



Third Study Commission
Criminal law and procedure

Meeting in Athens (Greece), 9-13 October 1994

Conclusions

THE CRIMINAL JUDGE AND THE PUBLIC FEELING OF INSECURITY

Conclusions based on the National reports and on the general report by its President, R. Screvens of the Third Study Commission of the International Association of Judges which met in Athens between the 10th and 13th October 1994, consisting of representatives of Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, England, Finland, France, Germany, Greece, The Netherlands, Ireland, Iceland, Israel, Italy, Japan, Liechtenstein, Luxembourg, Morocco, Norway, Portugal, Romania, Scotland, Senegal, Slovenia, Spain, Sweden, Switzerland, Tunisia and the United States of America.

"The public feeling of insecurity" is an imprecise concept which necessarily involves a degree of subjectivity.

This public feeling of insecurity exists in most countries. It expresses itself by the proliferation of means of self defense, such as firearms and other weapons, bullet-proof waistcoats, various alarm systems and in a reluctance on the part of the public, particularly women and the elderly, to walk alone at night.

This feeling usually reflects statistics which show that crime is on the increase and that the proportion of crimes resolved is small. There are other causes of the public feeling of insecurity. They consist of dissatisfaction with:

- the length of time taken to bring criminal cases to trial;
- the release of defendants pending trial;
- the sentences imposed by the Courts;
- the manner in which those sentences are implemented.

At all events:

- the Judge must do all within his power to ensure that no unjustified delay occurs in the criminal process;
- the Judge must ensure, if permitted by law so to do, that bail is not granted if this is likely to pose a threat to the public;
- when imposing the appropriate sentence, it is desirable that the Judge should, where possible, give reasons which explain his choice.

It is desirable that the public should be better informed of the limits of the powers of the Judge in relation to the execution of a sentence. This would ensure that Judges are not held responsible when prisoners are prematurely released by other authorities.

It is also desirable that the public should be informed that the proper functioning of the judicial and penal system is hindered where there is a severe shortage of personnel, resources and administrative support structures which can only be remedied by the legislative and executive powers.

There was general agreement within the Commission that the public would have more confidence in the judicial system if it had a more accurate appreciation of the role of the Judge. Differing opinions were expressed as to the desirability of the Judge giving a personal explanation or entering into a discussion about his conduct of a case. A majority thought this highly undesirable. Many were attracted by the practice in a number of countries of having some independent person or body charged with correcting erroneous reporting or unjustified adverse commentary on judicial decisions.