ and had a discussion with the President of the Supreme Court, as well as with the temporary president of the Association of the judges of Morocco. He added that he could not take part in the first Mediterranean meeting of the national institutions for the protection and promotion of human rights, and that the Deputy Secretary-General, Mr. Oberto, had taken part in the name of the IAJ. He then spoke about the case of the two colleagues from the Congo who had taken refuge in Cameroon. Thanks to the support of the African Group, the two colleagues could return to their country and were reinstated in the legal body.

Mrs. Mailhot said that the first meeting of the Asian, North American and Oceanian Group, was held the preceding day. She added that five countries participated. They decided to create a news bulletin which would be exchanged by fax several times a year.

The President interrupted the meeting and communicated to the assembly the sad news of the sudden death of our colleague, Mr. Shanley, of the delegation of Ireland. He expressed condolences in the name of the assembly to the delegation of Ireland, and he invited those present to observe on minute of silence in memory of the colleague; the invitation of the President was accepted by the assembly which rose.

#### Session of 9 September

Present: The President, Mr. Rodriguez Arribas; the First Vice-President, Mrs. Girard; the Vice-Presidents, Mr. Bennour, Mr. Calandra, Mr. Broekhoven, Mrs. Mailhot, Mr. Markel; the Secretary-General, Mr.

Bonomo: Assistant Secretaries-General, Mr. Meriggiola, Mr. Oberto and Assistants to the General Secretariat, Mr. D'Agostino and Mr. Gargiulo.

The member Associations were represented by the same delegates who were attending the preceding meeting, except for the following changes: Argentina by Mrs. Maffei de Borghi and Mr. Prack; Belgium by Mr. Henkes and Mrs. Prignon; Chile by Mr. Dobra and Mr. Guzman; Hungary by Mr. Horeczky and Mr. Liechtenstein; Ireland by Mr. Budd and Mr. Barr; Iceland by Mrs. Jonsson and Mr. Njalsson; Italy by Mr. Abbate, Mr. De Nunzio and Mr. Giacalone; Latvia by Mr. Bickovics; Liechtenstein by Mr. Fehr and Mr. Mislik; Lithuania by Mr. Valancius and Mr. Gudas; Luxembourg by Mr. Bour and Mr. Gehlen; Slovakia by Mr. Roharik and Mr. Bradac; Tanzania by Mr. Mackanja and Mrs. Lyamuya.

President Mr. Rodriguez Arribas opened the meeting at 15.00 hours and called on the Secretary-General. Mr. Bonomo pointed out that a someone was present in the room at the disposal of delegates and associations who want their names to be inserted in the "tabula gratulatoria" of the publication which will be made at the end of the year in the honour of the Honorary President of IAJ, Mr. Giovanni Elio Longo.

#### 11. The Universal Statute of the Judge.

With reference to point 11 of the agenda, the President said that, following the decision of the Presidency Committee, a specimen of the table prepared by the Secretariat would be distributed to the delegates. He requested the delegations to kindly mark their vote on the proposal of the statute and to return the same document distributed by the Secretariat, at the latest before 9.30 of the following day, 10 September, with the indication, on each page, of their vote for the proposal presented by the Committee or for one of the suggested amendments. Mr. Sergakis explained the amendment suggested by the Greek delegation. Mrs. Mailhot said that Canada withdraws the amendments suggested to the articles No. 8, 14 and 15.

#### 9. Report of the Commission on Peru and Colombia.

Mr. Bonomo explained the contents of the two motions for a resolution written by the Commission in charge of the enquiry into the situation of the judicial power in Colombia and Peru. These two proposals were approved by the Presidency Committee and had just been distributed to the delegates. Mr. Bonomo read the two texts. The assembly approved the two declarations unanimously. (Appendix 1 and 2).

#### 10. Activities of the Foundation

##### 10.1. Publications Service.

Mr. Rodriguez Arribas said that the Foundation had prepared a file for the meetings in Porto, containing the documents concerning the matters under discussion. The President added that the publications service had prepared the first number of a review, which was distributed to all the delegates. He apologised for printing and translation errors. He thanked Mr. Reis Figueira for his work in the publication service for the Foundation. The second number of the review is already being prepared. The third will probably be printed in Buenos Aires thanks to the co-operation of the Argentinean Association. The President said that he hopes that the book on the comparison of legal systems will be ready during the first quarter of 1999. It will be published by a Swiss publisher, located by Mr. Abravanel, who will do the work without charge.

Mr. Abravanel took the floor to say that the first book of the Foundation will be a publication on comparative judiciary organisation; it will be the first work of this breadth of its kind. He invited all the colleagues who had not already forwarded their reports to send them to him as soon as possible. The publication will be divided into several parts devoted to such subjects as: designation and formation of judges (volume I), external independence of the judiciary (volume II), internal independence of the judiciary (volume III), interior independence of each judge (volume IV), the place of the judge in the constitution and his relationship with respect to the other powers of the state (volume V). The work will have the scientific support of the University of St. Gallen in Switzerland.

##### 10.2 International Institute for Judicial Power.

With regard to the training activity, Mr. Rodriguez Arribas mentioned that the first course will take place from 2 to 6 November in Coruña and that it will be opened to all associations adhering to the IAJ.

Each association will be able to send a magistrate. Professor Bouarque Sotelo had already prepared a project of the program. The conference will concern the subject of the role of the judge in the protection of human rights. The organisation of the conference will cover subsistence expenses of the participants. On the other hand, travelling expenses will be borne by national associations. Six grants will be given to colleagues of associations which will not be able to cover travelling expenses.

Mr. Markel gave additional explanations regarding the conference; in particular on the programme and the grants for travelling expenses. He added that the official languages of the conference will be Spanish, French and English with simultaneous translation. National associations will soon receive the invitation to nominate a colleague to take part in the meeting. The President added that the academic committee of the foundation met for the first time in Barcelona: this organisation is composed of 30 lawyers (judges, prosecutors, professors, lawyers). Several conclusions were adopted. Further information on this subject is contained in the file prepared by the Foundation and distributed to the delegates.

#### 10.3 International Prize.

Regarding the international prize, Mr. Rodriguez Arribas mentioned that a video cassette on the ceremony of the handing-over of the prize was sent to each association. He said that following despatch of the letter inviting all associations to propose candidates, he had already received some candidatures and others had been announced. The dead line for the presentation of the candidatures is 10 December 1998. The President said that he expects that next year also this prize will be given by the King of Spain.

#### 10.4 Financial report.

The President pointed out that the financial report is contained in the file distributed to the members of the Committee. He assured that the Association has sufficient funds to carry out its activities. Mr. Eidesen asked for explanations about the financial report with regard to financing by banks, because the Norwegian Association has difficulty in accepting the principle that private individuals can give contributions to the Foundation of the IAJ. Mr. Rodriguez Arribas gave explanations on this matter. He stressed that the Foundation has its own legal status and that it is subject to the control of the Spanish State.

At 16.30 hours the President temporarily left the assembly for a press conference. The First Vice-President, Mrs. Girard, assumed the chairmanship of the assembly. She informed the delegates that information gathered by the Secretariat on Internet on the subject of the Permanent International Court on War Crimes seemed to confirm the fact that our suggestions on the subject of the composition of this Court have been accepted. In particular it seems that in order to be named a member of this Court, which will be composed of 18 members, experience as a judge or public prosecutor in one of the member countries of the United Nations will also be taken into account. Further information can be obtained in the Web site of the United Nations <<http://www.igc.org/icc/html/monitor.htm>>.

#### 12. Requests for admission to IAJ. Associations of Judges of Georgia, Mali and Togo.

Mr. Markel explained the report on the Association of Georgia which is contained in the file distributed to all the delegations by the Foundation. He illustrated the situation of the judicial power in this country, and said that in his opinion it is necessary at the moment to await developments. After a short debate the assembly decided to postpone the question of the admission of Georgia indefinitely.

As regards the situation of Mali and Togo, Mr. Bennour said that he has not yet been able to go to these two countries. He has nevertheless collected the documents necessary to evaluate the situation, i.e. the constitutions and laws on the judicial power and the statutes of associations concerned. He added that he will soon visit these two countries in order to be able to submit a report on this subject. Mr. Sy said that these two countries could be immediately admitted to the IAJ. Mr. Henkes said that it would be better to await the reports of Mr. Bennour. The assembly decided to defer the decision to the meeting in Taiwan.

Mrs. Girard said that a request has been received from Peru, which is currently an extraordinary member, and which presents its candidature to become an ordinary member. The assembly decided that in this case it is also necessary to follow the normal procedure, i.e. the Presidency Committee will have to initially evaluate the request for this association. The question will be examined by the Central Council in Taiwan.

13. Associations in default of payment for several years; applications of art. 4, para.9 of the Statutes of IAJ.

Mr. Bonomo pointed out the contents of art. 4, para. 9 of the Statutes of the IAJ; he said that there is only the association of Venezuela which is in this situation. Following the proposal of Mr. Calandra, the assembly decided to delay the question for one year in order to allow this association to regulate the payment of its late contributions. Mr. Calandra will go to Venezuela and will submit a written report on this subject three months before the meeting in Taiwan.

14. Declaration of the African Regional Group in Puerto Rico. Proposal for approval by the Central Council.

Mr. Bennour explained the contents of the declaration approved in Puerto Rico by the African Group. This declaration was distributed to the associations. After a debate, Mr. Bennour explained that the support to which the final part of the document refers does not imply other than the expression of support for the "Observatory of the Independence of the Judicial Power in Africa". Mr. Voss proposed to modify the final part of the declaration in the following way: "The IAJ supports the Observatory of the Independence of the Judicial Power in Africa". Mrs. Girard explained why with this clarification it is quite clear that the contents of this declaration relate to only the African Group. With this modification the declaration was approved unanimously. (Appendix 3).

15. Report of the auditors appointed to examine the financial report.

Following the report of the auditors in charge of examining the financial report (Mrs. Peters and Mrs. Tratnik), the assembly unanimously approved the report relating to the year 1997-1998, and discharged the Secretary-General from any responsibility in this respect.

17. The budget of the IAJ.

Mr. Bonomo explained the contents of the document distributed to delegates in English and French. After these explanations the budget for the year 1999 was unanimously approved by the assembly.

16. Elections of the President, the six Vice-Presidents, the First Vice-President, the Secretary-General and the Deputy Secretaries-General.

Mr. Rodriguez Arribas thanked all the associations for their collaboration during these years and recalled that for the Presidency of the IAJ there was only one candidature. Mrs. Girard was elected by acclamation President of the IAJ.

Mr. Markel (48 votes), Mrs. Mailhot and Messrs. Bennour and Broekhoven (47 votes), Mr. Reis Figueira (46 votes) and Mr. Francke (36 votes) were elected Vice-Presidents.

The President asked whether there were candidatures for the post of First Vice-President. Mr. Lindenstrauss (Israel) and Mr. Sy (Senegal) proposed the candidature of Mr. Bennour. No other candidature was presented. Mr. Bennour was elected by acclamation First Vice-President of the IAJ.

Mr. Rodriguez Arribas was elected Honorary President.

Mr. Bonomo was elected by acclamation Secretary-General; Messrs. D'Agostino, Gargiulo and Oberto were elected Deputy Secretaries-General.

Mrs. Girard thanked the assembly for her election; she congratulated the Vice-Presidents and thanked Mr. Calandra for his activity as Vice-President for the IAJ during four years.

Following the proposal of the Italian delegation and of the Vice-President, Mr. Reis Figueira, the assembly unanimously addressed its thanks to Mr. Fernando Rosi Cappellani, an Italian colleague, ex-President of the Chamber of the Italian Court of Cassation and ex-President of the International Centre Luigi Severini of Perugia, for his co-operation with IAJ for many years.

The session finished at 19.30 hours.

Session of 10 September.



Present: The Honorary Presidents, Mr. Christiansen, Mr. Woratsch, Mr. Rodriguez Arribas; the President, Mrs. Girard; the First Vice-President, Mr. Bennour; the Vice-Presidents Mr. Broekhoven, Mr. Francke, Mrs. Mailhot, Mr. Markel, Mr. Reis Figueira; the Secretary-General, Mr. Bonomo; the Deputy Secretaries-General Messrs. D'Agostino, Gargiulo and Oberto; the Representative of IAJ to the United Nations in Geneva, Mr. Weber.

The member associations were represented by the same delegates who attended the first meeting, except for the following changes: Argentina by Mrs. Maffei de Borghi and Mr. Prack; Brazil by Mrs. Castro Neves and Mr. De Carvalho; Denmark by Mr. Knudsen and Mr. Schioler; Spain by Mr. Martinez-Varez Garcia and Mr. Souto Prieto; France by Mr. Genre, Mr. Kriegk and Mr. Pernollet; Ireland by Mr. Budd; Iceland by Mr. Gislason; Lettonia by Mr. Bickovics and Mr. Kinis; Luxembourg by Mr. Bour; the United Kingdom by Mr. Campbell and Mr. Sutherland; Senegal by Mr. Djanko.

The meeting commenced at 10.00 hours.

#### 18. Reports of the Presidents of the Study Commissions. Choice of the topics for the coming year.

The Presidents of the four Study Commissions read the conclusions of the commissions on: "The management of the problem of legal arrears - second part" (1st Study Commission); "Procedure in appeal" (2nd Study Commission); "The role of the lay person in the criminal process" (3rd Study Commission); "Fundamental Structures controlling working relationships" (4th Study Commission). The Presidents also proposed the subjects for 1999.

The Central Council approved the conclusions as well as the Commissions' proposals for the following topics for the year 1999. "To revalorize the relations between the judicial power and the other entities of the state for better operation of justice" (1st Study Commission); "Consequences of the violation or the non-fulfilment of a contract" (2nd Study Commission); "The influence of the press and other media on the reputation and the freedom of conscience of the members of the judiciary body in penal matters" (3rd Study Commission); "The strike" (4th Study Commission).

#### 11. The project of the universal statute of the judge (continuation).

The General Secretariat collected the tables containing the votes on the project of the universal statute. The tables returned to the Secretariat were 33. The project presented by the Presidency Committee obtained the majority of the votes on all the articles save for the first article, which obtained 15 votes, as did the amendment suggested by Canada. After a long debate the assembly decided to create a working group which will study the question again and which will write a new project. The text will have to be finished before the end of January 1999. The group will be composed of Mrs. Castro Neves (Brazil), Mrs. Diakite (Ivory Coast), Mr. Kriegk (France), Mrs. Mailhot (Canada), Mr. Nyenhof (Netherlands), Mr. Rodriguez Arribas (Spain - Honorary President of the IAJ), Mr. Schioler (Denmark), Mrs. Seybert (the United States), Mr. Woratsch (Austria - Honorary President of the IAJ).

The group will be chaired by Mr. Schioler. Mrs. Mailhot will undertake liaison between this group and the Presidency Committee. The Secretary-General will send a copy of the results of the present vote to the working group.

#### 19. Presidents of the Regional Groups.

Mrs. Girard introduced the new Presidents of the four Regional Groups appointed by the Presidency Committee: Mrs. Mailhot for the ANAO Group, Mr. Bennour for the African Group, Mr. Markel for the European Group and Mr. Reis Figueira for the Ibero-American Group.

#### 20. Other matters.

Mr. Zappelli requested information on the participation of the IAJ in meetings of the ISPAC. Mr. Bonomo asked whether there were any delegates who would like to take part in the next general meeting of this organisation which will take place in Courmayeur on 24 and 25 September 1998. No delegate declared availability. The assembly requested Mr. Oberto to represent the IAJ. Answering a question from the floor, Mrs. Girard confirmed that the Presidency Committee, with her personal support, will propose a

solution for the problem of the coincidence of several candidatures for the organisation of the annual meetings of IAJ for the years 2002 or 2003.

The President expressed her most cordial thanks to the Portuguese Association for its excellent hospitality and the efforts of organisation made for the success of the meeting.

The session finished at 12.00 hours.

The Past President  
Ramon Rodriguez Arribas

The President  
Pâquerette Girard

The Secretary General  
Massimo Bonomo

#### Annexes (3)

- Proposal concerning Peru and Colombia
- Proposal concerning Colombia
- Declaration of the African Regional Group

PROPOSITION DU COMITE DE PRESIDENCE DE L'UIM  
CONCERNANT LE PEROU ET LA COLOMBIE

En ce qui concerne la situation au Pérou et en Colombie, le Conseil Central de l'UIM a décidé, en conformité de ses statuts, de défendre l'indépendance de la magistrature de la façon suivante:

1. Les associations de l'Amérique du Sud membres de l'UIM sont requises de suivre la situation de la magistrature au Pérou et en Colombie et d'apporter toute l'aide possible aux associations de magistrats de ces pays.

Egalement, des programmes de protection de droits de l'Homme et de garantie d'une magistrature indépendante au Pérou et en Colombie devraient être établis dont la réalisation devrait être confiée au Groupe Ibéroaméricain.

Des programmes comme des séminaires, des conférences, etc., devraient être réalisés afin de sensibiliser les juges, les procureurs et les fonctionnaires de justice sur les sujets de l'indépendance de la magistrature et de l'importance des droits de l'Homme.

2. Le Président de l'UIM écrira une lettre ouverte au Président du Pérou l'informant que les membres de l'UIM sont préoccupés par le traitement de la magistrature dans son pays.

Bien que garantie par la Constitution du Pérou, l'indépendance de la magistrature n'est pas protégée comme le démontre la révocation de trois juges de la Cour constitutionnelle. Il s'agit là seulement d'un exemple parmi d'autres.

Cette lettre devrait se terminer par un appel au Président pour rétablir le respect de la Constitution du Pérou.

3. Le Président de l'UIM écrira une lettre ouverte au Président de la Colombie l'informant que les membres de l'UIM sont préoccupés par le déclin constant du respect de la magistrature dans son pays.

Cette situation découle directement du fait que les jugements ne sont pas exécutés à la suite de leur prononcé. C'est ce qui s'est produit, par exemple, à la suite du jugement de la Cour constitutionnelle qui a déclaré que la cour militaire n'a pas compétence à l'égard de citoyens privés.

On devrait, par conséquent, publier toutes les décisions de la Cour constitutionnelle pour permettre à chaque citoyen de les connaître et les comprendre.

En outre, tous les organes constitutionnels de l'Etat devraient être tenus de suivre ces décisions.

4. Ces deux lettres doivent être transmises non seulement aux Associations du Pérou et de la Colombie, mais également à toutes les associations membres de l'UIM pour circulation et pour envoi aux médias de leur pays.

## PROPOSAL OF THE IAJ PRESIDENCY COMMITTEE CONCERNING PERU AND COLUMBIA

Regarding the situation in Peru and Columbia, the Central Council of I.A.J. has decided, as per its statute, to defend the independance of the judiciary in the following manner:

1. The Member Associations of the South American Countries are asked to monitor the situation of the Judiciary in Peru and Columbia, and to give every possible help to the Association of Judges in those countries.

As well, programs of protection of Human Rights and of the guarantees of an independant Judiciary in Peru and Columbia, should be established, leaving this realization to the Ibero-American Group.

Programs such as seminars, conferences, etc, should also be developed to sensitize the judges, public prosecutors and officers of justice on the independance of the Judiciary and on the importance of the Human Rights.

2. The President of the I.A.J. is requested to write an open letter to the President of Peru informing him that the members of the I.A.J. are regarding the treatment of the Judiciary in his country with great sorrow.

Indepandance of the Judiciary which is guaranteed by the Constitution in Peru is not safeguarded as appears very clearly from the recent dismissal of the three judges of the Constitutional Court. This is only one of many examples.

The letter should close by an appeal to the President to return to the respect of the Peruvian Constitution.

3. The President of the I.A.J. is requested to write an open letter to the President of Colombia informing him that the members of the I.A.J. are witnessing the constant decline in the respect of the Judiciary with great sorrow.

This development is a direct consequence of the fact that judgements are not executed in Columbia after their pronouncement. This has happened, for instance, with the judgment of the Constitutional Court declaring that the military court has no Jurisdiction over private citizens.

There must be consequently a publication of all decisions of the Constitutional Court in order for every citizen to be able to have a knowledge of them and their content.

And all the constitutional bodies of the State must be obliged to follow these judgements.

4. Those two letters should be sent not only to the Peru and Columbia Associations but as well to all member Associations of I.A.J. to circulate them and to sent them to their own media.

French/Français >>>>>>>

PROPOSAL OF THE IAJ PRESIDENCY COMMITTEE  
CONCERNING COLUMBIA

In Columbia the situation of judges, public prosecutors and other officers of justice has been difficult and often dangerous in the past. Unfortunately, this situation has hardly improved during the last two years.

Now, as before, the life of a judge, public prosecutor, or officer of justice is greatly endangered when he (or she) practises his office according to his conscience and when he resists to corruption.

Now, as before, the surviving spouses and orphans of judges, public prosecutors and officers of justice murdered are left- not only without financial support – but also without support from the public authorities. Law suits to claim financial support, pensions or insurance payments are not only time-consuming but also rarely successful. The necessary evidence to be provided to the court is difficult to obtain, even when it consists of written documents.

Therefore the Central Council of the I.A.J. asks all Member Associations to support the Columbia-Fund of the German Association of Judges. This support should be a financial support. By giving financial support, we can effectively demonstrate our solidarity with the judges, public prosecutors and officers of justice of Columbia. Without substantial financial support, the children of the murdered victims cannot attend school or further their education. Without our financial support, their surviving spouses cannot be helped into a situation where they will be financially self supporting.

Without our financial support highly endangered colleagues cannot be brought to a safe refuge and – last but not least – without our financial support many of our colleagues and their families are left without hope.

French/Français >>>>>>

PROPOSITION DU COMITE DE PRESIDENCE DE L'UIM  
CONCERNANT LA COLOMBIE

En Colombie, la situation des juges, des procureurs et des officiers de justice, dans le passé, a été difficile et souvent périlleuse. Malheureusement, cette situation s'est peu améliorée durant les deux dernières années.

Aujourd'hui, comme par le passé, la vie d'un juge, d'un procureur et d'un officier de justice est sérieusement menacée lorsque celui-ci ou celle-ci exécute ses fonctions, selon sa conscience et en résistant à toute corruption .

Aujourd'hui, comme par le passé, les conjoints survivants et les orphelins de ces victimes se trouvent sans aide financière et sans support de la part des autorités publiques. Les réclamations judiciaires pour l'obtention de soutien financier, de pensions ou d'indemnisations d'assurance, non seulement exigent beaucoup de temps mais elles réussissent rarement. La preuve nécessaire pour établir les réclamations est difficile d'accès même lorsqu'elle ne comprend que des écrits.

En conséquence, le conseil Central de l'U.I.M. demande à toutes les associations nationales membres, leur appui au fond de soutien colombien créé par l'Association allemande des juges. Tel appui devrait être un appui financier. En donnant cet appui financier nous pourrions manifester aux juges, procureurs et officiers de justice de Colombie, notre solidarité de façon tangible. Sans une aide financière importante, les enfants des juges assassinés ne peuvent pas aller à l'école ou poursuivre leurs études.

Sans notre soutien financier, les conjoints qui survivent ne peuvent recevoir l'aide nécessaire à un recyclage professionnel leur permettant de devenir autonomes financièrement.

Sans notre soutien financier, les collègues en situation de danger ne peuvent être conduits dans un endroit où ils seront en sécurité, et en dernier lieu - et cela est important - sans notre soutien financier, plusieurs de nos collègues ainsi que leurs familles demeureront sans espoir.

## Declaration of the African Regional Group of the IAJ (translated from the French original)

San Juan, Puerto Rico, 15 October 1997

The Independence of the Judiciary in Africa: Rules and International Criteria.

Considering that it is unanimously recognized that a State based on the rule of law cannot be conceived without the independence of the Judiciary;

Considering that it is illusory to create or consolidate a democracy or to promote and protect human rights without a system of justice which is free from all forms of (interference from) powers or pressure groups;

Considering that on the other hand the concept of justice itself could not exist in a non-democratic State;

Considering that in the majority of African States democracy has not yet become an effective reality;

Considering, therefore, and taking into account the above considerations, the point under discussion is not the pertinence and the importance of the independence of the Judiciary, but how to determine the ways and means for its realisation.

Aiming towards this objective, we, the members of the African Group of the IAJ, request that the judges of all African countries be granted:

- A special statute established by a specific law (organic law) which regulates the recruitment, the career and the discipline of the judges;
- An independent organ such as the Superior Council of Judges which regulates exclusively the career and the discipline of all judges and which is composed in its majority of judges elected by their peers.

We require that the principle of "non-transferability" which protects judges against arbitrary transfers be established by constitutional laws in all African countries;

- That judges may not be considered civilly responsible for activities coming within the framework of the exercise of their judicial functions.
- That judges dispose of sufficient remuneration in order to be protected from pressure as well as sufficient and adequate material means;
- That the links of dependence between the public prosecutors and the Executive Power represented by the Ministry of Justice should be severed;
- That the judges be given high level of training both initially and for specialization;
- That judges should be given the freedom to create associations for the defence of their material and moral interests.

We denounce on one hand the intervention of the executive power in the judicial process which consists in instructions given to judges, and in pressure put on them and in attitudes and sanctions taken outside the legal field following decisions which do not please (the executive power); and on the other hand by the complaisant attitude of certain judges who feel obliged to be submissive, which is contrary to the ethics and deontology of their profession.

We encourage the IAJ to engage in a more concrete manner on the side of the associations of African judges in order to assist them in establishing the above mentioned principles in the countries where they do not already exist and to ensure that they also applied scrupulously where they are provided for in the text of the laws.

The International Association of Judges supports the "Observatory of the Independence of Judicial Power in Africa", which has been created with the aim of becoming the indispensable instrument for the promotion and protection of the rights and freedom of judges in Africa.

Français / French >>>>>

San Juan, Porto Rico, 15 d'octobre 1997

## DECLARATION DU GROUPE AFRICAIN

L'Indépendance de la Magistrature en Afrique: Normes et Critères Internationaux:

- Considérant qu'il est unanimement admis que l'Etat de Droit ne peut se concevoir sans Indépendance de la Magistrature.
- Considérant qu'il est illusoire d'instaurer la Démocratie et de la consolider ou même de promouvoir les droits de l'Homme sans une justice libre de toute forme de pouvoir ou de forces de pression.
- Considérant qu'inversement l'idée même de justice ne saurait exister dans une Etat non démocratique.
- Considérant que dans la plupart des Etats Africains, la démocratie n'est pas encore devenue une réalité bien vivante.
- Considérant que des lors et compte tenu de ce qui précède le débat ne tourne plus autour de la pertinence et de l'importance de l'Indépendance de la Magistrature mais comment déterminer les voies et moyens pour sa réalisation.

Poursuivant cet objectif, nous membres du Groupe Africain de l'UIM, exigeons que les Magistrats dans tous les pays africains soient dotés:

- D'un statut spécial consacré par une loi spécifique (loi organique) qui réglemente le recrutement, la carrière et la discipline du Magistrat;
- D'un organe indépendant genre Conseil Supérieur de la Magistrature qui gère exclusivement la carrière et la discipline de tous les Magistrats et qui est composé dans sa majorité de Magistrats élus par leur pair.
- Exigeons que le principe de l'Inamovibilité qui protège les Magistrats contre les déplacements arbitraires soit consacré par les lois constitutionnelles dans tous les pays africains;
- Que le Magistrat ne puisse pas engager sa responsabilité civile dans le cadre de l'exercice de ses fonctions;
- Que le Magistrat dispose d'une rémunération suffisante qui le met à l'abri des pressions et de moyens matériels suffisants et adéquats;
- Que le lien de dépendance entre les Magistrats chargés des poursuites et le Pouvoir Exécutif représenté par le Ministère de la Justice soit rompu;
- Que soit donné au Magistrat une formation de qualité tant initiale que de Perfectionnement;
- Que soit reconnu aux Magistrats la liberté de créer des associations en vue de la défense de leurs intérêts matériels et moraux;
- Dénouons d'une part l'Interventionnisme du pouvoir exécutif dans le processus juridictionnel qui se manifeste par des instructions données à des Magistrats, des pressions exercées sur eux et par des affectations et sanctions prises en dehors de tout cadre légal à la suite de décisions qui déplaisent; et d'autre part l'attitude complice de certains Magistrats qui se sentent obligés d'être soumis contrairement à l'éthique et à la déontologie de leur profession;
- Encourageons l'UIM à s'engager de façon beaucoup plus concrète a côté des associations de Magistrats Africains pour les aider à faire consacrer les principes sus-évoqués dans les pays ou ils n'existent pas et à les faire scrupuleusement respecter là ou ils figurent dans les textes;

L'Union Internationale de Magistrats soutient l' "Observatoire de l'Indépendance du Pouvoir Judiciaire en Afrique" qui vient d'être créé afin qu'il devienne cet Instrument indispensable de promotion et de protection des droits et libertés des Magistrats en Afrique.

English / anglais >>>>>