



ver-spi.403

INTERNATIONAL ASSOCIATION OF JUDGES  
Minutes of the meetings of the Central Council  
Sao Paulo (Brazil), September 6, 7 and 9, 1993

Session of September 6

Present: Mr De Miranda Rosa, Mr Woratsch and Mr Christiansen, Honorary Presidents; the President, Mr Abravanel; the First Vice-President Mr Voss; the Vice-Presidents Mr Aarola, Mr Davis and Mrs Girard-Thuilier; the Secretary General, Mr Longo, and the Deputy Secretaries General, Mr Meriggiola and Mr Bonomo.

The following delegates represented their respective national associations:

ARGENTINA	Mrs Beiró and Mrs Gatzke de Gauna
AUSTRIA	Mr Klinger and Mr Markel
BELGIUM	Mr Denecker and Mr Joachim
BRAZIL	Mr De Miranda Rosa and Mr Xavier Neto
CANADA	Mrs Mailhot and Mr Osborne
DENMARK	Mr Hove
FINLAND	Mr Iirola and Mr Kiuru
FRANCE	Mr Lagèze
GERMANY	Mr Weber
GREECE	Mr Sergakis and Mr Tentos
ICELAND	Mr Jonsson and Mr Sigurdsson
IRELAND	Mr Keane and Mr Murphy
ITALY	Mr Caliendo and Mr Tamburino
JAPAN	Mr Sasamoto
LIECHTENSTEIN	Mr Hagen and Mr Rederer
MOROCCO	Mr Daoudi
NETHERLANDS	Mr Broekhoven
NORWAY	Mr Eidesen and Mr Laake
PORTUGAL	Mr Payan Texeira Martins and Mr Reis Figueira
SENEGAL	Mr Mansour Sy
SPAIN	Mr Bento Company and Mr Galan Menéndez
SWEDEN	Mr Francke and Mr Palm
SWITZERLAND	Mr Gass and Mr Zappelli
TANZANIA	Mr Lugakingira
TUNISIA	Mr Hedi and Mr Tarek
UNITED KINGDOM	Mr Allan and Sir Nicholas Phillips
URUGUAY	Mr Preza Restuccia

Mr Borrin (New Zealand), Mr Brito Cruz (Chile), and Mr Kassoff (USA), were present as observers.

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 Brazilian Association of Judges for their organizational work and their generous hospitality. He then said that he was rejoicing at seeing among the participants the Honorary Presidents De Miranda-Rosa, Christiansen, and Woratsch - this latter representing also, by proxy, the Hungarian Association of Judges - as well as a delegate of the Association of the Uruguayan Judges, represented in the Council after some years of absence. Mr Abravanel

regretted, on the contrary, that it had been not possible for Vice-President Rodriguez-Arribas to come to Sao Paulo.

The President commemorated then the Irish colleague Niall McCarthy and his wife, who were killed in a road accident in Spain immediately after the 1992 meeting of the IAJ, and asked all those present to rise for a minute of silence in memory of them. He then informed the assembly that the Belgian colleague Mr Krings, President of the First Study Commission, had been made a baron and that the Secretary General, Mr Longo, had been appointed President of a Division of the Supreme Court of Italy.

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

Approval of the minutes of the meeting held in Sevilla in 1992.

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

Having ascertained that nobody had any observation to make, he declared the minutes approved.

Appointment of two auditors responsible for examining the financial report.

It was unanimously resolved to empower Mr Markel, from Austria, and Mr Tentis, from Greece, to audit the financial report drawn up by the Secretary General and to submit their conclusions and proposals to the Council during its following session.

Proposal from the Presidency Committee for amendment of art. 8, paragraph 2, of the Statutes with immediate effect.

President Abravanel said that according to the prevailing rules, the calculation of the two-thirds majority, necessary for the Central Council in order to amend the Statutes, had to take into account also those member associations which had not participated in the activities of the IAJ for a long time (like, e.g., Lebanon). The Presidency Committee proposed that the Central Council might amend the Statutes only by a two-thirds majority of the votes cast, representing at least half of the members of the Association.

The assembly approved the proposal unanimously, with a small change in the French text ("la moitié des membres de l'Union" instead of "la moitié des membres affiliés à l'Union"), and also the immediate entry into force of the new rule.

Report of the President

Mr Abravanel said that the IAJ had changed from a club of gentlemen, mostly from the West European countries, to an international organization with a worldwide dimension. Although frequently consulted with respect by big international organizations, by Governments and NGOs, the Association was not in a position to avail itself of means corresponding to its vocation. Such means, therefore, were to be increased. The Presidency Committee had met in Rome in May 1993, and the European Association, as well as the Ibero-American Group, had met this year in Wiesbaden and



Santiago de Chile, respectively. The President of the IAJ and the other members of the Presidency Committee had been present at the annual meetings of many national associations. Some distinguished judges, chosen from among the members of the national associations, had taken part in many programmes of the Council of Europe, intended to offer technical assistance to the new democracies in Central and Eastern Europe; they had participated in meetings and seminars in Strasbourg and in towns located in Central and East European countries. The Deputy Secretary General, Mr Meriggiola, had represented the IAJ with dedication and efficiency before the European bodies in Strasbourg and Brussels. The IAJ was represented at various meetings, where the MEDEL ("Magistrats Européens pour la Démocratie et les Libertés") - which is in competition with the European Association of Judges-Working Group of the IAJ - and other NGOs active in the legal field were also present. The IAJ is regularly represented at the United Nations in New York, Geneva and Vienna.

President Abravanel finally thanked all those colleagues who pro bono devote their time and resources to the IAJ, and in particular the members of the Presidency Committee and the Secretariat General.

#### 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 emphasized 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, a certain number of members had not sent them. Bank statements had shown that payment for the year 1993 had not been received from France, Hungary, Ivory Coast, Liechtenstein, Malta, Morocco, Tanzania and Tunisia.

The Associations of Paraguay and Uruguay had not paid their contributions since 1989, the Association of Senegal since 1992. No news had been received from the Lebanese Association of Judges for many years.

The delegations of France, Morocco, Senegal, Tanzania and Tunisia said that their contributions had already been sent.

The Secretary General asked these delegations kindly to send to the Secretariat the documents evidencing the sending of the sums, so that he could show them to the bank.

Financial situation of the IAJ. Increase in the contributions proposed by the Presidency Committee (increase of the 1st group from 700 to 1,500 ecus, of the 2nd from 400 to 1,000, setting up of a 3rd group at 600 ecus and maintenance of the last group at 300 ecus; contribution of 200 ecus for the extraordinary members).

President Abravanel read a document with seven points containing some comments on the proposed increase in the contributions.

Some delegations (France, Portugal, Morocco, Brazil) proposed to limit the increase, while others (Belgium, Holland, Norway) maintained that a presentation of a budget was necessary. The Swedish delegation

emphasized the need for new resources to be allocated to the regional groups.

With no votes against and two abstentions, the assembly expressed the opinion that it was necessary to increase the contributions and then approved the proposal of the Presidency Committee (20 votes in favour, 4 against and 4 abstentions).

Admission of extraordinary members (amendment to art. 2 of the Statutes and to art. 11 of the Regulations proposed by the Presidency Committee).

Vice-President Girard-Thuilier pointed out that according to the present rules the conditions for the admission of extraordinary members are the same as those required for ordinary members. In particular, the independence of the judiciary in the applicant's country is required. This condition cannot be met for those associations of judges in totalitarian States who are fighting for their independence. But every effort should be made by the IAJ in order to help these associations to reach their goals. Therefore, the Presidency Committee had proposed to admit them for a certain period (five years liable to deferment; art. 2 of the Statutes) and to exclude in such cases the application of art. 11 of the Regulations.

The proposal of the Presidency Committee was unanimously approved by the assembly.

#### Session of September 8

The session started at 2.30 p.m. The member associations were represented by the same delegates who were present at the previous session, apart from the following changes: Brazil by Mr De Miranda Rosa; Greece by Mr Tentes; Iceland by Mr Sigurdsson; Tunisia by Mr Tarek; the United Kingdom by Sir Nicholas Phillips and Lord Sutherland. Luxembourg was represented by Mr Bour. Japan and Uruguay were not represented.

Cooperation with other international organizations. Reports of First Vice-President Voss and of the Secretariat General.

Mr Voss reported that the European Association had a meeting in Wiesbaden in March 1993. The main problems discussed there had been the Statute of the Judge in Europe and the training of judges in Community Law. The text of the Statute of the Judge approved in Wiesbaden will be distributed as soon as the English and French versions are ready. Mr Voss added that Mr Merz, Director of the Academy of European Law of Trier, had made a report in Wiesbaden, and that he was ready to organize seminars for the European Association of Judges. Mr Voss had been elected to the board of trustees of the Trier Academy as a representative of the European Association of Judges. He will delegate to Mr Broekhoven, who is an expert in this field, the participation in the next meeting of the board of trustees, which will take place in January 1994. Mr Voss stressed that the participation of the European Association in such activities is aimed at influencing the programmes of the formation of judges in Community Law, since the judges themselves are those in a better position to say what it is useful for them in this field.



Mr Longo informed the assembly about the cooperation with the Council of Europe and the United Nations in the programmes in favour of the new democracies in some countries of Central and Eastern Europe. In particular, within the programmes Demosthenes and Themis of the Council of Europe. Many colleagues (among others, President Abravanel, First Vice-President Voss, Sir Nicholas Phillips, Mr Krings) had participated in meetings and seminars, the aim of which was to promote a democratic judicial system in the above-mentioned countries. The United Nations Office in Geneva had also organised similar programmes (in Albania) in which the IAJ had assured its cooperation.

Contacts with the EEC Commission in Brussels had been maintained by First Vice-President Voss and Deputy Secretary General Meriggiola.

Representation and vote of the national associations at the Central Council (amendment to art. 4, paragraph 1 and 2, of the Statutes proposed by the Presidency Committee).

First Vice-President Voss illustrated the amendment, mentioning the increasing number of members of the IAJ and the need to simplify the voting operations; he also proposed to replace the word "observer" in the first paragraph by the word "colleague" (as the former could create some misunderstanding with reference to the representatives of non-member associations with the status of observers).

After some discussion, the amendment was approved in the text proposed by Mr Voss (22 votes in favour).

Members in arrears with contributions (amendment to art. 4 paragraph 8 and addition of a new paragraph).

Vice-President Aarola illustrated the amendment making reference to the case of the association of Lebanon, which has not paid its contribution for about twenty years. The proposal was aimed at depriving of voting rights those associations that had been in arrears for more than one year and to exclude from membership those in arrears for more than three years. This last consequence could be avoided by a contrary decision of the Presidency Committee, which could take into account special circumstances that had hindered the payment.

The Tunisian delegation proposed: a) to change from more than one to more than two years the time limit for the deprivation of voting rights; b) to replace the Presidency Committee by the Central Council. Various delegations supported the proposals.

The first Tunisian proposal (point a) was rejected (8 votes in favour) and the amendment of art. 4, paragraph 8, was approved in the text proposed by the Presidency Committee (22 votes in favour).

Then the assembly approved (26 votes in favour) the amendment of art. 4, paragraph 9, as proposed by the Presidency Committee, but replacing the words "Presidency Committee" by the words "Central Council".

Increase in the number of the Vice-Presidents from 5 to 6 (amendment to art. 5, paragraph 1, of the Statutes).

President Abravanel said that in the previous year a similar amendment had not been approved only because the Lebanese Association had to be counted among the members in order to calculate the two-thirds majority of votes necessary to amend the Statutes. Therefore, the Presidency Committee had decided to repropose the amendment owing to the large increase in the number of member associations and the new tasks for the Vice-Presidents (coordination of the activities of the regional groups). The criterion of regional representation in the election of the Vice-Presidents was not proposed, because it was in the interest of our association that the best and most available colleagues could be chosen without any limitation. He also said that it would be preferable to have an uneven number of votes in the Presidency Committee.

Mrs Mailhot proposed that when revising the text of the Statutes it would be better to amend any references to the colleagues in general as male only, by making them refer to both sexes (he/she).

Mr Palm remarked then that the Presidency Committee already had an uneven number of votes, because of the presence of the past president.

Mr Abravanel answered that the past president did not have voting right in the Presidency Committee.

The amendment was then approved as proposed (24 votes in favour).

Spanish as an additional language and English and French as working languages of the IAJ (amendment to art. 9 of the Statutes and to art. 9 of the Regulations).

Mr Gaian Menendez illustrated the amendment pointing out that Spanish is the national language in more than 20 countries in the world, is spoken by several hundred million of people and is both an official and a working language at the United Nations.

The amendment was unanimously approved as proposed.

Setting-up of a 4th Study Commission for administrative, social and tax law (amendment to art. 7 of the Regulations; proposal from the Belgian Association).

Mr Joachim illustrated the amendment, mentioning the evolution of the legislation and the Social Charters of the United Nations and the Council of Europe.

The Tunisian delegation proposed to replace the words "administrative, social and tax law" by "public and social law".

The Greek delegation remarked that the introduction of a fourth Study Commission would discriminate against those associations which are entitled to send only three representatives to the annual meetings of the IAJ.

After some discussion, both the Tunisian proposal and the amendment put forward by the Belgian Association were rejected (the latter with 14 votes in favour).



Mr Lugakingira pointed out the necessity of coordinating the creation of more than three categories of yearly contributions with the text of art. 4 of the Regulations which makes reference to three categories only.

The assembly approved unanimously the amendment of art. 4 of the Regulations, which shall mention four instead of three categories of contributions, provided for the ordinary members.

Report of the auditors responsible for examining the financial report.

Mr Markel and Mr Tentes said that they had examined the documents at random owing to the large number involved. The documentation was correct and complete (only in one case the sums did not correspond, but the difference was in favour of the IAJ), and the expenses had been kept within reasonable limits considering the activities of the Association.

The assembly unanimously approved the balance-sheet for 1992-1993 and released the Secretary General from any responsibility in the matter.

New applications for membership: Associations of judges of Slovakia and Slovenia.

Honorary President Mr Woratsch reported that he had been unable to make any proposal concerning the Slovenian Association, because of the lack of contact. After speaking with the President of the Slovenian Association he had not received any answer to two letters (the last dated July 1993) asking for further information. It was probable that the Slovenian Association was under the influence of MEDEL. However, he would participate in this month in a Council of Europe seminar in Ljubljana and he hoped to meet there some representatives of the Slovenian Association.

As far as Slovakia was concerned, he and Mr Markel had visited that country several times. They thought that the Association of Slovak Judges was representative of the judiciary of the country, since 60% of the total judges are members of the association, and that the Slovak judges were very actively struggling for their independence. A serious problem for the Slovak Association was the scarcity of financial resources. In the end, Mr Woratsch proposed to invite a representative of the Slovak Association to take part in the next meeting of the IAJ as an observer.

Mr Broekhoven gave some information about the judiciary in Slovakia received from Slovak colleagues. They said that the independence of the judges is limited by the powers of the presidents of the courts and of the Minister of Justice; they added that IAJ membership was in the interests of the Minister of Justice, who could use it as a demonstration, at international level, of the independence of the judiciary, and not in the interests of the judges, who want to become really independent.

After some discussion, it was unanimously decided to invite a representative of the Slovak Association to take part in the next meeting of the IAJ as an observer. This could also give us the opportunity to establish a direct contact with the Slovak judiciary and obtain more information on its real situation and needs.

Meetings of the IAJ in following years.

The Greek delegation announced that the Greek Association of Judges would be happy to host the Central Council and the Study Commissions in Greece in 1994. The exact dates of the meetings and their place were not yet known; the period of the meetings, however, would be around the end of September and the beginning of October.

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

Mr Broekhoven announced that the Dutch association was prepared to host the IAJ meetings in 1996.

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

Miscellaneous.

Mr Voss informed the assembly about the situation of the judiciary in Colombia and the help given by the German Association. 288 Colombian judges had been killed in the last ten years and, when this happens, their families are left without even a pension. The solidarity fund established by the German Association had collected about US\$ 450,000. The money had been used for many purposes (such as the education of the children of the dead colleagues, training of the widows to help them to find a job, hiding or transfer of judges who had been threatened, etc.). The judges' associations of Iceland, Norway and Netherlands contributed to the fund. Mr Voss called for help from all the member associations of the IAJ, because we should act in a practical way in order to support the independence of our Colombian colleagues.

President Abravanel read a letter from the President of the Colombian Association expressing gratitude for the action of the German Association and interest in the International Association of Judges.

Session of September 9

The session started at 9 a.m. The member associations were represented by the same delegates who were present at the session of September 6, apart from the following changes: Belgium by Mr Denecker; Brazil by Mr De Miranda Rosa; Canada by Mr McDonald; Greece by Mr Sergakis; Luxembourg by Mr Bour; Norway by Mrs Haug and Mr Laake; Portugal by Mr Payan Teixeira Martins; Switzerland by Mr Zappelli. Austria, Ireland and the Netherlands were not represented.

Mr Meriggiola made some more comments concerning Slovenia, and reported that a Slovenian colleague had told him that the MEDEL had tried to recruit new members in that country, but only 19 colleagues had joined it. The Slovenian Association of Judges was aware of the problem of the independence of the judiciary and asked for the abolition of an old law which puts the career of the judges in the hands of the presidents of



the courts and of the Minister of Justice. This law is still in force, even if the Constitution proclaims the independence of the judiciary.

Draft agreement of co-operation with the "Notariat Latin".

The Secretary General, Mr Longo, said that the International Union of the Latin Notariat had helped the IAJ on several occasions and in particular in the organization of an annual meeting in Rome after a national association of judges had communicated at the last moment that it could not organize the meeting. A fruitful co-operation had also been established between the two international associations for propaganda among possible new members and for the exchange of information about the real situation existing in the countries of the applicants for membership. In his opinion, the approval of the draft-agreement of cooperation would result in a mutual benefit for the two organizations. As far as the reciprocal invitations (envisaged in the draft) were concerned, the text of the draft agreement could provide that they are optional and not compulsory.

At the proposal of Mr Longo, the assembly decided to delegate to the Presidency Committee the power of approving the agreement.

Reports of the Presidents of the Study Commissions and selection of the themes for 1994.

The President gave the floor successively to Mr Krings, to Mr Bour and to Mr Screvens, president of the 1st, 2nd and 3rd Study Commissions, 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 1994:

- 1) "Participation of the judicial power in the administration of justice" (1st Commission);
- 2) "Courts procedures with reference to reduction of delays" (2nd Commission);
- 3) "The criminal judge and the feeling of public insecurity" (3rd Commission)

President Abravanel expressed his satisfaction with the extensive reports made by the Presidents of the Study Commissions. He then read a resolution concerning the independence of judges, which was unanimously approved by the Central Council. The text of the resolution would be translated into Portuguese and communicated to the press.

Mr Restuccia expressed his satisfaction with the interest shown by the IAJ in the situation in Latin America and with the setting-up of the Ibero-American Working Group.

Mr Tarek announced that the Associations of Maroc, Senegal, Tanzania and Tunisia had decided to set up an African Working Group of the IAJ.

The observer from New Zealand, Mr Borrin thanked for the very interesting experience which represented for him to participate in the meetings and expressed his hope that his Association would soon become a

member of the IAJ.

President Abravanel at the end said that on this 40th anniversary the IAJ had taken very important and corageous decisions concerning the admission of extraordinary members and the increasing of the annual contributions. He hoped that some national associations that were classified at a lower level than their true financial capacity would be proud to announce that they accept a higher rank. In the future the national associations would receive better services and the Central Council would be able to discuss and vote the budget. President Abravanel then expressed the warmest thanks to the Brazilian Association and to Vice-President Davis for their great hospitality and their organizational efforts for the success of the meeting. The session was closed at 10.30 a.m.

The President  
Philippe Abravanel

The Secretary General  
Giovanni E. Longo

enclosure: text of the amendments (to the Statutes and the Regulations)  
proposed by the Presidency Committee