

CONSTITUTION of the EUROPEAN CHAPTER OF THE INTERNATIONAL ASSOCIATION OF REFUGEE LAW JUDGES (IARLJ)

Preamble

- (1) The European Chapter of the International Association of Refugee Law Judges (hereinafter: IARLJ) was originally established as a regional chapter forming part of the IARLJ
- (2) Recognising that with the development of the Common European Asylum System (hereinafter: CEAS) Member States of the European Union are subject to specific rules and standards based on the primary and secondary legislation of the European Union, and that taking into account the application of the European Convention for the Protection of Human Rights (hereinafter: ECHR) applicable to member states of the Council of Europe the applicable regional law in Europe differs in certain important respects from international refugee law, pursuant to Article 5.5.viii of the IARLJ Constitution, it was agreed that the European Chapter (hereinafter: the Association) should become a separate body having its own constitution and rules whilst maintaining affiliation to the IARLJ as a European regional association.
- (3) The office of the Association is situated in the Netherlands.

- (4) The Association is a non-political and non-profit making unincorporated members' association and has in general meeting in Stockholm, 22 November 2013 adopted the provisions of this Constitution to govern its functioning in accordance with Dutch Law.

PART 1 – Objectives of the Association

Article 1: Objectives

The Association being affiliated to the IARLJ in accordance with Article 5.5.viii of the IARLJ Constitution adopts the objectives of the IARLJ, with additional and expanded objectives specific to regional European issues, namely:

- to enhance knowledge and skills and to exchange views and experiences of judges on all matters concerning the application and functioning of the CEAS in accordance with the rule of law and the ECHR both at European and national levels including European law, Community law, European and international case law, domestic case law and national legislation relevant to international protection law and asylum-related immigration issues;
- bearing in mind the increasing interaction between issues concerning international protection needs and immigration law, the preceding objective shall extend also to the subject-matter of immigration law as it affects the application and functioning of the CEAS and the ECHR.
- for those purposes to promote and facilitate professional contacts and networking between judges, judicial and legal authorities and associations, judicial training providers and other relevant professions and organisations in the field of international protection;

- to undertake, promote or assist with the training of judges and other refugee decision-makers and the development and delivery of suitable judicial training programmes and their contents in a manner that fully respects the principle of the independence of the judiciary.

Article 2: Means of Achieving Objectives

The objectives of the Association are to be pursued through the following means:

- by establishment of direct interaction between judges, judicial associations, judicial training providers, UNHCR, experts, public authorities and civil society organisations;
- by organising or assisting in the organising of relevant judicial training events;
- by undertaking or assisting in the development of judicial training materials and programmes designed to ensure effective implementation of the CEAS in accordance with the rule of law and independence of the judiciary;
- by development and maintenance of websites, preparation and dissemination of information relating to relevant EU legislation;
- by formulating joint opinions on proposals for secondary EU legislation;
- through circulation of judgments and decisions of international, European and Member States' national courts;
- by devoting special attention to the needs of acceding countries to the EU, candidate countries and member states of the Council of Europe;
- by raising funds necessary to carry out the objectives

and in any other way approved by the Association compatible with the above objectives.

Part 2. Membership

Article 3

3.1 The existing members of the European Chapter of the IARLJ shall continue to be members of the Association but upon the terms of this Constitution.

3.2 Membership is open to any person who is resident in a Member State of the Council of Europe who:

- 3.2.1 satisfies the requirements for qualification for membership of the IARLJ under its Constitution;
- 3.2.2 is (or has concurrently made application to be) a member of the IARLJ;
- 3.2.3 supports the objects of the Association;
- 3.2.4 tenders payment of any membership dues for the then current year established by, or determined in accordance with, a resolution of Council; and,
- 3.2.5 approved by or on behalf of the Council as being qualified to be a member.

3.3 Associate membership is open to any person who is not eligible to become a member of the Association but who supports its objectives with the leave of, or at the invitation of, Council, and such associate member may participate in the work of the Association, including participation in meetings of committees and of Council, but shall not be entitled to vote in any meeting or committee of the Association

3.4 Membership shall be open to any person qualifying under Articles 3.2 or 3.3 above regardless of nationality, creed, race and gender and the annual subscription payable shall be set at the discretion of Council. In this Constitution reference to 'member' shall be construed as reference to a paid-up member of the Association

3.5 Membership of the Association shall include membership of the IARLJ and the Association shall be responsible to the members for payment of the annual subscription for IARLJ membership out of the annual subscription paid to the Association

3.6. Cessation of Membership:

3.6.1 A member shall resign at any time by giving notice in writing to the Secretary.

3.6.2 A member who is two years in arrears of payment of dues may be suspended or expelled by resolution of Council.

3.6.3 A member so suspended or expelled may be reinstated by the Secretary upon payment of all arrears and any for the then current year.

3.7. No member of the Association shall be liable for or contribute towards the payment of its debts or liabilities beyond the amount of the annual subscription of such member or of any contribution agreed to be given and remaining unpaid.

Part 3 Governance

Article 4. Council

4.1 Establishment

The Council consists of:

4.1.1 the Officers;

4.1.2 not more than eight members representative of the membership elected by the General Meeting

Provided that the maximum number of the Council shall not exceed fifteen in aggregate; and, additionally

4.1.3 any members appointed by Council on an *ad hoc* basis as occasion arises.

4.2 Limitation

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

4.3 Tenure

4.3.1 Elected members of Council, apart from the Officers, shall hold office for a term to expire at the end of the General Meeting in the second year following their election. Elected members

of Council are eligible for re-election.

4.3.2 Membership of Council shall be vacated if the member resigns or ceases to be a member of the Association or is removed from office by a resolution duly passed by the Association in General Meeting.

4.4 General Authority of Council

4.4.1 Subject to the authority and direction of the Association in 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 Association in General Meeting under these Articles.

4.4.2 The authority of the Council shall not extend to entering into or intervening in proceedings before any court or tribunal without the prior authorisation of the Association in General Meeting and, in the case of any action or process taken against the Association, shall be limited to taking such steps as may be deemed necessary to preserve the position of the Association until such authority and direction can be obtained.

4.5 Specific Authorities

Subject to any directions of the Association in General Meeting, Council has the general supervision and control of the Association and in particular may:

4.5.1 determine the means necessary to carry out the objectives of the Association;

4.5.2 appoint such paid officials as may be deemed necessary for the conduct of the work of the Association including defining the duties of and the power to dismiss any such official;

4.5.3 determine the programme for each Conference and prepare rules governing the procedures for Conferences, General Meetings, and meetings of Council;

4.5.4 authorise the establishment of bank accounts of the Association and any borrowing by it;

4.5.5 without prejudice to the generality of its powers, Council shall as soon as possible after the commencement of the financial year of the Association:

(i) approve the Accounts of the Association for the previous year;

(ii) determine the budget for the then current year;

(iii) fix the dues of individual members for the following year.

4.6 Meetings of Council

4.6.1 Council shall meet at least once during each year, and shall hold such other meetings as it may consider necessary.

4.6.2 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.

4.6.3 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.

4.6.4 At least five members of Council shall constitute a quorum.

4.7 Voting

4.7.1 Decisions of Council shall be by simple majority of those present or participating.

4.7.2 In the event of an equality of votes, the President may cast a decisive vote, otherwise the resolution is defeated.

Article 5. Annual Accounts and Audit

5.1 The financial year of the Association shall run from 1 January to 31 December.

5.2 The annual accounts shall be audited by the Auditor as soon as possible after the end of the financial year and presented to Council not less than 4 weeks prior to the General Meeting first ensuing after completion of the audit.

Article 6. Establishment of Committees

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

6.2 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 Association in General Meeting, Council, or the President.

Article 7. General Meetings

7.1 Control

Control is vested in the General Meetings of the Association which shall be held in conjunction with conferences of the Association and at such other times and places as the Association in General Meeting or Council may determine.

7.2 Voting

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

7.3 Business

The following business shall be included as appropriate on the agenda of each General Meeting held not less than 4 weeks after the submission of the audited accounts for the previous financial year to Council by the Auditor:

7.3.1 the election of the Officers and members of Council whose term of tenure is due to expire;

7.3.2 the election of the Auditor;

7.3.3 the receipt of the annual accounts;

7.3.4 the adoption of such rules for the transactions of its business as it deems desirable; and

7.3.5 the consideration of such other business as may properly come before it.

7.4 Notice and Conduct of General Meetings

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

7.4.2 Where it is not possible to hold a General Meeting in the course of any financial year (the

usual pattern of conferences of the Association being on a biannual basis) the provisions of Article 7.5. shall apply.

7.4.3 Written notice of meetings shall be sent to all members not less than 28 days before their date, and shall specify its business; provided that other business may be introduced by direction of Council or with the approval of the meeting.

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

7.5 Meetings by Resolution

7.5.1 Where there is no conference of the Association in any financial year so that it is not practicable to hold a General Meeting 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.

7.5.2 For the purpose of convening a Meeting by Resolution under Article 7.5.1 in any financial year in which there is no scheduled conference of the Association, Council shall within 3 months following receipt of the audited accounts for the preceding year send to each member:

- (i) a copy of those audited accounts with the auditor's report (if any);
- (ii) the President's Report for the preceding year;
- (iii) a summary of the programme adopted by Council for the period up to and including the next proposed conference;
- (iv) particulars of any matter in respect of which approval of the members in General Meeting is sought by Council;
- (v) such resolutions for approval of members as may be requisite for the business before the meeting.

7.5.3 Compliance with the requirements of Article 7.5.2. shall constitute due notice of a General Meeting by Resolution of the Association.

7.5.4 The quorum of members voting required for a Meeting by Resolution shall be 10% of members eligible to vote at General Meetings and otherwise the provisions of Article 7.6. shall apply.

7.6 Voting

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

7.6.2 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.

7.6.3 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.

7.7 An Extraordinary General Meeting shall be called by the Secretary on receipt of a request signed by

not less than 25% of the total members entitled to vote. The reasons for calling such a meeting shall be set out in the notice convening the same of which not less than 28 days' notice in writing shall be given. Such a meeting shall be a meeting by resolution to which the provisions of Article 7.5 shall apply *mutatis mutandis* unless Council otherwise directs.

Article 8. Officers

8.1 Officers

8.1.1 The Officers of the Association consist of a President, a Treasurer, a Secretary, and not more than two Vice-Presidents, to be elected by the Association in General Meeting, the Immediate Past President, and such other officers as the Council may from time to time determine.

8.1.2 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 General Meeting in the second year following appointment.

8.1.3 An Officer is eligible to be re-elected save that a President shall not serve for more than three terms in office.

8.1.4 The President as chief executive officer of the Association shall have supervision of the work and staff of the Association and shall be assisted in those duties by the Vice Presidents.

8.1.5 The Treasurer shall receive and disburse all monies on account of the Association and prepare the annual accounts of the Association for audit.

8.1.6 The Secretary shall carry out the duties usual to that office and such additional duties as the President and the Council may from time to time direct.

8.2 Elections

8.2.1 The Officers are elected by the Association in General Meeting.

8.2.2 If any office is not filled, the previous holder of the office shall continue in office until a successor is elected by General Meeting or appointed by the Council pursuant to article 8.3 of this constitution.

8.3 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.

Part 4 - General Provisions

Article 9. General Provisions

9.1 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.

9.2 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.

9.3 Indemnification and Defence of Officers:

9.3.1 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.

9.3.2 An indemnity given pursuant to article 9.5.1 shall include the payment of any judgment 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.

9.3.3 An indemnification made under this article shall be approved, in each case, by a majority vote of those members of Council who were not parties to, and not involved in, such suit, action or proceeding, or by the membership at a General Meeting.

Article 10. Conferences

10.1 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 of Constitution, Dissolution and Expulsion of Members

Article 11. Amendment of the Constitution

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

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

11.2.1 endorsed by at least 10 members of the Association; or,

11.2.2 recommended by Council; and,

11.2.3 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.

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

11.4 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.

Article 12. Dissolution

12.1 Method

The provisions respecting amendments of the Constitution set out in Article 11 apply *mutatis mutandis* to a proposal to dissolve the Association.

12.2 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 international protection status or in default of such direction shall be transferred to the IARLJ.

Article 13. Expulsion

13.1 A member may be expelled by resolution in a General Meeting supported by not less than two thirds of members present or voting by proxy provided that the provisions respecting amendments of the Constitution set out in Article 11 *apply mutatis mutandis* to a proposal to expel a member and that the member concerned shall have been afforded the opportunity to make any representations in respect of such proposal as the member wishes.