



iarmj

International Association of Refugee and Migration Judges

CONSTITUTION of the EUROPEAN CHAPTER of the INTERNATIONAL ASSOCIATION OF REFUGEE AND MIGRATION JUDGES

Preamble

- 1) Recognizing the development of the European Union law on asylum (Common European Asylum System (hereinafter: CEAS)) and migration, based on the primary and secondary legislation of the European Union, and the application of the European Convention for the Protection of Human Rights (hereinafter: ECHR), the regional law in Europe is subject to specific rules and standards to Member States of the European Union and/or to Member States of the Council of Europe.
- 2) In accordance with article 3.19.1 and article 3.19.2. of the Constitution of the International Association of Refugee and Migration Judges (hereinafter: IARMJ), the European Chapter is one of the Chapters of the IARMJ and operates as an integrated, but subsidiary, part of the Association.
- 3) The office of the European Chapter is situated in the Netherlands.
- 4) The IARMJ is a non-political and non-profit making unincorporated members association that has, in a General Meeting held in Greece, 1 December 2017, adopted the provisions of the Constitution of the IARMJ to govern its functioning in accordance with Dutch Law.
- 5) The Constitution of the European Chapter of the IARMJ has been amended to comply with the changed Constitution of the IARMJ and the Dutch law.

PART 1 OBJECTIVES OF THE CHAPTER

Article 1 - Objectives

The European Chapter is affiliated to the IARMJ in accordance with Article 3.19.1 of the IARMJ Constitution and adopts the objectives as in Article 1.2.1, 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 of European law, Union law, European and international case law, domestic case law and national legislation relevant to international law on protection and migration, in accordance with the rule of law
- 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 organizations in the field of international protection and migration law;
- to promote the training of judges and other refugee decision-makers and the development and delivery of suitable judicial training programs 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 European Chapter are to be pursued in accordance with Article 1.2.2 of the IARMJ Constitution and through the following means:

- by establishment of direct interaction between judges, judicial associations, judicial training providers, experts, public authorities and civil society organizations;
- by organizing or assisting in the organizing of relevant judicial training events;
- by undertaking, or assisting in, the development of judicial training materials and programs on protection and migration designed to ensure the rule of law.
- 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 European Union Member States' national courts;
- by devoting special attention to member states of the Council of Europe and the needs of acceding countries to the EU and to all other countries of the European Chapter.
- by raising funds necessary to carry out the objectives of the European Chapter.

PART 2 MEMBERSHIP

Article 3 - Membership

- 3.1 The existing members of the European Chapter of the IARMJ shall continue to be members of the European Chapter but upon the terms of this Constitution.
- 3.2 The rules governing membership are set out in Part 2 of the Constitution of the IARMJ.

PART 3 GOVERNANCE

Article 4

The governance, responsibilities, management and supervision of the European Chapter fall into the following categories:

- a. the General Meeting;
- b. the Management Board (the Board);
- c. the Council;
- d. an executive director as and when appointed.

Article 5 - General Meetings

5.1. Authority

- 5.1.1. Ultimate authority is vested in the General Meetings of the European Chapter which shall be held in conjunction with conferences of the European Chapter and at such other times and places as the European Chapter in General Meeting or the Board may determine.

- 5.1.2. General Meetings are held in conjunction with the Conferences of the European Chapter held every two or three years;
- 5.1.3. General Meetings shall be held physically, or by international conference call/video links (or any combination thereof) if it is impossible due to exceptional circumstances to meet in person.
- 5.1.4. A written procedure can, on the initiative of the Board, be used to decide questions usually put to the General Meeting if it is considered extraordinary impractical to have an international conference call to decide the question.

5.2. Business

The following business shall be included as appropriate on the agenda of each General Meeting:

- 5.2.1. the President's Report for the period since the previous General Meeting;
- 5.2.2. the Treasurer's financial report and annual accounts for the period since the previous General Meeting;
- 5.2.3. a proposal of matters to be dealt with in the period up to the next conference;
- 5.2.4. particulars of any matter in respect of which approval of the members in General Meeting is sought by the Board;
- 5.2.5. the election of the Officers;
- 5.2.6. the election of Council members;
- 5.2.7. the election of one or more Honorary Presidents of the Chapter, for reasons of exceptional services rendered to the interests of the Chapter.

5.3. Notice and Conduct of General Meetings

- 5.3.1. A written notice of General Meetings shall be sent to all full members not less than 28 days before date, and shall specify its business; provided that other business may be introduced by direction of the Board or with the approval of the General Meeting.
- 5.3.2. General Meetings will be held at the European Chapters conference location or at the Association's "seat" which is in Haarlem, Netherlands, or any other workable location,
- 5.3.3. Additionally, a General Meeting shall be called by the Secretary on receipt of a request signed by not less than 30 full members. 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.
- 5.3.4. The President, or in his/her absence, a Vice-President, shall preside at the General Meeting.

5.4. Voting

- 5.4.1. Each full member may be present at, participate in and vote at every General Meeting. No proxy votes will be accepted.

- 5.4.2 Except as otherwise provided for in this constitution, all decisions of any General Meeting are taken by a simple majority of votes cast in person.
- 5.4.3 In the case of an equality of votes, on any resolution of a General Meeting requiring a simple majority, the President, or in his absence the Vice-President, may cast a decisive vote, otherwise the resolution is defeated.

Article 6 - the Management Board

6.1. Establishment

The Board consists of the following Officers: a President, one or two Vice-Presidents, a Secretary, a Treasurer and the Immediate Past President.

6.2. Limitation

No more than two members of the Board may be elected or co-opted from the same country.

6.3. Tenure

- 6.3.1 Members of the Board shall hold office for a term to expire at the end of the General Meeting following their election. They are eligible for re-election save the provision in Article 6.3.2.
- 6.3.2 The President and the Vice-President(s) shall not hold either position for more than the currency of two terms, or six years, whichever is the shorter period. The provision in the IARMJ Constitution Article 3.14.2. applies *mutatis mutandis*.
- 6.3.3 In the event of casual vacancies on the Board, the Board members may co-opt the replacement of Board members who will remain in office until the next General Meeting.
- 6.3.4 If any office is not filled, the previous holder of the office may continue in office until a successor is elected by the General Meeting or appointed by the Board pursuant to article 6.3.2 of this Constitution.
- 6.3.5 Membership of the Board 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 European Chapter in General Meeting.
- 6.3.6 Any Board member may be dismissed on a resolution to that effect made in a General Meeting. No dismissed Board member will be eligible for any other office in the European Chapter. Their continued membership should also be resolved at the same time according to the IARMJ Constitution.

6.4 Roles of officers

- 6.4.1 The President as chief executive officer of the European Chapter shall have supervision of the work and staff of the European Chapter and shall be assisted in those duties by the Vice President(s). The President shall watch over the communication from the Board with the Council as provided in Articles 9.5 and 9.6 hereunder.

- 6.4.2 The Treasurer shall be responsible for the supervision and administration of the funds of the European Chapter, the preparation, maintenance and auditing of the books of account of the European Chapter.
- 6.4.3 The Treasurer with the Secretary shall be involved in the planning and supervision of the fund-raising activities of the European Chapter with direction from the President and the support of Board Members.
- 6.4.4 The Secretary shall carry out the duties usual to that office and such additional duties as the President and the Board may from time to time direct.

6.5 General guidance for Board members

- 6.5.1 In all their actions for the Chapter, every Board member shall only be guided by the interests of the Chapter.
- 6.5.2 In case of a possible conflict of interests between the Chapter and a Board member, that Board member shall abstain from taking part in deliberation and voting.

6.6 General Authority of the Board

- 6.6.1 Subject to the authority and direction of the General Meeting, the Board is the decision-making body of the European Chapter and, between General Meetings, may act on behalf of the European Chapter with respect to all matters not specifically reserved for the General Meeting under these Articles.
- 6.6.2 The authority of the Board shall not extend to entering into or intervening in proceedings before any court or tribunal without the prior authorisation of the General Meeting and, in the case of any action or process taken against the European Chapter, shall be limited to taking such steps as may be deemed necessary to preserve the position of the European Chapter until such authority and direction can be obtained.

6.7 Specific Authorities

- 6.7.1 Subject to any directions of the General Meeting, the Board has the administration of the European Chapter and in particular may:
- a) appoint such paid persons as may be deemed necessary for the conduct of the work of the European Chapter including defining the duties of and the power to dismiss any such persons;
 - b) after consultation with the Council, determine the programme for each conference and prepare rules governing the procedures for conferences, General Meetings, and meetings of the Board in accordance with this constitution;
 - c) after consultation with the Treasurer of the IARMJ, authorise the establishment of bank accounts of the European Chapter and any borrowing by it;
- 6.7.2 The Board shall as soon as possible after the commencement of the financial year of the European Chapter, having regard to Article 3.13.3 f) g) and h) as well as Articles 3.18.1. a) and b); Article 3.19.7. b) of the Constitution of the IARMJ,

- a) approve the Accounts of the European Chapter for the previous year.
- b) determine the budget for the then current year;
- c) prepare the accounts for presentation to the General Meetings in accordance with Article 7.2.5.

6.8 Meetings of the Board

- 6.8.1 The Board shall meet at least once during each year in a physical meeting, or, as provided in 6.6.2, by international conference call/video links (or any combination thereof), and shall hold such other meetings as it may consider necessary.
- 6.8.2 Where circumstances prevent a meeting in person or by telecommunication, the Board may meet by way of written resolution mailed or otherwise communicated to each member of the Board, and each member signifying within a set time their acceptance or rejection of such resolution shall have participated in the meeting as if present in person.
- 6.8.3 At least three members of the Board shall constitute a quorum, necessary for any resolution of the Board.

6.9 Voting

- 6.9.1 Resolutions of the Board shall be by simple majority of those present or participating.
- 6.9.2 In the event of an equality of votes, the President may cast a decisive vote, otherwise the resolution is defeated.

7 Annual Accounts and Audit

- 7.1 The financial year of the European Chapter shall run from 1 January to 31 December.
- 7.2 The annual accounts shall be sent by the Board to the Council for their information not less than 4 weeks prior to the General Meeting where the annual accounts are presented.
- 7.3 They will be presented to the General Meeting of the IARMJ in accordance with Articles 3.4.1 b) and g) and Article 3.19.7 b) of the Constitution of the IARMJ.

8 Establishment of Committees

- 8.1 The Board may, after consultation with the Council, establish Committees having, subject to any direction of the General Meeting, such powers, procedures and functions as the Board may determine.
- 8.2 No Committee, its Chairperson or officers or other representatives shall purport to represent the European Chapter in any respect, or to take any action in the name of the European Chapter, except as authorised by the European Chapter in General Meeting, the Board, or the President.

9 The Council

- 9.1 The Council consists of maximum eleven full members. The General Meeting will elect maximum eight Council members; additionally the Council has the power to co-opt a maximum of three Council members.
- 9.2 No more than two members of the Council may be elected or co-opted from the same country.
- 9.3 Elected members of the Council shall hold office for a term to expire at the end of the General Meeting following their election. The term of co-opted members of the Council shall end at the end of the first General Meeting following their co-optation. Council members are eligible for re-election.
- 9.4 The Council chooses its chair after each General Meeting where the Council members are elected.
- 9.5 The Council is the advisory body to the Board. It has the power to give recommendations to the Board, either at the request of the Board, or uninvited.
- 9.6 The Council will be informed by the Board about all important aspects of the running of the Chapter. In particular, the Council will be informed and consulted about matters regarding regional conferences (Article 6.5.1 (b)), the establishment of committees (Article 8.1), and the annual accounts (Article 7.2).

PART 4 GENERAL PROVISIONS

10 General Provisions

The Board may by resolution direct the manner in which, and the person or persons by whom any particular instrument, contract or obligation of the European Chapter shall be executed.

10.1 Indemnification and Defence of Officers:

- 10.1.1 The European Chapter shall indemnify and save harmless any member of the Board 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 European Chapter and that was undertaken in good faith and in the reasonable belief that the act or omission was in the best interests of the European Chapter.
- 10.1.2 An indemnity 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.
- 10.1.3 An indemnification made under this article shall be approved, in each case, by a majority vote of those members of the Board who were not parties to, and not involved in, such suit, action or proceeding, or by the membership at a General Meeting.

11 Conferences

The Board is charged with organising conferences, professional development workshops of the European Chapter as frequently as possible and practical, to facilitate the objects of the European Chapter.

PART 5 AMENDMENT OF CONSTITUTION AND DISSOLUTION

12 Amendment of the Constitution

- 12.1 This Constitution may, with observation of the IARMJ Constitution, in particular Article 3.19.4, be amended by a resolution approved by two thirds of the votes cast on that resolution at a General Meeting.
- 12.2 A proposal to amend the Constitution shall be in the form of a written resolution and be:
- 12.2.1 endorsed by at least 10 members of the European Chapter; or,
 - 12.2.2 recommended by the Board; and,
 - 12.2.3 filed with the Secretary at least 90 days in advance of the General Meeting of the European Chapter at which the proposal is to be considered.
- 12.3 Any proposed amendments to the Constitution shall be included with the notice of the General Meeting at which the proposal is to be considered.
- 12.4 An amendment to the Constitution of the European Chapter shall take effect immediately after approval of the amendment by the Management Board of the IARMJ in accordance with article 3.19.4. of the IARMJ Constitution. The Secretary shall inform the members of the European Chapter no later than two weeks after the approval.

13 Dissolution

- 13.1 Method
The provisions respecting amendments of the Constitution set out in Article 11 apply *mutatis mutandis* to a proposal to dissolve the European Chapter.
- 13.2 Distribution of Assets
Upon the dissolution of the European Chapter, its net assets, if any, shall, upon the direction of a General Meeting, be given to the IARMJ.

14 Entry into force

This Constitution will enter into force on the day after the date of the resolution of the General Meeting to amend the constitution into the present text.