

INTERNATIONAL ASSOCIATION OF JUDGES  
Minutes of the meetings of the Central Council  
Sevilla (Spain), September 28 and 30, 1992

Session of September 28

Present: Mr. Dumon, Mr. Tillinger, Mr. Walsh and Mr. Woratsch, Honorary Presidents; the President, Mr. Christiansen; the First Vice-President Mr. Abravanel; the Vice-Presidents Mr. Voss, Mr. Aarola, Mr. Davis and Mr. Rodriguez Arribas; the Secretary General, Mr. Longo, and the Deputy Secretaries General, Mr. Meriggiola and Mr. Bonomo.

The following delegates represented their respective national associations:

ARGENTINA	Mr. Caviglione-Fraga and Ms. Gatzke de Gauna
AUSTRALIA	Mr. Gobbo and Mr. Teague
AUSTRIA	Mr. Markel and Mr. Woratsch
BELGIUM	Mr. Joachim and Mr. Van Gerven
BRAZIL	Mr. Davis
CANADA	Mr. Tremblay
DENMARK	Mr. Larsen and Mr. Hove
FINLAND	Mr. Aarola and Mr. Kiuru
FRANCE	Mr. Joubrel and Mr. Riolacci
GERMANY	Mr. Henning and Mr. Voss
GREECE	Mr. Sergakis and Mr. Tentes
HUNGARY	Mr. Horeczky
ICELAND	Mr. Kristjansson and Mr. Sigurdsson
IRELAND	Mr. McCarthy and Mr. Walsh
ISRAEL	Mr. Lindenstrauss and Mr. Kitai
ITALY	Mr. Caliendo and Mr. Martone
JAPAN	Mr. Izumiyama and Mr. Ogata
LIECHTENSTEIN	Mr. Fehr and Mr. Rederer
LUXEMBURG	Mr. Bour and Mr. Penning
MOROCCO	Mr. Daoudi
NETHERLANDS	Mr. Broekhoven and Mr. Holthuis
NORWAY	Mr. Dolva and Mr. Laake
PORTUGAL	Mr. Payan Texeira Martins and Mr. Reis Figueira
SENEGAL	Mr. Thiam and Mr. Toure
SPAIN	Mr. Galan Menéndez and Mr. Rodriguez Arribas
SWEDEN	Mr. Francke and Mr. Palm
SWITZERLAND	Mr. Abravanel and Mr. Zappelli
TANZANIA	Mr. Lugakingira and Mr. Mamba
TUNISIA	Mr. Essersi and Mr. Mnakbi
UNITED KINGDOM	Sir Nicholas Phillips

The session was opened at 11.00 a.m. The President welcomed all the participants and expressed the deepest gratitude of the IAJ to the Spanish Association of Judges for the organizational work and their generous hospitality. He informed the assembly that Vice-President Voss had been elected president of the German Association of Judges (Deutscher Richterbund) and congratulated him. Among the other good news the Greek delegation informed that Mr. Konstakos, President of the Greek Association of Judges had

been appointed a Supreme Court judge and Mr. Tentes had been appointed a judge at the Court of Appeal.

Hearty thanks were expressed to the Finnish colleagues for the excellent publication concerning the meetings of the Central Council and of the Study Commissions in Helsinki in 1990. It was hoped that something similar could be done in the future for other meetings. The assembly was also informed that Mr. Reliquet, Honorary President of the IAJ, had died. In the name of IAJ, the President expressed deep feelings of sympathy to the French delegation.

Then, President Christiansen commemorated the Italian judges Falcone and Borsellino, who were murdered by the mafia and asked all those present to rise for a minute of silence in memory of their Italian colleagues.

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

#### Approval of the minutes of the meeting held in Crans-Montana in 1991.

The President invited the participants to submit their remarks, if any, on the minutes sent by the Secretariat General to all member associations.

Mr. Lindenstrauss made reference to page 6 of the minutes, where it was stated that Israel was not represented at the session of September 18, 1991. He pointed out that at the previous session he had informed the assembly that he could not attend the session of September 18, because it was a holy day for him. As the application of the Hungarian Association of Judges for membership of the IAJ was on the agenda for that session, he emphasized that the Israeli delegation was in favour of the admission of the Hungarian Association.

Having ascertained that nobody had any other observations to make, the President declared the minutes approved.

#### Appointment of two auditors responsible for examining the financial report.

It was unanimously resolved to empower Mr. Bour, from Luxembourg, and Mr. Agius, from Malta, to audit the financial report drawn up by the Secretary General and to submit their conclusions and proposals to the Council during its session of September 30.

#### Candidatures for the Presidency and Vice-Presidency of the IAJ.

President Christiansen said that the new procedure was due to a suggestion from the Swedish delegation and reminded the assembly that there was a proposal from Portugal, Spain and Malta to increase the number of Vice-Presidents from 5 to 6.

The following candidatures were presented: a) Mr. Payan Texeira Martins (Portugal), by the delegations of Portugal, Spain



and Brazil; b) Mr. Rodriguez-Arribas (Spain), by the delegations of Spain, Argentina, Brazil and Portugal; c) Mrs. Girard-Thuillier (France), from the German delegation; d) Mr. Abravanel (Switzerland), as President, Mr. Voss (Germany), as First Vice-President, and Mr. Rodriguez-Arribas (Spain), Mr. Aarola (Finland) and Mr. Davis (Brazil), as Vice-Presidents, were proposed by the Austrian delegation.

#### Report of the President

Mr. Christiansen mentioned the decisions taken by the Presidency Committee in Bergen in June 1992 concerning the preparatory work for the Study Commission's meetings. It was decided that each delegate, before the date fixed by the President of the Study Commission for the preparation of the reports, would send one copy of his report to the President of the Study Commission and 35 copies, if possible, to the Secretariat General in Rome (it is important that the copies are of good quality). The Secretariat General, after the expiry of the date fixed by the President of the Study Commission, will send the copies to the national associations, asking them to forward the documents to the delegates appointed for each Study Commission. The delegates who do not send the copies of their reports to the Secretary General prior to the date fixed by the President of the Study Commission will have to send (in addition to the copy for the President of the Study Commission) another copy to the Secretariat General and one copy to each of the national associations, asking them to forward the document to their delegate.

In this way each delegate present at the meeting of the Study Commission should be able to have in his hands the reports of the other delegates. Until now it was not possible to achieve this result.

Gratitude for the proposal from Mr Samuels concerning the working methods of the Study Commissions had been expressed by the Presidency Committee. The matter had also been discussed with the Presidents of the Study Commissions. The Presidency Committee observed that it is up to the Presidents of the Study Commissions to decide about their working methods, and that it would be advisable to reach common conclusions only when fundamental issues are involved (like, for instance, the independence of the judges). However, it was hoped that the suggestions from Mr Samuels would be followed. It was pointed out that these suggestions had already had some impact on the work of the Study Commissions, as could be seen in the general report prepared by the President of the 2nd Study Commission in Switzerland, which gives information not only about common features, but also about the differences existing in the national systems. Moreover, this report could give an idea of the working methods of the Study Commissions to judges who have never participated in the meetings of the IAJ. In recent years, reports from others Study Commissions in recent years have also followed the model proposed by Mr. Samuels.

In accordance with a proposal of the Swedish delegation to

vary the subjects to be examined by the Study Commissions, the Presidency Committee had recommended that the subjects suggested for study in the following year should be inserted, if possible, in the questionnaires prepared each year by the Presidents of the Study Commissions. It was pointed out that on the basis of the IAJ present regulations, the subjects chosen must be within the scope of art. 7.

Mr Christiansen mentioned the co-operation offered by the IAJ to the Council of Europe in the framework of the Demosthenes programme (for democratization of some East and Central European countries). Experts chosen from among the members of the national Associations of the IAJ took part in meetings in Strasbourg and in different countries (Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Lithuania, Romania and Russia), where legal matters were discussed. It had been a great pleasure and honour for the IAJ to do this work for the Council of Europe, which was very happy with its help. The co-operation will continue in the following years.

President Christiansen expressed his thanks to all the IAJ experts who took part in the programme.

Mr. Sergakis said that, when selecting the subjects to be discussed by the Study Commissions, subjects which are studied at the same time by international organizations should be considered.

President Christiansen remarked that the IAJ Commissions examine the various problems from the specific viewpoint of the judge.

Mr. Essersi stressed the positive action that the IAJ, by exercising its moral constraint, is able to carry on especially in those countries on the way to democratization. He mentioned the intervention of the IAJ in favour of the Tunisian colleagues who had been brought before the disciplinary council and deprived of their judicial functions because of their participation in a strike. After five years of unsuccessful attempts to find a solution, the visit of Mr. Woratsch, in his capacity of President of the IAJ, in 1990 contributed to persuading the new Government to decide the rehabilitation of those colleagues.

He added that the Associations of each continent should have a Vice-President who could represent them on the Presidency Committee, and he presented his candidature.

President Christiansen said that judges of the countries on the way to democratization often have serious problems, also from an economic point of view, in organizing themselves in an association and in joining the IAJ. However, the Presidency Committee tried to establish contacts with colleagues all over the world; and, in this connection, he announced that during the afternoon it would have heard some colleagues from South American countries.

The Swedish delegation raised the question of the lack of



time to discuss problems about which the IAJ is consulted by international organizations, and President Christiansen said that the difficulty is caused by those organizations, since they ask us to appoint an observer for a meeting or ask for advice only at the last minute, even if they have been discussing the same problem for a long time.

The delegate from Morocco regretted that the majority of the reports sent to the national associations are in English and that a French translation is not available.

President Christiansen answered that a problem of this kind exists also with documents written in French, and that a solution should be found at a national level. Indeed the Secretariat would find it very difficult timely to translate the often exceedingly numerous pages of documents coming from member-associations or international organizations.

#### Report of the Secretary General

Mr. Longo briefly illustrated the financial report, which had previously been circulated to all the members of the Council. He underlined that, as shown in the report, in spite of the increase in costs, the expenses were kept within the limits of the income, as in the previous year.

As far as the yearly contributions to the IAJ were concerned, almost all the members had sent them. The documents sent by the bank had shown that payment for the year 1992 had not been received from the Greece, Hungary, Ivory Coast, Malta, Senegal and Tanzania.

However, Malta paid in cash during the meeting, Greece had shown that it had already sent its contribution.

The Associations of Paraguay and Uruguay were not paying their contributions since 1989.

No news had been received from the Lebanese Association of Judges for many years.

The delegate from Hungary said that the delay had been due to administrative regulations imposed by his country, but he assured the assembly that the contribution would arrive to Rome soon.

The delegations of Senegal and Tanzania said that their contributions had already been sent and that the delay was due to the banks.

Co-operation with other international organizations. Reports of the President, of Vice-President Voss and of the Secretary General.

Mr. Voss regretted that the European Parliament and the Council of Europe had often sent invitations or asked for the advice of the European Association of Judges - Working Group of the IAJ without giving enough time to consider and discuss the matter. In some cases an observer participated in those meetings in order to collect information on the subject under discussion; in other cases no participation was assured because it was considered not appropriate to be present without the association having enough time to reach an opinion on the subject.

Possible ways to solve the problem were under examination; some colleagues living in Strasbourg or Brussels would be asked to follow the activities of the international organizations which have their headquarters in those towns and to keep our association informed constantly and in advance.

After the 1991 meeting of the Central Council in Crans Montana, Mr. Voss and other representatives of the European Association had two meetings with members of the European Parliament to discuss the questions of codification and clarification of Community Law and of education in that Law, which is a great problem for European judges.

A group chaired by Mr. Broekhoven from the Netherlands worked out a proposal for a training programme for judges in Community Law. The report was approved by the European Association and would be sent to the European Community, the European Parliament, the Council of Europe and the Ministries of Justice of the European member countries.

The Secretary General reported that the IAJ had appointed many experts, who participated in meetings and seminars of the Council of Europe organized for the benefit of many East European countries. He hoped that in the future it would be possible to organize for such countries forms of a co-operation similar to what had been done in Santo Domingo for the United Nations with the financial help of the Italian Government.

President Christiansen invited the member associations to indicate names of colleagues, having the necessary linguistic and technical knowledge, who could participate as experts in the meetings and seminars organized by the Council of Europe for the East European countries. The Secretary General informed the assembly that the Council of Europe pays the travel expenses as well as an allowance of about 600 French francs a day.

Proposal from the associations of Portugal, Spain and Malta to increase the number of Vice-Presidents from 5 to 6 (amendment of art. 5, paragraph 1, of the Statutes).

President Christiansen read art. 8 of the Statutes, concerning the procedure for amendments. Two thirds of votes of the ordinary members are needed; every member has one vote. He said that the Presidency Committee had not discussed the proposed increase in the number of Vice-Presidents. However, according to the Statutes, three member associations have the right to make a



proposal for amendment, and it was up to the Central Council to decide.

Mr. Reis Figueira said that the reason for the proposal was that the number of Vice-Presidents had been the same for more than 15 years while the number of the member associations had greatly increased.

Mr. Essersi said that he was in favour of the increase in the number of the Vice-Presidents only if it was possible to assure in this way that each continent would be represented in the Presidency Committee.

Mr. Longo said that when he was elected for the first time Secretary General, 18 years before, there were already five Vice-Presidents, while the number of the member associations was less than half the present number. He added that it is reasonable to think that the number of Vice-Presidents might be increased as proposed, in consideration of the increase in the number of the member associations.

Mr. Markel declared that the Austrian delegation preferred to keep the present number of Vice-Presidents unchanged. He also declared that his delegation was in favour of having a female Vice-President.

Mr. Lindenstrauss expressed the view that the selection of a Vice-President for each Continent would be a great change and therefore the matter should be discussed first by the Presidency Committee.

The vote on the point was then postponed to the next session.

#### Session of September 30 (morning)

The session started at 11.30 a.m. The member associations were represented by the same delegates who were present at the previous session, apart from the following changes: Austria was represented by Mr. Markel; Belgium by Mr. Joachim; Brazil by Mr. Davis and Mr. De Paula Xavier Neto; Denmark by Mr. Larsen; Germany by Mr. Mattik and Mr. Voß; France by Mr. Joubrel; Iceland by Mr. Sigurdsson; Israel by Mr. Lindenstrauss; Malta by Mr. Agius; the Netherlands by Mr. Broekhoven; Norway by Mr. Laake; Switzerland by Mr. Gass and Mr. Zappelli, the United Kingdom by Sir Nicholas Phillips and Mr. Allan. Canada and Tanzania were not represented.

Before continuing to discuss the topic dealt with at the end of last session, President Christiansen informed the assembly that the associations of Argentina, Brazil, Portugal and Spain had presented to the Central Council a request for establishing an Ibero-American Working Group. He welcomed the initiative, which had been approved by the Presidency Committee, and stressed

that the group would be made up only of associations already members of the IAJ. The appointment of one of the Vice-Presidents responsible for the activities of the Ibero-American Working Group would be up to the newly elected Presidency Committee.

President Christiansen reported that the Presidency Committee at its latest meeting had heard Mr. Regis Fernandes de Oliveira, a member of the Brazilian delegation and President of the FLAM (Latin American Federation of Judges) and Mr. Angel Romero Diaz, President of the Association of Judges of Peru.

Mr. Fernandes de Oliveira made a report on the situation and on the problems of the judiciary in the countries of Latin America and asked for an intervention by the IAJ in favour of the independence of these judges, which is threatened by the executive power. He also gave information regarding the organization of the FLAM.

Mr. Romero Diaz made a report on the situation of the judiciary in Peru and on the violation of its independence, particularly since April 1992. He also announced that the Association of Judges of Peru had expressed its intention to apply for IAJ's membership.

President Christiansen expressed support for the judges whose independence was under attack in some Latin American countries and said that the Presidency Committee had decided to write to the President of Peru asking for information from him.

Proposal from the associations of Portugal, Spain and Malta to increase the number of the Vice-Presidents from 5 to 6 (amendment of art. 5, paragraph 1, of the Statutes).

President Christiansen came back to this point, the examination of which had started in the last session of the Central Council.

Mr. Dumon said that the number of the Vice-Presidents was increased to five in 1965, at the end of his Presidency, if he remembered aright.

According to Mr. Woratsch the increase in the number of Vice-Presidents to five had been made at the meeting of the Central Council which had been held in Liechtenstein, when he was elected Vice-President for the first time.

Mr. Lindenstrauss, after declaring that the Israeli delegation supported the candidature of Mr. Abravanel for President and Mr. Voss for First Vice-President, stressed the importance of democracy for the representation on the Presidency Committee, even if it is very expensive to bring people from different continents to a meeting. He proposed to postpone the discussion on this matter to another meeting of the Central Council and suggested having 6 Vice-Presidents distributed in the following way: 3 from Europe (because the majority of the members



of the IAJ are European), 1 from Africa, 1 from Asia and Australia and 1 from America. The Statutes could be changed next year.

The Tunisian delegation circulated a document in French concerning the point under discussion. Mr Essersi read the document, which was in favour of the increase in the number of Vice-Presidents and proposed to appoint at least one Vice-President for each continent.

Mr. Sergakis stressed the importance of representativeness in our organization and proposed that a certain number of Vice-Presidents (1, 2 or 3) should be elected from the delegates of the non-European associations.

The Portuguese delegation underlined that the formal proposal to increase the number of Vice-Presidents to six was based on the objective element of the increase in the number of the member associations in recent years. Moreover, another reason for increasing in the number of the Vice-Presidents came from the setting up of a new Working Group (Ibero-American), the activities of which should be coordinated by one Vice-President.

The delegation of Senegal said that in every international organization the representation of the members takes their continental distribution into account.

Mr. McCarthy said that some means could be found to subsidize attendance at the meetings of the Presidency Committee by members coming from other continents.

After some discussion, the proposal for increasing the number of the Vice-Presidents to six was put to the vote (one vote for each delegation was allowed): 20 delegations were in favour and 9 against (those of Canada and Tanzania were not present; Ivory Coast, Lebanon, Paraguay and Uruguay were not represented in Sevilla).

President Christiansen said that the problem of the majority required by art. 8 of the Statutes (majority of two-thirds of votes of the ordinary members of the association) would be discussed by the Presidency Committee, in order to clarify whether the expression "ordinary members" refers only to those members, which are represented in the meeting.

#### Report of the auditors responsible for examining the financial report.

Mr. Agius and Mr. Bour declared their satisfaction vis-à-vis the correct utilization of the financial resources of the IAJ. The documentation was complete (only for some minor amounts there was, as customary, no receipt), and the expenses had been kept within reasonable limits considering the activities of the Association.

The assembly unanimously approved the balance-sheet for 1991-1992 and applauded the Secretary General.

Proposal from the Dutch Association concerning the assassination of the Italian judges Falcone and Borsellino by the mafia.

President Christiansen read a recommendation to the Italian Government, which had been prepared following a proposal from the Dutch Association and had been previously approved by the Presidency Committee. The document recommended to the Italian Government to use all possible means to identify and prosecute the authors of the two ferocious murders, and was distributed in the English and French versions. Mr. Agius proposed sending a copy of the document also to the families of the murdered judges.

The document was unanimously approved after a minor formal amendment of the French text proposed by the delegation of Luxemburg.

#### Session of September 30 (afternoon)

The session started at 5.00 p.m. The member associations were represented by the same delegates who were present at the session of September 28, apart from the following changes: Brazil by Mr. Davis and Mr. De Paula Xavier Neto; Canada by Mr. Kennedy and Mr. McDonald; Germany by Mr. Mattik and Mr. Voß; France by Mr. Joubrel and Mrs. Girard-Thuilier.

Proposal from the associations of Portugal, Spain and Malta to increase the number of Vice-Presidents from 5 to 6 (amendment of art. 5, paragraph 1, of the Statutes).

President Christiansen came back once more to this subject. According to the Presidency Committee, art. 8 of the Statutes must be interpreted in the sense that the two-thirds majority must be calculated with reference to all the member associations and not only to those present. Since there had been 20 votes in favour of the proposal, 9 against, and 6 delegations were absent (Canada and Tanzania were not present at the session, and Ivory Coast, Lebanon, Uruguay and Paraguay not represented in Sevilla), the two-thirds majority had not been reached, and therefore the proposal was rejected.

The delegate of Tanzania said that he could not be present owing to an accident, and the delegate of Canada regretted that there had been a misunderstanding on his part; however, he remarked that their presence would not have changed the result of the vote.

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



## General

Mr. Christiansen said that there was only one proposal for the Presidency: the candidature of Mr. Abravanel, at the moment First Vice-President of the IAJ. He then presented to the assembly the other Vice-Presidents in charge, who were candidates for reelection.

All those present elected Mr. Abravanel by acclamation as new President; Mr. Christiansen congratulated his successor.

The other candidates for the Vice-Presidencies were Mr. Payan Martins (Portugal), Mrs. Girard-Thuilier (France), Mr. Essersi (Tunisia) and Mr. Daudi (Morocco).

A proposal from Mr. Woratsch to express a single vote for the reelection of all the present Vice-Presidents was rejected with 37 votes against and 21 in favour (two votes for each delegation were allowed).

The honorary Presidents Mr. Tillinger and Mr. Walsh were made responsible for checking the ballots for the election of the new Vice-Presidents.

As a result of the vote, Mr. Davis, from Brazil (58 votes) Mr. Aarola, from Finland (55 votes), Mr. Rodriguez Arribas, from Spain (52 votes), Mr. Voss, from Germany (48 votes), and Mrs. Girard-Thuilier, from France (33 votes), were elected, while Mr. Payan Martins, Mr. Essersi and Mr. Daoudi received 22, 17 and 15 votes, respectively.

Mr. Voss was then elected First Vice-President by acclamation.

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

The Secretary General informed the assembly that Mr. Ndiaye, former Vice-President of the IAJ, had been appointed President of the Court of Cassation of Senegal and Mr. Ba, who had several times been a member of the Senegalese delegation at the Central Council meetings, had been appointed "Procureur Général" of the same Court. The assembly applauded.

## Reports of the Presidents of the Study Commissions and selection of the themes for 1993.

The President gave the floor successively to Mr. Krings, to Mrs. Lindeblad Ericsson and to Sir Nicholas Phillips, president of the 1st and 2nd Commissions and Deputy President of the 3rd Study Commission respectively, and they read out the final conclusions of the Commissions.

After the approval of those conclusions, against which no objection was raised, the Central Council also approved the proposals of the Presidents of the Study Commissions concerning the following new themes for 1993:

- 1) "Access to Justice" (1st Commission);
- 2) "The protection of the Individual in Civil Law against Invasion of Privacy"
- 3) Protection of the Rights of the Individual during the Police Inquiry" (3rd Commission)

President Christiansen expressed his satisfaction with the extensive reports made by the Presidents of the Study Commissions. They showed that the proposal from Mr. Samuels had been followed, and he hoped that the reports would be published in some way at national or international level.

The assembly was informed that the 2nd Study Commission had elected a new President, Mr. Bour from Luxembourg. President Christiansen warmly thanked Mrs. Lindeblad Ericsson for the most valuable work she had done for the IAJ throughout several years of fruitful co-operation.

#### Meetings of the IAJ in following years.

Vice-President Davis announced that the Brazilian Association of Judges would be happy to host the Central Council and the Study Commissions in Sao Paulo in 1993.

Mr. Sergakis said that the Greek Association of Judges would be willing to host the meetings of the Central Council and of the Study-Commissions in 1994. The dates would be communicated at the next meeting.

Mr. Essersi invited the Central Council and the Study Commissions to hold their meetings in Tunisia in 1995.

The delegations of Israel, Malta and the Netherlands announced that their associations were prepared to host the meetings in the following years.

On behalf of the whole assembly the President warmly thanked all the above-mentioned associations for their invitations.

The assembly approved by consensus Mr. Abravanel's proposal to elect Mr. Christiansen Honorary President of the IAJ.

Before adjourning the meeting to the following year, Mr. Christiansen thanked all those present for their active participation, and expressed special thanks to the Honorary President Mr. Woratsch, who was leaving the Presidency Committee, for the work done for the IAJ over so many years. The session was closed at 7.45 p.m.

The President                      The Past President                      The Secretary General