



**NB: Informal translation from Dutch**

### **International Association of Refugee Law Judges**

#### **CONSTITUTION**

Whereas the rights of persons seeking protection against persecution are protected by international law and practice, in particular by the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, by other international and regional instruments, and by jurisprudence;

Whereas the numbers of persons seeking protection outside of their countries of origin are significant and pose challenges that transcend national boundaries;

Whereas judges and quasi-judicial decision makers in all regions of the world have a special role to play in ensuring that persons seeking protection outside their country of origin find the 1951 Convention and its 1967 Protocol as well as other international and regional instruments applied fairly, consistently, and in accordance with the rule of law;

Whereas it would be desirable for judges and quasi-judicial decision makers in all parts of the world to associate so as to further exchanges and the dissemination of information on international law and practice as it relates to the status of refugees;

Whereas the formation of such an association would continue the work of the Steering Committee of the Judicial Conference on Asylum Law created in London, England, in December 1995;

Therefore it is agreed that an association is formed as follows:

#### **PART 1: OBJECTS OF THE ASSOCIATION**

**1. Name**

The name of the association is the International Association of Refugee Law Judges.

**2. Objects**

The International Association of Refugee Law Judges seeks to foster recognition that protection from persecution on account of race, religion, nationality, membership in a particular social group, or political opinion is an individual right established under international law, and that the determination of refugee status and its cessation should be subject to the rule of law.



To these ends the Association commits itself:

1. To promote within the judiciary and quasi-judicial decision makers world-wide a common understanding of refugee law principles and to encourage the use of fair practices and procedures to determine refugee law issues;
2. To foster judicial independence and to facilitate the development within national legal systems of independent institutions applying judicial principles to refugee law issues;
3. To encourage the sharing of information and databases relating to conditions in countries of origin and countries of transit of asylum seekers;
4. To encourage the development of norms of access by asylum seekers to judicial systems that are compatible with international law standards;
5. To promote or undertake research initiatives, publications and projects that further the attainment of the objects of the Association; and,
6. While keeping in mind the independence of the members of the Association in their judicial functions, to co-operate with the United Nations High Commissioner for Refugees and other agencies, both international and national, that are concerned with the promotion of an understanding of refugee law issues.

### 3. Interpretation

In this constitution:

“judge or quasi-judicial decision maker” includes any person who:

- i) exercises judicial authority in making decisions of law or law and fact in relation to claims to refugee status, whether at first instance, on appeal or on judicial review; or
- ii) not exercising judicial authority, applies legal principles in making findings of law or fact in relation to claims to refugee status;

and who enjoys, or ought to enjoy, independence from the executive arm of government in the exercise of the authority to make such decisions or findings;

“Council” means the Council created under article 5.1;

“Officer” means the occupant of a position named in article 9.1.1;

“Participant” means a person authorised to participate in the work of the Association under article 4.3; and,

words connoting one gender shall include the other gender, and the use of the singular shall include the plural and *vice versa*.



### **PART 2: MEMBERSHIP**

#### **4. Membership**

##### **4.1 Eligibility**

**4.1.1** Membership in the Association is open to any judge or quasi-judicial decision maker who:

- i) supports the objects of the Association;
- ii) tenders payment of any membership dues for the then current year established by, or determined in accordance with a resolution of Council; and,
- iii) is approved by the Secretary as being qualified to be a member.

**4.1.2** The Secretary may make such inquiries as are considered necessary to confirm that an applicant for membership is qualified to become a member.

**4.1.3** A person whom the Secretary has found not to be qualified to be a member may appeal that decision to Council by written notice setting forth the grounds on which it is believed the applicant is qualified, and the matter shall be considered by Council at its next meeting.

##### **4.2 Cessation of Membership**

**4.2.1** A member may resign at any time by giving notice in writing to the Secretary.

**4.2.2** A member may be suspended or expelled by resolution of Council where the member is two years in arrears of payment of dues.

**4.2.3** A member suspended or expelled for non-payment of dues may be reinstated by the Secretary upon payment of all arrears of dues together with payment of dues for the then current year.

##### **4.3 Participants**

Persons who are not eligible to become members of the Association but who support its objects may, with the leave of, or at the invitation of, Council, participate in the work of the Association, including participation in meetings of committees and of Council, but no such person shall be entitled to vote in any meeting or committee of the Association.

##### **4.4 Liabilities**

No member shall by reason of membership in the Association and no Participant shall by reason of their participation in the Association be liable for any debt or obligation of the Association in the absence of any express promise or agreement in writing to accept such liability.



#### **4.5 Representation of the Association**

No member, group of members, participant, committee or forum may organise any conference, seminar or other meeting using the name of the association without the prior authorisation of the President.

### **PART 3: GOVERNANCE**

#### **5. Council**

##### **5.1 Establishment**

The Council consists of:

- i) the Officers;
- ii) not more than twelve members representative of the membership elected by the General Meeting;
- iii) and any members appointed by Council pursuant to subparagraph 5.5 i) and ii).

##### **5.2 Limitation**

Apart from the Officers, no more than two members of Council may be elected from any one country.

##### **5.3 Tenure**

Elected members of Council, apart from the Officers, shall hold office for a term to expire at the end of the third General Meeting following their election, except that, at the first General Meeting, one-third of the members of Council shall be elected for a term expiring at the end of the first General Meeting therefollowing, and one-third shall be elected for a term to expire at the end of the second General Meeting therefollowing.

##### **5.4 General Authority of Council**

Subject to the authority and direction of the General Meeting, and to any power and responsibility delegated to any committee of the Association, the Council is the decision-making body of the Association and, between General Meetings, may act on behalf of the Association with respect to all matters not specifically reserved for the General Meeting in article 8.3.



### 5.5 Specific Authorities

Without limiting the generality of Article 5.4, and subject to the provisions of the Constitution and to any directions of the General Meeting, Council has the general supervision and control of the Association and:

- i) may appoint a Conference Chairperson who shall perform such duties as may be agreed upon and shall hold office as a member of Council until the close of the subject conference;
- ii) may co-opt not more than three members as members of Council;
- iii) may authorise or invite any person who supports the objects of the Association to participate in the work of committees and of Council and to attend meetings thereof on a non-voting basis;
- iv) determines the need for support for the operations and activities of the Association and to the hiring or procurement of services necessary to carry out the objectives of the Association;
- v) appoints and prescribes the duties of and has the power to dismiss an Executive Director, provided that: the President may, between meetings of Council, and after consultation with the other Officers, appoint or dismiss an Executive Director;
- vi) determines the program for each Conference and prepare rules governing the procedures for Conferences, General Meetings, and meetings of Council;
- vii) determines the place or places of the principal office and other offices, if any, of the Association;
- viii) may, subject to the provisions of this constitution, procure the incorporation of the Association or of national branches of the Association and approve the establishment or incorporation of regional or national branches of the Association or may register it in such jurisdictions as it may consider expedient, provided always that the Association or branch is incorporated or registered as a not for profit and non-political entity;
- ix) may, subject to the approval of the General Meeting, create classes of Associate Members and prescribe who may become an Associate Member and which rights and privileges, apart from the right to vote or hold office, may be conferred on the members of any such class;
- x) may confer non-voting honorary membership on any person;
- xi) may authorise the establishment of bank accounts of the Association and any borrowing by the Association;
- xii) determines the financial year of the Association; and,



- xiii) the first meeting of Council in each year:
- A) fixes the dues of individual members for the following year;
  - B) determines the budget for the then current year;
  - C) gives preliminary approval to the budget for the next following year;
  - D) approves the accounts of the Association for the previous year; and,
  - E) appoints the auditors for that year.

### **5.6 Meetings of Council**

- 5.6.1** Council shall meet at least once during each year, and shall hold such other meetings as it may consider necessary.
- 5.6.2** The Secretary shall call meetings at such times and in such places as the President may direct, or as may be requested in writing by a majority of the members of Council.
- 5.6.3** The President may invite persons who are not members of Council to attend council meetings.
- 5.6.4** The President shall preside at meetings of Council, and, in the absence of the President, the Vice-President or, in the absence of both, another Officer or member of Council chosen by the meeting shall preside.
- 5.6.5** Council may meet by telephone conference or by any other means of telecommunications by which all persons participating in the meeting can hear all other participants.
- 5.6.6** Where circumstances prevent a meeting in person or by telecommunication, Council may meet by way of written resolution mailed or otherwise communicated to each member of Council, and each member signifying their acceptance or rejection of such resolution shall have participated in the meeting as if present in person.
- 5.6.7** A majority of the members of Council shall constitute a quorum.

### **5.7 Voting**

- 5.7.1** Decisions of Council shall be by simple majority of those present or participating.
- 5.7.2** In the event of an equality of votes, the President may cast a decisive vote, otherwise the resolution is defeated.

### **6. Executive Director and Staff**

- 6.1** The Executive Director appointed pursuant to Article 5.5 v) reports to the President.
- 6.2** Subject to resolutions of Council or of the General Meeting, the Executive Director has direction and charge of all staff of the Association and sees to the orderly administration of the activities of the Association and of Council.



**6.3** The functions of the Executive Director may be exercised by an employee of the Association, or by any person or entity contracted to see to the orderly administration of the activities of the Association and of Council.

**6.4** The Officers may delegate to the Executive Director or other staff any of the administrative functions of the Officers of the Association.

**6.5** The Executive Director may, except where the subject matter of discussion is one in which the Executive Director has a material interest, attend and be heard at all meetings of the Executive.

## **7. Committees**

### **7.1 Establishment of Committees**

Council may establish Committees of the Association, including an Executive Committee, having, subject to this Constitution and any direction of the General Meeting, such powers, procedures and functions as Council may determine.

### **7.2 Membership and Functioning of Committees**

**7.2.1** The members and Chairperson of any Committee of the Association, apart from the Executive Committee, shall be appointed by the President.

**7.2.2** All appointments to Committees are subject to confirmation by Council at its next meeting, but pending confirmation, the Committee is, unless Council in establishing the Committee has otherwise directed, competent upon appointment to carry out the mandate assigned to it.

**7.2.3** All appointments to Committees expire at the end of the second General Meeting of the Association following the appointment.

**7.2.4** Members of a Committee are eligible to be reappointed.

### **7.3 Representation of the Association**

No Committee, its Chairperson or officers or other representatives shall purport to represent the Association in any respect, or to take any action in the name of the Association, except as authorised by the General Meeting, Council, or the President.

## **8. General Meetings**

### **8.1 Control**

Control of the Association is vested in the General Meeting of the Association.

### **8.2 Voting at General Meetings**

Each member may be present, participate and vote at a General Meeting.



### **8.3 Business of General Meetings**

The following business is on the agenda of a General Meeting of the Association:

- i) the election of the Officers and members of Council of the Association;
- ii) the receipt of the annual accounts;
- iii) the adoption, subject to the provisions of this Constitution, of such rules for the transactions of its business as it deems desirable;
- iv) subject to article 12, the Amendment the Constitution; and
- v) the consideration of such other business as may properly come before it.

### **8.4 Notice and Conduct of General Meetings**

**8.4.1** General Meetings shall be held in conjunction with conferences of the Association and at such other times and places as a General Meeting or Council may determine.

**8.4.2** Written notice of meetings shall be mailed or otherwise communicated to all members not less than 45 days before the date of a General Meeting, and shall specify the business of the meeting; however, other business may be introduced by direction of Council or with the approval of the meeting.

**8.4.3** The President, or, in the absence of the President, the Vice-President shall preside at a General Meeting.

### **8.5 Meetings by Resolution**

Where circumstances prevent a General Meeting of the Association being held by way of the personal attendance of members, Council may authorise the holding of a General Meeting by way of written resolution mailed or otherwise communicated to each member of the Association, and each member signifying their acceptance or rejection of such resolution shall have participated in the meeting as if present in person.

### **8.6 Voting**

**8.6.1** Each member is entitled to one vote at a General Meeting.

**8.6.2** Except as otherwise provided for in this constitution, all decisions of a General Meeting are taken by a simple majority of votes cast in person.

**8.6.3** In the case of an equality of votes on any resolution requiring a simple majority, the President may cast a decisive vote, otherwise the resolution is defeated.





### **9. Officers**

#### **9.1 Officers**

**9.1.1** The Officers of the association consist of a President, a Treasurer, a Secretary, and a Vice-President, to be elected at the General Meeting, the immediate Past-President, and the Chairperson of the next conference of the Association, and such other officers as the Council may from time to time determine.

**9.1.2** Each Officer holds office for a term beginning at the close of the General Meeting at which the Officer is elected, and ending with the close of the next General Meeting.

**9.1.3** An Officer is eligible to be re-elected.

#### **9.2 Elections**

**9.2.1** The Officers are elected by each General Meeting.

**9.2.2** If any office is not filled at the General Meeting, the previous holder of the office shall continue in office until a successor is elected by the General Meeting or appointed by the Council pursuant to article 9.3 of this constitution.

#### **9.3 Casual Vacancies**

The Council may fill any casual vacancy among the Officers for a term to end at the close of the General Meeting at which the term of the incumbent was to have expired.

#### **9.4 President**

The President is the chief executive officer of the Association and shall have supervision over and direction of the work and staff of the Association and:

- i) presides at all General Meetings and meetings of Council;
- ii) oversees all activities of the Association and of its office;
- iii) has direction and control of the work of the Executive Director; and,
- iv) appoints the members and chairpersons of committees of the Association.

#### **9.5 Vice-President**

The Vice-President:

- i) performs the duties of, and exercises the authority of, the President when the President is absent, incapacitated, or the office of President is vacant; and,
- ii) performs such other duties as may be requested by the President or Council.



### 9.6 Secretary

The Secretary:

- i) supervises applications for membership and is responsible for the membership records of the Association; and,
- ii) performs such other duties as may be requested by the President or Council.

### 9.7 Treasurer

The Treasurer:

- i) is responsible for the supervision and administration of the funds of the Association;
- ii) supervises the maintenance of the books of account of the Association; and,
- iii) supervises the receipt of dues and other income and authorises disbursements in accordance with budgets approved by Council.

## PART 4: GENERAL PROVISIONS

### 10. General Provisions

- 10.1** The Association shall be governed by the laws of the country in which the Council, pursuant to subparagraph 5.5 viii), incorporates or registers the Association, and any disputes as to the interpretation of this constitution shall be determined by the courts of that country.
- 10.2** Any licence, contract or engagement made on behalf of the Association shall be signed by either the President or the Vice-President and one other Officer.
- 10.3** Any two of the President, the Vice-President, the Secretary or the Treasurer, the Executive Director or any other persons authorised by the Council may:
- i) enter into contracts made in the ordinary course of the Association's operations;
  - ii) vote or transfer any and all shares, bonds or other securities from time to time standing to the name of the Association, and may accept on behalf of the Association transfers of shares, bonds or other securities to the Association and make, execute and deliver all instruments in writing necessary or proper for such purpose, including the appointment of powers of attorney to make or accept such transfers.
- 10.4** The Council may by resolution direct the manner in which, and the person or persons by whom, any particular instrument, contract or obligation of the Association shall be executed.



**10.5** The Council may, by resolution, appoint trustees to hold the property of the Association in trust for the Association; may determine the terms of any such trust; and authorise any person to execute any such trust agreement on behalf of the Association.

**10.6** Any notice required to be given by the Association is effective upon receipt when delivered personally, by confirmed facsimile transmission, or by confirmed electronic transmission, and, if mailed by air mail, shall be deemed to have been delivered fourteen days after posting.

**10.7** Any person entitled to receive notice of a meeting may waive the requirement of notice either before or after the meeting to which the notice refers.

### **10.8 Indemnification and Defence of Officers**

**10.8.1** The Association shall indemnify and save harmless any Officer or member of Council against whom any suit, action or proceeding, whether of an administrative or legal nature, that is brought or threatened to be brought arising from any act or omission made in the course of conducting the affairs of the Association and that was undertaken in good faith and in the reasonable belief that the act or omission was in the best interests of the Association.

**10.8.2** An indemnity given pursuant to article 10.8.1 shall include the payment of any judgement and fine and interest thereon or any amount reasonably paid in settlement of any suit, action or proceeding, including the reasonable legal expenses and costs incurred in defence of any suit, action or proceeding.

**10.8.3** An indemnification made under this article shall be approved, in each case:

- i) by a majority vote of those members of Council who were not parties to, and not involved in, such suit, action or proceeding; or,
- ii) by the membership at a General Meeting.

### **11. Conferences**

Council is charged with organising conferences of the Association as frequently as possible and practical, to facilitate the objects of the Association.

## **PART 5: AMENDMENT OR DISSOLUTION**

### **12. Amendment of the Constitution**

**12.1.1** This Constitution may be amended by a resolution approved by two thirds of the votes cast on that resolution at a General Meeting.

**12.1.2** A proposal to amend the Constitution shall be in the form of a written resolution and be:

- i) endorsed by at least 10 members of the Association; or,



- ii) recommended by Council; and,
- iii) filed with the Secretary at least 90 days in advance of the General Meeting of the Association at which the proposal is to be considered.

**12.1.3** Any proposed amendments to the Constitution shall be included with the notice of the General Meeting at which the proposal is to be considered.

**12.1.4** An amendment to the Constitution of the Association shall take effect on a date fixed by the General Meeting or on the fulfilment of any condition or conditions determined by the General Meeting.

### **13. Dissolution**

#### **13.1 Method**

The provisions respecting amendments of the Constitution set out in Article 12 apply *mutatis mutandis* to a proposal to dissolve the Association.

#### **13.2 Distribution of Assets**

Upon the dissolution of the Association, its net assets, if any, shall, upon the direction of a General Meeting, be given to one or more non-political and non-profit making international judicial or legal organisations which promote international legal co-operation and the Rule of Law with respect to claims to refugee status.

## **PART 6: TRANSITIONAL PROVISIONS**

### **14. Transitional Provisions**

#### **14.1 Provisional Nature of Constitution**

This Constitution is provisional and shall cease to have operation at the close of business of the next General Meeting of the Association unless a resolution to ratify this Constitution is approved, with or without amendments, by two thirds the votes cast on that resolution.

#### **14.2 First General Meeting**

Notwithstanding the notice requirements contained in article 8.4.2, the first General Meeting of the Association shall be held immediately following the adoption of this Constitution.

#### **14.3 First Officers and Members of Council**

Notwithstanding articles 5.3 and 9.1.2, the Officers and members of Council elected at the first General Meeting shall hold office until the end of the next General Meeting of the Association.