

INTERNATIONAL ASSOCIATION OF JUDGES

Minutes of the meeting held by the Central Council in Triesenberg, Liechtenstein, on October 8 and 11, 1984.

Morning session of October 8.

Present: Mr.Bröhl, Mr.Decker, Mr.De Mattia, Mr.de Vreese, Mr.Kaufmann and Mr.Saied, Honorary Presidents of the Association; the President, Mr.Tillinger; the First Vice-President, Mr.de Miranda Rosa; the Vice-Presidents, Mr.Braunschweig, Mr.Ndiaye and Mr.Woratsch; the Secretary General, Mr.Longo and the Deputy Secretary General, Mr.Meriggiola; and the following delegates as representatives of their national associations:

AUSTRALIA	Mr.Gallop and Mr.Mc Gregor
AUSTRIA	Mr.Woratsch
BELGIUM	Mr.Bonbled and Mrs.Bourgeois
BRAZIL	Mr.de Miranda Rosa and Mr.Dalmo Silva
FINLAND	Mr.Aarola and Mr.Kiuru
FRANCE	Mr.Braunschweig and Mr.Gomez
GERMANY	Mr.Leonardy and Mr.Voss
ICELAND	Mr.Snaevarr
IRELAND	Mr.Walsh
ISRAEL	Mr.Nathan and Mr.Wallach
ITALY	Mr.Mosetto
IVORY COAST	Mr.Aphing Kouassi and Mr.Kablan
JAPAN	Mr.Yoshinaga Kozachi
LIECHTENSTEIN	Mr.Stotter and Mr.Rederer
LUXEMBOURG	Mr.Penning and Mr.Reuter
MOROCCO	Mr.Daoudi
NETHERLANDS	Mr.Manschot and Mr.Van Raalte
NORWAY	Mr.Christiansen
PORTUGAL	Mr.Sa'Nogueira and Mr.Teixeira Martins
SENEGAL	Mr.Ndiaye and Mr.Diene
SWEDEN	Mr.Litzén
SWITZERLAND	Mr.Aeppli and Mr.Abravanel
TUNISIA	Mr.Benabdelghaffar
UNITED KINGDOM	Lord Robertson and Mr.Douglas Hughes.

The session was opened at 10.30 a.m..

The President, on behalf of the Council, thanked the Association of Judges of Liechtenstein for having generously agreed to host and organize the meeting; he extended a warm welcome to all participants, and in particular to the delegations of Australia, Iceland, and Israel, which were attending a meeting of the Central Council for the first time.

Mr.Tillinger, speaking on behalf of the entire Association, then thanked the Honorary Presidents for the invaluable contribution, in terms of their experience, that they continued to give to the activities of the IAJ.

Approval of the minutes of the Dakar meeting.

The President asked the members of the Council if they had any comments to make on the minutes of the meeting held in Dakar the previous year. No comments having been made, he declared the minutes 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. Bonbled to audit the financial report drawn up by the Secretary General, with a view to the submission of their conclusions at the session of October 11.

Report of the President on the activities of the Association.

In the course of a brief summary of the debate held during the Dakar meeting with regard to the application for admission by the national association of the judges of Israel, the President recalled that the Central Council had decided at its last session at the end of such debate, that a vote on the subject should be taken by correspondence, in accordance with a special provision of the IAJ Statutes. In accordance with this decision, he himself, with the assistance of the Secretary General and the Deputy Secretary General, had taken care of the opening of the voting cards, and the counting of the ballots, in Rome, in January. The result of the vote, which was in favour of granting the application, had been duly publicized among all member-associations.

Moving on to another of the subjects already dealt with in Dakar, the President announced that the negotiations conducted by the Secretary General with the United Nations Social Defence Research Institute (UNSDRI) had been successful, UNSDRI having agreed to cooperate in and to fund the publication of the English version of an updated text of the book: "Le juge dans la nouvelle société". The publication of this book, which will also contain a summary account of the activities of UNSDRI, was almost ready. This achievement would not only provide an opportunity for making the IAJ better known all over the world, but would also represent a first step towards future regular co-operation with the United Nations. The strengthening of ties with the United Nations would, as the Council had stressed on many occasions, enable the IAJ to play an ever more active rôle in international affairs. However, before concluding any agreement with UNSDRI, the Secretary General informed member-associations in advance.

Last May, the President, the Vice-Presidents, and the Secretary General met in Rennes for a meeting of the Presidency Committee. They were invited there by the Union Syndicale des Magistrats Français, so as to take part in its annual Conference, which gave them the opportunity to meet their French colleagues, as well as the French Minister of Justice. The President again thanked Mr. Braunschweig, Vice-President of the IAJ, and Mr. Gomez, President of the French association of judges, for their warm hospitality, and congratulated them on the success of the Conference.

Likewise in May, the President attended the annual meeting of the Scandinavian Council of Judges and Lawyers in Oslo, where he was able to hold an exchange of views with the other participants on problems of mutual interest, and, in particular, those which concern the IAJ more directly.

As regards the situation of the Judiciary in Poland, a matter which is followed constantly by the Swedish association of judges, he learned that the policy of the Polish government was still to limit the freedom of judges, in particular in criminal proceedings regarding cases of un-

authorized strikes. It would seem that the government had exercised pressure on these courts called upon to try cases brought against members of "Solidarity". The President of the World Federation for Human Rights, Mr. van Dyke, who had recently visited Poland with representatives of Amnesty International, confirmed that judges in that country permanently ran the risk of being subject to disciplinary, and even criminal sanctions.

Besides, it seemed that the position of the judges of the Supreme Court of Pakistan was no better.

Something of the kind could also be said about Turkey, where martial law was still in force: exceptionally severe sentences had been imposed by the government, including, in two cases, the death penalty, for publications going against the political line of the government. Torture was widely practised in prisons, and courts martial, manned by both members of the armed forces and two professional judges, had never reacted when informed of crimes of this kind, even when the allegation was made in the course of testimonies given in public trial. The judges of the Supreme Court would seem to have kept their independence; however, as they were limited in their judgments to questions of pure law, they were in reality deprived of the power necessary to stand up against the abuses committed by the regime.

In Yugoslavia, on the other hand, judges enjoyed a remarkable degree of freedom, except in trials for political offences, in which, according to the admissions of Mr. Popovic, an eminent legal scholar who had often acted as defence lawyer in these cases, the executive wielded its power in a very wide-ranging and heavy-handed manner.

The President ended his report by inviting all member-associations to keep themselves informed on the evolution of justice in the aforementioned countries, and to send the Secretariate General all useful information so as to enable it to keep an active and constant eye on developments, with a view to the possible taking of action to safeguard the independence of the judiciary. At the same time, he exhorted all member-associations to take part, whenever possible, in any meetings which might be convened to that end by international organizations. Since the IAJ's finances for the time being, did not allow the Secretariate to provide funding for such participation, he suggested that each association should study the best way to organize the sending of delegates, if necessary by trying to reach an agreement with the associations of neighbouring countries with a view to the establishment of a sort of rota for this purpose.

Report of the Secretary General.

In illustrating the financial report, copies of which had been circulated among all delegations, the Secretary General informed the audience that this year too he had had to limit expenditure because of the constant increase in costs, particularly postage and telephone costs. By a policy of careful budgeting, however, he had once again managed to keep expenditure slightly lower than receipts.

As was clear from the written report, all member associations had paid their yearly contribution, with the exception of Paraguay, Uruguay, Argentina, Lebanon, Morocco, and Greece.

The first four associations had paid no contribution and given hardly any

sign of life for some years. The Greek association had paid no contribution since 1983, and appeared to be having organizational difficulties. Rumour had it that a new association of judges belonging to the higher ranking courts of that country had recently been formed, but the Secretariate had hitherto received no official, more precise notification in this regard. It might perhaps be useful to make discreet enquiries on the spot or else contact Greek judges directly, albeit privately, to find out better about the real situation there, something which might be done by a colleague belonging to one of the member associations, even, for example, whilst on holiday in Greece.

Mr. Longo reported that in Canada there was an association of judges of the superior courts. However, after initial contact it had made with the Secretariate, this association had not yet given notice of its intentions as regards applying for membership of the IAJ.

Passing on to another subject, the Secretary General thanked Mr. Walsh for his accurate and patient revision of the amended and updated text of the book "The rôle of the judge in contemporary society", the first full translation of which (from the French and the Italian texts) was kindly made by Mr. Douglas Hughes. The volume was intended to be circulated amongst all UN member countries, so as to make the IAJ better known and to increase its prestige in all parts of the world. The Secretary General showed all delegates the "logos", as approved by the Presidency Committee in Rennes, which was to be printed on the cover of the book (together with the "logos" of the United Nations): this logos represented scales encircled by a wreath of olive branches.

Remarks by delegates on the reports of the President and the Secretary General.

Mr. Woratsch informed the Council that, at the request of the President, he had represented the IAJ in Varenna at an international conference held in preparation of the 7th UN Congress on Crime Prevention and the Treatment of offenders.

As regards the Polish judiciary, he had heard that Polish judges were still subject to pressure by the government, although 1984 had seen a certain improvement in the situation in Poland, as in other Socialist countries. A meeting of Austrian and Polish judges would be held next year, either in Vienna or in Poland, and this would certainly be an excellent opportunity for the gathering of more precise information. In the meantime, the Journal of the Austrian Association of Judges was to publish an article concerning the situation of the judiciary in Poland, with a view, inter alia, to arousing interest amongst Austrian judges in the problem, and involving them in the process of normalisation (seemingly under way since a few months), by expressly reporting all abuses which came to their notice.

More recently, moreover, Mr. Woratsch had had some contacts with an association of Slovenian judges and he hoped shortly to be able to contact their new president, who had been elected only a few months earlier.

Mr. Tillinger then gave the floor to Mr. Bonbled, who invited the Council to examine the situation of the associations of judges of Lebanon, Paraguay, Uruguay, and Argentina and to decide what action should be taken in respect of these associations, including perhaps even to strike them off the membership list of the IAJ. As regards Greece, he thought it would be

useful for the President to inform himself either from a judge of the superior courts, or even of the Supreme Court of that country.

At this point the First Vice-President, Mr. de Miranda Rosa, was given the floor, in order to bring the Council up to date as regards the situation of the judiciary in Latin America.

Argentina was gradually becoming a fully democratic country again. There were two associations of judges in Argentina: one, in Buenos Aires, grouped together federal judges; the other, in Mendoza, grouped together judges of the lower courts. The president of the first association had informed Mr. de Miranda Rosa that its members were interested in developing their international profile, and had already joined the Latin-American Federation of Judges.

In Uruguay, although judges were not for the time being permitted to assemble in an association, there were nevertheless distinct signs of a return to a more liberal regime in the not too distant future.

Unfortunately, this was not at all true as regards Paraguay, which had hitherto given no news of itself.

Therefore, Mr. de Miranda Rosa considered that only the judges' association of Paraguay (which, moreover, already seemed to have ceased to exist for some years) should be struck off the membership list, all the more in that there seemed to be no reasonable hope, for the time being, of an improvement in the situation of that country. As regards the other countries mentioned above, on the other hand, it would be advisable to wait and see whether the situation might not improve, as was done with Greece, at the time of the dictatorship.

Mr. Douglas Hughes, Mr. Gomez and Mr. Ndiaye agreed with Mr. de Miranda Rosa. Mr. Ndiaye added in this regard that, according to its statutes, the IAJ was committed to defending the independence of the judiciary and human rights wherever these might appear to be threatened. To strike off an association from the membership list would mean denying the IAJ's support just when it was most seriously needed. He thought that such an approach should, whenever possible, be avoided.

Mr. Ndiaye took this opportunity to recommend that the President and the Secretary General promote inquiries with the aim of gathering information, country by country, from which it would be possible to make a systematic survey of the situation of the judiciary, wherever news had reached the IAJ that the freedom of action of judges might be in danger of being restricted. The IAJ might give individual national associations the task of carrying out such inquiries and of reporting to the International Association on regional problems of that kind.

After a brief exchange of opinions, the Council resolved that the problem of regional inquiries brought up by Mr. Ndiaye should, given its importance, be included in the agenda for the meeting of the following year.

The President recalled that recourse to a system of inquiry had been advocated on many occasions, both by the United Nations and by the Council of Europe.

The session was adjourned at 12.30 p.m. until the afternoon.

Afternoon session of October 8.

The session resumed at 2 p.m., attended by the same persons as took part

in the morning session.

Amendments to the Statutes and to the Regulations of the IAJ.

The President submitted for the Council's approval a new text of art.5 (1) of the Statutes, drafted in accordance with the proposed amendment sent by the Secretary General to all member associations some time before.

Following comments by Lord Robertson, Mr.Nathan, Mr.Walsh and the President himself, proposing minor corrections of a lexical nature, the Council unanimously resolved to approve the following proposal: "The President represents the International Association of Judges. He directs the Association. He shall be assisted by five Vice-Presidents, whom he shall convene as a Presidency Committee, if possible at least once a year".

At this point Mr.Bonbled moved that a rule be inserted in the Statutes, laying down the procedure to be followed for serving notice on and withdrawing the right to membership of associations in arrears with the payment of their membership dues. On this motion the Council reserved itself the right, following assessment of the case for taking action on this subject, of setting up a small group responsible for examining the procedures which could be adopted, and which should then report its conclusions to the Presidency Committee.

The President suggested adding a new article 11 to the ten articles of the Regulations for the application of the Statutes of the IAJ. Following a short debate, the Council resolved to approve this new article, which reads as follows:

Article 11.

For the admission of new members the following rules shall be applied:

- I. Only one association or national representative group of each country can be admitted to the International Association of Judges.
- II. The association or group applying for membership must be sufficiently representative of the judiciary of its country. Its representativeness, however, shall not be evaluated by using the standard of requiring a minimum percentage of the whole number of judges of that country. Neither the existence of by-laws of the association or group shall be considered as a necessary prerequisite.
- III. The applicant association or group shall furnish evidence that, having regard to its activities and to the principles which govern them, it pursues aims conforming to those indicated in the Statutes of the International Association of Judges.
- IV. In any case, prior to granting membership, the Central Council of the International Association of Judges shall ascertain that the independence of the judicial power is in reality guaranteed in the country involved.

Protection of human rights. Drawing up of a list of judges willing to take part in international commissions of inquiry set up by the United Nations or other international organizations.

Mr.Longo reported to the Council that he had had contacts with a representative of one of the UN Commissions, who had informed him that the UN sometimes provided the necessary funding for the carrying out of inquiries, whenever any serious violation of human rights was reported in any part of the world and the IAJ was called upon to intervene.

The Council unanimously resolved that each member association should communicate the names of two judges willing to man such commissions of inquiry.

The President also mentioned the possibility of establishing close co-operation with Amnesty International for the protection of human rights.

Finally, the delegation of Israel handed over to the Secretary General an article by Mr. Nathan, concerning the judicial control exercised by the Israeli Supreme Court over the action of the military forces in the Palestinian territories. This article is at the disposal of all delegates desiring to look at it.

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

Mr. Longo informed participants that he had taken part in a preparatory meeting for the abovementioned Congress at Bellagio, Italy. The discussions at the meeting concerned the problems of juvenile delinquency, looked at both from a scientific standpoint in general and on the basis of a comparison between legal systems. Since 1985 has been declared by the UN as the year of young people, he pointed out that it might be a good idea to select for study by the IAJ's Study Commissions topics related to this subject.

Mr. Longo also reported that in September Mr. Screvens, President of the Third Commission, took part with him, on behalf of the IAJ, in a seminar on juvenile delinquency, organized in Rome by the United Nations Social Defence Research Institute (UNSDRI). The IAJ was the only "NGO" (non-governmental organization having consultative status with the UN) invited to take part in the seminar.

This event was followed by another preparatory meeting for the UN Congress in Milan. This meeting was held in Varenna, and the Association was represented there by Mr. Woratsch, Vice-President of the IAJ.

Regarding this point, Mr. Woratsch took the floor and pointed out that whereas the meeting in Varenna was devoted to an examination of various aspects of the penal policy (inter alia, torture and capital punishment), at another meeting held in Vienna in March this year the participants dealt with the subject of the independence of the judiciary, this too in preparation for the Congress in Milan, as one of the subjects to be treated at the Congress. The IAJ's active presence at the Milan Congress to be held in August 1985, would for all these reasons seem to be not merely important, but even indispensable.

The President expressed his wish that many member associations would send delegates to the Congress, since the topics to be dealt with there are of great interest to the IAJ. He nevertheless informed the audience that the IAJ was not in a position to pay the travelling and subsistence expenses of the delegates attending in Milan, irrespective of whether such delegates would be the representatives of the IAJ or of one of its member associations.

Fortcoming meetings of the Central Council and Study Commissions.

Mr. Christiansen confirmed that the Norwegian Association intended to invite the Central Council and the three Study Commissions to hold their meetings the following year in Oslo, in a hotel located in the city centre. The dates of this meeting would be 17, 18 and 19 June, which is surely the best time from the point of view of the weather to be expected.

The number of participants at the meeting should not, however, exceed 80-90 persons.

The Council expressed its appreciation to the Norwegian delegation by unanimous applause.

The Council then decided to include on the agenda of the meeting to be held in Oslo a proposal put forward by Mr. Manschot, who asked that the case should be looked into for extending the duration of the mandate of the Presidents to three years, subject to it being possible for the mandate to be renewed. He furthermore suggested that each Vice-President should be given responsibility for running one branch of the IAJ's activities.

Mr. de Vreese did not however agree with the first part of this proposal, for, in his opinion, an extension of the duration of the mandate would prevent satisfaction being given to the aspirations of those associations which might desire to have one of their members as President.

The session was adjourned at 3.30 p.m..

Session of October 11.

The session resumed at 9 a.m., in the presence of the same persons as had taken part in the sessions of October 8, as well as Mr. Endresen and Mrs. Andreasen, representing the Norwegian and Danish associations respectively, Mr. Mahjoub, as delegate of the Tunisian association alongside Mr. Benabdelghaffar, and in addition to Mr. Mosetto, President of the Second Study Commission, Mr. Krings and Mr. Screvens, Presidents of the First and the Third Commissions respectively.

Report of the auditors responsible for examining the financial report.

Mr. Douglas Hughes and Mr. Bonbled stated that they had carefully examined the statement of the accounts, and the materials backing them up, which they had been given by the Secretary General, and that they had ascertained them to be in order from every point of view.

The Central Council unanimously approved the financial report submitted by the Secretary General and gave him discharge in accordance with the provisions of article 5 of the Regulations for the application of the Statutes.

The President brought the audience up to date as regards the fact that he had instructed the Secretariate to invest some of the cash in hand, for brief periods, in State Treasury Bonds.

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

Mr. Walsh proposed that Mr. de Miranda Rosa should be appointed President. No objections having been raised, Mr. de Miranda Rosa was acclaimed President of the Association by the Council.

Again by acclamation, Mr. Woratsch and Mr. Ndiaye were confirmed in their offices of Vice-Presidents.

Regarding the other posts of Vice-President, Mr. Litzén and Mr. Kiuru put forward Mr. Christiansen as a candidate; Mr. Voss proposed Mr. Leonardy as a candidate; Mr. de Vreese, Mr. Mosetto and the French delegation proposed Mr. Walsh; Mr. Stotter proposed Mr. Bonbled; and then finally Mr. Dalmo

Silva proposed Mr.Sa'Nogueira.

On a proposal by the President the participants approved the taking of a vote for the three Vice-Presidents by writing on the ballot sheets (two ballot sheets per association) three names, chosen from among those of the candidates. Those sheets bearing more or fewer than three names, or else the names of persons other than the candidates would be declared null and void.

The Council voted by secret ballot, the outcome of the ballot being 47 votes for Mr.Walsh, 45 for Mr.Christiansen, 27 for Mr.Sa'Nogueira, 25 for Mr.Leonardy and 6 for Mr.Bonbled.

The President accordingly declared that Mr.Walsh, Mr.Christiansen and Mr.Sa'Nogueira had been elected Vice-Presidents. He then asked whether there were any proposals, among the five Vice-Presidents, for the election of a First Vice-President. The names of Mr.Walsh and Mr.Woratsch were mentioned by some of the delegates in this regard. Mr.Walsh stated that he would prefer not to be a candidate for the post of First Vice-President, and Mr.Woratsch was accordingly elected by acclamation.

The Secretary General and the Deputy Secretary General were confirmed in their offices by acclamation and Mr.Tillinger was elected Honorary President. The latter expressed his keen appreciation to Mr.Longo and Mr.Meriggiola for their ceaseless support of him in his work, and to the Vice-Presidents Mr.von Kenne and Mr.Braunschweig, who had left their posts after lengthy service in the cause of the IAJ.

Mr.de Miranda Rosa expressed his keen appreciation to the members of the Council and assured them that he would do everything in his power to work for the success of the IAJ, to which he had moreover been devoted actively and uninterruptedly for 14 years.

Mr.Krings read out the conclusions approved by the First Study Commission on the protection of human rights by the judiciary, and informed the audience that examination of the different problems related to this issue would be taken up again at Oslo.

Mr.Mosetto and Mr.Screvens then read out the conclusions of their commissions, which had dealt with "The equality of husband and wife in family life" and "The protection of the rights of the victim" respectively.

The members of the Council gave their approval to the conclusions as adopted. After brief consultation, they then decided that the following year, while the First Commission would continue its study of human rights, the Second would examine the topic: "Legal rules to be applied to unmarried couples living together, in their relations with one another and in the couple's relations with their common children" and the Third would examine the topic: "The judge faced with juvenile delinquency".

In this regard the Secretary General underlined that at the United Nations Congress on Crime Prevention and Treatment of Offenders, to be held in Milan from August 26 to September 6, 1985, a day would be set aside for a seminar organized by the UNSDRI on juvenile delinquency. Mr.Tillinger expressed the wish that the President of the Third Study Commission or, where appropriate, other members of the Commission, might be able to take part in this seminar in order to report there on the outcome of the discussions which would be held on this same topic within the Commission at Oslo.

The Secretary General then gave a summary account of the contents of a letter despatched to the IAJ by the association of Spanish judges. The letter informed the Association of the serious misgivings entertained by

Spanish judges in relation to a bill laid before Parliament by the government. This bill proposed a reduction of seven years in the age limit for judges and, inter alia, such changes to the traditional system of recruiting of judges that it was feared lest they might enable the executive to interfere in the choice of a quite considerable number of judges, given that in a short time an enormous number of judges would be retired should the bill become law. From the letter of the Spanish judges, calling for support from the IAJ, the risk to the independence of the judiciary in Spain appeared self-evident.

Following brief consultation, the members of the Council decided that a telegram should be sent by the Secretary General, expressing the concern of the IAJ for the position of the Spanish judiciary in the wake of the introduction of this bill. The Vice-President Mr. Walsh, who was due shortly thereafter to visit Spain for other reasons, was given responsibility for finding out more from the governing bodies of the Spanish association regarding the situation there and the details of the bill; he was also requested to incorporate the outcome of his inquiry in a report to be communicated by the Secretariate to all member associations and to be considered as soon as possible by the Presidency Committee.

Finally the President, also in the name of all the members of the Council and the Study Commissions, expressed his keen appreciation to the Liechtenstein judges for their warm, generous hospitality and for the perfect organization of the meeting, which had thus been able to be very successful.

Following sustained applause from the audience, the President declared the session closed, expressing his hope that he would see all the members of the Council again the following year in Oslo.

The outgoing President
(Lars Erik Tillinger)

The incumbent President The Secretary General
(Felippe A.de Miranda Rosa) (Giovanni E.Longo)