

HISTORY OF THE INTERNATIONAL ASSOCIATION OF PROCEDURAL LAW

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Summary. The Author presents the history of International Association of Procedural Law, beginning with the first congress of procedural law that took place in 1950 in Florence. He presents the following congresses and symposium, outlining their subject-matter and output, as well as the contribution of the most eminent members of the Association. The composition of the past and current authorities is shown, as well as their plans concerning future congresses and workshops until 2010.

Key words: International Association of Procedural Law, congress of procedural law

1. Europe and the whole world has only recently emerged from the madness of Nazism and Fascism, causes of death and destruction. From 30th September to 3rd October 1950, the Italian Association of Civil Procedure scholars held, in Florence, the first international congress of civil procedure law: as Enrico Redenti said, with detached restraint “in this way we reassert to the world our desire to live and to rise again, and 'the need for us, before all else, to establish wider ties with all the scholars of our discipline. The practical application is essentially technical. But even technicality benefits from different and apparently distant types of experience, and from studies made in very different settings.”

Study, seen as a mission, as human collaboration – said Piero Calamandrei passionately in his closing speech – brings great comfort, and we have seen proof of this at this congress: this continuity, this link which continues unremarked amongst men, even at times when arms set up barriers between them. Even when war seems to divide peoples in the most inhuman way, above the fray books go on unremarked with their communication at a distance; this fraternity, this solidarity holds fast in spite of everything, in the regions of the spirit.

And it was as a token of that spirit, that, after the last of the free congresses, (Vienna 1928), there met together the Italian scholars and others of various provenance, from Rene Morel to Hans Schima, from Adolf Schönke, Rudolf Pohle, Ernest Heinitz, and Thedor Süß, to Jaime Guasp, Victor Fairén-Guillen, Niceto Alcalá Zamora and Oscar de Cunha.

One question weighed heavily on everyone: how could we speak of procedure and its purpose, of abstract, theoretical constructs, when the judgement had been used all over the world to give an official form of legality to murder? *Ya til une justice politique?* asks Meunier.

In the courts where we used to respect serene and impartial judges, murderers and plunderers in the guise of judges sat on these seats and gave to their misdeeds Calamandrei goes on – the rules and seal of judgements; special courts, extraordinary courts, military courts, party courts, where under the usurper's robes was visible the black garb of the hired assassin who did not judge but stabbed; and then there were the persecutory laws aimed at the extermination of a whole people, and then the judgement made into a tame instrument of these laws of extermination; and then, when it seemed that the hour of justice had come, a new and inevitable outburst of reprisals and vendetta.

The optimism of will prevailed, however, over the pessimism of reason, and in order to reassert the universal values of procedural culture, the foundation was laid of what was then called the international Institute of civil procedural law, and an organising committee appointed, in the persons of professors Enrico Redenti (Italy), Hans Schima (Austria), Adolf Schönke (Germany), Victor Fairén-Guillen (Spain), Robert Wyness Millar (USA and the Anglo-Saxon countries in general), Niceto Alcalà Zamora (Mexico), Oscar de Cunha (Brazil) e Eduardo Couture (Uruguay and the Spanish speaking countries of South America in general). Prof. Tito Carnacini was secretary and the headquarters were established in Bologna, in recognition of its status as oldest university in the world.

2. The organising committee's work was hindered by communications and postal delays: letters [rom that time often contain complaints about missing or late answers (although this can still happen today, in the era of e-mail!).

But the work went ahead : first there was a meeting in April 1951, during the Weinheim *Tagung*, then a second international congress in Vienna (5th to 8th October 1953), against the difficult background of the Allied occupation of the Austrian capital, with topics of great interest and wide scope, such as *Le garanzie costituzionali del processo* from Eduardo Couture, *L'esecuzione forzata delle sentenze negli USA* from Arthur Lenhoff, *La competenza internazionale* from Riccardo Monaco, and many others.

The committee that had been appointed in Florence was reconfirmed, and met in Bologna on 19th December 1955, in the office of the President Prof. Redenti, with professors Schima, Pohle, Fairén-Guillen, and Carnacini the secretary, present. The minutes, which I still have, note the support of professors Henry Solus, Niceto Alcalà Zamora and Eduardo Couture.

A statute was drawn up and, among other things, it was established that the international Association of procedural law (note that they abandoned the term 'Institute' and the limitation to civil procedure) should be free of any influence, that members would be appointed by the council from among scholars of any

branch of procedural law, including criminal, administrative and financial law, that the aim of the Association should be to foster procedural studies with an exchange of information and publications, the organisation of international conferences and the publication of an annual bulletin.

The maximum number of members was set at 300, with fixed quotas for each country of the world.

The official languages are French, English, German, Italian and Spanish.

The next conference was to be in Munich in April 1957, and topics and speakers were decided.

But for various reasons it did not take place, and several years passed before the third international congress, again at the insistence of the Italian Association of civil procedure scholars, was held on 12–15 April 1962. It took place in Venice, on the beautiful island of S. Giorgio, at the Cini Foundation whose president was Francesco Carnelutti.

The congress was well-attended and papers were given by renowned scholars from all over the world. It is impossible to list them all. I mention only, Charles Van Reepinghen and Ernest Krings on *La jurisdiction gracieuse en droit belge*, and the general papers from Niceto Alcalá Zamora on *Eficacia de las providencias de jurisdicción voluntaria* and Giorgio Balladore Pallieri on *L'ammissibilità dei mezzi di prova nel diritto internazionale privato*.

For my own part, this was my first encounter with the international Association, as I edited the congress proceedings for publication.

The fourth congress took place in Athens in 1967, and the fifth in Ciudad de Mexico (12–18 March 1972, organised and directed by Prof. Niceto Alcalá Zamora y Castillo). On this occasion new appointments were made to the board, with Niceto Alcalá Zamora as president and Prof. Vittorio Denti as secretary general. The headquarters were still in Bologna and the statute was definitively approved by the first forty five ordinary members.

As well as the two already mentioned, the board of directors consisted of Professors Baur, Carnacini, Devis Echandia, Fairén-Guillén, Fasching, Fix Zamudio, Jolowicz, Perrot and Stalev.

Again, they spoke of an international Institute of procedural law.

The various ideas and initiatives only took concrete shape when Marcel Storme organised the Ghent congress in 1977, “Towards a Justice with a human face”, the sixth congress held since 1950, but the first in terms of worldwide participation with representatives from every continent, including for the first time, Asia, Australia and Africa.

This globalisation of the international Association was consolidated by the Würzburg congress in 1983 on “Effectiveness of Judicial Protection and Constitutional Order”, which Prof. Walter Habscheid organised so remarkably well. At Würzburg, the members' meeting decided to abandon the name

“Institute”, and appointed Mauro Cappelletti president, Marcel Storme executive secretary general and Walter Habscheid and Vittorio Denti secretaries general. There were now some one hundred and twenty members; the headquarters were transferred to Ghent.

These board members, and especially Mauro Cappelletti and Marcel Storme, worked with a renewed energy, and at last the “Procedural Reporter” was published, which came out in alternate years, and which was to be an extremely valuable link and means of information.

In 1985 a successful new initiative was launched, a series of single-theme colloquiums, starting with Ulla Jacobsson in Lund on “Trends in the Enforcement of Non-money Judgments and Orders”.

In 1987 Prof. Wedekind organised the eighth Congress in Utrecht, on “Justice and efficiency”; in 1988, on the occasion of the nine-hundredth anniversary of Bologna University, there was an extraordinary congress on “The judicial Protection of Human Rights at the National and International level” organised by myself; in 1991 the ninth World Congress took place in Coimbra-Lisbon organised by Prof. Pessoa Vaz on “Role and organization of Judges and Lawyers in Contemporary Societies”, in 1992 the Japanese Association, together with ourselves, organised the big Tokyo congress; in 1993 Mieczyslaw Sawczuk organised a colloquium in Lublin on “Unity of Civil Procedural Law and its National Divergencies”; the tenth World Congress, in 1995, was held in Taormina on “Trans-national Aspects of Procedural Law”, organised with great enthusiasm by Italo Andolina; then there was the most enjoyable colloquium at Salonika, in 1997 on “The Role of the Supreme Courts at the National and International level”, the work of Prof. Pelaya Yessiou-Faltsi; in 1998, thanks to Dean Sherman and Prof. Yannopoulos, the Association held its first meeting in the USA, in New Orleans with a colloquium on “Abuse of Procedural Rights”; the eleventh World Congress in Vienna in 1999, had as its theme “Procedural Law on the Threshold of a New Millennium” impeccably organised by Walter Rechberger. Then there was Ghent in 2000, Brussels in 2001, and the twelfth World Congress in September 2003 in Mexico City, excellently organised by Prof. Cipriano Gomez Lara on “Civil Procedure and Legal Culture”.

At Taormina, the members appointed Marcel Storme president, and three vicepresidents to cover different geographical areas – José Carlo Barbosa Moreira, Yashuei Taniguchi, Bryant Garth – and three secretaries general – Keith Uff, Peter Gottwald and myself.

Membership now stood at 310 ordinary and 9 extraordinary members, with a notable increase in North America, South America, Japan, China, Australia, New Zealand and Africa. The headquarters moved back to Bologna.

In September 2003 during the XII World Congress in Mexico City, the members' meeting appointed to the board of directors professors Italo Andolina (Italy); Elio Fazzalari (Italy); Héctor Fix Zamudio (Mexico); Peter Gilles

(Germany); Stephen Goldstein (Israel); Wouter De Vos (South Africa); Cipriano Gomez Lata (Mexico); Loïc Cadiet (France); Konstantinos Kerameus (Greece); Per Henrick Lindblom (Sweden); Augusto Mario Morello (Argentina); Ada Pellegrini Grinover (Brazil); Francisco Rambs Mendez (Spain); Walter Rechberger (Austria); Gerhard Walter (Switzerland); Garry Watson (Canada); Pelaya Yessiou-Faltsi (Greece); Neil Andrews (England); Giuseppe Tarzia (Italy).

Prof. Marcel Storme was reconfirmed as president, professors Federico Carpi, Peter Gottwald and Keith Uff as secretaries general, and professors José Barbosa Moreira, Jashuei Taniguchi and Oscar Chase as vice-presidents.

Membership had grown to 350 scholars from all over the world.

There continued to be a great number of very informative events, including a number of colloquiums: in 2004, Paris-Dijon on "Alternative Dispute Resolution" organised by Prof. Loïc Cadiet; in 2005, Vienna-Budapest on "European Civil Procedural Law. Review and Future Prospects After the Enlargement of the EU", organised by Professors Walter Rechberger and Miklós Kengyel; in September 2006, Kyoto on "The Reception and Transmission of Civil Procedural Law in the global Society" organised by Prof. Masahisa Deguchi; in April 2007, Vilnius on "The Recent Tendencies of Development in Civil Procedure Law Between East and West", organized by Prof. Vytautas Nekrošius.

"Most of the papers given have been published.

Finally in September 2007 the excellent XIII World Congress took place in Salvador de Bahia on "New trends in Procedural Law", so admirably organised by professors Ada Pellegrini Grinover and Petronio Calmon. The scientific discussions, on various subjects, were of particular interest, thanks to the publication and distribution of a large volume containing all the papers.

At the opening of the Congress, there was particular mention of Prof. Mauro Cappelletti, for many years president of the Association, in whose memory the Association, in the persons of Marcel Storme and Federico Carpi, had published a book, which was presented at the Vienna colloquium in 2005.

At the Salvador de Bahia congress, the members' meeting feted professor Marcel Storme, and when he announced that he would step down as president, the meeting appointed him Honorary President.

Appointments were also made to the governing bodies; Presidium Federico Carpi (President); Ada Pellegrini Grinover (Vice-President); Oscar Chase (Vice-President); Masahisa Deguchi (Vice-President); Peter Gottwald (Secretary-General); Michele Taruffo (Secretary-General); Loïc Cadiet (Executive Secretary-General).

Council Neil Andrews (United Kingdom); Stephen Goldstein (Israel); Walter Rechberger (Austria); Miklós Kengyel (Hungary); Gary Watson (Canada); Manuel Ortells Ramos (Spain); Sakari Laukkanen (Finland);

Dimitri Maleshin (Russia); Eduardo Oteiza (Argentina); Piet Taelman (Belgium); Janet Walker (Canada); José Roberto Dos Santos Bedaque (Brazil); Rolf Stürner (Germany); Burkhard Hess (Germany); Edoardo Ricci (Italy); Frédérique Ferrand (France); Vytautas Nekrošius (Lithuania); Moonhyuk Ho (Korea); Alan Uzelac (Croatia)

Our programme of future events includes: 6–8 November 2008, in Valencia (Spain), there will be a colloquium on “Oral and written proceeding: efficiency in procedure”, organised by Prof. Manuel Ortells Ramos; 3–5 June 2009, in Toronto (Canada), there will be a colloquium on “Neither Common nor Civil: Procedural Reform and the Need for New Categories”, organised by Prof. Janet Walker, together with vice-president Oscar Chase; then a colloquium is planned for 2010 in Pecs (Hungary) and the XIV World Congress in Berlin for August 2011.

In order to promote closer relations amongst members and friends, a new Website has been set up: “www-iapl.uni-regensburg.de”.

So it is with satisfaction that we look to a future rich in commitment to an ever greater mutual knowledge, in the interests of a proficuous scientific and human exchange.

HISTORIA MIĘDZYNARODOWEGO STOWARZYSZENIA PRAWA SĄDOWEGO

Streszczenie. Autor przedstawia historię Międzynarodowego Stowarzyszenia Prawa Sądowego poczynając od pierwszego kongresu prawa procesowego cywilnego we Florencji w 1950 r. Omawia kolejne zjazdy kongresy i sympozja, prezentuje ich tematykę i dorobek. Pokazuje także wkład, jaki wnieśli w rozwój organizacji jej najwybitniejsi członkowie. Zapoznaje czytelnika ze składem byłych i obecnych władz stowarzyszenia i referuje plany sympozyjno-kongresowe do roku 2010.

Słowa kluczowe: Międzynarodowe Stowarzyszenie Prawa Sądowego, kongres prawa procesowego