

INTERNATIONAL ASSOCIATION OF JUDGES

Minutes of the meeting held by the Central Council in Rome, Italy, on October 2 and 3, 1986.

Morning Session of October 2

Present: Mr.Bröhl, Mr.de Vreese, and Mr.De Mattia, Honorary Presidents; the President, Mr.de Miranda Rosa; the First Vice-President, Mr.Woratsch; the Vice-Presidents Mr.Walsh, Mr.Christiansen, and Mr.Sa'Nogueira; the Secretary General, Mr.Longo, and the Deputy Secretary General, Mr.Meriggiola, both assisted by Mrs.Moreau-Sevens and Mr.Salazar.

The following delegates represented their respective national associations:

Austria	Mr.Woratsch
Argentina	Mrs.Gauna
Belgium	Mr.Van Gerven and Mr.Bonbled
Brasil	Mr.Davis and Mr.Dalmo Silva
Denmark (by proxy)	Mr.Christiansen
Finland	Mr.Aarola and Mr.Kiuru
France	Mr.Gomez and Mr.Joubrel
Germany	Mr.Voss and Mr.Lücke
Greece	Mr.Stavropoulos
Ireland	Mr.Walsh and Mr.O'Hanlon
Israel	Mrs.Aalshek
Italy	Mr.Beria d'Argentine and Mr.Magno
Japan	Mr.Iwai
Liechtenstein	Mr.Stotter
Luxemburg	Mr.Penning and Mr.Reuter
Morocco	Mr.Daoudi Montasser
Netherlands	Mr.Van Raalte
Norway	Mr.Christiansen and Mr.Endresen
Portugal	Mr.Sa'Nogueira and Mr.Texeira Martins
Senegal	Mr.Barane
Spain	Mr.Gabaldon and Mr.Talon
Sweden	Mr.Litzén and Mr.Palm
Switzerland	Mr.Abravanel and Mr.Aeppli
United Kingdom	Lord Kelly and Mr.Douglas-Hughes.

The session was opened at 11 a.m..

The President welcomed all delegates and said that the assembly felt honoured by the fact that the Italian Minister of Justice was present at the opening ceremony, held in the afternoon of the 1st October. Mr.de Miranda, also on behalf of all delegates, expressed deep gratitude to the National Association of Italian Judges, for the generous financial help given to contribute to the organizational costs of the meeting. Feelings of gratitude were also expressed to the Direction of the Electronic Documentation Center of the Corte Suprema di Cassazione, which was hosting the meetings of the Council and of the first Study Commission.

Approval of the minutes of the meeting held in Oslo in 1985.

Having ascertained that no one had any comments to make on the minutes of the meeting, duly sent by the Secretariat General to all member associations, the President declared them approved.

Appointment of two auditors responsible for examining the financial report.

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

The President's report.

The President thanked once again the Norwegian Association for having hosted the IAJ's delegations in Oslo last year. He then expressed great satisfaction because the associations of Argentina, of Paraguay, and of Greece had decided to resume their active rôle within IAJ, and also sent their annual contribution, as a reconfirmation of their intention of reviving their membership relation with the International Association, after a period of lack of relationships, due to the particular situation of their respective countries. Thus -- Mr. de Miranda Rosa noticed -- the Brazilian association will not be the only one to represent Latin America within the IAJ. He expressed his hope that other American associations will join in the future. The President also thanked the Vice-President Mr. Walsh, because of the contacts he had personally had with some members of the Greek judiciary, which led to the resumption of the Greek participation in the IAJ.

Mr. de Miranda Rosa then informed the audience that he had taken part in a seminar on judicial organization, held in Israel in April, and in a meeting of judges of Juvenile Courts, held in Rio de Janeiro in May. In both the meetings he had expressed all good wishes of IAJ, and had reported the results of the studies made by IAJ's Commissions, concerning the same themes which were the subject-matter of the debates in those two host-countries.

He also informed the Council that the Judges' Association of Tanzania had sent to the Secretariate an application for membership, and that Mr. Walsh was entrusted with the task of the investigation required by the regulations of IAJ for ascertaining whether the conditions for granting the application existed.

Mr. Walsh then had the floor and reported that the information gathered by him had been fully satisfactory. The Judges' Association of Tanzania was created 15 years before; the Tanzanian judiciary as a whole was showing deep democratic awareness, whilst the Tanzanian judges were enjoying full independence. The cultural-legal traditions developed in Tanzania during the German colonization, then merged -- said Mr. Walsh -- into the British common-law tradition. Mr. Walsh ended his statement by expressing the advice that the national association under consideration, comprised of the majority of Tanzanian judges, might be deemed eligible to become member of IAJ.

After listening to Mr. Walsh's remarks, the Council unanimously approved the President's proposal aimed at making a delegate of the Tanzanian association be invited to attend the subsequent IAJ's meeting ~~the following day~~, so to allow the members of the Council directly to acquire other information and possibly resolve on the application for membership.

The President then informed the Council that the Spanish delegation had circulated to all the other delegations present a report summarizing the action of the Spanish Government, which was aimed at reforming the structures of the judiciary and at reducing to 65 years

the retirement age for judges. The Constitutional Court of Spain, by an opinion of July, 1986, overruled almost all of the objections raised by the "Asociacion Profesional de la Magistratura" (Spanish Professional Association of Judges) against the new fundamental law on the judiciary.

The conclusions of the Spanish report were then read to the audience, and the Spanish delegation, after expressing its deep preoccupation with regard to a risky situation for the independence of the judiciary in its country, declared that the circulation of the report was intended to show some data seeming to indicate that the Government aimed at introducing a system of control over all the judges on the part of the executive power.

The President expressed his feelings of worry vis-à-vis the Spanish colleagues whose independence seems to be threatened; and he charged the Secretary General to follow the situation, with a view to a possible stance to be taken by IAJ in case it should be deemed advisable to.

Participation of the delegates to IAJ's activities.

Mr. Liñén informed the Council that he represented the IAJ at an inter-regional seminar organized in Stockholm from September 15 to 19, with a view to preparing the international congress to be held in Vienna from June 15 to 29, 1987, under the auspices of the U.E., on the theme concerning the ways of fighting the narcotic drug abuse all over the world. Faced with a phenomenon alarming all governments, which resolved to do their best to combat it, the judges also will be called actively to co-operate, within the limits imposed by the very nature of the judicial function.

The President gave then the floor to Mr. Meriggiola, who informed the Council that he regularly represented the IAJ in Strasburg at the thri-annual meetings of non-governmental organizations in consultative status with the Council of Europe. During the last annual meeting, he presented and commented a series of five draft-principles on the basis of which a small committee will prepare a report which shall be submitted to the Parliamentary Assembly with a view to drawing up a recommendation encouraging all governments to agree to an Additional Protocol to the European Convention on Human Rights; such Protocol should contain a series of rules aimed at guaranteeing that refugees and stateless persons may be granted the right of asylum.

Mr. Stotter then took the floor and suggested that the IAJ more actively participate in the initiatives and action of the Council of Europe and particularly in the meetings of the committees dealing with legal questions concerning criminal policies, and the relationships between the State and the individuals.

Report of the Secretary General.

Mr. Longo outlined to the Council his report on the financial situation, a report which had been previously circulated among the delegates. In examining the items of his report, he underlined the heavy burden represented by the mail and phone costs.

Thanks to an extraordinary contribution of 5,000,000 lire given by the National Association of Italian Judges, and of 8,000 French francs granted by the Council of Europe in consideration of the action and studies accomplished by the IAJ's Commissions in the field of the protection of human rights, the expenditure was kept within

the limits of the income. The net credit balance was 23,272,663 lire this year, against 20,199,597 of last year. It should however be taken into account that a part of said balance, which appeared remarkably higher than the previous one, shall serve to cover some costs of the current meeting, whose invoices were still to be sent to the Secretariate.

All efforts shall be devoted -- Mr. Longo added -- to keep the expenditure below the receipts also during the following year.

He then informed the audience that, during a trip privately made by him to the United States last year, he met some high officials of the United Nations Organization, and examined with them some possibilities of increasing the co-operation of the IAJ with the action of UNO. During the same trip, he had contacts with some American judges, suggesting them to make some preliminary steps toward the creation of an American national association or national representative group of judges.

He also contacted in Italy some officials of the "Union Internationale du Notariat Latin", in order to start a relationship of co-operation with such an organization.

Recalling ~~what~~ what he had said in Oslo concerning a (so-called) "Association Européenne des Magistrats" created by a French judge, he added that another such association was more recently created, seemingly by some Spanish judges. Its name is "European Association of Judges for Freedom and Democracy", and it applied for being granted consultative status with the Council of Europe. According to some news, such an association was seemingly supported in France by the "Syndicat de la Magistrature", in Spain by some groups of judges not belonging to the "Asociacion Profesional de la Magistratura", and by some individual judges in Belgium and in Germany.

Mr. Longo added that, following the directions of the President, as well as of the Vice-President Walsh who was charged by this latter of the task of dealing with such question, he wrote to the Secretary General of the Council of Europe, and asked him some information concerning the membership, the goals, and the reliability of said new association, with reference to its application for the consultative status.

The sitting was adjourned at 1 p.m..

Afternoon Session of October 2

The session resumed at 2 p.m..

Report of the auditors responsible for examining the financial statement. Monetary inflation and membership yearly contributions.

Mr. Douglas-Hughes and Mr. Stotter, having examined the financial statement, both proclaimed they were satisfied with the sound administration shown by the accounts, and moved that the Council give discharge to the Secretary General.

The motion was unanimously carried.

The two auditors also pointed out that it seems impossible to keep within tight limits the increase in some costs essential for the good functioning of the Secretariat: mainly, telephone and mail

costs.

Considering in its vast dimension the work to be done by the Secretariate, Mr. Stotter expressed the view that the total expenditure (22,318,000 lire) seemed to be rather moderate, and that, to face the increase in the costs, stemming from monetary inflation, the yearly contributions of the members could be increased of 10% for the following year.

The President expressed the view that the increase could be of 5%, approximately corresponding to the current yearly inflation of the Italian lira.

Mr. Longo pointed out that the data, on the basis of which the inflation rate is officially calculated, are largely conventional indicators, whilst other data may show that the real inflation rate is higher.

After having heard the advice expressed by some other delegates (Mr. Barane, Mr. Gomez, Mr. Bonbled, Mr. Talon, Mr. Abravanel) and the Honorary President de Vreese, the council decided an increase of 5% in the yearly contributions of all member associations.

Some reservation on the advisability of such an increase was made by the Senegalese delegate, who suggested that more consideration should be given to the particular economic situation of some developing countries, such as Senegal.

Notarial certification of the Statutes of IAJ.

Mr. Longo reminded the Council that the by-laws and the regulations of IAJ, first approved in 1953, more than thirty years ago, had undergone several amendments, by decisions of the Central Council. Hence the advisability of a certification of the updated text, on made by a public notary, acting in accordance with the powers entrusted to him by law; such certified text appearing to be very useful, apart from any other consideration, when in some action or official operation it is necessary to give legal evidence of the existence of the association and of the rules actually governing it.

Mr. Domenico Zecca, a public notary in Rome, was introduced to the Council. He ascertained the presence of the delegates of 23 member associations (the delegation of Luxemburg was absent at that moment), and then read the updated text of the Statutes and Regulations. Nineteen delegations approved such certified text, whilst the delegations of France, Morocco, Senegal, and Spain abstained from voting.

The President entrusted the Secretary General with the task of making a new edition of the By-Laws and Regulations of IAJ -- conforming to the certified text -- be printed.

Forthcoming meetings of the Central Council and of the Study Commissions.

Vice-President Walsh informed the audience that the Association of Judges of Ireland is willing to host in Dublin the Central Council and the Study Commissions next year. The sittings might be held from July 13 to 15. The delegates should arrive on July 12, and leave on July 16 in the morning. The hospitality will include "bed and breakfast", according to the usual formula adopted in all recent meetings of IAJ.

The Council applauded and resolved that the meetings of the Council itself and of the Study Commissions be held in Dublin next year, conforming to Mr. Walsh's proposal. A detailed programme, once agreed upon between the Irish Association and the Secretariat General, will be sent to all member-associations in due time.

The German delegation had then the floor, to announce that the German Association of Judges ("Deutscher Richterbund") was planning to organize in Berlin the 1988 meeting of IAJ.

Also the Finnish delegation announced that it was considering the possibility of organizing in Helsinki an IAJ's meeting in one of the subsequent years.

All delegates joined the President in expressing deep appreciation to the German and to the Finnish colleagues for their generous offers.

Vice-President Sa'Nogueira took then the floor, to inform the Council that the Portuguese Judges' Association considered organizing in Macao, on a theme still to be chosen, in 1988 or 1989, the World Congress of Judges as already mentioned in the previous meeting, and expressed his hope that the IAJ would participate in the Congress or have it organized under its own auspices.

The President congratulated the Portuguese delegation for its brilliant initiative, and assured that this latter was to be taken into consideration in the forthcoming meeting of the Presidency Committee.

The sitting was adjourned at 5.15 p.m..

Session of October 3

The sitting resumed at 11 a.m., following the meeting of the First Study Commission.

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

The First Vice President, Mr. Woratsch, moved that the Council elect Mr. Walsh as President for the forthcoming two years. Mr. Payan Texeira Martins seconded the motion, by expressing his high esteem towards Mr. Walsh who, according to the Portuguese delegate, will be able very well to perform the duties of President.

All delegates approved, and applauded to express their unanimous consent to elect Mr. Walsh as President.

This latter declared himself honoured and touched by the testimony of full confidence given to him by his colleagues in the Council, and stated that he was willing to commit himself to fulfill his duties in such a manner as to try to continue the best traditions of the IAJ.

After short consultation, the Council members unanimously resolved to reconfirm Mr. Woratsch in his post of First Vice-President, and Mr. Ndiaye, Mr. Christiansen, Mr. Sa'Nogueira, in their posts of Vice-Presidents.

Upon a motion of Mr. Litzén and of Mr. Walsh, Mr. Helmut Leonardy also was unanimously elected Vice-President. He could not take part

in the meeting because of an illness; but -- many delegates commented -- he was well known to all the members of the Council, for having actively participated in the life of IAJ, and for having deserved well of the Association, both in his capacity as President of the "Deutscher Richterbund", and as Vice-President of the Second Study Commission of IAJ.

Again by acclamation, Mr.Longo and Mr.Meriggiola were reconfirmed in their offices of Secretary General and of Deputy Secretary General, respectively.

Adopting a proposal of the Honorary President Mr.Bröll, the Council elected Mr. de Miranda-Rosa to be an Honorary President.

All delegates applauded, many of them expressly stating their appreciation of his dedicated work for the IAJ.

Finally the Honorary President de Vreese took the floor, to remind the members of the Council that the IAJ owe a debt of gratitude to Mr.Pietro Pascalino who, after having taken care of the activities of the Association in his capacity as Secretary General for twenty one years, in 1974 was replaced by Mr.Longo, because he had been appointed to fulfil the heavy duties of President of the Tribunale-Court of Rome, first, and then of Procureur General of the Appellate Court of Rome. Mr.Pascalino being currently a retired judge, it might be considered advisable -- Mr.de Vreese concluded -- for the Council to pay the old debt, by appointing him Honorary President, and thus witnessing its appreciation for his dedicated work in the difficult period of the life of IAJ, when this latter was at its beginning, disposed of very limited means, and was almost an unknown association. Mostly thanks to Mr.Pascalino's restless effort -- added Mr.de Vreese -- the Association progressively developed and slowly gained force, certainty and confidence all over the world.

The Honorary Presidents Mr.Bröll and Mr.De Mattia urged the Council to approve the proposal, and so did Mr.Douglas-Hughes, Mr.Penning, and Mr.Litzén, who stated that IAJ was owing its current position and credit to the patient and subtle efforts of Mr.Pascalino. On the contrary, Mr.Voss and Mr.Stotter expressed some doubts on the advisability of appointing Honorary President a person which had not been taking part in the IAJ for twelve years and many delegates did not know.

A vote was taken, and Mr.de Vreese's proposal was approved by twenty ballots in favour, fourteen against, and the abstention of the rest of the delegations.

The President charged Mr.Longo with the task of informing Mr.Pascalino of the result of the vote.

Reports on the works of the First and of the Third Study Commissions. Selection of the new themes.

Mr.Krings, President of the First Commission, read out his report about the conclusions of that Commission, which dealt with the theme: "Informatics as a means for judges to acquire information on statutory or case-law, or on legal writings".

Mrs.Moreau-Sevens read out the conclusions reached by the Third Study Commission, whose sittings had taken place in Perugia, under the Presidency of Mr.Screvens, in September, on the theme: "The penal

judge vis-à-vis the problems of drug abuse: suppression by penal remedies, and/or treatment".

After a short discussion, the Council members approved the conclusions as reported. Mr. Aeppli underlined, as the third Commission had pointed out, in a realistic way, the seriousness of the problems raised by drug trafficking, and as they suggested to take a firm stance and adopt effective measures with regard to all possible aspects of the phenomenon.

The Council then resolved that the subjects for study of the Commissions for the following year shall be:

First Commission: "Supervision of the conduct or behaviour of the judges: concept; who supervises; right of defense (and human rights); independence of the judges".

Second Commission: "Under what circumstances may a case be re-opened after a final decision has been reached by a court" (theme which had been already chosen last year, but could not be dealt with, because the Commission had no possibility of holding its sittings).

Third Commission: "Organized crimes being international in character: problems of evidence".

Mr. Douglas-Hughes took the floor, to say that he thought he was interpreting the common feeling of all delegates by expressing gratitude to the Italian Association of Judges and to the Directorate of the Electronic Documentation Center of the Supreme Court of Cassation, for their hospitality, which permitted the meeting to be a successful one.

Mr. Gomez joined Mr. Douglas-Hughes in expressing gratitude. He then proposed that a permanent service of exchange of information should be established among all member associations of IAJ, and all these should disseminate through their own publications the information thus received, among their individual members.

Such a programme, which he proposed to call "Magistrature sans Frontières" (Judiciary without frontiers) would add to the existing ones an additional means of witnessing the feeling of cooperation currently inspiring the action of judges of all the world, and could be shaped in such a manner as to include also a possible exchange of hospitality and other forms of collaboration, of direct interest to the judicial function.

Finally the President expressed to the Secretariat, also on the part of the Council, deep appreciation for having generously devoted its efforts to the organization of the IAJ meeting in Rome.

The sitting was adjourned at 6.45 p.m..

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